

**BANKING CODE OF 1999 (EXCERPT)**  
**Act 276 of 1999**  
Chapter 4  
**BANKING POWERS**  
Part 1  
**GENERAL PROVISIONS**

**487.14101 Banking powers generally.**

Sec. 4101.

(1) Subject to the limitations and restrictions contained in this act or in a bank's articles, the bank may engage in the business of banking and a business related or incidental to banking, and for that purpose, without specific mention in its articles, shall have and exercise the powers and means appropriate to effect the purpose for which the bank is incorporated, powers conferred by former 1969 PA 319 and by this act, and the following corporate powers:

- (a) To make contracts.
  - (b) To sue and be sued, complain, and defend in its corporate name as fully as a natural person.
  - (c) To make, alter, amend, and repeal bylaws not inconsistent with its articles or with law for the administration and regulation of the affairs of the bank.
  - (d) To enter into agency relationships with affiliated depository institutions. A bank or an affiliated depository institution in its capacity as an agent under this subdivision may do any or all of the following:
    - (i) Receive deposits.
    - (ii) Permit withdrawals of deposits.
    - (iii) Renew time deposits.
    - (iv) Close loans.
    - (v) Service loans.
    - (vi) Receive loan payments.
    - (vii) Engage in any activity specifically authorized by this act or by order or declaratory ruling of the commissioner.
  - (e) To contract, upon 30 days' advance written notice to the commissioner, unless the commissioner objects in writing within 30 days after receipt of the written notice, with a person for the person to act as an agent of the bank in an agency office and engage in any of the activities set forth in section 4109.
- (2) A bank has and may exercise the following additional powers:
- (a) As authorized by order or declaratory ruling of the commissioner, to exercise at a branch such additional powers consistent with the safe and sound conduct of the business of banking as are granted by the laws of the state, territory, protectorate, or foreign country where the branch is located.
  - (b) As authorized by order or declaratory ruling of the commissioner, to exercise further powers consistent with the safe and sound conduct of the business of banking or of a business related or incidental to banking as are granted by the laws of the United States or of any state or political subdivision of the United States to financial service providers.
  - (c) To own and operate a messenger service or to own or invest in an entity that operates a messenger service.
  - (d) To engage in any aspect of the insurance and surety business as an agent, broker, solicitor, or insurance counselor as provided under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, and to own an insurance agency in whole or in part as provided under that act.
  - (e) To provide brokerage services for the offer, sale, or purchase of a security or commodity contract.
- (3) In addition, a bank has the powers granted by order or declaratory ruling of the commissioner.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

**487.14102 Safe deposit and storage department; lien for unpaid rental and storage charges.**

Sec. 4102.

(1) If a bank operates a safe deposit and storage department, the legal liability of the bank on account of any loss to a customer shall not exceed the sum of \$10,000.00 for any 1 box or compartment, including all property accepted for storage outside of the box or compartment. The bank may contract with the renter to have the renter

assume all risks arising from the use of the box, compartment, or storage.

(2) The bank shall have a lien for unpaid rental and storage charges on the contents of any box or compartment and any property accepted for storage outside of the box or compartment. If the charges are not paid within 1 year from the date of accrual, the bank may sell the property at public auction upon like notice as is required by law for sales on execution. After retaining from the proceeds of sale the amount of all charges due and owing at the time of the sale, and the reasonable expenses of the sale, the bank shall pay the balance, if any, upon proper showing to the persons entitled to the balance. The bank may fairly and in good faith purchase all or any part of the property at the sale.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

#### **487.14103 Drafts or bills of exchange.**

Sec. 4103.

(1) A bank may accept drafts or bills of exchange drawn upon it having not more than 6 months' sight to run, exclusive of days of grace, if 1 or more of the following apply:

(a) The drafts or bills of exchange grow out of transactions involving the importation or exportation of goods.

(b) The drafts or bills of exchange grow out of transactions involving the domestic shipment of goods.

(c) The drafts or bills of exchange are secured at the time of acceptance by a warehouse receipt or other document conveying or securing title covering readily marketable staples.

(2) Except as provided in subsection (3), a bank shall not accept bills of exchange, or be obligated for a participation share in bills of exchange, in an amount equal at any time in the aggregate to more than 150% of its capital and surplus.

(3) The commissioner, under conditions as the commissioner may prescribe, may authorize by order or declaratory ruling any bank to accept bills of exchange, or be obligated for a participation share in bills of exchange, in an amount not exceeding at any time in the aggregate 200% of its capital and surplus.

(4) Notwithstanding subsections (2) and (3), with respect to any bank, the aggregate acceptances, including obligations for a participation share in acceptances, growing out of domestic transactions shall not exceed 50% of the aggregate of all acceptances, including obligations for a participation share in acceptances, authorized for the bank under this section.

(5) A bank shall not accept bills, or be obligated for a participation share in bills of exchange, whether in a foreign or domestic transaction, for any 1 person, partnership, corporation, association, or other entity in an amount equal at any time in the aggregate to more than 10% of its capital and surplus, unless the bank is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance.

(6) With respect to a bank that issues an acceptance, the limitations contained in this section do not apply to that portion of an acceptance that is issued by the bank and that is covered by a participation agreement sold to another bank, out-of-state bank, or national bank.

(7) In order to carry out the purposes of this section, the commissioner may define any of the terms used in this section.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

#### **487.14104 Real estate brokerage.**

Sec. 4104.

(1) A bank may engage directly in, or own in whole or in part, a real estate brokerage business as provided under article 25 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518.

(2) A bank that engages directly in the real estate brokerage business or owns in whole or in part a real estate brokerage business shall provide written notice of its licensure as a real estate broker or its ownership of a real estate brokerage business to the commissioner within 10 days of licensure or ownership. The notice required by this subsection shall include the name and business address of the real estate brokerage.

(3) A bank that engages directly in the real estate brokerage business or owns in whole or in part a real estate brokerage business shall not do any of the following:

(a) Impose a requirement, verbally or in writing, that a borrower must contract for or enter into any other arrangement for real estate brokerage services with a particular real estate broker.

(b) Impose a requirement, verbally or in writing, that as a condition of approving a loan a borrower must contract or enter into any other arrangement for real estate brokerage services.

