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SAVINGS BANK ACT AMENDMENTS

House Bill 5907 (Substitute H-1)
Sponsor: Rep. Paul Wojno

House Bill 5908 (Substitute H-1)
Sponsor: Rep. Clark Bisbee

House Bill 5909 (Substitute H-1)
Sponsor: Rep. Alan Sanborn

**Committee: Insurance and Financial
Services**
First Analysis (10-4-00)

THE APPARENT PROBLEM:

The Savings Bank Act was enacted in 1996 (as Public Act 354) to allow for the state chartering of savings banks. Savings institutions have operated in Michigan at least since 1887 when the state's first laws governing savings and loan associations were enacted. Traditionally these institutions have been associated with mortgage lending. The 1996 act provided savings banks with many of the same powers held by commercial banks under the Banking Code of 1969, but required that at least half of a saving bank's assets be related to home lending. In 1999, the legislature modernized and reorganized the 30-year-old Banking Code, creating the Banking Code of 1999. The stated aim of the new code governing commercial banks was to make the law reflect the many changes in the industry and in the regulation of the industry, and in particular, to let financial institutions adapt to new technologies and to provide greater flexibility in regulation and banking operations. Some of the updated provisions in the new Banking Code should also be placed in the Savings Bank Act in order to maintain parity between the two acts and the two kinds of financial institutions. At the same time, say industry spokespersons, state regulators have made a number of interpretative changes in applying the act regulating savings banks and these interpretations, on such things as employee stock options and staggered elections for directors, need to be codified.

THE CONTENT OF THE BILLS:

Each of the bills would amend the Savings Bank Act (MCL 482.3102 et al.) to make a series of amendments, most of which correspond to provisions found in the Banking Code of 1999 (which took effect on March 1,

2000). They also would in several places eliminate references to the Financial Institutions Bureau (FIB) and replace them with references to the Office of Financial and Industry Services (OFIS) to reflect the reorganization of the state regulatory agency.

House Bill 5907 would place into the act new or revised definitions of "affiliate", "bank", "branch", "dividend reinvestment plan", "LLC member", "net income", "trust office", and "Uniform Commercial Code" that are the same as, or similar to, the definitions of those terms in Section 1201 of the Banking Code of 1999.

House Bill 5908 would provide for examinations of savings banks every 18 months by the commissioner of the Office of Financial and Insurance Services (as found in Section 2202 of the Banking Code); and would put into the act provisions regarding supervisory fees, bureau confidentiality, and applications for commissioner approval of various activities that are similar to those found in the new Banking Code. Currently, the commissioner establishes annual fees, and the act provides that the fee cannot be less than 4 cents or more than 25 cents for each \$1,000 of total assets of the savings bank. The bill would eliminate the minimum fee based on assets but maintain the maximum. It would also retain the provision that sets the minimum fee for a savings bank at \$1,000. (This is consistent with Section 2203 of the Banking Code.)

House Bill 5909 would make a large number of amendments to the Savings Bank Act, in most cases making provisions in that act similar to provisions in the new Banking Code. A number of provisions would

allow the commissioner to expand the powers of a savings bank by order or declaratory ruling. The bill's sections, the corresponding sections of the Banking Code, and the general subject of the sections are presented below in brief.

Section 303 corresponds to Section 3103 of the Banking Code. It would allow for a number of depository institutions to organize a special bank (a "banker's bank") exclusively to serve the institutions and would allow depository institutions to organize a bank to engage exclusively in providing trust services and other services.

Section 307 corresponds to Section 3108 of the Banking Code. It would eliminate current capital requirements for the formation of a stock savings bank and instead require that a stock savings bank "have capital in an amount as the commissioner considers adequate". Surplus requirements for the commencement of business would remain the same.

Section 313 corresponds to Section 3803 of the Banking Code and would revise provisions regarding the issuance of bank stock.

Section 314 corresponds to Section 3804 of the Banking Code and would address increases in capital stock by an institution and the increasing of capital stock in order to provide stock options to employees or directors. It is a rewriting of similar provisions in the current act (reportedly to codify interpretations of the act by state regulators.)

Section 316 corresponds to Section 3806 of the Banking Code on the subject of the payment of dividends and dividend reinvestment plans.

Section 321 corresponds to Section 3603 of the Banking Code and would spell out the circumstances under which a savings bank must provide the names and addresses of shareholders to requesting shareholders or groups of shareholders.

Section 322 corresponds to Section 3501 of the Banking Code. It contains provisions regarding the election of directors and provides for staggered terms. It also would allow a board of directors to meet either in person or electronically.

Section 324 corresponds to Section 3503 of the Banking Code and addresses dealings between a savings bank and an officer, director, manager, owner, employee, or agent of the savings bank (i.e., sales to or

purchases from an officer, director, etc. by a savings bank).

