

HOUSE BILL No. 4129

January 28, 1997, Introduced by Rep. Dobb and referred to the Committee on Public Utilities.

A bill to amend 1982 PA 162, entitled "Nonprofit corporation act," by amending sections 261 and 1109 (MCL 450.2261 and 450.3109), section 1109 as added by 1984 PA 209.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 261. (1) A corporation, subject to any limitation pro-
2 vided in this act, in any other statute of this state, in its
3 articles of incorporation or otherwise by law, shall have power
4 in furtherance of its corporate purposes to:

5 (a) Have perpetual duration.

6 (b) Sue and be sued in all courts and participate in actions
7 and proceedings judicial, administrative, arbitratative or other-
8 wise, in like cases as natural persons.

1 (c) Have a corporate seal, and alter the seal, and use it by
2 causing it or a facsimile to be affixed, impressed, or reproduced
3 in any other manner.

4 (d) Adopt, amend, or repeal bylaws, including emergency
5 bylaws, relating to the purposes of the corporation, the conduct
6 of its affairs, its rights and powers, and the rights and powers
7 of its shareholders, members, directors, or officers.

8 (e) Elect or appoint officers, employees, and other agents
9 of the corporation, prescribe their duties, fix their compensa-
10 tion and the compensation of directors, and indemnify corporate
11 directors, officers, employees, and agents.

12 (f) Purchase, receive, take by grant, gift, devise, bequest,
13 or otherwise, lease, or otherwise acquire, own, hold, improve,
14 employ, use, and otherwise deal in and with, real or personal
15 property, or an interest therein, wherever situated, either abso-
16 lutely or in trust and without limitation as to amount or value.

17 (g) Sell, convey, lease, exchange, transfer, or otherwise
18 dispose of, or mortgage or pledge, or create a security interest
19 in, any of its property, or an interest ~~therein~~ IN THAT
20 PROPERTY, wherever situated.

21 (h) Purchase, take, receive, subscribe for, or otherwise
22 acquire, own, hold, vote, employ, sell, lend, lease, exchange,
23 transfer, or otherwise dispose of, mortgage, pledge, use, and
24 otherwise deal in and with, bonds and other obligations, shares
25 or other securities or interests or memberships issued by others,
26 whether engaged in similar or different business, governmental,
27 or other activities, including banking corporations or trust

1 companies. A corporation organized or conducting affairs in this
2 state under this act may not guarantee or become surety upon a
3 bond or other undertaking securing the deposit of public money.

4 (i) Make contracts, give guarantees, and incur liabilities,
5 borrow money at such rates of interest as the corporation may
6 determine, issue its notes, bonds, and other obligations, and
7 secure any of its obligations by mortgage or pledge of any of its
8 property or an interest ~~therein~~ IN THAT PROPERTY, wherever
9 situated.

10 (j) Lend money, invest and reinvest its funds, and take and
11 hold real and personal property as security for the payment of
12 funds loaned or invested.

13 (k) Make donations for public welfare or for community fund,
14 hospital, charitable, educational, scientific, civic or similar
15 purposes, and in time of war or other national emergency in aid
16 thereof.

17 (l) Pay pensions, establish and carry out pension, savings,
18 thrift, and other retirement, incentive, and benefit plans,
19 trusts and provisions for any of its directors, officers, and
20 employees.

21 (m) Purchase, receive, take, otherwise acquire, own, hold,
22 sell, lend, exchange, transfer, otherwise dispose of, pledge,
23 use, and otherwise deal in and with its own shares, bonds, and
24 other securities.

25 (n) Participate with others in any corporation, business
26 corporation, partnership, limited partnership, joint venture, or
27 other association of any kind, or participate with others in any

1 transaction, undertaking, or agreement which the participating
2 corporation would have power to conduct by itself, whether or not
3 the participation involves sharing or delegation of control with
4 or to others.

5 (o) Cease its corporate activities and dissolve.

