

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 664

A bill to amend 1943 PA 20, entitled  
"An act relative to the investment of surplus funds of political  
subdivisions of the state; and to validate certain investments,"  
by amending the title and sections 1 and 3 (MCL 129.91 and  
129.93), the title as amended by 1988 PA 285 and section 1 as  
amended by 1997 PA 44, and by adding sections 5 and 6; and to  
repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1

TITLE

2

An act relative to the investment of ~~surplus~~ funds of

3

~~political subdivisions~~ PUBLIC CORPORATIONS of the state; and to

4

validate certain investments.

5

Sec. 1. (1) ~~The legislative or~~ EXCEPT AS PROVIDED IN

6

SECTION 5, THE governing body ~~of a county, city, village,~~

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~~township, or special assessment district, or an agency, board, or~~

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1 ~~commission of a county, city, village, or township,~~ by  
2 resolution may AUTHORIZE ITS INVESTMENT OFFICER TO ~~authorize its~~  
3 ~~treasurer or other chief fiscal officer to invest surplus funds~~  
4 ~~belonging to and under the control of the political subdivision,~~  
5 ~~special assessment district, or agency, board, or commission of a~~  
6 ~~county as follows~~ INVEST THE FUNDS OF THAT PUBLIC CORPORATION IN  
7 1 OR MORE OF THE FOLLOWING:

8 (a) ~~In bonds~~ BONDS, securities, and other obligations of  
9 the United States ~~,~~ or an agency or instrumentality of the  
10 United States. ~~in which the principal and interest is fully~~  
11 ~~guaranteed by the United States. This subdivision shall include~~  
12 ~~securities issued or guaranteed by the government national mort-~~  
13 ~~gage association.~~

14 (b) ~~In certificates~~ CERTIFICATES of deposit, savings  
15 accounts, deposit accounts, or depository receipts of a financial  
16 institution, but only if the financial institution complies with  
17 subsection (2).

18 (c) ~~In commercial~~ COMMERCIAL paper rated at the time of  
19 purchase within the ~~3~~ 2 highest classifications established by  
20 not less than 2 standard rating services and ~~which~~ THAT matures  
21 not more than 270 days after the date of purchase. ~~Not more~~  
22 ~~than 50% of any fund may be invested in commercial paper at any~~  
23 ~~time.~~

24 (d) ~~In United States government or federal agency obliga-~~  
25 ~~tion repurchase~~ REPURCHASE agreements CONSISTING OF INSTRUMENTS  
26 LISTED IN SUBDIVISION (A).

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1 (e) ~~In bankers'~~ BANKERS' acceptances of United States  
2 banks.

3 (F) OBLIGATIONS OF THIS STATE OR ANY OF ITS POLITICAL SUBDI-  
4 VISIONS THAT AT THE TIME OF PURCHASE ARE RATED AS INVESTMENT  
5 GRADE BY NOT LESS THAN 1 STANDARD RATING SERVICE.

6 (G) ~~(f) In mutual funds composed of investment vehicles~~  
7 ~~which are legal for direct investment by local units of govern-~~  
8 ~~ment in this state~~ MUTUAL FUNDS REGISTERED UNDER THE INVESTMENT  
9 COMPANY ACT OF 1940, TITLE I OF CHAPTER 686, 54 STAT. 789, 15  
10 U.S.C. 80a-1 TO 80a-3 AND 80a-4 TO 80a-64, WITH AUTHORITY TO PUR-  
11 CHASE ONLY INVESTMENT VEHICLES THAT ARE LEGAL FOR DIRECT INVEST-  
12 MENT BY A PUBLIC CORPORATION. HOWEVER, A MUTUAL FUND IS NOT DIS-  
13 QUALIFIED AS A PERMISSIBLE INVESTMENT SOLELY BY REASON OF EITHER  
14 OF THE FOLLOWING:

15 (i) THE PURCHASE OF SECURITIES ON A WHEN-ISSUED OR DELAYED  
16 DELIVERY BASIS.

17 (ii) THE ABILITY TO LEND PORTFOLIO SECURITIES AS LONG AS THE  
18 MUTUAL FUND RECEIVES COLLATERAL AT ALL TIMES EQUAL TO AT LEAST  
19 100% OF THE VALUE OF THE SECURITIES LOANED.

20 (iii) THE LIMITED ABILITY TO BORROW AND PLEDGE A LIKE POR-  
21 TION OF THE PORTFOLIO'S ASSETS FOR TEMPORARY OR EMERGENCY  
22 PURPOSES.

