

SENATE BILL No. 748

February 4, 2016, Introduced by Senator BOOHER and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1999 PA 276, entitled "Banking code of 1999," by amending the title and sections 2202 and 2203 (MCL 487.12202 and 487.12203).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

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 CREATE THE STATE BANK REGULATORY FUND;** to prescribe penalties; and to repeal acts and parts of acts.

Sec. 2202. (1) Each institution ~~together with~~ **AND** its subsidiaries and service entities ~~shall be~~ **ARE** subject to

1 examination of its condition and affairs by the ~~commissioner or the~~
2 ~~commissioner's~~ **DIRECTOR OR HIS OR HER** authorized agent ~~not less~~
3 ~~frequently than~~ **AT LEAST** once every 18 months.

4 (2) The ~~commissioner~~ **DIRECTOR** shall examine an institution
5 under the ~~commissioner's~~ **DIRECTOR'S** jurisdiction when requested by
6 its board of directors. In connection with an examination, the
7 ~~commissioner, or the commissioner's~~ **DIRECTOR, OR HIS OR HER**
8 authorized agent, may examine ~~on~~ **UNDER** oath a director, officer,
9 agent, employee, or shareholder of an institution concerning the
10 affairs and business of the institution. The ~~commissioner~~ **DIRECTOR**
11 shall ascertain whether the institution transacts its business in
12 the manner prescribed by law and the rules promulgated under law.
13 The ~~commissioner, or the commissioner's~~ **DIRECTOR, OR HIS OR HER**
14 authorized agent, may make an examination of an affiliate, bank
15 holding company, subsidiary, or service entity **IF** necessary to
16 disclose fully the relation between an institution and the
17 affiliate, holding company, subsidiary, or service entity and the
18 effect of the relation ~~upon~~ **ON** the institution.

19 (3) The ~~commissioner~~ **DIRECTOR** may examine the branch or
20 branches located in this state of an out-of-state bank as permitted
21 ~~by~~ **UNDER** the federal deposit insurance act.

22 (4) In fulfilling the requirements of subsections (1) and (2),
23 the ~~commissioner~~ **DIRECTOR** may use an examination made under the
24 federal reserve act, the federal deposit insurance act, or the law
25 of another state governing the activities of out-of-state banks in
26 that state. The ~~commissioner~~ **DIRECTOR** may require the institution
27 to furnish a copy of any report required by a federal or state bank

1 regulatory agency.

2 (5) An examination required by this section may include the
3 fiduciary activities of the institution.

4 (6) The ~~commissioner~~**DIRECTOR** may contract with other state
5 bank regulatory agencies to assist in the conduct of examinations
6 of banks with 1 or more branches located in other states and in
7 examinations of out-of-state banks with 1 or more branches located
8 in this state.

9 (7) The contents of a report of examination of a bank and
10 examination-related documents prepared or obtained under this
11 section remain the property of the ~~bureau~~**DEPARTMENT**.
12 Dissemination of all or part of a bank's report of examination for
13 purposes other than the legitimate business purposes of the bank or
14 as otherwise authorized by this act ~~shall be~~**IS** a violation of this
15 act **THAT IS** subject to the administrative remedies granted ~~the~~
16 ~~commissioner~~**TO THE DIRECTOR** under sections 2304 through 2314.

17 (8) **IN AN ADDENDUM TO A REPORT OF AN EXAMINATION UNDER THIS**
18 **SECTION, THE DIRECTOR OR HIS OR HER AUTHORIZED AGENT MAY SUGGEST**
19 **BEST PRACTICES OR OTHER IMPROVEMENTS IN THE OPERATION OF A BANK**
20 **THAT ARE NOT REQUIRED BY LAW OR REGULATION OR TO ADDRESS SAFETY AND**
21 **SOUNDNESS OF THE BANK. THE MANNER IN WHICH A BANK ADDRESSES ISSUES**
22 **CONCERNING ITS OPERATIONS IS WITHIN THE DISCRETION OF THE BANK IN**
23 **THE EXERCISE OF ITS BUSINESS JUDGMENT, EXCEPT AS REQUIRED BY LAW OR**
24 **REGULATION OR TO ADDRESS A CONCERN OVER SAFETY AND SOUNDNESS. THE**
25 **DIRECTOR SHALL NOT TAKE ACTION AGAINST A BANK UNDER THIS ACT BASED**
26 **ON A FAILURE OR REFUSAL OF A BANK TO FOLLOW A BEST PRACTICE OR**
27 **OTHER RECOMMENDED IMPROVEMENT IN THE OPERATION OF THE BANK THAT IS**

1 SUGGESTED INFORMALLY BY AN EXAMINER OR THAT IS CONTAINED IN AN
2 ADDENDUM TO A REPORT OF EXAMINATION.

3 (9) WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY
4 ACT THAT ADDED THIS SUBSECTION, THE DIRECTOR SHALL ISSUE GUIDANCE
5 TO PROMOTE CONSISTENCY AND DUE PROCESS IN THE EXAMINATION PROCESS
6 UNDER THIS SECTION, INCLUDING, BUT NOT LIMITED TO, ESTABLISHING
7 GUIDELINES THAT DEFINE THE SCOPE OF THE EXAMINATION PROCESS AND
8 CLARIFY HOW EXAMINATION ISSUES WILL BE RESOLVED.

