

**[No. 480]**

**(HB 5907)**

AN ACT to amend 1996 PA 354, entitled “An act to codify the laws relating to savings banks; to provide for incorporation, regulation, supervision, and internal administration of savings banks; to prescribe the rights, powers, and immunities of savings banks; to prescribe the powers and duties of certain state agencies and officials; to provide for remedies; and to prescribe penalties,” by amending sections 102 and 103 (MCL 487.3102 and 487.3103).

*The People of the State of Michigan enact:*

**487.3102 Definitions; A to I. [M.S.A. 23.710(3102)]**

Sec. 102. As used in this act:

(a) “Agency office” means a place at which the business of a savings bank is conducted other than by regularly employed personnel of the savings bank, as provided under section 417(6).

(b) “Articles” means articles of incorporation, all amendments to articles of incorporation, and agreements of consolidation and merger.

(c) “Approved by the members”, for a mutual savings bank, means approved by a majority of all votes cast at a duly held regular meeting or special meeting.

(d) “Affiliate” means a corporation, business trust, limited liability company, association, or an organization to which 1 or more of the following apply:

(i) A savings bank, directly or indirectly, owns or controls either a majority of its voting shares or more than 50% of the number of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions.

(ii) Control of the organization is held, directly or indirectly, through stock ownership or in any other manner, by the shareholders of a savings bank who own or control either a majority of the shares of that savings bank or more than 50% of the number of shares voted for the election of directors of that savings bank at the preceding election, or by trustees for the benefit of the shareholders of that savings bank, or by members of the savings bank if it is a mutual savings bank.

(iii) A majority of its directors, trustees, or other persons holding similar positions are directors of any 1 savings bank.

(iv) Owns or controls, directly or indirectly, either a majority of the shares of capital stock of any 1 savings bank or more than 50% of the number of shares voted for the election of directors of that savings bank at the preceding election, or controls in any manner the election of a majority of the directors of that savings bank, or for the benefit of whose shareholders all or substantially all the capital stock of that savings bank is held by trustees.

(e) “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, or a savings and loan association, building and loan association, or homestead association, that is organized under the laws of a state or the District of Columbia and whose deposits are insured by the federal deposit insurance corporation.

(f) “Bank” means a state banking corporation organized or reorganized under the provisions of the banking code of 1999, 1999 PA 276, MCL 487.11101 to 487.15101, or organized under a law of this state before March 1, 2000.

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(g) “Bank holding company” means a stock or mutual company as defined in the bank holding company act of 1956, chapter 240, 70 Stat. 133, or a company defined as a savings and loan holding company in the home owners’ loan act, chapter 64, 48 Stat. 128, that is not a savings bank, national banking association, or association.

(h) “Branch” means a place of business, other than the principal office of a savings bank, at which the savings bank transacts business that may be conducted at its principal office. Branch does not include a subsidiary, service entity, agency office, trust office, loan production office, place where only records are made, posted, or kept, place of business of a financial institution with which the savings bank has an agency relationship under section 401, or an automated teller machine if it is made available to 2 or more federal or state chartered financial institutions under a state statute which regulates electronic funds transfer facilities. The acceptance of deposits in furtherance of a school thrift or savings plan by an officer, employee, or agent of a savings bank at any school is not the establishment or operation of a branch. The receipt of deposits by a messenger service or the delivery by 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 savings bank.

(i) “Bureau” means the office of financial and insurance services in the department of consumer and industry services.

(j) “Capital” means the stated par value of issued and outstanding unimpaired common stock and the stated par value of issued and outstanding unimpaired preferred stock.

(k) “Commissioner” means the commissioner of the office of financial and insurance services.

(l) “Compliance review committee” means both of the following:

(i) One or more persons assigned by management or appointed by the board of directors or other governing body of a depository institution, or of a subsidiary of a depository institution, or of a service corporation or other service entity of a depository institution, for the purposes set forth in section 339.

(ii) Any other person to the extent the person acts in an investigatory capacity at the direction of a compliance review committee.

(m) “Compliance review documents” means documents prepared in connection with a review or evaluation conducted by or for a compliance review committee.

(n) “Consolidate”, “consolidated”, “consolidating”, and “consolidation” mean the consolidation or merger of 2 or more depository institutions.

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

(p) “Consolidated organization” means an organization that results from a consolidation of consolidating organizations.

(q) “Consolidating organizations” means any combination of banks, out-of-state banks, national banks, associations, savings banks, or state or federal credit unions that have consolidated or are in the process of consolidation as provided in section 701 or 702.

(r) “Depository institution” means a bank, out-of-state bank, national bank, association, savings bank, cooperative bank, industrial 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.

(s) “Director” means a director, trustee, or other person holding a similar position with respect to an organization whether incorporated or unincorporated. Director does not

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include an advisory director, honorary director, director emeritus, or similar person, unless the person is otherwise performing functions similar to those of a director.

(t) "Dividend reinvestment plan" means a plan that is offered solely to existing shareholders of the savings bank and which allows the shareholders to reinvest dividends received under section 316 in stock of the savings bank and that may allow additional cash amounts to be contributed by the shareholders participating in the reinvestment plan.

(u) "Federal reserve act" means the federal reserve act, chapter 6, 38 Stat. 251.

(v) "Fiduciary" means a trustee, executor, administrator, guardian, conservator, agent, receiver, trustee in bankruptcy, assignee for creditors, or any holder of a similar position of trust. It also describes the relationship of a director to a savings bank as stipulated in section 323.

