

# HOUSE BILL No. 4603

April 9, 1997, Introduced by Reps. Kaza, Rhead, Gernaat, Richner, Kukuk and Walberg and referred to the Committee on Commerce.

A bill to amend 1969 PA 319, entitled  
"Banking code of 1969,"  
by amending sections 171 and 231 (MCL 487.471 and 487.531), section 171 as amended by 1996 PA 405 and section 231 as amended by 1991 PA 12.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 171. (1) Upon written notice to the commissioner, a  
2 bank may establish and operate a branch or branches within any  
3 state, the District of Columbia, or a territory or protectorate  
4 of the United States unless the commissioner objects in writing  
5 within 60 days after receipt of the written notice from the  
6 bank. The commissioner may issue a written statement of intent  
7 not to object at any time before the expiration of the 60 days.

8       (2) The notice of intent to establish a mobile branch shall  
9 contain a statement by the applying bank that it intends to move

1 the location of the physical structure of the branch from time to  
2 time.

3 (3) ~~A~~ EXCEPT FOR A MOBILE BRANCH, A branch of a bank ~~—~~  
4 ~~except for a mobile branch,~~ shall not be moved from 1 location  
5 to another without 30 days advance written notice to the  
6 commissioner.

7 (4) Upon written notice to the commissioner, a bank may con-  
8 tract with 1 or more banks, out-of-state banks, national banks,  
9 associations, or savings banks to act as a branch to provide  
10 services to the customers of the contracting bank unless the com-  
11 missioner objects in writing within 60 days after receipt of the  
12 written notice from the bank. The commissioner may issue a writ-  
13 ten statement of intent not to object at any time prior to the  
14 expiration of the 60 days. This subsection shall not be con-  
15 strued to limit the powers granted to a bank under  
16 section 151(31).

17 (5) Upon written notice to the commissioner, 1 or more  
18 out-of-state banks, national banks, associations, or savings  
19 banks may contract with a bank to provide services to the custom-  
20 ers of the contracting out-of-state bank, national bank, associa-  
21 tion, or savings bank, unless the commissioner objects in writing  
22 within 60 days after receipt of the written notice. The commis-  
23 sioner may issue a written statement of intent not to object at  
24 any time before the expiration of the 60 days. This subsection  
25 shall not be construed to limit the powers granted to a bank  
26 under section 151(31).

1       (6) Subject to the requirements, limitations, and  
2 restrictions of subsections (1) to (3), a state agency or state  
3 foreign bank branch ~~established and operating pursuant to chap-~~  
4 ~~ter 3A~~ ORGANIZED UNDER THIS ACT may establish and operate addi-  
5 tional offices in the United States and its territories and  
6 protectorates.

7       (7) An out-of-state bank located in a state, the District of  
8 Columbia, or a territory or protectorate of the United States  
9 whose laws permit the establishment in that state, district, ter-  
10 ritory, or protectorate of a branch by a bank may establish and  
11 operate 1 or more branches in this state.

12       (8) AN OUT-OF-STATE BANK MAY APPLY TO ORGANIZE A BRANCH IN  
13 THIS STATE UNDER THIS ACT BY PROVIDING TO THE COMMISSIONER PROOF  
14 THAT ITS DEPOSITS ARE INSURED BY AN AGENCY OF THE UNITED STATES  
15 GOVERNMENT. IF THE COMMISSIONER DETERMINES AFTER RECEIPT OF THIS  
16 PROOF AND THE NOTICES REQUIRED UNDER SUBSECTIONS (9) AND (14),  
17 THAT THE OUT-OF-STATE BANK IS SAFE AND SOUND, THAT THE  
18 OUT-OF-STATE BANK IS SUBJECT TO REGULATION, AND THAT THERE EXISTS  
19 AN AGREEMENT FOR EXCHANGE OF SUPERVISORY INFORMATION BETWEEN THE  
20 BUREAU AND THE OUT-OF-STATE BANK'S REGULATOR, THE COMMISSIONER  
21 SHALL PROVIDE TO THE OUT-OF-STATE BANK A CERTIFICATE OF ORGANIZA-  
22 TION AND ELIGIBILITY TO ACCEPT DEPOSITS AND INVESTMENTS OF PUBLIC  
23 FUNDS OF THE STATE AND LOCAL UNITS OF GOVERNMENT.

24       (9) ~~-(8)-Each~~ AN out-of-state bank operating in this state  
25 shall designate and maintain an agent located in this state upon  
26 whom process for judicial and administrative matters may be  
27 served and shall provide written notice containing the name and

1 address of its agent to the commissioner before commencing  
2 operations in this state.

3       (10) ~~-(9)-Each~~ AN out-of-state bank operating in this state  
4 shall notify the commissioner in writing of any change in its  
5 designated agent or the agent's address within 10 days following  
6 the effective date of the change.

7       (11) ~~-(10)-~~ A foreign bank branch that has designated a home  
8 state other than Michigan may establish and operate 1 or more  
9 additional offices in this state.

10       (12) ~~-(11)-Each~~ A foreign bank operating in this state  
11 shall designate and maintain an agent located in this state upon  
12 whom process for judicial and administrative matters may be  
13 served and shall provide written notice containing the name and  
14 address of its agent to the commissioner before commencing opera-  
15 tions in this state.

