

# SENATE BILL No. 215

February 21, 2013, Introduced by Senators BRANDENBURG, HANSEN, CASPERSON, BOOHER, GREEN, WALKER, ROBERTSON, JONES, PROOS and SMITH and referred to the Committee on Outdoor Recreation and Tourism.

A bill to amend 1855 PA 105, entitled

"An act to regulate the disposition of the surplus funds in the state treasury; to provide for the deposit of surplus funds in certain financial institutions; to lend surplus funds pursuant to loan agreements secured by certain commercial, agricultural, or industrial real and personal property; to authorize the loan of surplus funds to certain municipalities; to authorize the participation in certain loan programs; to authorize an appropriation; and to prescribe the duties of certain state agencies,"

by amending sections 2d, 3, and 7 (MCL 21.142d, 21.143, and 21.147), section 2d as added and sections 3 and 7 as amended by 2000 PA 280.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2d. (1) The state treasurer may invest surplus funds  
2 under the state treasurer's control in certificates of deposit or  
3 other instruments of a financial institution qualified under this  
4 act to receive deposits or investments of surplus funds for the

1 purpose of facilitating marina dredging loans. The state treasurer  
2 shall endeavor to make investments under this subsection in  
3 financial institutions such that marina dredging loans will be  
4 conveniently available in all geographic regions in this state. The  
5 state treasurer may enter into an investment agreement with a  
6 financial institution to provide for the investment under this  
7 subsection. The investment agreement shall contain all of the  
8 following:

9 (a) The term of the investment, which shall be not more than  
10 10 years.

11 (b) A requirement that the interest accruing on the investment  
12 shall not be more than the interest earned by the financial  
13 institution on marina dredging loans made after the date of the  
14 investment.

15 (c) A requirement that the financial institution shall provide  
16 good and ample security as the state treasurer requires and shall  
17 identify the marina dredging loans and the terms and conditions of  
18 those loans that are made after the date of the investment that are  
19 attributable to that investment together with other information  
20 required by this act.

21 (d) A requirement that a marina dredging loan made by the  
22 financial institution that is attributable to the investment shall  
23 be issued at a rate or rates of interest that are established in  
24 the investment agreement.

25 (e) A requirement that a marina dredging loan made by the  
26 financial institution that is attributable to the investment shall  
27 be made not later than ~~3 years after the effective date of this~~

1 ~~section.~~ **10 YEARS AFTER THE EFFECTIVE DATE OF THE 2013 AMENDATORY**  
2 **ACT THAT AMENDED THIS SECTION.**

3 (f) A requirement that a marina dredging loan made by the  
4 financial institution that is attributable to the investment shall  
5 be issued for a loan repayment period of not more than 7 years.

6 (g) A requirement that a marina dredging loan made by the  
7 financial institution that is attributable to the investment shall  
8 not exceed ~~\$75,000.00.~~ **\$500,000.00.**

9 (h) A requirement that a marina dredging loan made by the  
10 financial institution that is attributable to the investment shall  
11 not be released by the financial institution unless the loan  
12 applicant has certified that it is an eligible marina.

13 (i) A requirement that to the extent the financial institution  
14 has not made marina dredging loans in an amount at least equal to  
15 the amount of the investment within 90 days after the investment,  
16 the rate of interest payable on that portion of the outstanding  
17 investment shall be increased to a rate of interest provided in the  
18 investment agreement, with the increase in the rate of interest  
19 applied retroactively to the date on which the state treasurer made  
20 the investment.

21 (j) Incentives for the early repayment of the investment and  
22 for the acceleration of payments in the event of a state cash  
23 shortfall as prescribed by the investment agreement, if required by  
24 the state treasurer.

25 (k) Other terms as prescribed by the state treasurer.

26 (2) An investment made under this section is found and  
27 declared to be for a valid public purpose.

1           (3) The attorney general shall approve documentation for an  
2 investment under this section as to legal form.

3           (4) The aggregate amount of investments made under this  
4 section shall not exceed ~~\$20,000,000.00~~ **\$30,000,000.00**.

