

Act No. 63
Public Acts of 2000
Approved by the Governor
March 29, 2000
Filed with the Secretary of State
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. 5493

AN ACT to amend 1996 PA 354, entitled "An act to codify the laws relating to savings banks; to provide for incorporation, regulation, supervision, and internal administration of savings banks; to prescribe the rights, powers, and immunities of savings banks; to prescribe the powers and duties of certain state agencies and officials; to provide for remedies; and to prescribe penalties," by amending section 422 (MCL 487.3422).

The People of the State of Michigan enact:

Sec. 422. (1) As used in this section:

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

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

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

(2) A savings bank granted full trust powers may contract by written agreement with any bank, out-of-state bank, national bank, association, or other savings bank to carry on trust services in its name and for its account at 1 or more of the banking offices of the bank, out-of-state bank, national bank, association, or other savings bank.

(3) A savings bank may contract by written agreement with any bank, out-of-state bank, national bank, association, or other savings bank 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 bank, out-of-state bank, national bank, association, or other savings bank.

(4) An agreement provided for in this section, including a lease, or a modification or extension of an agreement, is not effective as to any savings bank until it is approved in writing by the commissioner. The commissioner may approve the agreement upon consideration of the sufficiency of the capital and surplus of the banks, out-of-state banks, national banks, associations, or savings banks, the need for trust services, and other facts or circumstances that the commissioner considers proper.

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

(6) For an account in which a trust service provider is substituted for a host savings bank under the terms of a trust service agreement, the host savings bank shall send a written notice of substitution by certified mail. The notice of

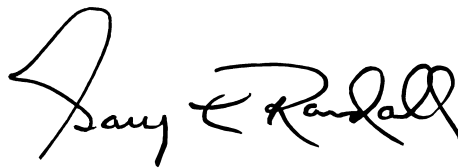
substitution shall include the date the notice was mailed and explain that the trust service provider will not be substituted for the host savings bank for the account if the recipient of the notice sends a written objection to the host savings bank by first-class mail within 30 days after the date the notice was mailed. The host savings bank shall send the notice of substitution to all of the following:

- (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 savings 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 did not have before the notice, including the authority to object to the substitution of a trust service provider for a host savings 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 savings 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 savings 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 savings 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 savings bank as personal representative.

(7) Subsections (1), (5), and (6) apply to trust service agreements in effect on or after July 1, 1996.

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.