
Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 683 (as passed by the Senate)
Sponsor: Senator Michael J. Bouchard
Committee: Financial Services

Date Completed: 10-15-97

RATIONALE

Public Act 202 of 1995 amended the Banking Code to provide for Michigan's opt-in to interstate bank branching under the 1994 Federal Riegle-Neal Interstate Banking and Branching Efficiency Act. Under Public Act 202, an out-of-state bank may establish and operate a bank branch in Michigan, if the laws of the out-of-state bank's jurisdiction allow the establishment in that jurisdiction of a branch by a Michigan bank. In the Code, "out-of-state bank" refers to a bank organized under the laws of another state, the District of Columbia, or a U.S. territory or protectorate. By limiting this authority to establish a branch in Michigan to an out-of-state bank, Public Act 202 excluded a nationally chartered bank located outside of Michigan and a foreign bank from establishing a branch in Michigan. Some people believe that the Banking Code's interstate branching provisions should apply to a national bank and a foreign bank branch, as well as to an out-of-state bank.

CONTENT

The bill would amend the Banking Code to include a "foreign bank branch" and a "national bank" in the Code's provision authorizing an "out-of-state bank" to establish and operate one or more branches in Michigan.

"Foreign bank" means an entity organized and recognized as a bank, under the laws of a foreign country, that lawfully engages in the business of banking and is not directly or indirectly owned or controlled by U.S. citizens or by a corporation organized under U.S. laws. "Foreign bank branch" means a place of business of a foreign bank, located in any state, the District of Columbia, or a territory or protectorate of the United States, at which deposits are received and that is established and operating as a branch of a foreign bank under the Code, the Federal International Banking Act, or

the laws of another state.

"National bank" means a bank chartered by the Federal government under the National Bank Act. "Out-of-state bank" means a banking corporation organized under the laws of another state, the District of Columbia, or a territory or protectorate of the United States whose principal office is located in a state other than Michigan, the District of Columbia, or a territory or protectorate of the United States, and whose deposits are insured by the Federal Deposit Insurance Corporation.

Currently, an out-of-state bank located in a state, the District of Columbia, or a territory or protectorate of the United States may establish and operate one or more branches in Michigan, if the laws of the out-of-state bank's jurisdiction allow the establishment in that jurisdiction of a branch by a Michigan bank. Under the bill, that provision would apply to a foreign bank branch and a national bank as well as to an out-of-state bank.

The bill also would delete duplicative provisions requiring an out-of-state bank operating in Michigan to designate and maintain an agent in Michigan, upon whom process for judicial and administrative matters may be served. The language to be deleted also requires that an out-of-state bank provide to the Commissioner of the Financial Institutions Bureau (FIB) written notice containing the agent's name and address before commencing operations in Michigan, and that the out-of-state bank notify the Commissioner, in writing, within 10 days of any change in its designated agent or the agent's address. (These requirements would be retained in another provision applying the same requirements to an out-of-state and a national bank.)

Under the Code, an out-of-state bank may apply to

organize a branch in Michigan by giving the FIB Commissioner proof that its deposits are insured by an agency of the U.S. government. After receiving that proof and the required notices pertaining to an out-of-state bank's Michigan agent and the bank's name, address, and operation, if the Commissioner determines that the out-of-state bank is safe and sound, that it is subject to regulation, and that there exists an agreement for exchange of supervisory information between the FIB and the out-of-state bank's regulator, then the Commissioner must provide to the out-of-state bank a certificate of organization and eligibility to accept deposits and investments of public funds of the State and local units of government. The bill would remove the requirement that the FIB Commissioner's determination of an out-of-state bank's viability and regulation occur after the Commissioner receives information about the bank's in-State agent and name, location, and operation. (That information would continue to be required for the establishment of an out-of-state bank's Michigan branch.)

MCL 487.471

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would extend to out-of-state nationally chartered banks and foreign bank branches the interstate branching authority currently granted to out-of-state, state-chartered banks. The establishment of an out-of-state, nationally chartered bank branch or a foreign bank branch in Michigan, however, would be dependent on reciprocal authority for the establishment of a branch of a Michigan-chartered bank in that bank's jurisdiction.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: M. Tyszkiewicz

A9798\S683A

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.