5           (5) Upon the determination by the directors of the departments  
6 of natural resources and environmental quality that the need to  
7 facilitate marina dredging loans has significantly diminished based  
8 on changes in Great Lakes water levels, the state treasurer may  
9 take actions necessary to ensure that no new marina dredging loans  
10 that are attributable to an investment under this section are made.  
11 Such a determination shall not affect existing marina dredging  
12 loans that are attributable to an investment under this section.

13           (6) Earnings from an investment made under this section that  
14 are in excess of the average rate of interest earned during the  
15 same period on other surplus funds, other than surplus funds  
16 invested under section 1, shall be credited to the general fund of  
17 the state. If interest from an investment made under this section  
18 is below the average rate of interest earned during the same period  
19 on other surplus funds, other than surplus funds invested under  
20 section 1, the general fund shall be reduced by the amount of the  
21 deficiency on an amortized basis over the remaining term of the  
22 investment. A loss of principal from an investment made under this  
23 section shall reduce the earnings of the general fund by the amount  
24 of that loss on an amortized basis over the remaining term of the  
25 investment.

26           (7) The state treasurer may take any necessary action to  
27 ensure the successful operation of this section, including making

1 investments with financial institutions to cover the administrative  
2 and risk-related costs associated with a marina dredging loan.

3 (8) Annually, each financial institution in which the state  
4 treasurer has made an investment under this section shall file an  
5 affidavit, signed by a senior executive officer of the financial  
6 institution, stating that the financial institution is in  
7 compliance with the terms of the investment agreement.

8 (9) ~~The~~ **BEGINNING IN 2013, THE** state treasurer shall annually  
9 prepare and submit a report to the legislature regarding the  
10 disposition of money invested for purposes of facilitating marina  
11 dredging loans under this section. The report shall include all of  
12 the following information:

13 (a) The total number of eligible marina owners who have  
14 received a marina dredging loan.

15 (b) By county, the total number and amounts of the marina  
16 dredging loans that were issued.

17 (c) The name of each financial institution participating in  
18 the marina dredging loan program and the amount invested in each  
19 financial institution for purposes of the loan program.

20 (10) As used in this section:

21 (a) "Bottomland" means the land area of a water body that lies  
22 below the ordinary high-water mark and that may or may not be  
23 covered by water.

24 (b) "Dredging" means the removal of sediments from bottomland.

25 (c) "Dredging costs" means the costs associated with dredging  
26 that were incurred after ~~January 1, 2000,~~ **THE EFFECTIVE DATE OF THE**  
27 **2013 AMENDATORY ACT THAT AMENDED THIS SECTION,** including costs of

1 removal, disposal, and testing of sediments, and the costs  
 2 associated with obtaining necessary permits required to conduct  
 3 dredging.

4 (d) "Eligible marina" means a privately owned, commercial  
 5 facility in this state that meets all of the following  
 6 requirements:

7 (i) Extends into or over the Great Lakes ~~and~~ **OR** their  
 8 connecting waters **THAT ARE** navigable by motorized watercraft from a  
 9 Great Lake.

10 (ii) Provides docking, mooring or launching services ~~available~~  
 11 ~~to the general public for recreational boating . Marinas that limit~~  
 12 ~~their~~ **AND DOES NOT LIMIT ITS** services based on ~~membership or~~  
 13 ~~residency requirements are not eligible.~~ **RELIGION, RACE, COLOR,**  
 14 **CREED, NATIONAL ORIGIN, SEX, MARITAL STATUS, DISABILITY, AGE,**  
 15 **SEXUAL ORIENTATION, OR FAMILY STATUS.**

16 ~~—— (iii) Provides mooring facilities for no more than 200~~  
 17 ~~recreational watercraft through the use of docks, slips, or~~  
 18 ~~broadside mooring.~~

19 (iii) ~~(iv)~~ Has received the permits required by law from the  
 20 department of environmental quality and the **UNITED STATES** army  
 21 corps of engineers for the dredging to be conducted with loan  
 22 funds.

