



# SENATE BILL No. 1162

May 19, 1994, Introduced by Senator DILLINGHAM and  
referred to the Committee on Corporation and  
Economic Development

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 90 of the Public Acts of 1993, being sec-  
tion 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 90 of the Public Acts of 1993, 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 by 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 with such contributions and dona-  
4 tions, to establish and operate charitable trusts

5       (9) To purchase, take, lease as lessee, or otherwise acquire  
6 and to own, hold, and use, to sell, lease as lessor, mortgage,  
7 pledge, grant a security interest in, convey, or otherwise dis-  
8 pose of real or personal property in connection with the exercise  
9 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 to take other  
14 action as may be necessary or proper to enable the bank to act  
15 under this subdivision

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

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

24       (13) To become a member of the federal home loan bank as  
25 defined in section 2 of the federal home loan bank act,  
26 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 subdivi-  
23 sion 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 Unless a bank owns at least  
18 80% of the stock of the corporation, the amount invested by the  
19 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 that 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 that are or ever have been sold by the  
 14 federal home loan mortgage corporation pursuant to sections 305  
 15 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) To own and operate a messenger service or to own or  
16 invest in a corporation that operates a messenger service

17 (33) TO PURCHASE, HOLD, AND SELL FOR ITS OWN ACCOUNT THE  
18 SHARES OF OPEN-END REGISTERED INVESTMENT COMPANIES ORGANIZED  
19 UNDER THE INVESTMENT COMPANY ACT OF 1940, TITLE I OF CHAPTER 686,  
20 54 STAT 789, 15 U S C 80a-1 TO 80a-64, WHOSE SHARES ARE REGIS-  
21 TERED UNDER THE SECURITIES ACT OF 1933, TITLE I OF CHAPTER 38, 48  
22 STAT 74, 15 U S C 77a TO 77r AND 77s TO 77aa, TO THE SAME  
23 EXTENT THAT SUCH INVESTMENTS ARE AVAILABLE FOR PURCHASE BY A  
24 NATIONALLY CHARTERED BANK