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BILL ANALYSIS

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House Bill 5833 (Substitute H-1 as reported without amendment)
Sponsor: Representative Matt Milosch
House Committee: Commerce
Senate Committee: Banking and Financial Institutions

CONTENT

The bill would amend Public Act 174 of 1941, which authorizes financial institutions to establish and maintain "common trust funds", to allow financial institutions also to establish and invest in "collective investment funds". (A "common trust fund" is maintained exclusively for the collective investment and reinvestment of money by a financial institution in its capacity as a fiduciary. Under the bill, "collective investment fund" would mean a fund maintained by a financial institution that consisted solely of assets of retirement, pension, profit sharing, stock bonus, or other trusts exempt from Federal income tax.) The bill also would rename Public Act 174 the "Collective Investment Funds Act".

The bill would prohibit a financial institution administering a fund from having an interest in it, other than as a fiduciary. Both types of funds would have to be established and maintained in accordance with a written plan. A financial institution would have to make a copy of the plan available for inspection during regular business hours and provide a copy to any person who requested it. The bill would allow a financial institution to charge a reasonable management fee and reasonable expenses incurred in operating the fund.

At least once a year, a financial institution would have to arrange for a fund audit as well as prepare a financial report based on the audit. The financial institution would have to provide a copy of the report, or a notice that a copy was available upon request without charge, to each person who ordinarily would receive a periodic accounting with respect to each participating account.

The bill would require a financial institution to determine the value of a fund's assets at least every three months, except that the value of a fund invested primarily in real estate or other not-readily-marketable assets would have to be determined at least once a year. The financial institution could admit an account to or withdraw an account from a fund only on the basis of a quarterly or yearly valuation.

The bill lists types of investments (in addition to a common trust or collective investment fund) in which a financial institution could invest assets it held as fiduciary.

MCL 555.101 et al. Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 12-6-04 Fiscal Analyst: Maria Tyszkiewicz