(c) Impose a requirement, verbally or in writing, that a real estate brokerage customer shall make application for a loan or any other service or services of a particular bank or any of its subsidiaries, agencies, or service entities.

(d) Impose a requirement, verbally or in writing, that a condition of providing real estate brokerage services is that the customer shall make an application for a loan or any other arrangement for other services of the bank or any of its subsidiaries, agencies, or service entities.

(e) Offer or provide more favorable consideration, terms, or conditions for any financial products or services to induce or attempt to induce a person to enter into any arrangement for real estate brokerage services with any particular real estate broker.

(f) Offer or provide more favorable terms or conditions for any real estate brokerage services to induce or attempt to induce a person to apply for a loan or obtain any other services of a particular bank or any of its subsidiaries, agencies, or service entities.

(g) Any other activity prohibited by order or declaratory ruling of the commissioner.

(4) A bank that engages directly in the real estate brokerage business or owns in whole or in part a real estate brokerage business under this section shall clearly disclose in writing to any person who applies for credit related to a real estate transaction or applies for prequalification or preapproval for credit related to a real estate transaction, that the person is not required to contract for or enter into an arrangement for real estate brokerage services with a particular real estate broker. Compliance with the disclosure requirements of this subsection shall not be necessary when a person applies for credit or prequalification for credit solely for the purpose of refinancing an existing indebtedness.

(5) A real estate brokerage that is affiliated with a bank shall clearly disclose in writing, before the time an agency agreement for real estate brokerage services is executed, that the person is not required to apply, contract for, or enter into any other arrangement for services of a particular bank or any of its subsidiaries, agencies, or service entities.

(6) The requirements of subsections (4) and (5) do not apply when the person has been given the affiliated business arrangement disclosure statement required by the real estate settlement procedures act of 1974, Public Law 93-533, 88 Stat. 1724.

(7) If the commissioner finds that a bank has violated this section, the commissioner may issue an order requiring the bank to cease and desist the activity that violates this section. If the commissioner additionally finds that the violation was knowingly committed, the commissioner may order any of the following:

(a) A civil fine of not more than \$500.00 for each violation but not to exceed an aggregate civil penalty of \$10,000.00.

(b) That restitution be made to a customer for actual damages directly attributable to the acts that are found to be a violation of this section.

(8) An action under this section shall not be brought more than 3 years after the date of the violation that is the basis of the action.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

#### **487.14105 Permitted services or activities.**

Sec. 4105.

A bank may perform for others 1 or more of the following services or activities, and any other services or activities permitted by order or declaratory ruling of the commissioner:

(a) Provide life, health, and casualty insurance for officers and employees of financial institutions and operate bonus plans and retirement benefit plans for those officers and employees.

(b) Service mortgages and land contracts.

(c) Originate and service mortgage loans, mortgages, and land contracts, on behalf of financial institutions, corporations, and state or federal agencies or instrumentalities.

(d) Act as escrow agent or depository for other escrow agents or fiduciaries.

(e) Conduct credit analysis, appraising, construction loan inspection, and abstracting.

- (f) Conduct research, studies, and surveys.
- (g) Develop and operate storage facilities for microfilm or other duplicate records.
- (h) Advertise, broker, and conduct other activities to procure and retain both deposits and loans, but not pool deposits or solicit or promote pooled deposits.
- (i) Provide liquidity management, investment, advisory, and consulting services.
- (j) Establish, own, lease, operate, or maintain electronic funds transfer terminals.
- (k) Purchase office supplies, furniture, and equipment.
- (l) Prepare local, state, and federal tax returns.
- (m) Perform data processing services.
- (n) Subject to applicable state or federal law, provide brokerage services for the offer, sale, or purchase of a security or commodity contract.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

#### **487.14106 Purchase or sale of assets; powers of bank.**

Sec. 4106.

(1) With the approval of the commissioner, based upon an examination or other appropriate analysis of either the buying or selling organization, or both, and upon the affirmative vote of a majority of the members of its board of directors and of the holders of 2/3 of its stock entitled to vote, a bank may do either or both of the following:

(a) Sell all or substantially all of its assets of every kind, character, and description and assign its liabilities to any depository institution.

(b) Purchase all or substantially all of the assets of every kind, character, and description and assume the liabilities of another depository institution.

(2) The consideration for a purchase and sale under this section may include shares of stock of the purchasing bank, out-of-state bank, national bank, association, or savings bank.

(3) A purchase and sale shall not be made to defeat or defraud any of the creditors of the depository institutions.

(4) Certified copies of all shareholders' and directors' proceedings under this section shall be submitted to the commissioner and shall contain the terms of the sale and purchase, including a copy of the agreement of sale and purchase.

(5) The liability of a depository institution or of its shareholders, directors, or officers, or the rights of creditors of, or other persons transacting business with, the depository institution shall not be lessened or impaired as the result of a sale of assets under this section.

(6) Notwithstanding any other provision of this act, a bank that purchases or assumes all or substantially all of the assets or liabilities of a depository institution may retain, maintain, and operate the principal office or branches of the depository institution as branches of the purchasing bank without providing notice to the commissioner under section 3711(1) provided it assumes the deposit liabilities of the depository institution maintained at the principal office or branches.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

#### **487.14107 Sale or purchase of bank branch.**

Sec. 4107.

(1) A bank may sell 1 or more of its branches, without selling all or substantially all of the bank, to another depository institution located in this state or in a state whose laws would permit a bank to purchase 1 or more branches in that state of the purchasing depository institution.

(2) A bank may purchase 1 or more branches of another depository institution, without purchasing all or substantially all of the depository institution.

(3) A bank that proposes to purchase 1 or more branches under subsection (2) shall provide notice to the commissioner under section 3711 before operating the purchased branch or branches.

#### **487.14108 Pledging bank assets as collateral security.**

Sec. 4108.

(1) Except as otherwise provided in this section, a bank or bank officer shall not give preference to a depositor or creditor by pledging the assets of the bank as collateral security or otherwise.

(2) A bank may pledge its assets in an aggregate amount that does not exceed 10% of its total assets for the purpose of securing the following:

(a) Funds belonging to the United States or belonging to or being administered by an officer, instrumentality, or agent of the United States, funds of estates being administered by a federal court under a federal bankruptcy law, and other funds when required or permitted to do so under the laws of the United States or an order of a federal court.

(b) Surplus funds of the state held by the state treasurer.

