

Chapter SB 16

AUTHORIZED ACTIVITIES OF SAVINGS BANKS

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SB 16.03 Authorized investments

SB 16.01 Powers of a savings bank. (ss. 214.03, 214.04 (28) and 214.57, Stats.) A savings bank may do all of the following:

(1) **THIRD PARTY PAYMENTS.** With or without fee, transfer an accountholder's funds from any account of an accountholder, or pursuant to any credit arrangement with the accountholder in the savings bank or in another financial institution, to a third party or to another account of the accountholder, in accordance with the accountholder's order or authorization. Such transfer may be made by any mechanism or device if the transfer conforms with applicable laws and established commercial practices.

(2) **FEDERAL TAX DEPOSITORY.** Serve as depository for federal taxes or as treasury tax and loan depository subject to regulation of the U. S. treasury department, and as a depository of public money and fiscal agent of the U.S. government or, when designated by an instrumentality and approved by the commissioner, of any other instrumentality of the government.

(3) **DEPOSIT ACCOUNT FEES.** Charge fees in connection with the administration of a deposit account except that a fee or a fee increase may be imposed only if a written, clear and conspicuous disclosure of the fee or fee increase and the method of computing it is delivered to the depositor before the depositor opens the account or mailed to the depositor not less than 30 days prior to the date the fee or fee increase takes effect, whichever is later.

(4) **GOVERNMENT OBLIGATIONS.** Invest in obligations of or issued by any state, territory or possession of the United States or political subdivision of any state, territory or possession, including any agency, corporation or instrumentality. A savings bank may invest in an obligation under this subsection only if the obligation continues to hold one of the 4 highest national investment grade ratings or is issued by a public housing agency and backed by the full faith and credit of the United States, except a savings bank may invest not more than 1% of its assets in obligations of this state or a political subdivision of this state regardless of rating or any other government obligation approved in writing by the commissioner.

(5) **INDIVIDUAL RETIREMENT AND KEOGH PLAN ACCOUNTS.** (a) Act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension or profit-sharing plan qualifying for specific tax treatment under s. 401 (d) of the internal revenue code or trustee or custodian of an individual retirement account, as defined in s. 408 (a) of the internal revenue code, with no active fiduciary duties if:

1. The savings bank invests the funds only in the savings bank's own accounts, deposits, obligations or securities; or

2. The savings bank invests the funds in such other assets as the customer may direct and the savings bank does not exercise any investment discretion or directly or indirectly provide any investment advice with respect to the trust or account.

(b) A savings bank acting as trustee or custodian pursuant to par. (a) shall include in bold type on the first page of any contract documents the following language: "Funds invested pursuant to this agreement are not insured by the federal deposit insurance corporation ("FDIC") merely because the trustee is an institution the accounts of which are covered by such insurance. Only investments in the accounts of such an institution are insured by the FDIC, subject to its rules and regulations."

(6) **MONEY MARKET ACCOUNT.** Offer a money market account to the extent permitted by a federally chartered savings and loan or savings bank under 12 USC 1464 (b) and 12. CFR 561.11f or a state chartered savings and loan or savings bank under s. S-L 16.01 (11).

(7) **SALVAGE POWERS.** Accept financial or other assets in satisfaction of a troubled debt or in trade for repossessed property, which assets shall be carried on the savings bank's books at no greater than market value, or take any other actions related to a troubled debt approved in writing by the commissioner. The value of any real property accepted in trade shall be supported by a current appraisal.

(8) **SALE OF NONINSURED FINANCIAL PRODUCTS.** (a) *Authority.* Both through a subsidiary under ch. SB 15 and directly by the savings bank, sell insurance products (including annuities and life, credit-life, health, property and casualty, unemployment compensation and mortgage guaranty insurance), equity securities (including preferred and common stocks and interests in mutual funds) as agents for the accounts of customers, real estate investment trust interests, corporate and municipal bonds and shares in uninsured brokered deposits.

(b) *Prohibited activities.* 1. 'Sales by tellers at teller counters.' Sales of noninsured financial products described in par. (a) made directly by savings bank personnel may not be sold at a teller counter by a teller or comparable person.

2. 'Investments in savings bank or subsidiary.' To avoid any actual or apparent conflict of interest, no investment advice may be given regarding, nor may transactions be made in, any equity security or debt instrument of the savings bank or any of its service corporations or subsidiaries.

(c) *Disclosure.* When a customer purchases an annuity, equity security, real estate investment trust interest, corporate or municipal bond or share in uninsured brokered deposits from a savings bank or a service corporation or subsidiary, the savings bank, service corporation or subsidiary shall obtain from the customer a signed document in a form prescribed by the commissioner, a copy of which the customer receives, disclosing that the product is not a deposit account and is not insured by a federal insuring agency.

