

# HOUSE BILL No. 4976

June 21, 2005, Introduced by Reps. Mayes, Dillon, Cushingberry, McDowell, Hunter, Clemente, Condino, Leland, Farrah, Lipsey, Espinoza, Gillard, Accavitti, Kolb, Alma Smith, Tobocman, Green, Gonzales, Moore, Kathleen Law, Murphy, Bieda, Sheltroun and Angerer and referred to the Committee on Banking and Financial Services.

A bill to amend 1978 PA 232, entitled

"An act to permit banks and savings and loan associations to suspend business in the event of an existing or impending emergency; to prescribe the powers and duties of bank and savings and loan association officers and certain state officials; and to declare the legal effect of the suspensions of business authorized by this act,"

by amending the title and sections 1, 2, 3, 4, 5, and 6 (MCL 487.941, 487.942, 487.943, 487.944, 487.945, and 487.946).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### TITLE

An act to permit ~~banks and savings and loan associations~~  
**FINANCIAL INSTITUTIONS** to suspend business in the event of an  
existing or impending emergency; to prescribe the powers and duties  
of ~~bank and savings and loan association~~ **FINANCIAL INSTITUTION**

1 officers and certain state **AGENCIES AND** officials; and to declare  
2 the legal effect of the suspensions of business authorized by this  
3 act.

4 Sec. 1. As used in this act:

5 (a) "Commissioner" means the commissioner of the ~~financial~~  
6 ~~institutions bureau of the department of commerce or his or her~~  
7 ~~authorized representative~~ **OFFICE OF FINANCIAL AND INSURANCE**  
8 **SERVICES IN THE DEPARTMENT OF LABOR AND ECONOMIC GROWTH.**

9 ~~—— (b) "Bank" means a bank organized or reorganized under Act~~  
10 ~~No. 319 of the Public Acts of 1969, as amended, being sections~~  
11 ~~487.301 to 487.598 of the Michigan Compiled Laws, or an industrial~~  
12 ~~bank or trust company incorporated under previously existing state~~  
13 ~~law, a branch or agency of a foreign banking organization, and, to~~  
14 ~~the extent that this act is not inconsistent with and does not~~  
15 ~~infringe upon paramount federal law, includes a national bank.~~

16 ~~—— (c) "Association" means a state chartered savings and loan~~  
17 ~~association and to the extent that this act is not inconsistent~~  
18 ~~with and does not infringe upon paramount federal law, includes a~~  
19 ~~federal savings and loan association.~~

20 ~~—— (d) "Officer" means a person designated by the board of~~  
21 ~~directors of a bank or association to carry out this act.~~

22 ~~—— (e) "Office" means a place at which a bank or association~~  
23 ~~transacts its business or conducts operations related to its~~  
24 ~~business.~~

25 **(B) —(f)— "Emergency" means a condition or occurrence ~~which~~**  
26 **THAT HAS OR may, DIRECTLY OR INDIRECTLY,** interfere physically with  
27 the conduct of normal business operations ~~at an office of a bank~~

1 ~~or association~~ OF 1 OR MORE OFFICES OF A FINANCIAL INSTITUTION, or  
 2 which poses an imminent or existing threat to the safety and  
 3 security of a person or property, or both. An emergency may arise  
 4 as a result of a fire, ~~—a~~ flood, ~~—an~~ earthquake, ~~—a~~  
 5 hurricane, ~~—a~~ tornado, ~~—a~~ wind, rain, ~~or snow storm; a~~  
 6 SNOWSTORM, labor dispute or strike, ~~—a~~ power failure, ~~—a~~  
 7 transportation failure, ~~—an~~ FUEL SHORTAGE, interruption of a  
 8 communication facility, ~~—a~~ shortage of ~~fuel,~~ housing ~~—~~ OR  
 9 food, ~~or transportation; a~~ robbery or attempted robbery, ~~—an~~  
 10 actual or threatened enemy OR TERRORIST attack, ~~—an~~ epidemic or  
 11 other catastrophe, ~~—a~~ riot, civil commotion, ~~and~~ OR ANY other  
 12 act of lawlessness or violence.

13 (C) "FINANCIAL INSTITUTION" MEANS A STATE CHARTERED BANK,  
 14 SAVINGS BANK, CREDIT UNION, OR SAVINGS AND LOAN ASSOCIATION OVER  
 15 WHICH THE COMMISSIONER HAS REGULATORY AUTHORITY FOR PURPOSES OF  
 16 THIS ACT.

17 (D) "OFFICE" MEANS A PLACE AT WHICH A FINANCIAL INSTITUTION  
 18 TRANSACTS ITS BUSINESS OR CONDUCTS OPERATIONS RELATED TO ITS  
 19 BUSINESS.

20 (E) "OFFICER" MEANS A PERSON DESIGNATED BY THE BOARD OF  
 21 DIRECTORS OF A FINANCIAL INSTITUTION TO CARRY OUT THIS ACT.

