

SUBSTITUTE FOR
HOUSE BILL NO. 5908

A bill to amend 1996 PA 354, entitled
"Savings bank act,"
by amending sections 209, 210, 213, and 214 (MCL 487.3209,
487.3210, 487.3213, and 487.3214).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 209. (1) A savings bank together with its subsidi-
2 aries, service entities, and entities the controlling interests
3 of which are more than 50% owned by subsidiaries or service enti-
4 ties or association service corporations, are subject to examina-
5 tion of the commissioner, with or without prior notice, ~~1 or~~
6 ~~more times in each calendar year~~ NOT LESS FREQUENTLY THAN ONCE
7 EVERY 18 MONTHS concerning the conditions and affairs of the sav-
8 ings bank. The commissioner shall also examine a savings bank
9 under the commissioner's jurisdiction when requested by its board
10 of directors. In connection with an examination, the

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1 commissioner, or the commissioner's authorized agent, may examine
2 on oath a director, officer, agent, employee, or shareholder of a
3 savings bank concerning the affairs and business of the savings
4 bank. The commissioner shall ascertain whether the savings bank
5 transacts its business in the manner prescribed by law and the
6 rules promulgated pursuant to law. The commissioner, or the
7 commissioner's authorized agent, may make an examination of an
8 affiliate, subsidiary, or service entity necessary to disclose
9 fully the relationship between a savings bank and the affiliate,
10 subsidiary, or service entity and the effect of the relationship
11 upon the savings bank.

12 (2) The commissioner may examine the branch or branches
13 located in this state of an out-of-state bank under the federal
14 deposit insurance act, chapter 967, 64 Stat. 873.

15 (3) In fulfilling the requirements of subsections (1) and
16 (2), the commissioner may use an examination made under the fed-
17 eral deposit insurance act, or the law of another state governing
18 the activities of out-of-state banks in that state. The commis-
19 sioner may require the savings bank to furnish a copy of any
20 report required by a federal or state bank regulatory agency.

21 (4) An examination required by this section shall include
22 the fiduciary activities of the savings bank.

23 (5) The commissioner may contract with other savings bank
24 regulatory agencies to assist in the conduct of examinations of
25 savings banks with 1 or more branches located in other states and
26 in examination of out-of-state banks with 1 or more branches
27 located in this state.

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1 Sec. 210. ~~(1) The commissioner shall periodically~~
2 ~~establish a schedule of annual supervisory fees to be paid by~~
3 ~~savings banks. Annual supervisory fees shall be based on the~~
4 ~~estimated cost of supervision of savings banks.~~

5 ~~(2) Each savings bank shall pay an annual supervisory fee~~
6 ~~each calendar year. The fee shall be not less than 4 cents or~~
7 ~~more than 25 cents for each \$1,000.00 of total assets of the sav-~~
8 ~~ings bank as reported by the savings bank on its report of condi-~~
9 ~~tion as of December 31 of the previous year. The annual supervi-~~
10 ~~sory fee for a savings bank shall not be less than \$1,000.00.~~

11 (1) THE COMMISSIONER SHALL PERIODICALLY ESTABLISH A SCHEDULE
12 OF SUPERVISORY FEES TO BE PAID BY SAVINGS BANKS. EXCEPT FOR A
13 MINIMUM FEE CONSISTENT WITH SUBSECTION (2), THE FEE SHALL NOT BE
14 MORE THAN 25 CENTS FOR EACH \$1,000.00 OF TOTAL ASSETS OF THE SAV-
15 INGS BANK AS REPORTED BY THE SAVINGS BANK ON ITS REPORT OF CONDI-
16 TION AS OF DECEMBER 31 OF THE PREVIOUS YEAR.

17 (2) EACH SAVINGS BANK SHALL PAY AN ANNUAL SUPERVISORY FEE
18 WHICH SHALL BE NOT LESS THAN \$1,000.00.

19 (3) The commissioner shall provide an invoice of the annual
20 supervisory fee to each savings bank by July 1 of each year. The
21 annual supervisory fee shall be paid by August 15 of that year.

