CHAPTER 125. PLANNING, HOUSING, AND ZONING

ECONOMIC DEVELOPMENT
Act 302 of 1947

125.1-125.8 Repealed. 1963, Act 116, Imd. Eff. May 10, 1963.

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REGIONAL PLANNING
Act 281 of 1945

AN ACT to provide for regional planning; the creation, organization, powers and duties of regional planning commissions; the provision of funds for the use of regional planning commissions; and the supervision of the activities of regional planning commissions under the provisions of this act.

History: 1945, Act 281, Eff. Sept. 6, 1945;—Am. 1952, Act 194, Eff. Sept. 18, 1952.

The People of the State of Michigan enact:

125.11 Regional planning; definitions.

Sec. 1. For the purpose of this act certain terms are defined as provided in this section. Wherever appropriate the singular includes the plural and the plural includes the singular. The terms "local governmental units" or "local units" shall include cities, villages, other incorporated political subdivisions, counties, school districts, special authorities, townships, or any legally constituted governing body responsible for the exercise of governmental functions within a political subdivision of the state.

History: 1945, Act 281, Eff. Sept. 6, 1945;—CL 1948, 125.11.

125.12 Regional planning commission; creation; service by members of county board of commissioners.

Sec. 2. Regional planning commissions may be created by resolution by 2 or more legislative bodies of any local governmental units desiring to create a regional planning commission. Members of county boards of commissioners shall not be prohibited from serving on a commission created hereby.

History: 1945, Act 281, Eff. Sept. 6, 1945;—CL 1948, 125.12;—Am. 1952, Act 194, Eff. Sept. 18, 1952;—Am. 1976, Act 427, Imd. Eff. Jan. 11, 1977.

125.13 Regional planning commissions; limit of jurisdiction.

Sec. 3. The boundaries of the area which are to define the limit of jurisdiction of the regional planning commission shall be established by the resolutions of the participating legislative bodies. The boundaries of this area need not be coincident with the boundaries of any single governmental subdivision or group of subdivisions which are to be included in the area, but may include all or such portions of any governmental subdivision.

History: 1945, Act 281, Eff. Sept. 6, 1945;—CL 1948, 125.13;—Am. 1952, Act 194, Eff. Sept. 18, 1952.

125.14 Regional planning commission; per diem allowance and mileage; reimbursement for actual expenses.

Sec. 4. A member of the regional planning commission may receive a per diem allowance and mileage as is established and paid by the regional commission or, if a per diem allowance or mileage is not established and paid by the regional commission, as is established and paid by the local unit appointing that member for each meeting attended and may be reimbursed for not more than actual expenses incurred as a member of the commission in carrying out the work of the commission. The mileage and reimbursement for not more than actual expenses established under this section shall not exceed the standardized travel regulations of the department of management and budget.

History: 1945, Act 281, Eff. Sept. 6, 1945;—CL 1948, 125.14;—Am. 1952, Act 194, Eff. Sept. 18, 1952;—Am. 1976, Act 427, Imd. Eff. Jan. 11, 1977;—Am. 1989, Act 129, Imd. Eff. June 28, 1989.

125.15 Regional planning commissions; chairman; rules of procedure; records.

Sec. 5. Each regional planning commission shall elect its own chairman and establish its own rules of procedure, and may create and fill such other offices as it may determine necessary. It shall keep a record of its resolutions, transactions, findings and determinations, which records shall be a public record.

History: 1945, Act 281, Eff. Sept. 6, 1945;—CL 1948, 125.15;—Am. 1952, Act 194, Eff. Sept. 18, 1952.

125.16 Regional planning commissions; director and employees.

Sec. 6. The regional planning commission may appoint a director and such employees as it may deem necessary for its work and may hire such experts and consultants for part time or full time service as may be necessary for the prosecution of its responsibilities.

History: 1945, Act 281, Eff. Sept. 6, 1945;—CL 1948, 125.16.

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125.17 Aid from governmental agencies.

Sec. 7. Aid for the purpose of accomplishing the objectives of the regional planning commission may be accepted from all governmental agencies whether local, state or federal, if the conditions under which such aid is furnished are not incompatible with the other provisions of this act.

History: 1945, Act 281, Eff. Sept. 6, 1945;—CL 1948, 125.17.

125.18 Appointment of advisory committees or councils.

Sec. 8. The regional planning commission may appoint advisory committees or councils whose membership may consist of individuals whose experience, training or interest in the program may qualify them to lend valuable assistance to the regional planning commission by acting in an advisory capacity in consulting with the regional planning commission on technical and special phases of the program. Members of such advisory bodies shall receive no compensation for their services but may be reimbursed for actual expenses incurred in the performance of their duties.

History: 1945, Act 281, Eff. Sept. 6, 1945;—CL 1948, 125.18.

125.19 Regional planning commission; powers; annual report; service charge to local governmental unit.

Sec. 9. (1) A regional planning commission may conduct all types of research studies, collect and analyze data, prepare maps, charts, and tables, and conduct all necessary studies for the accomplishment of its other duties; may make and coordinate the development of plans for the physical, social, and economic development of the region, and may adopt, by resolution of its governing body, a plan or the portion of a plan so prepared or any objective consistent with a plan as its official recommendation for the development of the region; may publicize and advertise its purposes, objectives, and findings, and may distribute reports on its purposes, objectives, and findings; may, by resolution of its governing body and with the consent of the affected governmental units, or other public or private bodies, provide services to participating local governmental units, the state, and to other public and private bodies and citizens in matters relative to its functions, plans, and objectives provided those services are not available through the private sector at a competitive cost; may charge the recipients of its services a reasonable fee for those services; and may act as a coordinating agency for programs and activities of public and private bodies and citizens as they relate to its objectives. A regional planning commission shall make an annual report of its activities to the legislative bodies of the participating local governmental units.

(2) Notwithstanding subsection (1), a local governmental unit may not be charged for a service provided by a regional planning commission pursuant to subsection (1) unless the charge is accepted by a vote of the legislative body of that governmental unit.

History: 1945, Act 281, Eff. Sept. 6, 1945;—CL 1948, 125.19;—Am. 1952, Act 194, Eff. Sept. 18, 1952;—Am. 1982, Act 156, Imd. Eff. May 18, 1982.

125.20 Access to records and information.

Sec. 10. The regional planning commission shall be given access to all studies, reports, surveys, records, and all other information and material in the possession of such governmental agencies as shall be required by the regional planning commission for the accomplishment of its objectives.

History: 1945, Act 281, Eff. Sept. 6, 1945;—CL 1948, 125.20.

125.21 Local subdivisions; adoption of plans of regional commission.

Sec. 11. Local governmental subdivisions, whether active participants in the work of the regional planning commission or not, may adopt all or any portion of the plans prepared and adopted by the regional planning commission by following those procedures specified by act of the legislature or by local charter for the adoption of an official master plan.

History: 1945, Act 281, Eff. Sept. 6, 1945;—CL 1948, 125.21.

125.22 Local subdivisions; allocation of funds.

Sec. 12. For the purpose of providing funds to meet the expenses of a regional planning commission any local governmental unit participating in the formation, functioning and support of the regional planning commission or any other local governmental unit wishing to contribute thereto may allocate funds for the purpose by official act of its legislative body. The proportion of the total amount of funds to be so provided by each participating local governmental unit may be suggested by the regional planning investigating committee or prepared as a proposed budget by the regional planning commission and submitted to the legislative bodies of the participating local governmental units. Each legislative body of the participating governmental units

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may appropriate its share of the funds to be allocated for the use of the regional planning commission by the adoption of a legislative act which is identical with a similar act or acts as adopted by the other participating local governmental units. The services of personnel, the use of equipment and office space, and the provision of special services, may be accepted from any participating local governmental unit and may be considered a part of the financial support of that governmental unit.

History: 1945, Act 281, Eff. Sept. 6, 1945;—CL 1948, 125.22;—Am. 1952, Act 194, Eff. Sept. 18, 1952.

125.23 Regional planning commission; acceptance of gifts and grants; disposition of funds received from governmental agencies; restrictions.

Sec. 13. (1) A regional planning commission may accept gifts and grants from public or private individuals or agencies if the conditions under which the grants are made are in accordance with the accomplishment of the objectives of the regional planning commission.

(2) A regional planning commission may lend, grant, transfer, or convey funds received from all federal, state, or local governmental agencies, as permitted by law, subject to applicable restrictions affecting the use of those funds.

History: 1945, Act 281, Eff. Sept. 6, 1945;—CL 1948, 125.23;—Am. 1952, Act 194, Eff. Sept. 18, 1952;—Am. 1982, Act 156, Imd. Eff. May 18, 1982.

125.24 Transfer of functions to regional council of government; vote required; grants-in-aid.

Sec. 14. The regional planning commission as constituted under this act may transfer by interlocal agreement or contract its activities, functions, programs, staff, moneys, properties, and any other liabilities or assets to a regional council of government hereinafter created. This transfer must be authorized by a majority vote of the governing body of the regional planning commission and submitted to each local governmental unit participating as a member of the regional planning commission. The local legislative body of each local governmental unit participating as a member of the regional planning commission must authorize and concur in the transfer by majority vote.

In the event of such transfer, the council shall be entitled to receive and disburse all grants-in-aid and other revenues that would otherwise be available to the regional planning commission.

History: Add. 1967, Act 87, Eff. Nov. 2, 1967.

Compiler's note: Former MCL 125.24, a severability provision, was repealed by Act 129 of 1947.

125.25 Research studies and plans; review by office of planning coordination.

Sec. 15. Research studies and plans for the physical, social and economic development of the region which are prepared by the regional planning commissions pursuant to section 9 shall be forwarded as soon as is practical and prior to adoption in whole or in part to the office of planning coordination of the executive office of the governor for review and comment.

History: Add. 1967, Act 87, Eff. Nov. 2, 1967.

MUNICIPAL PLANNING
Act 285 of 1931

125.31-125.45 Repealed. 2008, Act 33, Eff. Sept. 1, 2008.

Compiler's note: Subsection (2) of MCL 125.3885 of Act 33 of 2008 provides that any plan adopted or amended under an act repealed under subsection (1) of MCL 125.3885 is subject to subsection (1) of MCL 125.3881.

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CERTIFICATION OF CITY AND VILLAGE PLATS
Act 222 of 1943

AN ACT enabling the planning commissions of cities and villages, after adoption of a master plan, to certify plats of precised portions thereof to the legislative body, and enabling cities and villages by ordinance to adopt such certified plats showing the future outside lines of streets, ways, places, parks, playgrounds and other public grounds, and to regulate buildings within such lines.

History: 1943, Act 222, Eff. July 30, 1943.

The People of the State of Michigan enact:

125.51 Municipal planning commission; authorization to certify plats; estimate of time period for land acquisitions.

Sec. 1. After the planning commission of any city or village shall have lawfully adopted a master plan for the physical development of the municipality or of 1 or more major sections or divisions thereof, it shall have the power to make or cause to be made and certify to the legislative body of such municipality, from time to time, detailed and precised plats, each showing the exact location of the proposed future outside lines of 1 or more new, extended or widened streets, avenues, places or other public ways, or of 1 or more parks, playgrounds or other public grounds or extensions thereof shown on such adopted master plan. At the time of each such certification to the legislative body, the commission shall transmit an estimate of the time period within which the land acquisitions for public use indicated on the certified plat should be accomplished. The making or certifying of such a plat by the commission shall not in and of itself constitute or be deemed to constitute the opening and establishment of any street or the taking or acceptance of any land for any of the aforesaid purposes.

History: 1943, Act 222, Eff. July 30, 1943;—CL 1948, 125.51.

125.52 Adoption by legislative body; notice before consideration; modifications; disapproval; failure to report within 30 days deemed approval.

Sec. 2. The legislative body of any city or village may by ordinance adopt any such precised plat certified to it by the planning commission as provided in section 1: Provided, That notice of time and place when and where it shall be considered for final passage shall be sent by mail to the record owners of land located within or abutting on the new lines of such proposed streets, ways, places, parks, playgrounds or other public grounds or extensions thereof designated on the plat. Any modification of such certified plat before passage of the adopting ordinance, and any amending ordinance originating in the legislative body shall be submitted to the planning commission for its approval: Provided, That in case of disapproval the commission shall communicate its reasons therefor to the legislative body which shall thereafter have the power to overrule such disapproval by a recorded vote of not less than 2/3 of its entire membership. Failure of the planning commission to report on any such modification or amendment within 30 days shall be deemed to constitute an approval thereof. The adoption of any such certified plat by ordinance, or by amending ordinance, shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for any of the aforesaid purposes.

History: 1943, Act 222, Eff. July 30, 1943;—CL 1948, 125.52.

125.53 Amendments or modifications; notice of consideration; approval.

Sec. 3. Amendments or modifications to such certified plats, in conformity with lawfully adopted changes, or additions to the adopted master plan may be made and certified by the commission to the legislative body, and ordinances embodying amendments to or changes in such certified plats may be adopted by the legislative body, in accordance with the procedure prescribed by law for the enactment of municipal ordinances: Provided, That notice of the time and place when and where it shall be considered by final passage shall be sent by mail to the record owners of land located within or abutting on the lines of proposed streets, ways, places, parks, playgrounds, or other public grounds. Any such proposed amendment or change shall be submitted to and approved by the planning commission: Provided, That in case of disapproval the commission shall communicate its reasons to the legislative body which shall have the power to overrule such disapproval by a recorded vote of not less than 2/3 of its entire membership. Any plat of a street, park, playground, or public ground certified by the planning commission to the legislative body under this act shall be deemed approved by the commission without further submission thereof to said commission.

History: 1943, Act 222, Eff. July 30, 1943;—CL 1948, 125.53.

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125.54 Building permits, granting; public hearing.

Sec. 4. For the purpose of accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements, the legislative body of any city or village may provide by ordinance that no permit shall be issued for, and no building or structure or part thereof shall be erected on any land located within the proposed future outside lines of any new, extended or widened street, avenue, place or other public way, or of any park, playground or other public grounds or extension thereof shown on any such certified and adopted plat. Any such ordinance shall provide that the zoning board of appeals, if the municipality has such a board, or if not, that a board of appeals created for the purpose in such ordinance, shall have the power on appeal filed with it by the owner of such land to authorize the granting of a permit for and the erection of a building, or structure, or part thereof, within the lines of any such mapped street, park, playground, or other public ground in any case in which such board finds, upon the evidence and arguments presented to it on such appeal, (a) that the entire property of the appellant located in whole, or in part, within the lines of such mapped street, park, playground, or other public ground cannot yield a reasonable return to the owner unless such permit be granted, and (b) that, balancing the interest of the municipality in preserving the integrity of the adopted map, and the interest of the owner of the property in the use and benefits of his property, the granting of such permit is required by considerations of justice and equity. Before taking any such action, the board of appeals shall hold a public hearing thereon, at least 10 days' notice of the time and place of which shall be given to the appellant by mail at the address specified by the appellant in his appeal petition. In the event that the board of appeals decides to authorize a building permit and erection, it shall have the power to specify the exact location, ground area, height, and other details and conditions of size, character and construction, and also the duration of the building, structure, or part thereof to be permitted.

History: 1943, Act 222, Eff. July 30, 1943;—CL 1948, 125.54.

125.55 Outside lines shown by appropriate symbols on maps.

Sec. 5. The proposed future outside lines of streets, parks, playgrounds and other public grounds shown on any plat certified and adopted as hereinbefore provided, may for convenience be shown, wholly or in part, by appropriate symbols on any official map or other map of the city or village: Provided, That showing such lines on any map shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for any of the aforesaid purposes.

History: 1943, Act 222, Eff. July 30, 1943;—CL 1948, 125.55.

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BLIGHTED AREA REHABILITATION
Act 344 of 1945

AN ACT to authorize counties, cities, villages and townships of this state to adopt plans to prevent blight and to adopt plans for the rehabilitation of blighted areas; to authorize assistance in carrying out such plans by the acquisition of real property, the improvement of such real property and the disposal of real property in such areas; to prescribe the methods of financing the exercise of these powers; and to declare the effect of this act.

History: 1945, Act 344, Imd. Eff. May 31, 1945;—Am. 1986, Act 320, Imd. Eff. Dec. 26, 1986.

The People of the State of Michigan enact:

125.71 Legislative findings and declaration.

Sec. 1. The legislature finds and declares that large areas in the municipalities of the state have become blighted and significant areas in the municipalities of the state are deteriorating in a manner which leads to severe blight, with the consequent impairment of taxable values upon which, in large part, municipal revenues depend; that those blighted areas are detrimental or inimical to the health, safety, morals, and general welfare of the citizens, and to the economic welfare of the municipality; that in order to improve and maintain the general character of the municipality, it is necessary to rehabilitate those blighted areas; that the conditions found in blighted areas cannot be remedied by the ordinary operations of private enterprise, with due regard to the general welfare of the public, without public participation in the planning, property acquisition or disposition, and related implementation and financing of the remedies; that the purposes of this act are to rehabilitate those areas by improving or acquiring and developing properties within the areas for the protection of the health, safety, morals and general welfare of the municipality, to preserve existing values of other properties within or adjacent to the areas, and to preserve the taxable value of the property within the areas; and that the necessity in the public interest for provisions enacted in this act is hereby declared as a matter of legislative determination to be a public purpose and a public use.

History: 1945, Act 344, Imd. Eff. May 31, 1945;—CL 1948, 125.71;—Am. 1986, Act 320, Imd. Eff. Dec. 26, 1986.

125.72 Definitions.

Sec. 2. As used in this act:

(a) "Blighted area" means a portion of a municipality, developed or undeveloped, improved or unimproved, with business or residential uses, marked by a demonstrated pattern of deterioration in physical, economic, or social conditions, and characterized by such conditions as functional or economic obsolescense of buildings or the area as a whole, physical deterioration of structures, substandard building or facility conditions, improper or inefficient division or arrangement of lots and ownerships and streets and other open spaces, inappropriate mixed character and uses of the structures, deterioration in the condition of public facilities or services, or any other similar characteristics which endanger the health, safety, morals, or general welfare of the municipality, and which may include any buildings or improvements not in themselves obsolescent, and any real property, residential or nonresidential, whether improved or unimproved, the acquisition of which is considered necessary for rehabilitation of the area. It is expressly recognized that blight is observable at different stages of severity, and that moderate blight unremedied creates a strong probability that severe blight will follow. Therefore, the conditions that constitute blight are to be broadly construed to permit a municipality to make an early identification of problems and to take early remedial action to correct a demonstrated pattern of deterioration and to prevent worsening of blight conditions.

(b) "Blighted property" means property that meets any of the following criteria:

(*i*) The property has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.

(*ii*) The property is an attractive nuisance because of physical condition or use.

(*iii*) The property is a fire hazard or is otherwise dangerous to the safety of persons or property.

(*iv*) The property has had the utilities, plumbing, heating, or sewerage disconnected, destroyed, removed, or rendered ineffective for a period of 1 year or more so that the property is unfit for its intended use.

(*v*) The property is tax reverted property owned by a municipality, by a county, or by this state. The sale, lease, or transfer of tax reverted property by a municipality, a county, or this state shall not result in the loss to the property of eligibility for any project authorized under this act for the rehabilitation of a blighted area, platting authorized under this act, or tax relief or assistance, including financial assistance, authorized under this act or any other act.

(*vi*) The property is owned or is under the control of a land bank fast track authority under the land bank

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fast track act, 2003 PA 258, MCL 124.751 to 124.774. The sale, lease, or transfer of the property by a land bank fast track authority shall not result in the loss to the property of eligibility for any project authorized under this act for the rehabilitation of a blighted area, platting authorized under this act, or tax relief or assistance, including financial assistance, authorized under this act or any other act.

(*vii*) The property is improved real property that has remained vacant for 5 consecutive years and that is not maintained in accordance with applicable local housing or property maintenance codes or ordinances.

(*viii*) The property has code violations posing a severe and immediate health or safety threat and has not been substantially rehabilitated within 1 year after the receipt of notice to rehabilitate from the appropriate code enforcement agency or final determination of any appeal, whichever is later.

(c) "Municipality" means a county, city, village, or township in the state.

(d) "Development plan" means a plan for the rehabilitation of all or any part of a blighted area.

(e) "Development area" means that portion of a blighted area to which a development plan is applicable.

(f) "Real property" means land, buildings, improvements, land under water, waterfront property, and any and all easements, franchises and hereditaments, corporeal or incorporeal, and every estate, interest, privilege, easement, franchise and right therein, or appurtenant thereto, legal or equitable, including rights of way, terms for years, and liens, charges, or incumbrances by mortgage, judgment, or otherwise.

(g) "Local taxes" means state, county, city, village, township and school taxes, any special district taxes, and any other tax on real property, but does not include special assessment for local benefit improvements.

(h) "Public use" when used with reference to land reserved for public use means only such uses as are for the general use and benefit of the public as a whole, such as schools, libraries, public institutions, administration buildings, parks, boulevards, playgrounds, streets, alleys, or easements for sewers, public lighting, water, gas, or other similar utilities.

(i) "Project" means all of the undertakings authorized in this act for the rehabilitation of a blighted area.

History: 1945, Act 344, Imd. Eff. May 31, 1945;—Am. 1947, Act 237, Eff. Oct. 11, 1947;—CL 1948, 125.72;—Am. 1952, Act 222, Imd. Eff. May 2, 1952;—Am. 1957, Act 296, Eff. Sept. 27, 1957;—Am. 1965, Act 227, Imd. Eff. July 16, 1965;—Am. 1986, Act 320, Imd. Eff. Dec. 26, 1986;—Am. 2006, Act 677, Imd. Eff. Jan. 10, 2007.

Compiler's note: In subdivision (a) of this section, the word “obsolescense” evidently should read “obsolescence”.

125.73 Powers of municipality.

Sec. 3. A municipality may bring about the rehabilitation of blighted areas and the prevention, reduction, or elimination of blight, blighting factors, or causes of blight, and for that purpose may do any of the following:

(a) Acquire real property by purchase, gift, or exchange.

(b) Acquire under this act blighted property by condemnation.

(c) Lease, sell, renovate, improve, or exchange blighted property or other real property acquired by other means in accordance with the state constitution of 1963 and this act.

History: 1945, Act 344, Imd. Eff. May 31, 1945;—CL 1948, 125.73;—Am. 1986, Act 320, Imd. Eff. Dec. 26, 1986;—Am. 2006, Act 677, Imd. Eff. Jan. 10, 2007.

125.74 Plans, statements, and actions as requirements and conditions for exercise of powers; plans to be adopted by local legislative body; designation of district areas; provisions governing citizens' district councils; consultation between local official and citizens' district council; record; notice of zoning change, hearing, or condemnation proceedings; public hearing; information; coordinating council on community redevelopment; adoption of development plan; compliance; information on housing available to displaced families and individuals; conditions to determination of blighted area; notice of approval or disapproval of development plan.

Sec. 4. (1) As used in this section:

(a) “District area” means a portion of a municipality consisting of 1 or more adjacent or nearby development areas and any surrounding territory that will be significantly affected by the plan for the development area or areas, where a majority of residents in the district area reside in the development area or areas.

(b) “Development plan” and “development area” mean those terms as defined in section 2.

(c) “Citizens' district council” means a citizens' district council established under this act.

(d) “Coordinating council on community redevelopment” means any coordinating council on community redevelopment established under this act.

(2) Except as provided in subsection (7), the plans, statements, and actions prescribed in subsections (3) to (11) are requirements and conditions for the exercise of the powers granted by this act for the acquisition,

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sale, or lease of real property for the carrying out of a development plan in a development area.

(3) The following plans shall be adopted by the local legislative body of the municipality in which the development area is located:

(a) A master plan of the municipality or a master plan which is sufficiently advanced to designate areas in need of rehabilitation or in need of measures to prevent blight.

(b) A plan of the general features of development of the district within which the development area lies and of other districts adjacent to the development area, of such extent, content, and particularity as is necessary to the coordination of the development area plan with the future development of the territory surrounding the development area, or, if no future development is planned, then in coordination with the present development.

(4) District areas shall be designated for all development areas that have been approved by a local legislative body and subject to the terms of this act as of January 1, 1968, and all subsequent development areas that are so approved. A district area shall not be designated unless the local legislative body first holds a public hearing on the designation. The legislative body shall give notice of the public hearing not less than 20 nor more than 30 days before the date for the public hearing.

(5) Citizens' district councils are governed by the following:

(a) Except as otherwise provided in this subdivision, for each district area, a citizens' district council of not less than 12 nor more than 25 members shall be selected in a manner that ensures that the citizens' district council is to the maximum extent possible representative of the residents of the area and of other persons with a demonstrable and substantial interest in the area. The majority of the citizens' district council shall be composed of citizens living in the development area.

(b) The term of office on the councils shall be 3 years. If terms of council members are not staggered, then, upon the expiration of the terms of the members of the citizens' district council, 1/3 shall be elected or appointed for 3 years, 1/3 for 2 years and 1/3 for 1 year.

(c) Members of the council may be selected by direct election by the residents of the area and other persons with a demonstrable and substantial interest in the area, or may be appointed by the chief executive officer of the municipality after consultation with local community groups and residents of the area, or by a combination of appointment and election. The method of selection of the citizens' district council, and any appointments to the council by the chief executive officer, shall be determined with the approval of the local legislative body after a public hearing has been held, with public notice of such hearing distributed throughout the district area at least 20 days before the date of the hearing. Citizens' district councils shall be established within 45 days of any initial designation of a development area by any local planning agency or local legislative body.

(d) In a city of over 1,000,000, the local legislative body shall adopt an ordinance governing the composition and method of selecting the members of the citizens' district councils, with the limitation that such an ordinance shall provide for a majority of the citizens' district council to be composed of citizens living in a development area or areas.

(6) The local official responsible for preparation of the development plan within the district area shall periodically consult with and advise the citizens' district council regarding all aspects of the plan, including the development of new housing for relocation purposes located either inside or outside of the development area. The consultation shall begin before any final decisions by any local planning agency or local legislative body regarding the development plan other than the designation of the development area. The consultation shall continue throughout the various stages of the development plan, including the final implementation of the plan. The local officials responsible for the development of the plan shall incorporate into the development plan the desires and suggestions of the citizens' district council to the extent feasible. A local commission, public agency, or local legislative body of any municipality shall not approve any development plan for a development area unless there has previously been consultation between the citizens' district council and the local officials responsible for the development plan. A record of the meetings, including information and data presented, shall be maintained and included in official presentation of the proposed development plan to the local legislative body.

(7) The chief executive officer of the municipality shall give the citizens' district council written notice of any contemplated zoning change, hearing, or condemnation proceedings within the district area. The notice shall be given at least 20 days before the effective date of the change or the date of the hearing or proceedings. Upon receiving a request from the citizens' district council, the local legislative body shall hold a public hearing on the proposed zoning change or condemnation proceedings. Each citizens' district council may call upon any city department for information.

(8) In a municipality with 2 or more district areas, each citizens' district council shall elect 4 of its members who shall compose the entire membership of the coordinating council on community redevelopment. The committee shall advise local units of government on proposed policy on urban renewal,

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make recommendations for new projects, and promote better relations between local units of government and residents of urban renewal areas. Notwithstanding any other provisions of this act, the formation of a coordinating council on community redevelopment shall not be a requisite for or condition of the exercise of the powers granted by this act for the acquisition, sale, or lease of real property, or the carrying out of a development plan in a development area.

(9) The local legislative body shall adopt a development plan after consultation with a citizens' district council, if required, and a public hearing on the development plan as provided in subsection (11), for the development area in which the land proposed to be acquired is located or for the effectuation or protection of which development the proposed land acquisition is deemed necessary. A development plan shall comply with the following:

(a) The plan shall designate the location and extent of streets and other public facilities within the area and shall designate the location, character, and extent of the categories of public and private land uses proposed for and within the area, such as residential, recreation, business, industry, schools, open spaces, and others, and shall also include a feasible method for the relocation of families who will be displaced from the area in decent, safe, and sanitary dwelling accommodations and without undue hardship to those families, and such other general features of the proposed rehabilitation as may be determined by the local legislative body. A feasible method for relocation of displaced families shall demonstrate that standard housing units are or will be available to the displaced families and individuals at rents or prices within their financial means, in reasonably convenient locations not less desirable than the development area with respect to utilities and facilities.

(b) The plan shall designate the location, extent, character, and estimated cost of the improvements contemplated for the area and may include any or all of the following improvements:

(*i*) Partial or total vacation of plats, or replatting.

(*ii*) Opening, widening, straightening, extending, vacating, or closing streets, alleys, or walkways.

(*iii*) Locating or relocating water mains, sewers, or other public or private utilities.

(*iv*) Paving of streets, alleys, or sidewalks in special situations.