(c) Funds of the Mackinac Bridge Authority, which is declared to be a political subdivision of this state, under 1950 (Ex Sess) PA 21, MCL 254.301 to 254.302.

(d) Funds of the international bridge authority, which is declared to be a political subdivision of this state, under 1954 PA 99, MCL 254.221 to 254.240.

(e) Funds on deposit under 1941 PA 205, MCL 252.51 to 252.64, providing for limited access highways.

(f) Funds on deposit to the credit of the Michigan employment security commission.

(g) Funds of the Michigan state housing development authority constituting proceeds of the sale of the authority's notes and bonds and repayments of those notes and bonds, under the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

(h) Funds belonging to any political subdivision of this state.

(i) Funds belonging to any federally recognized Indian tribe.

(j) Funds representing the proceeds of a grant or loan from a department or agency of the United States, the award of which is conditioned upon the recipient depositing the proceeds in an account secured by a pledge of assets of the depository institution.

(3) The requirements, restrictions, and limitations imposed under this section shall not apply to the pledging of an obligation of the United States, direct or fully guaranteed, or both, for the purpose of securing a deposit of the United States when the deposit is established coincidentally with the purchase of an obligation of the United States by or through an institution.

(4) A bank may pledge its assets to secure liabilities of any of the following types:

(a) In the case of member banks, liabilities incurred under the federal reserve act. In the case of nonmember banks, liabilities incurred through borrowing under the same conditions as are imposed upon members of the federal reserve system by the federal reserve act.

(b) In the case of federal home loan bank members, liabilities incurred under the federal home loan bank act.

(c) Liabilities incurred under former section 202 of title II of the federal farm loan act, chapter 245, 39 Stat. 360.

(d) Liabilities incurred on account of a loan made with the express approval of the director under section 4202(3)(c).

(e) Liabilities incurred on account of borrowings from 1 business day to the next from a bank or national banking association of excess reserve balances from time to time maintained by the bank or national banking association under section 19 of the federal reserve act, 12 USC 461.

(f) Liabilities incurred on account of securities sold under a repurchase agreement.

(g) Liabilities incurred in connection with administration of treasury tax and loan accounts.

(5) A bank may pledge its assets to counterparties to secure the counterparties' exposure in interest rate swap transactions.

History: 1999, Act 276, Eff. Mar. 1, 2000 ;-- Am. 2016, Act 175, Eff. Sept. 12, 2016

#### **487.14109 Bank agent; activities.**

Sec. 4109.

An agent of a bank described in section 4101(1)(e) may engage in any of the following activities:

- (a) Accept a deposit to an existing account and record the addition to the account or give other evidence of receipt as prescribed by the bank.
- (b) Accept a withdrawal form and other evidence required by the bank from an account holder for transmission to the bank.
- (c) Solicit and accept a new account. Evidence of account ownership shall be issued only by authority of the bank. An agent may obtain signature cards from the bank for the account holder. An agent of a bank shall not possess an unissued or blank authenticated savings account passbook or certificate or other evidence of account ownership.
- (d) Solicit and accept an application for a loan or for a land contract purchase. The agent shall submit the application to the bank for processing and approval.
- (e) Disburse withdrawn or loaned funds, upon approval of each disbursement by the bank.
- (f) Accept payment on a loan or on a land contract and issue evidence of receipt as prescribed by the bank.
- (g) Any other services as approved by order or declaratory ruling of the commissioner.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

**487.14110 Automatic teller machine located on premises of casino, casino enterprise, liquor store, or adult entertainment establishment; preventing access to cash benefits from Michigan bridge card; definitions.**

Sec. 4110.

(1) A bank that owns, operates, or manages an automated teller machine located on the premises of a casino, casino enterprise, liquor store, or adult entertainment establishment shall work with the department of human services to ensure that the automated teller machine does not allow an individual access to cash benefits from a Michigan bridge card.

(2) As used in this section:

(a) "Adult entertainment establishment" means any of the following:

(i) An on-premises licensee that holds a topless activity permit described in section 916(3) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1916.

(ii) Any other retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclad state for entertainment.

(b) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(c) Subject to subsection (3), "casino" means that term as defined in section 2 of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.202.

(d) Subject to subsection (3), "casino enterprise" means that term as defined in section 2 of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.202.

(e) "Gaming" means that term as defined in section 2 of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.202.

(f) "Liquor store" means a retailer, as defined in section 111 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1111, that is exclusively or primarily engaged in the sale of alcoholic liquor. The term does not include a retailer that is a retail food store.

(g) "Michigan bridge card" means the card that is used to distribute cash benefits by the department of human services.

(h) "Retail food store" means that term as defined in 7 USC 2012.

(3) As used in this section, the terms casino and casino enterprise do not include any of the following:

(a) A grocery store that sells groceries, including staple foods, and is located in a casino or a casino enterprise.

(b) Any other business establishment that offers gaming that is incidental to the principal purpose of that establishment.

**History:** Add. 2013, Act 195, Eff. Feb. 1, 2014

**487.14111 Loan promotion raffle or savings promotion raffle.**

Sec. 4111.

(1) If authorized by its board of directors, a bank may conduct a loan promotion raffle or savings promotion raffle. The bank shall conduct a loan promotion raffle or savings promotion raffle so that each token or ticket representing an entry in the raffle has an equal chance of being drawn. A bank shall not conduct a loan promotion raffle or savings promotion raffle in a manner that jeopardizes the bank's safety and soundness, misleads its customers, or violates federal law.

(2) A bank shall maintain records sufficient to facilitate an examination of a loan promotion raffle or savings promotion raffle.

(3) As used in this section:

(a) "Loan promotion raffle" means a raffle conducted by a bank where the sole consideration required for a chance of winning designated prizes is the closing on a loan with the bank of at least a specified amount.

(b) "Savings promotion raffle" means a raffle conducted by a bank where the sole consideration required for a chance of winning designated prizes is the deposit of at least a specified amount of money in a savings account or other savings program offered by the bank.

**History:** Add. 2014, Act 399, Imd. Eff. Dec. 29, 2014 ;-- Am. 2016, Act 162, Eff. Sept. 7, 2016

Part 2  
LOANS

**487.14201 Loans and credit extensions; interest and charges.**

Sec. 4201.

