

**SUBSTITUTE FOR
HOUSE BILL NO. 5907**

A bill to amend 1996 PA 354, entitled
"Savings bank act,"
by amending sections 102 and 103 (MCL 487.3102 and 487.3103).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 102. As used in this act:

2 (a) "Agency office" means a place at which the business of a
3 savings bank is conducted other than by regularly employed per-
4 sonnel of the savings bank, as provided under section 417(6).

5 (b) "Articles" means articles of incorporation, all amend-
6 ments to articles of incorporation, and agreements of consolida-
7 tion and merger.

8 (c) "Approved by the members", for a mutual savings bank,
9 means approved by a majority of all votes cast at a duly held
10 regular meeting or special meeting.

1 (d) "Affiliate" means a corporation, business trust, LIMITED
2 LIABILITY COMPANY, association, or an organization to which 1 or
3 more of the following apply:

4 (i) A savings bank, directly or indirectly, owns or controls
5 either a majority of its voting shares or more than 50% of the
6 number of shares voted for the election of its directors, trust-
7 ees, or other persons exercising similar functions at the preced-
8 ing election, or controls in any manner the election of a major-
9 ity of its directors, trustees, or other persons exercising simi-
10 lar functions.

11 (ii) Control of the organization is held, directly or indi-
12 rectly, through stock ownership or in any other manner, by the
13 shareholders of a savings bank who own or control either a major-
14 ity of the shares of that savings bank or more than 50% of the
15 number of shares voted for the election of directors of that sav-
16 ings bank at the preceding election, or by trustees for the bene-
17 fit of the shareholders of that savings bank, or by members of
18 the savings bank if it is a mutual savings bank.

19 (iii) A majority of its directors, trustees, or other per-
20 sons holding similar positions are directors of any 1 savings
21 bank.

22 (iv) Owns or controls, directly or indirectly, either a
23 majority of the shares of capital stock of any 1 savings bank or
24 more than 50% of the number of shares voted for the election of
25 directors of that savings bank at the preceding election, or con-
26 trols in any manner the election of a majority of the directors
27 of that savings bank, or for the benefit of whose shareholders

1 all or substantially all the capital stock of that savings bank
2 is held by trustees.

3 (e) "Association" means a federal savings association orga-
4 nized under section 5 of the home owners' loan act, chapter 64,
5 48 Stat. 132, 12 U.S.C. 1464, or a savings and loan association,
6 building and loan association, or homestead association, that is
7 organized under the laws of a state or the District of Columbia
8 and whose deposits are insured by the federal deposit insurance
9 corporation.

10 (f) "Bank" means a state banking corporation organized or
11 reorganized under the provisions of the banking code of ~~1969,~~
12 ~~Act No. 319 of the Public Acts of 1969, being sections 487.301 to~~
13 ~~487.598 of the Michigan Compiled Laws~~ 1999, 1999 PA 276,
14 MCL 487.11101 TO 487.15101, or organized under ~~the provisions of~~
15 ~~any~~ A law of this state ~~enacted~~ before ~~August 20, 1969~~
16 MARCH 1, 2000.

17 (g) "Bank holding company" means a stock or mutual company
18 as defined in the bank holding company act of 1956, chapter 240,
19 70 Stat. 133, or a company defined as a savings and loan holding
20 company in the home owners' loan act, chapter 64, 48 Stat. 128,
21 that is not a savings bank, national banking association, or
22 association.

23 (h) "Branch" means a place of business, other than the prin-
24 cipal office of a savings bank, at which the savings bank trans-
25 acts business that may be conducted at its principal office.
26 Branch does not include a subsidiary, service entity, agency
27 office, TRUST OFFICE, loan production office, place where only

1 records are made, posted, or kept, place of business of a
2 financial institution with which the savings bank has an agency
3 relationship under section 401, or an automated teller machine if
4 it is made available to 2 or more federal or state chartered
5 financial institutions under a state statute which regulates
6 electronic funds transfer facilities. The acceptance of deposits
7 in furtherance of a school thrift or savings plan by an officer,
8 employee, or agent of a savings bank at any school is not the
9 establishment or operation of a branch. The receipt of deposits
10 by a messenger service or the delivery by messenger service of
11 items representing deposit account withdrawals or of loan pro-
12 ceeds is not the establishment or operation of a branch, whether
13 or not the messenger service is owned or operated by the savings
14 bank.

15 (i) "Bureau" means the OFFICE OF financial ~~institutions~~
16 ~~bureau~~ AND INSURANCE SERVICES in the department of consumer and
17 industry services.

18 (j) "Capital" means the stated par value of issued and out-
19 standing unimpaired common stock and the stated par value of
20 issued and outstanding unimpaired preferred stock.

21 (k) "Commissioner" means the commissioner of the OFFICE OF
22 financial ~~institutions bureau~~ AND INSURANCE SERVICES.