16       (13) ~~-(12)-~~ A foreign bank operating in this state shall  
17 notify the commissioner in writing of any change in its desig-  
18 nated agent or the agent's address within 10 days following the  
19 effective date of the change.

20       (14) ~~-(13)-~~ Prior to commencing operations at a branch in  
21 this state, an out-of-state bank or national bank shall file with  
22 the commissioner the name of the bank, the street address and  
23 mailing address, if different, of the bank's principal office,  
24 the street address of the branch office, and the date when the  
25 branch is to commence operations in this state.

26       (15) ~~-(14)-Each~~ AN out-of-state bank and national bank  
27 operating in this state shall designate and maintain an agent

1 located in this state upon whom process for judicial and  
2 administrative matters may be served and shall provide written  
3 notice containing the name and address of its agent to the com-  
4 missioner before commencing operations in this state.

5 (16) ~~-(15)-~~ An out-of-state bank or national bank operating  
6 in this state shall notify the commissioner in writing of any  
7 change in its designated agent or the agent's address within 10  
8 days following the effective date of the change.

9 Sec. 231. (1) Except as otherwise provided in this section,  
10 a bank or bank officer shall not give preference to a depositor  
11 or creditor by pledging the assets of the bank as collateral  
12 security or otherwise.

13 (2) A bank, with the written consent of the commissioner,  
14 may pledge its assets in an amount not in excess of 10% of its  
15 total deposits for the purpose of securing the following:

16 (a) Funds belonging to the United States or belonging to or  
17 being administered by an officer, instrumentality, or agent of  
18 the United States, funds of estates being administered by a fed-  
19 eral court under a federal bankruptcy law, and other funds when  
20 required or permitted to do so under the laws of the United  
21 States or an order of a federal court.

22 (b) Surplus funds of the state held by the state treasurer.

23 (c) Funds of the Mackinac bridge authority, which is  
24 declared to be a political subdivision of this state, under ~~Act~~  
25 ~~No. 21 of the Public Acts of the Extra Session of 1950, being~~  
26 ~~sections 254.301 to 254.304 of the Michigan Compiled Laws 1950~~  
27 (EX SESS) PA 21, MCL 254.301 TO 254.304.

1 (d) Funds of the international bridge authority, which is  
2 declared to be a political subdivision of this state, under ~~Act~~  
3 ~~No. 99 of the Public Acts of 1954, as amended, being sections~~  
4 ~~254.221 to 254.240 of the Michigan Compiled Laws~~ 1954 PA 99, MCL  
5 254.221 TO 254.240.

6 (e) Funds on deposit under ~~Act No. 205 of the Public Acts~~  
7 ~~of 1941, as amended, being sections 252.51 to 252.64 of the~~  
8 ~~Michigan Compiled Laws~~ 1941 PA 205, MCL 252.51 TO 252.64, pro-  
9 viding for limited access highways.

10 (f) Funds on deposit to the credit of the Michigan employ-  
11 ment security commission.

12 (g) Funds of the Michigan state housing development author-  
13 ity constituting proceeds of the sale of the authority's notes  
14 and bonds and repayments of those notes and bonds, under the  
15 state housing development authority act of 1966, ~~Act No. 346 of~~  
16 ~~the Public Acts of 1966, as amended, being sections 125.1401 to~~  
17 ~~125.1499c of the Michigan Compiled Laws~~ 1966 PA 346, MCL  
18 125.1401 TO 125.1499C.

19 (H) ~~-(3) A bank shall not pledge its assets for the purpose~~  
20 ~~of securing funds~~ FUNDS belonging to any other political subdi-  
21 vision of this state.

22 (3) ~~-(4)~~ The requirements, restrictions, and limitations  
23 imposed by this section shall not apply to the pledging of an  
24 obligation of the United States, direct or fully guaranteed, or  
25 both, for the purpose of securing a deposit of the United States  
26 when the deposit is established coincidentally with the purchase

1 of an obligation of the United States by or through an  
2 institution.

3 (4) ~~—(5)—~~ A bank may pledge its assets to secure liabilities  
4 of the following types:

5 (a) In the case of member banks, liabilities incurred under  
6 the federal reserve act, chapter 6, 38 Stat. 251. In the case of  
7 nonmember banks, liabilities incurred through borrowing under the  
8 same conditions as are imposed upon members of the federal  
9 reserve system by the federal reserve act, chapter 6, 38  
10 Stat. 251.

11 (b) In the case of federal home loan bank members, liabili-  
12 ties incurred under the federal home loan bank act, chapter 522,  
13 47 Stat. 725.

14 (c) Liabilities incurred under former section 202 of title  
15 II of the federal farm loan act, chapter 245, 39 Stat. 360.

16 (d) Liabilities incurred on account of a loan made with the  
17 express approval of the commissioner under section 197(c).

18 (e) Liabilities incurred on account of borrowings from 1  
19 business day to the next from a bank or national banking associa-  
20 tion of excess reserve balances from time to time maintained by  
21 the bank or national banking association under section 207, or  
22 section 19 of the federal reserve act, chapter 6, 38 Stat. 251.

23 (f) Liabilities incurred on account of securities sold under  
24 a repurchase agreement.