(1) A bank may collect interest and charges on loans and extensions of credit as permitted by the laws of this state or of the United States to any person.

(2) A bank may charge a discount on obligations purchased by the bank.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

**487.14202 Total loans and credit extensions; limitation; exceptions; limitations based upon capital and surplus.**

Sec. 4202.

(1) Except as otherwise provided in this section or by order or declaratory ruling of the commissioner, the total loans and extensions of credit and leases by a bank to a person at no time shall exceed 15% of the capital and surplus of the bank, except that upon approval by 2/3 vote of its board of directors the limit may be increased to not to exceed 25% of the capital and surplus of the bank.

(2) If the commissioner determines at any time that the interests of a group of more than 1 person are so interrelated that they should be considered as a unit for the purpose for which credit was extended, the total loans and extensions of credit and leases of persons of that group shall be combined and considered loans and extensions of credit and leases of 1 person under this section. A bank shall not be considered to have violated this section solely by reason of the fact that the indebtedness of a group then held exceeds the limitations of this section at the time of a determination by the commissioner that the indebtedness of that group shall be combined, but if required by the commissioner, the bank shall dispose of indebtedness of the group in the amount in excess of that permitted by this section within a reasonable time determined by the commissioner.

(3) The following loans and extensions of credit shall not be subject to subsection (1):

(a) A loan or extension of credit arising from the discount of commercial or business paper evidencing an obligation to the person negotiating it with recourse.

(b) The purchase of banker's acceptances of another bank of the kind described in paragraph 7 of section 13 of

the federal reserve act, chapter 6, 38 Stat. 263-264.

(c) A loan or extension of credit to a financial institution or to a receiver, conservator, or any other agent or supervising authority in charge of the business and property of the financial institution, when the loan or extension of credit is approved by the commissioner.

(d) A loan or extension of credit to a customer, secured or covered by guarantees or by commitments or agreements to take over or to purchase the loan or extension of credit, made by a federal reserve bank or by the United States, or a department, bureau, board, commission, or establishment of the United States, including a corporation wholly owned directly or indirectly by the United States.

(e) A loan or extension of credit from 1 business day to the next to a depository institution of excess reserve balances from time to time maintained under section 19 of the federal reserve act, chapter 6, 38 Stat. 270.

(f) A loan or extension of credit secured by bonds, notes, certificates of indebtedness, or treasury bills of the United States or by other obligations fully guaranteed as to principal and interest by the United States.

(g) A loan or extension of credit secured by a loan agreement between a local public agency or a public housing agency and an instrumentality of the United States pursuant to federal housing legislation under which funds will be provided for payment of the obligation secured by the loan agreement.

(h) A loan or extension of credit arising from securities purchased under an agreement to resell.

(i) A loan or extension of credit to the student loan marketing association.

(j) A loan or extension of credit fully secured by a segregated deposit account in the lending bank.

(k) A loan or extension of credit arising from the acceptance by a bank of drafts or bills of exchange drawn upon the bank, or a bank's participation in drafts or bills of exchange drawn upon and accepted by another bank, out-of-state bank, or national bank in conformity with section 4103.

(l) Other loans or extensions of credit as determined by the commissioner by order or declaratory ruling.

(4) The following limitations based upon capital and surplus apply to all of the following:

(a) Loans and extensions of credit to a customer secured by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples shall be subject to a limitation of 30% of capital and surplus, if the market value of the staples securing the loans or extensions of credit at all times equals or exceeds 115% of the outstanding amount of the loans or extensions of credit. The staples shall be fully covered by insurance if it is customary to insure the staples.

(b) Loans or extensions of credit to a customer secured by shipping documents or instruments transferring or securing title covering livestock, or giving a lien on livestock, if the market value of the livestock securing the obligation is not at any time less than 115% of the face amount of the notes covered, shall be subject to a limitation of 30% of capital and surplus. Loans or extensions of credit arising from the discount by dealers in dairy cattle of paper given in payment for dairy cattle, which paper carries a full recourse indorsement or unconditional guarantee of the seller and which are secured by the cattle being sold, shall be subject to a limitation of 30% of capital and surplus.

(c) Loans or extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper, which carries a full recourse indorsement or unconditional guarantee by the person transferring the paper, shall be subject to a limitation of 30% of capital and surplus. If the bank's files or the knowledge of its officers of the financial condition of each maker of the consumer paper is reasonably adequate, and an officer of the bank designated for that purpose by the board of directors of the bank certifies in writing that the bank is relying primarily upon the responsibility of each maker for the payment of the loans or extensions of credit, the limitations of this section as to the loans and extensions of credit of each maker shall be the sole applicable loan limitation. The certification shall be retained as part of the records of the bank.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

#### **487.14203 Financing real or personal property; use of proceeds for purchase, design, manufacture, construction, repair, modification, or improvement; liability for defect.**

Sec. 4203.

A bank that makes a loan, the proceeds of which are used or may be used by the borrower to finance the purchase, design, manufacture, construction, repair, modification, or improvement of real or personal property, shall not be liable for any defect in the property purchased, designed, manufactured, constructed, repaired, modified, or improved or for any loss or damage resulting from the failure of the borrower or any agent or other person employed by the borrower to use due care in the examination, design, manufacture, construction, repair, modification, or improvement of the property.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

**487.14204 Insurance; hazard; property and casualty.**

Sec. 4204.

(1) A bank that requires a mortgagor to maintain hazard insurance as a condition of receiving a mortgage loan shall not require the amount of the hazard insurance to be greater than the replacement cost of the mortgaged building or buildings.

(2) A bank may require an amount of property and casualty insurance that is required of the bank as a condition of sale, transfer, or assignment of all or part of the mortgage to a third party. This subsection does not require that the bank anticipate a sale, transfer, or assignment at the time the mortgage is made.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

**487.14205 Allowance for bank loan and lease losses; charge off of debt.**

Sec. 4205.

Unless a debt constitutes a claim against a solvent estate in probate, if the interest on a debt held by a bank is past due and unpaid for a period of 12 months, the bank shall charge off to its allowance for loan and lease losses the portion of the debt that is not well secured.

**History:** 1999, Act 276, Eff. Mar. 1, 2000 ;-- Am. 2009, Act 59, Imd. Eff. July 2, 2009

Part 3  
INVESTMENTS

**487.14301 Purchasing, selling, underwriting, and holding investment securities.**

Sec. 4301.

