

# HOUSE BILL No. 6040

May 9, 2002, Introduced by Reps. Rich Brown, Adamini, Neumann, Anderson, Bovin, Lipsey, Sheltroun, Plakas, Gosselin, Van Woerkom, Bogardus, George, Gielegem, Lockwood and Lemmons and referred to the Committee on Commerce.

A bill to amend 1855 PA 105, entitled

"An act to regulate the disposition of the surplus funds in the state treasury; to provide for the deposit of surplus funds in certain financial institutions; to lend surplus funds pursuant to loan agreements secured by certain commercial, agricultural, or industrial real and personal property; to authorize the loan of surplus funds to certain municipalities; to authorize the participation in certain loan programs; to authorize an appropriation; and to prescribe the duties of certain state agencies,"

(MCL 21.141 to 21.147) by adding section 2f.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           SEC. 2F. (1) THE STATE TREASURER MAY INVEST SURPLUS FUNDS  
2 UNDER THE STATE TREASURER'S CONTROL IN CERTIFICATES OF DEPOSIT OR  
3 OTHER INSTRUMENTS OF A FINANCIAL INSTITUTION QUALIFIED UNDER THIS  
4 ACT TO RECEIVE DEPOSITS OR INVESTMENTS OF SURPLUS FUNDS FOR THE  
5 PURPOSE OF FACILITATING TOURISM LOANS. THE STATE TREASURER SHALL  
6 ENDEAVOR TO MAKE INVESTMENTS UNDER THIS SUBSECTION IN FINANCIAL  
7 INSTITUTIONS SO THAT TOURISM LOANS WILL BE CONVENIENTLY AVAILABLE

1 IN ALL GEOGRAPHIC REGIONS IN THIS STATE. THE STATE TREASURER MAY  
2 ENTER INTO AN INVESTMENT AGREEMENT WITH A FINANCIAL INSTITUTION  
3 TO PROVIDE FOR THE INVESTMENT UNDER THIS SUBSECTION. THE INVEST-  
4 MENT AGREEMENT SHALL CONTAIN ALL OF THE FOLLOWING:

5 (A) THE TERM OF THE INVESTMENT, WHICH SHALL BE NOT MORE THAN  
6 10 YEARS.

7 (B) A REQUIREMENT THAT THE INTEREST ACCRUING ON THE INVEST-  
8 MENT SHALL NOT BE MORE THAN THE INTEREST EARNED BY THE FINANCIAL  
9 INSTITUTION ON TOURISM LOANS MADE AFTER THE DATE OF THE  
10 INVESTMENT.

11 (C) A REQUIREMENT THAT THE FINANCIAL INSTITUTION SHALL PRO-  
12 VIDE GOOD AND AMPLE SECURITY AS THE STATE TREASURER REQUIRES AND  
13 SHALL IDENTIFY THE TOURISM LOANS AND THE TERMS AND CONDITIONS OF  
14 THOSE LOANS THAT ARE MADE AFTER THE DATE OF THE INVESTMENT THAT  
15 ARE ATTRIBUTABLE TO THAT INVESTMENT, TOGETHER WITH OTHER INFORMA-  
16 TION REQUIRED UNDER THIS ACT.

17 (D) A REQUIREMENT THAT A TOURISM LOAN MADE BY THE FINANCIAL  
18 INSTITUTION THAT IS ATTRIBUTABLE TO THE INVESTMENT SHALL BE  
19 ISSUED AT A RATE OR RATES OF INTEREST THAT ARE ESTABLISHED IN THE  
20 INVESTMENT AGREEMENT.

21 (E) A REQUIREMENT THAT A TOURISM LOAN MADE BY THE FINANCIAL  
22 INSTITUTION THAT IS ATTRIBUTABLE TO THE INVESTMENT SHALL BE MADE  
23 NOT LATER THAN 3 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
24 ACT THAT ADDED THIS SECTION.

25 (F) A REQUIREMENT THAT A TOURISM LOAN MADE BY THE FINANCIAL  
26 INSTITUTION THAT IS ATTRIBUTABLE TO THE INVESTMENT SHALL BE  
27 ISSUED FOR A LOAN REPAYMENT PERIOD OF NOT MORE THAN 7 YEARS.

