



State of Michigan
John Engler, Governor

Department of Consumer & Industry Services
Kathleen M. Wilbur, Director

Office of Financial and Insurance Services
Frank M. Fitzgerald, Commissioner

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September 12, 2001

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Dear XXXXXX:

I am writing in reply to your letter of August 6, 2001 inquiring about this agency's position on an out-of-state bank's continued use in Michigan of a business name that includes the word "bank" following the discontinuance of the bank's FDIC insurance of deposits.

As you describe the situation, YYYYYY plans to acquire the holding company of a Connecticut-chartered bank in a merger transaction. The bank, now full-service—including holding insured deposits—is expected to discontinue deposit-taking activity and to become an uninsured bank under Connecticut law. I understand that the bank will retain its Connecticut bank charter and plans to continue its current commercial loan activity and its Michigan loan production office. You requested assurance that this agency will not object to use of the word "Bank" in the bank's certificate of authority to conduct business in Michigan.

Your inquiry centered on provisions of the Michigan Banking Code of 1999 limiting the use the word "bank" in the conduct of business in Michigan¹ to certain entities, including out-of-state banks. The Code defines "out-of-state bank" as:

"a banking corporation organized under the laws of another state, the District of Columbia, or a territory or a protectorate of the United States whose principal office is located in a state other than this state, in the District of Columbia, or in a territory or a protectorate of the United States, and whose deposits are insured by the federal deposit insurance corporation."
[MCL 487.11202(q)]

¹ Sec. 1106. The use of the word "bank", "banker", or "banking" or any foreign language words of similar meaning as a designation or name, or part of a designation or name under which business is or may be conducted in this state, is restricted to a national bank, a bank subject to this act, an out-of-state bank, a bank holding company registered under the bank holding company act, a foreign bank agency, a foreign bank branch, a savings and loan holding company as defined in 12 C.F.R. 583.20, or a savings bank that is lawfully conducting business in this state, unless that designation or name, taken as a whole, would not imply a banking business. Use of the term "mortgage banker" or "mortgage banking" in the name or assumed name of a licensee or registrant under the mortgage brokers, lenders, and servicers licensing act, [1987 PA 173](#), MCL [445.1651](#) to [445.1684](#), does not violate this section. [MCL **487.11106**]

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This agency has reviewed MCL 487.11202(q) and determined that the provision relative to FDIC insurance of deposits applies only if the subject bank holds insurable deposits. Thus, if a limited-purpose bank which does not hold deposits has a bank charter under the laws of another state, the bank meets the definition of an “out-of-state bank” for purposes of Michigan’s Banking Code of 1999 and, if it conducts business in Michigan, has the powers and responsibilities accorded by the Code to out-of-state banks. This includes the right to use the word “bank” in its business name.

As an “out-of-state bank”, by definition the bank is also a “depository institution” under the Code², and, if the bank’s existing loan production office limits its activities to those the Code permits a loan production office, it remains a loan production office for purposes of the Code.³

If you have additional questions in this regard, please contact me at (517)373-9552, via e-mail at peggy.bryson@cis.state.mi.us, or at the address above.

Sincerely,

/ss/

Peggy L. Bryson, Deputy Commissioner
Bank and Trust Division

² “Depository institution” means a bank, out-of-state bank, national bank, foreign bank branch, association, savings bank, or credit union organized under the laws of this state, another state, the District of Columbia, the United States, or a territory or protectorate of the United States. [MCL 487.11201(s)]

³ “Loan production office” means an office of a depository institution or institutions at which activities related to the lending of money are conducted, deposits are not received, and checks are not paid, and which office is not the principal office, a branch, or an agency of an affiliated depository financial institution. [MCL 487.11202(k)]