



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 6299 (Substitute H-1 as reported without amendment)

Sponsor: Representative David Law

House Committee: Banking and Financial Services

Senate Committee: Banking and Financial Institutions

CONTENT

The bill would amend the Banking Code to establish a rebuttable presumption regarding the reasonableness of a bank's fees for conducting trust services; and allow a bank to use money or property held in trust to buy a product, service, or security at a reasonable price from or through the bank or an affiliate, unless prohibited.

Under the Code, a bank or State foreign bank branch approved for trust powers may conduct a trust business, including charging a reasonable fee for its services in acting as a fiduciary. The bill specifies that, in any action or proceeding concerning fees, there would be a rebuttable presumption that a fee was reasonable if the fee or its method of computation were specified in a fee schedule or fee agreement of the bank or branch in effect at the time the service was provided, and the agency or custody principal, the trust grantor, or any other person who was entitled to be kept informed of the fiduciary account received notice of the fee schedule or agreement before the fee was charged.

The Banking Code requires a bank to invest any money or property that it holds as fiduciary, and that is available for investment, as specified in the agreement, instrument, or order creating or defining the trust or other capacity in which the bank acts. Unless prohibited by the agreement, instrument, or order, a bank or a bank and one or more cofiduciaries may invest in a registered investment company even though the bank or one or more of its affiliates provide services to the investment company and receive reasonable remuneration for those services, or the bank as fiduciary owns or controls a majority of the voting shares of the investment company or a majority of the shares voted for the election of its directors or trustees or the bank as fiduciary otherwise controls the election of a majority the investment company's directors or trustees.

The bill also would allow the bank, or the bank and one or more cofiduciaries, unless prohibited, to use the money or property to purchase any product, service, or security from or through the bank or an affiliate of the bank, including an insurance product or a security that was underwritten or distributed by the bank or an affiliate of it or by a syndicate or selling group that included the bank or its affiliate, if the purchase price were reasonable. A bank or affiliate could receive reasonable compensation in connection with the purchase.

MCL 487.14401 & 487.14405

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 12-6-06

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