

# HOUSE BILL No. 5298

October 18, 2005, Introduced by Reps. Lemmons, III and Lemmons, Jr. and referred to the Committee on Banking and Financial Services.

A bill to amend 1996 PA 354, entitled  
"Savings bank act,"  
(MCL 487.3101 to 487.3804) by adding section 515.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 515. (1) IF ALL OF THE FOLLOWING ARE MET, AN OFFICER OR  
2        EMPLOYEE OF A SAVINGS BANK SHALL REPORT ANY INCIDENCE OF KNOWN OR  
3        SUSPECTED FINANCIAL ABUSE OF AN ELDER ADULT BY TELEPHONE  
4        IMMEDIATELY, OR AS SOON AS PRACTICABLY POSSIBLE, AND BY WRITTEN  
5        REPORT SENT WITHIN 2 WORKING DAYS TO THE COMMISSIONER AND THE  
6        DEPARTMENT OF ATTORNEY GENERAL:

7        (A) THE OFFICER OR EMPLOYEE HAS DIRECT CONTACT WITH AN ELDER  
8        ADULT OR REVIEWS OR APPROVES AN ELDER ADULT'S FINANCIAL DOCUMENTS,  
9        RECORDS, OR TRANSACTIONS IN CONNECTION WITH PROVIDING FINANCIAL

1 SERVICES CONCERNING THE ELDER ADULT.

2 (B) WITHIN THE SCOPE OF HIS OR HER EMPLOYMENT OR PROFESSIONAL  
3 PRACTICE, THE OFFICER OR EMPLOYEE OBSERVES, KNOWS, OR SHOULD HAVE  
4 KNOWN ABOUT AN INCIDENT THAT IS DIRECTLY RELATED TO A TRANSACTION  
5 OR MATTER THAT IS WITHIN THAT SCOPE OF EMPLOYMENT OR PROFESSIONAL  
6 PRACTICE.

7 (C) ONE OF THE FOLLOWING APPLIES TO THE INCIDENT DESCRIBED IN  
8 SUBDIVISION (B):

9 (i) THE INCIDENT REASONABLY APPEARS TO THE OFFICER OR EMPLOYEE  
10 TO BE FINANCIAL ABUSE.

11 (ii) IF THE OFFICER OR EMPLOYEE DOES NOT HAVE DIRECT CONTACT  
12 WITH THE ELDER ADULT, THE OFFICER OR EMPLOYEE REASONABLY SUSPECTS  
13 FINANCIAL ABUSE HAS OCCURRED, BASED SOLELY ON THE INFORMATION  
14 BEFORE HIM OR HER AT THE TIME OF REVIEWING OR APPROVING THE  
15 DOCUMENT, RECORD, OR TRANSACTION.

16 (2) ALL OF THE FOLLOWING APPLY IF 2 OR MORE SAVINGS BANK  
17 OFFICERS OR EMPLOYEES JOINTLY KNOW, SHOULD KNOW, OR REASONABLY  
18 SUSPECT THAT FINANCIAL ABUSE OF AN ELDER ADULT SUBJECT TO THE  
19 REPORTING REQUIREMENT OF SUBSECTION (1) HAS OCCURRED:

20 (A) THE OFFICERS OR EMPLOYEES MAY FORM A REPORTING TEAM BY  
21 AGREEMENT.

22 (B) A MEMBER OF THE REPORTING TEAM SELECTED BY MUTUAL  
23 AGREEMENT MAY MAKE THE TELEPHONE REPORT REQUIRED IN SUBSECTION (1)  
24 ON BEHALF OF ALL MEMBERS OF THE REPORTING TEAM.

25 (C) A MEMBER OF THE REPORTING TEAM SELECTED BY MUTUAL  
26 AGREEMENT MAY MAKE THE WRITTEN REPORT REQUIRED IN SUBSECTION (1) ON  
27 BEHALF OF ALL MEMBERS OF THE REPORTING TEAM.

