

## CHAPTER 80-1-10

### FIXED ASSETS AND ASSETS ACQUIRED D.P.C.

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#### **80-1-10-.01 Limitation of Fixed Asset Investment; Excessive Investments. Amended.**

(1) Banks may purchase, hold, and convey real estate only such as shall be necessary for the convenient transaction of its business and for the recreational use of its employees, except that real estate commonly referred to as Other Real Estate and as defined herein may be held for not longer than five (5) years unless the time limitation is extended by the Department of Banking and Finance.

(2) The aggregate investment by a bank in real estate, bank premises, and furniture and fixtures, stock in any real estate holding subsidiary, and leasehold as defined herein shall not exceed sixty (60) percent of the bank's statutory capital base except that a greater sum may be invested with the prior approval of the Department of Banking and Finance.

(3) Applications for approval to invest in fixed assets an amount in excess of the limitations set forth in paragraph (2) shall be in letter form and must provide for an orderly plan for restoring the fixed asset investment to the sixty (60) percent limitation within not more than five (5) years through one of the following means:

(a) Regular annual depreciation charges consistent with current Federal Income Tax regulations, or

(b) Predetermined plans for restructuring the capital accounts to increase the sixty (60) percent legal limitation, or

(c) Any combination of the methods set forth in (a) and (b) above.

Authority Ga. L. 1974, pp. 733, 789.

#### **80-1-10-.02 Purchase of Real Estate for Future Expansion; Letter Notification.**

(1) The purchase of real property for expansion purposes may be made without the prior consent of the Department of Banking and Finance and by only a letter notification when:

(a) The real property is to be utilized as bank premises within five years of the date of purchase;

(b) The purchase of the real property does not result in the bank exceeding the fixed asset limitation;

(c) The bank is not subject to any special requirements whereby the Department requires prior approval for such purchases; and

(d) If an insider is involved, a certification is provided stating that all requirements of O.C.G.A. §7-1-492 and the provisions of the Federal Reserve Board known as Regulation O have been met.

(2) The letter notification shall state the date of purchase, purchase price, location of the property, and why the bank qualifies for letter notification under the provisions of this rule.

(3) Where consent is required, it shall be granted only in those cases where the applicant bank provides reasonable assurance that it plans to utilize the property as bank premises within five (5) years from the date of purchase and indicates the purpose for which the property is being acquired.

(4) The ability to hold property for future expansion shall expire five (5) years from the date of purchase unless the property is utilized as bank premises prior to that time. Banks holding property beyond the five year period must divest themselves of the property through sale unless the time limitation is extended by the Department of Banking and Finance.

(5) The granting of approval to purchase property for future expansion shall in no way be considered as approving the expansion program.

Authority Ga. L. 1974, pp. 733, 789.

### **80-1-10-.03 Expansion of Existing Facilities. Amended.**

(1) Expansion of bank premises may be performed by a bank without the prior approval of the Department of Banking and Finance wherever the ultimate and final cost of the expansion or extension will not result in a fixed asset investment by the bank in excess of the sixty (60) percent legal limitation and

(a) The proposed extension will be physically connected to the existing banking house, or

(b) The proposed extension will be located on the same contiguous area of property as the existing banking house, and

(c) In either the case of subparagraph (a) or (b) the proposed extension will not involve the purchase of real property.

(2) Pneumatic tube equipment may not be considered as physically connecting banking facilities within the meaning of the Banking Code.

Authority Ga. L. 1974, pp. 733, 789.

#### **80-1-10-.04 Relocation: Construction of New Facilities. Amended.**

Any relocation or construction of new bank premises which will result in a change of the official street address of any bank, whether or not such change can be accomplished within the legal limitation on fixed asset investment, must have the prior approval of the Department of Banking and Finance.

Authority Ga. L. 1974, pp. 733, 789.

#### **80-1-10-.05 Organization of Real Estate Holding Subsidiaries. Amended.**

(1) With the prior approval of the Department of Banking and Finance, any bank may invest in all of the outstanding capital stock of a subsidiary corporation organized for the purpose of owning bank premises which might be legally owned by such bank and such investment shall be included as fixed assets in determining whether the bank's total investment in fixed assets is within the limitations prescribed by law.

(2) Such real estate holding subsidiaries shall not be permitted to own or otherwise invest its funds in Other Real Estate, furniture and fixtures other than for its own use, securities, or any other assets inconsistent with the purpose for which it was originally organized.

