

SENATE BILL NO. 752

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

A bill to amend 1980 PA 307, entitled "Savings and loan act of 1980," by amending sections 107, 700, and 800 (MCL 491.107, 491.700, and 491.800), section 107 as added and sections 700 and 800 as amended by 1987 PA 106.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 107. "Bank" means a state banking corporation orga-
2 nized or reorganized under ~~the provision of~~ the banking code of
3 ~~1969, Act No. 319 of the Public Acts of 1969, being sections~~
4 ~~487.301 to 487.598 of the Michigan Compiled Laws~~ 1999, MCL
5 487.11101 TO 487.15101, or organized under ~~the provisions of~~
6 any law of this state enacted before ~~August 20, 1969~~ THE EFFEC-
7 TIVE DATE OF THAT ACT or a national bank having its principal
8 office in this state.

1 Sec. 700. (1) Subject to rules promulgated by the
2 ~~supervisor~~ COMMISSIONER, an association may invest its funds in
3 the following categories of assets:

4 (a) Obligations or securities of, or fully guaranteed as to
5 principal and interest by, the United States or any of the agen-
6 cies of the United States, or for which the full faith and credit
7 of the United States is pledged to provide for the payment of
8 principal and interest, or for which annual contributions to be
9 paid ~~pursuant to~~ UNDER contract by the United States or any of
10 its instrumentalities ~~pursuant to~~ UNDER the national housing
11 act, 12 U.S.C. 1701 to 1750g, are pledged for payment of princi-
12 pal and interest.

13 (b) Obligations of a state of the United States, or an
14 agency or authority of a state for which the full faith and
15 credit of the state is pledged to provide payment of principal
16 and interest.

17 (c) Obligations of this state or an agency or authority of
18 this state for which specific revenues are pledged to provide
19 payment of principal and interest.

20 (d) Obligations of a school district or political subdivi-
21 sion of this state.

22 (e) Bankers' acceptances eligible for purchase by federal
23 reserve banks and any corporate obligations approved for invest-
24 ment purposes by the supervisor.

25 (f) Stock, bonds, or other obligations of a federal home
26 loan bank, the federal savings and loan insurance corporation,
27 the federal deposit insurance corporation, a corporation or

1 agency of the United States or of this state to the extent that
2 the corporation or agency requires the investment as a means of
3 furthering or facilitating an association's purposes, and any
4 service corporation, partnership, or other organization approved
5 by the supervisor that assists in furthering or facilitating an
6 association's purposes.

7 (g) Demand, time, or savings deposits or accounts or other
8 obligations of a financial institution the accounts of which are
9 insured by a federal agency or instrumentality.

10 (h) Under a plan approved by the supervisor, savings
11 accounts or certificates of deposit with banks whose deposits are
12 recognized by the federal home loan bank board for liquidity
13 purposes.

14 (i) Shares or certificates in any open-end management
15 investment company registered with the securities and exchange
16 commission under the investment company act of 1940, chapter 686,
17 54 Stat. 789, while the portfolio of the company is restricted
18 by its investment policy, changeable only by vote of the share-
19 holders, to investments eligible for liquidity pursuant to fed-
20 eral home loan bank board regulations.

21 (j) Stock, bonds, or other obligations of any business and
22 industrial development corporation licensed and supervised by
23 this state.

24 (k) Small business investment companies formed ~~pursuant to~~
25 UNDER section 301(d) of the small business investment company act
26 of 1958, 15 U.S.C. 681.

1 (l) A finance subsidiary wholly owned by 1 or more
2 associations whose sole purpose is to issue debt or equity
3 securities of the type that the association is authorized to
4 issue directly, or, if a mutual association, would be authorized
5 to issue if it converted to stock form, and to remit the net pro-
6 ceeds of such issuance to the association.