(*v*) Acquiring parks, playgrounds, or other recreational areas or facilities.

(*vi*) Street tree planting, green belts, or buffer strips.

(*vii*) Property renovation in accordance with this act.

(*viii*) Parking facilities.

(*ix*) Commercial area promotion.

(*x*) Economic restructuring of commercial areas.

(*xi*) Recruiting of new businesses.

(*xii*) Other appropriate public improvements and activities which address rehabilitation or blight prevention in accordance with this act.

(c) The plan shall include estimates of the number of persons residing in the development area and the number of families and individuals to be displaced; a survey of their income and racial composition; a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the annual rate of turnover of the various types of housing, and the range of rents and sale prices; an estimate of the total demand for housing in the community; and the estimated capacity of private and public housing available to displaced families and individuals.

(10) A local administrative agency shall be designated to provide information concerning private and public housing available to displaced families and individuals and to advise and assist in their relocation.

(11) Before the determination of a blighted area and a determination that there is a feasible method for relocation of families and individuals who will be displaced from the area, and before adoption of a development plan, the local legislative body shall hold a public hearing, which hearing shall comply with the following:

(a) Notice of the time and place of the hearing shall be given by publication in a newspaper of general circulation not less than 30 days before the date set for the hearing. Notice of the hearing shall be distributed in the blighted area at least 25 days before the hearing. Notice of the hearing shall be mailed at least 25 days before the hearing to the last known owner of each parcel of land in the blighted area at the last known address of that owner as shown by the records of the assessor. The notice shall contain a description of the development area. For purposes of this notice it shall be sufficient to describe the boundaries of the development area by its location in relation to highways, streets, streams, or otherwise. The notice shall further contain a statement that maps, plats, and a particular description of the development plan, including the method of relocating families and individuals who will be displaced from the area, are available for public inspection at a place to be designated in the notice, and that all aspects of the development plan will be open for discussion at the public hearing.

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(b) At the time set for hearing the local legislative body shall provide an opportunity for all persons interested to be heard and shall receive and consider communications in writing with reference to the development plan. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits of the development plan, and for introduction of documentary evidence pertinent to the development plan.

(c) The local legislative body shall make and preserve a record of the public hearing, including specific findings of fact with respect to its determination of the blighted area and its determination that there is a feasible method for relocation of families and individuals who will be displaced from the area, all data presented at the public hearing and all other data which the legislative body considered in making its determinations. If no individuals reside in the development area, the legislative body is not required to determine a feasible method for relocating residents.

(12) Within 10 days after the completion of the public hearing as provided in subsection (11), the citizens' district council for the district within which the proposed development area is located shall notify the local legislative body in writing of its approval or disapproval of the development plan. If the citizens' district council approves the plan or fails to notify the local legislative body of its approval or disapproval of the plan, the local legislative body is free to act on the plan. If the citizens' district council disapproves the plan and so notifies in writing the local legislative body, the local legislative body shall not adopt the plan for at least 30 days after receipt of the notice and during that period shall consult with the citizens' district council concerning its objections.

History: 1945, Act 344, Imd. Eff. May 31, 1945;—Am. 1947, Act 237, Eff. Oct. 11, 1947;—CL 1948, 125.74;—Am. 1957, Act 296, Eff. Sept. 27, 1957;—Am. 1968, Act 189, Imd. Eff. June 22, 1968;—Am. 1969, Act 173, Imd. Eff. Aug. 5, 1969;—Am. 1986, Act 320, Imd. Eff. Dec. 26, 1986.

125.74a Racial segregation in housing; consultation and assistance of state civil rights commission.

Sec. 4a. No action taken under this act shall have the effect of promoting or perpetuating racial segregation in housing. To secure this objective, the local legislative body, municipal officials and agencies, citizens' district councils, and the coordinating council on urban redevelopment may consult with and seek the assistance of the state civil rights commission.

History: Add. 1968, Act 189, Imd. Eff. June 22, 1968.

125.75 Rehabilitation of blighted areas; acquisition of property; proceedings under power of eminent domain; condemnation; dispossession.

Sec. 5. (1) For the accomplishment of the purposes of this act, the municipality shall acquire fee simple title in real property by purchase, gift, or exchange, and may acquire under this act title to blighted property by condemnation. The municipality shall then apply that blighted property acquired by condemnation under this act and other real property acquired by other means to the expressed purposes of this act.

(2) By authority of this act for blighted property, or by authority of other state law authorizing the condemnation of property for other public uses, the local legislative body may institute and prosecute proceedings under the power of eminent domain in accordance with the state constitution of 1963 and the laws of the state or provisions of any local charter relative to condemnation. A resident owner in a development area may not be dispossessed after condemnation under the provisions of this act until other adequate housing accommodations are available, to the people displaced.

History: 1945, Act 344, Imd. Eff. May 31, 1945;—Am. 1947, Act 237, Eff. Oct. 11, 1947;—CL 1948, 125.75;—Am. 1957, Act 296, Eff. Sept. 27, 1957;—Am. 2006, Act 677, Imd. Eff. Jan. 10, 2007.

125.75a Rehabilitation of blighted areas; urban renewal plat.

Sec. 5a. Where, pursuant to the development of a project, disposition of acquired lands in accordance with the development plan is hampered by reason of the size or character of the lots or tracts of land within the development area, and where diversification of ownership within the development area prohibits redesign by means of a proprietor's plat, the municipality, by action of its governing body, may authorize a plat or replat of the area or any part thereof to be made by a registered civil engineer or a registered land surveyor.

The plat shall be prepared, approved and recorded as provided in Act No. 172 of the Public Acts of 1929, as amended, being sections 560.1 to 560.80 of the Compiled Laws of 1948, except that the certificate of the county and city treasurer relating to tax titles and tax liens shall not be required, and in lieu of the signature of the proprietor of the land the dedication shall be signed by the director of urban renewal or by the administrative officer of the municipality and shall refer to this act as the authority for certification. There shall be set forth in the title of the plat the words “urban renewal plat” or “urban renewal replat”. Unplatted

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and previously platted lands may be included in the same plat, and such plat shall supersede all previously recorded plats in the area covered by the urban renewal plat or urban renewal replat.

All lands within the development area, whether publicly or privately owned, may be included in the urban renewal plat or urban renewal replat, and all land so platted shall be divided into lots and be numbered in accordance with the development plan, except that no lot shall include property in both public and private ownership, nor in 2 or more individual private ownerships, unless such division is of a lot in a recorded subdivision which was so divided prior to the making of the urban renewal plat or urban renewal replat.

The plat or replat shall state in the dedication that necessary rights to all highways, streets, alleys and public places, including parks, green belts and buffer strips, have been acquired by the municipality by purchase, dedication, condemnation or adverse possession for public use, prior to the making of the urban renewal plat or urban renewal replat.

All easements retained by the municipality for the development of the project shall be designated on the urban renewal plat or urban renewal replat and become a part thereof.

An urban renewal plat or urban renewal replat shall conform in all respects to the urban renewal project plan for the area in which said plat or replat may be located. An urban renewal plat or urban renewal replat, when approved by the governing body where the lands are located, shall not be rejected for the reason that any lot shown thereon fails to meet minimum requirements as to width as prescribed by Act No. 172 of the Public Acts of 1929, as amended.

An urban renewal plat or urban renewal replat, when recorded and filed, shall be treated in respect to assessment, return of taxes and sale of lands for delinquent taxes and for all other purposes, the same as if made by the proprietor under the general provisions of Act No. 172 of the Public Acts of 1929, as amended.

History: Add. 1959, Act 244, Imd. Eff. Aug. 13, 1959.

125.76 Acquisition of property; jurisdiction of public agencies.

Sec. 6. After the acquisition of the real property, such property as will be used by public agencies shall be transferred to or placed under the jurisdiction of the appropriate public agencies for public use as defined in this act. The remainder of the land which, in accordance with the development plan, is to be devoted to private uses shall be sold, leased or exchanged to corporations, companies or individuals, or to urban redevelopment corporations whose use of such property shall be in accordance with the limitations and conditions provided in the development plan.

Any such sale, lease or exchange may be made without public bidding but only after public hearing by the local legislative body upon the proposed sale, lease or exchange and the provisions thereof. The sale, lease or exchange shall be under terms and conditions fixed by the local legislative body and shall contain provisions that the development plan for the property shall be carried out.

History: 1945, Act 344, Imd. Eff. May 31, 1945;—CL 1948, 125.76.

125.77 Repealed. 1957, Act 296, Eff. Sept. 27, 1957.

Compiler's note: The repealed sections authorized municipalities to finance rehabilitation of blighted areas by taxation, bonds, or assessment to a special district.

125.77a Municipal bonds or notes.

Sec. 7a. A municipality may issue bonds or notes from time to time in its discretion to finance the undertaking of any project authorized by this act including, but not limited to, the payment of principal and interest on advances or loans made for surveys and plans for projects authorized by this act. The bonds or notes shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the municipality derived from or held in connection with its undertaking and carrying out of projects under this act. Payment of the bonds or notes both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution due or to become due from the federal government or other source in aid of projects of the municipality under this act. Bonds or notes issued under this section shall not constitute an indebtedness within the meaning of constitutional, statutory, or charter debt limitations or restrictions, and may be issued without vote of the electors of the municipality. Bonds or notes issued under this section are declared to be issued for an essential public and, governmental purpose, and, together with interest thereon and income therefrom, shall be exempted from all taxes. Bonds or notes issued under this section shall be authorized by resolution or ordinance of the legislative body of the municipality. Bonds and notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: Add. 1957, Act 296, Eff. Sept. 27, 1957;—Am. 1974, Act 65, Imd. Eff. Apr. 1, 1974;—Am. 1983, Act 32, Imd. Eff. May 6, 1983;—Am. 2002, Act 202, Imd. Eff. Apr. 29, 2002.

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125.77b General obligation bonds of municipality; purpose; resolution; pledge of full faith and credit; "cost of any project" and "net project cost" defined; issuance and sale of bonds; maximum amount; designation and approval of bonds; legislative determination; assessed value of real and personal property; validation of actions and bonds; limitation on time of sale; provisions governing bonds.

Sec. 7b. (1) For the purpose of providing funds to pay all or part of the cost of any project undertaken under this act or the net project cost of any project undertaken under this act with federal financial assistance, a municipality may provide by resolution duly adopted by its legislative body and without vote of the electors of the municipality for borrowing money and issuing general obligation bonds of the municipality, which bonds shall pledge the full faith and credit of the municipality.

(2) As used in this section:

(a) "Cost of any project" means any or all of the following items: Cost of land acquisition, demolition of buildings, land and site improvements, plans, surveys, appraisals, and all other costs relating to the acquisition, rehabilitation, financing, and disposal of any project or any part of a project under the terms of this act.

(b) "Net project cost" means that term as defined in former section 110 of the housing act of 1949, 42 U.S.C. 1460.

(3) The bonds may be issued and sold from time to time during the progress of any project undertaken under this act, in which event the maximum amount of bonds issued shall not exceed the estimated cost of any project undertaken under this act or the estimated net cost of any project undertaken under this act with federal assistance. The legislative body in the resolution authorizing issuance of the bonds shall set forth the estimate or the bonds may be issued when any project has been completed. Bonds issued under this section shall be designated "rehabilitation bonds". All bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. It being the determination of this legislature that urban blight constitutes a serious menace to public health, welfare, and safety of municipalities and their inhabitants and that the financing of projects designed to prevent or eliminate urban blight is necessary for the public health, welfare, and safety, the bonds authorized to be issued under this section are declared to be issued for an essential public and governmental purpose. The maximum principal amount of bonds that may be authorized under this section in any year shall not exceed an amount equal to 5% of the assessed value of the real and personal property in the municipality less the taxes actually levied for the year exclusive of debt service tax levies and taxes levied under other laws, and less budget bonds authorized for the year issued or authorized to be issued and less any bonds authorized in the year to be issued under sections 6a and 6b of 1949 PA 208, MCL 125.946a and 125.946b. For the purposes of this section, the assessed value of real and personal property in the municipality shall include the assessed value equivalent of money received during the municipality's fiscal year under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. All actions previously taken by a municipality authorizing the issuance of bonds and all bonds previously issued by a municipality are validated. Any bonds authorized to be issued under this section shall be sold not later than 3 full fiscal years from the end of the fiscal year in which the bonds are authorized to be issued. The maximum amount of bonds issued under this section that may be outstanding at any one time shall not, together with other outstanding indebtedness of the municipality, exceed the maximum limitations on bonded indebtedness of the municipality imposed by law.

(4) Except as otherwise provided in this act, the bonds shall not be subject to the provisions of any other law or charter provision relating to their issuance or sale.

(5) The legislative body of any municipality issuing bonds under this section in the resolution authorizing issuance of the bonds shall estimate the period of usefulness of the planned improvements to be installed in the development area after the project is completed.

History: Add. 1957, Act 296, Eff. Sept. 27, 1957;—Am. 1958, Act 60, Imd. Eff. Apr. 8, 1958;—Am. 1970, Act 223, Eff. Apr. 1, 1971;—Am. 1972, Act 119, Imd. Eff. Apr. 18, 1972;—Am. 1973, Act 76, Imd. Eff. July 31, 1973;—Am. 1978, Act 346, Imd. Eff. July 12, 1978;—Am. 1983, Act 32, Imd. Eff. May 6, 1983;—Am. 1986, Act 320, Imd. Eff. Dec. 26, 1986;—Am. 2002, Act 202, Imd. Eff. Apr. 29, 2002.

125.77c Tax revenues.

Sec. 7c. As an additional and alternative method of financing part or all of the costs of any project undertaken under this act, any municipality may use general tax revenues levied for the purpose or not otherwise earmarked.

History: Add. 1957, Act 296, Eff. Sept. 27, 1957.

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125.78 Loans and grants; acceptance, federal assistance, conditions; labor wages and standards.

Sec. 8. Municipalities are authorized and permitted to accept loans and grants from other government agencies to finance the purposes of this act, to borrow money and may issue bonds or notes therefor, to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal government, the state, county, municipality or other public body or from any sources, public or private, for the purposes of this act, to give such security as may be required and to enter into and carry out contracts in connection therewith. A municipality, notwithstanding the provisions of any other law, may include in any contract for financial assistance with the federal government for a project as defined in this act such conditions imposed pursuant to federal law, to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law, in the undertaking or carrying out of a project as defined in this act as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of this act, and to include in any contract let in connection with such a project provisions to fulfill such of said conditions as it may deem reasonable and appropriate, including the payment of prevailing salaries and wages and compliance with federal labor standards.

History: 1945, Act 344, Imd. Eff. May 31, 1945;—CL 1948, 125.78;—Am. 1952, Act 222, Imd. Eff. May 2, 1952;—Am. 1957, Act 296, Eff. Sept. 27, 1957.

125.79 Modification of plan; hearing.

Sec. 9. If previous to the lease, sale or exchange of any real property in the development area, the local legislative body desires to modify the development plan, it shall hold a public hearing thereon, notice of such hearing to be given as provided in section 4 of this act. If the modification be approved by the local legislative body, it shall become a part of the approved development plan.

The part of a development plan which directly applies to a parcel of real property in the area, may be modified by the local legislative body at any time or times after the transfer or lease or sale of the parcel of real property in the area provided that the modification be consented to by the lessee or purchaser.

History: 1945, Act 344, Imd. Eff. May 31, 1945;—CL 1948, 125.79.

125.80 Work done in accordance with plan.

Sec. 10. On and after the date when a plan has been approved for the rehabilitation of an area by the local legislative body, no permit shall be issued for work or work done in the area which is not in accordance with the plan officially adopted and made effective by the local legislative body: Provided, however, That the local legislative body shall provide by ordinance that the zoning board of appeals, if the municipality has such a board, or if not, then a board of appeals created for the purpose, shall have the power on appeal filed with it by the owner of real property in the area to approve a minor deviation from the plan for the area in any case in which such board finds upon the evidence presented to it, that the application of the plan results in unnecessary hardship or practical difficulties and a minor deviation from the development plan is required by considerations of justice and equity. Before taking any such action, the board shall hold a public hearing thereon, at least 10 days' notice of the time and place of which shall be given by public notice in a newspaper published or circulated generally in the municipality and by notice to all property owners within 200 feet of the property in question, such notice to be by mail addressed to the respective owners at the address given in the last assessment roll.

History: 1945, Act 344, Imd. Eff. May 31, 1945;—CL 1948, 125.80.

125.81 Designation of administrative agency.

Sec. 11. The local legislative body may designate an administrative agency to be responsible for the administration of this act or by ordinance may create a commission for that purpose consisting of not more than 7 members, the majority of whom shall be residents of the municipality, and by suitable action shall establish regulations for the guidance of the agency or commission in the effectuation of the purposes of this act.

History: 1945, Act 344, Imd. Eff. May 31, 1945;—CL 1948, 125.81;—Am. 1961, Act 147, Imd. Eff. May 31, 1961.

125.82 Action by ordinance or resolution; validation of prior actions.

Sec. 12. All actions of local legislative bodies under the provisions of this act shall be by ordinance or resolution and such ordinance or resolution shall be subject to the same provisions regarding procedure and executive veto as are applicable to other ordinances or resolutions of the legislative body. Any provision in this or any other act or in the charter of any municipality to the contrary notwithstanding, any action of local legislative bodies relating to the approval or modification of a development plan heretofore taken under the

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provisions of this act by resolution and all actions subsequent thereto dependent on such earlier actions are validated. Any development plan heretofore approved by resolution may thereafter be modified by resolution.

History: 1945, Act 344, Imd. Eff. May 31, 1945;—CL 1948, 125.82;—Am. 1968, Act 189, Imd. Eff. June 22, 1968.

125.83 Powers deemed additional.

Sec. 13. The powers granted in this act shall be in addition to powers granted to municipalities, the local legislative bodies thereof and other officials and bodies thereof under the statutes and local charters. Nothing herein contained shall be construed to amend or repeal any of the provisions of Act No. 18 of the Public Acts of 1933 as amended.

History: 1945, Act 344, Imd. Eff. May 31, 1945;—CL 1948, 125.83.

Compiler's note: "Act No. 18 of the Public Acts of 1933" evidently should read "Act No. 18 of the Public Acts of 1933, Ex. Sess." See MCL 125.651 et seq.

125.84 Urban renewal projects.

Sec. 14. For any urban renewal project initiated under this act:

(a) Where the project was initiated prior to June 22, 1968, the local legislative body by resolution may exempt the project from the provisions of section 4, as amended, relating to district areas, citizens' district councils and coordinating councils on community redevelopment if on that date, of the persons residing in the project area at the time of project initiation and requiring relocation, 50% of such persons had relocated in accordance with law, or if on June 22, 1968, there were fewer than 100 such persons remaining to be relocated. The provisions of this subsection do not apply to a city of over 500,000 population.

(b) Where the number of business establishments in the project area exceeds the number of occupied dwelling units in the area, the majority of the citizens' district council need not be composed of citizens living in the development area.

(c) Where a citizens' district council is established pursuant to this act, it shall serve in lieu of and shall be deemed to satisfy all requirements relating to an urban renewal neighborhood advisory council required to be appointed pursuant to section 3 of Act No. 323 of the Public Acts of 1966, being section 125.963 of the Compiled Laws of 1948.

(d) Where a hearing is required to be held prior to the adoption of a development plan, in the case of a neighborhood development program to be carried out under applicable regulations and guidelines of the United States department of housing and urban development, notwithstanding the notice requirements of section 4, notice of the hearing shall be deemed sufficient if such notice is distributed door-to-door and mailed to known property owners only in the specific area or areas where property is to be acquired or rehabilitated and mailed to all community organizations known to be interested in the project and posted in appropriate public buildings and appropriate other places of public gathering.

(e) The boundaries of the district area may be revised by the local legislative body if the existing citizens' district council is notified in writing by the local legislative body at least 10 days prior to final action on the revised boundaries. If new area is included in the revised district area, persons residing in or having a demonstrable and substantial interest in the newly included area may be elected or appointed to the revised citizens' district council in the same manner of selection as the original citizens' district council. Notwithstanding the maximum size prescribed for citizens' district councils, the number of persons to be selected to represent the newly included area shall be determined by the local legislative body. If the existing citizens' district council disapproves the revised boundaries or number of persons to be elected or appointed to the revised citizens' district council and so notifies the local legislative body in writing within the 10-day period, final action on the revised boundaries or the number of persons to be elected or appointed to the revised citizens' district council shall not be taken by the local legislative body for at least 30 days after receipt of the disapproval notice, during which time the local legislative body shall consult with the citizens' district council concerning its objections. Where a district area is revised persons serving on the citizens' district council as residents of the district area who no longer reside in the revised district area shall not thereafter serve on the citizens' district council for the revised area unless they are reappointed or reelected as persons with a demonstrable and substantial interest in the revised area.

(f) Vacancies on the citizens' district council may be filled by appointment of the chief executive officer of the municipality.

(g) The time provisions of section 4 are directory and not mandatory and any development plan adopted after consultation with a citizens' district council as provided in section 4 shall not be invalid because such time provisions were not strictly complied with.

(h) All citizens' district councils established as of the effective date of this section are validated notwithstanding noncompliance with the provisions of section 4 and all development plans heretofore adopted

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and all other actions heretofore taken by a municipality after consultation as required in section 4 with a citizens' district council shall not be invalid for any irregularities in the establishment, appointment or selection of such citizens' district council.

History: Add. 1969, Act 336, Imd. Eff. Nov. 28, 1969.

Compiler's note: Former MCL 125.84, a severability provision, was repealed by Act 129 of 1947.

REGIONAL PLANNING COMMISSION
Act 188 of 1951

125.91-125.94 Repealed. 1964, Act 210, Eff. Aug. 28, 1964.

COUNTY PLANNING
Act 282 of 1945

125.101-125.115 Repealed. 2008, Act 33, Eff. Sept. 1, 2008.

Compiler's note: Subsection (2) of MCL 125.3885 of Act 33 of 2008 provides that any plan adopted or amended under an act repealed under subsection (1) of MCL 125.3885 is subject to subsection (1) of MCL 125.3881.

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JOINT MUNICIPAL PLANNING ACT
Act 226 of 2003

AN ACT to provide for joint land use planning and zoning by local units of government; and to provide for the establishment, powers, and duties of joint planning commissions and zoning boards of appeals.

History: 2003, Act 226, Imd. Eff. Dec. 18, 2003;—Am. 2008, Act 134, Imd. Eff. May 21, 2008.

The People of the State of Michigan enact:

125.131 Short title.

Sec. 1. This act shall be known and may be cited as the “joint municipal planning act”.

History: 2003, Act 226, Imd. Eff. Dec. 18, 2003.

125.133 Definitions.

Sec. 3. As used in this act:

(a) "Municipality" means a city, village, or township.

(b) "Participating" means, with respect to a municipality, that the municipality is a member of a joint planning commission.

(c) "Registered elector of the municipality" means a registered elector residing in the municipality or, if the municipality is a township, a registered elector residing in the portion of the township outside the limits of any village.

History: 2003, Act 226, Imd. Eff. Dec. 18, 2003;—Am. 2008, Act 134, Imd. Eff. May 21, 2008.

125.135 Joint planning commission; approval of agreement to establish; specifications; phased transfer.

Sec. 5. (1) Subject to section 9, the legislative bodies of 2 or more municipalities may each adopt an ordinance approving an agreement establishing a joint planning commission. The agreement shall specify at least all of the following:

(a) The composition of the joint planning commission, including any alternate members.

(b) The qualifications, the selection by election or appointment, and the terms of office of members of the joint planning commission.

(c) Conditions and procedures for removal from office of members of the joint planning commission and for filling vacancies in the joint planning commission.

(d) How the operating budget of the joint planning commission will be shared by the participating municipalities.

(e) The jurisdictional area of the joint planning commission, which may consist of all or part of the combined territory of the participating municipalities.

(f) Procedures by which a municipality may join or withdraw from the joint planning commission.

(g) For situations in which the powers, duties, or procedures of a planning commission under the Michigan planning enabling act, 2008 PA 33, MCL 125.3801 to 125.3885, depend on whether the municipality is (*i*) a township that on September 1, 2008 had a planning commission created under former 1931 PA 285, (*ii*) a township that did not on September 1, 2008, have a planning commission created under former 1931 PA 285, or (*iii*) a city or village—a designation of which of these 3 categories of municipalities' powers, duties, and procedures will be applicable to the joint planning commission. A category of municipality shall not be designated under this subdivision unless at least 1 of the participating municipalities falls within that category.

(h) For situations in which the powers, duties, or procedures under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, applicable to a planning commission depend on whether the municipality is a township or is a city or village, a designation either that the powers, duties, and procedures applicable to a township will be followed by the joint planning commission or that the powers, duties, and procedures applicable to a city or village will be followed by the joint planning commission. Powers, duties, and procedures applicable to a township shall not be designated unless at least 1 of the participating municipalities is a township. Powers, duties, and procedures applicable to a city or village shall not be designated unless at least 1 of the participating municipalities is a city or village.

(i) Any additional provision concerning the powers or duties of a zoning board or zoning commission that the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, authorizes to be set forth in a zoning ordinance and that is agreed to by the participating municipalities.

(j) The effective date of the agreement.

(2) The agreement may provide for the phased transfer to the joint planning commission of the powers and

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duties of existing planning commissions or zoning boards or zoning commissions under section 7.

History: 2003, Act 226, Imd. Eff. Dec. 18, 2003;—Am. 2008, Act 134, Imd. Eff. May 21, 2008.

125.137 Transfer of powers and duties.

Sec. 7. (1) Subject to section 5(1)(g) and (2), all the powers and duties of a planning commission under the Michigan planning enabling act, 2008 PA 33, MCL 125.3801 to 125.3885, are, with respect to the jurisdictional area of the joint planning commission, transferred to the joint planning commission.

(2) Subject to section 5(2), all the powers and duties of a zoning board or zoning commission under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, are, with respect to the jurisdictional area of the joint planning commission, transferred to the joint planning commission. In exercising such powers or performing such duties, the joint planning commission shall follow the procedure specified pursuant to section 5(h), when relevant.

(3) If only part of the territory of a participating municipality is in the jurisdictional area of a joint planning commission, the participating municipality, with the joint planning commission acting as the zoning board or zoning commission, may adopt a zoning ordinance that affects only that portion of its territory in the jurisdictional area of the joint planning commission.

(4) The participating municipalities, with the joint planning commission acting as the zoning commission, may each adopt a joint zoning ordinance that affects the jurisdictional area of the joint planning commission and provides for the joint administration of the joint zoning ordinance, including, but not limited to, a joint zoning board of appeals.

History: 2003, Act 226, Imd. Eff. Dec. 18, 2003;—Am. 2008, Act 134, Imd. Eff. May 21, 2008.

125.139 Adoption of ordinance by municipality; notice of intent to file petition; petition subject to certain laws; referendum.

Sec. 9. (1) Subject to subsection (3), if a municipality adopts an ordinance under section 5, within 7 days after the municipality publishes the ordinance or a synopsis of the ordinance, whichever is required by law, a registered elector of the municipality may file with the clerk of the municipality a notice of intent to file a petition under this section. If a notice of intent is filed, then within 30 days following the publication of the ordinance or synopsis, a petition signed by a number of registered electors of the municipality equal to not less than 15% of the total votes cast for all candidates for governor, at the last preceding general election at which a governor was elected, in the municipality may be filed with the clerk of the municipality requesting the submission of the ordinance to the registered electors of the municipality for their approval. Upon the filing of a notice of intent, the ordinance adopted by the legislative body of the municipality shall not take effect until 1 of the following occurs:

(a) The expiration of 30 days after publication of the ordinance or synopsis, if a petition is not filed within that time.

(b) If a petition is filed within 30 days after publication of the ordinance, the clerk of the municipality determines that the petition is inadequate.

(c) If a petition is filed within 30 days after publication of the ordinance, the clerk of the municipality determines that the petition is adequate and the ordinance is approved by a majority of the registered electors of the municipality voting for the ordinance at the next regular election which supplies reasonable time for proper notices and printing of ballots, or at any special election called for that purpose. The legislative body of the municipality shall provide the manner of submitting the ordinance to the registered electors of the municipality for their approval or rejection, and determining the result of the election.

(2) A petition under subsection (1), including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition under subsection (1) is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(3) If a municipality has a charter and the charter provides for a right of referendum on municipal ordinances, then, in that municipality, the charter referendum provisions, instead of subsections (1) and (2), apply to an ordinance adopted under section 5.

History: 2003, Act 226, Imd. Eff. Dec. 18, 2003.

125.141 Conduct of business at public meeting; writings subject to freedom of information act.

Sec. 11. (1) The business that a joint planning commission may perform shall be conducted at a public meeting of the joint planning commission held in compliance with the open meetings act, 1976 PA 267, MCL

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15.261 to 15.275.

