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BILL ANALYSIS



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House Bill 5681 (Substitute H-4 as passed by the House)
Sponsor: Representative Steve Tobocman
House Committee: Commerce
Senate Committee: Economic Development and Regulatory Reform

Date Completed: 6-11-08

CONTENT

The bill would amend the Nonprofit Corporation Act to do all of the following:

- Prohibit a "charitable purpose corporation" from providing loans or guarantees to an officer or director, unless he or she also was a client and the loan or guarantee was necessary to carry out the corporation's charitable purposes.**
- Require a charitable purpose corporation that automatically dissolved because it neglected or failed to file annual reports or pay annual fees to notify the Attorney General of the dissolution within 60 days.**
- Prohibit a charitable purpose corporation that dissolved as described above from disposing of its assets without the Attorney General's approval.**
- Require the board of a nonprofit corporation to have at least three members, rather than one or more.**

Under the bill, "charitable purpose corporation" would mean a nonprofit corporation that is any of the following:

- Exempt or qualified for exemption under Section 501(c)(3) of the Internal Revenue Code (which provides for tax-exempt, charitable organizations).
- A corporation whose purposes, structure, or activities are exclusively those that are described in Section 501(c)(3).
- A corporation organized or held out to be organized exclusively for one or more charitable purposes.

Charitable Purpose Corporation

Loan or Guaranty. Under the Act, unless otherwise prohibited by law, a nonprofit corporation may lend money to, or guarantee an obligation of, or otherwise assist an officer or employee of the corporation or a subsidiary, including an officer or employee who is a director of the corporation or subsidiary, if in the judgment of the board of directors, the loan, guaranty, or assistance is reasonably expected to benefit the corporation. Under the bill, however, if a corporation were a charitable purpose corporation, it could not provide loans to or guarantee an obligation of an officer or director of the corporation or a subsidiary, unless the officer or director also was a client of the corporation and the loan or guaranty was necessary to carry out the corporation's charitable purposes.

Dissolution of the Corporation. Under the Act, if a domestic corporation neglects or refuses for two consecutive years to file the annual reports or pay the annual filing fee required by law, the corporation automatically is dissolved. The bill specifies that a charitable purpose corporation dissolved under this provision would have to provide notice of the dissolution to the Attorney General within 60 days after the date of the dissolution. The charitable purpose corporation could not dispose of any of its assets without the Attorney General's written approval.

Board Membership

The Act requires the board of directors of a nonprofit corporation to have one or more members. Under the bill, a nonprofit corporation's board would have to have at least three directors. Beginning 180 days after the bill's effective date, the board of a corporation that existed on that date would have to consist of three or more directors.

MCL 450.2106 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Elizabeth Pratt
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