22 Sec. 2. (1) The commissioner may ~~—, by proclamation, authorize~~  
 23 ~~banks or associations~~ AUTHORIZE OR ORDER A FINANCIAL INSTITUTION  
 24 to close an office ~~when it appears to~~ OR OFFICES IF the  
 25 commissioner DETERMINES that the action is required because an  
 26 emergency exists ~~—, or may be impending. —, in this state which~~  
 27 ~~directly or indirectly, may interfere with the conduct of normal~~

1 ~~operations of a bank or association in the affected area. The~~  
 2 ~~office~~ ~~so~~ **OR OFFICES** closed shall remain closed until the  
 3 commissioner ~~proclaims~~ **DETERMINES** that the emergency is ended **AND**  
 4 **AUTHORIZES THE FINANCIAL INSTITUTION TO OPEN THE OFFICE OR OFFICES.**  
 5 ~~In connection with a proclamation issued under this section, the~~  
 6 **THE** commissioner shall promptly advise the governor of the issuance  
 7 of ~~such a proclamation~~ **A DETERMINATION UNDER THIS SUBSECTION.**

8 (2) The commissioner may authorize ~~banks and associations~~ **A**  
 9 **FINANCIAL INSTITUTION** to close on a day designated by proclamation  
 10 of the president of the United States or the governor of this state  
 11 as a day of national mourning, rejoicing, or other special  
 12 observance. ~~The governor of this state by proclamation, in~~  
 13 ~~connection with a day of national mourning, rejoicing, or other~~  
 14 ~~special observance, may authorize banks and associations to close~~  
 15 ~~on a day the governor designates.~~

16 Sec. 3. ~~When the chief executive officer~~ **IF THE COMMISSIONER**  
 17 **HAS NOT MADE A DETERMINATION UNDER SECTION 2(1) AND THE CHIEF**  
 18 **EXECUTIVE OFFICER** of a ~~bank or association, or, in his absence the~~  
 19 ~~officer serving as chief executive officer is of the opinion~~  
 20 **FINANCIAL INSTITUTION OR ANOTHER OFFICER DESIGNATED BY THE**  
 21 **FINANCIAL INSTITUTION FOR PURPOSES OF THIS ACT DETERMINES** that an  
 22 emergency exists ~~—, or is impending, which affects, or may affect~~  
 23 ~~its offices, the officer may determine, in the reasonable and~~  
 24 ~~proper exercise of the officer's discretion, not to open the office~~  
 25 ~~on a business or banking day or, if having opened, to close the~~  
 26 ~~office during the continuation of the emergency, even if the~~  
 27 ~~commissioner has not issued and does not issue a proclamation of~~

1 ~~emergency. The office so closed shall remain closed until the chief~~  
2 ~~executive officer of a bank or association, or, in his absence the~~  
3 ~~officer serving as chief executive officer determines that the~~  
4 ~~emergency has ended~~ **THE OFFICER MAY ORDER THAT AN OFFICE OR**

5 **OFFICES OF THE FINANCIAL INSTITUTION BE CLOSED OR NOT OPEN.**

6       Sec. 4. (1) A ~~bank or association~~ **FINANCIAL INSTITUTION**  
7 **closing OR NOT OPENING** an office ~~pursuant to this act~~ **OR OFFICES**  
8 **UNDER SECTION 3** shall give ~~as prompt~~ notice ~~of its action, as~~  
9 ~~conditions permit and by any means available,~~ to the commissioner  
10 ~~, or, in the case of a national bank, to the comptroller of the~~  
11 ~~currency, or, in the case of a federal association, to the federal~~  
12 ~~home loan bank board~~ **AND ANY OTHER APPROPRIATE GOVERNMENTAL ENTITY**  
13 **AS REQUIRED BY LAW.**

14       (2) **A FINANCIAL INSTITUTION THAT CLOSSES OR DOES NOT OPEN AN**  
15 **OFFICE OR OFFICES UNDER SECTION 3 SHALL REOPEN THE OFFICE OR**  
16 **OFFICES AS SOON AS THE CHIEF EXECUTIVE OFFICER OR OTHER DESIGNATED**  
17 **OFFICER DETERMINES THAT THE EMERGENCY IS ENDED OR AS AUTHORIZED BY**  
18 **THE COMMISSIONER.**

19       Sec. 5. The period during which a ~~bank or association is~~  
20 ~~closed pursuant to the authorization granted~~ **FINANCIAL INSTITUTION**  
21 **IS CLOSED** under this act ~~shall be~~ **IS** a legal holiday. ~~and a~~  
22 ~~bill, check, or note otherwise presentable for acceptance of~~  
23 ~~payment shall be deemed to be payable and presentable for~~  
24 ~~acceptance or payment on the next secular or business day following~~  
25 ~~the holiday.~~

26       Sec. 6. This act ~~shall not be construed to~~ **DOES NOT** alter  
27 any of the obligations under law of a ~~bank or association~~

- 1 **FINANCIAL INSTITUTION** to its employees or to the employees of
- 2 another employer.