(2) A writing prepared, owned, used, in the possession of, or retained by a joint planning commission in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2003, Act 226, Imd. Eff. Dec. 18, 2003.

125.143 Allocation of land; conditions.

Sec. 13. (1) If a joint plan allocates land, within the territory of a participating municipality and the jurisdictional area of the joint planning commission, for a particular land use, both of the following apply:

(a) The joint plan need not allocate land that is within the territory of any other participating municipality and that is within the jurisdictional area of the joint planning commission for that land use.

(b) A plan of a participating municipality under 1959 PA 168, MCL 125.321 to 125.333, or 1931 PA 285, MCL 125.31 to 125.45, need not allocate land that is within the territory of that participating municipality but that is outside the jurisdictional area of the joint planning commission, if any, for that land use.

(2) If a plan of a participating municipality under 1959 PA 168, MCL 125.321 to 125.333, or 1931 PA 285, MCL 125.31 to 125.45, allocates land that is within the territory of the participating municipality but that is outside of the jurisdictional area of the joint planning commission for a particular land use, the joint plan need not allocate land for that land use.

History: Add. 2004, Act 405, Imd. Eff. Nov. 22, 2004.

SURVEYS, PLANS, AND SPECIFICATIONS
Act 57 of 1944 (1st Ex. Sess.)

125.151-125.160 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.

COUNTY ZONING ACT
Act 183 of 1943

125.201-125.240 Repealed. 1960, Act 86, Eff. Aug. 17, 1960;--2006, Act 110, Eff. July 1, 2006.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1973-7

125.241 Transfer of responsibility for review and approval of county zoning ordinances.

WHEREAS, Act 183, P.A. of 1943, Section 11, requires approval by the Michigan Department of Economic Development, now the Office of Economic Expansion of the Department of Commerce, of all County Zoning Ordinances; and

WHEREAS, the focus and importance of zoning has broadened since the inception of the County Zoning Act for achieving effective land use objectives extending to all aspects of a community's development; and

WHEREAS, in recognition of the changing role of County Zoning and the importance of centralizing responsibility to strengthen the state's capability in planning and efficient land use development;

THEREFORE, I, WILLIAM G. MILLIKEN, Governor of the State of Michigan, by virtue of the power vested in me by Article V, Section 2, of the Constitution of 1963, do hereby order the following:

1. The state's responsibility for review and approval of County Zoning Ordinances pursuant to Section 11, Act 183, of the Public Acts of 1943, as amended, is hereby transferred from the Office of Economic Expansion, Department of Commerce, to the Department of Natural Resources.

2. All records, files and pending county zoning ordinances are hereby transferred from the Office of Economic Expansion to the Department of Natural Resources.

3. The Director of the Department of Natural Resources shall assign the responsibilities for administering the County Zoning Enabling Act to the proper division within the Department and the Director's signature shall evidence the state function of approval of the individual county zoning ordinance.

4. In fulfillment of the requirements of Article V, Section 2, of the Michigan Constitution of 1963, the provision of this Order shall become effective January 1, 1974.

History: 1973, E.R.O. No. 1973-7, Eff. Jan. 1, 1974.

COUNTY CONSTRUCTION REQUIREMENTS
Act 62 of 1943

125.251-125.258 Repealed. 1972, Act 230, Eff. Jan. 1, 1973.

TOWNSHIP ZONING ACT
Act 184 of 1943

125.271-125.310 Repealed. 1996, Act 569, Eff. Mar. 31, 1997;--2006, Act 110, Eff. July 1, 2006.

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ZONING REGULATIONS
Act 171 of 1958

AN ACT providing for the continuation of zoning regulations in newly incorporated villages or in territories attached to villages.

History: 1958, Act 171, Eff. Sept. 13, 1958.

The People of the State of Michigan enact:

125.311 Annexed property to village; continuation of zoning regulation.

Sec. 1. Whenever any portion of any township becomes an incorporated village, or whenever any territory is annexed to any village, the then existing zoning regulations for the territory within the newly incorporated village or within the territory attached to a then existing village shall remain in full force and effect for a period of 2 years after incorporation or annexation unless the legislative body of the village shall lawfully adopt other zoning regulations or ordinances.

History: 1958, Act 171, Eff. Sept. 13, 1958;—Am. 1964, Act 80, Eff. Aug. 28, 1964.

TOWNSHIP PLANNING
Act 168 of 1959

125.321-125.333 Repealed. 2008, Act 33, Eff. Sept. 1, 2008.

Compiler's note: Subsection (2) of MCL 125.3885 of Act 33 of 2008 provides that any plan adopted or amended under an act repealed under subsection (1) of MCL 125.3885 is subject to subsection (1) of MCL 125.3881.

TOWNSHIP CONSTRUCTION REQUIREMENTS
Act 185 of 1943

125.351-125.359 Repealed. 1972, Act 230, Eff. Jan. 1, 1973.

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HOUSING LAW OF MICHIGAN
Act 167 of 1917

AN ACT to promote the health, safety and welfare of the people by regulating the maintenance, alteration, health, safety, and improvement of dwellings; to define the classes of dwellings affected by the act, and to establish administrative requirements; to prescribe procedures for the maintenance, improvement, or demolition of certain commercial buildings; to establish remedies; to provide for enforcement; to provide for the demolition of certain dwellings; and to fix penalties for the violation of this act.

History: 1917, Act 167, Eff. Aug. 10, 1917;—Am. 1976, Act 116, Imd. Eff. May 14, 1976;—Am. 1992, Act 144, Eff. Mar. 31, 1993.

The People of the State of Michigan enact:

ARTICLE I
GENERAL PROVISIONS.

125.401 Short title; scope of act.

Sec. 1. This act shall be known as the housing law of Michigan and shall apply to every city and organized village in this state which, by the last regular or special federal census, had a population of 100,000 or more, and to every city or village as its population shall reach 100,000 thereafter and also to that territory immediately adjacent and contiguous to the boundaries of such a city or village and extending for a radial distance of 2-1/2 miles beyond their boundaries in all directions. This act shall also apply to any city and organized village in this state which, as determined by the last regular or special federal census, has or shall hereafter attain a population of 10,000 or more. This act relating to private dwellings and 2-family dwellings does not apply to any city or organized village lying outside the 2-1/2 mile radius and having a population of less than 100,000 unless the legislative body of the city or village by resolution, passed by a majority vote of the members elect of the legislative body, adopt the provisions. In the case of charter townships and townships the provisions of this act relating to private dwellings and 2-family dwellings may be applied to those areas by ordinance of the respective township board adopting the provisions. This act applies to all dwellings within the classes defined in the following sections, except that in sections where specific reference is made to 1 or more specific classes of dwellings, those provisions shall apply only to those classes to which specific reference is made. All other provisions that relate to dwellings shall apply to all classes of dwellings.

History: 1917, Act 167, Eff. Aug. 10, 1917;—Am. 1919, Act 326, Imd. Eff. May 13, 1919;—CL 1929, 2487;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—Am. 1941, Act 91, Imd. Eff. May 16, 1941;—CL 1948, 125.401;—Am. 1976, Act 137, Imd. Eff. June 2, 1976;—Am. 2008, Act 408, Imd. Eff. Jan. 6, 2009.

Compiler's note: The catchlines following the act section numbers of this act were incorporated as a part of the act when enacted.

125.402 Housing law of Michigan; definitions.

Sec. 2. Definitions. Certain words in this act are defined for the purposes thereof as follows: Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular; the word “person” includes a corporation as well as a natural person.

(1) Dwelling. A “dwelling” is any house, building, structure, tent, shelter, trailer or vehicle, or portion thereof, (except railroad cars, on tracks or rights-of-way) which is occupied in whole or in part as the home, residence, living or sleeping place of 1 or more human beings, either permanently or transiently. A house trailer or other vehicle, when occupied or used as a dwelling, shall be subject to all the provisions of this act, except that house trailers or other vehicles, duly licensed as vehicles, may be occupied or used as a dwelling for reasonable periods or lengths of time, without being otherwise subject to the provisions of this act for dwellings, when located in a park or place designated or licensed for the purpose by the corporate community within which they are located: Provided, That such parking sites are equipped with adequate safety and sanitary facilities.

(1a). “Sub-standard dwelling” is a dwelling of any class which is not so equipped as to have each of the following items: running water, inside toilets; or a dwelling which has either inadequate cellar drainage, defective plumbing, and inside room having no windows therein, improper exits or defective stairways so as to make such dwelling a fire hazard.

(2) Classes of dwellings. For the purposes of this act dwellings are divided into the following classes: (a) “private dwellings,” (b) “2 family dwellings,” and (c) “multiple dwellings.”

(a) A “private dwelling” is a dwelling occupied by but 1 family, and so designed and arranged as to provide cooking and kitchen accommodations for 1 family only.

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(b) A “2 family dwelling” is a dwelling occupied by but 2 families, and so designed and arranged as to provide cooking and kitchen accommodations for 2 families only.

(c) A “multiple dwelling” is a dwelling occupied otherwise than as a private dwelling or 2 family dwelling.

(3) Classes of multiple dwellings. All multiple dwellings are dwellings and for the purpose of this act are divided into 2 classes, viz.: class a and class b.

Class a. Multiple dwellings of class a are dwellings which are occupied more or less permanently for residence purposes by several families and in which the rooms are occupied in apartments, suites or groups, in which each combination of rooms is so arranged and designed as to provide for cooking accommodations and toilet and kitchen sink accommodations within the separate units. This class includes tenement houses, flats, apartment houses, apartment hotels, bachelor apartments, studio apartments, duplex apartments, kitchenette apartments, and all other dwellings similarly occupied whether specifically enumerated herein or not.

Class b. Multiple dwellings of class b are dwellings which are occupied, as a rule transiently, as the more or less temporary abiding place of individuals who are lodged, with or without meals, and in which as a rule the rooms are occupied singly and without any attempt to provide therein or therewith cooking or kitchen accommodations for the individual occupants. This class includes hotels, lodging houses, boarding houses, furnished room houses, club houses, convents, asylums, hospitals, jails and all other dwellings similarly occupied, whether specifically enumerated herein or not.

(3a) Rooming house. A “rooming house” under this act shall be construed to mean any dwelling occupied in such a manner that certain rooms, in excess of those used by the members of the immediate family and occupied as a home or family unit, are leased or rented to persons outside of the family, without any attempt to provide therein or therewith, cooking or kitchen accommodations for individuals leasing or renting rooms. In the case of single and 2 family dwellings the number of such bedrooms leased or rented to roomers shall not exceed 3, unless such dwellings be made to comply in all respects with the provisions of this act relating to multiple dwellings.

(4) Hotel. A “hotel” is a multiple-dwelling of class b in which persons are lodged for hire and in which there are more than 50 sleeping rooms, a public dining room for the accommodation of at least 50 guests, and a general kitchen.

(5) Mixed occupancy. In cases of mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for the purposes of this act and shall comply with the provisions thereof relative to dwellings.

(6) Yards. A “rear yard” is an unoccupied space on the same lot with a dwelling, between the extreme rear line of the dwelling and the rear lot line and extending from 1 side lot line to the other side lot line. A “side yard” is an unoccupied space on the same lot with a dwelling between the side lot line and the nearest side line of the dwelling and extending from the extreme rear line of the dwelling to the front lot line. A “front yard” is an unoccupied space on the same lot with a dwelling between the extreme front line of the house and the front lot line and extending from 1 side yard to the other side yard.

(7) Courts. A “court” is an open unoccupied space on the same lot with a dwelling and bounded on 2 or more sides with the walls of the dwelling. A court not extending to the street or front or rear yard is an “inner court”. A court extending to the street or front or rear yard is an “outer court”.

(8) Corner and interior lots. A “corner lot” is a lot of which at least 2 adjacent sides abut for their full length upon a street. A lot other than a corner lot is an “interior lot.”

(9) Front, rear and depth of lot. The front of a lot is that boundary line which borders on the street. In case of a corner lot the owner may elect by statement on his plans either street boundary line as the front. The rear of a lot is the side opposite to the front. In the case of a triangular or gore lot the rear is the boundary line not bordering on a street. The depth of a lot is the dimension measured from the front of the lot to the extreme rear line of the lot. In the case of irregular shaped lots the mean depth shall be taken.

(10) Public hall. A “public hall” is a hall, corridor or passageway not within the exclusive control of 1 family.

(11) Stair hall. A “stair hall” is a public hall and includes the stairs, stair landings and those portions of the building through which it is necessary to pass in going between the entrance floor and the roof.

(12) Basement, cellar, attic, penthouses.

(a) A “basement” is that portion of a building partly below grade but so located that the vertical distance from grade to the floor is not greater than the vertical distance from the grade to the ceiling: Provided, however, That if the vertical distance from the grade to the ceiling is 5 feet or more such basement shall be counted as a story.

(b) A “cellar” is that portion of a building partly below grade but so located that the vertical distance from the grade to the floor is greater than the vertical distance from the grade to the ceiling: Provided, however, That if the vertical distance from the grade to the ceiling is 5 feet or more such cellar shall be counted as a

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story. A cellar, except as provided above, shall not be counted as a story. If any portion of a building is in that part the equivalent of a basement or cellar, the provisions of this act relative to basements and cellars shall apply to such portion of the building.

(c) An attic is a portion of a building situated partly or wholly in the roof space. An attic which is used only as a portion of a single or 2 family dwelling shall be not counted as a story, unless there are more than 2 rooms suitable for living purposes on this floor. For the purpose of this paragraph, rooms of 160 square feet or more will be regarded as 2 or more rooms based on each 80 square feet being considered 1 room. Any attic which is occupied by a separate family shall be counted as a story. Any attic used for living purposes in a multiple dwelling shall be counted as a story.

(d) Penthouses. Penthouses are those portions of a building situated above the roof and housing mechanical equipment, service or recreational facilities or used for living purposes. A penthouse shall not be counted as a story if it houses only mechanical equipment or stairways and does not have an area in excess of 200 square feet; nor shall it be counted as a story, when occupied otherwise or when it has an area in excess of 200 square feet, if it complies with the following requirements:

(1) The building and penthouse shall be of fireproof construction if the penthouse houses other than mechanical equipment or stairways.

(2) The penthouse shall be not over 1 story in height.

(3) The exterior walls of the penthouse shall be set back from the exterior walls of the story immediately below by a distance not less than 2/3 of the height of the penthouse above the roof. However, it shall not be necessary to set back the exterior walls of a penthouse if the dimensions of yards and courts are sufficient to meet the requirements of this act for a building if the penthouse is counted as a story.

(4) There shall be access to 2 stairways leading from the roof to grade where penthouses are used for the purposes other than to house mechanical equipment.

(5) The combined area of all penthouses on a building shall not exceed 25 per cent of the gross area of the floor immediately below.

(13) Height. The “height” of a dwelling is the perpendicular distance measured in a straight line from grade to the highest point of the roof beams in the case of flat roofs, and to the average of the height of the gable in the case of pitched roofs.

(14) Grade. “Grade”, for buildings adjoining 1 street only, shall be the elevation of the sidewalk at the center of that wall which adjoins the street, except that in case the average elevation of the ground (finished surface) adjacent to the exterior walls of the building is lower than the elevation of the sidewalk, “grade” shall be the average elevation of the ground.

“Grade”, for buildings adjoining more than 1 street, shall be the elevation of the sidewalk at the center of the wall adjoining the street having the lowest sidewalk elevation.

“Grade”, for buildings having no wall adjoining the street, shall be the average level of the ground (finished surface) adjacent to the exterior walls of the building.

All walls approximately parallel to and not more than 5 feet from a street line shall be considered as adjoining the street. In alleys the surface of the paving shall be considered to be the sidewalk elevation. Where the elevation of the sidewalk or alley paving has not been established the city engineer shall determine such elevation for the purpose of this act.

(15) Occupied spaces. Outside stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues and other projections shall be considered as part of the building and not as a part of the yards or courts or unoccupied spaces. This provision shall not apply to 1 fireplace or 1 chimney projecting not more than 12 inches into side yard space and not more than 8 feet in length, nor to uninclosed outside porches not exceeding 1 story in height which do not extend into the front or rear yard a greater distance than 12 feet from the front or rear walls of the building, nor to 1 such porch which does not extend into the sideyard a greater distance than 6 feet from the side wall of the building nor exceed 12 feet in its other horizontal dimension, or to cornices not exceeding 16 inches in width including the gutter.

(16) Fireproof dwelling. A “fireproof dwelling” is one the exterior walls of which are constructed of brick, stone, concrete, iron or other hard incombustible material not less than 8 inches thick, and in which there are no wood beams or lintels and in which the floors, roofs, stair halls and public halls are built entirely of brick, stone, concrete, iron or other hard incombustible material, and in which no woodwork or other inflammable material is used in any of the partitions, furrings or ceilings. But this definition shall not be construed as prohibiting elsewhere than in the public halls the use of wooden flooring on top of the fireproof floors or the use of wooden sleepers, nor as prohibiting the use of wood, or any other material not more combustible or inflammable than wood, for handrails, doors, windows, and decorative treatment on incombustible surfaces.

All metallic structural members, except lintels unattached to structural frame work and less than 6 feet in span, shall be protected with not less than 2 inches of brick, concrete, gypsum, terra cotta, or any other

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material that has equivalent properties to resist the action of flame and heat. Steel in reinforced concrete construction shall be protected with a minimum of 3/4 of an inch of concrete unless additional protection is required by the enforcing official.

In dwellings not over 8 stories in height, steel joists may be used for roof and floor construction if protected on the underside with 3/4 of an inch of gypsum or portland cement plaster on metal lath, thickness of said plaster to be measured from the back of the metal lath, and protected on top with a slab of at least 2 inches of concrete in which wood sleepers may be embedded if there is at least 1 and 1/2 inches of concrete under the sleepers.

(17) Wooden buildings. "Wooden building" is a building of which the exterior walls or a portion thereof are of wood. Court walls are exterior walls.

(18) Nuisance. The word "nuisance" shall be held to embrace public nuisance as known at common law or in equity jurisprudence; and whatever is dangerous to human life or detrimental to health; whatever dwelling is overcrowded with occupants or is not provided with adequate ingress and egress to or from the same, or is not sufficiently supported, ventilated, sewered, drained, cleaned or lighted, in reference to its intended or actual use; and whatever renders the air or human food or drink unwholesome, are also severally, in contemplation of this act, nuisances; and all such nuisances are hereby declared illegal.

(19) Construction of certain words. The word "shall" is always mandatory and not directory, and denotes that the dwelling shall be maintained in all respects according to the mandate as long as it continues to be a dwelling. Wherever the words "charter,""ordinances,""regulations,""superintendent of buildings,""health department,""the board of health,""health officer," or such other appropriate public official as the mayor may designate "commissioner of public safety,""commissioner of public health,""department charged with the enforcement of this act,""corporation counsel,""mayor,""city treasury," or "fire limits" occur in this act they shall be construed as if followed by the words "of the city or village in which the dwelling is situated." Wherever the words "health department,""health officer," or such other appropriate public official as the mayor may designate, or "duly authorized assistant" or "board of health,""commissioner of public safety," or "commissioner of public health" are employed in this act, such words shall be deemed and construed to mean the official or officials in any city or village to whom is committed the charge of safeguarding the public health. The terms "superintendent of buildings,""building department," and "inspector of buildings" shall embrace the department and the executive head thereof specially charged with the execution of laws and ordinances relating to the construction of buildings. Wherever the terms "superintendent of buildings,""health officer," or such other appropriate public official as the mayor may designate are used in this act they shall be construed to mean the enforcement officials designated in section 111. Wherever the words "occupied" or "used" are employed in this act such words shall be construed as if followed by the words "or is intended, arranged, designed, built, altered, converted to, rented, leased, let or hired out, to be occupied or used." Wherever the words "dwelling,""2 family dwelling,""multiple dwelling,""building,""house,""premises" or "lot" are used in this act, they shall be construed as if followed by the words "or any part thereof." Wherever the words "city water" are used in this act, they shall be construed as meaning any public supply of water through street mains; and wherever the words "public sewer" are used in this act they shall be construed as meaning any part of a system of sewers that is used by the public, whether or not such part was constructed at the public expense. Wherever the word "street" is used in this act it shall be construed as including any public alley 16 feet or more in width. "Approved fireproof material" means as set forth by ordinances, or if not so determined, as approved by the enforcing officer. Where a particular material, device, or type of construction is specified herein, there may be substituted therefor any other material, device or type of construction of a strength, durability, performance and fire resistive qualities, equivalent to the particular material, device or type of construction specified herein, or sufficient for the intended use, and approved as such by the enforcing officer. Perforated gypsum lath 3/8 of an inch thick, with 1/2 inch of gypsum plaster may be substituted wherever metal lath and gypsum or cement plaster is required in this act.

(20) Fire doors. A fire door is a movable fire resistive barrier placed on an opening in a masonry wall or shaft enclosure for the purpose of preventing the passage of fire through the opening. All fire doors, as installed and including frames and hardware shall be capable of passing a fire and water test as herein specified. The fire test shall consist of a flame applied over entire area of door which will gradually raise the temperature of the exposed side to 1400 degrees Fahrenheit during the first 20 minutes of test and which will gradually raise this temperature to 1700 degrees Fahrenheit during the next 40 minutes, concluding the fire test. Immediately thereafter and while the door is still hot, it shall be subjected to the impact of a stream of water under a nozzle pressure of 30 pounds per square inch through a 2 and 1/2 inch fire hose with a 1 and 1/8 inch smooth bore nozzle placed 20 feet from the door and played uniformly over surface of same for a period of at least 45 seconds. To pass this test, a fire door shall maintain its shape and integrity reasonably well so as to be capable of resisting the further application of flame and shall not develop serious structural weakness.

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The enforcing officer may require that the ability of all fire doors to pass these tests be demonstrated in a recognized testing laboratory, or that satisfactory evidence in the form of a label or certificate of test and inspection be submitted showing that the fire doors in question have successfully complied with these requirements.

All fire doors, except those on dumbwaiters and elevators, shall be of the swinging type and shall not be double acting and shall be equipped with an approved device capable of completely and effectually closing the door under all conditions.

Type “a” fire doors shall be solid without glass panels of any kind. Type “a” fire doors may be used wherever type “b” fire doors are required herein.

Type “b” fire doors may contain not over 720 square inches of wire-glass at least 1/4 inch in thickness.

Automatic fire doors, as specified herein, may be normally held in an open position by an apparatus which will automatically allow the door to close whenever the temperature of the air at the top of the door reaches 165 degrees Fahrenheit. Self-closing fire doors, as specified herein, shall be normally kept closed at all times.

All fire doors shall be equipped with an effective locking device which will hold the door in the closed position but which can be unlocked from either side of the door without the use of a key.

All fire doors shall be provided with an incombustible threshold and combustible floor construction or covering shall not extend through the door opening.

Frames for type “a” fire doors shall be made entirely of metal and no combustible material shall be used in their construction or installation.

Frames for type “b” fire doors may be made of metal or of wood covered with metal.

Self-closing equipment shall consist of standard door checks or other similar approved devices which will effectually close the door without slamming.

Self-closing fire door shall be labeled on both sides in a conspicuous manner with the following words: “fire door, keep closed”.

History: 1917, Act 167, Eff. Aug. 10, 1917;—Am. 1921, Act 401, Eff. Aug. 18, 1921;—Am. 1925, Act 371, Eff. Aug. 27, 1925;—CL 1929, 2488;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.402.

125.402a Enforcing agency; definition.

Sec. 2a. As used in this act:

“Enforcing agency” means the designated officer or agency charged with responsibility for administration and enforcement of this act.

History: Add. 1968, Act 286, Eff. Nov. 15, 1968.

125.403-125.406 Repealed. 1972, Act 230, Eff. Jan. 1, 1973.

Compiler's note: The repealed sections pertained to the conversion, alteration, repairing, and moving of dwellings.

125.407 Sewer connections and water supply.

Sec. 7. Sewer connections and water supply. The provisions of this act with reference to sewer connections and water supply shall be deemed to apply only where connection with a public sewer and with public water mains is or becomes reasonably accessible. All questions of the practicability of such sewer and water connections shall be decided by the health officer, or by such other appropriate public official as the mayor may designate.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2493;—CL 1948, 125.407.

125.408 Minimum requirements; law not to be modified.

Sec. 8. Minimum requirements; law not to be modified. The provisions of the act shall be held to be the minimum requirements adopted for the protection of health, welfare and safety of the community. Nothing herein contained shall be deemed to invalidate existing ordinances or regulations of any city or organized village or the board of health of any such city or village imposing requirements higher than the minimum requirements laid down in this act relative to light, ventilation, sanitation, fire prevention, egress, occupancy, maintenance and uses for dwellings; nor be deemed to prevent any city or organized village or the board of health of any such city or village from enacting and putting in force from time to time ordinances and regulations imposing requirements higher than the minimum requirements laid down in this act; nor shall anything herein contained be deemed to prevent such cities and organized villages or the board of health of any such city or village from prescribing for the enforcement of such ordinances and regulations, remedies and penalties similar to those prescribed herein. And every such city and organized village or the board of health of any such city or village is empowered to enact such ordinances and regulations and to prescribe for their enforcement. No ordinance, regulation, ruling or decision of any municipal body, officer of authority of

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the board of health of any such city or village shall repeal, amend, modify or dispense with any of the said minimum requirements laid down in this act; except that, in order that the provisions of this act may be reasonably applied, public health and safety secured, and substantial justice done in instances where practical difficulties are encountered or unnecessary and unreasonable hardship result from the application of the strict letter of the law, the decision of a board of appeals, as hereinafter provided and regulated shall be considered as the reasonable application of the intent of this act.

History: 1917, Act 167, Eff. Aug. 10, 1917;—Am. 1925, Act 371, Eff. Aug. 27, 1925;—CL 1929, 2494;—CL 1948, 125.408.

125.409 State board of health; authority.

Sec. 9. State board of health. The state board of health shall have the power to examine into the enforcement of this act.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2495;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.409.

125.410 Time for compliance.

Sec. 10. Time for compliance. All improvements specifically required by this act upon dwellings erected prior to the date of its passage shall be made within 1 year from said date, or at such earlier period as may be fixed by the health officer or other authorized enforcement official.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2496;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.410.

125.410a Repealed. 1972, Act 230, Eff. Jan. 1, 1973.

Compiler's note: The repealed section pertained to the construction of asylums, jails, and similar institutions.

ARTICLE II
DWELLINGS HEREAFTER ERECTED.

TITLE I
LIGHT AND VENTILATION.

125.411-125.429 Repealed. 1972, Act 230, Eff. Jan. 1, 1973.

TITLE II
SANITATION.

125.430-125.437 Repealed. 1972, Act 230, Eff. Jan. 1, 1973.

TITLE III
FIRE PROTECTION.

125.438-125.450a Repealed. 1972, Act 230, Eff. Jan. 1, 1973.

ARTICLE III
ALTERATIONS.

125.451-125.464 Repealed. 1972, Act 230, Eff. Jan. 1, 1973.

ARTICLE IV
MAINTENANCE.

125.465 Public halls in multiple dwellings; lighting; exit lights.

Sec. 65. Public halls, lighting at night. In every multiple dwelling all public halls shall be kept adequately lighted at all times by the owner. In every multiple dwelling of class “b”, except those of fireproof construction having more than 15 rooms or sleeping accommodations for more than 30 persons, the location of stairways and means of egress shall be designated on each floor by electrically illuminated exit signs having letters at least 4 inches in height. All exit lights shall be on a separate circuit or circuits and wires shall be installed in approved metal raceway.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2553;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.465.

125.466 Water closets in cellars.

Sec. 66. Water-closets in cellars. No water-closet shall be maintained in the cellar of any dwelling without a permit in writing from the health officer, who shall have power to make rules and regulations governing the maintenance of such closets. Under no circumstances shall the general water-closet accommodations of any

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multiple dwelling be permitted in the cellar or basement thereof; this provision, however, shall not be construed so as to prohibit a general toilet room containing several water-closets, provided such water-closets are supplementary to those required by law.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2554;—CL 1948, 125.466.

125.467 Water closet accommodations.

Sec. 67. Water-closet accommodations. In every dwelling existing prior to the passage of this act there shall be provided at least 1 water-closet for every 2 apartments, groups or suites of rooms, or fraction thereof, except that in multiple-dwellings of class B there shall be provided at least 1 water-closet for every 15 occupants or fraction thereof.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2555;—CL 1948, 125.467.

