

HOUSE BILL No. 6106

September 22, 1992, Introduced by Rep. Murphy and referred to the Committee on Corporations and Finance.

A bill to amend the title and sections 5 and 7 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 the participation in certain loan programs; to authorize an appropriation; and to prescribe the duties of certain state agencies,"

section 5 as amended by Act No. 325 of the Public Acts of 1980, being sections 21.145 and 21.147 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 5 and 7 of Act No. 105 of
2 the Public Acts of 1855, section 5 as amended by Act No. 325 of
3 the Public Acts of 1980, being sections 21.145 and 21.147 of the
4 Michigan Compiled Laws, are amended to read as follows:

TITLE

1
2 An act to regulate the disposition of the surplus funds in
3 the state treasury; to provide for the deposit of surplus funds
4 in certain financial institutions; ~~to require certain reports by~~
5 ~~those institutions;~~ to lend surplus funds pursuant to loan
6 agreements secured by certain commercial, agricultural, or indus-
7 trial real and personal property; to authorize the loan of sur-
8 plus funds to certain municipalities; to authorize the participa-
9 tion in certain loan programs; to authorize an appropriation; and
10 to prescribe the duties of certain state agencies.

11 Sec. 5. (1) The state treasurer shall not deposit any sur-
12 plus funds belonging to the state in a financial institution with
13 total assets of more than \$10,000,000.00 at the end of ~~its~~ THE
14 INSTITUTION'S last full fiscal year unless the financial institu-
15 tion complies with subsection ~~(5)~~ (3), and files with the com-
16 missioner ON OR BEFORE MARCH 31 OF EACH YEAR AN AFFIDAVIT STATING
17 WHETHER THE FINANCIAL INSTITUTION IS SUBJECT TO THE FEDERAL HOME
18 MORTGAGE DISCLOSURE ACT OF 1975, TITLE III OF PUBLIC LAW 94-200,
19 12 U.S.C. 2801 TO 2810, AND IF SUBJECT TO THE ACT, THAT THE
20 FINANCIAL INSTITUTION HAS COMPLIED WITH THE REQUIREMENTS OF THE
21 ACT AND THE REGULATIONS PROMULGATED UNDER THE ACT. ~~, either~~
22 ~~voluntarily or pursuant to Act No. 135 of the Public Acts of~~
23 ~~1977, being sections 445.1601 to 445.1614 of the Michigan~~
24 ~~Compiled Laws, the disclosure reports required pursuant to sec-~~
25 ~~tion 6(1) or (2) of Act No. 135 of the Public Acts of 1977,~~
26 ~~being section 445.1606 of the Michigan Compiled Laws, and 1 of~~
27 ~~the following:~~

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

3 ~~(b) A copy of the information to be disclosed under section~~
4 ~~6(4) of Act No. 135 of the Public Acts of 1977, relating to~~
5 ~~mortgage loans foreclosed, and a copy of the federal loan appli-~~
6 ~~cation register maintained by savings and loan associations pur-~~
7 ~~suant to federal home loan bank board regulation, 12 C.F.R.~~
8 ~~528.6(d), together with the following information as to each loan~~
9 ~~application:~~

10 ~~(i) The type of loan applied for, divided into the following~~
11 ~~categories: home improvement loans; conventional mortgage loans~~
12 ~~on 1 to 4 family, owner occupied dwellings; conventional mort-~~
13 ~~gage loans on 1 to 4 family, nonowner occupied dwellings; fed-~~
14 ~~eral housing administration, farm home administration, or veter-~~
15 ~~ans administration mortgage loans; loans secured by junior liens;~~
16 ~~and loans on family dwellings for 5 or more families.~~

17 ~~(ii) If a loan application other than for a loan secured by~~
18 ~~a mortgage on a multifamily dwelling is denied, the reason given~~
19 ~~for the denial.~~

20 ~~(iii) The county code assigned by the commissioner.~~

21 ~~(c) A report disclosing the information relating to loan~~
22 ~~applications contained in any other report maintained by a finan-~~
23 ~~cial institution pursuant to federal law or regulations contain-~~
24 ~~ing the information required to be disclosed under subdivision~~
25 ~~(b).~~

26 ~~(2) The information required to be disclosed under~~
27 ~~subsection (1)(b) or (c) relating to the reason for denial of a~~

1 ~~loan, the owner occupied or nonowner occupied dwelling~~
2 ~~designation for a conventional mortgage loan, and the county code~~
3 ~~shall be provided only with respect to loan applications received~~
4 ~~after September 1, 1979.~~

