

HOUSE BILL No. 6275

November 13, 1990, Introduced by Rep. Jondahl and referred to the Committee on Corporations and Finance.

A bill to amend section 5 of Act No. 105 of the Public Acts of 1855, entitled as amended

"An act to regulate the disposition of the surplus funds in the state treasury; to provide for the deposit of surplus funds in certain financial institutions; to require certain reports by those institutions; to lend surplus funds pursuant to loan agreements secured by certain commercial, agricultural, or industrial real and personal property; to authorize the loan of surplus funds to certain municipalities; to authorize an appropriation; and to prescribe the duties of certain state agencies,"

as amended by Act No. 325 of the Public Acts of 1980, being section 21.145 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 5 of Act No. 105 of the Public Acts of
2 1855, as amended by Act No. 325 of the Public Acts of 1980, being
3 section 21.145 of the Michigan Compiled Laws, is amended to read
4 as follows:

1 Sec. 5. (1) The state treasurer shall not deposit any
2 surplus funds belonging to the state in a financial institution
3 with total assets of more than \$10,000,000.00 at the end of its
4 last full fiscal year unless the financial institution complies
5 with ~~subsection (5), and files~~ SUBSECTIONS (2), (6), AND (7).

6 (2) TO BE A DEPOSITORY OF SURPLUS FUNDS BELONGING TO THE
7 STATE, A FINANCIAL INSTITUTION SHALL FILE with the commissioner,
8 either voluntarily or pursuant to Act No. 135 of the Public Acts
9 of 1977, being sections 445.1601 to 445.1614 of the Michigan
10 Compiled Laws, the disclosure reports required pursuant to sec-
11 tion 6(1) or (2) of Act No. 135 of the Public Acts of 1977,
12 being section 445.1606 of the Michigan Compiled Laws, and 1 of
13 the following:

14 (a) The disclosure reports required pursuant to section 6(3)
15 and (4) of Act No. 135 of the Public Acts of 1977.

16 (b) A copy of the information to be disclosed under section
17 6(4) of Act No. 135 of the Public Acts of 1977, relating to
18 mortgage loans foreclosed, and a copy of the federal loan appli-
19 cation register maintained by savings and loan associations pur-
20 suant to federal home loan bank board regulation, 12 C.F.R.
21 528.6(d), together with the following information as to each loan
22 application:

23 (i) The type of loan applied for, divided into the following
24 categories: home improvement loans; conventional mortgage loans
25 on 1- to 4-family, owner-occupied dwellings; conventional mort-
26 gage loans on 1- to 4-family, nonowner-occupied dwellings;
27 federal housing administration, farm home administration, or

1 veterans administration mortgage loans; loans secured by junior
2 liens; and loans on family dwellings for 5 or more families.

3 (ii) If a loan application other than for a loan secured by
4 a mortgage on a multifamily dwelling is denied, the reason given
5 for the denial.

6 (iii) The county code assigned by the commissioner.

7 (c) A report disclosing the information relating to loan
8 applications contained in any other report maintained by a finan-
9 cial institution pursuant to federal law or regulations contain-
10 ing the information required to be disclosed under subdivision
11 (b).

12 (3) ~~(2)~~ The information required to be disclosed under
13 ~~subsection (1)(b)~~ SUBSECTION (2)(B) or (c) relating to the
14 reason for denial of a loan, the owner-occupied or
15 nonowner-occupied dwelling designation for a conventional mort-
16 gage loan, and the county code shall be provided only with
17 respect to loan applications received after September 1, 1979.

18 (4) ~~(3)~~ During December of each year, the commissioner
19 shall request each financial institution in this state not
20 required to file reports pursuant to section 6 of Act No. 135 of
21 the Public Acts of 1977, to voluntarily file the reports as pro-
22 vided in ~~subsection (1)~~ SUBSECTION (2) before March 31 of the
23 following year.

24 (5) ~~(4)~~ Before May 1 each year, the commissioner shall
25 publish a list of financial institutions with total assets of
26 more than \$10,000,000.00 at the end of their last full fiscal
27 year which have failed to comply with ~~subsection (5)~~ SUBSECTION

1 (6), or which have failed to file with the commissioner reports
2 substantially complying with the requirements of ~~subsection (1)~~
3 SUBSECTION (2) for the last fiscal year of that financial insti-
4 tution ending not later than December 31 of the prior year. A
5 financial institution ~~which~~ THAT does not appear on that list
6 shall conclusively be presumed to have complied with ~~subsection~~
7 ~~(5)~~ SUBSECTION (6) and to have filed the required reports for
8 purposes of determining its eligibility to be a depository of
9 state funds. Additional funds shall not be deposited in a finan-
10 cial institution which appears on the list until the commissioner
11 certifies that the financial institution has complied with
12 ~~subsection (5)~~ SUBSECTION (6) and has filed the required
13 reports, or until 91 days after the end of a subsequent year for
14 which the required reports are filed with the commissioner,
15 whichever occurs sooner.

16 (6) ~~(5)~~ To be a depository of surplus funds belonging to
17 the state, a financial institution shall not encourage or condone
18 legally required discrimination against an individual on the
19 basis of race or color, by knowingly making or maintaining a loan
20 to the Republic of South Africa, a national corporation of the
21 Republic of South Africa, or to a subsidiary or affiliate of a
22 United States firm operating in the Republic of South Africa. A
23 financial institution shall be considered to have complied with
24 this subsection if the financial institution has filed with the
25 commissioner an affidavit attesting to the fact that it has after
26 July 4, 1982 no existing loans to the Republic of South Africa, a
27 national corporation of the Republic of South Africa, or to a

1 subsidiary or affiliate of a United States firm operating in the
2 Republic of South Africa, as determined from information obtained
3 from the United States department of commerce. As used in this
4 subsection:

5 (a) "Financial institution" means a bank chartered under the
6 laws of this state or of the United States.

