SAVINGS BANK ACT (EXCERPT)
Act 354 of 1996

CHAPTER 2
ADMINISTRATION

487.3201 Financial institutions bureau; jurisdiction; duties of commissioner; construction of act.

Sec. 201. (1) The financial institutions bureau shall have jurisdiction over and execute the laws relating to savings banks transacting business in this state.

(2) The commissioner shall maximize the capacity of savings banks in this state to offer convenient and efficient financial services, to promote home ownership and economic development, and to ensure that savings banks remain competitive with other types of financial institutions and providers of financial services.

(3) This act shall be liberally construed except for those provisions that relate to safety and soundness of operations, investments, and management.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3202 Prohibited conduct.

Sec. 202. Unless the person is organized under this act, a person shall not transact business under this act, do business under any name or title, circulate, advertise, make representations or give information that indicates or implies the operation of a business under this act.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3203 Federal insurance of deposits required.

Sec. 203. Unless the commissioner, for good cause shown, waives the requirement, a savings bank shall secure insurance of its deposit accounts backed by the full faith and credit of the United States government prior to commencing business.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3204 Savings bank; asset tests; loans for domestic residential housing; failure to satisfy asset tests.

Sec. 204. (1) A savings bank shall satisfy 1 of the following asset tests:

(a) An asset test requiring that not less than 50% of the total assets of the savings bank, as measured by monthly averages calculated at the close of each calendar month, in at least 9 months of the immediately preceding 12-month period, consist of 1 or more of the following:

(*i*) Loans that were made to purchase, refinance, construct, improve, or repair domestic residential housing, including single and multifamily dwellings, or manufactured housing.

(*ii*) Home equity loans.

(*iii*) Real property acquired as a result of foreclosure or deed-in-lieu of foreclosure with respect to loans described in this section.

(*iv*) Securities backed by or representing an interest in mortgages on domestic residential housing, including single or multifamily dwellings, or manufactured housing.

(*v*) Shares of stock issued by any federal home loan bank.

(*vi*) 50% of the dollar amount of the domestic residential housing mortgage loans, including single or multifamily dwellings, originated by the savings bank and sold within 90 days of origination.

(*vii*) Investments both debt and equity in the capital stock or obligations of and any other security issued by any service entity or subsidiary of the savings bank, if the service entity or subsidiary derives at least 80% of its annual gross revenues from activities directly related to purchasing, financing, refinancing, constructing, improving, or repairing domestic residential housing, including single or multifamily dwellings, or manufactured housing.

(*viii*) 200% of the dollar amount of loans and investments to purchase, construct, or develop 1 to 4 family residences the purchase price of which is, or is guaranteed to be, not greater than 60% of the median value of comparable newly-constructed 1 to 4 family residences within the savings bank's local community.

(*ix*) 200% of the dollar amount of loans for the purchase, construction, development, or improvement of domestic residential housing, churches or other places of worship, schools, nursing homes, hospitals, and facilities serving similar functions within a community, located within a geographic region or neighborhood in which the credit needs of low and moderate income residents are not being adequately met at the time the relevant loan is made.

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(*x*) Loans to small businesses located within a geographic area described in subparagraph (*ix*).

(*xi*) Loans for the purchase, construction, development, or improvement of churches or other places of worship, schools, nursing homes, hospitals, and other facilities utilized for similar functions or services within a community.

(*xii*) Loans for the purchase, construction, development, or improvement of facilities and residential developments dedicated to public use or property used on a nonprofit basis for residents.

(*xiii*) Loans for personal, family, household, or education purposes.

(*xiv*) Shares of stock issued by the federal home loan mortgage corporation and the federal national mortgage association.

(*xv*) Loans secured by an interest in churches or other places of worship, schools, nursing homes, hospitals, educational, health, or welfare institutions or facilities, facilities designed or used primarily for residential purposes for students, residents, and persons under care, employees, or members of the staff of the institutions or facilities, and other facilities utilized for similar functions or services within a community.

(*xvi*) Cash and other highly liquid assets.

