

HOUSE BILL No. 5972

June 25, 1992, Introduced by Reps. Keith, Gagliardi and DeMars and referred to the Committee on Corporations and Finance.

A bill to amend section 151 of Act No. 319 of the Public Acts of 1969, entitled as amended

"Banking code of 1969,"

as amended by Act No. 12 of the Public Acts of 1991, being section 487.451 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 151 of Act No. 319 of the Public Acts of
2 1969, as amended by Act No. 12 of the Public Acts of 1991, being
3 section 487.451 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 151. Subject to the limitations and restrictions con-
6 tained in this act or in a bank's articles, the bank may engage
7 in the business of banking and a business related or incidental
8 to banking, and for that purpose, without specific mention

1 thereof in its articles, a bank has the powers conferred by this
2 act and the following additional corporate powers:

3 (1) To have a corporate seal, which may be altered at plea-
4 sure, and to use the corporate seal by causing it, or a facsimile
5 of it, to be impressed, affixed, or reproduced in any manner.

6 (2) To have succession in perpetuity or for a limited period
7 of time, as fixed by its articles or until its affairs are
8 finally wound up by liquidation, forfeiture, or dissolution, as
9 provided in this act.

10 (3) To make contracts.

11 (4) To sue and be sued, complain, and defend in its corpo-
12 rate name as fully as a natural person.

13 (5) To elect or appoint directors who shall appoint from
14 their members a president who shall perform duties as may be des-
15 ignated by the board, and who shall serve as the chairperson of
16 the board, unless the board designates another director to be
17 chairperson in lieu of the president. The board shall appoint 1
18 or more vice-presidents, a cashier, and other officers as the
19 board considers necessary, who may or may not be members of the
20 board, shall define their duties, shall dismiss the officers or
21 any of them at pleasure, and shall appoint other officers to fill
22 their places.

23 (6) To make, alter, amend, and repeal bylaws not inconsis-
24 tent with its articles or with law for the administration and
25 regulation of the affairs of the bank.

26 (7) To have and exercise the powers and means appropriate to
27 effect the purpose for which the bank is incorporated.

1 (8) To make contributions and donations for the public
2 welfare or for religious, charitable, scientific, or educational
3 purposes, and, in connection therewith, to establish and operate
4 charitable trusts.

5 (9) To purchase, take, lease as lessee, or otherwise
6 acquire, and to own, hold, and use, to sell, lease as lessor,
7 mortgage, pledge, grant a security interest in, convey, or other-
8 wise dispose of real or personal property in connection with the
9 exercise of a power granted in this act.

10 (10) To act as agent of the United States, or of an instru-
11 mentality or agency of the United States, for the sale or issue
12 of bonds, notes, or other obligations of the United States, or an
13 instrumentality or agency of the United States, and, in connec-
14 tion therewith, to take other action as, in the opinion of the
15 board of directors, may be necessary or proper to enable the bank
16 to so act.

17 (11) To become a member of the federal reserve system, to
18 hold shares of stock in a federal reserve bank, to take all
19 actions incident to maintenance of its membership, and to exer-
20 cise all powers, not inconsistent with the provisions of this
21 act, conferred on member banks by the federal reserve act.

22 (12) To become an insured bank pursuant to the federal
23 deposit insurance act, and to take actions incident to the main-
24 tenance of an insured status under that act.

25 (13) To become a member of the federal home loan bank as
26 defined in section 2 of the federal home loan bank act,
27 chapter 522, 47 Stat. 725, and to exercise those powers conferred

1 upon a federal home loan bank member by the federal home loan
2 bank that are consistent with this act.

3 (14) To purchase the shares of stock of a small business
4 investment company doing business in this state and licensed
5 under, or established pursuant to, the federal small business
6 investment act of 1958, Public Law 85-699, 72 Stat. 689, and to
7 purchase shares of stock of a business and industrial development
8 corporation established pursuant to the provisions of the
9 Michigan BIDCO act, Act No. 89 of the Public Acts of 1986, being
10 sections 487.1101 to 487.2001 of the Michigan Compiled Laws.

11 (15) To sell mortgage loans to the federal national mortgage
12 association, or a successor of the association, and, in connec-
13 tion with the association, to make payments of capital contribu-
14 tions, required pursuant to law, in the nature of subscriptions
15 for stock of the association or a successor of the association,
16 to receive stock evidencing the capital contributions, and to
17 hold or dispose of the stock.

18 (16) To conduct its business through subsidiaries, but a
19 bank shall not acquire or hold for its own account shares of a
20 bank or bank holding company, unless the shares are acquired as
21 provided in subdivision (19). The commissioner may promulgate
22 rules as he or she considers necessary to effectuate this subdi-
23 vision and prevent evasions of this subdivision. For the purpose
24 of this subdivision, subsidiary means a corporation of which at
25 least 80% of the voting stock of the corporation is owned by
26 state and national banks located in Michigan.

1 (17) To make application for and to obtain insurance of
2 loans, but not to operate an insurance underwriting business.

3 (18) To give its bond in a proceeding in any court in which
4 it is a party or upon an appeal in a proceeding, and to pledge
5 assets as security for the bond.

6 (19) To acquire and hold, irrespective of any restriction or
7 limitation of this act, property, or a security interest in prop-
8 erty, as protection against loss on an evidence of indebtedness,
9 on an agreement for the payment of money, or on an investment
10 security previously acquired lawfully and in good faith, subject
11 to both of the following:

12 (a) A determination by a majority vote of its directors, at
13 least once each year, as to the advisability of retaining the
14 property or security interest so acquired.