(1) A bank may purchase, sell, underwrite, and hold investment securities that are obligations in the form of bonds, notes, or debentures of a type and to the extent permitted by this act.

(2) A bank may hold, without limit, any of the following:

(a) Obligations of the United States, obligations that are guaranteed fully as to principal and interest by the United States, or any general obligations of any state or of any political subdivision of a state.

(b) Obligations issued by an entity of the federally chartered Farm Credit System.

(c) Obligations issued by banks for cooperatives.

(d) Obligations issued by the federal home loan banks.

(e) Obligations insured by the secretary under title IX of the national housing act, 12 USC 1750 to 1750g.

(f) Obligations insured by the secretary under section 207 of title II of the national housing act, 12 USC 1713, if the debentures to be issued in payment of the insured obligations are guaranteed as to principal and interest by the United States.

(g) Obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association.

(h) Mortgages, obligations, or other securities that are or ever have been sold by the Federal Home Loan Mortgage Corporation under 12 USC 1454 or 1455.

(i) Obligations of a public housing agency, as defined in section 1437a of the United States housing act of 1937, 42 USC 1437a.

(j) Obligations of a local public agency, as defined in former 42 USC 1460(h), secured by a loan agreement

between the local public agency and the secretary of the United States Department of Housing and Urban Development.

(k) Any other investment security authorized by order or declaratory ruling of the director.

(3) Subject to the exercise of prudent banking judgment, a bank may engage in the underwriting of any of the following investment securities:

(a) Obligations of the United States or any political subdivision of the United States.

(b) Obligations of any state or a political subdivision of any state.

(c) Obligations of the International Bank for Reconstruction and Development.

(d) Obligations of the Inter-American Development Bank.

(e) Obligations of the Asian Development Bank.

(f) Obligations of the Tennessee Valley Authority.

(g) Obligations issued by any state or political subdivision or agency of a state or political subdivision for housing, university, or dormitory purposes.

(h) Obligations of the African Development Bank.

(i) Obligations of the International Finance Corporation.

(j) Other obligations listed in subsection (2).

(k) Other obligations authorized by order or declaratory ruling of the director.

(4) A bank may purchase for its own account other investment securities, but the total amount of investment securities of any 1 obligor or maker, held by a bank under this subsection, shall not exceed at any time 25% of its capital and surplus.

(5) The statutory limitation on the amount of investment securities of any 1 obligor or maker that may be held by a bank is determined on the basis of generally accepted accounting principles unless otherwise directed or permitted in writing by the director for safety and soundness reasons.

(6) A bank shall not purchase investment securities convertible into stock at the option of the issuer.

(7) The restrictions and limitations of this section with respect to a bank acquiring and holding securities for its own account do not apply to securities acquired through foreclosure on collateral, or acquired in good faith by way of compromise of a doubtful claim or to avoid a loss in connection with a debt previously contracted. This section does not limit the investment authority of a bank granted by any other section of this act.

(8) If a bank invests funds in a security, obligation, or other instrument that at the time is permitted under this part, the investment subsequently becomes impermissible because of a change in circumstances or law, and the director finds that continuing to hold the investment will have an adverse effect on the safety and soundness of the bank, the director may require that the bank develop a reasonable plan for the divestiture of the investment.

**History:** 1999, Act 276, Eff. Mar. 1, 2000 ;-- Am. 2016, Act 177, Eff. Sept. 12, 2016

#### **487.14302 Purchase of investment securities.**

Sec. 4302.

(1) A bank may purchase investment securities for its own account when in its prudent banking judgment, which may be based in part upon estimates that it believes to be reliable, it determines that there is adequate evidence that the obligor will be able to perform all it undertakes to perform in connection with the securities, including all debt service requirements, and that the securities may be sold with reasonable promptness at a price that corresponds to their fair value.

(2) A bank shall not purchase investment securities in which the investment characteristics are considered distinctly or predominantly speculative, or purchase investment securities that are in default, whether as to principal or interest.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

#### **487.14303 Investment in other assets.**

Sec. 4303.

Notwithstanding any other section of this act, a bank may invest in other assets authorized by order or declaratory ruling of the commissioner.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

#### **487.14304 Bank investment authority; purchasing or holding shares of stock or other equity interests.**

Sec. 4304.

(1) A bank shall not engage in a transaction with respect to shares of the capital stock of a corporation unless specifically authorized under this act or by order or declaratory ruling of the director under this act.

(2) A bank may purchase and sell securities and stock on the order of and for the account of a customer without recourse.

(3) A bank shall not make a loan on or discount the security of the shares of its own capital stock, or the capital stock of its holding company, if any, unless the security is necessary to prevent loss on a debt previously contracted in good faith.

(4) A bank may purchase or hold shares of its own stock if any of the following apply:

(a) The bank is holding shares that amount to not more than 5% of its common stock until disposed of in compliance with an existing stock option plan.

(b) The purchase or holding of the shares is necessary to prevent loss on a debt that is previously contracted in good faith.

(c) The director gives written approval to the bank to purchase or hold shares for its own account.

(5) A bank may purchase and hold shares of stock or other equity interests, that have an aggregate purchase price that is not more than 10% of its capital and surplus, of each of the following:

(a) Small business investment companies that are doing business in this state and licensed under, or established under, the small business investment act of 1958, Public Law 85-699, 72 Stat 689.

(b) The Michigan business development corporation.

(c) Corporations or partnerships that are authorized by title IX of the housing and urban development act of 1968, Public Law 90-448, 82 Stat 547.

(d) Business entities whose primary purpose is to provide capital to banks, which banks are largely owned or controlled by individuals classified as racial minorities.

(e) Open-end management investment companies that are registered with the securities and exchange commission under the investment company act of 1940, 15 USC 80a-1 to 80a-64, while the portfolios of the companies are restricted by their investment policies, changeable only by vote of the shareholders, to investments permitted to banks by order or declaratory ruling of the director.

(f) Agricultural credit business entities that are organized solely for the purpose of making loans to farmers and ranchers for agricultural purposes, including the breeding, raising, fattening, or marketing of livestock.

(g) The student loan marketing association established under section 439 of part B of title IV of the higher education act of 1965, 20 USC 1087-2.