History: Cr. Register, February, 1994, No. 458, eff. 3-1-94; correction in (6) made under s. 13.93 (2m) (b) 7., Stats., Register, December, 1995, No. 480.

SB 16.02 Election of loan or investment classification. (s. 214.03, Stats.) If a savings bank makes an investment or loan under more than one provision of the statutes or this chapter, the savings bank may designate under which section the investment or loan or any portion of either is made and may change its designation at any time.

History: Cr. Register, February, 1994, No. 458, eff. 3-1-94.

SB 16.03 Authorized investments. (s. 214.49(15), Stats.). A savings bank may invest its funds in the following:

(1) **MUTUAL FUNDS.** Shares of an open-end investment company, commonly known as a "mutual fund", but limited to 5% of a savings bank's total assets in any one company. The open-end investment company shall be registered with the federal securities and exchange commission and an individual fund's portfolio shall consist of obligations that are eligible for direct purchase by a sav-

ings bank. However, a savings bank may purchase, with the prior written approval of the commissioner, an investment in an open-end investment company containing mortgage-backed, asset-backed or other derivative products. The savings bank shall monitor the open-end investment company's portfolio on a quarterly basis to determine whether an appropriate level of obligations that are eligible for direct purchase by a savings bank is maintained.

Note: This language parallels the authority of federal savings and loan associations and savings banks in 12 CFR 545.76.

(2) COLLATERALIZED MORTGAGE OBLIGATIONS AND REAL ESTATE MORTGAGE INVESTMENT CONDUITS. A collateralized mortgage obligation and a real estate mortgage investment conduit issued by a state or federal agency or by a private issuer. In acquiring and retaining the security, a savings bank shall comply with the federal financial institutions examination council's "Statement of Policy on Securities Activities" originally issued on January 10, 1992 and revised on April 15, 1994. Collateralized mortgage obligations and real estate mortgage investment conduits issued by a private issuer shall be rated in one of the 2 highest categories by a nationally recognized rating service. The maximum purchase of any one private issue is limited to the greater of \$1,000,000 or one percent of a savings bank's total assets. A savings bank may invest in stripped mortgage backed securities or residuals with the prior written approval of the commissioner.

Note: This language parallels the authority of federal savings and loan association and federal savings banks in 12 USC 1464(5)(c)(1)(R) except the last sentence which codifies agency policy.

The FFIEC "Statement of Policy on Securities Activities" is set forth in *FDIC; Law, Regulations and Related Acts* (vol. 2, page 5293) and in the *Federal Guide* (vol. 2, para. 28,499). A copy may be obtained from the commissioner upon request.

(3) MORTGAGE BACKED SECURITIES; MORTGAGE BACKED DEBT. Mortgage backed securities and mortgage backed debt issued by a state or federal agency or by a private issuer. The underlying mortgage loans shall be secured by owner-occupied, one to 4 unit dwellings. Private issues of these securities must be rated in one of the 2 highest categories by a nationally recognized rating ser-

vice. The maximum purchase of any one private issue is limited to the greater of \$1,000,000 or one percent of a savings bank's total assets.

Note: This language parallels the authority of federal savings and loan associations and savings banks in 12 USC 1464(5)(c)(1)(R) except the last sentence, which codifies this agency's policy.

(4) NON-MORTGAGE DERIVATIVE PRODUCTS AND CONTRACTS. Non-mortgage derivative products and contracts, including interest rate swaps with the prior written approval of the commissioner. Contracts must be U.S. dollar denominated and used for the express purpose of reducing, hedging or managing interest rate risk.

Note: This parallels agency policy for this type of investment for savings and loan associations.

(5) LOAN-BACKED SECURITIES. Securities backed by commercial or consumer loans or loan receivables. If the security is issued by a private source, the security shall be rated in one of the 2 highest categories by a nationally recognized rating service. Privately issued securities are also limited to 10% of unimpaired surplus of a savings bank in any one issuer and aggregate limitations are limited to 10% of total assets of a savings bank when combined with other commercial or consumer loans unless a greater amount is authorized by prior written approval of the commissioner.

Note: This parallels authority in 12 USC 1464(5)(c)(z). The last sentence parallels s. 214.485(9), Stats.

(6) INDUSTRIAL DEVELOPMENT REVENUE BONDS. Industrial development revenue bonds issued under s. 66.521, Stats. The bonds shall be secured by a mortgage or security interest in the project and the bond indebtedness may not exceed 75% of the appraised value of the project. Revenues of the project shall be pledged to repay bond interest and principal. The repayment of the bonds shall be guaranteed by an insurance company or financial institution with demonstrated financial ability to repay the liability.

Note: This parallels the long standing agency policy for savings and loan associations.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96.