

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 119

An Act to amend and reenact § 6.1-60.1 of the Code of Virginia, relating to banking and finance; enforceability of loans secured by stock of lending bank.

[H 387]

Approved March 28, 1994

Be it enacted by the General Assembly of Virginia:

1. That § 6.1-60.1 of the Code of Virginia is amended and reenacted as follows:

§ 6.1-60.1. Acquisition of or loans on own stock; other investments or loans.

A. No bank shall acquire or own its own stock except to protect itself against loss from debts previously contracted, in which case it shall be disposed of within twelve months from the time acquired, and except as herein permitted. No bank shall make loans collaterally secured by the stock of such bank, *except that nothing in this section shall affect the validity of any such security agreement between the bank and its borrower.* No bank shall invest any of its funds in shares of stock of any other corporation nor in any notes or other obligations secured by real estate on which as security it is prohibited by § 6.1-63 from making any loans. This provision shall not prevent any bank:

1. From acquiring any such stock, notes or other obligations to protect itself or any fund in its custody or possession against loss from debts theretofore contracted;

2. From acquiring, owning and holding stock of a building corporation of the character and to the amount provided by § 6.1-57;

3. From acquiring, owning and holding stock of an agricultural credit corporation organized under the laws of this Commonwealth, provided that the total amount of such stock shall not exceed twenty percent of the amount of the capital stock of such bank actually paid in and unimpaired, plus the amount of its unimpaired surplus fund;

4. From acquiring, owning and holding stock of the Federal National Mortgage Association, the Government National Mortgage Association and the Federal Home Loan Mortgage Corporation;

5. From acquiring, holding and owning stock, in any corporations which have as their purpose the operation of parking lots or parking garages, provided that no bank shall own, at any one time, stock in such corporations exceeding two percent of the amount of the capital stock of such bank actually paid in and unimpaired, plus the amount of its unimpaired surplus fund;

6. From acquiring, owning and holding stock of a small business investment company as defined by the Federal Small Business Investment Act of 1958;

7. From acquiring, owning and holding stock of an industrial development company organized under the provisions of the Virginia Industrial Development Corporation Act (§ 13.1-981 et seq.);

8. From acquiring, owning and holding stock of a bank service corporation of the character and to the amount provided in §§ 6.1-58 and 6.1-58.1;

9. From acquiring, owning and holding stock of the Student Loan Marketing Association, a corporation organized under the Higher Education Act of 1965, as amended;

10. From acquiring, owning and holding stock of a "clearing corporation" as defined in § 8.8-102 (3);

11. From acquiring, owning and holding stock of a trust subsidiary as defined in § 6.1-32.1 et seq.;

12. From investing up to four percent of its capital and surplus, including undivided profits, in shares of any bankers' bank organized under § 6.1-6.1 or in any bank holding company wherein the ownership of shares in such bank holding company is restricted to (i) financial institutions which have or are eligible for insurance of deposits by a federal agency or (ii) a financial institution holding company as defined in § 6.1-381 or a savings institution holding company as defined in § 6.1-194.87;

13. From acquiring its own stock, with the book value of all such stock held not to exceed in the aggregate five percent of the book value of all shares issued and outstanding, including capital, surplus and undivided profits as of the time of the purchase being made. In computing such capital surplus and undivided profits for purposes of this section, amounts received for resale of any repurchased stock shall be added back to capital, surplus and undivided profits for purposes of computation of the five percent criterion. Such purchase may be without the written consent of the State Corporation Commission, unless the Commission or Commissioner has previously notified the bank in writing that it may not utilize this subdivision, until further notice. The Commission may further allow purchases of such stock in excess of such five percent criterion where the Commission finds that such purchase will not impair the safety and solvency of the bank and is otherwise appropriate and may require the divestiture of any shares held if deemed necessary and appropriate;

14. From acquiring, owning and holding, subject to such conditions as the Commissioner may prescribe, shares of investment companies;

15. From acquiring, owning and holding, subject to such conditions as the Commissioner may prescribe, shares of stock in a community development corporation;

16. From acquiring, owning and holding shares of the Federal Agricultural Mortgage Corporation;
nor

17. From acquiring, owning and holding shares of a Federal Home Loan Bank.

B. The provisions of this section shall not be construed to require a bank to dispose of any preferred stocks lawfully acquired as an investment prior to January 1, 1940.