

2019 Regular Session

SENATE BILL NO. 101

BY SENATOR WHITE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

BANKS/BANKING. Provides relative to state banks and immovable property. (8/1/19)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To amend and reenact R.S. 6:243, relative to banks; to provide relative to the powers and function of state banks; to provide relative to immovable property and dealings; to authorize certain actions; provide certain requirements, terms, conditions, procedures, and effects; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 6:243 is hereby amended and reenacted to read as follows:

§243. Immovable property; dealings

A. A state bank may lawfully purchase, hold, and convey any immovable property:

- (1) Which is necessary for the proper transaction of its business.
- (2) Which has been mortgaged to it in good faith as security for loans.
- (3) Which has been conveyed to it in satisfaction of debts previously contracted bona fide in the course of its business.
- (4) Which it purchases at sales under judgment of mortgages held by it or in which it has an interest by being subrogated to rights according to Article ~~2161~~ **1829** of the Civil Code.

1 (5) Pursuant to participation in a shared appreciation loan or home equity
 2 conversion loan, including but not limited to reverse mortgages and shared
 3 appreciation mortgages, wherein the bank has a right to receive a share of the
 4 appreciation in value of the security property upon maturity of the loan. Such loans
 5 shall be authorized when any of the following exist:

6 (a) The security property of the borrower is designed principally as a
 7 single-family residence.

8 (b) The borrower is the owner and occupant of the security property.

9 (c) The loan is authorized pursuant to the Alternative Mortgage Transaction
 10 Parity Act of 1982, 12 U.S.C. §3801, et seq., and regulations issued thereunder, or
 11 regulations issued by the office of financial institutions as provided in this Title.

12 B.(+) Except for property held pursuant to Paragraphs (A)(1) and (A)(5) of
 13 this Section, a state bank shall not hold immovable property as an asset for a longer
 14 time than ten years, **except as provided in Paragraphs (D)(2) or (E)(1) of this**
 15 **Section**. Any bank holding immovable property which is subject to the ten-year
 16 divestiture period shall enter the immovable property on its books in accordance with
 17 generally accepted accounting principles (GAAP).

18 ~~(2)(a) A state bank shall obtain annually, within a reasonable time as~~
 19 ~~determined by the commissioner, from a qualified appraiser a current appraisal of the~~
 20 ~~fair market value of any such property valued at an amount greater than two hundred~~
 21 ~~fifty thousand dollars and shall account for the property in accordance with GAAP.~~

22 ~~(b) For property valued at less than two hundred fifty thousand dollars, a state~~
 23 ~~bank shall annually perform an adequate evaluation of such property. After adequate~~
 24 ~~evaluation of the property, a state bank shall account for the property in accordance~~
 25 ~~with GAAP. The commissioner may require a state bank to obtain an appraisal by~~
 26 ~~a qualified appraiser of a piece of property valued at less than two hundred fifty~~
 27 ~~thousand dollars, if it is necessary for safety and soundness reasons.~~

28 **C. (1) For property meeting the definition of Other Real Estate Owned**
 29 **(OREO) contained in 12 CFR 34.81(e), a state bank shall obtain, within a**

1 reasonable time after OREO property is acquired, a current appraisal of the
2 fair market value of any such property and shall account for the property in
3 accordance with generally accepted accounting principles (GAAP). For
4 purposes of this Paragraph, a state bank may perform an evaluation in lieu of
5 an appraisal for property valued at or below the thresholds established in 12
6 CFR 34.43(a)(1) and (13).

7 (2) Notwithstanding Paragraph (C)(1), an appraisal or evaluation is not
8 required when a state bank acquires OREO property if a valid appraisal or
9 evaluation was made in connection with the real estate loan that financed the
10 acquisition of the OREO property and the appraisal or evaluation is less than
11 twelve months old.

12 (3) The commissioner may require additional appraisal or evaluation of
13 OREO property, not more often than annually, if: (a) the commissioner
14 considers the appraisal or evaluation necessary for safety and soundness
15 reasons; or (b) the commissioner considers the appraisal or evaluation
16 necessary due to a material decline in the condition or market value of a specific
17 property or local real estate market. For purposes of this Paragraph, the
18 commissioner may require an appraisal for properties of any value, regardless
19 of the thresholds established in 12 CFR 34.43(a)(1) and (13).

20 ~~(c)~~ **D.(1)** A state bank may, at its option, select the method of valuation as
21 provided for in this Paragraph **Subsection C of this Section**, or may reduce the value
22 of the immovable property by at least one-tenth of the original book value each year
23 that the property is held. The bank shall divest itself of that property within the
24 ten-year period, regardless of which method of valuation is selected. The bank shall
25 continue to apply said method consistently throughout the divestiture period.

26 ~~(3)~~ **(2)** The ten-year divestiture requirement shall not apply to immovable
27 property which has been held by a state bank for more than five years as of
28 January 1, 1980.

29 ~~(4)~~ **(3)** A bank which acquires the assets of a failed or failing bank shall be

1 allowed ten years from the date it acquires the immovable property of the failed or
 2 failing bank within which to divest itself of such property. ~~A qualified appraisal shall~~
 3 ~~be obtained annually, as provided in Paragraph (2) of this Subsection, for each item~~
 4 ~~of property having a value in excess of two hundred fifty thousand dollars. **A bank**~~
 5 ~~**shall value the acquired property in accordance with the requirements of**~~
 6 ~~**Paragraph (D)(1) of this Section.**~~ A bank shall establish the anniversary date to be
 7 the original acquisition date of the other immovable property as determined by the
 8 failed or failing institution or the date the bank acquires the other immovable
 9 property of the failed or failing institution. Once the anniversary date has been
 10 established, that date will remain as such for as long as the property is held by the
 11 bank.

12 ~~(5)(4)~~ Except as otherwise provided by rule or regulation promulgated by the
 13 commissioner, a state bank shall not exchange any property, whether movable or
 14 immovable, acquired in the course of its business as provided in Subsection A
 15 hereof.

16 ~~C.E.~~ (1) A state bank may hold immovable property in perpetuity, exempt
 17 from the divestiture requirements of this Section, if all of the following conditions
 18 are met:

19 (a) The property is not being operated by the financial institution as an
 20 ongoing business.

21 (b) The property has been written down to the value of one dollar on the
 22 books of the bank.

23 (c) The property has been transferred into a subsidiary of the bank.

24 (2) Property held in perpetuity subject to Paragraph (1) of this Subsection
 25 shall also be exempt from the ~~requirement for appraisal contained in Paragraph~~
 26 ~~(B)(2) of this Section~~ valuation requirements contained in Subsection (C) of this
 27 Section.

28 ~~D. Repealed by Acts 2012, No. 29, §2, eff. August 1, 2012.~~