(h) Any class of voting securities of banks, out-of-state banks, or national banks that are engaged exclusively in providing services to depository institutions or their officers, directors, employees, and customers, or bank holding companies that own or control those banks, out-of-state banks, or national banks if the stock of the bank holding companies is owned exclusively, except to the extent directors' qualifying shares are required by law, by depository institutions and if all subsidiaries of the bank holding companies engage exclusively in serving depository institutions or their officers, directors, employees, and customers.

(i) Banking organizations or corporations that are chartered or incorporated under the laws of the United States or of any state, territory, or protectorate of the United States, and principally engaged in international or foreign banking, either directly or through the agency, ownership, or control of foreign banks.

(j) Foreign banks that are not engaged, directly or indirectly, in any activity in the United States except as, in the judgment of the director, is incidental to the international or foreign business of the foreign banks.

(k) Entities that provide, and entities that reinsure providers of, insurance.

(6) Subject to the limitation based on capital and surplus under subsection (5), a bank may purchase for its own account any of the following:

(a) Securities authorized by title IX of the housing and urban development act of 1968, Public Law 90-448, 82 Stat 547.

(b) Adjustable rate preferred stock and money market preferred stock.

(c) Stock, bonds, or other obligations of a business and industrial development company established under the

provisions of the Michigan BIDCO act, 1986 PA 89, MCL 487.1101 to 487.2001.

(d) Stock, bonds, or other obligations of community and economic development entities, community development projects, and other public welfare investments that are considered under federal law, federal regulation, or a written interpretation by a federal bank regulatory agency to be a qualified investment for purposes of the community reinvestment act of 1977, 12 USC 2901 to 2908, utilizing the investment test described in 12 CFR 25.23, 12 CFR 228.23, or 12 USC 345.23.

(7) This section does not limit or expand the investment authority of a bank granted under any other section of this act.

**History:** 1999, Act 276, Eff. Mar. 1, 2000 ;-- Am. 2016, Act 175, Eff. Sept. 12, 2016

#### **487.14305 Venture capital investments.**

Sec. 4305.

(1) Except as otherwise provided by this act, a bank may make venture capital investments, and may invest in equity securities of a professional investor a majority of whose assets consists of venture capital investments.

(2) If a bank makes a venture capital investment under subsection (1), an officer or director of the bank shall not hold an equity position in the financed company, and the bank shall own less than 50% of the company.

(3) A bank's investment under subsection (1) in any 1 entity shall not exceed an amount equal to 5% of the capital and surplus of the bank, and all investments under subsection (1) shall not exceed an amount equal to 10% of the capital and surplus of the bank.

(4) This section does not limit the authority of a bank to exercise lending or investment powers which are otherwise authorized by law.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

#### **487.14306 Lease, purchase, holding, and conveyance of real property.**

Sec. 4306.

A bank may lease, purchase, hold, and convey any of the following real property:

(a) As necessary for the convenient transaction of its business, including space within its banking office buildings to rent as lessor to third parties.

(b) As conveyed to it in satisfaction of debts previously contracted in the course of its business.

(c) As it purchases at sales under judgments, decrees, or mortgages held by the bank or to secure debts due to it.

(d) As it legally owned on the effective date of this act.

(e) As conveyed to it under sections 4401 to 4405.

(f) As it may acquire in connection with the purchase by it of a land contract, but the purchase of the land contract constitutes a loan secured by real property for purposes of section 4202.

(g) For any other purpose as may be permitted by this act or by order or declaratory ruling of the commissioner.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

#### **487.14307 Acquisition, development, or improvement of real property for sale.**

Sec. 4307.

A bank may invest not more than 10% of its total assets in the acquisition and development of real property for sale, or for the improvement of real property by construction or rehabilitation of residential or commercial units for

sale or rental purposes. For purposes of this section, a bank may purchase, take, lease as lessee, or otherwise acquire, and own, hold, use, sell, lease as lessor, pledge, grant a security interest in, convey, or otherwise dispose of real property. The investment by a bank may be direct, or indirect as a stockholder in a corporation, member of a limited liability company, or limited partner in a partnership or limited liability partnership.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

#### **487.14308 Acquisition of real property for use of customer; loan secured by real property.**

Sec. 4308.

(1) A bank may lease, purchase, hold, and convey real property for the use of a customer by lease arrangement with the bank, but the acquisition of real property and leasing to a customer constitutes a loan secured by real property for purposes of section 4202.

(2) A bank may incur additional obligations incident to becoming an owner or lessor of real property acquired for the use of a customer.

(3) Inventory of real property held under this section and not leased shall not exceed 25% of the bank's capital and surplus.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

#### **487.14309 Acquisition of personal property for use of customer; loan secured by personal property.**

Sec. 4309.

(1) A bank may lease, purchase, hold, and convey personal property for the use of a customer by lease arrangement with the bank, but the acquisition of personal property and leasing to a customer constitutes a loan secured by personal property under section 4202.

(2) A bank may incur additional obligations incident to becoming an owner or lessor of personal property acquired for the use of a customer.

(3) Inventory of personal property held under this section and not leased shall not exceed 25% of the bank's capital and surplus.

(4) Personal property of a bank that is leased, loaned, or otherwise made available to and used by a person in connection with a business conducted for profit shall be subject to taxation in the same amount and to the same extent as though the lessee or user were the owner of the property. When due, the taxes shall constitute a debt due from the lessee or user to the unit of government for which the taxes were assessed.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

#### **487.14310 Investment in service entity.**

Sec. 4310.

(1) As authorized by order or declaratory ruling of the commissioner, a bank may invest in service entities that engage in activities in which a bank is not authorized to engage.

(2) The maximum aggregate investment by a bank in service entities shall be the lesser of 5% of the bank's total assets or 75% of its capital and surplus.

(3) The commissioner shall give notice to all banks of orders and declaratory rulings issued under this section.

(4) For purposes of subsection (2), investment in a service entity shall include loans by a bank or its subsidiary to a service entity.

(5) Subject to the investment limit in subsection (2), a bank or its subsidiary that has made an initial investment in a service entity may make additional investments in that service entity without notice to the commissioner.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

Part 4  
TRUSTS

**487.14401 Trust powers; conditions, limitations, and restrictions.**

Sec. 4401.

(1) Upon application, the commissioner may grant to any bank or state foreign bank branch trust powers as provided in this section, subject to the conditions, limitations, and restrictions in this act.