1 (G) A REQUIREMENT THAT A TOURISM LOAN MADE BY THE FINANCIAL  
2 INSTITUTION THAT IS ATTRIBUTABLE TO THE INVESTMENT SHALL NOT  
3 EXCEED \$10,000.00.

4 (H) A REQUIREMENT THAT A TOURISM LOAN MADE BY THE FINANCIAL  
5 INSTITUTION THAT IS ATTRIBUTABLE TO THE INVESTMENT SHALL NOT BE  
6 RELEASED BY THE FINANCIAL INSTITUTION UNLESS THE LOAN APPLICANT  
7 HAS CERTIFIED THAT IT IS AN ELIGIBLE BORROWER.

8 (I) A REQUIREMENT THAT, TO THE EXTENT THE FINANCIAL INSTITU-  
9 TION HAS NOT MADE TOURISM LOANS IN AN AMOUNT AT LEAST EQUAL TO  
10 THE AMOUNT OF THE INVESTMENT WITHIN 90 DAYS AFTER THE INVESTMENT,  
11 THE RATE OF INTEREST PAYABLE ON THAT PORTION OF THE OUTSTANDING  
12 INVESTMENT SHALL BE INCREASED TO A RATE OF INTEREST PROVIDED IN  
13 THE INVESTMENT AGREEMENT, WITH THE INCREASE IN THE RATE OF INTER-  
14 EST APPLIED RETROACTIVELY TO THE DATE ON WHICH THE STATE TREA-  
15 SURER MADE THE INVESTMENT.

16 (J) INCENTIVES FOR THE EARLY REPAYMENT OF THE INVESTMENT AND  
17 FOR THE ACCELERATION OF PAYMENTS IN THE EVENT OF A STATE CASH  
18 SHORTFALL AS PRESCRIBED BY THE INVESTMENT AGREEMENT, IF REQUIRED  
19 BY THE STATE TREASURER.

20 (K) OTHER TERMS AS PRESCRIBED BY THE STATE TREASURER.

21 (2) AN INVESTMENT MADE UNDER THIS SECTION IS FOUND AND  
22 DECLARED TO BE FOR A VALID PUBLIC PURPOSE.

23 (3) THE ATTORNEY GENERAL SHALL APPROVE DOCUMENTATION FOR AN  
24 INVESTMENT UNDER THIS SECTION AS TO LEGAL FORM.

25 (4) THE AGGREGATE AMOUNT OF INVESTMENTS MADE UNDER THIS SEC-  
26 TION SHALL NOT EXCEED \$3,000,000.00.

1           (5) UPON THE DETERMINATION BY THE DIRECTOR OF THE DEPARTMENT  
2 OF MANAGEMENT AND BUDGET THAT THE NEED TO FACILITATE TOURISM  
3 LOANS HAS SIGNIFICANTLY DIMINISHED BASED ON CHANGES IN THE ECON-  
4 OMY OF THIS STATE, THE STATE TREASURER MAY TAKE ACTIONS NECESSARY  
5 TO ENSURE THAT NO NEW TOURISM LOANS THAT ARE ATTRIBUTABLE TO AN  
6 INVESTMENT UNDER THIS SECTION ARE MADE. A DETERMINATION UNDER  
7 THIS SUBSECTION SHALL NOT AFFECT EXISTING TOURISM LOANS THAT ARE  
8 ATTRIBUTABLE TO AN INVESTMENT UNDER THIS SECTION.

9           (6) EARNINGS FROM AN INVESTMENT MADE UNDER THIS SECTION THAT  
10 ARE IN EXCESS OF THE AVERAGE RATE OF INTEREST EARNED DURING THE  
11 SAME PERIOD ON OTHER SURPLUS FUNDS, OTHER THAN SURPLUS FUNDS  
12 INVESTED UNDER SECTION 1, SHALL BE CREDITED TO THE GENERAL FUND  
13 OF THIS STATE. IF INTEREST FROM AN INVESTMENT MADE UNDER THIS  
14 SECTION IS BELOW THE AVERAGE RATE OF INTEREST EARNED DURING THE  
15 SAME PERIOD ON OTHER SURPLUS FUNDS, OTHER THAN SURPLUS FUNDS  
16 INVESTED UNDER SECTION 1, THE GENERAL FUND SHALL BE REDUCED BY  
17 THE AMOUNT OF THE DEFICIENCY ON AN AMORTIZED BASIS OVER THE  
18 REMAINING TERM OF THE INVESTMENT. A LOSS OF PRINCIPAL FROM AN  
19 INVESTMENT MADE UNDER THIS SECTION SHALL REDUCE THE EARNINGS OF  
20 THE GENERAL FUND BY THE AMOUNT OF THAT LOSS ON AN AMORTIZED BASIS  
21 OVER THE REMAINING TERM OF THE INVESTMENT.