7 (m) Any class of voting securities of a bank organized and
8 chartered ~~pursuant to section 54 of~~ UNDER the banking code of
9 ~~1969, Act No. 319 of the Public Acts of 1969, being section~~
10 ~~487.354 of the Michigan Compiled Laws~~ 1999, MCL 487.11101 TO
11 487.15101, or the national bank act, chapter 106, 13 Stat. 99,
12 and engaged exclusively in providing services to depository
13 institutions or their officers, directors, and employees, or a
14 bank holding company ~~which~~ THAT owns or controls a bank orga-
15 nized and chartered ~~pursuant to section 54 of~~ UNDER the banking
16 code of ~~1969, Act No. 319 of the Public Acts of 1969~~ 1999, MCL
17 487.11101 TO 487.15101, the national bank act, chapter 106, 13
18 Stat. 99, if the stock of a bank holding company is owned exclu-
19 sively, except to the extent directors' qualifying ~~share~~ SHARES
20 are required by law, by depository institutions, as defined in
21 ~~section 54 of~~ the banking code of ~~1969, Act No. 319 of the~~
22 ~~Public Acts of 1969~~ 1999, MCL 487.11101 TO 487.15101, and if all
23 subsidiaries of the company engaged exclusively in serving depos-
24 itory institutions or their officers, directors, and employees.
25 The amount of securities of a bank or bank holding company held
26 by an investing association shall not exceed 20% of the net worth
27 of the investing association.

1 (2) Subject to the limitations contained in this act, an
2 association may make venture capital investments or may invest in
3 equity securities of a professional investor a majority of whose
4 assets consist of venture capital investments.

5 (3) If an association makes a venture capital investment
6 ~~pursuant to~~ UNDER subsection (2), an officer or director of the
7 association shall not hold an equity position in the financed
8 company, and the association shall own less than 50% of such
9 company.

10 (4) An association's investment pursuant to subsection (2)
11 in any 1 entity shall not exceed an amount equal to 5% of the net
12 worth of the association, and all investments under subsection
13 (2) shall not exceed an amount equal to 10% of the net worth of
14 the association.

15 (5) This section ~~shall~~ DOES not limit the authority of an
16 association to exercise lending or investment powers ~~which~~ THAT
17 are otherwise authorized by law.

18 (6) As used in this section:

19 (a) "Professional investor" means an investment company reg-
20 istered under the investment company act of 1940, 15 U.S.C. 80a-1
21 to 80a-64, a pension or profit sharing trust or other institu-
22 tional buyer, or a person, partnership, or other entity a major-
23 ity of whose resources is dedicated to investing in equity or
24 debt securities and whose net worth exceeds \$500,000.00 prior to
25 the association's investment.

26 (b) "Venture capital" means equity financing that is
27 provided for starting up or expanding a company, or related

1 purposes such as financing for seed capital, research, and
2 development; introduction of a product or process into the mar-
3 ketplace; or similar needs requiring risk capital. A venture
4 capital investment shall not include the purchase of a share of
5 stock in a company if, on the date on which the share of stock is
6 purchased, the company has securities outstanding that are regis-
7 tered on a national securities exchange under section 12(b) of
8 title I of the securities exchange act of 1934, 15 U.S.C. 781;
9 that are registered or required to be registered under section
10 12(g) of title I of the securities exchange act of 1934, 15
11 U.S.C. 781; or which would be required to be so registered except
12 for the exemptions in section 12(g)(2) of title I of the securi-
13 ties exchange act of 1934.

14 (7) The ~~supervisor~~ COMMISSIONER is authorized to approve
15 investments in other categories of assets ~~which~~ THAT the
16 ~~supervisor~~ COMMISSIONER determines are consistent with ~~the~~
17 ~~purposes of the~~ THIS act. Those investments shall be subject to
18 limitations as determined appropriate by rule of the ~~supervisor~~
19 COMMISSIONER.

20 Sec. 800. (1) With the approval of the ~~supervisor~~
21 COMMISSIONER, an association or bank may merge with or into, or
22 sell its assets and transfer its liabilities to, or purchase the
23 assets and assume the liabilities of 1 or more federal or domes-
24 tic associations or federal or domestic savings bank or banks. A
25 plan of merger, sale, or purchase as it relates to an association
26 shall be adopted in the manner provided by this act, and approval
27 of the ~~supervisor~~ COMMISSIONER shall be based on an examination

1 of the constituent associations or banks and of the plan. A plan
2 of merger, sale, or purchase as it relates to a bank shall be
3 adopted in the manner provided in the banking code of ~~1969, Act~~
4 ~~No. 319 of the Public Acts of 1969, being sections 487.301 to~~
5 ~~487.598 of the Michigan Compiled Laws~~ 1999, MCL 487.11101 TO
6 487.15101. A merger, sale, or purchase shall not be made to
7 defeat or defraud a creditor of a constituent association or
8 bank.

