

and contains an object which is not expressed in its title and is in conflict with the provisions of Const 1963, art 4, § 24.

Your second and third queries are unnecessary of answer.

Since 1973 PA 129 makes appropriations for the Department of Agriculture, it is plain that the legislature would have enacted the same without Section 17 being a part thereof. *Mulhern v Kent Circuit Judge*, 111 Mich 528 (1897); 70 NW 15. Accordingly, other provisions of 1973 PA 129 are therefore valid for the reason that the said provisions are capable of being carried out without reference to Section 17. *Rohan v Detroit Racing Association, supra*.

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**CREDIT UNIONS:** Investment in safe and collateral deposit company

A credit union may invest in a safe and collateral deposit company but is limited in its investment to one company and that investment may not be more than 15% of the credit union's capital.

Opinion No. 4798

October 10, 1973.

Daniel J. Demlow, Acting Commissioner  
Financial Institutions Bureau  
Department of Commerce  
Law Building  
Lansing, Michigan 48913

You have requested my opinion on whether credit unions have the authority to invest in a safe and collateral deposit company, and if the answer is in the affirmative, what limitations, if any, are applicable.

Credit unions are regulated by 1925 PA 285, MCLA 490.1 *et seq*; MSA 23.481 *et seq*. Among the powers a credit union may exercise is the power:

"To invest individually or in participation with other credit unions in any investment legal for state banks, subject to the same limitations based on capital as applicable to state banks; . . ."

[MCLA 490.4; MSA 23.484]

The Banking Code, 1969 PA 319, MCLA 487.301 *et seq*; MSA 23.710(1) *et seq*, governs the regulation of state banks. Section 188 of 1969 PA 319 provides that:

"Any bank may operate a safe deposit and storage department or invest an amount not exceeding in the aggregate 15% of its unimpaired capital stock and surplus in the stock of not more than 1 safe and collateral deposit company organized under the laws of this state."

[MCLA 487.488; MSA 23.710(188)]

Since a state bank is authorized to invest in a safe and collateral deposit company a credit union would also be allowed to invest in the stock of a safe and collateral deposit company, but subject to the same limitations

as a state bank. A state bank may invest "an amount not exceeding in the aggregate 15% of its unimpaired capital stock and surplus."

Capital and surplus are defined in the Banking Code as:

"'Capital' or 'capital stock' means the amount of unimpaired common stock issued and outstanding, plus the amount of unimpaired preferred stock issued and outstanding."

[MCLA 487.305; MSA 23.710(5)]

"At all times a bank shall maintain surplus in an amount which is equal to at least the amount of its capital, except as provided in subsection (2) as to the initial surplus and except as provided in section 85, and shall not reduce surplus without the approval of the commissioner."

[MCLA 487.371; MSA 23.710(71)]

Under the credit union act, 1925 PA 285, capital is defined as follows:

"The capital of a credit union shall consist of the payments that have been made to it by the several members thereof on shares."

[MCLA 490.12; MSA 23.492]

The 15% limitation noted above is applicable to the aggregate or sum of the unimpaired common stock issued and outstanding plus the amount of unimpaired preferred stock issued and outstanding plus the statutory required surplus.

Applying this 15% limitation on a credit union would provide that a credit union may legally invest 15% of its capital as that is defined in MCLA 490.12; MSA 23.492, and quoted above.

I am not unmindful that the Banking Act provides that the 15% limitation is applicable to the aggregate or sum of the unimpaired common stock issued and outstanding *plus the statutory required surplus*. The act regulating credit unions, 1925 PA 285, does not provide for a surplus. A credit union is authorized to invest but is subject to the limitation based on capital as provided in MCLA 490.4; MSA 23.484.

A credit union may invest in a safe and collateral deposit company but is limited in its investment to one company and that investment may not be more than 15% of the credit union's capital as defined in MCLA 490.12; MSA 23.492.

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