

HOUSE BILL No. 5172

November 10, 2011, Introduced by Reps. Slavens, Meadows, Jackson, Brown, Segal, Liss, Barnett, Hovey-Wright, Lindberg, Townsend, Cavanagh, Switalski and Howze and referred to the Committee on Banking and Financial Services.

A bill to amend 1999 PA 276, entitled
"Banking code of 1999,"
by amending section 4304 (MCL 487.14304).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4304. (1) A bank shall not engage in a transaction with
2 respect to shares of the capital stock of a corporation unless
3 specifically authorized by this act or by order or declaratory
4 ruling of the commissioner under this act.

5 (2) A bank may purchase and sell securities and stock ~~upon~~ **ON**
6 the order of and for the account of a customer without recourse.

7 (3) A bank shall not make a loan on or discount the security
8 of the shares of its own capital stock unless the security is
9 necessary to prevent loss ~~upon~~ **ON** a debt previously contracted in

1 good faith.

2 (4) A bank may purchase or hold shares of its own stock if any
3 of the following apply:

4 (a) The bank is holding shares amounting to not more than 5%
5 of its common stock until disposed of in compliance with an
6 existing stock option plan.

7 (b) The purchase or holding of the shares is necessary to
8 prevent loss ~~upon~~ **ON** a debt previously contracted in good faith.

9 (c) The commissioner gives written approval to the bank to
10 purchase or hold shares for its own account.

11 (5) A bank may purchase and hold shares of stock or other
12 equity interests, having an aggregate purchase price not more than
13 10% of its capital and surplus, of ~~each~~ **1 OR MORE OF ANY** of the
14 following:

15 (a) ~~Small~~ **A SMALL** business investment ~~companies~~ **COMPANY** doing
16 business in this state and licensed under, or established under,
17 the small business investment act of 1958, Public Law 85-699. ~~72~~
18 ~~Stat. 689.~~

19 (b) ~~The Michigan~~ **A** business development corporation
20 **INCORPORATED UNDER THE BUSINESS DEVELOPMENT CORPORATION ACT.**

21 (c) ~~Corporations or partnerships~~ **A CORPORATION OR PARTNERSHIP**
22 authorized by title IX of the housing and urban development act of
23 1968, Public Law 90-448. ~~82 Stat. 547.~~

24 (d) ~~Business entities~~ **A BUSINESS ENTITY** whose primary purpose
25 is to provide capital to banks ~~, which banks~~ **THAT** are largely owned
26 or controlled by individuals classified as racial minorities.

27 (e) ~~Open end~~ **AN OPEN-END** management investment ~~companies~~

1 **COMPANY** registered with the securities and exchange commission
 2 under the investment company act of 1940, ~~title I of chapter 686,~~
 3 ~~54 Stat. 789, 15 U.S.C. 15 USC~~ 80a-1 to 80a-64, while the
 4 ~~portfolios~~ **PORTFOLIO** of the ~~companies are~~ **COMPANY IS** restricted by
 5 ~~their~~ **ITS** investment policies, changeable only by vote of the
 6 shareholders, to investments permitted to banks by order or
 7 declaratory ruling of the commissioner.

8 (f) ~~Agricultural~~ **AN AGRICULTURAL** credit business ~~entities~~
 9 **ENTITY** organized solely for the purpose of making loans to farmers
 10 and ranchers for agricultural purposes, including the breeding,
 11 raising, fattening, or marketing of livestock.

12 (g) The student loan marketing association established under
 13 ~~section 439 of part B of title IV of the higher education act of~~
 14 ~~1965, Public Law 89-329, 20 U.S.C. 20 USC~~ 1087-2.

15 (h) Any class of voting securities of ~~banks~~ **A BANK**, out-of-
 16 state ~~banks~~ **BANK**, or national ~~banks~~ **BANK** engaged exclusively in
 17 providing services to depository institutions or their officers,
 18 directors, employees, and customers, or **A** bank holding ~~companies~~
 19 **COMPANY** that ~~own or control such banks, out of state banks, or~~
 20 ~~national~~ **OWNS OR CONTROLS ANY OF THOSE** banks if the stock of the
 21 bank holding ~~companies~~ **COMPANY** is owned exclusively, except to the
 22 extent directors' qualifying shares are required by law, by
 23 depository institutions and if all subsidiaries of the bank holding
 24 ~~companies~~ **COMPANY** engage exclusively in serving depository
 25 institutions or their officers, directors, employees, and
 26 customers.

27 (i) ~~Banking organizations or corporations~~ **A BANKING**

1 **ORGANIZATION OR CORPORATION** chartered or incorporated under the
 2 laws of the United States or of any state, territory, or
 3 protectorate of the United States, and principally engaged in
 4 international or foreign banking, either directly or through the
 5 agency, ownership, or control of foreign banks.

6 (j) ~~Foreign banks~~ **A FOREIGN BANK** that ~~are~~ **IS** not engaged,
 7 directly or indirectly, in any activity in the United States except
 8 as, in the judgment of the commissioner, is incidental to the
 9 international or foreign business of the foreign ~~banks~~ **BANK**.

10 (k) ~~Entities~~ **AN ENTITY** that ~~provide, and entities that~~
 11 ~~reinsure~~ **PROVIDES INSURANCE OR REINSURES** providers of ~~insurance~~.

12 (6) Subject to the limitation based ~~upon~~ **ON** capital and
 13 surplus set forth in subsection (5), a bank may purchase for its
 14 own account any of the following:

15 (a) Securities authorized by title IX of the housing and urban
 16 development act of 1968, Public Law 90-448. ~~782 Stat. 547.~~

17 (b) Adjustable rate preferred stock and money market preferred
 18 stock.

19 (c) Stock, bonds, or other obligations of a business and
 20 industrial development company established under the provisions of
 21 the Michigan BIDCO act, 1986 PA 89, MCL 487.1101 to 487.2001.

22 (7) This section does not limit or expand the investment
 23 authority of a bank granted by any other section of this act.

24 Enacting section 1. This amendatory act does not take effect
 25 unless Senate Bill No. ____ or House Bill No. 5169(request no.
 26 01519'11) of the 96th Legislature is enacted into law.