

SAVINGS BANK ACT (EXCERPT)
Act 354 of 1996

487.3406 “Investment security” and “secretary” defined; purchase of investment securities.

Sec. 406.

(1) As used in this section:

(a) "Investment security" means a marketable obligation in the form of a bond, note, or debenture, commonly regarded as an investment security and which is salable under ordinary circumstances with reasonable promptness at a fair value.

(b) "Secretary" means the secretary of the United States department of housing and urban development.

(2) A savings 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 which corresponds to their fair value. The purchase of investment securities in which the investment characteristics are considered distinctly or predominantly speculative, or the purchase of investment securities that are in default, whether as to principal or interest, is prohibited.

(3) A savings bank may purchase without limit 1 or more of the following:

(a) Obligations of the United States, or 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 under authority of the federal farm credit act of 1971, Public Law 92-181, 85 Stat. 583.

(c) Obligations issued by banks for cooperatives.

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

(e) Obligations insured by the secretary under title XI of the national housing act, chapter 847, 80 Stat. 1274, 12 U.S.C. 1749aaa to 1749aaa-5.

(f) Obligations insured by the secretary under section 207 of title II of the national housing act, chapter 847, 48 Stat. 1252, 12 U.S.C. 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 pursuant to section 305 or 306 of the federal home loan mortgage act, title III of the emergency home finance act of 1970, Public Law 91-351, 12 U.S.C. 1454 and 1455.

(i) Obligations of a public housing agency, as defined in the United States housing act of 1937, chapter 896, 88 Stat. 653, secured by any of the following:

(i) An agreement between the public housing agency and the secretary in which the public housing agency agrees to borrow from the secretary, and the secretary agrees to lend to the public housing agency, before the maturity of the obligations, money in an amount which together with any other money irrevocably committed to the payment of interest on such obligations will suffice to pay the principal of the obligations with interest to maturity on the obligations which money under the terms of the agreement is required to be used for the purpose of paying the principal of and the interest on the obligations at their maturity.

(ii) A pledge of annual contributions under an annual contributions contract between the public housing agency and the secretary if the contract contains the covenant by the secretary that is authorized by section 6(g) of title I of the United States housing act of 1937, chapter 896, 88 Stat. 659, 42 U.S.C. 1437d, and if the maximum sum and the maximum period specified in the contract under section 6(g) of the United States housing act of 1937 is not less than the annual amount and the period for payment that are requisite to provide for the payment when due of all installments of principal and interest on such obligations.

(iii) A pledge of both annual contributions under an annual contributions contract containing the covenant by the secretary that is authorized by section 6(g) of the United States housing act of 1937 and a loan under an agreement between the local public housing agency and the secretary in which the public housing agency agrees to borrow from the secretary and the secretary agrees to lend to the public housing agency, prior to the maturity of the obligations involved, money in an amount which, together with any other money irrevocably committed under the annual contributions contract to the payment of principal and interest on the obligations, will suffice to provide for the payment when due of all installments of principal and interest on the obligations, which money under the terms of the agreement is required to be used for the purpose of paying the principal and interest on the obligations at their maturity.

(j) Obligations of a local public agency, as defined in former section 110(h) of part A of title I of the housing act of 1949, secured by an agreement between the local public agency and the secretary in which the local public

agency agrees to borrow from the secretary and the secretary agrees to lend to the local public agency, money in an aggregate amount which, together with any other money irrevocably committed to the payment of interest on the obligations, will suffice to pay, when due, the interest on all installments, including the final installment, of the principal of the obligations, which money under the terms of the agreement is required to be used for the payments.

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

(4) The total amount of investment securities of any 1 obligor or maker, held by a savings bank for its own account under this subsection, shall not exceed at any time 20% of its capital, surplus, and subordinated notes and debentures. This limitation shall not require a savings bank to dispose of any securities lawfully held by it on the effective date of this act. The statutory limitation on the amount of investment securities of any 1 obligor or maker which may be held by a savings bank shall be determined on the basis of the par or face value of the securities. For purposes of this section, capital notes or debentures shall not include capital notes or debentures issued to or held by the federal deposit insurance corporation.

(5) A savings bank shall maintain in its credit files information adequate to demonstrate that it has exercised prudence in making the determinations and carrying out the transactions described in subsection (2).

(6) If a savings bank purchases investment securities convertible into stock or with stock purchase warrants attached, entries shall be made by the savings bank at the time of purchase to write down the cost of the securities to an amount that represents the investment value of the securities considered independently of the conversion feature or attached stock purchase warrants. A savings bank shall not purchase investment securities that are convertible into stock at the option of the issuer.

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

(a) Obligations of the United States.

(b) General obligations of any state of the United States or a political subdivision of the United States.

(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 (3).

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

(8) For the purposes of underwriting under subsection (7), prudence shall require a consideration of the resources and obligations of the obligor and a determination that the obligor possesses resources sufficient to provide for all required payments in connection with the obligation.

(9) For the purposes of underwriting under subsection (7), a savings bank shall not underwrite any investment securities of a foreign country that has been identified by the United States state department as engaging in or sponsoring terrorism.

(10) The restrictions and limitations of this section 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 savings bank granted by any other section of this act.

(11) A savings bank may invest in other assets authorized by order or declaratory ruling of the commissioner.

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