

Act No. 49
Public Acts of 1997
Approved by the Governor
June 30, 1997
Filed with the Secretary of State
June 30, 1997
EFFECTIVE DATE: June 30, 1997

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1997

Introduced by Reps. Kaza, Rhead, Gernaat, Richner, Kukuk and Walberg

ENROLLED HOUSE BILL No. 4603

AN ACT to amend 1969 PA 319, entitled "An act to revise and codify the laws relating to banks, industrial banks, foreign banks, trust companies, and safe and collateral deposit companies; to provide for their incorporation, regulation, and supervision; to authorize the granting of trust powers to banks and to regulate the exercise of those powers; to create, within the department of commerce, a financial institutions bureau and to prescribe its powers and duties; to prescribe penalties for violations of this act; and to repeal certain acts and parts of acts," by amending sections 171 and 231 (MCL 487.471 and 487.531), section 171 as amended by 1996 PA 405 and section 231 as amended by 1991 PA 12.

The People of the State of Michigan enact:

Sec. 171. (1) Upon written notice to the commissioner, a bank may establish and operate a branch or branches within any state, the District of Columbia, or a territory or protectorate of the United States unless the commissioner objects in writing within 60 days after receipt of the written notice from the bank. The commissioner may issue a written statement of intent not to object at any time before the expiration of the 60 days.

(2) The notice of intent to establish a mobile branch shall contain a statement by the applying bank that it intends to move the location of the physical structure of the branch from time to time.

(3) Except for a mobile branch, a branch of a bank shall not be moved from 1 location to another without 30 days advance written notice to the commissioner.

(4) Upon written notice to the commissioner, a bank may contract with 1 or more banks, out-of-state banks, national banks, associations, or savings banks to act as a branch to provide services to the customers of the contracting bank unless the commissioner objects in writing within 60 days after receipt of the written notice from the bank. The commissioner may issue a written statement of intent not to object at any time prior to the expiration of the 60 days. This subsection shall not be construed to limit the powers granted to a bank under section 151(31).

(5) Upon written notice to the commissioner, 1 or more out-of-state banks, national banks, associations, or savings banks may contract with a bank to provide services to the customers of the contracting out-of-state bank, national bank, association, or savings bank, unless the commissioner objects in writing within 60 days after receipt of the written notice. The commissioner may issue a written statement of intent not to object at any time before the expiration of the 60 days. This subsection shall not be construed to limit the powers granted to a bank under section 151(31).

(6) Subject to the requirements, limitations, and restrictions of subsections (1) to (3), a state agency or state foreign bank branch organized under this act may establish and operate additional offices in the United States and its territories and protectorates.

(7) An out-of-state bank located in a state, the District of Columbia, or a territory or protectorate of the United States whose laws permit the establishment in that state, district, territory, or protectorate of a branch by a bank may establish and operate 1 or more branches in this state.

(8) An out-of-state bank may apply to organize a branch in this state under this act by providing to the commissioner proof that its deposits are insured by an agency of the United States government. If the commissioner determines after receipt of this proof and the notices required under subsections (9) and (14), that the out-of-state bank is safe and sound, that the out-of-state bank is subject to regulation, and that there exists an agreement for exchange of supervisory information between the bureau and the out-of-state bank's regulator, the commissioner shall 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.

(9) An out-of-state bank operating in this state shall designate and maintain an agent located in this state upon whom process for judicial and administrative matters may be served and shall provide written notice containing the name and address of its agent to the commissioner before commencing operations in this state.

(10) An out-of-state bank operating in this state shall notify the commissioner in writing of any change in its designated agent or the agent's address within 10 days following the effective date of the change.

(11) A foreign bank branch that has designated a home state other than Michigan may establish and operate 1 or more additional offices in this state.

(12) A foreign bank operating in this state shall designate and maintain an agent located in this state upon whom process for judicial and administrative matters may be served and shall provide written notice containing the name and address of its agent to the commissioner before commencing operations in this state.

(13) A foreign bank operating in this state shall notify the commissioner in writing of any change in its designated agent or the agent's address within 10 days following the effective date of the change.

(14) Prior to commencing operations at a branch in this state, an out-of-state bank or national bank shall file with the commissioner the name of the bank, the street address and mailing address, if different, of the bank's principal office, the street address of the branch office, and the date when the branch is to commence operations in this state.

(15) An out-of-state bank and national bank operating in this state shall designate and maintain an agent located in this state upon whom process for judicial and administrative matters may be served and shall provide written notice containing the name and address of its agent to the commissioner before commencing operations in this state.

(16) An out-of-state bank or national bank operating in this state shall notify the commissioner in writing of any change in its designated agent or the agent's address within 10 days following the effective date of the change.

Sec. 231. (1) Except as otherwise provided in this section, a bank or bank officer shall not give preference to a depositor or creditor by pledging the assets of the bank as collateral security or otherwise.

(2) A bank, with the written consent of the commissioner, may pledge its assets in an amount not in excess of 10% of its total deposits for the purpose of securing the following:

(a) Funds belonging to the United States or belonging to or being administered by an officer, instrumentality, or agent of the United States, funds of estates being administered by a federal court under a federal bankruptcy law, and other funds when required or permitted to do so under the laws of the United States or an order of a federal court.

(b) Surplus funds of the state held by the state treasurer.

(c) Funds of the Mackinac bridge authority, which is declared to be a political subdivision of this state, under 1950 (Ex Sess) PA 21, MCL 254.301 to 254.304.

(d) Funds of the international bridge authority, which is declared to be a political subdivision of this state, under 1954 PA 99, MCL 254.221 to 254.240.

(e) Funds on deposit under 1941 PA 205, MCL 252.51 to 252.64, providing for limited access highways.

(f) Funds on deposit to the credit of the Michigan employment security commission.

(g) Funds of the Michigan state housing development authority constituting proceeds of the sale of the authority's notes and bonds and repayments of those notes and bonds, under the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

(h) Funds belonging to any political subdivision of this state.

(3) The requirements, restrictions, and limitations imposed by this section shall not apply to the pledging of an obligation of the United States, direct or fully guaranteed, or both, for the purpose of securing a deposit of the United States when the deposit is established coincidentally with the purchase of an obligation of the United States by or through an institution.

(4) A bank may pledge its assets to secure liabilities of the following types:

(a) In the case of member banks, liabilities incurred under the federal reserve act, chapter 6, 38 Stat. 251. In the case of nonmember banks, liabilities incurred through borrowing under the same conditions as are imposed upon members of the federal reserve system by the federal reserve act, chapter 6, 38 Stat. 251.

(b) In the case of federal home loan bank members, liabilities incurred under the federal home loan bank act, chapter 522, 47 Stat. 725.

(c) Liabilities incurred under former section 202 of title II of the federal farm loan act, chapter 245, 39 Stat. 360.

(d) Liabilities incurred on account of a loan made with the express approval of the commissioner under section 197(c).

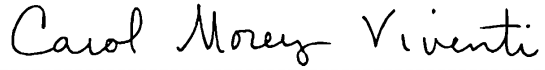
(e) Liabilities incurred on account of borrowings from 1 business day to the next from a bank or national banking association of excess reserve balances from time to time maintained by the bank or national banking association under section 207, or section 19 of the federal reserve act, chapter 6, 38 Stat. 251.

(f) Liabilities incurred on account of securities sold under a repurchase agreement.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved -----

Governor.