5 ~~(3) During December of each year, the commissioner shall~~
6 ~~request each financial institution in this state not required to~~
7 ~~file reports pursuant to section 6 of Act No. 135 of the Public~~
8 ~~Acts of 1977, to voluntarily file the reports as provided in sub~~
9 ~~section (1) before March 31 of the following year.~~

10 (2) ~~(4)~~ Before May 1 OF each year, the commissioner shall
11 publish a list of financial institutions with total assets of
12 more than \$10,000,000.00 at the end of ~~their~~ THE INSTITUTIONS'
13 last full fiscal year ~~which~~ THAT have failed to comply with
14 ~~subsection (5), or which have failed to file with the commis~~
15 ~~sioner reports substantially complying with the requirements of~~
16 ~~subsection (1) for the last fiscal year of that financial insti~~
17 ~~tution ending not later than December 31 of the prior year~~
18 SUBSECTIONS (1) AND (3). A financial institution ~~which~~ THAT
19 does not appear on that list ~~shall~~ IS conclusively ~~be~~ pre-
20 sumed to have complied with ~~subsection (5) and to have filed the~~
21 ~~required reports~~ SUBSECTIONS (1) AND (3) for purposes of deter-
22 mining its eligibility to be a depository of state funds.
23 Additional funds shall not be deposited in a financial institu-
24 tion ~~which~~ THAT appears on the list until the commissioner cer-
25 tifies that the financial institution has complied with
26 ~~subsection (5) and has filed the required reports,~~ SUBSECTIONS
27 (1) AND (3) or until 91 days after the end of a subsequent year

1 for which ~~the required reports are~~ AN AFFIDAVIT IS filed with
2 the commissioner AS PROVIDED IN SUBSECTIONS (1) AND (3), which-
3 ever occurs sooner.

4 (3) ~~(5)~~ To be a depository of surplus funds belonging to
5 the state, a financial institution shall not encourage or condone
6 legally required discrimination against an individual on the
7 basis of race or color ~~—~~ by knowingly making or maintaining a
8 loan to the Republic of South Africa, a national corporation of
9 the Republic of South Africa, or ~~to~~ a subsidiary or affiliate
10 of a United States firm operating in the Republic of South
11 Africa. A financial institution ~~shall be~~ IS considered to have
12 complied with this subsection if the financial institution has
13 filed with the commissioner an affidavit attesting to the fact
14 that it has after July 4, 1982 no existing loans to the Republic
15 of South Africa, a national corporation of the Republic of South
16 Africa, or ~~to~~ a subsidiary or affiliate of a United States firm
17 operating in the Republic of South Africa, as determined from
18 information obtained from the United States department of
19 commerce. As used in this subsection:

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

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

25 (c) "Subsidiary or affiliate of a United States firm operat-
26 ing in the Republic of South Africa" means, as determined by the
27 United States department of commerce, a firm incorporated under

1 the laws of the Republic of South Africa, domiciled in the
2 Republic of South Africa, and controlled by a United States
3 firm. A subsidiary or affiliate shall not be construed to mean a
4 subsidiary or affiliate that is located in the United States.

5 (d) "Surplus funds" means, at any given date, the excess of
6 cash and other recognized assets, that are expected to be
7 resolved into cash or its equivalent in the natural course of
8 events and with a reasonable certainty, over the liabilities and
9 necessary reserves at the same date. Surplus funds does not
10 include the proceeds of bond and note issues ~~which~~ THAT are
11 deposited for a period of not more than 10 days in a financial
12 institution for settlement purposes.

13 Sec. 7. ~~(+)~~ As used in this act:

14 (a) "Commissioner" means the commissioner of the financial
15 institutions bureau of the department of commerce.

16 (b) "Deposit" includes the purchase of, or investment in,
17 shares of credit unions.

18 (c) "Financial institution" means a state or nationally
19 chartered bank, a state or federally chartered savings and loan
20 association, A STATE OR FEDERALLY CHARTERED SAVINGS BANK, or a
21 state or federally chartered credit union.

22 ~~(2) As used in this act, the terms "home improvement loan",~~
23 ~~"junior lien", "loan application", and "mortgage loan", and~~
24 ~~"multifamily dwelling" shall have the meanings ascribed to them~~
25 ~~in Act No. 135 of the Public Acts of 1977, and the rules promul-~~
26 ~~gated pursuant to that act.~~

1 Section 2. This amendatory act shall not take effect unless
2 Senate Bill No. _____ or House Bill No. 6105 (request
3 no. 05995'92) of the 86th Legislature is enacted into law.