23 (e) "Marina dredging loan" means a loan or the refinancing of  
 24 all or a portion of a loan made to the owner of an eligible marina  
 25 for dredging costs necessitated by low water levels to accommodate  
 26 the use of the marina by recreational watercraft.

27 (f) "Ordinary high-water mark" means either of the following:

1           (i) For an inland lake or stream, that term as it is defined in  
2 section 30101 of the natural resources and environmental protection  
3 act, 1994 PA 451, MCL 324.30101.

4           (ii) For the Great Lakes, the ordinary high-water mark as  
5 described in section 32502 of the natural resources and  
6 environmental protection act, 1994 PA 451, MCL 324.32502.

7           (g) "Surplus funds" means, at any given date, the excess of  
8 cash and other recognized assets that are expected to be resolved  
9 into cash or its equivalent in the natural course of events and  
10 with a reasonable certainty, over the liabilities and necessary  
11 reserves at the same date.

12           Sec. 3. (1) A financial institution shall not be a depository  
13 of surplus funds of the state unless the financial institution  
14 complies with this act. The state treasurer shall require of a  
15 financial institution, before it is made a depository of surplus  
16 funds of the state, good and ample security as approved by the  
17 state treasurer and the attorney general for the safekeeping and  
18 reimbursement of the surplus funds and the payment of the rate of  
19 return as the state treasurer, in the treasurer's discretion,  
20 considers best for the interest of the state.

21           (2) The state treasurer may invest surplus funds of the state  
22 in the bonds, notes, and other evidences of indebtedness of the  
23 United States government and its agencies, in prime commercial  
24 paper, and may also use surplus funds in the manner provided in  
25 sections ~~2~~2a, 2b, and 2d and may use each fiscal year not more  
26 than that amount of the surplus funds necessary to make loans to  
27 municipalities under section 1.

1           (3) All earnings from loans made under section 1 in excess of  
2 the average rate of interest earned on other surplus funds during  
3 the same period shall be credited to the general fund of the state.  
4 Any loss of principal or interest sustained from loans made under  
5 section 1 shall reduce the earnings of the general fund on an  
6 amortized basis over the remaining term of the loan.

7           (4) The investment of surplus state funds in bonds, notes, and  
8 other evidences of indebtedness of the United States government and  
9 its agencies ~~as provided in subsection (1)~~ may include securities  
10 of, or other interests in, a no-load open-end or closed-end  
11 management type investment company or investment trust registered  
12 under the investment company act of 1940, ~~title I of chapter 686,~~  
13 ~~54 Stat. 789, 15 U.S.C. USC 80a-1 to 80a-3 and 80a-4 to 80a-64,~~ if  
14 both of the following are true:

15           (a) The portfolio of the investment company or investment  
16 trust is limited to United States government obligations and  
17 repurchase agreements fully collateralized by United States  
18 government obligations.

19           (b) The investment company or investment trust takes delivery  
20 of the collateral for any repurchase agreement either directly or  
21 through an authorized custodian.

22           Sec. 7. As used in this act:

23 ~~—— (a) "Commissioner" means the commissioner of the office of~~  
24 ~~financial and insurance services of the department of consumer and~~  
25 ~~industry services.~~

26           **(A)** ~~(b)~~ "Deposit" includes the purchase of, or investment in,  
27 shares of credit unions.



1           **(B) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF**  
2 **INSURANCE AND FINANCIAL SERVICES.**

3           (c) Except as otherwise provided by this subdivision,  
4 "financial institution" means a state or nationally chartered bank  
5 or a state or federally chartered savings and loan association,  
6 savings bank, or credit union whose deposits are insured by an  
7 agency of the United States government and which maintains a  
8 principal office or branch office located in this state under the  
9 laws of this state or the United States. For the purpose of  
10 repurchase agreements, "financial institution" means a state or  
11 nationally chartered bank or state or federally chartered savings  
12 and loan association, savings bank, or credit union whose deposits  
13 are insured by an agency of the United States government under the  
14 laws of this state or the United States.