(2) The commissioner shall not grant trust powers to a state agency.

(3) If the commissioner approves an application described in subsection (1), the bank or state foreign bank branch has the power to conduct a trust business. This power includes, but is not limited to, all of the following:

(a) In its corporate name, to take, receive, hold, repay, reconvey, and dispose of any effects and property, both real and personal, that are granted, committed, transferred, or conveyed to it with its consent, according to the terms of any agreement or trust, at any time, by any individual, minor, corporate body, court, or any other person and to administer, fulfill, and discharge the duties of the trust.

(b) To act as agent for the transaction of business, the management of estates, the collection of rents, interest, dividends, and money, and the collection of principal and interest on mortgages, bonds, notes, and securities for money; to enforce the payment of any of these obligations; to act as agent for the purpose of issuing, negotiating, registering, transferring, or countersigning the certificates of stock, bonds, or other obligations of any corporation, association, or municipality; and to manage any sinking fund of any corporation, association, or municipality on the terms to which the parties have agreed.

(c) To accept and to execute the office of personal representative, trustee, receiver, conservator, liquidating agent, assignee, or guardian of any minor, incompetent person, legally incapacitated person, or any other person subject to guardianship. If an application is made to a court for the appointment of a trustee, receiver, personal representative, or guardian of any minor, incompetent person, legally incapacitated person, or any other person subject to guardianship, the court may appoint the bank or state foreign bank branch, with its consent, to hold that office. The accounts of a bank or state foreign bank branch as trustee, receiver, conservator, liquidating agent, assignee, personal representative, or guardian shall be regularly settled and adjusted by the proper office or tribunals. All proper, legal, usual, and customary charges, costs, and expenses shall be allowed to the bank or state foreign bank branch for the care and management of an estate committed to it under this section. If appointed by any court, a bank or state foreign bank branch is not required to give any security except in the discretion of the court. If the court orders the bank or state foreign bank branch to give security, the security shall be a bond in an amount fixed by the court and with a surety company authorized to do business in this state, or with personal surety or sureties on the bond satisfactory to the court.

(d) Subject to law, to exercise by its board of directors or authorized officers or agents all incidental powers necessary to carry on a trust business.

(e) A bank or state foreign bank branch acting as a fiduciary may charge a reasonable fee for its services. In any action or proceeding concerning fees, there is a rebuttable presumption that a fee is reasonable if the fee or its method of computation is specified in a fee schedule or fee agreement of the bank or state foreign bank branch in effect at the time the service is provided and if the agency or custody principal, the trust grantor, or any other person who is entitled to be kept reasonably informed of the fiduciary account and its administration under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, received reasonable notice of that fee schedule or fee agreement before the fee is charged.

**History:** 1999, Act 276, Eff. Mar. 1, 2000 ;-- Am. 2006, Act 581, Imd. Eff. Jan. 3, 2007

**487.14402 Definitions; trust service agreement.**

Sec. 4402.

(1) As used in this section:

(a) "Host bank" means a bank, national bank, association, savings bank, or other legal entity for which trust services are provided by any other bank, out-of-state bank, national bank, association, or savings bank.

(b) "Trust service provider" means a bank, national bank, association, or savings bank providing trust services to any other bank, out-of-state bank, national bank, association, savings bank, or other legal entity.

(c) "Banking office" means a principal office or authorized branch of a bank, out-of-state bank, national bank, association, or savings bank.

(2) A bank granted full trust powers may contract by written agreement with any other legal entity to carry on trust services in its name and for its account at 1 or more of the offices of the other legal entity.

(3) A bank may contract by written agreement with any other legal entity exercising full trust powers to carry on trust services at 1 or more of its banking offices but in the name and for the account of the other legal entity.

(4) An agreement provided for in this section, including any lease, or a modification or extension of an agreement, is not effective until it is filed with the commissioner.

(5) Thirty days after a host bank mails a notice of substitution as provided in subsection (6), a trust service provider shall be substituted for a host bank as fiduciary or agent and succeed to the title of assets held by a host bank in a fiduciary capacity for each account in which the host bank, under the terms of a trust service agreement, will no longer serve as fiduciary or agent. A trust service provider shall not be substituted for the host bank for an account in which the recipient of a notice of substitution objects to the substitution in the manner provided in subsection (6).

(6) For each account in which a trust service provider is substituted for a host bank under the terms of a trust service agreement, a written notice of substitution shall be sent by the host bank by certified mail. The notice of substitution shall include the date the notice was mailed and explain that the trust service provider will not be substituted for the host bank for the account if the recipient of the notice sends a written objection to the host bank by first-class mail within 30 days after the date the notice was mailed. The notice of substitution shall be sent to the following as appropriate:

(a) For employee benefit plans, to the plan sponsors.

(b) For individual retirement accounts and retirement accounts for the self-employed, to the account owners.

(c) For agency and escrow accounts, to the principals.

(d) For securities for which a host bank serves as trustee, registrar, transfer agent, or paying agent, to the issuers.

(e) For revocable trusts under agreement, to the settlors.

(f) For irrevocable trusts under agreement, to any co-fiduciary, to the settlor, to each current income beneficiary who is an adult, and, if a current income beneficiary is a minor, to a parent of the minor with whom the minor resides or to the conservator or guardian of the minor. The notice to the settlor shall not grant to the settlor any authority over the trust or trustee that the settlor does not already have, including the authority to object to the substitution of a trust service provider for a host bank. For purposes of this subdivision, "current income beneficiary" means a person currently entitled to income or a person to whom the trustee, in the trustee's discretion, may pay principal or income.

(g) For testamentary trusts, to the persons notified under subdivision (f) and to the probate court that appointed the host bank as trustee.

(h) For conservatorships, to any co-fiduciary, to the protected person for whom the conservatorship was created or, if the conservatorship was created for a minor, to a parent of the minor with whom the minor resides or to the guardian of the minor, and to the probate court that appointed the host bank as conservator.

(i) For guardianships, to any co-fiduciary, to the minor or legally incapacitated person for whom the guardian was appointed if the ward is at least 14 years of age, and to the probate court that appointed the host bank as guardian.

(j) For probate estates, to any co-fiduciary, to any interested person as defined by section 1105 of the estates and protected individuals code, 1998 PA 386, MCL 700.1105, and to the probate court that appointed the host bank as personal representative.