22           (7) THE STATE TREASURER MAY TAKE ANY NECESSARY ACTION TO  
23 ENSURE THE SUCCESSFUL OPERATION OF THIS SECTION, INCLUDING MAKING  
24 INVESTMENTS WITH FINANCIAL INSTITUTIONS TO COVER THE ADMINISTRA-  
25 TIVE AND RISK-RELATED COSTS ASSOCIATED WITH A TOURISM LOAN.

26           (8) ANNUALLY, EACH FINANCIAL INSTITUTION IN WHICH THE STATE  
27 TREASURER HAS MADE AN INVESTMENT UNDER THIS SECTION SHALL FILE AN

1 AFFIDAVIT, SIGNED BY A SENIOR EXECUTIVE OFFICER OF THE FINANCIAL  
2 INSTITUTION, STATING THAT THE FINANCIAL INSTITUTION IS IN COMPLI-  
3 ANCE WITH THE TERMS OF THE INVESTMENT AGREEMENT.

4 (9) THE STATE TREASURER SHALL ANNUALLY PREPARE AND SUBMIT A  
5 REPORT TO THE LEGISLATURE REGARDING THE DISPOSITION OF MONEY  
6 INVESTED FOR PURPOSES OF FACILITATING TOURISM LOANS UNDER THIS  
7 SECTION. THE REPORT SHALL INCLUDE ALL OF THE FOLLOWING  
8 INFORMATION:

9 (A) THE TOTAL NUMBER OF ELIGIBLE BORROWERS WHO HAVE RECEIVED  
10 A TOURISM LOAN.

11 (B) BY COUNTY, THE TOTAL NUMBER AND AMOUNTS OF THE TOURISM  
12 LOANS THAT WERE ISSUED.

13 (C) THE NAME OF EACH FINANCIAL INSTITUTION PARTICIPATING IN  
14 THE TOURISM LOAN PROGRAM AND THE AMOUNT INVESTED IN EACH FINAN-  
15 CIAL INSTITUTION FOR PURPOSES OF THE LOAN PROGRAM.

16 (10) AS USED IN THIS SECTION:

17 (A) "ELIGIBLE BORROWER" MEANS A PERSON WHO THE STATE TREA-  
18 SURER DETERMINES IS ENGAGED IN A BUSINESS DESCRIBED UNDER CODE  
19 SECTIONS 72111, 72112, 721191, 721199, AND 721211 OF SUBSECTOR  
20 721--ACCOMMODATION OF THE NORTH AMERICAN INDUSTRY CLASSIFICATION  
21 SYSTEM, UNITED STATES 1997, PUBLISHED BY THE OFFICE OF MANAGEMENT  
22 AND BUDGET IN 13 C.F.R. 121.201, EMPLOYS NOT MORE THAN 20  
23 FULL-TIME EMPLOYEES, AND HAS CURRENT GROSS ANNUAL SALES OF LESS  
24 THAN \$1,000,000.00.

25 (B) "ELIGIBLE COST" MEANS THE COSTS INCURRED BY AN ELIGIBLE  
26 BORROWER IN MAINTAINING AND OPERATING A BUSINESS SERVICING THE  
27 TOURISM INDUSTRY.

1           (C) "SURPLUS FUNDS" MEANS, AT ANY GIVEN DATE, THE EXCESS OF  
2 CASH AND OTHER RECOGNIZED ASSETS THAT ARE EXPECTED TO BE RESOLVED  
3 INTO CASH OR ITS EQUIVALENT IN THE NATURAL COURSE OF EVENTS AND  
4 WITH A REASONABLE CERTAINTY, OVER THE LIABILITIES AND NECESSARY  
5 RESERVES AT THE SAME DATE.

6           (D) "TOURISM LOAN" MEANS A LOAN TO AN ELIGIBLE BORROWER TO  
7 FINANCE AN ELIGIBLE COST.