(*xvii*) Obligations of the United States or of a state or political subdivision thereof, and stock or obligations of a corporation that is an instrumentality of the United States or of a state or political subdivision thereof, but not including obligations the interest on which is excludable from gross income under section 415 of the internal revenue code of 1986, 26 U.S.C. 415.

(*xviii*) Property acquired through the liquidation of defaulted loans described in this section.

(*xix*) Loans made for the payment of expenses of college or university education or vocational training, in accordance with order or declaratory ruling of the commissioner.

(*xx*) Property used by the savings bank in the conduct of its business of acquiring the savings of the public and investing in loans.

(b) An asset test prescribed by order or declaratory ruling of the commissioner.

(2) If a multifamily dwelling securing a loan is used in part for nonresidential purposes, the entire loan is deemed a loan for domestic residential housing if the planned residential use exceeds 80% of the property's planned use, determined as of the time the loan is made. Loans made to finance the acquisition or development of land shall be considered loans for domestic residential housing if there is reasonable assurance that the property will become residential real property within a period of 3 years from the date of acquisition of the land.

(3) In the event a savings bank does not satisfy either of the asset tests of subsection (1), the savings bank shall promptly notify the commissioner in writing of the failure.

(4) A savings bank which fails to satisfy either of the asset tests of subsection (1) may requalify as a savings bank by meeting the percentage of total assets test in subsection (1)(a) for 9 of the 12 months following notice to the commissioner, including the month the notice is given, or a savings bank may requalify as a savings bank by meeting a requalification test prescribed by order or declaratory ruling of the commissioner. The savings bank shall promptly give notice to the commissioner as soon as the savings bank requalifies or fails to requalify as a savings bank under this subsection.

(5) If the savings bank fails to requalify as a savings bank under subsection (4), the savings bank shall make application with the appropriate governmental agency to convert its charter, or liquidate, but may continue to operate as a savings bank under an order of the commissioner for the period of time stated in the order. If the savings bank fails to comply with the order for continued operation, or upon expiration of the time prescribed in the order without conversion of charter or liquidation, the commissioner may appoint a conservator under section 605 or apply to the circuit court for the county in which the savings bank is located for the appointment of a receiver for the savings bank. The activities of the conservator or receiver shall otherwise be governed by the terms of chapter 6.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3205 Appointment of examiners and employees; payment of compensation, travel, and expenses.

Sec. 205. The commissioner may appoint examiners and other employees for the carrying out of this act. The compensation, travel, and other expenses of the commissioner, deputy commissioners, examiners, and employees shall be paid in the manner provided by law for other state officers and employees, within the appropriations made by the legislature.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3206 Commissioner, deputy commissioner, or examiner; prohibited conduct.

Sec. 206. (1) During his or her term of office or employment, the commissioner, a deputy commissioner, or

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an examiner of the bureau shall not be a shareholder, either directly or indirectly, of a savings bank or safe and collateral deposit company, or of any affiliate or subsidiary thereof.

(2) During his or her term of office or employment, the commissioner, a deputy commissioner, or an examiner of the bureau shall not be an officer, director, or employee of a savings bank or safe and collateral deposit company, or of any affiliate or subsidiary thereof, or receive, either directly or indirectly, a fee, perquisite, reward, emolument, or other compensation from those entities.

(3) The commissioner, deputy commissioner, or examiner shall not borrow money, directly or indirectly, from a savings bank, except for a mortgage loan upon the mortgagor's own home or installment debt transferred to a savings bank in the regular course of business by a seller of consumer goods. This subsection does not apply to loans made prior to the person's respective term of office. If the commissioner, a deputy commissioner, or an examiner of the bureau borrows from, or is or becomes indebted to a savings bank, he or she shall make a written report to the bureau, or to the governor in the case of the commissioner, stating the date and amount of the loan or indebtedness, the security given on the loan, and the purpose for which the proceeds have been or are to be used.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3207 Commissioner, deputy commissioner, or examiner; civil liability.

Sec. 207. The commissioner, deputy commissioner, examiner, or other employee of the bureau shall not be liable in any civil action for damages for any act done or omitted in good faith in performing the functions of his or her office.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3208 Rules, orders, and declaratory rulings.

