

**SUBSTITUTE FOR
HOUSE BILL NO. 5854**

A bill to amend 1855 PA 105, entitled

"An act to regulate the disposition of the surplus funds in the state treasury; to provide for the deposit of surplus funds in certain financial institutions; to lend surplus funds pursuant to loan agreements secured by certain commercial, agricultural, or industrial real and personal property; to authorize the loan of surplus funds to certain municipalities; to authorize the participation in certain loan programs; to authorize an appropriation; and to prescribe the duties of certain state agencies,"

by amending sections 3 and 7 (MCL 21.143 and 21.147), as amended by 1997 PA 32, and by adding section 2d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2D. (1) THE STATE TREASURER MAY INVEST SURPLUS FUNDS
2 UNDER THE STATE TREASURER'S CONTROL IN CERTIFICATES OF DEPOSIT OR
3 OTHER INSTRUMENTS OF A FINANCIAL INSTITUTION QUALIFIED UNDER THIS
4 ACT TO RECEIVE DEPOSITS OR INVESTMENTS OF SURPLUS FUNDS FOR THE
5 PURPOSE OF FACILITATING MARINA DREDGING LOANS. THE STATE
6 TREASURER SHALL ENDEAVOR TO MAKE INVESTMENTS UNDER THIS

1 SUBSECTION IN FINANCIAL INSTITUTIONS SUCH THAT MARINA DREDGING
2 LOANS WILL BE CONVENIENTLY AVAILABLE IN ALL GEOGRAPHIC REGIONS IN
3 THIS STATE. THE STATE TREASURER MAY ENTER INTO AN INVESTMENT
4 AGREEMENT WITH A FINANCIAL INSTITUTION TO PROVIDE FOR THE INVEST-
5 MENT UNDER THIS SUBSECTION. THE INVESTMENT AGREEMENT SHALL CON-
6 TAIN ALL OF THE FOLLOWING:

7 (A) THE TERM OF THE INVESTMENT WHICH SHALL BE NOT MORE THAN
8 10 YEARS.

9 (B) A REQUIREMENT THAT THE INTEREST ACCRUING ON THE INVEST-
10 MENT SHALL NOT BE MORE THAN THE INTEREST EARNED BY THE FINANCIAL
11 INSTITUTION ON MARINA DREDGING LOANS MADE AFTER THE DATE OF THE
12 INVESTMENT.

13 (C) A REQUIREMENT THAT THE FINANCIAL INSTITUTION SHALL PRO-
14 VIDE GOOD AND AMPLE SECURITY AS THE STATE TREASURER REQUIRES AND
15 SHALL IDENTIFY THE MARINA DREDGING LOANS AND THE TERMS AND CONDI-
16 TIONS OF THOSE LOANS THAT ARE MADE AFTER THE DATE OF THE INVEST-
17 MENT THAT ARE ATTRIBUTABLE TO THAT INVESTMENT TOGETHER WITH OTHER
18 INFORMATION REQUIRED BY THIS ACT.

19 (D) A REQUIREMENT THAT A MARINA DREDGING LOAN MADE BY THE
20 FINANCIAL INSTITUTION THAT IS ATTRIBUTABLE TO THE INVESTMENT
21 SHALL BE ISSUED AT A RATE OR RATES OF INTEREST THAT ARE ESTAB-
22 LISHED IN THE INVESTMENT AGREEMENT.

23 (E) A REQUIREMENT THAT A MARINA DREDGING LOAN MADE BY THE
24 FINANCIAL INSTITUTION THAT IS ATTRIBUTABLE TO THE INVESTMENT
25 SHALL BE MADE NOT LATER THAN 3 YEARS AFTER THE EFFECTIVE DATE OF
26 THIS SECTION.

HB5854, As Passed House, June 8, 2000

House Bill No. 5854

3

1 (F) A REQUIREMENT THAT A MARINA DREDGING LOAN MADE BY THE
2 FINANCIAL INSTITUTION THAT IS ATTRIBUTABLE TO THE INVESTMENT
3 SHALL BE ISSUED FOR A LOAN REPAYMENT PERIOD OF NOT MORE THAN 7
4 YEARS.

5 (G) A REQUIREMENT THAT A MARINA DREDGING LOAN MADE BY THE
6 FINANCIAL INSTITUTION THAT IS ATTRIBUTABLE TO THE INVESTMENT
7 SHALL NOT EXCEED \$75,000.00.

