

# SENATE BILL No. 749

February 4, 2016, Introduced by Senators ZORN and 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 section 1201 (MCL 487.11201).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1201. As used in this act:

2       (a) "Administrative expense" means any of the following:

3       (i) An expense designated as an administrative expense ~~by~~  
4       **UNDER** this act or **BY** the court.

5       (ii) Court costs and expenses of operation and liquidation of  
6       a bank.

7       (iii) Current wages paid to an employee of a bank whose  
8       services are retained by the receiver for services rendered after  
9       the date the bank is ordered in receivership.

10       (iv) An unpaid expense of supervision or conservatorship of a  
11       bank.

(v) Unpaid fees or assessments owed to the ~~bureau~~**DEPARTMENT**.

(b) "Administrative procedures act of 1969" means the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(c) "Affiliate" means a corporation, business trust, limited liability company, or similar organization to which any of the following apply:

(i) An organization, directly or indirectly, owns or controls either a majority of its voting shares or more than 50% of the number of shares voted **AT THE MOST RECENT ELECTION** for the election of its directors, trustees, or other ~~persons exercising~~**INDIVIDUALS WHO EXERCISE** similar functions, ~~at the preceding election, or~~ controls in any manner the election of a majority of its directors, trustees, or other ~~persons exercising~~**INDIVIDUALS WHO EXERCISE** similar functions.

(ii) Control of the organization is held, directly or indirectly, through either of the following:

(A) Stock ownership or in any other manner, by the shareholders or members of an organization ~~who~~**THAT** own or control a majority of the shares of that organization, a majority ownership interest in the organization, more than 50% of the number of shares voted for the election of directors of that organization at the ~~preceding~~**MOST RECENT** election, or more than 50% of the ownership vote for election of directors of that organization at the ~~preceding~~**MOST RECENT** election.

(B) By trustees for the benefit of the shareholders or members of that organization.

(iii) A majority of its directors, trustees, or other ~~persons~~  
~~exercising~~ **INDIVIDUALS WHO EXERCISE** similar functions constitute a  
majority of the directors, trustees, or other ~~persons exercising~~  
**INDIVIDUALS WHO EXERCISE** similar functions of any 1 organization.

(iv) The organization owns or controls, directly or  
indirectly, either a majority of the shares of capital stock or  
other ownership interest of an organization, or more than 50% of  
the number of shares voted of the total ownership vote for the  
election of directors of an organization at the preceding election,  
or controls in any manner the election of a majority of the  
directors of an organization, or for the benefit of whose  
shareholders or members all or substantially all the capital stock  
or ownership interest of an organization is held by trustees.

(d) "Applicant" means a person ~~making~~ **THAT SUBMITS** an  
application under this act.

(e) "Articles" means articles of incorporation, all amendments  
to articles of incorporation, and agreements of consolidation and  
merger.

(f) "Association" means a federal savings association  
organized under section 5 of the home owners' loan act, ~~chapter 64,~~  
~~48 Stat. 132, 12 U.S.C. 1464,~~ **12 USC 1464**, or a savings and loan  
association, building and loan association, or homestead  
association that is organized under the laws of a state, the  
District of Columbia, or a territory or protectorate of the United  
States, and whose deposits are insured by the ~~federal deposit~~  
~~insurance corporation.~~ **FEDERAL DEPOSIT INSURANCE CORPORATION.**

(g) "Bank" means a state banking corporation **THAT IS** organized

1 or reorganized under this act or organized under any law of this  
 2 state enacted before ~~the effective date of this act,~~ **MARCH 1, 2000,**  
 3 including a state banking corporation that voluntarily limits its  
 4 activities.

5 (h) "Bank holding company" means a company as defined in the  
 6 bank holding company act that is not a bank or national banking  
 7 association and that is a bank holding company approved by the  
 8 ~~board of governors of the federal reserve system~~ **BOARD OF GOVERNORS**  
 9 **OF THE FEDERAL RESERVE SYSTEM** under the bank holding company act or  
 10 that will become an approved bank holding company before or upon  
 11 the completion of a consolidation provided in section 3706.

12 (i) "Banking holding company act" means the federal bank  
 13 holding company act of 1956, chapter 240, 70 Stat. 133.