Sec. 208. (1) The commissioner may promulgate rules in addition to those specifically provided for by this act as he or she may consider necessary to effectuate and enforce this act in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) The commissioner may also issue orders and declaratory rulings as he or she considers necessary to effectuate the purposes and to execute and enforce the provisions of this act.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3209 Savings banks and entities subject to examination by commissioner.

Sec. 209. (1) A savings bank together with its subsidiaries, service entities, and entities the controlling interests of which are more than 50% owned by subsidiaries or service entities or association service corporations, are subject to examination of the commissioner, with or without prior notice, not less frequently than once every 18 months concerning the conditions and affairs of the savings bank. The commissioner shall also examine a savings bank under the commissioner's jurisdiction when requested by its board of directors. In connection with an examination, the commissioner, or the commissioner's authorized agent, may examine on oath a director, officer, agent, employee, or shareholder of a savings bank concerning the affairs and business of the savings bank. The commissioner shall ascertain whether the savings bank transacts its business in the manner prescribed by law and the rules promulgated pursuant to law. The commissioner, or the commissioner's authorized agent, may make an examination of an affiliate, subsidiary, or service entity necessary to disclose fully the relationship between a savings bank and the affiliate, subsidiary, or service entity and the effect of the relationship upon the savings bank.

(2) The commissioner may examine the branch or branches located in this state of an out-of-state bank under the federal deposit insurance act, chapter 967, 64 Stat. 873.

(3) In fulfilling the requirements of subsections (1) and (2), the commissioner may use an examination made under the federal deposit insurance act, or the law of another state governing the activities of out-of-state banks in that state. The commissioner may require the savings bank to furnish a copy of any report required by a federal or state bank regulatory agency.

(4) An examination required by this section shall include the fiduciary activities of the savings bank.

(5) The commissioner may contract with other savings bank regulatory agencies to assist in the conduct of examinations of savings banks with 1 or more branches located in other states and in examination of out-of-state banks with 1 or more branches located in this state.

History: 1996, Act 354, Imd. Eff. July 1, 1996;—Am. 2000, Act 481, Imd. Eff. Jan. 11, 2001.

487.3210 Schedule of supervisory fees; initial supervisory fee.

Sec. 210. (1) The commissioner shall periodically establish a schedule of supervisory fees to be paid by

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savings banks. Except for a minimum fee consistent with subsection (2), the fee shall not be more than 25 cents for each $1,000.00 of total assets of the savings bank as reported by the savings bank on its report of condition as of December 31 of the previous year.

(2) Each savings bank shall pay an annual supervisory fee which shall be not less than $1,000.00.

(3) The commissioner shall provide an invoice of the annual supervisory fee to each savings bank by July 1 of each year. The annual supervisory fee shall be paid by August 15 of that year.

(4) The initial supervisory fee for a savings bank that obtained a charter as a result of a conversion shall be based on the total assets as reported in its report of condition as of December 31 of the previous year under the prior charter.

(5) The initial supervisory fee of a savings bank newly organized and chartered under this act, during the initial supervisory year, shall be the minimum supervisory fee established by the commissioner.

(6) The commissioner shall periodically establish a schedule of fees, beyond those charged for normal supervision, to be paid for applications, special evaluations and analyses, and examinations, including examinations of trust services and safe deposit and collateral deposit companies.

(7) The fees established under subsection (6) shall be equal to the estimated cost to the bureau for conducting the activity for which the fee is imposed.

(8) The commissioner may charge reasonable fees for furnishing and certifying copies of documents or serving notices required by this act.

(9) To the extent any fees assessed under this act are unpaid when due, the commissioner may, upon proper notice, maintain an action against the savings bank for the recovery of the fees plus interest and costs.

(10) The fees collected under this section are not refundable and shall be paid into the state treasury to the credit of the bureau and used only for the operation of the bureau.

History: 1996, Act 354, Imd. Eff. July 1, 1996;—Am. 2000, Act 481, Imd. Eff. Jan. 11, 2001.