Section 325 corresponds to Sections 3504 and 3505 of the Banking Code on the subject of the removal of directors and on the liability of directors and officers for wrongdoing.

Section 326 corresponds to Section 3904 of the Banking Code and addresses the indemnification of directors, officers, employees, and agents.

Section 328 corresponds to Section 3906 of the Banking Code and allows in specified circumstances the reimbursement of expenses incurred by a director, officer, employee, or agent who was party to an action, suit, or proceeding (or who was threatened to be made a party) in advance of the final disposition of the action, suit, or proceeding.

Section 330a corresponds to Section 3909 of the Banking Code to specify that directors, officers, employees, and agents continue in their roles in a consolidated bank. (A consolidated bank is the entity that results when several banks consolidate. The participating banks are known as consolidating banks.)

Section 334 corresponds to Section 3302 of the Banking Code and would shorten the time period for voluntary liquidations.

Section 336 corresponds to Section 4106 of the Banking Code and addresses the sale of all of a bank's assets.

Section 340 corresponds to Section 2201 of the Banking Code and specifies that the commissioner of the Office of Financial and Insurance Services can promulgate rules under the Administrative Procedures Act to implement and enforce the act.

Section 412 corresponds to Section 3713 of the Banking Code on the subject of the relocation of a savings bank's principal offices.

Section 417 corresponds to Sections 3711 and 3712 of the Banking Code and would alter the procedures by which savings banks can establish branches, including reducing the time for the commissioner to object to branching proposals from 60 days to 30 days.

Section 501 corresponds to Sections 3807 and 3808 of the Banking Code on the obligation to meet deficiencies and restore capital at impaired banks.

Section 508 corresponds to Section 4108 of the Banking Code regarding the pledging of assets for the purpose of securing certain specified funds, including funds belonging to any federally recognized Indian tribe and federal grants and loans.

Section 703 corresponds to Section 3703 of the Banking Code on the liability of a consolidating organization.

Section 705 corresponds to Section 3705 of the Banking Code and allows consolidated organizations to operate branches and principal offices of consolidating organizations without notice to the state.

Sections 708 through 713 correspond to Sections 3708 to 3710 of the Banking Code on the subject of the conversion of institutions; for example, the conversion of a savings bank to a stock association or the conversion of a federal savings bank into a state chartered savings bank. The bill generally would permit the conversions to take place with a majority vote of members voting (rather than of all members). However, a two-thirds vote of members voting would be required for converting a mutual savings bank, whether state or federally chartered, to a stock savings bank.

Section 804 corresponds to Section 1107 of the Banking Code and would specify that all personal property of savings banks is exempt from taxation (as provided in the General Property Tax Act) and that all mortgages or other securities are exempt from all municipal and other taxes under state law.

BACKGROUND INFORMATION:

The Banking Code of 1999 was created by Senate Bill 745 of this session. See the House Legislative Analysis Section analysis dated 11-30-99 and the Senate Fiscal Agency analysis dated 1-18-00 for more information.

FISCAL IMPLICATIONS:

The House Fiscal Agency says that House Bills 5907 and 5909 would have no fiscal impact on the state or on local units of government. House Bill 5908, the HFA points out, would eliminate a floor of 4 cents per \$1,000 of total assets imposed in current law on annual supervisory fees charged to savings banks (although a separate provision providing for a minimum fee of \$1,000 would be retained). The bill could reduce future state revenue from supervisory fees if OFIS amended the current fee schedule to reduce fees below

the floor, as allowed in the bill. (HFA fiscal note dated 10-4-00)

ARGUMENTS:

For:

Savings bank representatives say that the bills would “strengthen the savings bank charter which is dedicated to ensuring an adequate supply of mortgage capital for Michigan families and credit to small businesses and consumers”, and would also “maintain the parity between the . . . Banking Code and the Savings Bank Act, and help provide a level playing field in the financial institutions marketplace.” The Office of Financial and Insurance Services, the state regulator, says that the bills would “allow savings banks to make use of new technology in conducting their business, reduce regulatory burdens, and provide greater flexibility to accommodate to changing conditions.” Many of the provisions simply rewrite existing provisions to make them parallel to provisions in the newly created Banking Code of 1999, which regulates commercial banks. The requirement that a majority of a savings banks assets be related to home lending remains in the act.

POSITIONS:

The Office of Financial and Insurance Services (within the Department of Consumer and Industry Services) supports the bills. (10-2-00)

The Michigan League of Community Banks supports the bills. (10-4-00)

The Michigan Bankers Association supports the bills. (10-4-00)

The Michigan Credit Union League has indicated support for the bills. (10-4-00)

Analyst: C. Couch

#This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.