



SENATE BILL No. 793

# SENATE BILL No. 793

August 31, 1993, Introduced by Senators KELLY, KOIVISTO, MC MANUS, VAUGHN, O'BRIEN and HOLMES and referred to the Committee on 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 the participation in certain loan programs; 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~~ THIS state in a financial  
3 institution with total assets of more than \$10,000,000.00 at the  
4 end of its last full fiscal year unless the financial institution  
5 ~~complies with subsection (5), and~~ files with the commissioner  
6 ~~, either voluntarily or pursuant to Act No. 135 of the Public~~  
7 ~~Acts of 1977, being sections 445.1601 to 445.1614 of the Michigan~~  
8 ~~Compiled Laws, the disclosure reports required pursuant to~~ AS  
9 DESCRIBED IN section 6(1) or (2) of Act No. 135 of the Public  
10 Acts of 1977, being section 445.1606 of the Michigan Compiled  
11 Laws, and 1 of the following:

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

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

21       (i) The type of loan applied for, divided into the following  
22 categories: home improvement loans; conventional mortgage loans  
23 on 1- to 4-family, owner-occupied dwellings; conventional mort-  
24 gage loans on 1- to 4-family, nonowner-occupied dwellings; fed-  
25 eral housing administration, farm home administration, or veter-  
26 ans administration mortgage loans; loans secured by junior liens;  
27 and loans on family dwellings for 5 or more families.

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

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

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

10       (2) The information required to be disclosed under  
11 subsection (1)(b) or (c) relating to the reason for denial of a  
12 loan, the owner-occupied or nonowner-occupied dwelling designa-  
13 tion for a conventional mortgage loan, and the county code shall  
14 be provided only with respect to loan applications received after  
15 September 1, 1979.

16       (3) During December of each year, the commissioner shall  
17 request each financial institution in this state not required to  
18 file reports pursuant to section 6 of Act No. 135 of the Public  
19 Acts of 1977, to voluntarily file the reports as provided in  
20 subsection (1) before March 31 of the following year.

21       (4) Before May 1 each year, the commissioner shall publish a  
22 list of financial institutions with total assets of more than  
23 \$10,000,000.00 at the end of their last full fiscal year ~~which~~  
24 ~~have failed to comply with subsection (5), or which~~ THAT have  
25 failed to file with the commissioner reports substantially com-  
26 plying with the requirements of subsection (1) for the last  
27 fiscal year of that financial institution ending not later than

1 December 31 of the prior year. A financial institution ~~which~~  
2 THAT does not appear on that list shall conclusively be presumed  
3 to have ~~complied with subsection (5) and to have~~ filed the  
4 required reports for purposes of determining its eligibility to  
5 be a depository of state funds. Additional funds shall not be  
6 deposited in a financial institution ~~which~~ THAT appears on the  
7 list until the commissioner certifies that the financial institu-  
8 tion has ~~complied with subsection (5) and has~~ filed the  
9 required reports, or until 91 days after the end of a subsequent  
10 year for which the required reports are filed with the commis-  
11 sioner, whichever occurs sooner.

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

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

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

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

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