23 (H) OBLIGATIONS DESCRIBED IN SUBDIVISIONS (A) THROUGH (G) IF  
24 PURCHASED THROUGH AN INTERLOCAL AGREEMENT UNDER THE URBAN COOPER-  
25 ATION ACT OF 1967, 1967 (EX SESS) PA 7, MCL 124.501 TO 124.512.

26 (I) INVESTMENT POOLS ORGANIZED UNDER THE SURPLUS FUNDS  
27 INVESTMENT POOL ACT, 1982 PA 367, MCL 129.111 TO 129.118.

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1 (J) THE INVESTMENT POOLS ORGANIZED UNDER THE LOCAL  
2 GOVERNMENT INVESTMENT POOL ACT, 1985 PA 121, MCL 129.141 TO  
3 129.150.

4 (2) A ~~county, city, village, township, or special assess-~~  
5 ~~ment district investing~~ PUBLIC CORPORATION THAT INVESTS ITS  
6 funds under subsection (1) shall not deposit or invest the funds  
7 in a financial institution ~~which~~ THAT is not eligible to be a  
8 depository of ~~surplus~~ funds belonging to the state under  
9 ~~section 6 of 1855 PA 105, MCL 21.146~~ A LAW OR RULE OF THIS  
10 STATE OR THE UNITED STATES.

11 (3) Assets acceptable for pledging to secure deposits of  
12 public funds are limited to ASSETS AUTHORIZED FOR DIRECT INVEST-  
13 MENT UNDER SUBSECTION (1). ~~any of the following:~~

14 ~~(a) Assets considered acceptable to the state treasurer~~  
15 ~~under section 3 of 1855 PA 105, MCL 21.143, to secure deposits of~~  
16 ~~state surplus funds.~~

17 ~~(b) Any of the following:~~

18 ~~(i) Securities issued by the federal home loan mortgage~~  
19 ~~corporation.~~

20 ~~(ii) Securities issued by the federal national mortgage~~  
21 ~~association.~~

22 ~~(iii) Securities issued by the government national mortgage~~  
23 ~~association.~~

24 ~~(c) Other securities considered acceptable to the public~~  
25 ~~subdivision and the financial institution.~~

26 (4) As used in this section, "financial institution" means a  
27 state or nationally chartered bank or a state or federally

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1 chartered savings and loan association, savings bank, or credit  
2 union whose deposits are insured by an agency of the United  
3 States government and ~~which~~ THAT maintains a principal office  
4 or branch office located in this state under the laws of this  
5 state or the United States.

6 (5) AS USED IN THIS ACT:

7 (A) "GOVERNING BODY" MEANS THE LEGISLATIVE BODY, COUNCIL,  
8 COMMISSION, BOARD, OR OTHER BODY HAVING LEGISLATIVE POWERS OF A  
9 PUBLIC CORPORATION.

10 (B) "FUNDS" MEANS THE MONEY OF A PUBLIC CORPORATION, THE  
11 INVESTMENT OF WHICH IS NOT OTHERWISE SUBJECT TO A PUBLIC ACT OF  
12 THIS STATE OR BOND AUTHORIZING ORDINANCE OR RESOLUTION OF A  
13 PUBLIC CORPORATION THAT PERMITS INVESTMENT IN FEWER THAN ALL OF  
14 THE INVESTMENT OPTIONS LISTED IN SUBSECTION (1) OR IMPOSES 1 OR  
15 MORE CONDITIONS UPON AN INVESTMENT IN AN OPTION LISTED IN SUBSEC-  
16 TION (1).

17 (C) "INVESTMENT OFFICER" MEANS THE TREASURER OR OTHER PERSON  
18 DESIGNATED BY STATUTE OR CHARTER OF A PUBLIC CORPORATION TO ACT  
19 AS THE INVESTMENT OFFICER. IN THE ABSENCE OF A STATUTORY OR  
20 CHARTER DESIGNATION, THE GOVERNING BODY OF A PUBLIC CORPORATION  
21 SHALL DESIGNATE THE INVESTMENT OFFICER.

22 (D) "PUBLIC CORPORATION" MEANS A COUNTY, CITY, VILLAGE,  
23 TOWNSHIP, PORT DISTRICT, DRAINAGE DISTRICT, SPECIAL ASSESSMENT  
24 DISTRICT, OR METROPOLITAN DISTRICT OF THIS STATE, OR A BOARD,  
25 COMMISSION, OR ANOTHER AUTHORITY OR AGENCY CREATED BY OR UNDER AN  
26 ACT OF THE LEGISLATURE OF THIS STATE.