8 (H) A REQUIREMENT THAT A MARINA DREDGING LOAN MADE BY THE
9 FINANCIAL INSTITUTION THAT IS ATTRIBUTABLE TO THE INVESTMENT
10 SHALL NOT BE RELEASED BY THE FINANCIAL INSTITUTION UNLESS THE
11 LOAN APPLICANT HAS RECEIVED A PERMIT FROM THE DEPARTMENT OF ENVI-
12 RONMENTAL QUALITY OR THE UNITED STATES ARMY CORPS OF ENGINEERS TO
13 CONDUCT THE DREDGING, IF SUCH A PERMIT IS REQUIRED BY LAW.

14 (I) A REQUIREMENT THAT TO THE EXTENT THE FINANCIAL INSTITU-
15 TION HAS NOT MADE MARINA DREDGING LOANS IN AN AMOUNT AT LEAST
16 EQUAL TO THE AMOUNT OF THE INVESTMENT WITHIN 90 DAYS AFTER THE
17 INVESTMENT, THE RATE OF INTEREST PAYABLE ON THAT PORTION OF THE
18 OUTSTANDING INVESTMENT SHALL BE INCREASED TO A RATE OF INTEREST
19 PROVIDED IN THE INVESTMENT AGREEMENT, WITH THE INCREASE IN THE
20 RATE OF INTEREST APPLIED RETROACTIVELY TO THE DATE ON WHICH THE
21 STATE TREASURER MADE THE INVESTMENT.

22 (J) INCENTIVES FOR THE EARLY REPAYMENT OF THE INVESTMENT AND
23 FOR THE ACCELERATION OF PAYMENTS IN THE EVENT OF A STATE CASH
24 SHORTFALL AS PRESCRIBED BY THE INVESTMENT AGREEMENT, IF REQUIRED
25 BY THE STATE TREASURER.

26 (K) OTHER TERMS AS PRESCRIBED BY THE STATE TREASURER.

HB5854, As Passed House, June 8, 2000

House Bill No. 5854

4

1 (2) AN INVESTMENT MADE UNDER THIS SECTION IS FOUND AND
2 DECLARED TO BE FOR A VALID PUBLIC PURPOSE.

3 (3) THE ATTORNEY GENERAL SHALL APPROVE DOCUMENTATION FOR AN
4 INVESTMENT UNDER THIS SECTION AS TO LEGAL FORM.

5 (4) THE AGGREGATE AMOUNT OF INVESTMENTS MADE UNDER THIS SEC-
6 TION SHALL NOT EXCEED \$20,000,000.00.

7 (5) EARNINGS FROM AN INVESTMENT MADE UNDER THIS SECTION THAT
8 ARE IN EXCESS OF THE AVERAGE RATE OF INTEREST EARNED DURING THE
9 SAME PERIOD ON OTHER SURPLUS FUNDS, OTHER THAN SURPLUS FUNDS
10 INVESTED UNDER SECTION 1, SHALL BE CREDITED TO THE GENERAL FUND
11 OF THE STATE. IF INTEREST FROM AN INVESTMENT MADE UNDER THIS
12 SECTION IS BELOW THE AVERAGE RATE OF INTEREST EARNED DURING THE
13 SAME PERIOD ON OTHER SURPLUS FUNDS, OTHER THAN SURPLUS FUNDS
14 INVESTED UNDER SECTION 1, THE GENERAL FUND SHALL BE REDUCED BY
15 THE AMOUNT OF THE DEFICIENCY ON AN AMORTIZED BASIS OVER THE
16 REMAINING TERM OF THE INVESTMENT. A LOSS OF PRINCIPAL FROM AN
17 INVESTMENT MADE UNDER THIS SECTION SHALL REDUCE THE EARNINGS OF
18 THE GENERAL FUND BY THE AMOUNT OF THAT LOSS ON AN AMORTIZED BASIS
19 OVER THE REMAINING TERM OF THE INVESTMENT.

20 (6) THE STATE TREASURER MAY TAKE ANY NECESSARY ACTION TO
21 ENSURE THE SUCCESSFUL OPERATION OF THIS SECTION, INCLUDING MAKING
22 INVESTMENTS WITH FINANCIAL INSTITUTIONS TO COVER THE ADMINISTRA-
23 TIVE AND RISK-RELATED COSTS ASSOCIATED WITH A MARINA DREDGING
24 LOAN.