6 (p) Conduct its affairs, carry on its operations, and have
7 offices and exercise the powers granted by this act in any juris-
8 diction within or ~~without~~ OUTSIDE OF the United States, and, in
9 the case of a corporation the purpose or purposes of which
10 require the transaction of business, the receipt and payment of
11 money, the care and custody of property, and other incidental
12 business matters, transact ~~such~~ business, receive, collect, and
13 disburse ~~such~~ money and engage in such other incidental busi-
14 ness matters as are naturally or properly within the scope of its
15 articles.

16 (q) Have and exercise all powers necessary or convenient to
17 effect any purpose for which the corporation is formed.

18 (2) A corporation subject to ~~Act No. 157 of the Public Acts~~
19 ~~of 1976, being sections 451.1201 to 451.1210 of the Michigan~~
20 ~~Compiled Laws, shall have~~ THE UNIFORM MANAGEMENT OF INSTITU-
21 TIONAL FUNDS ACT, 1976 PA 15, MCL 451.1201 TO 451.1210, HAS all
22 powers granted under THAT ACT AND this act. ~~and Act No. 157 of~~
23 ~~the Public Acts of 1976.~~ However, in the event of an inconsis-
24 tency between ~~this act and Act No. 157 of the Public Acts of~~
25 ~~1976, Act No. 157~~ THE 2 ACTS, 1976 PA 157, MCL 451.1201 TO
26 451.1210, shall control.

1 (3) The corporate existence of all corporations incorporated
2 before the effective date of this act, without capital stock, for
3 religious, benevolent, social, or fraternal purposes, shall be
4 deemed to be in perpetuity. A limitation or term fixed in the
5 articles or in the law under which the corporation originally
6 incorporated ~~shall~~ IS not ~~be~~ effective unless the corporation
7 has affirmatively waived its right to perpetual existence
8 ~~subsequent to~~ AFTER September 18, 1931, by fixing a definite
9 term of existence by amendment to its articles.

10 (4) Any nonprofit power corporation ~~which is~~ authorized to
11 furnish electric service may construct, maintain, and operate its
12 lines along, over, across or under any public ~~places, streets~~
13 ~~and highways,~~ PLACE, STREET, OR HIGHWAY, and across or under
14 ~~the waters~~ ANY BODY OF WATER in this state, with all necessary
15 erections and fixtures. A nonprofit power corporation may exer-
16 cise the power of eminent domain, in the manner provided by ~~Act~~
17 ~~No. 87 of the Public Acts of 1980, as amended, being sections~~
18 ~~213.51 to 213.77 of the Michigan Compiled Laws~~ THE UNIFORM CON-
19 DEMNATION PROCEDURES ACT, 1980 PA 87, MCL 213.51 TO 213.77. As a
20 condition to the exercise of any of these powers, nonprofit cor-
21 porations ~~shall be~~ ARE subject to the jurisdiction of the
22 Michigan public service commission ~~pursuant to Act No. 106 of~~
23 ~~the Public Acts of 1909, as amended, being sections 460.551 to~~
24 ~~460.559 of the Michigan Compiled Laws, Act No. 419 of the Public~~
25 ~~Acts of 1919, as amended, being sections 460.51 to 460.62 of the~~
26 ~~Michigan Compiled Laws, and Act No. 3 of the Public Acts of 1939,~~
27 ~~as amended, being sections 460.1 to 460.8 of the Michigan~~

1 ~~Compiled Laws~~ UNDER THE MICHIGAN UTILITY CODE, MCL 460.1101 TO
2 460.8302.

3 Sec. 1109. (1) This chapter does not modify the require-
4 ments of ~~Act No. 3 of the Public Acts of 1939, being~~
5 ~~sections 460.1 to 460.8 of the Michigan Compiled Laws~~ THE
6 MICHIGAN UTILITY CODE, MCL 460.1101 TO 460.8302.

7 (2) The fact that a cooperative conducts economic activity
8 under this act ~~shall~~ IS not alone ~~cause~~ REASON FOR the eco-
9 nomic activity of the cooperative to be considered a conspiracy
10 or combination in restraint of trade, ~~or~~ an illegal monopoly,
11 or an attempt to lessen competition or fix prices arbitrarily.

12 Enacting section 1. This amendatory act does not take
13 effect unless Senate Bill No. _____ or House Bill No. _____
14 (request no. 00135'97) of the 89th Legislature is enacted into
15 law.