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1       Sec. 3. Investments ~~heretofore~~ made BEFORE THE EFFECTIVE  
2 DATE OF THE AMENDATORY ACT THAT REPEALED SECTION 2 of the surplus  
3 funds, sinking funds, or insurance funds of ~~any such~~ A politi-  
4 cal ~~subdivisions of the~~ SUBDIVISION OF THIS state in bonds and  
5 other obligations of the United States ~~,~~ or ~~the several~~ ITS  
6 instrumentalities ~~thereof~~ or certificates of deposit or deposi-  
7 tory receipts of ~~any~~ A bank ~~which~~ THAT is a member of the  
8 federal deposit insurance corporation ~~,~~ ~~in the manner~~ AS pro-  
9 vided under ~~sections~~ SECTION 1 and FORMER SECTION 2 of this act  
10 are hereby ratified and validated.

11       SEC. 5. (1) NOT MORE THAN 180 DAYS AFTER THE END OF A  
12 PUBLIC CORPORATION'S FIRST FISCAL YEAR THAT ENDS AFTER THE EFFEC-  
13 TIVE DATE OF THE AMENDATORY ACT THAT REPEALED SECTION 2, A GOV-  
14 ERNING BODY, IN CONSULTATION WITH THE INVESTMENT OFFICER, SHALL  
15 ADOPT AN INVESTMENT POLICY THAT, AT A MINIMUM, INCLUDES ALL OF  
16 THE FOLLOWING:

17       (A) A STATEMENT OF THE PURPOSE, SCOPE, AND OBJECTIVES OF THE  
18 POLICY, INCLUDING SAFETY, DIVERSIFICATION, LIQUIDITY, AND RETURN  
19 ON INVESTMENT.

20       (B) A DELEGATION OF AUTHORITY TO MAKE INVESTMENTS.

21       (C) A LIST OF AUTHORIZED INVESTMENT INSTRUMENTS. IF THE  
22 POLICY AUTHORIZES AN INVESTMENT IN MUTUAL FUNDS, IT SHALL INDI-  
23 CATE WHETHER THE AUTHORIZATION IS LIMITED TO SECURITIES WHOSE  
24 INTENTION IS TO MAINTAIN A NET ASSET VALUE OF \$1.00 PER SHARE OR  
25 ALSO INCLUDES SECURITIES WHOSE NET ASSET VALUE PER SHARE MAY  
26 FLUCTUATE ON A PERIODIC BASIS.

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1 (D) A STATEMENT CONCERNING SAFEKEEPING, CUSTODY, AND  
2 PRUDENCE.

3 (2) A GOVERNING BODY THAT AS OF THE EFFECTIVE DATE OF THE  
4 AMENDATORY ACT THAT REPEALED SECTION 2 HAS ADOPTED AN INVESTMENT  
5 POLICY THAT SUBSTANTIALLY COMPLIES WITH THE MINIMUM REQUIREMENTS  
6 UNDER SUBSECTION (1) IS NOT IN VIOLATION OF THIS SECTION AS LONG  
7 AS THAT POLICY REMAINS IN EFFECT.

8 SEC. 6. (1) SUBJECT TO SUBSECTION (2), BEFORE EXECUTING AN  
9 ORDER TO PURCHASE OR TRADE THE FUNDS OF A PUBLIC CORPORATION, A  
10 FINANCIAL INTERMEDIARY, BROKER, OR DEALER SHALL BE PROVIDED WITH  
11 A COPY OF THE PUBLIC CORPORATION'S INVESTMENT POLICY AND SHALL DO  
12 BOTH OF THE FOLLOWING:

13 (A) ACKNOWLEDGE RECEIPT OF THE INVESTMENT POLICY.

14 (B) AGREE TO COMPLY WITH THE TERMS OF THE INVESTMENT POLICY  
15 REGARDING THE BUYING OR SELLING OF SECURITIES.

16 (2) A PUBLIC CORPORATION IS SUBJECT TO SUBSECTION (1) BEGIN-  
17 NING ON THE DATE THAT THE INVESTMENT POLICY OF A PUBLIC CORPORA-  
18 TION TAKES EFFECT OR 180 DAYS AFTER THE END OF THE PUBLIC  
19 CORPORATION'S FIRST FISCAL YEAR ENDING AFTER THE EFFECTIVE DATE  
20 OF THE AMENDATORY ACT THAT REPEALED SECTION 2, WHICHEVER IS  
21 EARLIER.

22 (3) THE INVESTMENT OFFICER ANNUALLY SHALL PROVIDE A WRITTEN  
23 REPORT TO THE GOVERNING BODY CONCERNING THE INVESTMENT OF THE  
24 FUNDS.

25 Enacting section 1. Section 2 of 1943 PA 20, MCL 129.92, is  
26 repealed.