



HOUSE BILL No. 4688

April 4, 1995, Introduced by Reprs. Randall, Middaugh and Gernaat and referred to the Committee on Commerce.

A bill to amend sections 25, 141, and 142 of Act No. 319 of the Public Acts of 1969, entitled as amended "Banking code of 1969," section 25 as amended by Act No. 104 of the Public Acts of 1987 and sections 141 and 142 as added by Act No. 250 of the Public Acts of 1984, being sections 487.325, 487.441, and 487.442 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 25, 141, and 142 of Act No. 319 of the
2 Public Acts of 1969, section 25 as amended by Act No. 104 of the
3 Public Acts of 1987 and sections 141 and 142 as added by Act
4 No. 250 of the Public Acts of 1984, being sections 487.325,
5 487.441, and 487.442 of the Michigan Compiled Laws, are amended
6 to read as follows:

1 Sec. 25. (1) ~~Each~~ AS DETERMINED BY THE COMMISSIONER, EACH
2 bank shall pay an annual supervisory fee of not less than ~~7 1/2~~
3 4 cents nor more than 25 cents for each \$1,000.00 ~~of the gross~~
4 ~~amount~~ of the TOTAL assets of the bank ~~, which fee shall be~~
5 ~~determined by the commissioner~~ AS REPORTED BY THE BANK ON ITS
6 REPORT OF CONDITION FOR THE PREVIOUS YEAR. THE SUPERVISORY FEE
7 FOR A BANK THAT WAS A NATIONAL BANK OR AN ASSOCIATION ON DECEMBER
8 31 OF THE PREVIOUS YEAR SHALL BE BASED UPON ITS TOTAL ASSETS AS
9 REPORTED BY THE BANK IN THE REPORT OF CONDITION FOR THE PREVIOUS
10 YEAR THAT WAS FILED BY THE BANK WITH ITS STATE OF CHARTER OR FED-
11 ERAL REGULATOR. THE SUPERVISORY FEE FOR A BANK THAT WAS NOT
12 ENGAGED IN THE BUSINESS OF BANKING ON DECEMBER 31 OF THE PREVIOUS
13 YEAR SHALL BE THE MINIMUM SUPERVISORY FEE ESTABLISHED BY THE
14 COMMISSIONER.

15 (2) The supervisory fee for ~~any~~ A bank shall not be less
16 than \$1,000.00. ~~The commissioner may assess a supplementary fee~~
17 ~~on a bank, when in the commissioner's judgment the records of the~~
18 ~~bank are such that they necessitate examination procedures by the~~
19 ~~examiners over and above normal examination procedures. The sup-~~
20 ~~plementary fee shall be based on the excess time over and above~~
21 ~~normal examination time, as determined by the commissioner, spent~~
22 ~~on examining the bank, but the sum total of the supplementary fee~~
23 ~~and the supervisory fee shall not exceed 25 cents for each~~
24 ~~\$1,000.00 of the gross amount of the assets of the bank. The fee~~
25 ~~shall be computed on the basis of the statement of condition of~~
26 ~~each bank as of December 31 of each year and shall be invoiced as~~

1 of the succeeding July 1 and payable promptly upon receipt of
2 invoice.

3 (3) THE COMMISSIONER SHALL INVOICE THE SUPERVISORY FEE NO
4 LATER THAN JULY 1 OF EACH YEAR AND SHALL BE PAID BY THE BANK NO
5 LATER THAN AUGUST 15 OF THAT YEAR.

6 (4) If a bank has paid a supervisory fee but is not examined
7 by the commissioner during the calendar year, the bank shall
8 receive a credit of not less than 30% nor more than 70% of the
9 supervisory fee against its next succeeding annual supervisory
10 fee. The percentage of the supervisory fee credit shall be
11 determined annually by the commissioner and shall be the same for
12 all banks. ~~If a bank has paid an examination fee but is not
13 examined by the commissioner during the 1986 calendar year, the
14 bank shall receive a credit in the amount of the fee against its
15 supervisory fee for 1987.~~

16 (5) ~~(2)~~ The commissioner shall periodically establish a
17 schedule of fees to be paid ~~by a bank for the processing by the
18 bureau of the following:~~

19 ~~(a) The examination of a trust department.~~

20 ~~(b) The examination of a bank at the request of the board of
21 directors of the bank.~~

22 ~~(c) The examination of subsidiaries, service corporations,
23 and affiliates.~~

24 ~~(d) An application for the organization of a new bank,
25 except that no fee shall be required for processing an applica-
26 tion for the organization of a new bank under section 130(2)(a)~~

1 ~~that is organized for the sole purpose of effecting its~~
2 ~~consolidation or merger with an existing bank.~~

3 ~~(e) An application for a merger or consolidation.~~

4 ~~(f) An application for a purchase of assets.~~

5 ~~(g) An application for a new branch office.~~

6 ~~(h) An application for a conversion of a stock association~~
7 ~~or national banking association.~~

8 ~~(i) The evaluation of data processing facilities.~~

9 ~~(j) All other applications and examinations~~ FOR EXAMINA-
10 TIONS, EVALUATIONS, AND APPLICATIONS considered necessary by the
11 commissioner.

