Senate Bill No. 745
Banking Code Modernization Summary

Prepared by the Michigan Financial Institutions Bureau
October 15, 1999

Position

The Financial Institutions Bureau supports Senate Bill No. 745, which represents the result of several years of discussions between the financial institution industry and the Bureau.

Background

During the 30 years since Michiganís Banking Code last underwent a comprehensive review, the banking business has changed significantly. There are new products, new service delivery mechanisms, new competitors, new operational tools. Restrictions on where a bank could branch and how it could price its deposit offerings largely have been eliminated. Today, computers also have revolutionized bank regulation, giving regulators quick access to financial reports and other information on banks and facilitating off-site monitoring of institution performance.

Senate Bill No. 745 represents an effort to modernize the Banking Code of 1969. It would eliminate obsolete provisions, eliminate barriers to use of new technology in bank operations, and acknowledge competition from nontraditional sources. It would reduce regulatory burden by streamlining application requirements and shortening Bureau processing times, by changing some application requirements to notifications, and by simplifying bank structure and organization provisions. The bill would clarify provisions whose meaning has been unclear. S.B. 745 would equalize state banksí regulatory framework relative to state-chartered savings banks, which operate under a 1996 law. The bill also would restructure the code in a more logical format, making it easier to use.

Perhaps the most significant aspect of S.B. 745 is that it provides increased flexibility to both banks and the Bureau to respond to changing circumstances as we enter the next century. For example, it would permit bank boards of directors to conduct meetings electronically. It would allow the Commissioner, in acting on applications to exercise new powers, to take into consideration competition banks face not only from other depository institutions but also from mortgage companies and other financial service providers. Instead of fixed capital levels for new bank formation, the modernization would allow for capital requirements that accommodate to the nature of the business to be conducted. It would allow the Commissioner to stretch the time between examinations of healthy banks to up to 18 months.

The Bureau expects that S.B. 745 would provide a framework that will enable banks to continue to be strong, healthy competitors in the financial services marketplace. The attachment highlights key provisions of the bill.

If you have questions regarding the bill, please contact Financial Institutions Bureau Acting Commissioner Gary Mielock (517/373-7279), Deputy Commissioner Peggy Bryson (517/373-8674), or Assistant to the Commissioner, Renee Ortlieb (517/373-7279).

Significant recommendations in S.B. 745 include:

Bank Structure and Organization:
- Expand eligibility to organize a bank, e.g. allow a bank holding company to apply to organize a bank.
- Change the way organizational expenses are regulated.
- Reduce filing requirements.
- Streamline application procedures.
- Simplify process for main office relocation to an approved branch site.
- Simplify administrative requirements associated with Michigan bank consolidations.

Parity with Competitors:
- Grant banks the same tax exemptions savings banks enjoy under section 804 of the Savings Bank Code.
- Allow charging of interest in conformance with the Credit Reform Act.

Bank Operations:
- Allow staggered terms for bank directors.
- Allow book entry of stock.
- Accommodate electronic technology in conducting board meetings.
- Allow individual shareholders to waive required notices.
- Allow flexibility in means of providing certain notices.
- Clarify conditions for purchases from/sales to directors.
- Prohibit accepting consideration from customers for procuring services from the bank.

Bureau Operations:
- Extend the period between exams of healthy banks to 18 months, in the Commissioner's discretion, consistent with federal agency exam schedules.
- Shorten timelines for processing applications.

Bank Powers:
- Eliminate specific enumeration of powers clearly within the business of banking.
- Allow banks to own stock in a "bankers bank" that provides trust services to bank customers.
- Allow "bankers bank" to serve affiliates of depository institutions.

Commissioner Powers:
- Allow Commissioner to consider competition provided by out-of-state entities in implementing the Banking Code.
- Allow the Commissioner to expand bank powers by order or declaratory ruling rather than by rule.
- Change rule-making authority from mandatory to permissive.
- Allow sharing of regulatory information with other regulators of depository institutions.

Obsolete Provisions
- Delete references to industrial banks and trust companies.
- Delete bonding of Bureau employees.

ï Delete prohibition on authorizing banks to sell insurance.
ï Delete provisions for protest of applications.

General Cleanup
ï Clarify distinction between service entities and subsidiaries.
ï Better define branch.
ï Make the code gender neutral.
ï Make technical changes to conform to AICPA acounting standards.

Other
ï Consolidate definitions.
ï Make provision for limited liability companies, as appropriate.
ï Remove state restrictions on payment of interest on demand deposits.
ï Repeal regulations on safe and collateral deposit companies.
ï Tighten conflict of interest restrictions on Bureau employees.
ï Eliminate refund of supervisory fee to bank not examined in a calendar year.
ï Update provisions relating to conservatorships and receiverships.
ï Clarify and update procedures for voluntary dissolution.
ï Modify publication requirements to cover community where principal office is located.
ï Eliminate floor on annual bank supervisory fee.