22 ~~(4) If a savings bank does not receive a supervisory exami-~~
23 ~~nation during a calendar year for which a supervisory fee has~~
24 ~~been paid, it shall receive a credit of not less than 30% or more~~
25 ~~than 70% of the fee against its next annual supervisory fee. The~~
26 ~~supervisory fee credit shall be determined annually by the~~
27 ~~commissioner and shall be the same for all savings banks.~~

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1 (4) ~~—(5)—~~ The initial supervisory fee for a savings bank
2 that obtained a charter as a result of a conversion shall be
3 based on the total assets as reported in its report of condition
4 as of December 31 of the previous year under the prior charter.

5 (5) ~~—(6)—~~ The initial supervisory fee of a savings bank
6 newly organized and chartered under this act, during the initial
7 supervisory year, shall be the minimum supervisory fee estab-
8 lished by the commissioner.

9 (6) ~~—(7)—~~ The commissioner shall periodically establish a
10 schedule of fees, beyond those charged for normal supervision, to
11 be paid for applications, special evaluations and analyses, and
12 examinations, including examinations of trust services and safe
13 deposit and collateral deposit companies.

14 (7) ~~—(8)—~~ The fees established under subsection ~~—(7)—~~ (6)
15 shall be equal to the estimated cost to the bureau for conducting
16 the activity for which the fee is imposed.

17 (8) ~~—(9)—~~ The commissioner may charge reasonable fees for
18 furnishing and certifying copies of documents or serving notices
19 required by this act.

20 (9) ~~—(10)—~~ To the extent any fees assessed under this act
21 are unpaid when due, the commissioner may, upon proper notice,
22 maintain an action against the savings bank for the recovery of
23 the fees plus interest and costs.

24 (10) ~~—(11)—~~ The fees collected under this section are not
25 refundable and shall be paid into the state treasury to the
26 credit of the bureau and used only for the operation of the
27 bureau.

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Sub. HB 5908 (H-1) as amended November 14, 2000

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1 Sec. 213. (1) The commissioner and all deputies, agents,
2 and employees of the bureau shall ~~be bound by oath to~~ keep
3 secret all facts and information obtained in the course of their
4 duties [UNDER THIS ACT], except if the person is required under law
to report
5 upon, take official action, or testify in any proceedings regard-
6 ing the affairs of a savings bank. THIS SUBSECTION APPLIES TO
7 ALL FORMER COMMISSIONERS, DEPUTIES, AGENTS, AND EMPLOYEES OF THE
8 BUREAU.

9 (2) ~~Notwithstanding subsection (1), the commissioner may~~
10 ~~make disclosure to persons at such times as is in the public~~
11 ~~interest within the purposes of this act.~~ THIS SECTION DOES NOT
12 APPLY TO, AND DOES NOT PROHIBIT THE FURNISHING OF INFORMATION OR
13 DOCUMENTS TO, DEPOSITORY INSTITUTION REGULATORY AGENCIES, AND IS
14 NOT APPLICABLE TO DISCLOSURES MADE IN THE PUBLIC INTEREST BY THE
15 COMMISSIONER, AT HIS OR HER DISCRETION.

16 ~~(3) The provisions of this section are not applicable to,~~
17 ~~and do not prohibit the furnishing of information or documents~~
18 ~~to, the federal, or out-of-state bank, or association regulatory~~
19 ~~agencies.~~

20 Sec. 214. ~~(1) Except with respect to rules promulgated~~
21 ~~under section 208, a cease and desist order made under sections~~
22 ~~215 to 225, and an order made on an application seeking approval~~
23 ~~of the commissioner under section 302, 303, 312, 336, 412, 701,~~
24 ~~709, or 715 or an objection issued by the commissioner under sec-~~
25 ~~tion 417, a savings bank or an interested party who is dissatis-~~
26 ~~fied with an order, ruling, objection, or finding issued by the~~
27 ~~commissioner may request a reconsideration of the order, ruling,~~

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~~1 objection, or finding within 10 days after the issuance of the
2 order, ruling, objection, or finding. Within 30 days after the
3 receipt of a written request for reconsideration, the commis-
4 sioner shall set the matter for a formal hearing unless a formal
5 hearing has been held before the issuance of the order, ruling,
6 objection, or finding. The commissioner may conduct a formal
7 hearing before the issuance of an order, ruling, objection, or
8 finding.~~

~~9 (2) A hearing held under subsection (1) shall be conducted
10 under the administrative procedures act of 1969, Act No. 306 of
11 the Public Acts of 1969, being sections 24.201 to 24.328 of the
12 Michigan Compiled Laws.~~