9 (2) The board of each association proposing to participate
10 in a merger, sale, or purchase shall authorize a plan setting
11 forth all of the following:

12 (a) The name of each constituent association or bank and the
13 name of the resulting association or bank.

14 (b) As to each constituent association or bank that is a
15 stock association or bank, the designation and number of out-
16 standing shares of each class, specifying the classes entitled to
17 vote and each class entitled to vote as a class. If the number
18 of the shares is subject to change before the effective date of
19 the merger, sale, or purchase, the manner in which the change may
20 occur shall be specified.

21 (c) The terms and conditions of the proposed merger, sale,
22 or purchase including the manner and basis of converting the
23 shares of each constituent stock association or bank into shares,
24 bonds, or other securities of a resulting stock association or
25 bank, or into cash or other consideration, which may include
26 shares, bonds, rights, or other property or securities of a
27 constituent association or bank that is a party to the merger,

1 sale, or purchase or into any combination of a merger, sale, or
2 purchase.

3 (d) A statement of any amendment to the articles of incorpo-
4 ration of the resulting association or bank to be effected by the
5 merger, sale, or purchase.

6 (e) The names of all directors and executive officers of the
7 resulting association or bank.

8 (f) Other provisions with respect to the proposed merger,
9 sale, or purchase as the board considers necessary or desirable.

10 (3) A plan of merger, sale, or purchase authorized by the
11 board of each constituent association shall be submitted for
12 adoption at a meeting of the association's members. Notice of
13 the meeting shall be given to each member not less than 20 days
14 before the meeting, in the manner provided in this act for giving
15 notice of meetings to members. The notice shall include or be
16 accompanied by a copy or summary of the plan.

17 (4) At the meeting, a vote of the members shall be taken on
18 the proposed plan. In the case of a stock association, the plan
19 shall be adopted upon receiving the affirmative vote of members
20 holding more than 50% of the issued and outstanding voting stock
21 of the association. In the case of a mutual association the plan
22 shall be adopted upon receiving the affirmative vote of more than
23 50% of the votes cast by members at the meeting.

24 (5) After adoption, a plan shall be signed by the president
25 or vice-president, and by the secretary or treasurer of each con-
26 stituent association, under the corporate seals of each
27 constituent association and with the acknowledgment that the plan

1 is the respective act, deed, and agreement of the association.
2 The plan shall be filed with the supervisor together with an
3 affidavit by the treasurer or secretary of each constituent asso-
4 ciation that the plan has been authorized by the board of the
5 association or bank and adopted by the members under this
6 section. If the resulting association is to be a domestic asso-
7 ciation or domestic savings bank, there shall also be filed with
8 the supervisor, as a condition to his or her approval of the
9 merger, sale, or purchase, a firm commitment for or evidence of
10 insurance of the resulting association's deposits and other
11 accounts of a withdrawable type by the federal savings and loan
12 insurance corporation. A federal association that is a constitu-
13 ent association to a merger, sale, or purchase shall furnish a
14 certified copy of the consent or approval of the federal home
15 loan bank board to the merger, sale, or purchase if the consent
16 or approval is required by applicable law. Upon approval of the
17 merger, sale, or purchase, the supervisor shall execute a certif-
18 icate of merger, sale, or purchase, a copy of which is to be sent
19 to the constituent associations. After approval, an officer of
20 the resulting association shall provide the supervisor with an
21 affidavit that evidence of the merger, sale, or purchase has been
22 filed in the office of the register of deeds of each county where
23 an office of the association is located. A bank that is a con-
24 stituent association to a merger shall furnish a certified copy
25 of the consent or approval of the appropriate regulatory agency,
26 if the consent or approval is required by applicable law.

1 Enacting section 1. This amendatory act does not take
2 effect unless Senate Bill No. 745
3 of the 90th Legislature is enacted into
4 law.