125.468 Basement and cellar rooms.

Sec. 68. Basement and cellar rooms. No room in the cellar of any dwelling erected prior to the passage of this act shall be occupied for living purposes. And no room in the basement of any such dwelling shall be so occupied without a written permit from the health officer, which permit shall be kept readily accessible in the main living room of the apartment containing such room. No such room shall hereafter be occupied unless all the following conditions are complied with:

(1) Such room shall be at least 7 feet high in every part from the floor to the ceiling.

(2) The ceiling of such room shall be in every part at least 3 feet 6 inches above the surface of the street or ground outside of or adjoining the same.

(3) There shall be appurtenant to such room the use of a water-closet.

(4) At least 1 of the rooms of the apartment of which such room is an integral part shall have a window opening directly to the street or yard, of at least 12 square feet in size clear of the sash frame, and which shall open readily for purposes of ventilation.

(5) The lowest floor shall be water-proof and damp-proof.

(6) Such room shall have sufficient light and ventilation, shall be well drained and dry, and shall be fit for human habitation.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2556;—CL 1948, 125.468.

125.469 Joint use of kitchen by more than one family prohibited.

Sec. 69. Use of kitchens. No kitchen or cooking accommodations shall be permitted or maintained in any room or space of any building for the common or joint use of the individual occupants of a 2 family or multiple family dwelling.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2557;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.469.

125.470 Water closets and sinks; floors under and around.

Sec. 70. Water-closets and sinks. In all 2 family dwellings and multiple dwellings the floor or other surface beneath and around water-closets and sinks shall be maintained in good order and repair and if of wood shall be kept well painted with light colored paint.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2558;—CL 1948, 125.470.

125.471 Repairs and drainage.

Sec. 71. Repairs and drainage. Every dwelling and all the parts thereof including plumbing, heating, ventilating and electrical wiring shall be kept in good repair by the owner. The roof shall be so maintained as not to leak and the rain water shall be drained and conveyed therefrom through proper conduits into the sewerage system in accordance with plumbing regulations so as to avoid dampness in the walls and ceilings and insanitary conditions.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2559;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.471.

125.472 Water supply.

Sec. 72. Water supply. Every dwelling not exempted in section 7 of this act shall have within each apartment or family unit at least 1 approved sink with running water furnished in sufficient quantity at all times. The owner shall provide proper and suitable tanks, pumps or other appliances to receive and to distribute an adequate and sufficient supply of such water at each floor in the said dwelling at all times of the year, during all hours of the day and night. But a failure in the general supply of city water shall not be construed to be a failure on the part of such owner, provided proper and suitable appliances to receive and distribute such water have been provided in said dwelling.

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History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2560;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.472.

125.473 Catch-basins.

Sec. 73. Catch-basins. In the case of dwellings where, because of lack of city water supply or sewers, sinks with running water are not provided inside the dwellings, 1 or more catch-basins or some other approved convenience for the disposal of waste water, as may be necessary in the opinion of the health officer or such other appropriate public official as the mayor may designate, shall be provided in the yard or court, level with the surface thereof and at a point easy of access to the occupants of such dwelling.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2561;—CL 1948, 125.473.

125.474 Cleanliness of dwellings.

Sec. 74. Cleanliness of dwellings. Every dwelling and every part thereof shall be kept clean and shall also be kept free from any accumulation of dirt, filth, rubbish, garbage or other matter in or on the same, or in the yards, courts, passages, areas or alleys connected therewith or belonging to the same. The owner of every dwelling shall be responsible for keeping the entire building free from vermin. The owner shall also be responsible for complying with the provisions of this section except that the tenants shall be responsible for the cleanliness of those parts of the premises that they occupy and control.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2562;—Am. 1939, Act 303, Sept. 29, 1939;—CL 1948, 125.474.

125.475 Multiple dwellings; walls of courts.

Sec. 75. Walls of courts. In multiple dwellings the walls of all courts, unless built of a light color brick or stone, shall be thoroughly whitewashed by the owner or shall be painted a light color by him, and shall be so maintained. Such whitewash or paint shall be renewed whenever necessary, as may be required by the health officer, or by such other appropriate public official as the mayor may designate.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2563;—CL 1948, 125.475.

125.476 Multiple dwellings; walls and ceilings of rooms.

Sec. 76. Walls and ceilings of rooms. In all multiple dwellings the health officer or such other appropriate official as the mayor may designate, may require the walls and ceiling of every room that does not open directly on the street to be kalsomined white or painted with white paint when necessary to improve the lighting of such room and may require this to be renewed as often as may be necessary.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2564;—CL 1948, 125.476.

125.477 Multiple dwellings; wallpaper.

Sec. 77. Wall paper. No wall paper shall be placed upon a wall or ceiling of any multiple-dwelling unless all wall paper shall be first removed therefrom and said wall and ceiling thoroughly cleaned.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2565;—CL 1948, 125.477.

125.478 Receptacles for ashes, garbage and rubbish; chutes prohibited.

Sec. 78. Receptacles for ashes, garbage and rubbish. The owner of every multiple dwelling, and in the case of private and 2 family dwellings, the occupant or occupants thereof, shall provide for said dwelling, keep clean and in place, proper covered receptacles of non-absorbent material for holding garbage, refuse, ashes, rubbish and other waste matter. Garbage chutes are prohibited.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2566;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.478.

125.479 Prohibited uses.

Sec. 79. Prohibited uses. No horse, cow, calf, swine, sheep, goat, chickens, geese or ducks shall be kept in any dwelling or part thereof. Nor shall any such animal be kept on the same lot or premises with a dwelling except under such conditions as may be prescribed by the health officer. No such animal, except a horse, shall under any circumstances be kept on the same lot or premises with a multiple dwelling. No dwelling or the lot or premises thereof shall be used for the storage or handling of rags or junk.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2567;—CL 1948, 125.479.

125.480 Storage of combustible materials.

Sec. 80. Combustible materials and storage spaces. No dwelling, nor any part thereof, nor of the lot upon which it is situated, shall be used as a place of storage, keeping or handling of any article dangerous or detrimental to life or health; nor of any combustible article, except under such conditions as may be prescribed by the fire commissioner, or the proper official, under authority of a written permit issued by him. No multiple dwelling nor any part thereof, nor of the lot upon which it is situated, shall be used as a place of

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storage, keeping or handling of feed, hay, straw, cotton, paper stock, feathers or rags.

All of the provisions of section 49, except the window requirement, prescribing the protection and construction of spaces used for storage purposes in buildings hereafter erected shall apply to all spaces used for such storage purposes in all existing buildings housing more than 8 apartments if of class "a" or 40 sleeping rooms if of class "b". Where a required window cannot be provided, there shall be a siamese fire department connection.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2568;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.480.

125.481 Storage of combustible materials; openings between storage room and public hall.

Sec. 81. Certain dangerous businesses. There shall be no transom, window or door opening into a public hall from any part of a multiple dwelling where paint, oil, or inflammable liquids are stored or kept for the purpose of sale or otherwise.

History: 1917, Act 167, Eff. Aug. 10, 1917;—Am. 1921, Act 281, Eff. Aug. 18, 1921;—CL 1929, 2569;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.481.

125.482 Fire prevention and safety requirements.

Sec. 82. Supervision and safety provisions. In any multiple dwelling housing more than 8 families, in which the owner thereof does not reside, there shall be a responsible person, or persons, designated as such by the owner. Every multiple dwelling of class "b" containing over 75 sleeping rooms or sleeping accommodations for 150 persons or more above the first floor, which is not of fireproof construction, or not protected with an approved sprinkler system or an approved and self supervised and properly maintained automatic fire alarm system, shall have adequate watch service, reporting each 1 hour between the hours of 10:00 p.m. and 7:00 a.m. on each floor at locations designated by the enforcing official on a suitable recording device.

In addition every multiple dwelling of class "b", not of fireproof construction, or not protected with an approved sprinkler system or an approved and self supervised and properly maintained automatic fire alarm system, having sleeping accommodations for over 50 persons above the first floor, shall have on duty at all times at least 1 employe and more if necessary, so that there shall be 1 employe on duty at all times for each 100 persons, or major fraction thereof, of the normal capacity of the building.

In all multiple dwellings of class "b", not of fireproof construction, having sleeping accommodations for over 25 persons there shall be provided a bell, gong, siren or other approved alarm, of sufficient size and adequacy to be heard in every room or apartment of the building by a person of normal auditory perception, on each floor of the building, such warning device to be manually controlled from locations designated by the enforcing official.

All employes of multiple dwellings shall be regularly instructed and drilled relative to the proper proceeding in case of fire or panic by a person whose qualifications are approved by the enforcing officer. All employes of multiple dwellings shall be instructed as to the location of the fire alarm boxes or other devices for notifying the fire department. In case of fire in the building it shall be the duty of such employes to forthwith and immediately notify the fire department of the existence of such fire through the surest and quickest means of notification available. Such employes shall then proceed to warn or notify the occupants of the building of the existence of such fire and to assist them in the immediate evacuation of the building in the quickest and safest manner possible.

The owners or manager of every multiple dwelling of class "b" shall maintain a register or list of guests and tenants which shall be kept and safeguarded so as to be available at all times.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2570;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.482.

125.482a Class "A" multiple dwelling; smoke alarm; requirements; violation as misdemeanor; penalty; definitions.

Sec. 82a. (1) Each dwelling unit contained within a class "A" multiple dwelling shall be equipped with a single-station or multiple-station smoke alarm that complies with the standards set forth in the state construction code promulgated under section 4c of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1504c.

(2) A class "A" multiple dwelling constructed before November 6, 1974 has 1 year after the effective date of the rules promulgated under section 4c of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1504c, to comply with subsection (1).

(3) An existing building that is converted to a class "A" multiple dwelling shall comply with the requirements that may be imposed by the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

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(4) A person owning a class "A" multiple dwelling shall comply with this section.

(5) A person who violates this section is guilty of a misdemeanor punishable by a fine of not more than $500.00 or imprisonment of not more than 90 days, or both.

(6) As used in this section:

(a) "Dwelling unit" means a single unit providing complete independent living facilities for 1 or more persons, including permanent provisions for cooking, living, sanitation, and sleeping.

(b) "Smoke alarm" means a single-station or multiple-station alarm responsive to smoke and not connected to a system.

(c) "Single-station smoke alarm" means an assembly incorporating a detector, the control equipment, and the alarm sounding device into 1 unit, operated from a power supply either in the unit or obtained at the point of installation.

(d) "Multiple-station smoke alarm" means 2 or more single-station alarm devices that are capable of interconnection such that actuation of 1 causes all integral or separate audible alarms to operate.

History: Add. 2004, Act 64, Imd. Eff. Apr. 20, 2004.

125.483 Overcrowding; minimum space requirements.

Sec. 83. Overcrowding. No bedroom or room used as a bedroom in any class "b" multiple dwelling shall be so occupied as to provide less than 500 cubic feet of air space per occupant, exclusive of the cubic air space of bathrooms, toilet rooms and closets. No room, suite or group of rooms, comprising a family dwelling unit, in any single, 2 family or class "a" multiple dwelling shall be so occupied as to provide less than 800 cubic feet of air space per occupant exclusive of the cubic air space of bathrooms, toilet rooms and closets. No bedroom or room used as a bedroom in any single, 2 family or class "a" multiple dwelling shall be so occupied as to provide less than 300 cubic feet of air space per occupant, exclusive of the cubic air space of bathrooms, toilet rooms and closets.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2571;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.483.

125.484 Multiple dwellings; regulation; application; lodgers prohibited.

Sec. 84. Lodgers prohibited. The health officer or such other appropriate public official as the mayor may designate may prohibit in any multiple dwelling the letting of lodgings therein by any of the tenants occupying such multiple dwelling, and may prescribe conditions under which lodgers or boarders may be taken in multiple-dwellings. It shall be the duty of the owner in the case of multiple-dwellings to see that the requirements of the health officer or such other appropriate public official as the mayor may designate in this regard are at all times complied with, and a failure to so comply on the part of any tenant, after due and proper notice from said owner or from the health officer or such other appropriate public official as the mayor may designate shall be deemed sufficient cause for the summary eviction of such tenant and the cancellation of his lease. The provisions of this section may be extended to private dwellings and 2 family dwellings, as may be found necessary by the health officer, or by such other appropriate public official as the mayor may designate.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2572;—CL 1948, 125.484.

125.485 Health order; infected and uninhabitable dwellings to be vacated.

Sec. 85. Infected and uninhabitable dwellings to be vacated. Whenever it shall be certified by an inspector or officer of the health department that a dwelling is infected with contagious disease or that it is unfit for human habitation, or dangerous to life or health by reason of want of repair, or of defects in the drainage, plumbing, lighting, ventilation, or the construction of the same, or by reason of the existence on the premises of a nuisance likely to cause sickness among the occupants of said dwelling, or for any cause, the health officer or such other appropriate public official as the mayor may designate, may issue an order requiring all persons therein to vacate such house within not less than 24 hours nor more than 10 days for the reasons to be mentioned in said order. In case such order is not complied with within the time specified, the health officer or such other appropriate public official as the mayor may designate may cause said dwelling to be vacated. The health officer or such other appropriate public official as the mayor may designate whenever he is satisfied that the danger from said dwelling has ceased to exist, or that it is fit for human habitation may revoke said order or may extend the time within which to comply with the same.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2573;—CL 1948, 125.485.

125.485a Site of illegal drug manufacturing; notification of potential contamination; determination of contamination; rules; order by local health department.

Sec. 85a. (1) Within 48 hours of discovering an illegal drug manufacturing site, a state or local law enforcement agency shall notify the enforcing agency, the local health department if the enforcing agency is

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not the local health department, and the department of community health regarding the potential contamination of any property or dwelling that is or has been the site of illegal drug manufacturing. The state or local law enforcement agency shall post a written warning on the premises stating that potential contamination exists and may constitute a hazard to the health or safety of those who may occupy the premises.

(2) Within 14 days after receipt of the notification under subsection (1) or as soon thereafter as practically possible, the department of community health, in cooperation with the enforcing agency, shall review the information received from the state or local law enforcement agency, emergency first responders, or hazardous materials team that was called to the site and make a determination regarding whether the premises are likely to be contaminated and whether that contamination may constitute a hazard to the health or safety of those who may occupy the premises. The fact that property or a dwelling has been used as a site for illegal drug manufacturing shall be treated by the department of community health as prima facie evidence of likely contamination that may constitute a hazard to the health or safety of those who may occupy those premises.

(3) If the property or dwelling, or both, is determined likely to be contaminated under subsection (2), the enforcing agency shall issue an order requiring the property or dwelling to be vacated until the property owner establishes that the property is decontaminated or the risk of likely contamination ceases to exist. The property owner may establish that the property is decontaminated by submitting a written assessment of the property before decontamination and a written assessment of the property after decontamination, enumerating the steps taken to render the property decontaminated, and a certification that the property has been decontaminated and that the risk of likely contamination no longer exists to the enforcing agency. The property or dwelling shall remain vacated until the enforcing agency has reviewed and concurred in the certification.

(4) The department of community health shall promulgate rules and procedures necessary to implement this section.

(5) Nothing in this section precludes a local health department from exercising its powers or duties under this act or the public health code, 1978 PA 368, MCL 333.1101 to 333.25211. However, if there is a determination under subsection (2) that is contrary to an order made by a local health department, then the determination made under subsection (2) takes precedence.

History: Add. 2003, Act 307, Eff. Apr. 1, 2004;—Am. 2006, Act 258, Imd. Eff. July 6, 2006.

125.486 Health order; repairs to buildings, other structures.

Sec. 86. Repairs to buildings, etc. Whenever any dwelling or any building, structure, excavation, business pursuit, matter or thing, in or about a dwelling, or the lot on which it is situated, or the plumbing, sewerage, drainage, light or ventilation thereof, is in the opinion of the health officer or such other appropriate public official as the mayor may designate in a condition or in effect dangerous or detrimental to life or health, the health officer or such other appropriate public official as the mayor may designate may declare that the same to the extent he may specify is a public nuisance, and may order the same to be removed, abated, suspended, altered or otherwise improved or purified as the order shall specify.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2574;—CL 1948, 125.486.

125.487 Fire escape maintenance.

Sec. 87. Maintenance of fire escapes. All fire escapes shall be kept in a safe and sound condition and shall be properly painted and repaired to maintain this condition. No incumbrance or obstruction shall be placed or maintained on any part of any fire escape or in any means of access to a fire escape.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2575;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.487.

125.488 Scuttles, bulkheads, ladders and stairs in multiple dwellings.

Sec. 88. Scuttles, bulkheads, ladders and stairs. In all multiple dwellings where there are scuttles or bulkheads, they and all stairs or ladders leading thereto shall be easily accessible to all occupants of the building and shall be kept free from incumbrance and ready for use at all times. No scuttle and no bulkhead door shall at any time be locked with a key, but either may be fastened on the inside by movable bolts or hooks.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2576;—CL 1948, 125.488.

ARTICLE V
IMPROVEMENTS.

125.489 Rooms; lighting and ventilation.

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Sec. 89. Rooms, lighting and ventilation of. No room except water-closet compartments in a dwelling erected prior to the passage of this act shall hereafter be occupied unless it shall have a window or windows of an area equal to not less than 1/10 of the floor area opening directly upon the street, or upon a rear yard not less than 10 feet deep, or above the roof of an adjoining building, or upon a court located on the same lot with the dwelling or on an adjoining lot and having an area not less than 50 square feet and a minimum dimension not less than 3 feet and being open and unobstructed from the window sill to the sky, or upon a side yard located on the same lot with the dwelling or on an adjoining lot and having a minimum width not less than 2 feet, except that a room located on the top floor may be lighted by means of a skylight if the skylight has an area equal to not less than 1/10 of the floor area and is ventilated directly to the outer air by an opening or openings having an area equal to not less than 1 per cent of the floor area. A room which cannot be made to comply with the above provisions may be occupied if provided with a window having an area not less than 1/8 of the floor area of such room, 40 per cent of the area of which window shall be capable of being opened, opening into an adjoining room in the same apartment or group or suite of rooms which latter room has a window or windows of area equal to not less than 1/6 of the area of the larger of the 2 rooms involved, 40 per cent of the area of which windows shall be capable of being opened, opening directly on a street or on a rear yard of the above dimensions. In so far as possible the windows between the 2 rooms shall be in line with windows in the outer room so as to afford a maximum of light and ventilation.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2577;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.489.

125.490 Multiple dwellings; public halls and stairs, lighting and ventilation.

Sec. 90. Public halls and stairs, lighting and ventilation of. In all multiple-dwellings erected prior to the passage of this act the public halls and stairs shall be provided with as much light and ventilation to the outer air as may be deemed practicable by the health officer or by such other appropriate public official as the mayor may designate, who may order the cutting in of windows and skylights and such other improvements and alterations in said dwellings as in his judgment may be necessary and appropriate to accomplish this result. All new skylights hereafter placed in such dwellings shall be in accordance with section 27 of this act and shall be of such size as may be determined to be practicable by said health officer, or by such other appropriate public official as the mayor may designate.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2578;—CL 1948, 125.490.

125.491 Plumbing fixtures.

Sec. 91. Plumbing fixtures. In all dwellings, plumbing fixtures shall be so arranged and maintained as to prevent the wetting of the supporting or surrounding framework which may cause an insanitary condition. The space beneath such fixtures shall be accessible and shall not be so enclosed as to prevent ventilation sufficient to maintain dry and sanitary conditions. The floor and wall surfaces beneath and adjacent to all plumbing fixtures shall be maintained in a sound and sanitary condition. The health officer, or such other appropriate public official as the mayor may designate, may order plumbing fixtures to be supported by metal brackets, and the space beneath left entirely open, when it is indicated that the woodwork has become damp and insanitary and cannot be properly maintained. Defective and insanitary plumbing fixtures, which cannot be repaired, shall be replaced by approved fixtures.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2579;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.491.

125.492 Privy vaults, school-sinks and water closets.

Sec. 92. Privy vaults, school-sinks and water-closets. Whenever a connection with a sewer is possible, all privy vaults, school-sinks, cesspools or other receptacles used to receive fecal matter, urine or sewage, shall with their contents, be completely removed and the place where they were located properly disinfected under the direction of the health officer. Such appliances shall be replaced by individual water-closets of durable non-absorbent material, properly sewer-connected, and with individual traps and properly connected flush tanks providing an ample flush of water to thoroughly cleanse the bowl. Each such water-closet shall be located inside the dwelling or other building in connection with which it is to be used in a compartment completely separated from every other water-closet, and such compartment shall contain a window of not less than 4 square feet in area opening directly to the street, or rear yard or on a side yard or court of the minimum sizes prescribed in sections 13 and 14 of this act. The floors of the water-closet compartments shall be as provided in section 35 of this act. Such water-closets shall be provided in such numbers as required by section 67 of this act. Such water-closets and all plumbing in connection therewith shall be sanitary in every respect and, except as in this act otherwise provided, shall be in accordance with the local ordinances and regulations in relation to plumbing and drainage. Pan plunger, frostproof and long hopper closets will not be permitted except upon written permit of the health officer, or such other appropriate public official as the mayor may

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designate. No water-closet shall be placed out of doors.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2580;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.492.

125.493 Protection of basements and cellars.

Sec. 93. Protection of basement and cellars. Every multiple dwelling of class "b" having 20 or more sleeping rooms and exceeding 2 stories in height and having a basement or cellar, the floor above which is not of fireproof construction, shall have its basement or cellar ceiling protected with metal lath and 3/4 of an inch of portland cement or gypsum plaster, or the basement or cellar shall be protected with an approved automatic sprinkler system or an approved and self supervised and properly maintained automatic fire alarm system. The floor of the cellar or lowest floor of every dwelling shall be free from dampness, and, when necessary in the judgment of the health officer or such other appropriate public official as the mayor may designate, shall be concreted with not less than 3 inches of concrete of good quality and with a finished surface.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2581;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.493.

125.494 Shafts and courts; openings.

Sec. 94. Shafts and courts. In every dwelling where there is a court or shaft of any kind, there shall be at the bottom of every such shaft and court a door giving sufficient access to such shaft or court to enable it to be properly cleaned out: Provided, That where there is already a window giving proper access, it shall be deemed sufficient.

In all multiple dwellings of class "b" not of fireproof construction, or not protected with an approved sprinkler system or an approved and self supervised and properly maintained automatic fire alarm system, exceeding 2 stories in height, and having sleeping accommodations for 50 or more persons in which stairways and shafts are not made to comply with sections 39 and 46, the interior stairs, dumb waiters, elevators, clothes chutes, rubbish and all other inside shafts or openings between the various floors or stories of the building shall be enclosed or cut off with a fire resistive enclosure so as to prevent or restrict the vertical spreading of fire or smoke. All stairway shafts or openings between the cellar or basement and the story above in class "b" multiple dwellings shall be enclosed or cut off in the basement or cellar as mentioned above. Such enclosure shall be made of metal lath and 3/4 of an inch of gypsum or portland cement plaster on wood or metal studs, hollow metal, kalomine or other partitions of equivalent fire resistance. Fixed wire glass panels or wire glass windows in steel or metal covered frames may be placed in such enclosures. All door openings in such enclosures shall be protected with self closing fire doors.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2582;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.494.

125.495 Egress; means above first floor.

Sec. 95. Egress. All parts of every multiple dwelling, above the first story, shall have access to 2 independent means of egress either of which is accessible without passing through the other. In the case of multiple dwellings erected after the passage of this act the construction and arrangement of these means of egress shall conform to provisions of section 39. In the case of multiple dwellings erected prior to the passage of this act, wherein all parts are not supplied with the means of egress specified herein, deficiencies in exit facilities may be corrected by the erection of fire escapes constructed and arranged in accordance with the provisions of section 40. Access to existing fire escapes shall be equivalent to the standards established in section 40 for fire escapes. Where there are not more than 2 apartments or 6 sleeping rooms on a floor, access to 1 means of egress may be had through a private room or apartment providing the door to such room or apartment, through which such access is to be had, is equipped with a glass panel and other appurtenances as specified in section 40 for similar access doors to fire escapes.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2583;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.495.

125.496 Egress; other means.

Sec. 96. Additional means of egress. Whenever any multiple dwelling is not provided with means of egress conforming to the provisions of section 95, the enforcing officer shall order the installation of such additional means of egress as may be necessary to comply with the requirements of that section.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2584;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.496.

125.497 Roof egress in multiple dwellings.

Sec. 97. Roof egress; scuttles and bulkheads. Every flat roof multiple-dwelling, exceeding 1 story in height, shall have at least 1 convenient and permanent means of access to the roof located in a public part of the building and not in a room or closet.

History: 1917, Act 167, Eff. Aug. 10, 1917;—CL 1929, 2585;—Am. 1939, Act 303, Eff. Sept. 29, 1939;—CL 1948, 125.497.

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ARTICLE VI
REQUIREMENTS AND REMEDIES.

125.498-125.519 Repealed. 1968, Act 286, Eff. Nov. 15, 1968.

ARTICLE VII
ENFORCEMENT.

125.521, 125.522 Repealed. 1972, Act 230, Eff. Jan. 1, 1973.

Compiler's note: The repealed sections pertained to plans and specifications for the construction or alteration of dwellings, buildings, or structures.

125.523 Administration of act; joint administration and enforcement agreement.

Sec. 123. The governing body of a municipality to which this act by its terms applies, or the governing body of a municipality which adopts the provisions of this act by reference, shall designate a local officer or agency which shall administer the provisions of the act, and if no such officer or agency is designated then the local governing body shall be responsible for administration of the act. Municipalities may provide, by agreement, for the joint administration and enforcement of this act where such joint enforcement is practicable.

History: Add. 1968, Act 286, Eff. Nov. 15, 1968.

125.525 Registry of owners and premises.

Sec. 125. (1) A registry of owners and premises shall be maintained by the enforcing agency.

(2) The owners of a multiple dwelling or rooming house containing units which will be offered to let, or to hire, for more than 6 months of a calendar year, shall register their names and places of residence or usual places of business and the location of the premises regulated by this act with the enforcing agency. The owners shall register within 60 days following the day on which any part of the premises is offered for occupancy. Owners of multiple dwellings or rooming houses containing units which are occupied or offered for occupancy at the time this act becomes effective shall register within 90 days after the effective date of this article.

(3) If the premises are managed or operated by an agent, the agent's name and place of business shall be placed with the name of the owner in the registry.

History: Add. 1968, Act 286, Eff. Nov. 15, 1968.

125.526 Inspection; intervals; inspection by federal government as substitute; basis; inspectors; hours of inspection; permission to enter leasehold; duties of owner; ordinance; multiple lessees; discrimination prohibited; fees; report; dwelling or rooming house with child residing; definitions.

Sec. 126. (1) The enforcing agency shall inspect multiple dwellings and rooming houses regulated by this act in accordance with this act. Except as provided in subsection (2), the period between inspections shall not be longer than 4 years. All other dwellings regulated by this act may be inspected at reasonable intervals. Inspections of multiple dwellings or rooming houses conducted by the United States department of housing and urban development under the real estate assessment center inspection process or other government agencies may be accepted by a local governmental unit and an enforcing agency as a substitute for inspections required by a local enforcing agency. To the extent permitted under applicable law, a local enforcing agency or its designee is authorized to exercise inspection authority delegated by law or agreement from other agencies or authorities that perform inspections required under other state law or federal law.

(2) A local governmental unit may provide by ordinance for a maximum period between inspections of a multiple dwelling or rooming house that is not longer than 6 years if the most recent inspection of the premises found no violations of the act and the multiple dwelling or rooming house has not changed ownership during the 6-year period.

(3) An inspection shall be conducted in the manner best calculated to secure compliance with the act and appropriate to the needs of the community, including, but not limited to, on 1 or more of the following bases:

(a) An area basis, such that all the regulated premises in a predetermined geographical area will be inspected simultaneously, or within a short period of time.

(b) A complaint basis, such that complaints of violations will be inspected within a reasonable time.

(c) A recurrent violation basis, such that premises that are found to have a high incidence of recurrent or uncorrected violations will be inspected more frequently.

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(d) A compliance basis, such that a premises brought into compliance before the expiration of a certificate of compliance or any requested repair order may be issued a certificate of compliance for the maximum renewal certification period authorized by the local governmental unit.

(e) A percentage basis, such that a local governmental unit may establish a percentage of units in a multiple dwelling to be inspected in order to issue a certificate of compliance for the multiple dwelling.

(4) An inspection shall be carried out by the enforcing agency, or by the enforcing agency and representatives of other agencies that form a team to undertake an inspection under this and other applicable acts.

(5) Except as provided in subsection (7), an inspector, or team of inspectors, shall request and receive permission to enter before entering a leasehold regulated by this act at reasonable hours to undertake an inspection. In the case of an emergency, as defined under rules promulgated by the enforcing agency, or upon presentment of a warrant, the inspector or team of inspectors may enter at any time.

