

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)

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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.~~(1)~~ 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 (E)(2) or (F)(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 immovable property provided for in Paragraphs (A)(2), (A)(3),**
 29 **and (A)(4) of this Section, a state bank shall obtain, within a reasonable time**

1 before or after the property is acquired, a current appraisal of the fair market
2 value of any such property and shall account for the property in accordance
3 with generally accepted accounting principles (GAAP). For purposes of this
4 Paragraph, a state bank may perform an evaluation in lieu of an appraisal for
5 residential real estate valued at or below two hundred fifty thousand dollars and
6 for commercial real estate valued at or below five hundred thousand dollars.

7 (2) An additional appraisal shall be required for immovable property
8 every third calendar year from the date the initial appraisal was obtained
9 pursuant to Paragraph (1) of this Subsection. For purposes of this Paragraph,
10 a state bank may perform an evaluation in lieu of an appraisal for residential
11 immovable property valued at or below two hundred fifty thousand dollars and
12 for commercial immovable property valued at or below five hundred thousand
13 dollars.

14 (3) Notwithstanding Paragraph (2) of this Subsection, for commercial
15 immovable property valued above five hundred thousand dollars, an additional
16 appraisal shall be required every second calendar year from the date the initial
17 appraisal was obtained pursuant to Paragraph (1) of this Subsection.

18 D. The commissioner may require additional appraisals or evaluations
19 of immovable property provided for in Paragraphs (A)(2), (A)(3), and (A)(4) of
20 this Section, not more often than annually, if the commissioner:

21 (1) Considers the appraisal or evaluation necessary for safety and
22 soundness reasons; or

23 (2) Considers the appraisal or evaluation necessary due to a material
24 decline in the condition or market value of a specific property or local real
25 estate market.

26 For purposes of this Subsection, the commissioner may require an
27 appraisal for immovable properties of any value pursuant to this Section,
28 regardless of the thresholds established in this Section.

29 ~~(e)~~ E.(1) A state bank may, at its option, select the method of valuation as

1 provided for in ~~this Paragraph~~ **Subsection C of this Section**, or may reduce the value
2 of the immovable property by at least one-tenth of the original book value each year
3 that the property is held. The bank shall divest itself of that property within the
4 ten-year period, regardless of which method of valuation is selected. The bank shall
5 continue to apply said method consistently throughout the divestiture period.

6 ~~(3)~~**(2)** The ten-year divestiture requirement shall not apply to immovable
7 property which has been held by a state bank for more than five years as of
8 January 1, 1980.

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

21 ~~(5)~~**(4)** Except as otherwise provided by rule or regulation promulgated by the
22 commissioner, a state bank shall not exchange any property, whether movable or
23 immovable, acquired in the course of its business as provided in Subsection A
24 hereof.

25 ~~E.F.~~**(1)** A state bank may hold immovable property in perpetuity, exempt
26 from the divestiture requirements of this Section, if all of the following conditions
27 are met:

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

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

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

4 (2) Property held in perpetuity subject to Paragraph (1) of this Subsection
5 shall also be exempt from the ~~requirement for appraisal contained in Paragraph~~
6 ~~(B)(2) of this Section~~ **valuation requirements contained in Subsection C of this**
7 **Section.**

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

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Jerry G. Jones.

DIGEST

SB 101 Engrossed

2019 Regular Session

White

Present law authorizes state banks to purchase, hold, and convey any immovable property necessary for the proper transaction of its business, or which has been mortgaged to it in good faith as security for loans, or which has been conveyed to it in satisfaction of debts previously contracted bona fide in the course of its business, or which it purchases at sales under judgment of mortgages held by it or in which it has an interest by being subrogated, or under certain circumstances pursuant to participation in a shared appreciation loan or home equity conversion loan.

Proposed law retains present law.

Present law provides generally that, with certain exceptions, a state bank shall not hold immovable property as an asset for longer than 10 years. Proposed law adds exceptions of immovable property held by a state bank for more than five years as of Jan. 1, 1980, and immovable property that may be held in perpetuity if it is not being operated by the financial institution as an ongoing business, has been written down to the value of one dollar on the books of the bank, and has been transferred into a subsidiary of the bank.

Proposed law adds certain appraisal requirements for immovable property. Provides that for certain property a state bank shall obtain, within a reasonable time before or after the property is acquired, a current appraisal of the fair market value of any such property and shall account for the property in accordance with generally accepted accounting principles. Further provides that the bank may perform an evaluation in lieu of an appraisal for residential real estate valued at or below \$250,000 and for commercial real estate valued at or below \$500,000. Further provides for additional appraisals or evaluation every three years, and for certain additional appraisals for commercial immovable property valued above \$500,000.

Proposed law also provides circumstances under which the commissioner may require additional appraisal or evaluations. Also provides that certain property held in perpetuity are exempt from certain valuation requirements.

Present law provides that a state bank shall obtain annually, within a reasonable time as determined by the commissioner, from a qualified appraiser a current appraisal of the fair market value of immovable property valued at an amount greater than \$250,000, and shall account for the property in accordance with GAAP. For property valued at less than

\$250,000, provides that a state bank shall annually perform an adequate evaluation of such property. Further provides that the commissioner may require a state bank to obtain an appraisal by a qualified appraiser of a piece of property valued at less than \$250,000, if it is necessary for safety and soundness reasons. Proposed law deletes these provisions.

Effective August 1, 2019.

(Amends R.S. 6:243)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Makes technical changes.
2. Revises language relative to appraisals.