15 (b) Disposition within a period of 60 months after the date
16 of acquisition, or a longer period as the commissioner may
17 approve.

18 (20) To hold property lawfully held on August 20, 1969,
19 subject to the inclusion of the property in any computation of a
20 limitation on the acquisition for holding of property of a like
21 character under this act.

22 (21) To service loans for others and to receive a fee for
23 the service.

24 (22) To purchase capital stock, bonds, debentures, or other
25 obligations of a corporation created pursuant to the authority
26 granted by sections 161 to 165, but subject to the limitations
27 and conditions of those sections.

1 (23) To execute and deliver guarantees as may be incidental
2 or usual in carrying on the business of a bank.

3 (24) To purchase, hold, and dispose of stock of the student
4 loan marketing association established pursuant to section 439 of
5 part B of title IV of the higher education act of 1965, Public
6 Law 89-329, 20 U.S.C. 1807-2.

7 (25) To purchase open accounts, with or without recourse
8 against the seller of an open account, which accounts need not
9 represent an evidence of indebtedness, and including open
10 accounts in connection with export transactions, when the
11 accounts are protected by insurance such as that provided by the
12 foreign credit insurance association and the export-import bank.

13 (26) To purchase for its own account shares of stock issued
14 by an agricultural credit corporation or a corporation organized
15 solely for the purpose of making loans to farmers and ranchers
16 for agricultural purposes, including the breeding, raising, fat-
17 tening or marketing of livestock. However, unless a bank owns at
18 least 80% of the stock of the corporation, the amount invested by
19 the bank at any 1 time in the stock of the corporation shall not
20 exceed 20% of the unimpaired capital and surplus of the bank.

21 (27) To make, arrange, participate in, purchase, or sell
22 loans or extensions of credit secured by liens or interests in
23 real estate or leaseholds.

24 (28) To purchase and hold for its own account any class of
25 voting securities of a bank organized and chartered pursuant to
26 section 54 or the national bank act, chapter 106, 13 Stat. 99,
27 and engaged exclusively in providing services to depository

1 institutions or their officers, directors, and employees, or a
2 bank holding company which owns or controls a bank organized and
3 chartered pursuant to section 54 or the national bank act, chap-
4 ter 106, 13 Stat. 99, if the stock of a bank holding company is
5 owned exclusively, except to the extent directors' qualifying
6 shares are required by law, by depository institutions, as
7 defined in section 54, and if all subsidiaries of the company
8 engage exclusively in serving depository institutions or their
9 officers, directors, and employees. The amount of securities of
10 a bank or bank holding company held by an investing bank shall
11 not exceed 20% of the capital and surplus of the investing bank.

12 (29) To purchase, hold, and dispose of mortgages, obliga-
13 tions, or other securities which are or ever have been sold by
14 the federal home loan mortgage corporation pursuant to sections
15 305 and 306 of title III of Public Law 91-351, 12 U.S.C. 1454 and
16 1455.

17 (30) To incur liabilities, borrow money, and issue its
18 notes, bonds, and other obligations.

19 (31) To exercise all incidental powers as shall be necessary
20 to carry on the business of banking. In order to implement the
21 provisions of this subdivision, the commissioner may promulgate
22 rules pursuant to section 19; or issue declaratory rulings in
23 accordance with the administrative procedures act of 1969, Act
24 No. 306 of the Public Acts of 1969, being sections 24.201 to
25 24.328 of the Michigan Compiled Laws; or issue orders on applica-
26 tions by 1 or more banks to exercise powers not specifically
27 authorized by this act. It is intended that this subdivision

1 shall vest in the commissioner the discretion and authority to
2 authorize banks to exercise the powers appropriate and necessary
3 to compete with other depository financial institutions and other
4 providers of financial services. In the exercise of the discre-
5 tion permitted by this subdivision the commissioner shall con-
6 sider the ability of banks to exercise any additional power in a
7 safe and sound manner, the authority of national banks operating
8 pursuant to federal law or regulation, the powers of other com-
9 peting entities providing financial services in the banks' serv-
10 ice area, and any specific limitations on bank powers contained
11 in this act or in any other state law. On a quarterly basis, the
12 commissioner shall give notice to all banks of rules promulgated
13 or declaratory rulings or determinations issued pursuant to this
14 subdivision.

15 (32) EXCEPT AS OTHERWISE PROVIDED IN THE INSURANCE CODE OF
16 1956, ACT NO. 218 OF THE PUBLIC ACTS OF 1956, BEING SECTIONS
17 500.100 TO 500.8302 OF THE MICHIGAN COMPILED LAWS, TO ENGAGE IN
18 ANY ASPECT OF THE INSURANCE AND SURETY BUSINESS AS PRINCIPAL,
19 UNDERWRITER, AGENT, BROKER, SOLICITOR, OR INSURANCE COUNSELOR.

20 (33) TO PURCHASE SHARES OF A CORPORATION ENGAGED, OR ORGA-
21 NIZED FOR THE PURPOSE OF ENGAGING, IN ANY ASPECT OF THE INSURANCE
22 AND SURETY BUSINESS AS A PRINCIPAL, UNDERWRITER, AGENT, BROKER,
23 SOLICITOR, OR INSURANCE COUNSELOR. HOWEVER, THE BANK SHALL AT
24 ALL TIMES OWN AT LEAST 80% OF THE ISSUED AND OUTSTANDING VOTING
25 SHARES OF THE CORPORATION.

1 Section 2. This amendatory act shall not take effect unless
2 Senate Bill No. _____ or House Bill No. 5973 (request
3 no. 06128'92) of the 86th Legislature is enacted into law.