(6) Except in an emergency, before entering a leasehold regulated by this act, the owner of the leasehold shall request and obtain permission to enter the leasehold. In the case of an emergency, including, but not limited to, fire, flood, or other threat of serious injury or death, the owner may enter at any time.

(7) The enforcing agency may require the owner of a leasehold to do 1 or more of the following:

(a) Provide the enforcing agency access to the leasehold if the lease provides the owner a right of entry.

(b) Provide access to areas other than a leasehold or areas open to public view, or both.

(c) Notify a tenant of the enforcing agency's request to inspect a leasehold, make a good faith effort to obtain permission for an inspection, and arrange for the inspection. If a tenant vacates a leasehold after the enforcing agency has requested to inspect that leasehold, an owner of the leasehold shall notify the enforcing agency of that fact within 10 days after the leasehold is vacated.

(d) Provide access to the leasehold if a tenant of that leasehold has made a complaint to the enforcing agency.

(8) A local governmental unit may adopt an ordinance to implement subsection (7).

(9) For multiple lessees in a leasehold, notifying at least 1 lessee and requesting and obtaining the permission of at least 1 lessee satisfies subsections (5) and (7).

(10) Neither the enforcing agency nor the owner may discriminate against an occupant on the basis of whether the occupant requests, permits, or refuses entry to the leasehold.

(11) The enforcing agency shall not discriminate against an owner who has met the requirements of subsection (7) but has been unable to obtain the permission of the occupant, based on the owner's inability to obtain that permission.

(12) The enforcing agency may establish and charge a reasonable fee for inspections conducted under this act. The fee shall not exceed the actual, reasonable cost of providing the inspection for which the fee is charged. An owner or property manager shall not be liable for an inspection fee if the inspection is not performed and the enforcing agency is the direct cause of the failure to perform.

(13) An enforcing agency or a local governmental unit shall produce a report to a requesting party on the income and expenses of the inspection program for the preceding fiscal year. The report shall contain the fees assessed by the enforcing agency, the costs incurred in performing inspections, and the number of units inspected. The report shall be provided to the requesting party within 90 days of the request. The enforcing agency or local governmental unit may produce the report electronically. If the enforcing agency does not have readily available access to the information required for the report, the enforcing agency may charge the requesting party a fee no greater than the actual reasonable cost of providing the information. If an enforcing agency charges a fee under this subsection, the enforcing agency shall include the costs of providing and compiling the information contained in the report.

(14) If a complaint identifies a dwelling or rooming house regulated under this act in which a child is residing, the dwelling or rooming house shall be inspected prior to inspection of any nonemergency complaint.

(15) As used in this section:

(a) "Child" means an individual under 18 years of age.

(b) "Leasehold" means a private dwelling or separately occupied apartment, suite, or group of rooms in a 2-family dwelling or in a multiple dwelling if the private dwelling or separately occupied apartment, suite, or group of rooms is leased to the occupant under the terms of either an oral or written lease.

History: Add. 1968, Act 286, Eff. Nov. 15, 1968;—Am. 1997, Act 200, Imd. Eff. Jan. 2, 1998;—Am. 2000, Act 479, Imd. Eff. Jan. 11, 2001;—Am. 2008, Act 408, Imd. Eff. Jan. 6, 2009.

125.527 Inspection; warrants for nonemergency situation; no warrant required in emergency.

Sec. 127. (1) In a nonemergency situation where the owner or occupant demands a warrant for inspection

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of the premises, the enforcing agency shall obtain a warrant from a court of competent jurisdiction. The enforcing agency shall prepare the warrant, stating the address of the building to be inspected, the nature of the inspection, as defined in this or other applicable acts, and the reasons for the inspection. It shall be appropriate and sufficient to set forth the basis for inspection (e.g. complaint, area or recurrent violation basis) established in this section, in other applicable acts or in rules or regulations. The warrant shall also state that it is issued pursuant to this section, and that it is for the purposes set forth in this and other acts which require that inspections be conducted.

(2) If the court finds that the warrant is in proper form and in accord with this section, it shall be issued forthwith.

(3) In the event of an emergency no warrant shall be required.

History: Add. 1968, Act 286, Eff. Nov. 15, 1968.

125.528 Inspections; public policy; records; checklist of violations.

Sec. 128. (1) It is the policy of this state that the inspection procedures set forth in this article are established in the public interest, to secure the health and safety of the occupants of dwellings and of the general public.

(2) The enforcing agency shall keep a record of all inspections.

(3) The enforcing agency shall make available to the general public a checklist of commonly recurring violations for use in examining premises offered for occupancy.

History: Add. 1968, Act 286, Eff. Nov. 15, 1968.

125.529 Certificate of compliance; issuance; inspection.

Sec. 129. (1) Units in multiple dwellings or rooming houses shall not be occupied unless a certificate of compliance has been issued by the enforcing agency. The certificates shall be issued only upon an inspection of the premises by the enforcing agency, except as provided in section 131. The certificate shall be issued within 15 days after written application therefor if the dwelling at the date of the application is entitled thereto.

(2) A violation of this act shall not prevent the issuance of a certificate, but the enforcing agency shall not issue a certificate when the existing conditions constitute a hazard to the health or safety of those who may occupy the premises.

(3) Inspections shall be made prior to first occupancy of multiple dwellings and rooming houses, if the construction or alteration is completed and first occupancy will occur after the effective date of this article. Where first occupancy will occur before the effective date of this article, inspection shall be made within 1 year after the effective date of this article. Upon a finding that there is no condition that would constitute a hazard to the health and safety of the occupants, and that the premises are otherwise fit for occupancy, the certificate shall be issued. If the finding is of a condition that would constitute a hazard to health or safety, no certificate shall be issued, and an order to comply with the act shall be issued immediately and served upon the owner in accordance with section 132. On reinspection and proof of compliance, the order shall be rescinded and a certificate issued.

History: Add. 1968, Act 286, Eff. Nov. 15, 1968.

125.530 Certificate withheld; premises not to be occupied; conditions of issuance; suspension of rent payments, escrow; account for rent and possession.

Sec. 130. (1) When a certificate is withheld pending compliance, no premises which have not been occupied for dwelling or rooming purposes shall be so occupied, and those premises which have been or are occupied for dwelling or rooming purposes may be ordered vacated until reinspection and proof of compliance in the discretion of the enforcing agency.

(2) A certificate of compliance shall be issued on condition that the premises remain in safe, healthful and fit condition for occupancy. If upon reinspection the enforcing agency determines that conditions exist which constitute a hazard to health or safety, the certificate shall be immediately suspended as to affected areas, and the areas may be vacated as provided in subsection (1).

(3) The duty to pay rent in accordance with the terms of any lease or agreement or under the provisions of any statute shall be suspended and the suspended rentals shall be paid into an escrow account as provided in subsection (4), during that period when the premises have not been issued a certificate of compliance, or when such certificate, once issued, has been suspended. This subsection does not apply until the owner has had a reasonable time after the effective date of this article or after notice of violations to make application for a temporary certificate, as provided in section 131. Nor does this subsection apply where the owner establishes that the conditions which constitute a hazard to health or safety were caused by the occupant or occupants.

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The rent, once suspended, shall again become due in accordance with the terms of the lease or agreement or statute from and after the time of reinstatement of the certificate, or where a temporary certificate has been issued, as provided in section 131.

(4) Rents due for the period during which rent is suspended shall be paid into an escrow account established by the enforcing officer or agency, to be paid thereafter to the landlord or any other party authorized to make repairs, to defray the cost of correcting the violations. The enforcing agency shall return any unexpended part of sums paid under this section, attributable to the unexpired portion of the rental period, where the occupant terminates his tenancy or right to occupy prior to the undertaking to repair.

(5) When the certificate of compliance has been suspended, or has not been issued, and the rents thereafter withheld are not paid into the escrow account, actions for rent and for possession of the premises for nonpayment of rent may be maintained, subject to such defenses as the tenant or occupant may have upon the lease or contract.

History: Add. 1968, Act 286, Eff. Nov. 15, 1968.

125.531 Certificate; application; temporary certificates; fee.

Sec. 131. (1) An owner shall apply for a certificate of compliance. Inspection and issuance of certificates shall be in accordance with the requirements of this act and with procedures established by the enforcing agency. The enforcing agency may authorize the issuance of temporary certificates without inspection for those premises in which there are no violations of record as of the effective date of this article, and shall issue such temporary certificates upon application in cases where inspections are not conducted within a reasonable time. Temporary certificates shall also be issued for premises with violations of record, whether existing before or after the effective date of this article, when the owner can show proof of having undertaken to correct such conditions, or when the municipality has been authorized to make repairs, or when a receiver has been appointed, or when an owner rehabilitation plan has been accepted by the court.

(2) An application for a certificate shall be made when the owners, or any of them, enroll in the registry of owners and premises. If the owner fails to register, any occupant of unregistered or uncertified premises may make application.

(3) A fee of $10.00 shall be paid by the applicant at the time the certificate is issued.

History: Add. 1968, Act 286, Eff. Nov. 15, 1968.

125.532 Violations; recording; notice; order to correct, reasonable time; reinspection; notice to family independence agency.

Sec. 132. (1) If, upon inspection, the premises or any part of the premises are found to be in violation of any provision of this act, the enforcing agency shall record the violation in the registry of owners and premises.

(2) The owner, and, in the enforcing agency's discretion, the occupant, shall be notified in writing of the violation. The notice shall state the date of the inspection, the name of the inspector, the nature of the violation, and the time within which the correction shall be completed.

(3) If an inspector determines that a violation constitutes a hazard to the occupant's health or safety, under circumstances where the premises cannot be vacated, the enforcing agency shall order the violation corrected within the shortest reasonable time. The owner shall notify the enforcing agency of having begun compliance within 3 days. All other violations shall be corrected within a reasonable time.

(4) The enforcing agency shall reinspect after a reasonable time to ascertain whether the violation has been corrected.

(5) If an inspector determines that a violation constitutes a hazard to the health or safety of the occupants, the enforcing agency shall notify the family independence agency within 48 hours. The notice shall state the date of the inspection, the name of the inspector, the nature of the violation, and the time within which the correction shall be completed. The family independence agency shall check the address of the premises against the list of rent-vendored family independence program recipients.

History: Add. 1968, Act 286, Eff. Nov. 15, 1968;—Am. 2000, Act 479, Imd. Eff. Jan. 11, 2001.

125.533 Compliance by owner and occupant.

Sec. 133. (1) The owner of premises regulated by this act shall comply with all applicable provisions of the act.

(2) The occupant of premises regulated by this act shall comply with provisions of the act specifically applicable to him.

History: Add. 1968, Act 286, Eff. Nov. 15, 1968.

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125.534 Noncompliance with notice of violation; actions; parties; motion for temporary relief; service of complaint and summons; filing notice of pendency of action; orders and determinations; repair or removal of structure; exception; costs; order approving expenses; lien; authority of municipality; "urban core cities" defined.

Sec. 134. (1) If the owner or occupant fails to comply with the order contained in the notice of violation, the enforcing agency may bring an action to enforce this act and to abate or enjoin the violation.

(2) An owner or occupant of the premises upon which a violation exists may bring an action to enforce this act in his or her own name. Upon application by the enforcing agency, or upon motion of the party filing the complaint, the local enforcing agency may be substituted for, or joined with, the complainant in the discretion of the court.

(3) If the violation is uncorrected and creates an imminent danger to the health and safety of the occupants of the premises, or if there are no occupants and the violation creates an imminent danger to the health and safety of the public, the enforcing agency shall file a motion for a preliminary injunction or other temporary relief appropriate to remove the danger during the pendency of the action.

(4) Owners and lienholders of record or owners and lienholders ascertained by the complainant with the exercise of reasonable diligence shall be served with a copy of the complaint and a summons. The complainant shall also file a notice of the pendency of the action with the appropriate county register of deeds office where the premises are located.

(5) The court of jurisdiction shall make orders and determinations consistent with the objectives of this act. The court may enjoin the maintenance of unsafe, unhealthy, or unsanitary conditions, or violations of this act, and may order the defendant to make repairs or corrections necessary to abate the conditions. The court may authorize the enforcing agency to repair or to remove the building or structure. If an occupant is not the cause of an unsafe, unhealthy, or unsanitary condition, or a violation of this act, and is the complainant, the court may authorize the occupant to correct the violation and deduct the cost from the rent upon terms the court determines just. If the court finds that the occupant is the cause of an unsafe, unhealthy, or unsanitary condition, or a violation of this act, the court may authorize the owner to correct the violation and assess the cost against the occupant or the occupant's security deposit.

(6) A building or structure shall not be removed unless the cost of repair of the building or structure will be greater than the state equalized value of the building or structure except in urban core cities or local units of government that are adjacent to or contiguous to an urban core city that have adopted stricter standards to expedite the rehabilitation or removal of a boarded or abandoned building or structure that remains either vacant or boarded, or both, and a significant attempt has not been made to rehabilitate the building or structure for a period of 24 consecutive months.

(7) If the expense of repair or removal is not provided for, the court may enter an order approving the expense and placing a lien on the real property for the payment of the expense. The order may establish and provide for the priority of the lien as a senior lien, except as to tax and assessment liens, and except as to a recorded mortgage of first priority, recorded prior to all other liens of record if, at the time of recording of that mortgage or at a time subsequent, a certificate of compliance as provided for in this act is in effect on the subject property. The order may also specify the time and manner for foreclosure of the lien if the lien is not satisfied. A true copy of the order shall be filed with the appropriate county register of deeds office where the real property is located within 10 days after entry of the order to perfect the lien granted in the order.

(8) This act does not preempt, preclude, or interfere with the authority of a municipality to protect the health, safety, and general welfare of the public through ordinance, charter, or other means.

(9) As used in this section, "urban core cities" means qualified local governmental units as that term is defined in section 2 of the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2782.

History: Add. 1968, Act 286, Eff. Nov. 15, 1968;—Am. 1976, Act 116, Imd. Eff. May 14, 1976;—Am. 2003, Act 80, Imd. Eff. July 23, 2003.

125.535 Receiver; appointment, termination; purpose; powers; expenses.

Sec. 135. (1) When a suit has been brought to enforce this act against the owner the court may appoint a receiver of the premises.

(2) When the court finds that there are adequate grounds for the appointment of a receiver, it shall appoint the municipality or a proper local agency or officer, or any competent person, as receiver. In the discretion of the court no bond need be required. The receivership shall terminate at the discretion of the court.

(3) The purpose of a receivership shall be to repair, renovate and rehabilitate the premises as needed to make the building comply with the provisions of this act, and where ordered by the court, to remove a building. The receiver shall promptly comply with the charge upon him in his official capacity and restore the premises to a safe, decent and sanitary condition, or remove the building.

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(4) Subject to the control of the court the receiver shall have full and complete powers necessary to make the building comply with the provisions of this act. He may collect rents, and other revenue, hold them against the claim of prior assignees of such rents, and other revenue, and apply them to the expenses of making the building comply with the provisions of this act. He may manage and let rental units, issue receivership certificates, contract for all construction and rehabilitation as needed to make the building comply with the provisions of this act, and exercise other powers the court deems proper to the effective administration of the receivership.

(5) When expenses of the receivership are not otherwise provided for, the court may enter an order approving the expenses and providing that there shall be a lien on the real property for the payment thereof. The provisions of subsection (7) of section 134 as to the contents and filing of an order are applicable to the order herein provided for.

History: Add. 1968, Act 286, Eff. Nov. 15, 1968.

125.536 Additional remedies; occupant's action; concurrent remedies.

Sec. 136. (1) When the owner of a dwelling regulated by this act permits unsafe, unsanitary or unhealthful conditions to exist unabated in any portion of the dwelling, whether a portion designated for the exclusive use and occupation of residents or a part of the common areas, where such condition exists in violation of this act, any occupant, after notice to the owner and a failure thereafter to make the necessary corrections, shall have an action against the owner for such damages he has actually suffered as a consequence of the condition. When the condition is a continuing interference with the use and occupation of the premises, the occupant shall also have injunctive and other relief appropriate to the abatement of the condition.

(2) Remedies under this section shall be in addition to such other relief as may be obtained by seeking enforcement of the section authorizing suits by a local enforcement agency. The remedies shall be concurrent. When several remedies are available hereunder, the court may order any relief not inconsistent with the objectives of this act, and calculated to achieve compliance with it.

History: Add. 1968, Act 286, Eff. Nov. 15, 1968.

125.537 Common law rights retained.

Sec. 137. The enumeration of rights of action under this article shall not limit or derogate rights of action at common law.

History: Add. 1968, Act 286, Eff. Nov. 15, 1968.

125.538 Dangerous building prohibited.

Sec. 138. It is unlawful for any owner or agent thereof to keep or maintain any dwelling or part thereof which is a dangerous building as defined in section 139.

History: Add. 1969, Act 61, Eff. Sept. 1, 1969.

125.539 “Dangerous building” defined.

Sec. 139. As used in sections 138 to 142, “dangerous building” means a building or structure that has 1 or more of the following defects or is in 1 or more of the following conditions:

(a) A door, aisle, passageway, stairway, or other means of exit does not conform to the approved fire code of the city, village, or township in which the building or structure is located.

(b) A portion of the building or structure is damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the damage and does not meet the minimum requirements of this act or a building code of the city, village, or township in which the building or structure is located for a new building or structure, purpose, or location.

(c) A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.

(d) A portion of the building or structure has settled to an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by this act or a building code of the city, village, or township in which the building or structure is located.

(e) The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.

(f) The building, structure, or a part of the building or structure is manifestly unsafe for the purpose for

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which it is used.

(g) The building or structure is damaged by fire, wind, or flood, is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals, or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act.

(h) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or for other reason, is unsanitary or unfit for human habitation, is in a condition that the health officer determines is likely to cause sickness or disease, or is likely to injure the health, safety, or general welfare of people living in the dwelling.

(i) A building or structure is vacant, dilapidated, and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

(j) A building or structure remains unoccupied for a period of 180 consecutive days or longer, and is not listed as being available for sale, lease, or rent with a real estate broker licensed under article 25 of the occupational code, 1980 PA 299, MCL 339.2401 to 339.2518. For purposes of this subdivision, "building or structure" includes, but is not limited to, a commercial building or structure. This subdivision does not apply to either of the following:

(*i*) A building or structure if the owner or agent does both of the following:

(A) Notifies a local law enforcement agency in whose jurisdiction the building or structure is located that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given to the local law enforcement agency by the owner or agent not more than 30 days after the building or structure becomes unoccupied.

(B) Maintains the exterior of the building or structure and adjoining grounds in accordance with this act or a building code of the city, village, or township in which the building or structure is located.

(*ii*) A secondary dwelling of the owner that is regularly unoccupied for a period of 180 days or longer each year, if the owner notifies a local law enforcement agency in whose jurisdiction the dwelling is located that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year. An owner who has given the notice prescribed by this subparagraph shall notify the law enforcement agency not more than 30 days after the dwelling no longer qualifies for this exception. As used in this subparagraph, "secondary dwelling" means a dwelling, including, but not limited to, a vacation home, hunting cabin, or summer home, that is occupied by the owner or a member of the owner's family during part of a year.

History: Add. 1969, Act 61, Eff. Sept. 1, 1969;—Am. 1992, Act 113, Eff. Mar. 31, 1993;—Am. 1992, Act 144, Eff. Mar. 31, 1993;—Am. 2003, Act 55, Imd. Eff. July 14, 2003.

125.540 Notice of dangerous building; contents; hearing officer; service.

Sec. 140. (1) Notwithstanding any other provision of this act, if a building or structure is found to be a dangerous building, the enforcing agency shall issue a notice that the building or structure is a dangerous building.

(2) The notice shall be served on the owner, agent, or lessee that is registered with the enforcing agency under section 125. If an owner, agent, or lessee is not registered under section 125, the notice shall be served on each owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment records.

(3) The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building. The person to whom the notice is directed shall have the opportunity to show cause at the hearing why the hearing officer should not order the building or structure to be demolished, otherwise made safe, or properly maintained.

(4) The hearing officer shall be appointed by the mayor, village president, or township supervisor to serve at his or her pleasure. The hearing officer shall be a person who has expertise in housing matters including, but not limited to, an engineer, architect, building contractor, building inspector, or member of a community housing organization. An employee of the enforcing agency shall not be appointed as hearing officer. The enforcing agency shall file a copy of the notice that the building or structure is a dangerous building with the hearing officer.

(5) The notice shall be in writing and shall be served upon the person to whom the notice is directed either personally or by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the tax records. If a notice is served on a person by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least 10 days before the date of the hearing included in the notice.

History: Add. 1969, Act 61, Eff. Sept. 1, 1969;—Am. 1992, Act 144, Eff. Mar. 31, 1993.

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125.541 Hearing; testimony; determination to close proceedings or order building or structure demolished, made safe, or properly maintained; failure to appear or noncompliance with order; hearing; enforcement; reimbursement and notice of cost; lien; remedies.

Sec. 141. (1) At a hearing prescribed by section 140, the hearing officer shall take testimony of the enforcing agency, the owner of the property, and any interested party. Not more than 5 days after completion of the hearing, the hearing officer shall render a decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained.

(2) If the hearing officer determines that the building or structure should be demolished, otherwise made safe, or properly maintained, the hearing officer shall enter an order that specifies what action the owner, agent, or lessee shall take and sets a date by which the owner, agent, or lessee shall comply with the order. If the building is a dangerous building under section 139(j), the order may require the owner or agent to maintain the exterior of the building and adjoining grounds owned by the owner of the building including, but not limited to, the maintenance of lawns, trees, and shrubs.

(3) If the owner, agent, or lessee fails to appear or neglects or refuses to comply with the order issued under subsection (2), the hearing officer shall file a report of the findings and a copy of the order with the legislative body of the city, village, or township not more than 5 days after the date for compliance set in the order and request that necessary action be taken to enforce the order. If the legislative body of the city, village, or township has established a board of appeals under section 141c, the hearing officer shall file the report of the findings and a copy of the order with the board of appeals and request that necessary action be taken to enforce the order. A copy of the findings and order of the hearing officer shall be served on the owner, agent, or lessee in the manner prescribed in section 140.

(4) The legislative body or the board of appeals of the city, village, or township, as applicable, shall set a date not less than 30 days after the hearing prescribed in section 140 for a hearing on the findings and order of the hearing officer. The legislative body or the board of appeals shall give notice to the owner, agent, or lessee in the manner prescribed in section 140 of the time and place of the hearing. At the hearing, the owner, agent, or lessee shall be given the opportunity to show cause why the order should not be enforced. The legislative body or the board of appeals of the city, village, or township shall either approve, disapprove, or modify the order. If the legislative body or board of appeals approves or modifies the order, the legislative body shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent, or lessee shall comply with the order within 60 days after the date of the hearing under this subsection. For an order of demolition, if the legislative body or the board of appeals of the city, village, or township determines that the building or structure has been substantially destroyed by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause, and the cost of repair of the building or structure will be greater than the state equalized value of the building or structure, the owner, agent, or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this subsection. If the estimated cost of repair exceeds the state equalized value of the building or structure to be repaired, a rebuttable presumption that the building or structure requires immediate demolition exists.

(5) The cost of demolition includes, but is not limited to, fees paid to hearing officers, costs of title searches or commitments used to determine the parties in interest, recording fees for notices and liens filed with the county register of deeds, demolition and dumping charges, court reporter attendance fees, and costs of the collection of the charges authorized under this act. The cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure incurred by the city, village, or township to bring the property into conformance with this act shall be reimbursed to the city, village, or township by the owner or party in interest in whose name the property appears.

(6) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the assessor of the amount of the cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure by first class mail at the address shown on the records. If the owner or party in interest fails to pay the cost within 30 days after mailing by the assessor of the notice of the amount of the cost, the city, village, or township shall have a lien for the cost incurred by the city, village, or township to bring the property into conformance with this act. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. A lien provided for in this subsection does not have priority over previously filed or recorded liens and encumbrances. The lien for the cost shall be collected and treated in the same manner as provided for property tax liens under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(7) In addition to other remedies under this act, the city, village, or township may bring an action against

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the owner of the building or structure for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure. A city, village, or township shall have a lien on the property for the amount of a judgment obtained under this subsection. The lien provided for in this subsection shall not take effect until notice of the lien is filed or recorded as provided by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

History: Add. 1969, Act 61, Eff. Sept. 1, 1969;—Am. 1992, Act 113, Eff. Mar. 31, 1993;—Am. 1992, Act 144, Eff. Mar. 31, 1993;—Am. 2003, Act 55, Imd. Eff. July 14, 2003.

125.541a Enforcement of judgment against other assets; lien; effectiveness; priority.

Sec. 141a. (1) A judgment in an action brought pursuant to section 141(7) may be enforced against assets of the owner other than the building or structure.

(2) A city, village, or township shall have a lien for the amount of a judgment obtained pursuant to section 141(7) against the owner's interest in all real property located in this state that is owned in whole or in part by the owner of the building or structure against whom the judgment is obtained. A lien provided for in this section does not take effect until notice of the lien is filed or recorded as provided by law, and the lien does not have priority over prior filed or recorded liens and encumbrances.

History: Add. 1992, Act 109, Eff. Mar. 31, 1993.

125.541b Noncompliance with order as misdemeanor; penalties; designation of blight violation by municipality.

Sec. 141b. (1) Except as otherwise provided under subsection (2), a person who fails or refuses to comply with an order approved or modified by the legislative body or board of appeals under section 141 within the time prescribed by that section is guilty of a misdemeanor punishable by imprisonment for not more than 120 days or a fine of not more than $1,000.00, or both.

(2) If a legislative body of a municipality formed under the home rule city act, 1909 PA 279, MCL 117.1 to 117.38, has enacted an ordinance that is substantially the same as sections 138 to 142, the municipality may designate the violation of its ordinance as a blight violation in accordance with section 4q of the home rule city act, 1909 PA 279, MCL 117.4q.

History: Add. 1992, Act 144, Eff. Mar. 31, 1993;—Am. 2008, Act 50, Imd. Eff. Mar. 28, 2008.

125.541c Board of appeals; establishment; appointment and terms of members; vacancy; election of officers; quorum; compensation; expenses; meetings; writings.

Sec. 141c. (1) The legislative body of a city, village, or township may establish a board of appeals to hear all of the cases and carry out all of the duties of the legislative body described in section 141(3) and (4).

(2) The board of appeals shall be appointed by the legislative body of the city, village, or township and shall consist of the following members:

(a) A building contractor.

(b) A registered architect or engineer.

(c) Two members of the general public.

(d) An individual registered as a building official, plan reviewer, or inspector under the building officials and inspectors registration act, Act No. 54 of the Public Acts of 1986, being sections 338.2301 to 338.2313 of the Michigan Compiled Laws. The individual may be an employee of the enforcing agency.

(3) Board of appeals members shall be appointed for 3 years, except that of the members first appointed, 2 members shall serve for 1 year, 2 members shall serve for 2 years, and 1 member shall serve for 3 years. A vacancy created other than by expiration of a term shall be filled for the balance of the unexpired term in the same manner as the original appointment. A member may be reappointed for additional terms.

(4) The board of appeals annually shall elect a chairperson, vice-chairperson, and other officers that the board considers necessary.

(5) A majority of the board of appeals members appointed and serving constitutes a quorum. Final action of the board of appeals shall be only by affirmative vote of a majority of the board members appointed and serving.

(6) The legislative body of the city, village, or township shall fix the amount of any per diem compensation provided to the members of the board of appeals. Expenses of the board of appeals incurred in the performance of official duties may be reimbursed as provided by law for employees of the legislative body of the city, village, or township.

(7) A meeting of the board of appeals shall be held pursuant to the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the

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time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(8) A writing prepared, owned, used, in the possession of, or retained by the board of appeals in the performance of an official function shall be made available to the public pursuant to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1992, Act 144, Eff. Mar. 31, 1993.

125.542 Appeal to circuit court.

Sec. 142. An owner aggrieved by a final decision or order of the legislative body or the board of appeals under section 141 may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 20 days from the date of the decision.

History: Add. 1969, Act 61, Eff. Sept. 1, 1969;—Am. 1992, Act 144, Eff. Mar. 31, 1993;—Am. 2003, Act 55, Imd. Eff. July 14, 2003.

125.543 Adoption of housing law not required.

Sec. 143. Nothing herein contained shall require any city, village or township to adopt Act No. 167 of the Public Acts of 1917, as amended, being the housing law of Michigan.

History: Add. 1969, Act 61, Eff. Sept. 1, 1969.

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FUEL OIL
Act 319 of 1929

AN ACT to regulate the use, handling, storage and sale of fuel oil, and the arrangement, design, construction and installation of burners, tanks and other equipment for the burning of fuel oil for heating purposes in cities and villages adopting the provisions of this act.

