



HOUSE BILL No. 5224

October 10, 1995, Introduced by Reps. Bobier, Kukuk, Kaza, Jaye, LeTarte, Hammerstrom, Brackenridge and Llewellyn and referred to the Committee on Urban Policy.

A bill to authorize the designation of a state information depository; to require the state information depository to maintain certain information pertaining to municipal securities and to provide access to the information upon payment of any applicable fee; to provide for immunity from liability; and to provide for the powers and duties of certain state officials and the state information depository.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "state information depository act".

3 Sec. 2. As used in this act:

4 (a) "Annual financial information", "final official
5 statement", "issuer of municipal securities", and "obligated
6 person" mean those terms as defined in 17 C.F.R. 240.15c2-12.

1 (b) "Broker", "dealer", "municipal securities", and
2 "municipal securities dealer" mean those terms as defined in
3 section 3 of title I of the securities exchange act of 1934,
4 chapter 404, 48 Stat. 882, 15 U.S.C. 78c.

5 (c) "Department" means the department of treasury.

6 (d) "Depository" means the state information depository des-
7 ignated under section 3.

8 (e) "Entity" means the department or a private legal
9 entity.

10 (f) "Material event" means the failure of an issuer of
11 municipal securities to timely file an annual financial report
12 under section 4 of Act No. 71 of the Public Acts of 1919, being
13 section 21.44 of the Michigan Compiled Laws, or section 4 of the
14 uniform budgeting and accounting act, Act No. 2 of the Public
15 Acts of 1968, being section 141.424 of the Michigan Compiled
16 Laws, or any of the following occurrences with respect to securi-
17 ties being offered in an offering, if material:

18 (i) Principal and interest payment delinquencies.

19 (ii) Non-payment-related defaults.

20 (iii) Unscheduled draws on debt service reserves reflecting
21 financial difficulties.

22 (iv) Unscheduled draws on credit enhancements reflecting
23 financial difficulties.

24 (v) Substitution of credit or liquidity providers, or their
25 failure to perform.

26 (vi) Adverse tax opinions or events affecting the tax-exempt
27 status of the security.

(vii) Modifications to rights of security holders.

(viii) Bond calls.

(ix) Defeasances.

(x) Release, substitution, or sale of property securing repayment of the securities.

(xi) Rating changes.

Sec. 3. The state treasurer shall designate a single entity to serve as the state information depository in this state for the purpose of assisting brokers and dealers, including municipal securities dealers, in complying with 17 C.F.R. 240.15c2-12. In designating the entity to serve as the depository, the state treasurer shall consider whether the entity would be able to perform the duties set forth in section 4 and whether the entity would be able to meet the conditions and requirements that the treasurer considers appropriate for carrying out the duties of the depository.

Sec. 4. (1) The entity designated to serve as the depository shall do all of the following:

(a) Maintain current, accurate information about municipal securities offerings of issuers of municipal securities located in this state and about obligated persons with respect to those municipal securities, including final official statements, annual financial information, audited financial statements, notices of material events, and notices of failure to provide annual financial information by obligated persons under 17 C.F.R. 240.15c2-12 at no charge to the issuers or obligated persons. The depository is not required to verify the accuracy of information provided

1 pursuant to this subdivision, except, if the department is
2 designated as the depository, to the extent that the department
3 is required to verify the accuracy of the information under other
4 law.

5 (b) Accept the information described in subdivision (a) from
6 any issuer located in this state and any obligated person for the
7 municipal securities offerings of such an issuer.

8 (c) Makes the information described in subdivision (a) of
9 this section available promptly to the public on a contemporane-
10 ous basis upon payment of any applicable fee, which shall be
11 reasonable. If the department is designated as the depository,
12 the fees shall be set to defray the costs of operating the
13 depository.

14 (2) If a private entity is designated as the depository, the
15 state treasurer may require the depository to supply any informa-
16 tion or reports that the state treasurer considers appropriate.
17 The information or reports shall be provided to the state trea-
18 surer at no charge.

19 Sec. 5. (1) The state treasurer may revoke an entity's des-
20 ignation as the depository with or without cause.

21 (2) If the state treasurer revokes an entity's designation
22 as the depository or if a private entity designated as the depos-
23 itory voluntarily terminates its service as the depository, the
24 treasurer shall designate under section 3 another entity as the
25 depository.

1 Sec. 6. A private entity designated as the depository is
2 not an agency or instrumentality of the state for any purpose
3 whatsoever.