

SENATE BILL NO. 750

September 28, 1999, Introduced by Senators SHUGARS, MILLER and STEIL and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1986 PA 89, entitled "Michigan BIDCO act," by amending section 717 (MCL 487.1717).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 717. (1) If the commissioner finds that any of the
2 factors set forth in section 715(1) are true with respect to a
3 licensee and that it is necessary for the protection of the
4 interests of the licensee or for the protection of the public
5 interest that the commissioner take immediate possession of the
6 property and business of the licensee, the commissioner may
7 appoint a conservator for the licensee. The commissioner may
8 appoint as conservator 1 of the employees of the financial insti-
9 tutions bureau of the department of ~~commerce~~ CONSUMER AND
10 INDUSTRY SERVICES or some other competent and disinterested
11 person. The financial institutions bureau ~~of the department of~~

1 ~~commerce~~ shall be reimbursed out of the assets of the
2 conservatorship for all sums expended by the bureau in connection
3 with the conservatorship as expenses. Upon the approval of the
4 commissioner, the expenses of the conservatorship shall be paid
5 out of the assets of the licensee. The expenses shall be a first
6 charge upon the assets and shall be fully paid before any final
7 distribution is made.

8 (2) Under the direction of the commissioner, the conservator
9 shall take possession of the books, records, and assets of the
10 licensee and shall take such action with respect to employees,
11 agents, or representatives of the licensee or any other action as
12 may be necessary to conserve the assets of the licensee or ensure
13 payment of obligations of the licensee pending further disposi-
14 tion of its business as provided by law. At any appropriate
15 time, the commissioner may terminate the conservatorship and
16 permit the licensee to resume the transaction of its business
17 subject to the terms, conditions, restrictions, and limitations
18 the commissioner may prescribe.

19 (3) If in the opinion of the commissioner it is appropriate
20 that the licensee be liquidated, the commissioner, with the
21 attorney general representing the commissioner, may apply to the
22 circuit court for the county in which the principal office of the
23 licensee is located for the appointment of a receiver for the
24 licensee, if the commissioner determines that any of the follow-
25 ing are true:

26 (a) The licensee is insolvent.

1 (b) The licensee has suspended payment of its obligations,
2 has made an assignment for the benefit of its creditors, or has
3 admitted in writing its inability to pay its debts as they become
4 due.

5 (c) The licensee has applied for an adjudication of bank-
6 ruptcy, reorganization, arrangement, or other relief under a
7 bankruptcy, reorganization, insolvency, or moratorium law.

8 (d) A person has applied for the relief described under sub-
9 division (c) against any licensee and that licensee has by an
10 affirmative act approved of or consented to the action or the
11 relief has been granted.

12 (e) The licensee is in a condition that makes it unsafe or
13 unsound for the licensee to transact business.

14 (4) If a receiver is appointed under subsection (3), the
15 receiver shall liquidate the property and business of the
16 licensee in the manner provided for in sections ~~252 to 254~~ 2401
17 TO 2403 of the banking code of ~~1969~~, Act No. ~~319~~ of the Public
18 Acts of ~~1969~~, being sections ~~487.552 to 487.554~~ of the Michigan
19 ~~Compiled Laws~~ 1999, MCL 487.12401 TO 487.12403, as if the
20 licensee were a bank.

21 Enacting section 1. This amendatory act does not take
22 effect unless Senate Bill No. 745

23 of the 90th Legislature is enacted into
24 law.