History: 1929, Act 319, Imd. Eff. May 28, 1929.

The People of the State of Michigan enact:

125.551 Fuel oil; adoption of act; scope of act restricted.

Sec. 1. This act shall be in force and effect in cities and villages that, by a majority vote of the legislative body of the city or village, adopt its provisions. This act as it relates to the storage, handling, and sale of fuel oil applies only to the use of fuel oil for oil burners as specified in this act.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2608;—CL 1948, 125.551;—Am. 1991, Act 43, Imd. Eff. June 27, 1991.

125.552 Fuel oil; definitions.

Sec. 2. For the purposes of this act:

(a) "Fuel oil" means any liquid as specified by the American standard of testing materials D-396-89A (1989) and used as fuel that has a flash point of not less than 100 degrees Fahrenheit.

(b) "Fuel oil burners" means any device, including burners, motors, piping, valves, and other equipment designed and arranged for the purpose of burning fuel oil for heating purposes.

(c) "Tank" means any container for fuel oil, having a capacity of more than 25 gallons and directly or indirectly connected with fuel oil burners.

(d) "Auxiliary tank" means any tank that has a capacity that does not exceed 60 gallons and is between the storage tank and the burner that delivers oil by gravity or pressure to the fuel oil burner or blower.

(e) "Storage tank" means any tank for the storage of oil, connected through an approved means of suction feed, directly to the fuel oil burner or indirectly connected to the fuel oil burner through approved auxiliary tank.

(f) "Department of buildings and safety engineering" means the department of buildings and safety engineering of a city or village, or another department designated by the legislative body of a city or village.

(g) "Bureau of safety engineering" means the bureau of safety engineering of the department of buildings and safety engineering of a city or village, or another bureau designated by the legislative body of a city or village.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2609;—CL 1948, 125.552;—Am. 1991, Act 43, Imd. Eff. June 27, 1991.

125.553 Installation permit; temporary tag; inspection; existing plants; fees.

Sec. 3. Before any fuel oil burners, tanks and other equipment pertaining thereto shall be installed within such city, the owner of such premises or his agent, shall obtain from the permit department of the department of buildings and safety engineering, a permit for the installation of such fuel oil burners and equipment and for the storage and use of fuel oil for the operation thereof. Upon issuing such permit the said department shall issue therewith a temporary tag to be attached to the fill pipe of the tank of such equipment until the bureau of safety engineering shall cause such equipment to be inspected, and if found to conform with this act, a permanent metal tag, properly numbered, shall be affixed by the inspector. The owners or occupants of premises on which fuel oil burners have been installed previous to the date on which this act becomes effective shall obtain from the department of buildings and safety engineering within 6 months thereafter a permit for the storage and use of fuel oil for the operation thereof. Such permits shall be issued by the department of buildings and safety engineering when such fuel oil burners shall have been inspected by the bureau of safety engineering and found to be reasonably safe. The fees for permits required under the provisions hereof shall be designated by the board of rules.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2610;—CL 1948, 125.553.

125.554 Prohibited furnishing of fuel oil.

Sec. 4. No person or persons, firm or corporation, shall supply with fuel oil any tanks or containers for fuel oil burners unless such fuel oil burners and equipment shall have been approved as provided herein and permit tag attached to the filler pipe of such tank or containers in the manner herein specified.

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History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2611;—CL 1948, 125.554.

125.555 Flash point; tester; mixing or blending; waste oil.

Sec. 5. Fuel oil or any other oil or liquid used for equipment installed under this act shall have a flash point of not less than 100 degrees Fahrenheit as determined by an appropriate closed cup tester method specified in the American standards of testing materials standard for fuel oil. In determining the flash point of oil, a tester as required by the department of buildings and safety engineering shall be authoritative. Fuel oil shall not be mixed or blended except at a storage plant under competent supervision, and waste oil shall not be used except with the approval of the bureau of safety engineering.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2612;—CL 1948, 125.555;—Am. 1991, Act 43, Imd. Eff. June 27, 1991.

125.556 Scope of tests.

Sec. 6. The tests and investigations made by the department of buildings and safety engineering shall cover arrangement of parts, suitability of material, strength of parts, electrical control, thermostatic arrangement, sensitiveness of automatic features, positiveness of ignition, safeguards against flooding, possibilities of explosion and hydrostatic or air pressure testing of storage tanks.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2613;—CL 1948, 125.556.

125.557 Oil burners; equipment.

Sec. 7. Oil burners shall be equipped with such approved device, mechanical or electrical, which will automatically prevent the overflowing or flooding of the burner. Burners shall be designed to prevent excessive carbonization and shall be securely attached and supported.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2614;—CL 1948, 125.557.

125.558 Oil burners; automatic ignition.

Sec. 8. All burners subject to automatic ignition must be provided with permanent automatic device, so designed that oil, upon being turned into the combustion chamber, will become ignited or automatically shut off.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2615;—CL 1948, 125.558.

125.559 Pipes; joints; valves; packing gland.

Sec. 9. Standard full weight wrought iron, galvanized iron or steel or copper pipe, shall be used throughout. Underground piping shall be galvanized or copper or brass. The supply pipe or pipes shall be not less than 1/4 inch in diameter. Unions shall be ground type with conical seating with faces of metal. Flanged or packed joints shall not be used. Valves shall be constructed so that the stem cannot be withdrawn by continual operation of hand wheel. The packing gland shall be provided with a separate shouldered unthreaded follower having a beveled contact space for the compression of the packing. All threaded joints shall be made with glycerine and litharge, or shellac, or other approved compound. All pipes shall be rigidly supported and protected against mechanical injury. Gas supply pipes must be provided with shut-off valves.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2616;—CL 1948, 125.559.

125.560 Electrical installations.

Sec. 10. Electrical installations used in connection with oil burning devices shall be installed in accordance with the rules adopted by such city and be inspected and approved by the department of buildings and safety engineering.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2617;—CL 1948, 125.560.

125.561 Dampers; ventilation; instructions, posting; extinguisher.

Sec. 11. No damper shall be permitted in the smoke pipe or chimney from the device heated that may restrict to a dangerous extent the passage of fumes or gases. Ventilation shall be provided to prevent the accumulation of any trapped vapors below the combustion chamber. Complete instructions in regard to care and operation of the oil burning equipment shall be posted near the apparatus installed. The instruction sheet so posted shall include the specifications for the gravity and limiting flash point of oil suitable for use in the burner. All cards of instructions must be posted at time of installation. Near the entrance to the furnace room, and so located as to be convenient for use in emergency, there shall be provided a suitable hand extinguisher of approved type.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2618;—CL 1948, 125.561.

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125.562 Oil storage tanks; construction, user; storage limit.

Sec. 12. Oil storage tanks on the inside of any building shall be located in the lowest story, cellar or basement. A total storage of 550 gallons shall be permitted inside of any building but not more than 275 gallons shall be permitted in any 1 storage tank. Where more than 1 storage tank is installed such tanks shall be connected to the main feed pipe leading to the auxiliary tank, or if no auxiliary tank is used, such storage tanks shall be connected with the main feed pipe leading to the burner, with a manually operated three-way valve so that not more than 1 tank can in any way discharge its contents at one time. In cases where conditions make it impossible to install tanks outside buildings, it shall be permissible to install tanks of larger capacity inside buildings subject to the regulations of section 13 hereof. Tanks shall be constructed of galvanized iron or basic open hearth steel or wrought iron, not less than 14 gauge. All joints shall be welded, brazed or riveted. The tanks shall be reinforced with a welded or riveted pad or flange where connections are made. All tanks shall be made tight and tested at 5 pounds air pressure and with soapy water without showing leaks. Tanks shall have rigid and incombustible support and shall not be located less than 5 feet, measured horizontally, from any fire or flame, and shall be placed on an incombustible floor. Glass gauging devices, or any others, the breakage or derangement of which would permit the escape of oil, shall not be used. Fuel oil shall not be forced from such storage tanks by positive air pressure.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2619;—CL 1948, 125.562.

125.563 Oil storage tanks; fill pipe; vent pipe.

Sec. 13. The fill pipe for such tank or tanks shall be galvanized iron or steel not less than 1 1/2 inches in diameter, extending to the outside of any building, and shall be properly capped at all times. All storage tanks for fuel oil shall be provided with a vent pipe not less than 3/4 inch in diameter with a return bend on the open or exposed end, and the outside opening of such vent pipe, or manhole in outside tanks, shall be covered by a non-corrodible wire screen of 30 by 30 mesh: Provided, however, That vent pipe of such storage tank inside of any building shall terminate on the outside of the building, not less than 10 feet above the source of supply, and that vent pipes from underground storage tanks outside of any building shall not be less than 1 1/4 inches inside diameter and shall terminate not less than 2 feet above grade line. The vent pipe from 2 or more tanks may be connected to 1 upright provided they be connected at a point at least 12 inches above the source of supply.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2620;—CL 1948, 125.563.

125.564 Oil storage; limitations.

Sec. 14. Except as otherwise permitted in this act, the storage of fuel oil in excess of 550 gallons shall be outside of any building in underground tanks. Storage of oil in tanks above ground of more than 550 gallons shall not be permitted without special permit from the board of rules of the department of buildings and safety engineering.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2621;—CL 1948, 125.564.

125.565 Tanks located underground.

Sec. 15. Tanks located underground shall have the top of tank at least 3 feet below the surface of the ground, and below the level of the lowest pipe leading into the building to be supplied. Tanks may be permitted underneath a building if buried at least 3 feet below the lowest floor, or they may be placed 24 inches below the lowest floor and covered with 15 inches of earth and 9 inches of brick or concrete.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2622;—CL 1948, 125.565.

125.566 Installation of inside tanks.

Sec. 16. Where it is impractical to bury tanks, the chief inspector of the department of buildings and safety engineering may allow them to be installed inside of a building when completely incased in 12 inches of concrete and 6 inches of sand.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2623;—CL 1948, 125.566.

125.567 Underground tanks incased.

Sec. 17. Underground tanks located within 10 feet of a basement or pit lower than the top of such tank, shall be completely incased in 6 inches of concrete of a 1, 3 and 5 mixture.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2624;—CL 1948, 125.567.

125.568 Measuring devices.

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Sec. 18. Measuring devices on tanks beneath buildings and previously described encased tanks, shall be of approved wall gauge type.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2625;—CL 1948, 125.568.

125.569 Metal gauge.

Sec. 19. The metal used in all tanks shall be of a minimum gauge, U.S. standard, depending upon the capacity or size as given in the following table:

Capacity (Gallons)	Thickness of material
1 to 500	14 gauge
501 to 1100	12 gauge
1101 to 4000	7 gauge
4001 to 10500	1/4 inch
10501 to 20000	5/16 inch
20001 to 30000	3/8 inch

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2626;—CL 1948, 125.569.

125.570 Tanks; construction, testing; underwriter's label.

Sec. 20. All such tanks shall be welded, brazed or riveted and shall be heavily coated outside with asphaltum or other rust-resisting material. All tanks shall be tested for leakage and shall be tight at 5 pounds air pressure. All tanks having a capacity in excess of 275 gallons shall bear the underwriter's label.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2627;—CL 1948, 125.570.

125.571 Required equipment; gravity, water pressure or suction burners.

Sec. 21. All oil burners operating by gravity or water pressure, shall be equipped with approved automatic device or devices for the control of the flow of oil in case of failure of the oil to properly ignite. All oil burners of the suction or force feed type shall be equipped with approved anti-siphoning device. Where a pump is used between the storage tank and the auxiliary tank a pressure relief valve shall be installed in the supply line, so arranged as to return any surplus oil to the storage tank. Suction pipes must extend to within not less than 2 inches from the bottom of the tank and must be provided with an accessible control valve inside the building between the tanks and the burner. All pipe connections, except for gravity flow, shall be made from the top of the tank.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2628;—CL 1948, 125.571.

125.572 Required equipment; burners connected with heating system.

Sec. 22. All fuel oil burners used in connection with hot water and steam heating systems shall be equipped with a pressurestat or some approved automatic device to reduce or extinguish the fire in the event of undue pressure within the boiler.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2629;—CL 1948, 125.572.

125.573 Gases prohibited in gas pilot.

Sec. 23. The use of acetylene or any other gas possessing a wider range of explosiveness in admixture with air than coal gas, or water gas, is prohibited for use in the gas pilot of any fuel oil burner.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2630;—CL 1948, 125.573.

125.574 Scope of act restricted.

Sec. 24. This act shall not apply in the case of manufacturing plants except for heating buildings or generating steam for power.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2631;—CL 1948, 125.574.

125.575 Violation of act; penalty.

Sec. 25. Any person, firm or corporation who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed 100 dollars or by imprisonment for a period of not to exceed 90 days, or by both such fine and imprisonment, and each day that a violation of this act shall be permitted to exist shall constitute a separate and distinct offense.

History: 1929, Act 319, Imd. Eff. May 28, 1929;—CL 1929, 2632;—CL 1948, 125.575.

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125.581-125.600 Repealed. 2006, Act 110, Eff. July 1, 2006.

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HOUSING COOPERATION LAW
Act 293 of 1937

AN ACT to authorize cities, incorporated villages, metropolitan districts, counties, and other public bodies to aid housing projects of housing authorities, housing commissions and the federal government by furnishing parks, playgrounds, streets, and other improvements and facilities, by exercising certain other powers and by making agreements relating to such aid; to authorize cities, incorporated villages, metropolitan districts, counties and other political subdivisions to contract with respect to the sums to be paid them for improvements, services and facilities to be provided for the benefit of housing projects and the occupants thereof, to make agreements respecting the exercise of the powers of such public bodies relating to the remedying or elimination of unfit dwellings, and to make other agreements with respect to housing projects; to prescribe the form and nature of agreements by a city, incorporated village or county with respect to a housing project of the housing commission created for such city, incorporated village or county; to require cities, incorporated villages, metropolitan districts, and counties to make an appropriation for the first year's administrative expenses of housing commissions or housing authorities; to authorize certain cities, incorporated villages, metropolitan districts and counties to pay moneys to housing commissions or housing authorities; to regulate the selection and payment of the personnel of housing commissions; and to declare an emergency requiring that this act take effect immediately.

History: 1937, Act 293, Eff. Oct. 29, 1937;—Am. 1938, Ex. Sess., Act 6, Imd. Eff. Sept. 8, 1938.

The People of the State of Michigan enact:

125.601 Housing cooperation law; short title.

Sec. 1. Short title. This act may be referred to as the “Housing cooperation law.”

History: 1937, Act 293, Eff. Oct. 29, 1937;—CL 1948, 125.601.

Compiler's note: The catchlines following the act section numbers were incorporated as part of the act as enacted.

125.602 Declaration of necessity.

Sec. 2. Finding and declaration of necessity. It is hereby found and declared that there exist in the state unsafe and insanitary housing conditions and a shortage of safe and sanitary dwelling accommodations for persons of low income; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; and that the public interest requires the remedying of these conditions. It is hereby found and declared that the assistance herein provided for the remedying of these conditions constitutes a public use and purpose and an essential governmental function for which public moneys may be spent, and other aid given; that it is a proper public purpose for any state public body to aid any housing commission or housing authority operating within its boundaries or jurisdiction or any housing project located therein, as the state public body derives immediate benefits and advantages from such housing commission or housing authority or project; and that the provisions hereinafter enacted are necessary in the public interest.

History: 1937, Act 293, Eff. Oct. 29, 1937;—CL 1948, 125.602.

125.603 Housing cooperation law; definitions.

Sec. 3. Definitions. The following terms whenever used or referred to in this act shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) “Housing commission” shall mean any housing commission now or hereafter created pursuant to Act No. 18 of the Public Acts of the extra session of 1933, as amended.

(b) “Housing authority” shall mean any housing authority organized as a body corporate and politic which is created or authorized to be created by any law of this state now in force or hereafter enacted.

(c) “Housing project” shall mean any work or undertaking of a city or incorporated village or housing commission pursuant to Act No. 18 of the Public Acts of the extra session of 1933, as amended, or any similar work or undertaking of a housing authority or of the federal government.

(d) “State public body” shall mean any city, town, incorporated village, county, metropolitan district, or other subdivision or public body of the state.

(e) “Governing body” shall mean the council, board of commissioners, board, or other body having charge of the fiscal affairs of the state public body.

(f) “Federal government” shall mean the United States of America, the federal emergency administration of public works, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

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(g) An "agreement" of a city, incorporated village or county authorized by this act shall, with respect to a housing project to be constructed by the housing commission created for such city, incorporated village or county, mean a resolution or resolutions of the governing body of such city, incorporated village or county, setting forth the action to be taken or the matter determined. Such resolutions shall be deemed to be agreements made for the benefit of the holders of bonds then outstanding or thereafter issued in connection with such project and for the benefit of any person, firm, corporation, state public body or the federal government which has agreed or thereafter agrees to make a grant or annual contribution for or in aid of such project.

History: 1937, Act 293, Eff. Oct. 29, 1937;—Am. 1938, Ex. Sess., Act 6, Imd. Eff. Sept. 8, 1938;—CL 1948, 125.603.

Compiler's note: For provisions of Act 18 of 1933, Ex. Sess., referred to in subdivisions (a) and (c), see MCL 125.651 et seq.

Section 2 of Act 6 of 1938, Ex. Sess., provides: "The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law."

125.604 Cooperation in housing projects; powers.

Sec. 4. Cooperation in undertaking housing projects. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any state public body may upon such terms, with or without consideration, as it may determine in the manner prescribed in section 7 hereof:

(a) Dedicate, sell, convey or lease any of its property to a housing commission, housing authority or the federal government;

(b) Cause parks, playgrounds, recreational, community, educational, water, sewage or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

(c) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake;

(d) Plan or replan, zone or rezone any part of such state public body; make exceptions from building regulations and ordinances; any city or town also may change its map;

(e) Enter into agreements, which may extend over any period, notwithstanding any provision or rule of law to the contrary, with a housing commission, housing authority or the federal government respecting action to be taken by such state public body pursuant to any of the powers granted by this act;

(f) Do any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of such housing projects;

(g) Cause services to be furnished with respect to a housing project of the character which such state public body is otherwise empowered to furnish;

(h) Enter into agreements with respect to the exercise by such state public body of its powers relating to the repair, elimination or closing of unsafe, insanitary or unfit dwellings; and

(i) With respect to a housing project of a housing commission created for a state public body such state public body may enter into the agreements referred to in section 27 of Act No. 18 of the Public Acts of the extra session of 1933, as amended, regarding the amount, if any, of the reserve for taxation purposes.

(j) With respect to any housing project which a housing commission, housing authority or state public body has acquired or taken over from the federal government and which the housing authority, housing commission or state public body by resolution has found and declared to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation and other protection, no state public body shall require any changes to be made in the housing project or the manner of its construction or take any other action relating to such construction.

(k) In connection with any public improvements made by a state public body in exercising the powers herein granted, such state public body may incur the entire expense thereof. Any law or statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in this section may be made by a state public body without appraisal, public notice, advertisement or public bidding.

(*l*) In order to insure proper employment of qualified personnel by housing commissions, any state public body for which a housing commission has been created may prescribe, notwithstanding any laws to the contrary, by resolution of the governing body the method of selection and payment of the employees of such commission.

History: 1937, Act 293, Eff. Oct. 29, 1937;—Am. 1938, Ex. Sess., Act 6, Imd. Eff. Sept. 8, 1938;—CL 1948, 125.604.

Compiler's note: For provisions of section 27 of Act 18 of 1933, Ex. Sess., referred to in subdivision (i), see MCL 125.677.

Section 2 of Act 6 of 1938, Ex. Sess., provides: "The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law."

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125.605 Contract powers for payment for services.

Sec. 5. Contract for payments for services. In connection with any housing project located wholly or partly within the area in which it is authorized to act, any state public body may contract with a housing commission, housing authority or the federal government with respect to the sum or sums, if any, which the housing commission, housing authority or the federal government may agree to pay, during any year or period of years, to the state public body for the improvements, services and facilities to be furnished by it for the benefit of said housing project, but in no event shall the amount of such payments exceed the estimated cost to the state public body of the improvements, services or facilities to be so furnished: Provided, however, That the absence of a contract for such payment shall in no way relieve any state public body from the duty to furnish, for the benefit of said housing project all such services and facilities as such state public body usually furnishes without a service fee.

History: 1937, Act 293, Eff. Oct. 29, 1937;—CL 1948, 125.605.

125.606 Advances to housing authority.

Sec. 6. Advances to housing authority. When any housing commission or housing authority which is created for any state public body becomes authorized to transact business and exercise its powers therein, the governing body of such state public body, shall immediately make an estimate of the amount of money necessary for the administrative expenses and overhead of such housing commission or housing authority during the first year thereafter, and shall appropriate such amount to the housing commission or housing authority out of any moneys in the treasury of such state public body not appropriated to some other purposes. The moneys so appropriated shall be paid to the housing commission or housing authority as a donation. Any state body located in whole or in part within the area of operation of a housing commission or housing authority shall have the power from time to time to lend or donate money to the housing commission or housing authority or to agree to take such action. The housing commission or housing authority, when it has money available therefor, shall make reimbursements for all such loans made to it.

History: 1937, Act 293, Eff. Oct. 29, 1937;—CL 1948, 125.606.

125.607 Powers; procedure for exercising.

Sec. 7. Procedure for exercising powers. The exercise of a state public body of the powers herein granted shall be by resolution or ordinance in the manner and with such notice as is now or hereafter may be prescribed by the city or village charter or the law of this state.

History: 1937, Act 293, Eff. Oct. 29, 1937;—Am. 1938, Ex. Sess., Act 6, Imd. Eff. Sept. 8, 1938;—CL 1948, 125.607.

Compiler's note: Section 2 of Act 6 of 1938, Ex. Sess., provides: "The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law."

125.608 Supplemental nature of act.

Sec. 8. Supplemental nature of act. The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law.

History: 1937, Act 293, Eff. Oct. 29, 1937;—CL 1948, 125.608.

125.610 Emergency clause.

Sec. 10. Emergency clause. It is hereby declared that this act is immediately necessary for the protection of the public health and safety.

History: 1937, Act 293, Eff. Oct. 29, 1937;—CL 1948, 125.610.

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HOUSING FACILITIES
Act 18 of 1933 (Ex. Sess.)

AN ACT to authorize any city, village, township, or county to purchase, acquire, construct, maintain, operate, improve, extend, and repair housing facilities; to eliminate housing conditions which are detrimental to the public peace, health, safety, morals, or welfare; and for any such purposes to authorize any such city, village, township, or county to create a commission with power to effectuate said purposes, and to prescribe the powers and duties of such commission and of such city, village, township, or county; and for any such purposes to authorize any such commission, city, village, township, or county to issue notes and revenue bonds; to regulate the issuance, sale, retirement, and refunding of such notes and bonds; to regulate the rentals of such projects and the use of the revenues of the projects; to prescribe the manner of selecting tenants for such projects; to provide for condemnation of private property for such projects; to confer certain powers upon such commissions, cities, villages, townships, and counties in relation to such projects, including the power to receive aid and cooperation of the federal government; to provide for a referendum thereon; to provide for cooperative financing by 2 or more commissions, cities, villages, townships, or counties or any combination thereof; to provide for the issuance, sale, and retirement of revenue bonds and special obligation notes for such purposes; to provide for financing agreements between cooperating borrowers; to provide for other matters relative to the bonds and notes and methods of cooperative financing; for other purposes; and to prescribe penalties and provide remedies.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—Am. 1937, Act 265, Imd. Eff. July 22, 1937;—Am. 1938, Ex. Sess., Act 5, Imd. Eff. Sept. 8, 1938;—Am. 1959, Act 145, Imd. Eff. July 15, 1959;—Am. 1968, Act 344, Eff. Oct. 1, 1968;—Am. 1969, Act 327, Eff. Mar. 20, 1970;—Am. 1970, Act 249, Imd. Eff. Dec. 30, 1970;—Am. 1996, Act 338, Imd. Eff. June 27, 1996;—Am. 1998, Act 165, Eff. Mar. 23, 1999.

The People of the State of Michigan enact:

125.651 Definitions.

Sec. 1. As used in this act:

(a) "Borrower" means either of the following:

(*i*) The city, village, township, or county operating under this act.

(*ii*) A commission created under this act if empowered by ordinance of the creating governing body to act as a borrower for purposes of issuing bonds or notes under this act.

(b) "Business activity" means that term as defined in section 3(2) of the former single business tax act, 1975 PA 228, or in section 105 of the Michigan business tax act, 2007 PA 36, MCL 208.1105.

(c) "Commission" means the housing commission created under this act.

(d) "Governing body" means in the case of a city, the council or commission of the city; in the case of a village, the council, commission, or board of trustees of the village; in the case of a township, the township board; and in the case of a county, the board of supervisors or county commissioners.

(e) "Incorporating unit" means the city, village, township, or county that creates a commission.

(f) "Ordinance" means either of the following:

(*i*) An ordinance of a city, village, township, or county.

(*ii*) To the extent the incorporating unit has granted or empowered a commission to take those actions otherwise required to be taken by the incorporating unit by ordinance, a resolution of the commission.

(g) "Township" means a township having a population over 100.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—Am. 1935, Act 80, Imd. Eff. May 24, 1935;—CL 1948, 125.651;—Am. 1959, Act 145, Imd. Eff. July 15, 1959;—Am. 1961, Act 202, Imd. Eff. June 6, 1961;—Am. 1964, Act 31, Imd. Eff. May 1, 1964;—Am. 1965, Act 319, Eff. Mar. 31, 1966;—Am. 1969, Act 327, Eff. Mar. 20, 1970;—Am. 1996, Act 338, Imd. Eff. June 27, 1996;—Am. 2007, Act 185, Imd. Eff. Dec. 21, 2007.

125.652 Cities, villages, townships, counties; housing facilities and conditions, powers.

Sec. 2. Any city, village, township or county of the state of Michigan may purchase, acquire, construct, maintain, operate, improve, extend or repair housing facilities and eliminate housing conditions which are detrimental to the public peace, health, safety, morals or welfare.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—Am. 1937, Act 265, Imd. Eff. July 22, 1937;—Am. 1938, Ex. Sess., Act 5, Imd. Eff. Sept. 8, 1938;—CL 1948, 125.652;—Am. 1959, Act 145, Imd. Eff. July 15, 1959;—Am. 1969, Act 327, Eff. Mar. 20, 1970.

125.653 Municipal housing commission; creation; referendum; rejection; powers of township and county commissioners.

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Sec. 3. (a) Any city, village, township or county may create by ordinance, a commission with power to accomplish the purposes set forth in section 2 of this act. Any ordinance hereafter enacted shall not go into effect until 15 days after it has been published in a newspaper of general circulation in such city, village, township or county and posted in 3 public places in such city, village, township or county. If there is no newspaper of general circulation in any such city, village or township such publication may be had in any newspaper having general circulation in the county in which the city, village, or township is situated. If, before such ordinance goes into effect, a petition signed by a number of the qualified electors of such city, village, township or county equal to at least 3% of the number of voters registered for the last regular city, village, township or county election is filed with the clerk of the city, village, township or county requesting that the question of the creation of such commission be submitted to the voters of the city, village, township or county, the clerk of the city, village, township or county shall immediately call a special election for that purpose, unless a general election is to be held in such city, village, township or county within 30 days from the date of the filing of the petition, in which event the question shall be submitted at such general election. In the event the question is to be submitted at a special election, such election shall be held within 15 days from the date of the filing of the petition. The manner of conducting any such special election shall conform as nearly as may be to the manner of conducting elections of members of the governing body of the city, village, township or county and votes cast on the question shall be counted, canvassed and returned as nearly as may be in the same manner as at such elections. The question, whether submitted at a general or special election, shall be in substantially the following form:

"Shall the ordinance passed by the (name of governing body) on the ..... day of ....., 19...., providing for the creation of a housing commission, go into effect?

"Yes ( )

"No ( )."

(b) If, at such election, a majority of the voters voting on the question do not vote in favor of the question, the ordinance shall not go into effect and the governing body of such city, village, township or county shall not pass any other ordinance providing for the creation of a housing commission for 1 year from the date of such election.

(c) A commission created by a township, within its territorial jurisdiction, shall have all the functions, rights, powers, duties and liabilities provided in this act for a commission created by a city or village, and the provisions of this act shall apply to such commission in the same manner and to the same extent as this act applies to a commission created by such city or village. The township board shall perform the functions herein required or permitted to be performed by the governing body for a commission created by a city or village; and the township supervisor shall perform such functions as are required or permitted by this act to be performed by the chief administrative officer of a city or village.

