

SAVINGS BANK ACT (EXCERPT)
Act 354 of 1996

487.3325 Director or officer of savings bank; discharge of duties; violation; removal; vote.

Sec. 325.

(1) A director or an officer of a savings bank shall discharge the duties of his or her position in good faith and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position.

(2) In discharging his or her duties, a director or an officer when acting in good faith may rely upon the opinion of legal counsel for the savings bank, upon the report of an independent appraiser selected with reasonable care by the board or by an officer of the savings bank, or upon financial statements of the savings bank represented to him or her to be correct by the president or the officer of the savings bank having charge of its books of account, or as stated in a written report by an independent public or certified public accountant or firm of accountants fairly to reflect the financial condition of the savings bank.

(3) The articles of incorporation of a savings bank may contain a provision providing that a director is not personally liable to the savings bank or its shareholders or members for monetary damages for a breach of the director's fiduciary duty. The provision does not eliminate or limit the liability of a director for any of the following:

- (a) A breach of the director's duty of loyalty to the savings bank or its shareholders or members.
- (b) Acts or omissions not in good faith or that involve intentional misconduct or knowing violation of law.
- (c) A violation of section 223.
- (d) A transaction from which the director derived an improper personal benefit.

(4) An action against a director or officer for failure to perform the duties imposed by this section shall be commenced within 3 years after the cause of action has accrued, or within 2 years after the time when the cause of action is discovered, or should reasonably have been discovered, by the complainant, whichever occurs first.

(5) If a director or officer of a savings bank knowingly violates, or knowingly permits any of the agents, officers, directors, or employees of the savings bank to violate, this act, rules promulgated under this act, or an order or declaratory ruling of the commissioner, every director and officer who participated in or assented to the violation shall be held liable in his or her personal and individual capacity for all damages that the savings bank, any shareholder, or any other person sustains as a result of the violation. An action to recover damages under this section shall be brought within 3 years from the time of the violation.

(6) The shareholders may remove 1 or more directors with or without cause unless the articles provide that directors may be removed only for cause. The vote for removal shall be by a majority of shares entitled to vote at an election of directors, except that the articles may require a higher vote for removal without cause. This subsection shall not invalidate any bylaw adopted before the effective date of the amendatory act that added this subsection that applies to removal without cause.

(7) In the case of a savings bank having cumulative voting, if less than the entire board is to be removed, a director shall not be removed if the votes cast against his or her removal would be sufficient to elect him or her if then cumulatively voted at an election of the entire board of directors, or, if there are classes of directors, at an election of the class of directors of which he or she is a part.

(8) If holders of a class or series of stock are entitled by the articles to elect 1 or more directors, this section applies, with respect to removal of a director so elected, to the vote of the holders of the outstanding shares of that class or series of stock.

History: 1996, Act 354, Imd. Eff. July 1, 1996 ;-- Am. 2000, Act 482, Imd. Eff. Jan. 11, 2001