487.3211 Circuit court subpoena to appear; petition by commissioner; scope; failure to appear as contempt.

Sec. 211. The commissioner may petition the circuit court for the county in which the examination is being carried on to issue a subpoena on behalf of the bureau requiring a person to appear before the bureau and be examined under oath with reference to any matter within the scope of an examination of a savings bank under this act, and to produce books, records, or papers. A failure to obey the subpoena of the circuit court may be punished by the circuit court as a contempt of the circuit court.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3212 Privilege against self-incrimination; perjury.

Sec. 212. (1) A person shall not be excused from testifying or from producing any books, papers, records, or memoranda in any examination when ordered to do so by the commissioner, upon the ground that the testimony or evidence, documentary, or otherwise, may tend to incriminate him or her or subject him or her to a criminal penalty. An individual shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he or she is compelled, after having claimed his or her privilege against self-incrimination, to testify or produce evidence, documentary, or otherwise.

(2) An individual shall not be exempt from prosecution or punishment for perjury committed in testifying.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3213 Confidentiality; exception.

Sec. 213. (1) The commissioner and all deputies, agents, and employees of the bureau shall keep secret all facts and information obtained in the course of their duties under this act, except if the person is required under law to report upon, take official action, or testify in any proceedings regarding the affairs of a savings bank. This subsection applies to all former commissioners, deputies, agents, and employees of the bureau.

(2) This section does not apply to, and does not prohibit the furnishing of information or documents to, depository institution regulatory agencies, and is not applicable to disclosures made in the public interest by the commissioner, at his or her discretion.

History: 1996, Act 354, Imd. Eff. July 1, 1996;—Am. 2000, Act 481, Imd. Eff. Jan. 11, 2001.

487.3214 Application for approval; requirements; appeal.

Sec. 214. (1) A savings bank that seeks the commissioner's approval under section 302, 303, 312, 336, 412, 421, 701, 709, 710, 711, 711a, 712, 712a, or 715 shall submit an application to the bureau.

(2) The application shall contain information and be accompanied by documents as required by the bureau.

(3) If an application is considered incomplete by the bureau, it will either be returned for completion or the

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applicant will be requested to submit additional information as necessary to make the application complete.

(4) When the application is considered complete by the bureau, it shall be accepted and the process of reviewing its contents for a decision will begin on that date.

(5) The statutory period, as set forth in this section, regarding the issuance of orders by the commissioner shall commence on the date of acceptance of the application.

(6) If, subsequent to the date of acceptance, the applicant wishes to amend the application or supplement or provide additional material in connection with the application, the commissioner may suspend processing of the application or proceed with the statutory period for the issuance of an order.

(7) In connection with an application, the commissioner may consider additional information from any source.

(8) The commissioner shall approve or disapprove an application in writing within 100 days after the date of acceptance of an application, or the last amendment to the application. An order disapproving an application shall state the basis for disapproval.

(9) An applicant who is dissatisfied with an order of the commissioner, or an institution that is dissatisfied with an objection issued under section 417, may submit a written request for a reconsideration of the order or objection stating the reasons for the request. The request must be received by the bureau within 5 days after the date of the order or objection. The commissioner, within 10 days of receiving the request for reconsideration, shall render a decision on the request for reconsideration. If a petition for reconsideration is granted, the commissioner shall grant the applicant 10 days to file written arguments or briefs. The commissioner may allow for oral argument after granting a petition for reconsideration. The oral argument shall be held within 10 days after granting the petition. The commissioner shall issue a final order, objection, or withdrawal of an objection within 20 days after granting the petition for reconsideration.

(10) Appeal of an order or objection shall not be made by an applicant without first requesting a reconsideration of the order or objection.

History: 1996, Act 354, Imd. Eff. July 1, 1996;—Am. 2000, Act 481, Imd. Eff. Jan. 11, 2001.

487.3215 Unsafe or unsound practice or violation; notice of charges; hearing; order to cease and desist; effect and enforcement; out-of-state bank branch.