23 (l) "Compliance review committee" means both of the
24 following:

25 (i) One or more persons assigned by management or appointed
26 by the board of directors or other governing body of a depository
27 institution, or of a subsidiary of a depository institution, or

1 of a service corporation or other service entity of a depository
2 institution, for the purposes set forth in section 339.

3 (ii) Any other person to the extent the person acts in an
4 investigatory capacity at the direction of a compliance review
5 committee.

6 (m) "Compliance review documents" means documents prepared
7 in connection with a review or evaluation conducted by or for a
8 compliance review committee.

9 (n) "Consolidate", "consolidated", "consolidating", and
10 "consolidation" mean the consolidation or merger of 2 or more
11 depository institutions.

12 (o) "Consolidated savings bank" means a savings bank that
13 results from a consolidation between a savings bank and 1 or more
14 banks, out-of-state banks, national banks, associations, or sav-
15 ings banks.

16 (p) "Consolidated organization" means an organization that
17 results from a consolidation of consolidating organizations.

18 (q) "Consolidating organizations" means any combination of
19 banks, out-of-state banks, national banks, associations, savings
20 banks, or state or federal credit unions that have consolidated
21 or are in the process of consolidation as provided in section 701
22 or 702.

23 (r) "Depository institution" means a bank, out-of-state
24 bank, national bank, association, savings bank, cooperative bank,
25 industrial bank, or credit union organized under the laws of this
26 state, another state, the District of Columbia, the United
27 States, or a territory or protectorate of the United States.

1 (s) "Director" means a director, trustee, or other person
2 holding a similar position with respect to an organization
3 whether incorporated or unincorporated. Director does not
4 include an advisory director, honorary director, director emeri-
5 tus, or similar person, unless the person is otherwise performing
6 functions similar to those of a director.

7 (T) "DIVIDEND REINVESTMENT PLAN" MEANS A PLAN THAT IS
8 OFFERED SOLELY TO EXISTING SHAREHOLDERS OF THE SAVINGS BANK AND
9 WHICH ALLOWS THE SHAREHOLDERS TO REINVEST DIVIDENDS RECEIVED
10 UNDER SECTION 316 IN STOCK OF THE SAVINGS BANK AND THAT MAY ALLOW
11 ADDITIONAL CASH AMOUNTS TO BE CONTRIBUTED BY THE SHAREHOLDERS
12 PARTICIPATING IN THE REINVESTMENT PLAN.

13 (U) ~~(t)~~ "Federal reserve act" means the federal reserve
14 act, chapter 6, 38 Stat. 251.

15 (V) ~~(u)~~ "Fiduciary" means a trustee, executor, administra-
16 tor, guardian, conservator, agent, receiver, trustee in bankrupt-
17 cy, assignee for creditors, or any holder of a similar position
18 of trust. It also describes the relationship of a director to a
19 savings bank as stipulated in section 323. ~~of this act.~~

20 (W) ~~(v)~~ "Foreign country" means a country other than the
21 United States and includes a colony, dependency, or possession of
22 a country other than the United States.

23 (X) ~~(w)~~ "Impairment" means a condition in which the value
24 of the savings bank's assets is less than the aggregate amount of
25 the savings bank's liabilities to creditors and depositors, less
26 its capital, if the savings bank is a stock savings bank, or a
27 condition in which the value of the savings bank's assets is less

1 than the aggregate amount of the savings bank's liabilities to
2 creditors and members, if the savings bank is a mutual savings
3 bank.

4 (Y) ~~-(x)-~~ "Incorporator" means a person who signed the orig-
5 inal articles of incorporation.

6 Sec. 103. As used in this act:

7 (A) "LLC MEMBER" MEANS A PERSON WITH OWNERSHIP INTEREST
8 UNDER THE MICHIGAN LIMITED LIABILITY COMPANY ACT, 1993 PA 23,
9 MCL 450.4101 TO 450.5200.

10 (B) ~~-(a)-~~ "Loan production office" means an office of the
11 savings bank at which only activities related to money lending
12 are conducted, which is not the principal office or a branch or
13 an agency office or an office of an affiliated depository
14 institution.

15 (C) ~~-(b)-~~ "Member" means a person holding a savings account
16 of a mutual savings bank.

17 (D) ~~-(c)-~~ "Messenger service" means a service such as a cou-
18 rier service or an armored car service that picks up from or
19 delivers to customers of 1 or more depository institutions or 1
20 or more affiliates of a depository institution cash, currency,
21 checks, drafts, securities, or other items relating to transac-
22 tions between or involving a depository institution or affiliate
23 of a depository institution and those customers, or that trans-
24 fers cash, currency, checks, drafts, securities, or other items
25 or documents between depository institutions or affiliates of
26 depository institutions. The messenger service may be owned and

1 operated by 1 or more depository institutions or affiliates or by
2 a third party.