(3) Such real estate holding subsidiaries shall be subject to all of the limitations, prohibitions, and requirements with respect to the purchase, ownership, and expansion of bank premises that the bank would be subject to, except the limitation imposed on fixed asset investment, but provided that the Department of Banking and Finance may set such limitations on the total investment in fixed assets, the total authorized borrowings, the total capitalization, and the annual rental charges of the real estate holding subsidiary as it considers necessary to the sound operation of the company.

(4) Banks may invest, with the prior approval of the Department of Banking and Finance, not more than ten (10) percent of their total assets or one hundred (100) percent of their statutory capital base, whichever is less, in stock of such corporations; and corporations organized by merchants to provide parking facilities and such investments shall be included in determining the bank's legal limitation on investment in fixed assets.

(5) Such real estate holding subsidiaries shall be subject to examination by the Commissioner of Banking and Finance on the same basis as the parent corporation.

Authority Ga. L. 1974, pp. 733, 789, 799, 800.

**80-1-10-.06 Depreciation and Amortization of Fixed Asset Investments. Amended.**

Book values of bank fixed assets must be depreciated or amortized at rates consistent with the provisions of current Internal Revenue Regulations for Federal Income Tax purposes.

Authority Ga. L. 1974, pp. 733, 849.

**80-1-10-.07 Leasehold Interests in Fixed Assets. Amended.**

Lease contracts covering land, buildings, or furniture, fixtures, and equipment which result in a bank obtaining title to the property at the expiration of the lease or at any time prior thereto for the payment of any moneys less than the fair market value of the property at time title is acquired shall be considered as fixed assets within the meaning of Georgia Law and this Regulation and shall be reflected on the books of the bank as such and an appropriate liability account similarly established.

Authority Ga. L. 1974, pp. 733, 789.

**80-1-10-.08 Definitions. Amended.**

(1) Fixed Asset Investment as used in this Regulation shall include land, buildings, furniture, fixtures, equipment, stock in a real estate holding company subsidiary, stock in cooperative parking facilities corporations, and loans to such subsidiary corporations and leasehold interests defined in 80-1-10-.07 above but shall not include Other Real Estate.

(2) Other Real Estate is real property conveyed to a bank in satisfaction of debt previously contracted in the course of its business and real property purchased at sales under judgments, decrees, or mortgage foreclosures under securities held by it; but a bank shall not bid, at any such sale, a larger amount than sufficient to satisfy its debt, costs and expenses. Other Real Estate shall also include property originally acquired for future expansion, but for which such expansion plans have been abandoned and property formerly utilized as bank premises or for other approved purposes, but no longer utilized.

Authority Ga. L. 1974, p. 733.

**80-1-10-.09 Assets Acquired D.P.C.**

(1) All assets acquired through foreclosure or in lieu of foreclosure and all "Other Real Estate" acquired in such manner or otherwise shall be appraised annually commencing within one (1) year from acquisition by an independent appraiser knowledgeable in the fair market value of such assets, provided, in the case of real property, appraisals shall be at intervals of not more

than five (5) years; and if the book value of the property does not exceed two (2) percent of the statutory capital base of the bank, the appraisals may be made by a qualified officer of the bank.

(2) All requests for permission to hold assets acquired through foreclosure or in lieu of foreclosure and to hold other types of "Other Real Estate" beyond limitations imposed by statute must include a statement as to efforts made to dispose of the asset, reasons for the failure of such efforts, plans for disposal of the asset during the extended ownership period, a copy of the most recent appraisal, and a statement as to the estimated annual cost of carrying the asset and estimated annual income produced by the asset.

(3) Extension of statutory ownership periods will not be granted for income purposes.

(4) Property subject to this section shall be initially carried on the books of the bank at the property basis, established on the date that the bank takes legal title to or physical possession of the property, by the price bid by the bank at foreclosure or at such higher value representing the fair market value determined by independent appraisal, unless otherwise provided, less the estimated costs to sell. Subsequently, the carrying value shall be subject to write-down or write-up based upon the most recent appraisal, but such adjustments shall not exceed the property basis which may only be increased by the amount of any capital improvements necessary to prepare the property for sale. Non-capital improvements and expenses necessary to carrying and maintaining the property (taxes, legal fees, insurance, yard maintenance, etc.) shall be expenses and not added to the carrying value. Income earned from the property, other than from conversion or sale, shall be credited to income and shall not reduce the carrying value of the property.

(5) Appraisals obtained pursuant to this section shall be for the purpose of determining the current fair market value of the property. Appraisals found to reflect other than current fair market value or found to have been performed by persons unfamiliar with such class of property or lacking independence (where required) from the owner of such property may be rejected by the Department and new appraisals required.

Authority Ga. L. 1974, p. 733.