

Act No. 90
Public Acts of 1995
Approved by the Governor
June 20, 1995
Filed with the Secretary of State
June 20, 1995

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995**

Introduced by Reps. Randall, Middaugh and Gernaat

ENROLLED HOUSE BILL No. 4688

AN ACT to amend sections 25, 141, and 142 of Act No. 319 of the Public Acts of 1969, entitled as amended "An act to revise and codify the laws relating to banks, industrial banks, foreign banks, trust companies, and safe and collateral deposit companies; to provide for their incorporation, regulation, and supervision; to authorize the granting of trust powers to banks and to regulate the exercise of those powers; to create, within the department of commerce, a financial institutions bureau and to prescribe its powers and duties; to prescribe penalties for violations of this act; and to repeal certain acts and parts of acts," 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:

Section 1. Sections 25, 141, and 142 of Act No. 319 of the Public Acts 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, are amended to read as follows:

Sec. 25. (1) As determined by the commissioner, each bank shall pay an annual supervisory fee of not less than 4 cents nor more than 25 cents for each \$1,000.00 of the total assets of the bank as reported by the bank on its report of condition for the previous year. The supervisory fee for a bank that was a national bank or an association on December 31 of the previous year shall be based upon its total assets as reported by the bank in the report of condition for the previous year that was filed by the bank with its state of charter or federal regulator. The supervisory fee for a bank that was not engaged in the business of banking on December 31 of the previous year shall be the minimum supervisory fee established by the commissioner.

(2) The supervisory fee for a bank shall not be less than \$1,000.00.

(3) The commissioner shall invoice the supervisory fee no later than July 1 of each year and shall be paid by the bank no later than August 15 of that year.

(4) If a bank has paid a supervisory fee but is not examined by the commissioner during the calendar year, the bank shall receive a credit of not less than 30% nor more than 70% of the supervisory fee against its next succeeding annual supervisory fee. The percentage of the supervisory fee credit shall be determined annually by the commissioner and shall be the same for all banks.

(5) The commissioner shall periodically establish a schedule of fees to be paid for examinations, evaluations, and applications considered necessary by the commissioner.

(6) The amount of a fee established under subsection (5) shall be equal to the estimated cost to the bureau of processing the examination, evaluation, or application for which the fee is imposed.

(7) The commissioner may charge reasonable fees for furnishing and certifying copies of documents filed in the bureau and the costs of publishing or serving of notices required by this act.

(8) If any fees or expenses provided for in this section are not paid by a bank when due, the commissioner may, after proper notice to the bank, maintain an action against the bank for the recovery of the fees or expenses plus interest and costs.

(9) The fees and expenses collected under this section are not refundable and shall be paid into the state treasury to the credit of the bureau and used only for the operation of the bureau.

Sec. 141. (1) A foreign bank authorized by its charter or articles of incorporation to engage in the business of banking, that has complied with the laws of the foreign country in which it is chartered or incorporated, and that does not operate a federal agency in this state, may submit to the commissioner an application to establish a state agency. The application shall contain information the commissioner considers necessary to enable the commissioner to determine whether the applicant is entitled to a certificate of authority.

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

(3) The applicant shall pay to the commissioner fees to the same extent required for the processing of an application for the organization of a new bank pursuant to section 25.

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

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

(2) With the prior approval of the commissioner, a foreign bank that operates a state agency is permitted to establish and operate additional offices in this state subject to section 171. For purposes of section 171, the principal office of a foreign bank operating under this chapter shall be its first established state agency in this state.

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

(4) A foreign bank that operates a state agency in this state shall maintain the accounts and conduct the business of the state agency independently of the accounts and business of the parent foreign bank.

(5) The commissioner may, at any time, investigate the accounts and business of a state agency operating in this state, and for that purpose may require that a foreign bank make available in this state for examination all the books, accounts, records, and files of the foreign bank that contain information regarding the accounts and business of that state agency.

(6) A foreign bank shall pay to the commissioner an investigation fee for any investigation conducted under subsection (5). The investigation fee shall be reasonably related to the cost to the bureau of conducting the investigation. Upon completion of an investigation, the commissioner shall submit to the foreign bank an invoice for the amount of the investigation fee. The invoice is due upon receipt of the invoice by the foreign bank. All fees collected under section 141 and this section shall be paid into the state treasury in the same manner as provided under section 25(9).

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.