(7) Subsections (1), (5), and (6) apply to trust service agreements in effect on or after December 6, 1985.

**History:** 1999, Act 276, Eff. Mar. 1, 2000 ;-- Am. 2000, Act 62, Eff. Apr. 1, 2000

**487.14403 Trust powers; segregation of assets held in fiduciary capacity; separate books and records; commingling and consolidation.**

Sec. 4403.

(1) A bank exercising a trust power as provided in this section and sections 4401, 4402, 4404, and 4405 shall segregate all assets held in a fiduciary capacity from the general assets of the bank, shall keep a separate set of books and records showing in proper detail all transactions engaged in under the authority of this section and sections 4401, 4402, 4404, and 4405, and at all times shall keep the bank's trust department business separate and distinct from the bank's commercial banking business.

(2) Funds, at any time and from time to time, held in trust by the bank awaiting investment or other disposition, may be commingled and consolidated, and may be deposited in other banks as designated by the board of directors or may be held at any time and from time to time by the bank under a deposit relationship and used by the bank in the conduct of the bank's individual corporate business, but only to the extent and when the bank shall set aside for the protection of the owners of the funds obligations of the United States, obligations that are guaranteed fully as to principal and interest by the United States, general obligations of this state or of any political subdivision of this state, surety bonds, or other securities approved by the commissioner equal at face value to the amount of the funds held and so used less the amount of the funds that are insured by the federal deposit insurance corporation. If the bank fails, the owners of the funds held in trust, awaiting investment or other disposition, shall have a lien on the securities set apart in addition to any other claims against the bank.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

#### **487.14404 Application for full fiduciary powers; considerations; limited trust power.**

Sec. 4404.

(1) In acting upon applications for permission to exercise full fiduciary powers as provided in section 4401, the commissioner shall take into consideration the sufficiency of the capital and surplus of the applying bank and any other facts or circumstances the commissioner considers proper.

(2) Without regard to the capital and surplus requirements specified in subsection (1), the commissioner may grant to a bank the limited trust power to act as executor, administrator, or guardian and to serve as a testamentary trustee.

**History:** 1999, Act 276, Eff. Mar. 1, 2000

#### **487.14405 Investment of trust funds or property; "registered investment company" defined; bank considered as fiduciary.**

Sec. 4405.

(1) A bank shall invest any money or property held by the bank as fiduciary and available for investment at the time and in the manner specified in the agreement, instrument, or order creating or defining the trust or other capacity in which the bank is acting or, if the bank holds the money or property as agent, as directed or permitted by the bank's principal. In the absence of investment specifications or limitations in the agreement, instrument, or order, the bank shall invest any money or property held by the bank as fiduciary within a reasonable time in real or personal property, of whatever type or nature, that a prudent investor would purchase, taking into account the purposes, terms, and distribution requirements expressed in the governing instrument, in the exercise of reasonable care, skill, and caution under conditions existing at the time of purchase. A bank's compliance with the prudent investor rule described in this subsection is determined in light of the facts and circumstances that exist at the time of the bank's decision or action as a fiduciary and requires a standard of conduct, not outcome or performance.

(2) A bank shall not invest any money or property held as fiduciary in any securities or other properties, real or personal, purchased from the bank in its individual capacity or from any affiliate of the bank unless 1 of the following applies:

(a) The investment is otherwise permitted by law, a court order, or the agreement, instrument, or order that creates or defines the trust or other fiduciary capacity in which the bank is acting.

(b) All interested parties or their representatives consent to the investment.

(c) The bank holds the money or property as an agent and the bank's principal directs or permits the investment.

(3) Except when the agreement, instrument, or order creating or defining the trust or other capacity in which the bank, or the bank and 1 or more cofiduciaries, is acting prohibits the investment or transaction, a bank or a bank and 1 or more cofiduciaries may do any of the following with any money or property over which the bank or the bank and 1 or more cofiduciaries exercises investment discretion:

(a) Invest the money or property in a registered investment company even though either or both of the following apply:

(i) The bank or 1 or more affiliates of the bank provide services as investment adviser, sponsor, distributor, manager, custodian, transfer agent, registrar, or otherwise, to the investment company and receives reasonable remuneration for those services.

(ii) The bank as fiduciary owns or controls a majority of the voting shares of the investment company or a majority of the shares voted for the election of its directors or trustees or the bank as fiduciary otherwise controls the election of a majority of the investment company's directors or trustees.

(b) With the written consent of the revocable trust grantor or agency principal, or if the trust is irrevocable or the trust grantor is deceased or reasonably believed by the trustee to be incapacitated, after providing advance notice at least 45 days before the use of the money or property to any person then entitled to be kept reasonably informed of the fiduciary account and its administration under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, use the money or property to purchase any product, service, or security from or through the bank or an affiliate of the bank, including, but not limited to, an insurance product or a security that is underwritten or distributed by the bank or an affiliate of the bank or by a syndicate or selling group that includes the bank or an affiliate of the bank, if the purchase price is reasonable. Any advance notice required under this subdivision shall list the type of products, services, or securities available for purchase from or through the bank or an affiliate of the bank and shall provide the name and address of an individual at the bank to whom a beneficiary receiving the notice may direct any objection. If the bank receives a written objection to a notice provided under this subdivision, and the objection is not resolved or withdrawn, the bank shall not use the money or property to purchase any product, service, or security from or through the bank or an affiliate of the bank for at least 60 days after the bank receives the written objection. A bank or 1 or more affiliates of the bank may receive reasonable compensation in connection with the purchase of the product, service, or security under this subdivision.

(4) As used in subsection (3), "registered investment company" means an investment company that is registered under the investment company act of 1940, 15 USC 80a-1 to 80a-64.

(5) For purposes of this section, a bank is considered to hold funds or property in a fiduciary capacity if it is holding the assets as trustee, personal representative, custodian, conservator, guardian, agent, or in any other fiduciary capacity.

**History:** 1999, Act 276, Eff. Mar. 1, 2000 ;-- Am. 2006, Act 581, Imd. Eff. Jan. 3, 2007

**487.14406 Repealed. 2005, Act 195, Imd. Eff. Nov. 7, 2005.**

**Compiler's Notes:** The repealed section pertained to filing suspicious activity report by bank with federal agency.