9 Sec. 2203. (1) The ~~commissioner~~**DIRECTOR** shall periodically
10 establish a schedule of supervisory fees to be paid by banks.
11 Except for a minimum fee consistent with subsection (2), the fee
12 shall not be more than 25 cents for each \$1,000.00 of total assets
13 of the bank as reported by the bank on its report of condition as
14 of December 31 of the previous year.

15 (2) ~~Each bank shall pay an~~**THE** annual supervisory fee ~~which~~
16 ~~shall be not less than~~**ESTABLISHED BY THE DIRECTOR UNDER SUBSECTION**
17 **(1) SHALL BE AT LEAST \$1,000.00.**

18 (3) The ~~commissioner~~**DIRECTOR** shall provide an invoice of the
19 supervisory fee ~~no later than~~**ON OR BEFORE** July 1 of each year. ~~The~~
20 **A BANK MUST PAY THE** annual supervisory fee ~~shall be paid by~~**ON OR**
21 **BEFORE** August 15 of that year.

22 (4) The **DIRECTOR SHALL BASE THE** initial supervisory fee for a
23 bank that obtained a charter as a result of a conversion ~~shall be~~
24 ~~based on~~ the total assets **OF THE BANK** as reported in its report of
25 condition as of December 31 of the previous year under its prior
26 charter.

27 (5) The supervisory fee of a bank ~~which~~**THAT** was not engaged

1 in the business of banking on December 31 of the previous year
2 shall be the minimum supervisory fee established by the
3 ~~commissioner consistent with subsection~~ **DIRECTOR UNDER SUBSECTIONS**
4 **(1) AND (2)**.

5 (6) The ~~commissioner~~ **DIRECTOR** shall periodically establish a
6 schedule of fees, beyond those charged for normal supervision, to
7 be paid for applications, special evaluations and analyses, and
8 examinations.

9 (7) The **DIRECTOR SHALL BASE THE** fees established under
10 subsection (6) ~~shall be based on the estimated cost to the bureau~~
11 **DEPARTMENT** of conducting the activities for which the fees are
12 imposed.

13 (8) The ~~commissioner~~ **DIRECTOR** may charge reasonable fees for
14 furnishing and certifying copies of documents or serving notices
15 required by **UNDER** this act.

16 (9) To the extent any fees, penalties, or fines assessed under
17 this act are unpaid when due, the ~~commissioner~~ **DIRECTOR** may, ~~upon~~
18 **AFTER PROVIDING** proper notice, maintain an action for the recovery
19 of the fees, penalties, or fines plus interest and costs.

20 (10) The fees, expenses, compensation, penalties, and fines
21 collected under this act are not refundable. ~~and shall be paid into~~
22 ~~the state treasury to the credit of the bureau and used only for~~
23 ~~the operation of the bureau.~~

24 **(11) THE STATE BANK UNION REGULATORY FUND IS ESTABLISHED IN**
25 **THE DEPARTMENT OF TREASURY. ALL OF THE FOLLOWING APPLY TO THE STATE**
26 **BANK REGULATORY FUND:**

27 **(A) THE FUND SHALL CONSIST OF THE FOLLOWING:**

1 (i) FEES, EXPENSES, COMPENSATION, PENALTIES, AND FINES
2 RECEIVED OR COLLECTED UNDER THIS ACT.

3 (ii) MONEY APPROPRIATED TO THE FUND.

4 (iii) DONATIONS OF MONEY MADE TO THE FUND FROM ANY SOURCE.

5 (iv) INTEREST AND EARNINGS FROM FUND INVESTMENTS.

6 (B) MONEY IN THE FUND AT THE CLOSE OF A FISCAL YEAR SHALL
7 REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND.

8 (C) UPON APPROPRIATION, THE DEPARTMENT SHALL USE THE MONEY IN
9 THE FUND ONLY FOR BANK REGULATORY PURPOSES, AS DETERMINED BY THE
10 DIRECTOR.

11 (D) THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE
12 FUND.

13 (E) THE DEPARTMENT IS THE ADMINISTRATOR OF THE FUND FOR
14 AUDITING PURPOSES.

15 Enacting section 1. This amendatory act takes effect 90 days
16 after the date it is enacted into law.

17 Enacting section 2. This amendatory act does not take effect
18 unless all of the following bills of the 98th Legislature are
19 enacted into law:

20 (a) Senate Bill No. 749.

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22 (b) Senate Bill No. 750.

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