

REPRINT
SUBSTITUTE FOR
HOUSE BILL NO. 5492
(As passed the House, March 15, 2000)

A bill to amend 1999 PA 276, entitled
"Banking code of 1999,"
by amending section 4402 (MCL 487.14402).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 4402. (1) As used in this section:
- 2 (a) "Host bank" means a bank, national bank, association,
3 savings bank, or other legal entity for which trust services are
4 provided by any other bank, out-of-state bank, national bank,
5 association, or savings bank.
- 6 (b) "Trust service provider" means a bank, national bank,
7 association, or savings bank providing trust services to any
8 other bank, out-of-state bank, national bank, association, sav-
9 ings bank, or other legal entity.

1 (c) "Banking office" means a principal office or authorized
2 branch of a bank, out-of-state bank, national bank, association,
3 or savings bank.

4 (2) A bank granted full trust powers may contract by written
5 agreement with any other legal entity to carry on trust services
6 in its name and for its account at 1 or more of the offices of
7 the other legal entity.

8 (3) A bank may contract by written agreement with any other
9 legal entity exercising full trust powers to carry on trust serv-
10 ices at 1 or more of its banking offices but in the name and for
11 the account of the other legal entity.

12 (4) An agreement provided for in this section, including any
13 lease, or a modification or extension of an agreement, is not
14 effective until it is filed with the commissioner.

15 (5) Thirty days after a host bank mails a notice of substi-
16 tution as provided in subsection (6), a trust service provider
17 shall be substituted for a host bank as fiduciary or agent and
18 succeed to the title of assets held by a host bank in a fiduciary
19 capacity for each account in which the host bank, under the terms
20 of a trust service agreement, will no longer serve as fiduciary
21 or agent. A trust service provider shall not be substituted for
22 the host bank for an account in which the recipient of a notice
23 of substitution objects to the substitution in the manner pro-
24 vided in subsection (6).

25 (6) For each account in which a trust service provider is
26 substituted for a host bank under the terms of a trust service
27 agreement, a written notice of substitution shall be sent by the

1 host bank by certified mail. The notice of substitution shall
2 include the date the notice was mailed and explain that the trust
3 service provider will not be substituted for the host bank for
4 the account if the recipient of the notice sends a written objec-
5 tion to the host bank by first-class mail within 30 days after
6 the date the notice was mailed. The notice of substitution shall
7 be sent to the following as appropriate:

8 (a) For employee benefit plans, to the plan sponsors.

9 (b) For individual retirement accounts and retirement
10 accounts for the self-employed, to the account owners.

11 (c) For agency and escrow accounts, to the principals.

12 (d) For securities for which a host bank serves as trustee,
13 registrar, transfer agent, or paying agent, to the issuers.

14 (e) For revocable trusts under agreement, to the settlors.

15 (f) For irrevocable trusts under agreement, to any
16 co-fiduciary, to the settlor, to each current income beneficiary
17 who is an adult, and, if a current income beneficiary is a minor,
18 to a parent of the minor with whom the minor resides or to the
19 conservator or guardian of the minor. The notice to the settlor
20 shall not grant to the settlor any authority over the trust or
21 trustee that the settlor does not already have, including the
22 authority to object to the substitution of a trust service pro-
23 vider for a host bank. For purposes of this subdivision,
24 "current income beneficiary" means a person currently entitled to
25 income or a person to whom the trustee, in the trustee's discre-
26 tion, may pay principal or income.

HB 5492, As Passed Senate, March 23, 2000

House Bill No. 5492 as amended March 15, 2000

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1 (g) For testamentary trusts, to the persons notified under
2 subdivision (f) and to the probate court that appointed the host
3 bank as trustee.

4 (h) For conservatorships, to any co-fiduciary, to the pro-
5 tected person for whom the conservatorship was created or, if the
6 conservatorship was created for a minor, to a parent of the minor
7 with whom the minor resides or to the guardian of the minor, and
8 to the probate court that appointed the host bank as
9 conservator.

10 (i) For guardianships, to any co-fiduciary, to the minor or
11 legally incapacitated person for whom the guardian was appointed
12 if the ward is at least 14 years of age, and to the probate court
13 that appointed the host bank as guardian.

14 (j) For probate estates, to any co-fiduciary, to any inter-
15 ested party PERSON as defined by section ~~7 of the revised probate~~
~~code,~~

16 ~~1978 PA 642, MCL 700.7~~ 1105 OF THE ESTATES AND PROTECTED INDI-
17 VIDUALS CODE, 1998 PA 386, MCL 700.1105, and to the probate court
18 that appointed the host bank as personal representative.

19 (7) Subsections (1), (5), and (6) apply to trust service
20 agreements in effect on or after December 6, 1985.

21 Enacting section 1. This amendatory act takes effect April
22 1, 2000.