(d) A commission created by a county, within an unincorporated area of the county, shall have all the functions, rights, powers, duties and liabilities provided in this act for a commission created by a city or village, and the provisions of this act shall apply to such commission in the same manner and to the same extent as this act applies to a commission created by such city or village. A commission created by a county, within an incorporated area of the county, shall have such functions, rights, powers, duties and liabilities as may be provided by contractual agreement between the county and such incorporated area. The county board of supervisors or county commissioners shall perform the functions herein required or permitted to be performed by the governing body for a commission created by a city or village; and the chairman of the board of supervisors, or county executive, shall perform such functions as are required or permitted by this act to be performed by the chief administrative officer of a city or village.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—Am. 1937, Act 265, Imd. Eff. July 22, 1937;—Am. 1938, Ex. Sess., Act 5, Imd. Eff. Sept. 8, 1938;—CL 1948, 125.653;—Am. 1959, Act 145, Imd. Eff. July 15, 1959;—Am. 1969, Act 327, Eff. Mar. 20, 1970.

125.653a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 3a. A petition under section 3, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 165, Eff. Mar. 23, 1999.

125.654 Municipal housing commission; appointment and terms of members; tenant of public or subsidized housing as member; notice; removal; vacancies; compensation and expenses; public body corporate; powers of commission; definitions.

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Sec. 4. (1) Subject to subsection (2), the commission shall consist of 5 members to be appointed by the chief administrative officer of the city or village, except that if a city or village has a chief administrative officer who is not elected by the electors of the city or village, the members of the commission may be appointed by the official designated by a resolution adopted by the governing body of the city or village. The term of office of members of the commission shall be 5 years. Members of the first commission shall be appointed for the terms of 1 year, 2 years, 3 years, 4 years, and 5 years respectively, and annually thereafter 1 member shall be appointed for the term of 5 years.

(2) One member of the commission shall be a tenant of public or subsidized housing as provided in this subsection. If, on the effective date of the amendatory act that added section 11a, a commission is managing an occupied project and has no tenant member, a tenant member shall be appointed for at least 1 of the next 3 vacancies after that effective date, or within 2 years after that effective date, whichever comes first. If, on the effective date of the amendatory act that added section 11a, a commission did not yet exist or did not yet manage an occupied project, a tenant member shall be appointed for at least 1 of the next 2 vacancies after the first project of the commission is occupied or within 2 years after the first project of the commission is occupied, whichever comes first. Beginning on the effective date of this amendatory act that added section 11a, the chief executive officer of the housing commission shall send written notice of a commission vacancy to the president of each resident organization. The notice shall be included in the rent notice to each tenant. For a commission with authority for less than 250 units, if no tenant applies for membership on the commission within 60 days after notice is sent to tenants, the appointing official may appoint a person otherwise qualified under this act to serve as a member of the commission, if the chief executive officer of the commission has proof of the written notice required under this section.

(3) Upon recommendation of the appointing authority to the governing body, the governing body of the incorporating unit may remove a member of the commission from office before the expiration of his or her term. Subject to subsection (2), a vacancy in office shall be filled by the appointing authority for the remainder of the unexpired term.

(4) A member of the commission may receive compensation for actual expenses incurred in serving as a member of the commission in an amount determined by the commission. The governing body of an incorporating unit may adopt a resolution establishing limitations on the amounts of actual expenses that may be paid to a member of a commission.

(5) The commission shall be a public body corporate. Except as otherwise provided in this act, the commission may do all of the following:

(a) Sue and be sued in any court of this state.

(b) Form or incorporate nonprofit corporations under the laws of this state for any purpose not inconsistent with the purposes for which the commission was formed.

(c) Serve as a shareholder or member of a qualified nonprofit corporation organized under the laws of this state.

(d) Authorize, approve, execute, and file with the Michigan department of commerce those documents that are appropriate to form and continue 1 or more nonprofit corporations.

(e) Form or incorporate for-profit corporations, partnerships, and companies under the laws of this state for any purpose not inconsistent with the purposes for which the commission was formed.

(6) As used in this section:

(a) "Chief administrative officer" means:

(*i*) The manager of a village or, if a village does not employ a manager, the president of the village.

(*ii*) The city manager of a city or, if a city does not employ a city manager, the mayor of the city.

(b) "Vacancy" means a seat for which the current appointee discontinues membership by death, resignation, or removal from office; by not seeking reappointment in writing prior to the expiration of his or her term; or by not being reappointed by the appointing authority within 5 days following the expiration of his or her term.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—Am. 1935, Act 80, Imd. Eff. May 24, 1935;—CL 1948, 125.654;—Am. 1969, Act 327, Eff. Mar. 20, 1970;—Am. 1983, Act 227, Imd. Eff. Nov. 28, 1983;—Am. 1984, Act 207, Imd. Eff. July 9, 1984;—Am. 1996, Act 338, Imd. Eff. June 27, 1996.

125.655 Housing commission; conducting business at public meeting; notice; meetings; rules; record; quorum; availability of writings to public; election, appointment, duties, and compensation of officers and employees.

Sec. 5. (1) The business that the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the

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meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. The commission shall meet at regular intervals. It shall adopt its own rules of procedure and shall keep a record of the proceedings. Three members constitute a quorum for the transaction of business.

(2) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(3) A president and vice-president and other officers designated by the commission shall be elected by the commission. The commission may employ and fix the compensation of a director, who may also serve as secretary, and other employees as necessary. Upon the recommendation of the appointing authority, the governing body of an incorporating unit may adopt a resolution either conditioning the establishment of any compensation of an officer or employee of a commission upon the approval of the governing body or establishing compensation ranges and classifications to be used by a commission in fixing the compensation of its officers and employees. The commission shall prescribe the duties of its officers and employees and shall transfer to its officers and director those functions and that authority which the commission has prescribed. The commission may employ engineers, architects, attorneys, accountants, and other professional consultants when necessary.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—Am. 1935, Act 80, Imd. Eff. May 24, 1935;—CL 1948, 125.655;—Am. 1978, Act 205, Imd. Eff. June 4, 1978;—Am. 1996, Act 338, Imd. Eff. June 27, 1996.

125.656 Municipal housing commission; funds for operation.

Sec. 6. (1) Funds for the operation of the commission may be loaned or granted by the governing body. The governing body may condition the provision of funds to the commission upon an agreement that the commission shall as soon as possible reimburse the incorporating unit for all money expended by it for the commission from revenues received from the sale of bonds.

(2) A commission may solicit, accept, and enter into agreements relating to, grants from any public or private source, including the state or federal government or any agency of the state or federal government, and may carry out any federal or state program related to the purposes for which the commission is created. The governing body of an incorporating unit may adopt a resolution that requires approval by the governing body before the commission may accept or enter into agreements relating to 1 or more types of grants.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—Am. 1935, Act 80, Imd. Eff. May 24, 1935;—CL 1948, 125.656;—Am. 1996, Act 338, Imd. Eff. June 27, 1996.

125.657 Municipal housing commission; powers and duties.

Sec. 7. Such commission shall have the following enumerated powers and duties:

(a) To determine in what areas of the city or village it is necessary to provide proper sanitary housing facilities for families of low income and for the elimination of housing conditions which are detrimental to the public peace, health, safety, morals, and/or welfare;

(b) To purchase, lease, sell, exchange, transfer, assign and mortgage any property, real or personal, or any interest therein, or acquire the same by gift, bequest or under the power of eminent domain; to own, hold, clear and improve property; to engage in or to contract for the design and construction, reconstruction, alteration, improvement, extension, and/or repair of any housing project or projects or parts thereof; to lease and/or operate any housing project or projects;

(c) To control and supervise all parks and playgrounds forming a part of such housing development but may contract with existing departments of the city or village for operation or maintenance of either or both;

(d) To establish and revise rents of any housing project or projects, but shall rent all property for such sums as will make them self-supporting, including all charges for maintenance and operation, for principal and interest on loans and bonds, and for taxes;

(e) To rent only to such tenants as are unable to pay for more expensive housing accommodations;

(f) To call upon other departments for assistance in the performance of its duties, but said departments shall be reimbursed for any added expense incurred therefor.

(g) It shall have such other powers relating to said housing facilities project as may be prescribed by ordinance or resolution of the governing body of the city or village or as may be necessary to carry out the purposes of this act.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.657.

125.658 Municipal housing commission; interest of members, officers, employees in contracts.

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Sec. 8. No member of the housing commission or any of its officers or employes shall have any interest directly or indirectly in any contract for property, materials or services to be acquired by said commission.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.658.

125.659 Municipal housing commission; report to governing body.

Sec. 9. The commission shall make an annual report of its activities to the governing body of the incorporating unit and shall make other reports as the governing body may from time to time require. The governing body of the incorporating unit, by resolution, may request the commission to prepare and submit a report containing an itemization of actual expenses paid to members of the commission as provided in section 4(4) and of compensation of officers and employees fixed as provided in section 5(3). The commission shall also report any action of the commission taken under section 6(2) in a manner sufficient to allow the governing body to exercise the authority granted under this act to supervise the activities of the commission.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.659;—Am. 1996, Act 338, Imd. Eff. June 27, 1996.

125.660 Municipal housing commission; proceedings under power of eminent domain.

Sec. 10. (a) The housing commission may recommend to the governing body the institution and prosecution of proceedings under the power of eminent domain in accordance with the laws of the state, and/or provisions of a local charter relative to condemnation. Housing projects contemplated by this act are hereby declared to be for public purposes within the meaning of the constitution, state laws and charters relative to the power of eminent domain.

(b) The governing body of a county may, by the exercise of the power of eminent domain, acquire private property lying within the corporate boundaries of cities, villages and townships within the county, for purposes of this act, upon the consent, by resolution, of the legislative body of the city, village or township in which the property is located. The resolution shall be adopted by a majority of the members of the legislative body elected and serving on the question.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.660;—Am. 1969, Act 327, Eff. Mar. 20, 1970.

125.661 Municipal housing commission; deeds, mortgages, contracts, leases, purchases.

Sec. 11. (1) All deeds, mortgages, contracts, leases, purchases, or other agreements regarding real property, including agreements to acquire or dispose of real property, shall be approved and executed in the name of the commission or the incorporating unit, as specified by ordinance or resolution of the governing body. For purposes of this section, contracts or leases regarding real property mean contracts to purchase or lease from a third party or other transactions under which rights or possession of real property are acquired, but do not include contracts, management agreements, or leases of that property with tenants or facility managers. Contracts or leases with tenants or facility managers shall be executed by and in the name of the commission.

(2) Subsection (1) does not require contracts for the purchase of necessary materials and contracts related to the powers and duties of the commission under section 12 to be approved and executed by an incorporating unit.

(3) A governing body may transfer property to the commission for use by the commission for a purpose authorized by this act. The transfer of property to the commission, including property taken under the incorporating unit's power of eminent domain, shall be considered necessary for public purposes and for the benefit of the public.

(4) If an ordinance or resolution of the governing body provides in accordance with subsection (1) for the execution of agreements regarding real property in the name of the commission, or if a commission is empowered by the incorporating unit to act as a borrower for purposes of this act, the commission may sue and be sued with respect to those agreements executed or obligations issued by the commission. This subsection does not affect a limitation provided by this act or by the terms of an agreement upon the funds available or the pledge made for the payment of a claim against the commission.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.661;—Am. 1996, Act 338, Imd. Eff. June 27, 1996.

125.661a Property, income, and operations exempt from state taxation.

Sec. 11a. (1) Property, income, and operations of the commission and property of a qualified entity that is located in the incorporating unit of the commission are exempt from all taxation by the state or any of its political subdivisions. However, a governing body may adopt an ordinance requiring the commission to pay an annual service fee in lieu of all taxes with respect to projects or facilities of the commission or qualified entities. The fee shall not exceed 10% of the annual shelter rent obtained from the projects or facilities.

(2) Each incorporating unit receiving as of the effective date of the amendatory act that added this section payment in lieu of taxes with respect to a project or facility of the commission or a qualified entity shall agree

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to accept a payment in lieu of taxes in an amount equal to that portion of the payment in lieu of taxes otherwise due multiplied by the percentage by which the millage rate of all taxing units levying ad valorem property taxes in the incorporating unit in which the project or facility is located for the year in which the payment in lieu of taxes is due bears to the millage rate levied in 1993 by all taxing units levying ad valorem property taxes in the incorporating unit in which the project or facility is located. This subsection does not require the increase of any payment in lieu of taxes previously agreed to by the incorporating unit.

(3) For purposes of this section, "qualified entity" means either of the following:

(a) A Michigan nonprofit corporation or a Michigan limited partnership having a Michigan nonprofit corporation as its sole general partner, if 1 of the following applies:

(*i*) The nonprofit corporation is owned by the commission.

(*ii*) A majority of the members of the board of directors of the nonprofit corporation are elected and removable by the commission.

(*iii*) The commission is the sole member of the nonprofit corporation.

(b) A for-profit corporation, partnership, or company formed or incorporated by the commission for the sole purpose of syndicating low income housing tax credits in connection with the redevelopment of a housing project that has been owned by the commission, if the commission maintains oversight responsibility for the management and operation of the project for which low income housing tax credits were syndicated and the for-profit entity does not engage in any other business activity unrelated to the housing project.

History: Add. 1996, Act 338, Imd. Eff. June 27, 1996.

125.662 Municipal housing commission; control of project.

Sec. 12. The commission shall have complete control of the entire housing project or projects including the construction, maintenance and operation as fully and completely as if said commission represented private owners. Contracts for construction or purchase of materials entered into by the commission shall not be required to be made through any city or village purchasing department.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.662.

125.663 Claims against project; damages; asserting governmental immunity as defense.

Sec. 13. Unless a governing body of the incorporating unit authorizes the execution of agreements regarding real property in the name of a commission as provided in section 11, all claims that may arise in connection with a housing project or projects shall be presented as are ordinary claims against the city or village. Written notice of all claims based upon injury to persons or property shall be served upon the city or village clerk within 60 days from the happening of the injury. The commission may dispose of claims in its discretion. The cost of investigation, attorneys' fees, all claims that may be allowed, and final judgments obtained from those claims shall not be a general obligation of the incorporating unit and shall be paid only from the operating revenue of the housing project or projects or from the proceeds of liability insurance. This section does not preclude the incorporating unit or commission from asserting a defense of governmental immunity to which it may be entitled under law against any claim made against the incorporating unit or the commission.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.663;—Am. 1996, Act 338, Imd. Eff. June 27, 1996.

125.664 Claims against project; contractual.

Sec. 14. The notes, bonds, or other obligations or any claims of whatever nature against said housing project or projects, shall not be debts or charges against the city or village nor against any members of the commission and no individual liability shall attach for any official act done by any member of such commission.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.664.

125.665 Preliminary estimate of costs.

Sec. 15. Whenever the commission shall determine to purchase, acquire, construct, improve, enlarge, extend, operate, and/or repair any housing facility or facilities under the provisions of this act, it shall first cause an estimate to be made of the cost thereof, and the fact that such estimate has been made and the amount thereof shall appear in the ordinance authorizing and providing for the issuance of the bonds.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.665.

125.666 Enabling ordinances or resolutions; loan by commission; housing project to include purchase by nonprofit entity; use of proceeds.

Sec. 16. (1) For the purposes of this act, any borrower is authorized to adopt or enact an ordinance or

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ordinances, or a resolution or resolutions if the borrower is a commission, providing for the issuance and sale of revenue bonds as stated in this act, and any and all other appropriate ordinances and resolutions considered necessary or desirable to effectuate the full intent and purposes of this act. The manner and procedure of enacting any ordinances or resolutions shall be as provided by law, except as may be expressly provided for by this act.

(2) If a commission is the borrower under this act, the commission may loan any amount of the borrowed money to the incorporating unit, which may execute any deed, mortgage, lease, contract, or other agreement with respect to property for which bonds or notes were issued. If the commission makes a loan to the incorporating unit under this subsection, the incorporating unit has all powers granted under this act to a borrower for purposes of securing repayment of the loan.

(3) A housing project or combined housing project for which obligations may be issued under this act includes a housing project to be purchased or developed by a nonprofit entity with the proceeds of a loan from a borrower.

(4) The proceeds of obligations issued under this act and other funds available to an incorporating unit or commission may be used to make loans for defraying the cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing a housing project.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.666;—Am. 1996, Act 338, Imd. Eff. June 27, 1996.

125.667 Revenue bonds generally.

Sec. 17. (1) For the purpose of defraying the cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing any housing project or combined projects, any borrower may borrow money and issue revenue bonds. The bonds may be awarded before an authorizing ordinance or resolution is adopted; however, the bonds shall not be issued unless and until authorized by an ordinance or resolution setting forth a brief description of the contemplated housing project or combined projects and the site or sites of the project or projects, time and place of payment, and other details in connection with the issuance and sale of the bonds.

(2) Except as otherwise provided by this act, the bonds issued under this act are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. If less than all of the bonds authorized in connection with a project or combined projects are sold to the United States housing authority or a successor agency, the balance of the bonds may also be sold at private sale at an interest cost to the borrower of not more than the interest cost to the borrower of the portion of the bonds sold to the United States of America or any agency or instrumentality of the United States of America.

(3) Notes issued in connection with a housing project or combined projects prior to the issuance of bonds may be accepted in payment of bonds sold in connection with the housing project or combined projects if the notes provide. In a contract for the purchase, acquisition, or construction of any housing facility or for the improvement, enlargement, extension, or repair of the project or projects, provision may be made that payment shall be made in the bonds.

(4) The bonds may be made payable in funds that are on the respective dates of payment of interest and principal upon the bonds, legal tender for debts due the United States of America. All bonds and notes issued under this act, the interest on the bonds and notes, and their transfer are exempt from all taxation by this state or any political subdivisions of this state.

(5) The principal of and interest upon the bonds shall be payable, except as provided in this act, solely from the revenue derived from the operation of the housing project or combined projects, for the purchase, acquisition, construction, improvement, enlargement, extension, or repair of which the bonds are issued, and from contributions received for or in aid of the project or combined projects, from whatever source derived. The contributions may be pledged to the payment of any or all bonds issued in connection with the project or combined projects, as the borrower may provide. Bonds issued pursuant to this act shall not constitute an indebtedness of a borrower within the meaning of state constitutional provisions or statutory limitations. There shall be plainly stated on the face of each bond substantially as follows:

"This bond is a revenue bond and the principal of and interest on this bond are exempt from any and all state, county, city, village, or other taxation under the laws of this state and are secured by the statutory lien created by 1933 (Ex Sess) PA 18, MCL 125.651 to 125.709c, and payable solely from contributions received for or in aid of the project or combined projects in connection with which the bonds are issued or from the revenues of the project or combined projects or from both the revenues and contributions, as the case may be, and are not a general obligation of the borrower."

(6) The bonds shall have all the qualities of negotiable instruments under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102. The authorizing ordinance or resolution may provide that the bonds shall be issued under a trust indenture, the authorized form of which shall be set forth in the ordinance

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or resolution, and any provision required or permitted by this act to appear in the authorizing ordinance or resolution shall be considered to be included in the ordinance or resolution if set forth in the trust indenture.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—Am. 1938, Ex. Sess., Act 5, Imd. Eff. Sept. 8, 1938;—CL 1948, 125.667;—Am. 1974, Act 66, Imd. Eff. Apr. 1, 1974;—Am. 1996, Act 338, Imd. Eff. June 27, 1996;—Am. 2002, Act 268, Imd. Eff. May 9, 2002.

125.668 Bondholder's lien; contributions contract.

Sec. 18. The authorizing ordinance shall create a first lien which by this act is made a statutory first lien upon the revenue of any such housing facility, to, and in favor of the holders of the bonds and each of them. If bonds are issued for the purposes of cooperative financing, holders of the bonds also have a statutory first lien on the specific portion of the annual contributions payable to the cooperating borrowers or their agencies and authorized to be pledged to the payment of bonds and the interest thereon, pursuant to certain contracts between the cooperating borrowers or their agents and the United States which contracts shall be described in any ordinance authorizing any such bonds and are herein collectively called the "annual contributions contract". The holders of the bonds shall have as additional security the contractual obligations specified by the financing agreement as provided in this act.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.668;—Am. 1970, Act 249, Imd. Eff. Dec. 30, 1970;—Am. 1996, Act 338, Imd. Eff. June 27, 1996.

125.669 Bondholder's lien upon revenue; enforcement.

Sec. 19. Revenue from and any amount due under any annual contributions contracts pertaining to such project or combined projects so purchased, acquired, constructed, improved, enlarged, extended or repaired, shall be and remain subject to the statutory lien until the payment in full of the principal of and interest upon the bonds. The holder or holders of the bonds or coupons representing in the aggregate not less than 20% of the entire issue then outstanding may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce such statutory lien and may, by suit, action, mandamus or other proceeding enforce and compel performance of all duties of the officials of the borrower, including the fixing of sufficient rents, the collection of revenues, the proper segregation of the revenues of the project or combined projects and the proper application thereof. However, such statutory lien shall not be construed to give any holder or owner of any bond or coupon authority to compel the sale of such project or combined projects or any part thereof.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.669;—Am. 1970, Act 249, Imd. Eff. Dec. 30, 1970.

125.670 Receiver; appointment; powers and duties.

Sec. 20. If there shall be any default in the payment of the principal of or interest upon any such bonds authorized pursuant to this act, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the project or combined projects on behalf of the borrower, under the direction of the court and by and with the approval of the court, to fix and charge rents and collect revenues sufficient to provide for the payment of any bonds or other obligations outstanding against the project or combined projects and for the payment of the expense of operating and maintaining the same and to apply the revenues of the project or combined projects in conformity with this act and the ordinance providing for the issuance of such bonds and in accordance with such orders as the court shall make.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.670;—Am. 1970, Act 249, Imd. Eff. Dec. 30, 1970.

125.671 Bonds; inapplicability of other laws.

Sec. 21. The bonds authorized hereunder shall not be subject to any limitations or provisions provided by the laws of the state of Michigan for cities or incorporated villages now in force or hereafter amended, other than as provided for in this act.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.671.

125.672-125.674 Repealed. 2002, Act 268, Imd. Eff. May 9, 2002.

Compiler's note: The repealed sections pertained to bond deposit, issuance, and signature.

125.675 Free services.

Sec. 25. No free services or rental shall be furnished by any such project or combined projects to the city or village or any state agency or to any agency, instrumentality, person, firm or corporation.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.675.

125.676 Additional bonds.

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Sec. 26. Any borrower purchasing, acquiring, constructing, improving, enlarging, or repairing any such project or combined projects assumed by the provisions of this act, may at the time of the authorization of such bond for any such purpose or purposes, provide in the authorizing ordinance for additional bonds for other extensions and permanent improvements, which additional bonds may be issued and negotiated from time to time as such proceeds for such purpose may be necessary. Such bonds, when so negotiated, shall have equal standing with the bonds of the same issue.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.676.

125.677 Rent schedule; policy of state; basis; limitation.

Sec. 27. (1) It is hereby declared to be the policy of this state that each commission shall manage and operate, or cause to be managed and operated, its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe, and sanitary dwelling accommodations, and that no commission shall construct or operate any project for profit. To this end, the commission shall fix the rentals for dwellings in projects at no higher rates than it finds to be necessary in order to produce revenues which, together with all other money, revenues, income, and receipts from whatever sources derived available for such purposes, will be sufficient to do the following:

(a) Pay, as they become due, the principal of, premium, if any, and interest on the bonds or notes issued for such project.

(b) Meet the cost of and provide for administration, operation, and maintenance of the projects, including the cost of any insurance on the projects or on bonds issued for the projects, and for the creation and funding of a reserve for replacements and capital improvements related to the projects.

(c) Create, during not less than the 6 years immediately succeeding its issuance of any bonds, a reserve sufficient to meet the largest principal and interest payments which will be due on the bonds in any 1 year thereafter and to maintain such reserve.

(d) Make payments in lieu of taxes of an amount as may be imposed pursuant to section 11a by the incorporating unit, which sum, if any, shall be paid to the incorporating unit and other taxing units in proportion to the amount of taxes levied by that incorporating unit and the other taxing units in the year in which the payment in lieu of taxes is imposed.

(2) After bonds issued for a project have been retired, the rentals fixed by the commission pursuant to subsection (1) may include an amount not greater than the maximum annual principal and interest that had been due on bonds issued for the project. The rental receipts attributable to this subsection may be used by the commission for any purpose for which bonds or notes may be issued under this act or to secure bonds or notes issued by the borrower pursuant to this act for other projects of the commission.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—Am. 1937, Act 265, Imd. Eff. July 22, 1937;—Am. 1938, Ex. Sess., Act 5, Imd. Eff. Sept. 8, 1938;—Am. 1947, Act 51, Eff. Oct. 11, 1947;—CL 1948, 125.677;—Am. 1996, Act 338, Imd. Eff. June 27, 1996.

125.681 Income from sources other than operation; use.

Sec. 31. Nothing in this act shall be construed to prohibit the borrower from appropriating and using any part of its available income or revenue derived from any source other than from the operation of such project or combined projects in paying any immediate expenses of operation or maintenance of any such project or combined projects, but nothing in this act shall be construed to require the borrower to do so.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.681.

125.683 Operating year.

Sec. 33. The ordinance authorizing the issuance of such bonds shall definitely determine whether such project or combined projects shall be operated upon a calendar, operating or fiscal year basis, and the dates of the beginning and ending of the same.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.683.

125.684 Rents; supervision; state department of health.

Sec. 34. Rents charged for the services furnished by any project or combined projects purchased, acquired, constructed, improved, enlarged, extended, operated or repaired, under the provisions of this act, shall not be subject to supervision or regulation by any state bureau, board, commission or other like instrumentality or agency thereof and it shall not be necessary for any borrower operating under the provisions of this act to obtain any franchise or other permit from any state bureau, board, commission or other instrumentality thereof in order to construct, improve, enlarge, extend, repair or operate any project or combined projects named in this act: Provided, however, That the functions, powers and duties of the state department of health shall remain unaffected by this act.

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History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.684.

125.685 Housing commission; books of record and account; balance sheets and income and surplus accounts.

Sec. 35. (1) The commission of a borrower issuing revenue bonds under this act shall install, maintain, and keep proper books of record and account, separate from other records and accounts of the borrower, in which full and accurate entries shall be made of all dealings or transactions of, or in relation to the properties, business, and affairs of the project or combined projects.

(2) The commission, not later than 3 months after the close of a calendar, operating, or fiscal year, shall cause to be prepared a balance sheet and an income and surplus account, showing respectively, in reasonable detail, the financial condition of the project or combined projects at the close of the preceding calendar, operating, or fiscal year, and the financial operations of the project or combined projects during the year. The balance sheets and income and surplus accounts shall be made available to the public as prescribed in section 5(2).

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.685;—Am. 1978, Act 205, Imd. Eff. June 4, 1978.

125.687 Construction of act.

Sec. 37. This act shall be construed as authorizing the creation of the commission and the issuance of such bonds provided for herein without submitting the proposition for the approval of same to the voters of the borrower. Where bonds have been authorized under this act it shall not be necessary to make publication of any ordinance, resolution, notice or proceeding relating thereto: Provided, That nothing in this act shall be construed to prohibit the governing body from making such publication as it may deem necessary in relation thereto.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.687.

125.689 Authority conferred.

Sec. 39. This act shall, without reference to any other statute or to any charter, be deemed full authority for the purposes herein provided for and for the issuance and sale of the bonds by this act authorized, and shall be construed as an additional and alternative method therefor and for the financing thereof, any provisions of the general laws of the state or of any charter to the contrary notwithstanding.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.689.

125.690 Declaration of necessity; liberal construction.

Sec. 40. This act, being necessary for and to secure the public peace, health, safety, convenience and welfare of the cities and incorporated villages and the people of the state of Michigan, shall be liberally construed to effect the purposes thereof.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.690.

125.692 Slum clearance and housing projects as public purposes.

Sec. 42. Slum clearance and housing projects contemplated by this act are hereby declared to be for public purposes within the meaning of the constitution, state laws and charters relative to the powers of cities and villages.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.692.

125.693 Immediate necessity.

Sec. 43. The necessity for the immediate effective date of this act lies in the fact that, whereas there is a demand in congested sections of Michigan for housing of families of low income and for the reconstruction of slum areas, and whereas no existing laws or charters of the state of Michigan provide for the organization and operation of public housing commissions as contemplated in the National Industrial Recovery Act which would enable Michigan cities and villages to secure grants and loans from the United States government for the purpose of providing housing for families of low income, and whereas such laws are in existence in other states, which will enable such states to obtain a grant and borrow money from the United States government, and whereas such funds secured from the United States government by public housing commissions will make possible the beginning immediately of building projects which will furnish employment of Michigan citizens. Therefore, this act is hereby declared to be immediately necessary for the preservation of the public peace, health, safety, convenience and welfare of the people of the state of Michigan.

