HOUSE BILL No. 6292

June 27, 2008, Introduced by Rep. Bieda and referred to the Committee on Tax Policy.

A bill to amend 2007 PA 36, entitled

"Michigan business tax act,"

by amending section 265 (MCL 208.1265), as amended by 2007 PA 145.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 265. (1) For a financial institution, tax base means the financial institution's net capital. Net capital means equity capital as computed in accordance with generally accepted accounting principles less goodwill and the average daily book value of United States obligations and Michigan obligations. If the financial institution does not maintain its books and records in accordance with generally accepted accounting principles, net capital shall be computed in accordance with the books and records used by the financial institution, so long as the method fairly

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reflects the financial institution's net capital for purposes of the tax levied by this chapter. Net capital does not include up to 125% of the minimum regulatory capitalization requirements of a person subject to the tax imposed under chapter 2A. **AS USED IN THIS SUBSECTION, "EQUITY CAPITAL" MEANS CONSOLIDATED CAPITAL EXCLUSIVE OF THE CAPITAL OF ANY FOREIGN OPERATING ENTITY OR ANY AFFILIATED MEMBER THAT IS NOT A UNITED STATES PERSON OR DOES NOT HAVE PERMANENT ESTABLISHMENT IN THE UNITED STATES.**

(2) Net capital shall be determined by adding the financial institution's net capital as of the close of the current tax year and preceding 4 tax years and dividing the resulting sum by 5. If a financial institution has not been in existence for a period of 5 tax years, net capital shall be determined by adding together the financial institution's net capital for the number of tax years the financial institution has been in existence and dividing the resulting sum by the number of years the financial institution has been in existence. For purposes of this section, a partial year shall be treated as a full year.

(3) For purposes of this section, each of the following applies:

(a) A change in identity, form, or place of organization of 1 financial institution shall be treated as if a single financial institution had been in existence for the entire tax year in which the change occurred and each tax year after the change.

(b) The combination of 2 or more financial institutions into 1 shall be treated as if the constituent financial institutions had been a single financial institution in existence for the entire tax year in which the combination occurred and each tax year after the combination, and the book values and deductions for United States obligations and Michigan obligations of the constituent institutions shall be combined. A combination shall include any acquisition required to be accounted for by the surviving financial institution in accordance with generally accepted accounting principles or a statutory merger or consolidation.