



# HOUSE BILL No. 5492

March 8, 2000, Introduced by Rep. Sanborn and referred to the Committee on Family and Civil Law.

A bill to amend 1969 PA 319, entitled  
"Banking code of 1969,"  
by amending section 181a (MCL 487.481a), as amended by 1996 PA  
288.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 181a. (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 or national bank  
7 providing trust services to any other bank, out-of-state bank,  
8 national bank, association, savings bank, or other legal entity.

1 (c) "Banking office" means a main 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 as to the bank until it is approved in writing by the  
15 commissioner. The commissioner may approve or disapprove the  
16 agreement based on the sufficiency of the capital and surplus of  
17 the bank and other facts or circumstances that the commissioner  
18 considers proper.

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

1 which the recipient of a notice of substitution objects to the  
2 substitution in the manner provided in subsection (6).

3       (6) For each account in which a trust service provider is  
4 substituted for a host bank under the terms of a trust service  
5 agreement, THE HOST BANK SHALL SEND a written notice of substitu-  
6 tion ~~shall be sent by the host bank~~ by certified mail. The  
7 notice of substitution shall include the date the notice was  
8 mailed and explain that the trust service provider will not be  
9 substituted for the host bank for the account if the recipient of  
10 the notice sends a written objection to the host bank by  
11 first-class mail within 30 days after the date the notice was  
12 mailed. The HOST BANK SHALL SEND THE notice of substitution  
13 ~~shall be sent~~ to ALL OF the following:

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

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

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

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

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

21       (f) For irrevocable trusts under agreement, to any  
22 co-fiduciary, to the settlor, to each current income beneficiary  
23 who is an adult, and, if a current income beneficiary is a minor,  
24 to a parent of the minor with whom the minor resides or to the  
25 conservator or guardian of the minor. The notice to the settlor  
26 shall not grant to the settlor any authority over the trust or  
27 trustee that the settlor does not already have, including the

1 authority to object to the substitution of a trust service  
2 provider for a host bank. For purposes of this subdivision,  
3 "current income beneficiary" means a person currently entitled to  
4 income or a person to whom the trustee, in the trustee's discre-  
5 tion, may pay principal or income.

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

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

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

19 (j) For probate estates, to any co-fiduciary, to any inter-  
20 ested party as defined by section ~~7 of the revised probate code,~~  
21 ~~Act No. 642 of the Public Acts of 1978, being section 700.7 of~~  
22 ~~the Michigan Compiled Laws~~ 1105 OF THE ESTATES AND PROTECTED  
23 INDIVIDUALS CODE, 1998 PA 386, MCL 700.1105, and to the probate  
24 court that appointed the host bank as personal representative.

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

1       Enacting section 1. This amendatory act takes effect April  
2 1, 2000.