Sec. 215. (1) If in the opinion of the commissioner a savings bank is engaging, has engaged, or is about to engage in an unsafe or unsound practice in conducting the business of the savings bank or is violating, has violated, or is about to violate a law or rule, the commissioner may issue and serve upon the savings bank a notice of charges in respect to the practice or violation. The notice shall contain a statement of the facts constituting the alleged unsafe or unsound practice or violation, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the savings bank.

(2) The hearing shall be not earlier than 30 days or later than 60 days after service of the notice unless another date is set by the commissioner at the request of the savings bank. Unless the savings bank appears at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease and desist order.

(3) In the event of a consent, or if upon the record made at the hearing, the commissioner finds that an unsafe or unsound practice or violation specified in the notice of charges has been established, the commissioner may issue and serve upon the savings bank an order to cease and desist from the practice or violation. The order may require the savings bank and its directors, officers, employees, and agents to cease and desist from the practice or violation and to take affirmative action to correct the conditions resulting from the practice or violation.

(4) A cease and desist order becomes effective at the expiration of 30 days after the service of the order upon the savings bank, except in the case of an order issued upon consent which shall become effective at the time specified in the order, and shall remain effective and enforceable as provided in the order, except to the extent it is stayed, modified, terminated, or set aside by action of the commissioner or a reviewing court.

(5) If the commissioner determines that an out-of-state bank branch located in this state is acting in violation of the laws of this state or that the activities of the branch are being conducted in an unsafe and unsound manner, the commissioner may undertake enforcement actions and proceedings as would be permitted if the branch were a savings bank.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3216 Temporary cease and desist order; effective and enforceable; injunction to set aside, limit, or suspend order.

Sec. 216. (1) If the commissioner determines that the violation or unsafe or unsound practice specified in the notice of charges served upon the savings bank under section 215 is likely to cause insolvency or

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substantial dissipation of assets or earnings of the savings bank, or is likely to otherwise seriously prejudice the interests of its depositors, the commissioner may issue a temporary order requiring the savings bank to cease and desist from the violation or practice. The order shall become effective upon service upon the savings bank, unless set aside, limited, or suspended by a court in proceedings authorized by subsection (2), and shall remain effective and enforceable pending the completion of the administrative proceedings under the notice and until such time as the commissioner shall dismiss the charges specified in the notice or if a cease and desist order is issued against the savings bank, until the effective date of such order.

(2) No later than 10 days after the savings bank has been served with a temporary cease and desist order, the savings bank may apply to the circuit court for the county in which the home office of the savings bank is located for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the savings bank under section 215 and the court shall have jurisdiction to issue the injunction.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3217 Intent by commissioner to remove director or officer from office; notice; suspension or prohibition; effective date; service of copies of notice; statement of facts; hearing; issuance of order; effect and enforcement.

Sec. 217. (1) If in the opinion of the commissioner a director or officer of a savings bank has committed a violation of law or rule or of a cease and desist order that has become final, or has engaged or participated in an unsafe or unsound practice in connection with the savings bank, or has committed or engaged in an act, omission, or practice that constitutes a breach of his or her fiduciary duty as a director or officer and the commissioner determines that the savings bank has suffered or will probably suffer substantial financial loss or other damage or that the interest of its depositors could be seriously prejudiced by reason of the violation, practice, or breach of fiduciary duty, the commissioner may serve upon the director or officer a written notice of his or her intention to remove him or her from office.

(2) If in the opinion of the commissioner a director or officer of a savings bank, by conduct or practice with respect to another savings bank or other business organization which resulted in substantial financial loss or other damage, has evidenced his or her personal unfitness to continue as a director or officer and if in the opinion of the commissioner, any other person participating in the conduct of the affairs of any savings bank, by conduct or practice with respect to such savings bank or other business organization which resulted in substantial financial loss or other damage, has evidenced his or her personal unfitness to participate in the conduct of the affairs of the savings bank, the commissioner may serve upon the director, officer, or other person a written notice of his or her intention to remove him or her from office or to prohibit his or her further participation in any manner in the conduct of the affairs of the savings bank.