25 (7) THE COMMISSIONER SHALL MONITOR THE COMPLIANCE OF A
26 FINANCIAL INSTITUTION IN WHICH THE STATE TREASURER HAS MADE AN
27 INVESTMENT UNDER THIS SECTION WITH THE TERMS OF THE INVESTMENT

06665'00 (H-1)

HB5854, As Passed House, June 8, 2000

House Bill No. 5854

5

1 AGREEMENT AND THIS ACT. FOR EACH INVESTMENT, THE COMMISSIONER
2 SHALL CERTIFY THE EXTENT OF COMPLIANCE WITH SUBSECTION (1)(C) FOR
3 THE PURPOSE OF SUBSECTION (1)(I) AND SHALL PERIODICALLY REPORT
4 THOSE AND OTHER FINDINGS TO THE STATE TREASURER.

5 (8) THE STATE TREASURER SHALL ANNUALLY PREPARE AND SUBMIT A
6 REPORT TO THE LEGISLATURE REGARDING THE DISPOSITION OF MONEY
7 INVESTED FOR PURPOSES OF FACILITATING MARINA DREDGING LOANS UNDER
8 THIS SECTION. THE REPORT SHALL INCLUDE ALL OF THE FOLLOWING
9 INFORMATION:

10 (A) THE TOTAL NUMBER OF MARINA OWNERS WHO HAVE RECEIVED A
11 MARINA DREDGING LOAN.

12 (B) BY COUNTY, THE TOTAL NUMBER AND AMOUNTS OF THE MARINA
13 DREDGING LOANS THAT WERE ISSUED.

14 (C) THE NAME OF EACH FINANCIAL INSTITUTION PARTICIPATING IN
15 THE MARINA DREDGING LOAN PROGRAM AND THE AMOUNT INVESTED IN EACH
16 FINANCIAL INSTITUTION FOR PURPOSES OF THE LOAN PROGRAM.

17 (D) THE INFORMATION REPORTED TO THE STATE TREASURER BY THE
18 COMMISSIONER UNDER SUBSECTION (7).

19 (9) AS USED IN THIS SECTION:

20 (A) "BOTTOMLAND" MEANS THE LAND AREA OF A WATER BODY THAT
21 LIES BELOW THE ORDINARY HIGH-WATER MARK AND THAT MAY OR MAY NOT
22 BE COVERED BY WATER.

23 (B) "DREDGING" MEANS THE REMOVAL OF SEDIMENTS FROM
24 BOTTOMLAND.

25 (C) "DREDGING COSTS" MEANS THE COSTS ASSOCIATED WITH DREDG-
26 ING THAT WERE INCURRED AFTER JANUARY 1, 2000, INCLUDING COSTS OF
27 REMOVAL, DISPOSAL, AND TESTING OF SEDIMENTS, AND THE COSTS

HB5854, As Passed House, June 8, 2000

House Bill No. 5854

6

1 ASSOCIATED WITH OBTAINING NECESSARY PERMITS REQUIRED TO CONDUCT
2 DREDGING.

3 (D) "MARINA" MEANS A NON-PUBLICLY-OWNED COMMERCIAL FACILITY
4 THAT IS LOCATED IN THIS STATE, THAT EXTENDS INTO OR OVER A WATER
5 BODY, AND THAT OFFERS SERVICES TO THE PUBLIC FOR DOCKING, LOAD-
6 ING, OR OTHER SERVICING OF RECREATIONAL WATERCRAFT.

7 (E) "MARINA DREDGING LOAN" MEANS A LOAN OR THE REFINANCING
8 OF ALL OR A PORTION OF A LOAN MADE TO THE OWNER OF A MARINA FOR
9 DREDGING COSTS NECESSITATED BY LOW WATER LEVELS TO ACCOMMODATE
10 THE USE OF THE MARINA BY RECREATIONAL WATERCRAFT.

11 (F) "ORDINARY HIGH-WATER MARK" MEANS EITHER OF THE
12 FOLLOWING:

13 (i) FOR AN INLAND LAKE OR STREAM, THAT TERM AS IT IS DEFINED
14 IN SECTION 30101 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PRO-
15 TECTION ACT, 1994 PA 451, MCL 324.30101.