~~13 (3) The commissioner shall require an entity making an
14 application under section 302, 303, 312, 336, 412, 701, 709, or
15 715 to give notice of the application by publication. The appli-
16 cant, within 10 days after the acceptance of an application,
17 shall publish notice in the community or communities in which the
18 savings bank, or bank holding company, involved in the subject
19 application is located. Publication shall be 1 time per week for
20 2 consecutive weeks in the form prescribed by the commissioner.
21 The interval between publications shall not be less than 5 days.
22 Proof of publication shall be filed with the commissioner within
23 10 days after the date of the second publication of notice.~~

~~24 (4) An interested party who desires to protest the applica-
25 tion shall file a written notice of protest with the commissioner
26 and with the applicant within 10 days after the date of the
27 second publication of notice. Within 30 days after the date of~~

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1 ~~the second publication of notice, an interested party who has~~
2 ~~filed a written notice of protest shall file with the commis-~~
3 ~~sioner and with the applicant a written statement setting forth~~
4 ~~all of the following:~~

5 ~~(a) A list of specific items in the application that are the~~
6 ~~basis for the protest and an explanation of the reasons for the~~
7 ~~protest.~~

8 ~~(b) A statement of the facts supporting the reasons for the~~
9 ~~protest including economic and financial data.~~

10 ~~(c) A request for oral argument if desired.~~

11 ~~(5) Within 40 days after the date of the second publication~~
12 ~~of notice, the applicant may file with the commissioner and with~~
13 ~~the parties that have filed written notice of protest written~~
14 ~~material in response to the written statement and may request~~
15 ~~oral argument before the commissioner if oral argument has not~~
16 ~~been requested by an interested party who has filed a written~~
17 ~~notice of protest.~~

18 ~~(6) Oral argument may be held at the commissioner's discre-~~
19 ~~tion if neither the applicant nor an interested party requests~~
20 ~~oral argument.~~

21 ~~(7) An oral argument, if scheduled as provided in this sec-~~
22 ~~tion, shall be held within 55 days after the date of the second~~
23 ~~publication of notice.~~

24 ~~(8) Only the applicant and those interested parties who have~~
25 ~~filed written statements under subsection (4) may participate in~~
26 ~~the oral argument. Oral argument may be made by each party or by~~
27 ~~an authorized representative. Oral argument shall be limited to~~

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~~1 issues raised in the materials submitted in connection with the
2 application and the protest. One hour shall be permitted to each
3 participant other than the applicant for oral argument. The
4 applicant shall have as much time as all other participants have
5 been permitted. The commissioner shall have a stenographic
6 record made of the oral argument, with costs to be allocated
7 equally among the parties requesting oral argument unless other-
8 wise provided by order of the commissioner.~~

~~9 (9) The commissioner shall issue an order within 100 days
10 after the filing of the application. If an application is
11 denied, or if a protested application is approved, the commis-
12 sioner shall provide a detailed written explanation of the basis
13 of the commissioner's decision. Appeal of an order shall not be
14 made by a party without first requesting a reconsideration of the
15 order under subsection (10).~~

~~16 (10) The applicant or an interested party who filed written
17 statements under subsection (4) and who participated in the oral
18 argument, if held, who is dissatisfied with an order of the com-
19 missioner or an institution which is dissatisfied with an objec-
20 tion issued by the commissioner under section 417, may within
21 5 days after the issuance of the order or objection, file with
22 the commissioner a written request for reconsideration of the
23 order stating the reasons for the request. The commissioner,
24 within 10 days of receiving the request for consideration, shall
25 render a decision on the request for reconsideration. If a peti-
26 tion for reconsideration is granted, the commissioner shall grant
27 the applicant and all interested parties 10 days to file written~~

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~~1 arguments or briefs. The commissioner may conduct an oral
2 argument after granting a petition for reconsideration. The
3 argument shall be held within 10 days after granting the
4 petition. The commissioner shall issue a final order or objec-
5 tion or withdraw an objection within 20 days after granting the
6 petition for reconsideration.~~

~~7 (11) The commissioner may promulgate rules under Act No. 306
8 of the Public Acts of 1969. The rules shall be consistent with
9 this section.~~

10 (1) A SAVINGS BANK THAT SEEKS THE COMMISSIONER'S APPROVAL
11 UNDER SECTION 302, 303, 312, 336, 412, 421, 701, 709, 710, 711,
12 711A, 712, 712A, OR 715 SHALL SUBMIT AN APPLICATION TO THE
13 BUREAU.

