

SAVINGS AND LOAN ACT OF 1980 (EXCERPT)
Act 307 of 1980

491.458 Fiduciary relationship of directors and officers to association; conflict of interests; profits inuring to officer or director; disclosures; violation as misdemeanor; penalty; restrictions governing conduct of directors and officers.

Sec. 458. (1) Directors and officers occupy a fiduciary relationship to the association of which they are directors or officers, and a director or officer shall not engage or participate, directly or indirectly, in any business or transaction conducted on behalf of or involving the association which would result in a conflict of the director's or officer's own personal interests with those of the association which the director or officer serves unless all of the following occur:

(a) The business or transactions are conducted in good faith and are honest, fair, and reasonable to the association.

(b) A full disclosure of the business or transaction and the nature of the director's or officer's interest is made to the board of directors.

(c) The business or transaction is approved in good faith by the board of directors with an interested director abstaining, which approval shall be recorded in the minutes.

(2) Any profits inuring to the officer or director shall not be at the expense of the association and shall not prejudice the best interests of the association in any way. The business or transaction shall not represent a breach of the officer's or director's fiduciary duty and shall not be fraudulent, illegal, or ultra vires. Notwithstanding any other provisions of this section, the supervisor may require the disclosure by directors, officers, and employees of their personal interest, directly or indirectly, in any business or transaction on behalf of or involving the association and of their control of or active participation in enterprises having activities related to the business of the association. An officer, director, or employee who violates this section is guilty of a misdemeanor, punishable by a fine of not less than \$100.00 nor more than \$500.00, or imprisonment for not less than 1 month nor more than 6 months, or both.

(3) The following restrictions governing the conduct of directors and officers expressly are specified, but this specification shall not be construed to excuse the directors or officers from the observance of any other aspect of the general fiduciary duty owed by them to the association which they serve:

(a) A director or officer shall not have an interest, directly or indirectly, in the proceeds of a loan or in a purchase, sale, or other investment made by the association, unless the loan, purchase, sale, or investment is authorized expressly by resolution approved by a vote of not less than 2/3 of the total number of directors of the association with the interested director not taking part in the vote.

(b) A director, officer, or employee of an association shall not be granted, or become the obligor on, a real estate loan from the association except for a real estate loan secured solely by an interest in the principal residence of the director, officer, or employee.

(c) A director or officer shall not have an interest, direct or indirect, in the purchase at less than its face value of any evidence of a savings account, deposit, or other indebtedness issued by the association.

(d) A director, association, or officer of an association shall not require, as a condition to the granting of a loan or the extension of any other service by the association, that the borrower or any other person enter into a contract of insurance or any other agreement or understanding with respect to the furnishing of any other goods or services, with a specific company, agency, or individual.

(e) An officer or director acting as proxy for a member of an association shall not exercise, transfer, or delegate the right in any consideration of a private benefit or advantage, direct or indirect, accruing to himself or herself nor surrender control or pass his or her office to any other person in consideration of a private benefit or advantage, direct or indirect. The voting rights of members and directors shall not be the subject of sale, barter, exchange, or similar transaction, either directly or indirectly. An officer or director who violates this subdivision shall be held accountable to the association for any benefit, advantage, or profit.

(f) A director or officer shall not solicit, accept, or agree to accept, directly or indirectly, from a person other than the association a gratuity, compensation, or other personal benefit for an action taken by the association or for endeavoring to procure the action.

(g) A director shall not receive remuneration as a director except reasonable fees for service as a director or as a member of a committee of directors. A director who is an officer or employee of or an attorney for the association may also receive compensation for services as an officer, employee, or attorney.

(4) An officer or director of an association shall not hold office or status as a director or officer of another association, the principal office of which is located in the association's lending area.

History: 1980, Act 307, Eff. Jan. 1, 1981.