

SAVINGS BANK ACT (EXCERPT)
Act 354 of 1996

487.3426 Fund or property held by savings bank as fiduciary; investments; “registered investment company” defined; funds considered as held in fiduciary capacity.

Sec. 426.

(1) Funds or property held by a savings bank as fiduciary and available for investment shall be invested at the time and in the manner specified by the agreement, instrument, or order creating or defining the trust or other capacity in which the savings bank is acting or, where the savings bank holds the funds or property as agent, as directed or permitted by the savings bank's principal. In the absence of investment specifications or limitations in the agreement, instrument, or order, funds or property held by a savings bank as fiduciary shall within a reasonable time be invested in real or personal property, of whatever type or nature, as an ordinarily prudent person of intelligence and integrity who is a trustee of the money of others would purchase, in the exercise of reasonable care, judgment, and diligence under the conditions existing at the time of purchase, having due regard, in the case of a purchase of securities, for the management, reputation, and stability of the issuer and the character of the particular securities.

(2) Except as otherwise provided by law, a court order, or the agreement, instrument, or order creating or defining the trust, or other capacity in which the savings bank is acting or with the consent of all interested parties or their representatives, or where the savings bank holds the funds or property as agent, as directed or permitted by the savings bank's principal, funds or property held by a savings bank as fiduciary shall not be invested in any securities or other properties, real or personal, purchased from the savings bank in its individual capacity or from any affiliate of the bank.

(3) Notwithstanding a statutory or common law, except when the agreement, instrument, or order creating or defining the trust or other capacity in which the savings bank, or the savings bank and 1 or more co-fiduciaries, is acting, prohibits the investment, a savings bank, or a savings bank and 1 or more co-fiduciaries, may invest in a registered investment company funds or property with respect to which the savings bank, or the savings bank and 1 or more co-fiduciaries, exercises investment discretion, even though either or both of the following apply:

(a) The savings bank or an affiliate of the savings bank provides services as investment adviser, sponsor, distributor, manager, custodian, transfer agent, registrar, or otherwise to the investment company and receives reasonable remuneration for those services.

(b) The savings 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 savings bank as fiduciary otherwise controls the election of a majority of its directors or trustees.

(4) As used in subsection (3), "registered investment company" means an investment company that is registered under the investment company act of 1940, title I of chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-64.

(5) For purposes of this section, a savings bank is considered to be holding 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: 1996, Act 354, Imd. Eff. July 1, 1996