1 (D) IF A MEMBER OF THE REPORTING TEAM HAS KNOWLEDGE THAT THE  
2 MEMBER DESIGNATED TO MAKE A TELEPHONE REPORT OR WRITTEN REPORT  
3 REQUIRED IN SUBSECTION (1) HAS FAILED TO DO SO, THAT MEMBER SHALL  
4 MAKE THAT REPORT.

5 (3) AN OFFICER OR EMPLOYEE OF A SAVINGS BANK IS NOT REQUIRED  
6 TO MAKE THE REPORTS DESCRIBED IN SUBSECTION (1) BASED SOLELY ON AN  
7 ALLEGATION BY THE ELDER ADULT OR ANY OTHER INDIVIDUAL THAT  
8 FINANCIAL ABUSE OF AN ELDER ADULT HAS OCCURRED IF BOTH OF THE  
9 FOLLOWING CONDITIONS ARE MET:

10 (A) THE OFFICER OR EMPLOYEE IS NOT AWARE OF ANY OTHER  
11 CORROBORATING OR INDEPENDENT EVIDENCE OF THE ALLEGED FINANCIAL  
12 ABUSE OF THE ELDER ADULT. THE OFFICER OR EMPLOYEE IS NOT REQUIRED  
13 TO INVESTIGATE THE ALLEGATION.

14 (B) IN THE EXERCISE OF HIS OR HER PROFESSIONAL JUDGMENT, THE  
15 OFFICER OR EMPLOYEE REASONABLY BELIEVES THAT FINANCIAL ABUSE OF THE  
16 ELDER ADULT DID NOT OCCUR.

17 (4) IF AN OFFICER OR EMPLOYEE OF A SAVINGS BANK FAILS TO  
18 REPORT FINANCIAL ABUSE OF AN ELDER ADULT UNDER THIS SECTION, THE  
19 ATTORNEY GENERAL MAY BRING AN ACTION AGAINST THE SAVINGS BANK TO  
20 RECOVER A CIVIL FINE OF NOT MORE THAN \$1,000.00, OR A CIVIL FINE OF  
21 NOT MORE THAN \$5,000.00 IF THE FAILURE TO REPORT IS WILLFUL. AN  
22 ACTION UNDER THIS SECTION DOES NOT LIMIT, EXPAND, OR OTHERWISE  
23 MODIFY ANY CIVIL LIABILITY OR REMEDY THAT MAY EXIST UNDER THIS ACT  
24 OR ANY OTHER LAW.

25 (5) AS USED IN THIS SECTION:

26 (A) "ELDER ADULT" MEANS AN INDIVIDUAL 65 YEARS OF AGE OR  
27 OLDER.

1           (B) "FINANCIAL ABUSE" MEANS TO TAKE OR RETAIN REAL OR PERSONAL  
2   PROPERTY OF AN ELDER ADULT FOR A WRONGFUL USE, WITH INTENT TO  
3   DEFRAUD, OR IN BAD FAITH, OR TO ASSIST ANOTHER IN TAKING OR  
4   RETAINING REAL OR PERSONAL PROPERTY OF AN ELDER ADULT FOR A  
5   WRONGFUL USE, WITH INTENT TO DEFRAUD, OR IN BAD FAITH.

6           (C) "REASONABLY SUSPECTS FINANCIAL ABUSE" MEANS THAT AN  
7   INDIVIDUAL OBSERVES OR HAS KNOWLEDGE OF BEHAVIOR OR UNUSUAL  
8   CIRCUMSTANCES OR TRANSACTIONS, OR A PATTERN OF BEHAVIOR OR UNUSUAL  
9   CIRCUMSTANCES OR TRANSACTIONS, THAT WOULD LEAD AN INDIVIDUAL WITH  
10   LIKE TRAINING OR EXPERIENCE, BASED ON THE SAME FACTS, TO FORM A  
11   REASONABLE BELIEF THAT FINANCIAL ABUSE HAS OCCURRED.