3 (E) ~~-(d)-~~ "Mobile branch" means a branch in which the loca-
4 tion of the physical structure of the branch is moved from time
5 to time.

6 (F) ~~-(e)-~~ "Mutual savings bank" means a savings bank for
7 which the articles of incorporation do not authorize the issuance
8 of common or preferred stock.

9 (G) ~~-(f)-~~ "National bank" means a bank chartered by the fed-
10 eral government under the national bank act, chapter 106, 13
11 Stat. 99.

12 (H) ~~-(g)-~~ "Net ~~profits~~ INCOME" means the remainder of all
13 earnings from operations plus actual recoveries on loans and
14 investments and other assets, after deducting from the total all
15 operating expenses, actual losses, accrued dividends on preferred
16 stock, if any, and all taxes.

17 (I) ~~-(h)-~~ "Out-of-state bank" means a banking corporation or
18 savings bank organized under the laws of another state, the
19 District of Columbia, or a territory of the United States whose
20 principal office is located in a state other than this state, the
21 District of Columbia, a territory or a protectorate of the United
22 States, and whose deposits are insured by the federal deposit
23 insurance corporation.

24 (J) ~~-(i)-~~ "Person" means an individual, corporation, limited
25 liability company, governmental entity, partnership, limited
26 liability partnership, or other legal entity.

1 (K) ~~-(j)-~~ "Publication", "published", and "publish" mean
2 publication in a newspaper printed in the English language and
3 published and circulated in the county where the depository
4 institution is located or, if there is no newspaper published and
5 circulated in the county where the depository institution is
6 located, in any newspaper having general circulation in the
7 county.

8 (l) ~~-(k)-~~ "Residential real estate" means improved real
9 property that is used or intended to be used as a residence or
10 residences and contains not more than 4 dwelling units.

11 (M) ~~-(l)-~~ "Savings bank" means a state banking corporation
12 organized or reorganized under this act.

13 (N) ~~-(m)-~~ "Savings liability" or "deposit liability" means
14 the aggregate amount of accounts of depositors, including inter-
15 est accrued or credited to the accounts, less redemptions and
16 withdrawals.

17 (O) ~~-(n)-~~ "Service entity" means a stock corporation, mutual
18 company, limited liability company, limited liability partner-
19 ship, or limited partnership in which a savings bank has invested
20 under section 410. Upon written approval of the commissioner, a
21 service entity may be a general partnership.

22 (P) ~~-(o)-~~ "Shareholder" means the registered owner of any
23 share or shares of capital stock of a savings bank.

24 (Q) ~~-(p)-~~ "Stock savings bank" means a savings bank for
25 which the articles of incorporation authorize the issuance of
26 capital stock.

1 (R) ~~-(q)-~~ "Subsidiary" means a ~~stock~~ corporation, mutual
2 company, limited liability company, limited liability
3 partnership, or limited partnership, the controlling interests of
4 which are more than 50% owned by 1 or more federally insured
5 depository institutions, and in which a savings bank has an
6 ownership interest, membership interest, or other legally
7 enforceable interest which has the indicia of ownership. Upon
8 written approval of the commissioner, and subject to the owner-
9 ship requirements set forth in this subsection, a subsidiary may
10 be a general partnership.

11 (S) ~~-(r)-~~ "Surplus" means the amount paid for issued and
12 outstanding common and preferred stock in excess of the stated
13 par value, plus any amount of transferred undivided profits, and
14 any additional amounts paid in or contributed to increase total
15 capital.

16 (T) ~~-(s)-~~ "Total capital" means an amount equal to any capi-
17 tal, plus any surplus, undivided profits, and instruments of
18 indebtedness authorized under section 310.

19 (U) "TRUST OFFICE" MEANS AN OFFICE OF A SAVINGS BANK AT
20 WHICH TRUST SERVICES ARE PERFORMED AND AT WHICH DEPOSITS ARE NOT
21 ACCEPTED, CHECKS ARE NOT PAID, AND MONEY IS NOT LENT.

22 (V) ~~-(t)-~~ "Undivided profits" means the amount of retained
23 earnings and any additional amounts held in capital reserve
24 accounts of the savings bank.

25 (W) "UNIFORM COMMERCIAL CODE" MEANS THE UNIFORM COMMERCIAL
26 CODE, 1962 PA 174, MCL 440.1101 TO 440.11102.

1 (X) ~~(u)~~ "Value" means the present worth of all rights to
2 future benefits arising from ownership.

3 (Y) ~~(v)~~ "Withdrawal value of a deposit account" means the
4 amount invested in a deposit account, plus earnings, less lawful
5 deductions.

6 Enacting section 1. This amendatory act does not take
7 effect unless all of the following bills of the 90th Legislature
8 are enacted into law:

9 (a) House Bill No. 5908.

10 (b) House Bill No. 5909.