

Act No. 176  
Public Acts of 2016  
Approved by the Governor  
June 12, 2016  
Filed with the Secretary of State  
June 14, 2016  
EFFECTIVE DATE: September 12, 2016

**STATE OF MICHIGAN  
98TH LEGISLATURE  
REGULAR SESSION OF 2016**

**Introduced by Senators Zorn and Booher**

# **ENROLLED SENATE BILL No. 749**

AN ACT to amend 1999 PA 276, entitled “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 prescribe penalties; and to repeal acts and parts of acts,” by amending section 1201 (MCL 487.11201).

*The People of the State of Michigan enact:*

Sec. 1201. As used in this act:

(a) “Administrative expense” means any of the following:

- (i) An expense designated as an administrative expense under this act or by the court.
- (ii) Court costs and expenses of operation and liquidation of a bank.
- (iii) Current wages paid to an employee of a bank whose services are retained by the receiver for services rendered after the date the bank is ordered in receivership.
- (iv) An unpaid expense of supervision or conservatorship of a bank.
- (v) Unpaid fees or assessments owed to the 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, partnership, association, or similar organization to which any of the following apply:

(i) A person, directly or indirectly, owns or controls either more than 25% of its voting shares or a majority of the shares voted at the most recent election for the election of its directors, trustees, or other individuals who exercise similar functions, or controls in any manner the election of a majority of its directors, trustees, or other individuals who exercise similar functions.

(ii) Control of the organization is held, directly or indirectly, through 1 of the following:

(A) Stock ownership or in any other manner, by the shareholders or members of an organization that own or control more than 25% of the shares of that organization, more than 25% of the ownership interest in the organization, a majority of the shares voted for the election of directors of that organization at the most recent election, or a majority of the ownership vote for election of directors of that organization at the most recent election.

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

(C) By the power to exercise, directly or indirectly, a controlling influence over the management or policies of the organization, as determined by the commissioner after notice and an opportunity for a hearing.

(iii) A majority of its directors, trustees, or other individuals who exercise similar functions constitute a majority of the directors, trustees, or other individuals who exercise similar functions of any 1 organization.

(iv) The organization owns or controls, directly or indirectly, either more than 25% of the shares of capital stock or other ownership interest of an organization, or a majority of the 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 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, 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.

(g) "Bank" means a state banking corporation that is organized or reorganized under this act or organized under any law of this state enacted before March 1, 2000, including a state banking corporation that voluntarily limits its activities.

(h) "Bank holding company" means a company as defined in the bank holding company act that is not a bank or national banking association and that is a bank holding company approved by the Board of Governors of the Federal Reserve System under the bank holding company act or that will become an approved bank holding company before or upon the completion of a consolidation provided in section 3706.

(i) "Banking holding company act" means the federal bank holding company act of 1956, 12 USC 1841 to 1852.

(j) "Branch" means, except as otherwise provided in this subdivision, a branch bank, branch office, branch agency, additional office, or a branch place of business at which deposits are received, checks paid, or money lent. The acceptance of deposits in furtherance of a school thrift or savings plan by an officer, employee, or agent of a bank at a school is not considered as the establishment or operation of a branch. An electronic funds transfer facility that is made available to 2 or more depository institutions under any law of this state that regulates electronic funds transfer facilities is not a branch. A trust office of a bank is not a branch. A loan production office is not a branch. An additional office of a state agency is not a branch. An international banking facility as defined in 12 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 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" 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 director with the consent of the institution or the board member or officer or other person concerned, or with respect to which a petition for review of the action of the director was not filed and perfected in a circuit court 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 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) "Derivative transaction" means any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, 1 or more commodities, securities, currencies, interest or other rates, indices, or other assets.

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

(v) "Dividend reinvestment plan" means a plan that is offered solely to existing shareholders of the bank and that allows the shareholders to reinvest dividends received under section 3806 in stock of the bank and that may allow additional cash amounts to be contributed by the shareholders participating in the reinvestment plan.

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

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

(y) "Federal deposit insurance act" means the federal deposit insurance act, 12 USC 1811 to 1835a.

(z) "Federal home loan bank act" means the federal home loan bank act, 12 USC 1421 to 1449.

(aa) "Federal reserve act" means the federal reserve act, 12 USC 221 to 522.

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

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

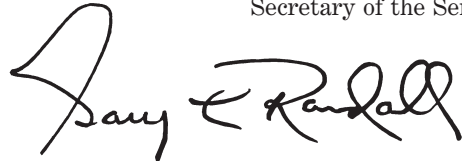
(a) Senate Bill No. 748.

(b) Senate Bill No. 750.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved .....

.....  
Governor