

Act No. 44  
Public Acts of 1993  
Approved by the Governor  
May 27, 1993  
Filed with the Secretary of State  
May 27, 1993

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1993**

Introduced by Reps. Murphy, Wallace, Palamara, Randall, Middaugh, DeLange, Shugars, DeMars, Points, Alley, Profit, Hood, Bennane, Leland, Kilpatrick, Stallworth and Saunders

# **ENROLLED HOUSE BILL No. 4424**

AN ACT 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:*

Section 1. The title and sections 5 and 7 of Act No. 105 of the Public Acts of 1855, 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, are amended to read as follows:

## **TITLE**

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 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.

Sec. 5. (1) The state treasurer shall not deposit any surplus funds belonging to the state in a financial institution with total assets of more than \$10,000,000.00 at the end of the institution's last full fiscal year unless the financial institution complies with subsection (3), and files with the commissioner on or before March 31 of each year an affidavit stating whether the financial institution is subject to the federal home mortgage disclosure act of 1975, title III of Public Law 94-200, 12 U.S.C. 2801 to 2810, and if subject to the act, that the financial institution has complied with the requirements of the act and the regulations promulgated under the act.

(2) Before May 1 of each year, the commissioner shall publish a list of financial institutions with total assets of more than \$10,000,000.00 at the end of the institutions' last full fiscal year that have failed to comply with subsections (1) and (3). A financial institution that does not appear on that list is conclusively presumed to have complied with subsections (1) and (3) for purposes of determining its eligibility to be a depository of state funds. Additional funds shall not be deposited in a financial institution that appears on the list until the commissioner certifies that the financial

institution has complied with subsections (1) and (3) or until 91 days after the end of a subsequent year for which an affidavit is filed with the commissioner as provided in subsections (1) and (3), whichever occurs sooner.

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

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

(b) "National corporation" means a corporation, or a subsidiary or affiliate of a corporation, that is more than 50% owned or operated by the government of the Republic of South Africa.

(c) "Subsidiary or affiliate of a United States firm operating in the Republic of South Africa" means, as determined by the United States department of commerce, a firm incorporated under the laws of the Republic of South Africa, domiciled in the Republic of South Africa, and controlled by a United States firm. A subsidiary or affiliate shall not be construed to mean a subsidiary or affiliate that is located in the United States.

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

Sec. 7. As used in this act:

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

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

(c) "Financial institution" means a state or nationally chartered bank, a state or federally chartered savings and loan association, a state or federally chartered savings bank, or a state or federally chartered credit union.

Section 2. This amendatory act shall not take effect unless House Bill No. 4423 of the 87th Legislature is enacted into law.

This act is ordered to take immediate effect.

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Co-Clerk of the House of Representatives.

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Secretary of the Senate.

Approved -----

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Governor.