(3) In addition to a notice sent under subsection (1) or (2), if the commissioner deems it necessary for the protection of the savings bank or the interests of its depositors that the director, officer, or other person be immediately suspended from office or prohibited from further participation in any manner in the conduct of the affairs of the savings bank, the commissioner may serve upon the director, officer, or other person a written notice suspending him or her from office or prohibiting him or her from further participation in any manner in the conduct of affairs of the savings bank. The suspension or prohibition shall become effective upon service of the notice and, unless stayed by a court in proceedings authorized by section 218, shall remain in effect pending the completion of the administrative proceedings under the notice served under subsection (1) or (2) and until such time as the commissioner may dismiss the charges specified in the notice or, if an order of removal or prohibition is issued against the director, officer, or other person, until the effective date of the order. Copies of the notice shall also be served upon the savings bank of the director or officer or in the conduct of whose affairs he or she has participated.

(4) A notice of intention to remove a director, officer, or other person from office or to prohibit his or her participation in the conduct of the affairs of any savings bank shall contain a statement of the facts constituting grounds for the notice, and shall fix a time and place at which a hearing will be held. The hearing shall be held not earlier than 30 days nor later than 60 days after the date of service of the notice, unless another date is set by the commissioner at the request of the director, officer, or other person and for good cause shown.

(5) Unless the director, officer, or other person appears at the hearing in person or by a duly authorized representative, he or she shall be considered to have consented to the issuance of an order of removal or prohibition. In the event of consent, or if upon the record made at the hearing the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the savings bank. The order shall become effective at the expiration of 30 days after service upon the savings

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bank and the director, officer, or other person, except in the case of an order issued upon consent, which shall become effective at the time specified in the order. The order shall remain effective and enforceable unless it is stayed, modified, terminated, or set aside by action of the commissioner or a reviewing court.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3218 Stay of suspension or prohibition; application to circuit court.

Sec. 218. No later than 10 days after a director, officer, or other person has been suspended from office or prohibited from participation in the conduct of the affairs of a savings bank under section 217, the director, officer, or other person may apply to the circuit court for the county in which the home office of the savings bank is located for a stay of the suspension or prohibition pending the completion of the administrative proceedings under the notice served upon the director, officer, or other person under section 217.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3219 Felony charge involving dishonesty or breach of trust by director or officer; suspension or prohibition; duration; entry of conviction; order of removal from office or prohibition; service of copy; finding of not guilty or other disposition.

Sec. 219. (1) If a director or officer of a savings bank or other person participating in the conduct of the affairs of a savings bank is charged in any information, indictment, warrant, or complaint authorized by a county, state, or United States authority with the commission of or participation in a felony involving dishonesty or breach of trust, the commissioner, by written notice served upon the director, officer, or other person, may suspend him or her from office or prohibit him or her from further participation in any manner in the conduct of the affairs of the savings bank. A copy of the notice shall also be served upon the savings bank.

(2) The suspension or prohibition shall remain in effect until the information, indictment, warrant, or complaint is finally disposed of or until terminated by the commissioner. If a judgment of conviction with respect to the offense is entered against the director, officer, or other person, and the judgment is not subject to further appellate review, the commissioner may issue and serve upon the director, officer, or other person an order removing him or her from office or prohibiting him or her from further participation in any manner in the conduct of the affairs of the savings bank.

(3) A copy of the order shall also be served upon the savings bank, whereupon the director or officer shall cease to be a director or officer of the savings bank.

(4) A finding of not guilty or other disposition of the charge shall not preclude the commissioner from instituting proceedings to suspend or remove the director, officer, or other person from office or to prohibit further participation in savings bank affairs, under section 217.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3220 Board of directors; less than quorum.

Sec. 220. If, because of the suspension or removal of 1 or more directors under this act, the board of directors of a savings bank has less than a quorum of directors, all powers and functions vested in or exercisable by the board shall vest in and be exercisable by the remaining directors on the board. If all of the directors of a savings bank are suspended or removed under this act, the commissioner shall appoint persons to serve temporarily as directors pending the termination of the suspensions or removals, or until such time as their successors are duly elected and take office.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3221 Hearing; decision; review; modifying, terminating, or setting aside order; commencement of proceedings not as stay of order.