(w) "Foreign country" means a country other than the United States and includes a colony, dependency, or possession of a country other than the United States.

(x) "Impairment" means a condition in which the value of the savings bank's assets is less than the aggregate amount of the savings bank's liabilities to creditors and depositors, less its capital, if the savings bank is a stock savings bank, or a condition in which the value of the savings bank's assets is less than the aggregate amount of the savings bank's liabilities to creditors and members, if the savings bank is a mutual savings bank.

(y) "Incorporator" means a person who signed the original articles of incorporation.

### **487.3103 Definitions; L to W. [M.S.A. 23.710(3103)]**

Sec. 103. As used in this act:

(a) "LLC member" means a person with ownership interest under the Michigan limited liability company act, 1993 PA 23, MCL 450.4101 to 450.5200.

(b) "Loan production office" means an office of the savings bank at which only activities related to money lending are conducted, which is not the principal office or a branch or an agency office or an office of an affiliated depository institution.

(c) "Member" means a person holding a savings account of a mutual savings bank.

(d) "Messenger service" means a service such as a courier service or an armored car service that picks up from or delivers to customers of 1 or more depository institutions or 1 or more affiliates of a depository institution cash, currency, checks, drafts, securities, or other items relating to transactions between or involving a depository institution or affiliate of a depository institution and those customers, or that transfers cash, currency, checks, drafts, securities, or other items or documents between depository institutions or affiliates of depository institutions. The messenger service may be owned and operated by 1 or more depository institutions or affiliates or by a third party.

(e) "Mobile branch" means a branch in which the location of the physical structure of the branch is moved from time to time.

(f) "Mutual savings bank" means a savings bank for which the articles of incorporation do not authorize the issuance of common or preferred stock.

(g) "National bank" means a bank chartered by the federal government under the national bank act, chapter 106, 13 Stat. 99.

(h) "Net income" means the remainder of all earnings from operations plus actual recoveries on loans and investments and other assets, after deducting from the total all operating expenses, actual losses, accrued dividends on preferred stock, if any, and all taxes.

(i) "Out-of-state bank" means a banking corporation or savings bank organized under the laws of another state, the District of Columbia, or a territory of the United States

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whose principal office is located in a state other than this state, the District of Columbia, a territory or a protectorate of the United States, and whose deposits are insured by the federal deposit insurance corporation.

(j) "Person" means an individual, corporation, limited liability company, governmental entity, partnership, limited liability partnership, or other legal entity.

(k) "Publication", "published", and "publish" mean publication in a newspaper printed in the English language and published and circulated in the county where the depository institution is located or, if there is no newspaper published and circulated in the county where the depository institution is located, in any newspaper having general circulation in the county.

(l) "Residential real estate" means improved real property that is used or intended to be used as a residence or residences and contains not more than 4 dwelling units.

(m) "Savings bank" means a state banking corporation organized or reorganized under this act.

(n) "Savings liability" or "deposit liability" means the aggregate amount of accounts of depositors, including interest accrued or credited to the accounts, less redemptions and withdrawals.

(o) "Service entity" means a stock corporation, mutual company, limited liability company, limited liability partnership, or limited partnership in which a savings bank has invested under section 410. Upon written approval of the commissioner, a service entity may be a general partnership.

(p) "Shareholder" means the registered owner of any share or shares of capital stock of a savings bank.

(q) "Stock savings bank" means a savings bank for which the articles of incorporation authorize the issuance of capital stock.

(r) "Subsidiary" means a corporation, mutual company, limited liability company, limited liability partnership, or limited partnership, the controlling interests of which are more than 50% owned by 1 or more federally insured depository institutions, and in which a savings bank has an ownership interest, membership interest, or other legally enforceable interest which has the indicia of ownership. Upon written approval of the commissioner, and subject to the ownership requirements set forth in this subsection, a subsidiary may be a general partnership.

(s) "Surplus" means the amount paid for issued and outstanding common and preferred stock in excess of the stated par value, plus any amount of transferred undivided profits, and any additional amounts paid in or contributed to increase total capital.

(t) "Total capital" means an amount equal to any capital, plus any surplus, undivided profits, and instruments of indebtedness authorized under section 310.

(u) "Trust office" means an office of a savings bank at which trust services are performed and at which deposits are not accepted, checks are not paid, and money is not lent.

(v) "Undivided profits" means the amount of retained earnings and any additional amounts held in capital reserve accounts of the savings bank.

(w) "Uniform commercial code" means the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102.

(x) "Value" means the present worth of all rights to future benefits arising from ownership.

(y) "Withdrawal value of a deposit account" means the amount invested in a deposit account, plus earnings, less lawful deductions.

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### **Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 90th Legislature are enacted into law:

- (a) House Bill No. 5908.
- (b) House Bill No. 5909.

This act is ordered to take immediate effect.

Approved January 10, 2001.

Filed with Secretary of State January 11, 2001.

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**Compiler's note:** House Bill No. 5908, referred to in enacting section 1, was filed with the Secretary of State January 11, 2001, and became P.A. 2000, No. 481, Imd. Eff. Jan. 11, 2001.

House Bill No. 5909, also referred to in enacting section 1, was filed with the Secretary of State January 11, 2001, and became P.A. 2000, No. 482, Imd. Eff. Jan. 11, 2001.

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