

Act No. 62
Public Acts of 2000
Approved by the Governor
March 29, 2000
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March 30, 2000
EFFECTIVE DATE: April 1, 2000

**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 2000**

Introduced by Rep. Sanborn

ENROLLED HOUSE BILL No. 5492

AN ACT to amend 1999 PA 276, entitled "An act to revise and codify the laws relating to banks, out-of-state banks, and foreign banks; to provide for their regulation and supervision; to prescribe the powers and duties of banks; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties; and to repeal acts and parts of acts," by amending section 4402 (MCL 487.14402).

The People of the State of Michigan enact:

Sec. 4402. (1) As used in this section:

(a) "Host bank" means a bank, national bank, association, savings bank, or other legal entity for which trust services are provided by any other bank, out-of-state bank, national bank, association, or savings bank.

(b) "Trust service provider" means a bank, national bank, association, or savings bank providing trust services to any other bank, out-of-state bank, national bank, association, savings bank, or other legal entity.

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

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

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

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

(5) Thirty days after a host bank mails a notice of substitution as provided in subsection (6), a trust service provider shall be substituted for a host bank as fiduciary or agent and succeed to the title of assets held by a host bank in a fiduciary capacity for each account in which the host bank, under the terms of a trust service agreement, will no longer serve as fiduciary or agent. A trust service provider shall not be substituted for the host bank for an account in which the recipient of a notice of substitution objects to the substitution in the manner provided in subsection (6).

(6) For each account in which a trust service provider is substituted for a host bank under the terms of a trust service agreement, a written notice of substitution shall be sent by the host bank by certified mail. The notice of substitution shall include the date the notice was mailed and explain that the trust service provider will not be substituted for the host bank for the account if the recipient of the notice sends a written objection to the host bank by first-class mail within 30 days after the date the notice was mailed. The notice of substitution shall be sent to the following as appropriate:

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

- (b) For individual retirement accounts and retirement accounts for the self-employed, to the account owners.
- (c) For agency and escrow accounts, to the principals.
- (d) For securities for which a host bank serves as trustee, registrar, transfer agent, or paying agent, to the issuers.
- (e) For revocable trusts under agreement, to the settlors.

(f) For irrevocable trusts under agreement, to any co-fiduciary, to the settlor, to each current income beneficiary who is an adult, and, if a current income beneficiary is a minor, to a parent of the minor with whom the minor resides or to the conservator or guardian of the minor. The notice to the settlor shall not grant to the settlor any authority over the trust or trustee that the settlor does not already have, including the authority to object to the substitution of a trust service provider for a host bank. For purposes of this subdivision, "current income beneficiary" means a person currently entitled to income or a person to whom the trustee, in the trustee's discretion, may pay principal or income.

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

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

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

(j) For probate estates, to any co-fiduciary, to any interested person as defined by section 1105 of the estates and protected individuals code, 1998 PA 386, MCL 700.1105, and to the probate court that appointed the host bank as personal representative.

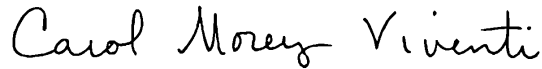
(7) Subsections (1), (5), and (6) apply to trust service agreements in effect on or after December 6, 1985.

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.