Sec. 221. (1) A hearing provided for in this chapter shall be conducted in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. The hearing shall be private unless the commissioner determines that a public hearing is necessary to protect the public interest.

(2) After the hearing and within 90 days after the commissioner has notified the parties that the case has been submitted for final decision, the commissioner shall render a decision that shall include findings of fact upon which the decision is based and issue and serve upon each party to the proceeding an order consistent with the decision.

(3) A party to the proceeding, or a person required by an order issued under sections 215 to 225 to cease and desist from any of the violations or practices stated in the order or to be suspended, removed, or prohibited from participation in the conduct of the affairs of any savings bank, may obtain a review of an order served under subsection (2), other than a consent order, which shall be reviewed as provided in Act No.

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306 of the Public Acts of 1969.

(4) Unless a petition for review is timely filed as provided in that act, the commissioner, at any time, upon notice and in a manner as he or she deems proper, may modify, terminate, or set aside the order. Upon the timely filing of a petition for review, the commissioner may modify, terminate, or set aside the order with the permission of the court.

(5) Unless specifically ordered by the court, the commencement of proceedings for judicial review under subsection (3) shall not operate as a stay of any order issued by the commissioner.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3222 Notice or order; jurisdiction of court.

Sec. 222. The commissioner may apply to the circuit court of the county in which the home office of the savings bank is located, or in the circuit court for Ingham county, for the enforcement of an effective and outstanding notice or order issued under sections 215 to 225, including any temporary cease and desist order issued under section 216(1), and the court shall have jurisdiction to order and require compliance with the notice or order. Except as otherwise provided in this act, a court shall not have jurisdiction to review, modify, suspend, terminate, or set aside a notice or order under this section.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3223 Prohibited acts; fine; limitation.

Sec. 223. A director or officer, or former director or officer, of a savings bank or any other person against whom there is outstanding and effective a notice or final order served upon the director, officer, or other person under section 217(1), (2), or (3), or section 219, who participates in any manner in the conduct of the affairs of the savings bank involved, or directly or indirectly solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote, any proxies, consents, or authorizations in respect of the voting rights in the savings bank, or without the prior written approval of the commissioner, votes for a director, serves or acts as a director, officer, or employee of a savings bank, shall be fined not more than $5,000.00 or imprisoned for not more than 1 year, or both.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3224 Service of notice; intent to issue cease and desist order; notice to governor.

Sec. 224. (1) A service required or authorized to be made by the commissioner under sections 215 to 225 may be made by registered or certified mail, or in any other manner reasonably calculated to give actual notice as the commissioner may provide. Copies of a notice or order served by the commissioner upon a savings bank, any director or officer, or any other person participating in the conduct of the savings bank's affairs shall also be sent to the appropriate federal supervisory authorities.

(2) In connection with the issuance of a cease and desist order under this act, the commissioner shall inform the governor of his or her intent to issue the order. Failure to inform the governor renders the order invalid.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3225 Proceedings under MCL 487.3215, 487.3216(1), or 487.3217; notice to federal authorities of intent to institute proceedings.

Sec. 225. In connection with a proceeding under section 215, 216(1), or 217, the commissioner shall provide the appropriate federal supervisory authorities with notice of intent to institute a proceeding and the grounds for the proceeding. An institution or other party who is the subject of a notice or order issued by the commissioner under sections 215 to 225 shall not have standing to raise the requirements of section 224 or this section with respect to notifying federal supervisory authorities as ground for attacking the validity of a notice or order.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3226 Definitions.

Sec. 226. As used in sections 215 to 225:

(a) “Cease and desist order which has become final” and “order which has become final” mean a cease and desist order or an order issued by the commissioner with the consent of the institution or the director or officer or other person concerned or with respect to which no petition for review of the action of the commissioner has been filed in a circuit court or with respect to which the action of the court in which the petition is filed is not subject to further review by the courts of the state.

(b) “Violation” includes any action, alone or with others, for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation under sections 215 to 225.

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History: 1996, Act 354, Imd. Eff. July 1, 1996.

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