7 (b) "National corporation" means a corporation, or a subsid-
8 iary or affiliate of a corporation, that is more than 50% owned
9 or operated by the government of the Republic of South Africa.

10 (c) "Subsidiary or affiliate of a United States firm operat-
11 ing in the Republic of South Africa" means, as determined by the
12 United States department of commerce, a firm incorporated under
13 the laws of the Republic of South Africa, domiciled in the
14 Republic of South Africa, and controlled by a United States
15 firm. A subsidiary or affiliate shall not be construed to mean a
16 subsidiary or affiliate that is located in the United States.

17 (d) "Surplus funds" means, at any given date, the excess of
18 cash and other recognized assets, that are expected to be
19 resolved into cash or its equivalent in the natural course of
20 events and with a reasonable certainty, over the liabilities and
21 necessary reserves at the same date. Surplus funds does not
22 include the proceeds of bond and note issues which are deposited
23 for a period of not more than 10 days in a financial institution
24 for settlement purposes.

25 (7) TO BE A DEPOSITORY OF SURPLUS FUNDS BELONGING TO THE
26 STATE, A FINANCIAL INSTITUTION SHALL SUBMIT TO AN ANNUAL
27 COMMUNITY REINVESTMENT ASSESSMENT. THE COMMUNITY REINVESTMENT

1 ASSESSMENT SHALL INCLUDE, BUT IS NOT LIMITED TO, ALL OF THE
2 FOLLOWING:

3 (A) THE NUMBER AND AGGREGATE DOLLAR AMOUNT OF HOUSING, COM-
4 MERCIAL, SMALL BUSINESS, AGRICULTURAL, AND CONSUMER LOANS ORIGI-
5 NATED IN THE STATE IN WHICH THE FINANCIAL INSTITUTION'S PRINCIPAL
6 PLACE OF BUSINESS IS LOCATED.

7 (B) THE NUMBER AND AGGREGATE DOLLAR AMOUNT OF HOUSING, COM-
8 MERCIAL, SMALL BUSINESS, AGRICULTURAL, AND CONSUMER LOANS ORIGI-
9 NATED IN THIS STATE.

10 (C) THE NUMBER AND AGGREGATE DOLLAR AMOUNT OF HOUSING, COM-
11 MERCIAL, SMALL BUSINESS, AGRICULTURAL, AND CONSUMER LOANS ORIGI-
12 NATED WITHIN LOW-INCOME AND MODERATE-INCOME NEIGHBORHOODS WITHIN
13 THE FINANCIAL INSTITUTION'S SERVICE AREA.

14 (8) THE COMMISSIONER SHALL ANNUALLY PREPARE A WRITTEN REPORT
15 SUMMARIZING THE RESULTS OF THE COMMUNITY REINVESTMENT ASSESSMENTS
16 CONDUCTED UNDER SUBSECTION (7) AND SHALL ANNUALLY ASSIGN TO EACH
17 FINANCIAL INSTITUTION A RATING OF EITHER A SATISFACTORY PER-
18 FORMANCE OR AN UNSATISFACTORY PERFORMANCE FOR EACH OF THE FOLLOW-
19 ING PERFORMANCE CATEGORIES:

20 (A) GEOGRAPHIC DISTRIBUTION OF CREDIT APPLICATIONS, CREDIT
21 EXTENSIONS, AND CREDIT DENIALS.

22 (B) MARKETING OF CREDIT SERVICES.

23 (C) PRESENT PERFORMANCE RECORD OF MEETING COMMUNITY CREDIT
24 NEEDS.

25 (D) FUTURE PERFORMANCE PROSPECT OF MEETING COMMUNITY CREDIT
26 NEEDS.

1 (9) THE COMMISSIONER'S DETERMINATION OF A RATING OF A
2 FINANCIAL INSTITUTION UNDER SUBSECTION (8) SHALL BE BASED UPON
3 EVALUATIVE FACTORS USED UNDER THE FEDERAL COMMUNITY REINVESTMENT
4 ACT OF 1977, 12 U.S.C. 2901 TO 2906, AND AS PRESCRIBED BY THE
5 DEPARTMENT OF COMMERCE.

6 (10) A FINANCIAL INSTITUTION SHALL NOT BE A DEPOSITORY OF
7 STATE FUNDS IN A CALENDAR YEAR FOLLOWING A CALENDAR YEAR THAT THE
8 FINANCIAL INSTITUTION RECEIVED AN UNSATISFACTORY PERFORMANCE
9 RATING IN 2 OR MORE OF THE PERFORMANCE CATEGORIES UNDER SUBSEC-
10 TION (8).

11 (11) THE RATING AND WRITTEN SUMMARY UNDER SUBSECTION (8)
12 SHALL BE MADE AVAILABLE TO THE PUBLIC.

13 (12) THE DEPARTMENT OF COMMERCE SHALL PROMULGATE RULES TO
14 IMPLEMENT THIS SECTION PURSUANT TO THE ADMINISTRATIVE PROCEDURES
15 ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SEC-
16 TIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS.

17 (13) A FINANCIAL INSTITUTION MAY CHALLENGE THE
18 COMMISSIONER'S DETERMINATION UNDER SUBSECTION (8) PURSUANT TO THE
19 CONTESTED CASE PROVISIONS OF ACT NO. 306 OF THE PUBLIC ACTS OF
20 1969.