14 (j) "Branch" means, except as otherwise provided in this  
 15 subdivision, a branch bank, branch office, branch agency,  
 16 additional office, or a branch place of business at which deposits  
 17 are received, checks paid, or money lent. The acceptance of  
 18 deposits in furtherance of a school thrift or savings plan by an  
 19 officer, employee, or agent of a bank at a school ~~shall not be~~  
 20 ~~construed~~ **IS NOT CONSIDERED** as the establishment or operation of a  
 21 branch. An electronic funds transfer facility that is made  
 22 available to 2 or more depository institutions under ~~Michigan law~~  
 23 **ANY LAW OF THIS STATE** that regulates electronic funds transfer  
 24 facilities is not a branch. A trust office of a bank is not a  
 25 branch. A loan production office is not a branch. An additional  
 26 office of a state agency is not a branch. An international banking  
 27 facility as defined in ~~12 C.F.R.~~ **CFR** 204.8(a)(1), as in effect

December 31, 1982, is not a branch. The receipt of deposits by a messenger service or the delivery by a messenger service of items representing deposit account withdrawals or of loan proceeds is not the establishment or operation of a branch, whether or not the messenger service is owned or operated by the bank. Branch does not include an agent acting under section 4101(1)(d).

(k) "Bureau" **OR "DEPARTMENT"** means the ~~financial institutions bureau of the department of consumer and industry services.~~ **DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES.**

(l) "Capital" or "capital stock" means the stated par value of issued and outstanding unimpaired common stock and the stated par value of issued and outstanding unimpaired preferred stock. For purposes of sections 4202, 4301, 4307, and 4308, "capital" and "capital stock" ~~shall~~ also include outstanding capital notes, debentures, and any other instrument of indebtedness issued under section 3801.

(m) "Cease and desist order which has become final" or "order which has become final" means a cease and desist order or an order issued by the ~~commissioner~~ **DIRECTOR** with the consent of the institution or the ~~director~~ **BOARD MEMBER** or officer or other person concerned, or with respect to which ~~no~~ **A** petition for review of the action of the ~~commissioner has been~~ **DIRECTOR WAS NOT** filed and perfected in a circuit court ~~as specified in~~ **UNDER** section 2310(2), or with respect to which the action of the court in which the petition is filed is not subject to further review by the courts of the state.

(n) "Commissioner" **OR "DIRECTOR"** means the ~~commissioner of the~~

~~financial institutions bureau~~ **DIRECTOR OF THE DEPARTMENT.**

(o) "Consolidate", "consolidated", "consolidating", and "consolidation" include, respectively, consolidate or merge, consolidated or merged, consolidating or merging, and consolidation or merger.

(p) "Consolidated bank" means a bank that results from a consolidation between a bank and 1 or more banks, out-of-state banks, national banks, associations, or savings banks.

(q) "Consolidated organization" means an out-of-state bank, national bank, association, or savings bank organized under the laws of another state or the United States that results from a consolidation of 1 or more banks, with 1 or more out-of-state banks, national banks, associations, or savings banks.

(r) "Consolidating organizations" means any combination of banks, out-of-state banks, national banks, associations, or savings banks that have consolidated or are in the process of consolidation as provided in section 3701 or 3702.

(s) "Depository institution" means a bank, out-of-state bank, national bank, foreign bank branch, association, savings bank, or credit union organized under the laws of this state, another state, the District of Columbia, the United States, or a territory or protectorate of the United States.

(t) "Dissolution" means the process by which a solvent bank voluntarily ends its corporate existence by liquidating its assets and winding up its affairs.

(u) "Dividend reinvestment plan" means a plan that is offered solely to existing shareholders of the bank and ~~which~~ **THAT** allows

1 the shareholders to reinvest dividends received under section 3806  
2 in stock of the bank and that may allow additional cash amounts to  
3 be contributed by the shareholders participating in the  
4 reinvestment plan.

5 (v) "Federal agency" means a foreign bank agency established  
6 and operating under the international banking act of 1978.

7 (w) "Federal branch" means a foreign bank branch established  
8 and operating under the international banking act of 1978.

9 (x) "Federal deposit insurance act" means the federal deposit  
10 insurance act, ~~chapter 967, 64 Stat. 873.~~ **12 USC 1811 TO 1835A.**

11 (y) "Federal home loan bank act" means the federal home loan  
12 bank act, ~~chapter 522, 47 Stat. 725.~~ **12 USC 1421 TO 1449.**

13 (z) "Federal reserve act" means the federal reserve act,  
14 ~~chapter 6, 38 Stat. 251.~~ **12 USC 221 TO 522.**

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. 748.

21  
22 (b) Senate Bill No. 750.