



State of Michigan
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Department of Consumer & Industry Services
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September 19, 2001

XXXXXX
XXXXXX
XXXXXX
XXXXXX

Dear YYYYYY:

I am writing in reply to your recent letter requesting confirmation of your understandings that:

1. [Michigan's statutory] "definition of "out-of-state bank" includes XXXXXX, a limited purpose bank created under the laws of the State of New Jersey, notwithstanding the fact that XXXXXX is not permitted to accept deposits."
2. "as an "out-of-state bank", XXXXXX may act as a corporate fiduciary in Michigan to the same extent as a bank created under Michigan law."

Section 1105(2) of the Banking Code of 1999 (Code), limits the parties which may act as fiduciaries in this state to an individual or one of the following types of corporations:

(a) A bank authorized to exercise trust powers under this act, or authorized to conduct trust business in this state before November 29, 1995.

(b) A state foreign bank branch authorized to exercise trust powers under this act.

(c) An out-of-state bank, that is authorized to exercise trust powers under the law of the jurisdiction where it is organized. An out-of-state bank authorized to exercise trust powers under this subdivision may do so only to the extent a bank may exercise trust powers under this act.

(d) A national bank authorized to exercise trust powers under the national bank act. A national bank authorized to exercise trust powers under this subdivision may do so only to the extent that a bank may exercise trust powers under this act.

(e) A nonbanking corporation to the extent that it may be specifically authorized to act as fiduciary in this state by another statute of this state."

[MCL 487.11105(2)]

YYYYY

XXXXX

September 12, 2001

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As XXXXX is neither a Michigan-chartered bank, a foreign bank branch, or a national bank, you question whether it can be considered an “out-of-state bank” for purposes of MCL 487.11105(2)(c). 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)]

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 the Code. The New Jersey Division of Banking has confirmed informally that XXXXX holds a bank charter under the laws of New Jersey.

As an out-of-state bank, XXXXX may exercise trust powers that are authorized to banks chartered under the Code.

If you have additional questions, please feel free to contact me.

Sincerely,

/ss/

Peggy L. Bryson, Deputy Commissioner
Bank and Trust Division

cc: R. Jones
J. Petterson