

HOUSE BILL No. 6672

November 29, 2006, Introduced by Rep. Kolb 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 2g.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2G. (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 QUALIFIED BANKING DEVELOPMENT LOANS. THE
6 STATE TREASURER SHALL ENDEAVOR TO MAKE INVESTMENTS UNDER THIS

1 SUBSECTION IN FINANCIAL INSTITUTIONS SUCH THAT QUALIFIED BANKING
2 DEVELOPMENT LOANS WILL BE CONVENIENTLY AVAILABLE IN ALL GEOGRAPHIC
3 REGIONS IN THIS STATE. THE STATE TREASURER MAY ENTER INTO AN
4 INVESTMENT AGREEMENT WITH A FINANCIAL INSTITUTION TO PROVIDE FOR
5 THE INVESTMENT UNDER THIS SUBSECTION. THE INVESTMENT AGREEMENT
6 SHALL CONTAIN ALL OF THE FOLLOWING:

7 (A) THE TERM OF THE INVESTMENT, WHICH SHALL BE NOT MORE THAN
8 15 YEARS.

9 (B) A REQUIREMENT THAT THE INTEREST ACCRUING ON THE INVESTMENT
10 SHALL NOT BE MORE THAN THE INTEREST EARNED BY THE FINANCIAL
11 INSTITUTION ON QUALIFIED BANKING DEVELOPMENT LOANS MADE AFTER THE
12 DATE OF THE INVESTMENT.

13 (C) A REQUIREMENT THAT THE FINANCIAL INSTITUTION SHALL PROVIDE
14 GOOD AND AMPLE SECURITY AS THE STATE TREASURER REQUIRES AND SHALL
15 IDENTIFY THE QUALIFIED BANKING DEVELOPMENT LOANS AND THE TERMS AND
16 CONDITIONS OF THOSE LOANS THAT ARE MADE AFTER THE DATE OF THE
17 INVESTMENT THAT ARE ATTRIBUTABLE TO THAT INVESTMENT TOGETHER WITH
18 OTHER INFORMATION REQUIRED BY THIS ACT.

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

23 (E) A REQUIREMENT THAT A QUALIFIED BANKING DEVELOPMENT LOAN
24 MADE BY THE FINANCIAL INSTITUTION THAT IS ATTRIBUTABLE TO THE
25 INVESTMENT SHALL BE MADE NOT LATER THAN 5 YEARS AFTER THE EFFECTIVE
26 DATE OF THIS SECTION.

27 (F) A REQUIREMENT THAT A QUALIFIED BANKING DEVELOPMENT LOAN

1 MADE BY THE FINANCIAL INSTITUTION THAT IS ATTRIBUTABLE TO THE
2 INVESTMENT SHALL BE ISSUED FOR A LOAN REPAYMENT PERIOD OF NOT MORE
3 THAN 15 YEARS.

4 (G) INCENTIVES FOR THE EARLY REPAYMENT OF THE INVESTMENT AND
5 FOR THE ACCELERATION OF PAYMENTS IN THE EVENT OF A STATE CASH
6 SHORTFALL AS PRESCRIBED BY THE INVESTMENT AGREEMENT, IF REQUIRED BY
7 THE STATE TREASURER.

8 (H) OTHER TERMS AS PRESCRIBED BY THE STATE TREASURER.

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

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

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

26 (5) THE STATE TREASURER MAY TAKE ANY NECESSARY ACTION TO
27 ENSURE THE SUCCESSFUL OPERATION OF THIS SECTION, INCLUDING MAKING

1 INVESTMENTS WITH FINANCIAL INSTITUTIONS TO COVER THE ADMINISTRATIVE
2 AND RISK-RELATED COSTS ASSOCIATED WITH A QUALIFIED BANKING
3 DEVELOPMENT LOAN.

4 (6) ANNUALLY, EACH FINANCIAL INSTITUTION IN WHICH THE STATE
5 TREASURER HAS MADE AN INVESTMENT UNDER THIS SECTION SHALL FILE AN
6 AFFIDAVIT, SIGNED BY A SENIOR EXECUTIVE OFFICER OF THE FINANCIAL
7 INSTITUTION, STATING THAT THE FINANCIAL INSTITUTION IS IN
8 COMPLIANCE WITH THE TERMS OF THE INVESTMENT AGREEMENT.

9 (7) THE STATE TREASURER SHALL ANNUALLY PREPARE AND SUBMIT A
10 REPORT TO THE LEGISLATURE REGARDING THE DISPOSITION OF MONEY
11 INVESTED FOR PURPOSES OF FACILITATING QUALIFIED BANKING DEVELOPMENT
12 LOANS UNDER THIS SECTION. THE REPORT SHALL INCLUDE ALL OF THE
13 FOLLOWING INFORMATION:

14 (A) THE TOTAL NUMBER OF FINANCIAL INSTITUTIONS LOCATED OR
15 OPERATING IN A BANKING DEVELOPMENT DISTRICT WHO HAVE RECEIVED A
16 QUALIFIED BANKING DEVELOPMENT LOAN.

17 (B) BY COUNTY, THE TOTAL NUMBER AND AMOUNTS OF THE QUALIFIED
18 BANKING DEVELOPMENT LOANS THAT WERE ISSUED.

19 (C) THE NAME OF EACH FINANCIAL INSTITUTION PARTICIPATING IN
20 THE QUALIFIED BANKING DEVELOPMENT LOAN PROGRAM AND THE AMOUNT
21 INVESTED IN EACH FINANCIAL INSTITUTION FOR PURPOSES OF THE LOAN
22 PROGRAM.

23 (8) AS USED IN THIS SECTION:

24 (A) "BANKING DEVELOPMENT DISTRICT" MEANS A BANKING DEVELOPMENT
25 DISTRICT CREATED UNDER THE BANKING DEVELOPMENT DISTRICT AUTHORITY
26 ACT.

27 (B) "QUALIFIED BANKING DEVELOPMENT LOAN" MEANS A LOAN FROM A

1 FINANCIAL INSTITUTION OPERATING WITHIN A BANKING DEVELOPMENT
2 DISTRICT TO AN INDIVIDUAL WHO RESIDES IN OR A BUSINESS OPERATING IN
3 A BANKING DEVELOPMENT DISTRICT THAT IS USED FOR JOB CREATION,
4 HOUSING, OR ECONOMIC DEVELOPMENT INSIDE THE BANKING DEVELOPMENT
5 DISTRICT.

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