14 (2) THE APPLICATION SHALL CONTAIN INFORMATION AND BE ACCOM-
15 PANIED BY DOCUMENTS AS REQUIRED BY THE BUREAU.

16 (3) IF AN APPLICATION IS CONSIDERED INCOMPLETE BY THE
17 BUREAU, IT WILL EITHER BE RETURNED FOR COMPLETION OR THE APPLI-
18 CANT WILL BE REQUESTED TO SUBMIT ADDITIONAL INFORMATION AS NECES-
19 SARY TO MAKE THE APPLICATION COMPLETE.

20 (4) WHEN THE APPLICATION IS CONSIDERED COMPLETE BY THE
21 BUREAU, IT SHALL BE ACCEPTED AND THE PROCESS OF REVIEWING ITS
22 CONTENTS FOR A DECISION WILL BEGIN ON THAT DATE.

23 (5) THE STATUTORY PERIOD, AS SET FORTH IN THIS SECTION,
24 REGARDING THE ISSUANCE OF ORDERS BY THE COMMISSIONER SHALL COM-
25 MENCE ON THE DATE OF ACCEPTANCE OF THE APPLICATION.

26 (6) IF, SUBSEQUENT TO THE DATE OF ACCEPTANCE, THE APPLICANT
27 WISHES TO AMEND THE APPLICATION OR SUPPLEMENT OR PROVIDE

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1 ADDITIONAL MATERIAL IN CONNECTION WITH THE APPLICATION, THE
2 COMMISSIONER MAY SUSPEND PROCESSING OF THE APPLICATION OR PROCEED
3 WITH THE STATUTORY PERIOD FOR THE ISSUANCE OF AN ORDER.

4 (7) IN CONNECTION WITH AN APPLICATION, THE COMMISSIONER MAY
5 CONSIDER ADDITIONAL INFORMATION FROM ANY SOURCE.

6 (8) THE COMMISSIONER SHALL APPROVE OR DISAPPROVE AN APPLICA-
7 TION IN WRITING WITHIN 100 DAYS AFTER THE DATE OF ACCEPTANCE OF
8 AN APPLICATION, OR THE LAST AMENDMENT TO THE APPLICATION. AN
9 ORDER DISAPPROVING AN APPLICATION SHALL STATE THE BASIS FOR
10 DISAPPROVAL.

11 (9) AN APPLICANT WHO IS DISSATISFIED WITH AN ORDER OF THE
12 COMMISSIONER, OR AN INSTITUTION THAT IS DISSATISFIED WITH AN
13 OBJECTION ISSUED UNDER SECTION 417, MAY SUBMIT A WRITTEN REQUEST
14 FOR A RECONSIDERATION OF THE ORDER OR OBJECTION STATING THE REA-
15 SONS FOR THE REQUEST. THE REQUEST MUST BE RECEIVED BY THE BUREAU
16 WITHIN 5 DAYS AFTER THE DATE OF THE ORDER OR OBJECTION. THE COM-
17 MISSIONER, WITHIN 10 DAYS OF RECEIVING THE REQUEST FOR RECONSID-
18 ERATION, SHALL RENDER A DECISION ON THE REQUEST FOR
19 RECONSIDERATION. IF A PETITION FOR RECONSIDERATION IS GRANTED,
20 THE COMMISSIONER SHALL GRANT THE APPLICANT 10 DAYS TO FILE WRIT-
21 TEN ARGUMENTS OR BRIEFS. THE COMMISSIONER MAY ALLOW FOR ORAL
22 ARGUMENT AFTER GRANTING A PETITION FOR RECONSIDERATION. THE ORAL
23 ARGUMENT SHALL BE HELD WITHIN 10 DAYS AFTER GRANTING THE
24 PETITION. THE COMMISSIONER SHALL ISSUE A FINAL ORDER, OBJECTION,
25 OR WITHDRAWAL OF AN OBJECTION WITHIN 20 DAYS AFTER GRANTING THE
26 PETITION FOR RECONSIDERATION.

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1 (10) APPEAL OF AN ORDER OR OBJECTION SHALL NOT BE MADE BY AN
2 APPLICANT WITHOUT FIRST REQUESTING A RECONSIDERATION OF THE ORDER
3 OR OBJECTION.

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

7 (a) House Bill No. 5907.

8 (b) House Bill No. 5909.