

9-1102. Holding of real estate; limitations. (a) Any bank or trust company may own, purchase, lease, hold, encumber or convey real property, including any building or buildings necessary for the bank's or trust company's accommodation in the transaction of its business. Real property shall be disposed of or charged off the bank's or trust company's books not later than seven years after the real property's intended use for bank or trust purposes ends. Before the end of the holding period, a bank or trust company may request authorization from the commissioner to hold the real property for an additional year. No bank or trust company shall be granted more than three requests for additional time to hold any one parcel of real property.

(b) Any bank or trust company may own, purchase, lease, hold, encumber or convey certain personal property necessary for the bank's or trust company's accommodation in the transaction of such bank's or trust company's business.

(c) Any bank may own all or part of the stock in a single trust company or safe deposit company organized under the laws of the state of Kansas.

(d) Any bank may own all of the stock in a corporation or limited liability company organized under the laws of the state of Kansas, owning real estate, all or a part of which is occupied or to be occupied by the bank or trust company.

(e) A bank's or trust company's total investment or ownership at all times in any one or more of the following shall not exceed 50% of the total of capital stock, surplus, undivided profits, 100% of the allowance for loan and lease loss, capital notes and debentures and reserve for contingencies. For purposes of this subsection, intangibles, such as goodwill, shall not be included in the calculation of capital. Any such excess shall be removed from the bank's or trust company's books unless approval is granted by the commissioner:

(1) The book value of real estate plus all encumbrances thereon;

(2) the book value of furniture and fixtures;

(3) the book value of stock in a safe deposit company;

(4) the book value of stock in a trust company; or

(5) the book value of stock in a corporation organized under the laws of this state owning real estate occupied by the bank or trust company and advances to such corporation acquired or made after July 1, 1973, except that any real estate not necessary for the accommodation of the bank's or trust company's business shall be disposed of or charged off its books according to subsection (a).

(f) Any bank or trust company may acquire or purchase real estate in satisfaction of any debts due such bank or trust company, and may purchase real estate at judicial sales, subject to the following:

(1) No bank or trust company shall bid at any judicial sale a larger amount than is necessary to protect its debts and costs.

(2) No real estate or interest in oil and gas leasehold acquired in the satisfaction of debts or upon judicial sales shall be carried as a book asset of the bank or trust company for more than 10 years.

(3) At the termination of the 10 years such real estate shall be charged off. The commissioner may grant an extension not to exceed four years, if in the commissioner's judgment, carrying the real estate as an asset for such extended period will be to the advantage of the bank or trust company. Any such extensions issued shall be reviewed by the commissioner on an annual basis.

(g) No bank or trust company may buy and sell real estate as a business.

(h) A bank may hold or sell any personal property coming into ownership of the bank in the collection of debts. All such property, except legal investments, shall be sold within one year of acquisition, provided a commercially reasonable sale can occur. If a commercially reasonable sale cannot occur within one year, the commissioner may authorize a bank to carry such property as a book asset for a longer period. The bank shall not carry such property as a nonbook asset.

(i) The time periods for holding real estate or other property shall begin when:

(1) The bank has received title or deed to the property;

(2) the property is in a redemption period following the bank's purchase at a judicial sale; or

(3) the bank has actual control of the property.

(j) With prior notification to the commissioner, any bank may operate a wholly owned subsidiary corporation or limited liability company which holds and manages property acquired through debt previously contracted. The subsidiary shall be subject to:

(1) All banking laws and rules and regulations applicable to the parent bank unless otherwise provided;

(2) consolidation with the parent bank of pertinent book figures for the purpose of applying all applicable statutory limitations including, but not limited to, capital requirements, owning and holding real estate and legal lending limitations;

(3) examination and supervision by the commissioner, the cost and responsibility of which will be attributable to the parent bank; and

(4) any additional terms or conditions required by the commissioner to address any legal or safety and soundness concerns.

(k) (1) With prior approval of the commissioner, any bank may exchange such bank's participation interest in real estate acquired or purchased in satisfaction of any debts previously contracted for an interest in a corporation or limited liability company which will manage, market and dispose of the real property. Prior to the exchange, the bank's directors must:

(A) Find and document that the exchange is in the best interest of the bank and would improve the ability of the bank to recover, or otherwise limit, the bank's loss on real estate acquired through debts previously contracted;

(B) certify that the bank's loss exposure is limited, as a legal and accounting matter, and that the bank does not have open-ended liability for the obligations of the corporation or limited liability company;

(C) certify that the corporation or limited liability company agrees to be subject to the supervision and examination by the commissioner; and

(D) ensure that the corporation or limited liability company complies with this section and K.A.R. 17-11-17, including obtaining a current appraisal of the real estate.

(2) A bank may not further exchange the bank's interest in the corporation or limited liability company for an interest in any other real or personal property.

History: L. 1947, ch. 102, § 31; L. 1971, ch. 32, § 2; L. 1973, ch. 45, § 2; L. 1975, ch. 44, § 13; L. 1977, ch. 46, § 1; L. 1986, ch. 56, § 1; L. 1987, ch. 54, § 6; L. 1988, ch. 61, § 2; L. 1989, ch. 48, § 25; L. 1990, ch. 56, § 1; L. 1994, ch. 78, § 1; L. 2000, ch. 45, § 1; L. 2015, ch. 38, § 46; L. 2016, ch. 54, § 22; July 1.