12 (6) ~~(3)~~ The amount of a fee established ~~pursuant to~~
13 UNDER subsection ~~(2)~~ (5) shall be equal to the estimated cost
14 to the bureau of processing the examination, evaluation, or
15 application for which the fee is imposed.

16 (7) ~~(4) Reasonable fees shall be determined and charged by~~
17 ~~the~~ THE commissioner MAY CHARGE REASONABLE FEES for furnishing
18 and certifying copies of documents filed in the bureau and ~~any~~
19 ~~publication expenses incurred by the bureau in the publication~~
20 THE COSTS OF PUBLISHING or serving of notices required by this
21 act. ~~shall be charged by the commissioner.~~

22 (8) ~~(5)~~ If any fees or expenses provided for in this sec-
23 tion are not paid ~~after due notice~~ BY A BANK WHEN DUE, the com-
24 missioner may, AFTER PROPER NOTICE TO THE BANK, maintain an
25 action against the ~~delinquent institution~~ BANK for the recovery
26 of the fees or expenses ~~with~~ PLUS interest and costs.

1 (9) ~~(6) All~~ THE fees and expenses ~~provided for in~~
2 COLLECTED UNDER this section ARE NOT REFUNDABLE AND shall be paid
3 into the state treasury to the credit of the ~~financial~~
4 ~~institutions~~ bureau and ~~money in this account shall be~~ used
5 only for the operation of the ~~financial institutions~~ bureau.
6 ~~and shall not be refundable.~~

7 Sec. 141. (1) A foreign bank authorized by its charter or
8 articles of incorporation to engage in the business of banking,
9 ~~which~~ THAT has complied with the laws of the foreign country in
10 which it is chartered or incorporated, and ~~which~~ THAT does not
11 operate a federal agency in this state, may submit to the commis-
12 sioner an application to establish a state agency. The applica-
13 tion shall contain information the commissioner considers neces-
14 sary to enable the commissioner to determine whether the appli-
15 cant is entitled to a certificate of authority.

16 (2) The commissioner shall examine the information and
17 statements contained in the application and ~~shall~~ make any
18 investigation the commissioner considers necessary regarding the
19 financial and managerial resources of the applicant. The commis-
20 sioner shall also consider whether there exists an opportunity
21 for a bank having its principal place of business in this state
22 to conduct business in the foreign country in which the applicant
23 is chartered or incorporated.

24 (3) The applicant shall pay to the commissioner fees to the
25 same extent required for the processing of an application for the
26 organization of a new bank pursuant to section 25. ~~7 subsection~~
27 ~~(2)(d).~~

1 (4) If, after examining the information contained in the
2 application, conducting any investigation considered necessary,
3 and receiving all necessary application and investigation fees
4 from the applicant, the commissioner determines approval of the
5 application would be in the public interest, the commissioner
6 shall issue to the applicant a certificate of authority to con-
7 duct business in this state at the address specified in the
8 certificate.

9 Sec. 142. (1) Except as otherwise provided in this act or
10 other law of this state, operations of a foreign bank at a state
11 agency shall be conducted with the same rights and privileges and
12 subject to the same duties, restrictions, penalties, liabilities,
13 conditions, and limitations that would apply under this act to a
14 bank doing business at the same location, except that a state
15 agency or an additional office of a state agency shall not accept
16 nor solicit deposits from citizens or residents of the United
17 States or exercise trust powers.

18 (2) ~~A~~ WITH THE PRIOR APPROVAL OF THE COMMISSIONER, A for-
19 eign bank ~~which~~ THAT operates a state agency is permitted ~~—~~
20 ~~with the prior approval of the commissioner,~~ to establish and
21 operate additional offices in this state subject to ~~the provi-~~
22 ~~sions of~~ section 171. For purposes of section 171, the princi-
23 pal office of a foreign bank operating under this chapter shall
24 be its first established state agency in this state.

25 (3) A state agency shall not be required to become an
26 insured bank, as insured bank is defined in section 3 of the
27 federal deposit insurance act, 12 U.S.C. 1813.

1 (4) A foreign bank ~~which~~ THAT operates a state agency in
2 this state shall maintain the accounts and conduct the business
3 of the state agency independently of the accounts and business of
4 the parent foreign bank.

5 (5) The commissioner may, at any time, investigate the
6 accounts and business of a state agency operating in this state,
7 and for that purpose may require that a foreign bank make avail-
8 able in this state for examination all the books, accounts,
9 records, and files of the foreign bank ~~which~~ THAT contain
10 information regarding the accounts and business of that state
11 agency.

12 (6) A foreign bank shall pay to the commissioner an investi-
13 gation fee for any investigation conducted ~~pursuant to~~ UNDER
14 subsection (5). The investigation fee shall be reasonably
15 related to the cost to the bureau of conducting the
16 investigation. Upon completion of an investigation, the commis-
17 sioner shall submit to the foreign bank an invoice for the amount
18 of the investigation fee. The invoice ~~shall be~~ IS due ~~and~~
19 ~~payable~~ upon receipt of the invoice by the foreign bank. All
20 fees ~~provided for in~~ COLLECTED UNDER section 141 and this sec-
21 tion shall be paid into the state treasury in the same manner as
22 provided ~~by subsection (6) of section 25~~ UNDER SECTION 25(9).