16 (ii) FOR THE GREAT LAKES, THE ORDINARY HIGH-WATER MARK AS
17 DESCRIBED IN SECTION 32502 OF THE NATURAL RESOURCES AND ENVIRON-
18 MENTAL PROTECTION ACT, 1994 PA 451, MCL 324.32502.

19 (G) "SURPLUS FUNDS" MEANS, AT ANY GIVEN DATE, THE EXCESS OF
20 CASH AND OTHER RECOGNIZED ASSETS THAT ARE EXPECTED TO BE RESOLVED
21 INTO CASH OR ITS EQUIVALENT IN THE NATURAL COURSE OF EVENTS AND
22 WITH A REASONABLE CERTAINTY, OVER THE LIABILITIES AND NECESSARY
23 RESERVES AT THE SAME DATE.

24 (H) "WATER BODY" MEANS THE GREAT LAKES AND THEIR CONNECTING
25 WATERS AND INLAND LAKES AND STREAMS AS DEFINED IN SECTION 30101
26 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994
27 PA 451, MCL 324.30101.

06665'00 (H-1)

1 Sec. 3. (1) A financial institution shall not be a
2 depository of surplus funds of the state unless the financial
3 institution complies with this act. The state treasurer shall
4 require of a financial institution, before it is made a deposi-
5 tory of surplus funds of the state, good and ample security as
6 approved by the state treasurer and the attorney general for the
7 safekeeping and reimbursement of the surplus funds and the pay-
8 ment of the rate of return as the state treasurer, in the
9 treasurer's discretion, considers best for the interest of the
10 state.

11 (2) The state treasurer may invest surplus funds of the
12 state in the bonds, notes, and other evidences of indebtedness of
13 the United States government and its agencies, in prime commer-
14 cial paper, and may also use surplus funds in the manner provided
15 in sections 2, 2a, ~~and~~ 2b, AND 2D and may use each fiscal year
16 not more than that amount of the surplus funds necessary to make
17 loans to municipalities under section 1.

18 (3) All earnings from loans made under section 1 in excess
19 of the average rate of interest earned on other surplus funds
20 during the same period shall be credited to the general fund of
21 the state. Any loss of principal or interest sustained from
22 loans made under section 1 shall reduce the earnings of the gen-
23 eral fund on an amortized basis over the remaining term of the
24 loan.

25 (4) The investment of surplus state funds in bonds, notes,
26 and other evidences of indebtedness of the United States
27 government and its agencies as provided in subsection (1) may

HB5854, As Passed House, June 8, 2000

House Bill No. 5854

8

1 include securities of, or other interests in, a no-load open-end
2 or closed-end management type investment company or investment
3 trust registered under the investment company act of 1940, TITLE
4 I OF CHAPTER 686, 54 STAT. 789, 15 U.S.C. 80a-1 to 80a-3 AND
5 80a-4 TO 80a-64, if both of the following are true:

6 (a) The portfolio of the investment company or investment
7 trust is limited to United States government obligations and
8 repurchase agreements fully collateralized by United States gov-
9 ernment obligations.

10 (b) The investment company or investment trust takes deliv-
11 ery of the collateral for any repurchase agreement either
12 directly or through an authorized custodian.

13 Sec. 7. As used in this act:

14 (a) "Commissioner" means the commissioner of the ~~financial~~
15 ~~institutions bureau~~ OFFICE OF FINANCIAL AND INSURANCE SERVICES
16 of the department of ~~commerce~~ CONSUMER AND INDUSTRY SERVICES.

17 (b) "Deposit" includes the purchase of, or investment in,
18 shares of credit unions.

19 (c) Except as otherwise provided by this subdivision,
20 "financial institution" means a state or nationally chartered
21 bank or a state or federally chartered savings and loan associa-
22 tion, savings bank, or credit union whose deposits are insured by
23 an agency of the United States government and which maintains a
24 principal office or branch office located in this state under the
25 laws of this state or the United States. For the purpose of
26 repurchase agreements, "financial institution" means a state or
27 nationally chartered bank or state or federally chartered savings

HB5854, As Passed House, June 8, 2000

House Bill No. 5854

9

1 and loan association, savings bank, or credit union whose
2 deposits are insured by an agency of the United States government
3 under the laws of this state or the United States.