History: 1933, Ex. Sess., Act 18, Imd. Eff. Jan. 9, 1934;—CL 1948, 125.693.

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125.694 Housing projects; duties of operation and management; rentals and selection of tenants; appointment of receiver.

Sec. 44. In the operation or management of housing projects a commission shall at all times observe the following duties with respect to rentals and tenant selection: (a) it may rent or lease the dwelling accommodations therein only to persons of low income; (b) it may rent or lease the dwelling accommodations therein only at rentals within the financial reach of such persons of low income; (c) it may rent or lease to a tenant dwelling accommodations consisting of the number of rooms, but no greater number, which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding; (d) it shall not accept any person as a tenant in any housing project if the person or persons who would occupy the dwelling accommodations have an aggregate annual net income in excess of any maximum allowed by the federal government pursuant to federal law or regulation in any contract for financial assistance; (e) it shall prohibit subletting by tenants.

Nothing contained in this section or in section 27 shall be construed as limiting the power of a borrower to vest in an obligee or trustee the right, in the event of a default by the borrower, to cause the appointment of a receiver thereof, free from all the restrictions imposed by this section or by section 27.

History: Add. 1937, Act 265, Imd. Eff. July 22, 1937;—Am. 1938, Ex. Sess., Act 5, Imd. Eff. Sept. 8, 1938;—CL 1948, 125.694;—Am. 1960, Act 18, Eff. Aug. 17, 1960.

125.694a Tenancy or contract right to occupy housing; termination; just cause.

Sec. 44a. (1) No tenancy or contract right to occupy housing in a project or facilities operated by any city, village, township or other unit of local government, as provided by this act, shall be terminated by the project management or the local housing commission except for just cause.

(2) Just cause to terminate a tenancy or contract right to occupy housing includes, but is not limited to 1 or more of the following:

(a) A failure to comply with the obligations of the lease or the lawful rules and regulations of the housing commission.

(b) The use of a unit for any unlawful purpose, including any purpose for which the commission is entitled to recover possession of the premises by summary proceedings under section 5714(1)(b) of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.5714 of the Michigan Compiled Laws.

(c) The maintenance of any unsafe, unsanitary, or unhealthful condition in any dwelling unit or in any of the common areas.

History: Add. 1968, Act 267, Eff. Oct. 1, 1968;—Am. 1996, Act 338, Imd. Eff. June 27, 1996.

125.694b Municipal housing commission; rules; adoption; promulgation; publication.

Sec. 44b. (1) To the extent not inconsistent with federal law or regulation, state law, or local ordinance, the housing commission shall adopt and promulgate reasonable rules that establish the following:

(a) Eligibility requirements for admission to housing.

(b) Obligations of tenants, including regulations for the use and occupation of housing units and common areas.

(c) Just cause for the termination of the right of use and occupation, so that a tenant may be clearly apprised of the precise reasons for a termination.

(d) Conditions for continued occupancy, taking into account factors including, but not limited to, family size, fluctuations in income, availability of standard accommodations elsewhere, and other relevant matters.

(e) Operation of homesteading programs under all of the following:

(*i*) The urban homesteading in single-family public housing act.

(*ii*) The urban homesteading in multifamily public housing act.

(2) The commission may adopt other rules that are necessary for the just and effective administration of local housing projects constructed and operated as provided by this act.

(3) All rules to be valid shall be published in a conspicuous place in each housing project operated by the commission.

History: Add. 1968, Act 344, Eff. Oct. 1, 1968;—Am. 1999, Act 130, Imd. Eff. July 23, 1999.

125.695 Minimum wages and maximum hours; contract provisions.

Sec. 45. Any borrower or commission shall have the power, notwithstanding anything to the contrary contained in this act or in any other provision of law, to include in any contract let in connection with a housing project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and with any conditions which the federal government may

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have attached to its financial aid of such project.

History: Add. 1937, Act 265, Imd. Eff. July 22, 1937;—CL 1948, 125.695.

125.696 Additional powers; intent of act.

Sec. 46. In addition to the powers conferred by other provisions of this act, any borrower shall have power to borrow money or accept grants or other financial assistance from the federal government for or in aid of any housing project, to procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof issued by such borrower, including the power to pay premiums on any such insurance, to take over or lease or manage any housing facilities, project, or undertaking constructed or owned by the federal government, and to these ends, to comply with such conditions and enter into such trust indentures, leases or agreements as may be necessary, convenient or desirable. It is the purpose and intent of this act to authorize every borrower or commission created by such borrower to do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the purchasing, acquiring, constructing, maintaining, operating, improving, extending and/or repairing of housing facilities and/or the elimination of housing conditions which are detrimental to the public peace, health, safety, morals and/or welfare.

History: Add. 1937, Act 265, Imd. Eff. July 22, 1937;—CL 1948, 125.696.

125.697 Promissory notes; issuance; authorization; principal and interest as indebtedness.

Sec. 47. (1) For the purpose of providing funds for expenses and costs involved in the development of a housing project or combined projects prior to the issuance of bonds for the project or projects, or in funding the annual operations of a commission, a borrower may, in addition to all other powers granted in this act, borrow money and issue its negotiable promissory notes. The notes may be authorized by ordinance or by resolution of the borrower. Bonds and notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The notes shall be made payable solely out of property or funds held or to be acquired by or for the commission, including the proceeds of the notes and property acquired, or to be acquired, which is not pledged for the payment of other obligations issued in connection with a housing project of the commission, funds received under section 27(2), or the proceeds of the sale of bonds issued to finance the development of the project or combined projects in connection with which the notes were issued. The notes shall in no event be payable out of any other funds of the borrower or from taxes.

(3) The principal of and interest upon notes issued in accordance with this act do not constitute an indebtedness of the borrower within the meaning of any state constitutional provisions or statutory limitation, and the notes shall state that fact on their face.

History: Add. 1938, Ex. Sess., Act 5, Imd. Eff. Sept. 8, 1938;—CL 1948, 125.697;—Am. 1974, Act 202, Imd. Eff. July 11, 1974;—Am. 1996, Act 338, Imd. Eff. June 27, 1996;—Am. 2002, Act 268, Imd. Eff. May 9, 2002.

125.698 Bonds; powers of borrower.

Sec. 48. In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, a borrower, in addition to its other powers, shall have power:

(a) To pledge all or any part of the gross or net rents, fees or revenues of the project or combined projects with respect to which the bonds are issued or the obligations incurred, whether or not such rents, fees or revenues are then in existence or may thereafter come into existence.

(b) To mortgage all or any part of such project or combined projects, whether consisting of real or personal property, and whether then owned or thereafter to be acquired in connection with such project or combined projects.

(c) To covenant against pledging all or any part of the rents, fees and revenues of such project or combined projects, or against mortgaging all or any part of such project or combined projects, to which its or the commission's right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or project or combined projects or any part thereof; to covenant with respect to limitations on its or the commission's right to sell, lease or otherwise dispose of such project or combined projects or any part thereof; and to covenant as to what other, or additional obligations may be incurred by it in connection with such project or combined projects.

(d) To pledge for the payment of any or all of such bonds or obligations all or any part of any contributions received or to be received for or in aid of the project or combined projects with respect to which the bonds are issued or the obligations incurred or to covenant against pledging all or any part of any contributions.

(e) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise,

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and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of such bonds or interest thereon; and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(f) To covenant (subject to the limitations contained in this act) as to the rents and fees to be charged in the operation of a housing project, whether constructed as a single project or as part of a combined project, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds.

(g) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(h) To covenant as to the use of any or all of the real or personal property held or to be held in connection with such project or combined projects; and to covenant as to the maintenance of such project or combined projects, the replacement of any part thereof, the insurance to be carried thereon and the use and disposition of the insurance moneys.

(i) To covenant as to the rights, liabilities, powers and duties arising upon the breach of any covenant, condition or obligation pertaining to such project or combined projects or to the bonds issued or obligations incurred in connection therewith; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of such bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(j) To vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default, to take possession and use, operate and manage such housing project or combined projects or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement with said trustee; to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(k) To exercise all or any part or combination of the powers herein granted; to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character; to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of the borrower, as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein.

History: Add. 1938, Ex. Sess., Act 5, Imd. Eff. Sept. 8, 1938;—CL 1948, 125.698.

125.699-125.704 Repealed. 1996, Act 338, Imd. Eff. June 27, 1996.

Compiler's note: The repealed sections pertained to board of tenant affairs.

125.705 Application of act.

Sec. 55. Nothing in this act shall preclude the creation by the housing commission of any city, village or township of individual boards of tenant affairs or tenant advisory councils in individual housing projects operated by the commission.

History: Add. 1968, Act 344, Eff. Oct. 1, 1968.

125.706 Cooperative action by borrowers; scope.

Sec. 56. Any 2 or more borrowers may join or cooperate in the exercise, either jointly or otherwise, of any power conferred in this act for the purpose of financing including the issuance of bonds, notes or other obligations and giving security with respect to housing facilities. For such purposes a cooperating borrower by resolution may agree to so cooperate and authorize any other cooperating borrower, so joining or cooperating with it, to act on its behalf with respect to any power, as its agent or otherwise, in its own name.

History: Add. 1970, Act 249, Imd. Eff. Dec. 30, 1970;—Am. 1996, Act 338, Imd. Eff. June 27, 1996.

125.707 Cooperative financing arrangement; resolution; agent borrower.

Sec. 57. A borrower desiring to join in a cooperating financing arrangement with any other borrower shall adopt a resolution determining to enter into a cooperative financing arrangement and designating 1 of the

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cooperating borrowers as agent borrower. The agent borrower by resolution shall agree to accept the designation and act in the capacity of agent borrower and direct the preparation of a financing agreement.

History: Add. 1970, Act 249, Imd. Eff. Dec. 30, 1970.

125.708 Financing agreement; preparation; terms.

Sec. 58. The agent borrower shall cause to be prepared and executed by the cooperating borrowers a financing agreement. The agreement shall provide for:

(a) The authority of the agent borrower to undertake such financing on a continuing basis but only to the extent of the aggregate estimated total development costs of projects of the agent borrower and the cooperating borrowers, as provided in the financing agreement.

(b) The agent borrower's responsibilities relative to the issuance and sale of notes and bonds.

(c) The punctual payment of any such notes and bonds and an irrevocable promise for the payment of principal of and interest due on the notes and bonds.

(d) The purposes to which the proceeds of the notes and bonds shall be applied.

(e) The adoption of a resolution by each cooperating borrower desiring to participate in a note or bond issue of the agent borrower, authorizing and directing the agent borrower to issue in behalf of the cooperating borrower the principal amount of notes or bonds specified in the resolution.

(f) All of the things appropriate and suitable to the issuance of notes and bonds and the responsibilities of all cooperating borrowers and the agent borrower.

(g) The procedures by which cooperating borrowers may withdraw from the financing agreement and borrowers desiring to participate in the cooperative management may join in and become parties to the financing agreement.

History: Add. 1970, Act 249, Imd. Eff. Dec. 30, 1970;—Am. 1996, Act 338, Imd. Eff. June 27, 1996.

125.709 Special obligation notes or revenue bonds; authorization; issuance.

Sec. 59. (1) For the purpose of defraying the cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing a housing project for any cooperating borrower in a cooperative financing arrangement, the agent borrower may borrow money and issue its special obligation notes or revenue bonds from time to time on behalf of the agent borrower and all cooperating borrowers in accordance with the financing agreement between the agent borrower and cooperating borrowers.

(2) If bonds are to be issued for the purpose of cooperative financing, the bonds shall not be issued until authorized by an ordinance or resolution adopted by the agent borrower which shall set forth a brief description of all housing projects contemplated by the agent borrower and cooperating borrowers and the sites of the projects, time and place of payment, the rights and conditions upon the issuance of additional bonds of equal standing, any power of a borrower authorized under section 23, and other details in connection with the issuance and sale of the bonds. The bonds shall be issued in accordance with section 17. On the face of each bond shall be plainly stated substantially as follows:

"This bond is a revenue bond and the principal of and interest on this bond are exempt from all state, county, city, village, or other taxation under the laws of Michigan and are a special obligation of the borrower and are secured by statutory lien created by Act No. 18 of the Public Acts of the Extra Session of 1933 and payable solely from contractual obligations specified by a certain financing agreement dated ..... and entered into by and between .....".

(3) If notes are to be issued for the purpose of cooperative financing, they may be authorized by a resolution adopted by the agent borrower that sets forth the time and place of payment and other details relating to the form, content, issuance, and sale of the notes.

(4) The bond ordinance or note resolution shall also make all other necessary statements that are appropriate to and suitable for the issuance of the revenue bonds or special obligation notes.

(5) The notes or bonds may be issued as provided in this act notwithstanding the provisions of any other law or charter of the incorporating units who are parties to or whose commissions are parties to a financing agreement, which provisions are now in existence or hereinafter enacted with respect to notes, bonds, or other obligations of the agent borrower.

(6) A housing project for a cooperating borrower in a cooperative financing agreement for which obligations may be issued under this section includes a housing project to be purchased or developed by a nonprofit entity with the proceeds of a loan from the cooperating borrower or agent borrower.

History: Add. 1970, Act 249, Imd. Eff. Dec. 30, 1970;—Am. 1996, Act 338, Imd. Eff. June 27, 1996.

125.709a Bond authorizing ordinance; fiscal agent; contract.

Sec. 59a. (1) The bond authorizing ordinance shall provide for appointment of a fiscal agent and may

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provide for appointment of successor fiscal agents and alternate paying agents and such fiscal agents so designated shall be qualified to act as such under the laws of this state or the United States. The ordinance shall also provide for the removal of a fiscal agent upon written request of the holders of 51% in the aggregate of the principal of bonds issued thereunder or by resolution of the agent borrower, and for the obligations, responsibilities and duties of the fiscal agent.

(2) The authorizing ordinance shall be a contract between the agent borrower, all cooperating borrowers and any holders of bonds issued thereunder.

History: Add. 1970, Act 249, Imd. Eff. Dec. 30, 1970.

125.709b Bond proceeds; payment order; execution; delivery.

Sec. 59b. (1) The bond authorizing ordinance shall provide that the proceeds of the bonds shall be paid in the following order:

(a) To the United States in an amount equal to that portion of the development cost which is financed by the bonds issued thereunder as represented by notes of each cooperating borrower outstanding in the hands of the United States together with interest thereon to the date of payment.

(b) To the paying agent of any outstanding temporary notes of each cooperating borrower of an amount equal to that portion of development cost which is financed by the bonds issued thereunder as represented by the notes, together with interest thereon to the date of maturity, and to the principal of and interest on the notes, if the notes are outstanding and unpaid as of the delivery date of the bonds.

(c) To the fiscal agent for deposit in the debt service fund in trust for the payment of capitalized interest which becomes due on the bonds.

(d) To the fiscal agent representing the premium on the bonds issued thereunder, for deposit in the advance amortization fund.

(e) To each cooperating borrower in an amount equal to that portion of the remainder allocable to each cooperating borrower for deposit in its general fund.

(2) The officer or officers of the agent borrower specified in the bond authorizing ordinance shall execute the bonds and deliver the bonds in accordance with the terms and provisions of the ordinance and in connection therewith shall execute and deliver such instruments and do such acts and things necessary or convenient to effectuate the purpose of the bond authorizing ordinance.

History: Add. 1970, Act 249, Imd. Eff. Dec. 30, 1970;—Am. 1996, Act 338, Imd. Eff. June 27, 1996.

125.709c Revenues, disposition, purpose; fiscal agent, duties.

Sec. 59c. The bond authorizing ordinance shall also provide for the disposition, disbursement and deposit of all revenues generated from any cooperatively financed project to insure the proper operation and maintenance of the projects and the payment of bonds and the interest thereon. The ordinance shall specify the responsibilities, duties and obligations of the fiscal agent properly to apply, disburse and otherwise set aside revenues of any project and any contractual payments made to the fiscal agent.

History: Add. 1970, Act 249, Imd. Eff. Dec. 30, 1970.

125.709d, 125.709e Repealed. 1996, Act 338, Imd. Eff. June 27, 1996.

Compiler's note: The repealed sections pertained to issuance of additional bonds and notice of sale of bonds.

DEFENSE HOUSING PROJECTS
Act 268 of 1941

125.711-125.718 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.

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HOUSING PROJECTS
Act 162 of 1953

AN ACT to authorize cities and incorporated villages or townships to acquire, own, operate, maintain and dispose of housing projects of the United States government or any agency thereof, and in so doing to comply with all conditions imposed pursuant to the applicable laws of the United States; and to authorize payments in lieu of taxes.

History: 1953, Act 162, Imd. Eff. June 2, 1953.

The People of the State of Michigan enact:

125.731 Housing projects; acquisition and maintenance by municipality; operating agent; public function; inapplicable act; time limits.

Sec. 1. Any city or incorporated village or township is hereby authorized to acquire, own, operate and maintain any existing temporary housing project of the United States government or any agency thereof, and to dispose of any housing project or part thereof so acquired when the governing body of the city or village or township finds there is no longer a need therefor. In the acquisition of such housing projects, a city or incorporated village or township may comply with any conditions imposed by any agency of the United States government pursuant to Title VI of the Act of October 14, 1940 (54 Stat. 1125, 42 U.S.C. 1521, et seq.), as amended, relating to disposal of federal housing projects. Any city or incorporated village or township may designate its housing commission as its agent in the operation of any housing project so acquired. The exercise of the powers herein granted and the acquisition of any leasehold interest in lands in connection with the acquisition of any such housing project are hereby declared to be public, governmental and municipal functions, exercised for a public purpose and matters of public necessity. The limitations and restrictions in Act No. 18 of the Public Acts of the Extra Session of 1933, as amended, being sections 125.651 to 125.698 of the Compiled Laws of 1948, on rentals and tenancy of housing projects shall not apply to the operation or management of housing projects acquired hereunder, if the dwelling units so acquired are brought up to minimum standards of housing imposed by state laws and local housing minimum standards: Provided, That work must start by July 1, 1961, and be completed by July 1962.

History: 1953, Act 162, Imd. Eff. June 2, 1953;—Am. 1957, Act 16, Eff. Sept. 27, 1957;—Am. 1960, Act 150, Imd. Eff. May 23, 1960;—Am. 1961, Act 51, Imd. Eff. May 20, 1961.

125.732 Housing projects; payments in lieu of taxes.

Sec. 2. Any city or incorporated village or township shall make payments in lieu of taxes with respect to housing projects acquired hereunder in such amounts as may be deemed equitable and appropriate but not to exceed the taxes which would be levied on the property if it were not tax exempt: Provided, That no payments in lieu of taxes at a lesser rate than would be levied on the property if it were not tax exempt shall be valid without first submitting a proposal for such lesser rate to the electors of the city, incorporated village or township at a regular election in the municipality and obtaining the approval of a majority of said electors voting thereon.

History: 1953, Act 162, Imd. Eff. June 2, 1953.

TRAILER COACHES OUTSIDE LICENSED PARKS
Act 172 of 1958

125.741-125.745 Repealed. 1978, Act 368, Eff. Sept. 30, 1978.

TRAILER COACHES AND PARKS
Act 143 of 1939

125.751-125.769 Repealed. 1959, Act 243, Eff. Mar. 19, 1960.

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FIRE PROTECTION IN MOBILE HOMES
Act 133 of 1974

AN ACT to provide for fire protection in mobile homes; to prescribe the powers and duties of the department of labor; and to provide penalties.

History: 1974, Act 133, Eff. Dec. 5, 1974.

The People of the State of Michigan enact:

125.771 Definitions.

Sec. 1. As used in this act:

(a) "Mobile home" means a factory assembled portable structure designed or used for year-round residence purposes, designed and built to be towed on its own chassis, connected to utilities, and installed on a homesite with or without a permanent foundation. A structure may contain parts that may be folded, collapsed, or telescoped when being towed, and expanded later to provide additional cubic capacity. A structure may also be 2 or more separately towable components designed to be joined into 1 integral structure capable of being again separated into components for repeated towing.

(b) "Motor home" means an automotive vehicle built on a truck or bus chassis and equipped as a self-contained traveling home.

(c) "Recreational vehicle" means a transportable structure which is used for camping or casual travel.

History: 1974, Act 133, Eff. Dec. 5, 1974.

125.772 Smoke detection system and fire extinguisher required; compliance; exceptions.

Sec. 2. (1) A mobile home manufactured or sold in this state or brought into this state for use therein as a dwelling shall be equipped with an approved smoke detection system with an alarm and a multipurpose fire extinguisher having a minimum 2A-10B-C rating and approved by a nationally recognized independent testing laboratory. The owner of a mobile home brought into this state for use as a dwelling shall have 90 days to comply with this act.

(2) This act shall not apply to:

(a) A recreational vehicle.

(b) A motor home.

(c) A mobile home manufactured, sold, or purchased prior to the effective date of this act.

History: 1974, Act 133, Eff. Dec. 5, 1974.

125.773 Approval of smoke detection systems and installation; penalty.

Sec. 3. (1) The construction code commission of the department of labor shall approve the smoke detection systems and the installation of the above items.

(2) A person who violates this act is guilty of a misdemeanor.

History: 1974, Act 133, Eff. Dec. 5, 1974.

125.774 Effective date.

Sec. 4. This act shall take effect 6 months after it is signed by the governor or becomes law without the governor's signature.

History: 1974, Act 133, Eff. Dec. 5, 1974.

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REGISTRATION OF PERSONS IN ACCOMMODATIONS FOR TRANSIENTS
Act 75 of 1952

AN ACT to provide for the registration of persons in camps, tourist homes, tourist rooms, cabins, house trailer camps and other sleeping accommodations for transients; and to provide penalties for violation of the provisions of this act.

History: 1952, Act 75, Eff. Sept. 18, 1952.

The People of the State of Michigan enact:

125.781 Registration of persons in camps, tourist homes; definitions.

Sec. 1. (a) "Camp" shall mean and include the temporary or permanent buildings, tents or other structures, together with the appurtenances appertaining thereto, established or maintained as living quarters for children or adults, or both, operated continuously for a period of 5 days or more, for recreation, education or vacation purposes, on a commercial basis or for charity purposes. The term "camp" shall not be construed to include buildings, tents or other structures maintained by the owner or occupant of a premises used exclusively to house his farm labor.

(b) "Tourist home" shall mean and embrace all buildings or other structures kept, used and maintained as places wherein sleeping accommodations are offered for hire to transient guests, with or without meals, and which are not customarily defined or considered as hotels, inns or lodging homes.

(c) "Tourist room" shall mean and embrace all rooms offered to transient guests for sleeping accommodations, with or without meals. The buildings or structures in which such rooms are located shall be designated as tourist homes.

(d) "Cabin" shall mean and include all buildings, tents or similar structures which are maintained, offered or used for dwelling or sleeping quarters for transients, with or without provisions for cooking, but shall not include what are commonly designated as hotels, inns or lodging homes, and shall not include resort cottages kept primarily for use of the owners and incidentally and occasionally leased for hire.

(e) "House trailer camp" shall mean and include any site, lot or tract of land, excluding trailer coach parks licensed under Act No. 143 of the Public Acts of 1939, as amended, on which a house car, house trailer, trailer home or similar mobile unit, which may be used for dwelling or sleeping quarters, is placed.

History: 1952, Act 75, Eff. Sept. 18, 1952.

125.782 Register; contents.

Sec. 2. Each owner, operator or employee renting or leasing a camp, tourist home, tourist room, cabin, house trailer camp or other sleeping accommodation to transients shall register each guest. The register shall provide for the name, legal residence, make of car, car license, house trailer license if any, number of accommodations occupied and the date of arrival and departure. The register shall be available at all times for inspection by law enforcement officers for a period of not less than 3 years. Any person furnishing misinformation for purposes of registration shall be deemed guilty of a misdemeanor.

History: 1952, Act 75, Eff. Sept. 18, 1952.

125.783 Violation of act; misdemeanor.

Sec. 3. Any owner, operator or employee of a camp, tourist home, tourist room, cabin, house trailer camp or other sleeping accommodation, who shall fail to comply with any of the provisions of this act shall be deemed guilty of a misdemeanor.

History: 1952, Act 75, Eff. Sept. 18, 1952.

125.784 Enactment under police power.

Sec. 4. In order to assist in the protection of public welfare and safety, this act is enacted under the police power of the state.

History: 1952, Act 75, Eff. Sept. 18, 1952.

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NEIGHBORHOOD ASSISTANCE AND PARTICIPATION ACT
Act 56 of 1980

AN ACT to create a neighborhood assistance program; to prescribe the powers and duties of the department of labor; to create a fund; to permit certain rebates to business firms participating in neighborhood projects; and to require certain reports.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980.

The People of the State of Michigan enact:

125.801 Short title.

Sec. 1. This act shall be known and may be cited as the “neighborhood assistance and participation act”.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980.

125.802 Meanings of words and phrases.

Sec. 2. For purposes of this act, the words and phrases used in sections 3 to 5 shall have the meanings ascribed to them in those sections.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980.

125.803 Definitions; B, C.

Sec. 3. (1) "Bureau" means the bureau of community services in the department of labor.

(2) "Business firm" means a sole proprietorship, partnership, or corporation authorized to do business in this state and subject to tax under either the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(3) "Community development commission" means an advisory commission established pursuant to law within the department of labor.

(4) "Community services" means services, including counseling and advice, recreational programs, emergency assistance, medical care, or instructional services furnished to a person or a group in an eligible neighborhood.

(5) "Crime prevention" means activities which aid in the reduction of crime in an eligible neighborhood.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980;—Am. 1983, Act 104, Imd. Eff. June 30, 1983;—Am. 2007, Act 177, Imd. Eff. Dec. 21, 2007.

125.804 Definitions; D to L.

Sec. 4. (1) “Department” means the department of labor.

(2) “Director” means the director of the department.

(3) “Eligible neighborhood” means an area located within a city, township, or village with boundaries clearly identified within the project application and certified by the department. The certification shall be made on the basis of federal census studies and current indices of local economic conditions.

(4) “Fund” means the neighborhood assistance and partnership fund created in section 6.

(5) “Job training” means instruction to a person that enables that person to acquire job readiness or vocational skills so that the person can become employable in a trade or profession of that person's choosing.

(6) “Local unit of government” means a city, township, or village in which a project will be located.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980.

125.805 Definitions; N to R.

Sec. 5. (1) “Neighborhood assistance project” or “project” means any arrangement between a neighborhood organization and 1 or more business firms for the provision of financial assistance for projects offering job training, community services, crime prevention, or physical revitalization.

(2) “Neighborhood organization” means any nongovernmental organization serving an area with geographically definable boundaries, having elected officials, adopted bylaws, and a minimum membership of 50 households, or 10% of the households, within its boundaries.

(3) “Physical revitalization” means the replacement, rehabilitation, or restoration of existing neighborhood facilities or the creation of new neighborhood facilities. Neighborhood facilities may include streets, sidewalks, parks, recreational facilities, residential structures, and public facilities.

(4) “Rebate” means the payment by the department to a business firm as provided in the reimbursement form.

(5) “Reimbursement form” means the form submitted by a business firm to the department for the purpose of receiving a rebate.

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History: 1980, Act 56, Imd. Eff. Apr. 1, 1980.

125.806 Neighborhood assistance and partnership fund; creation; purpose; limitation on rebates; rules.

Sec. 6. (1) A neighborhood assistance and partnership fund is created within the bureau of community services of the department of labor.

(2) The purpose of the fund shall be to encourage neighborhood organizations and business firms to engage in neighborhood assistance projects.

(3) The total amount of rebates to business firms approved within any local unit of government shall not exceed 1/2 of the money appropriated to the fund in any fiscal year.

(4) The director shall promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, for the administration of the fund.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980.

Administrative rules: R 125.601 et seq. of the Michigan Administrative Code.

125.807 Eligibility of neighborhood; rules; criteria.

Sec. 7. (1) The department shall promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, to determine the eligibility of neighborhoods to participate in this program.

(2) The criteria used to certify an eligible neighborhood shall be made on the basis of federal census studies and current indices of local economic and social conditions, which indicate blight or the threat of a deteriorating environment. Criteria used to determine eligibility for a project shall include at least 1 of the following:

(a) Real per capita income growth.

(b) Rate of unemployment.

(c) Declining state equalized valuation within the project area.

(d) Deterioration of the community's social environment.

(e) Number of minority group residents within the project area.

(3) The department periodically shall issue minimum levels for established criteria which applicants shall meet for eligibility.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980.

Administrative rules: R 125.601 et seq. of the Michigan Administrative Code.

125.808 Project application; contents.

Sec. 8. (1) A neighborhood organization requesting project approval shall submit a project application to the director. The application shall include the following:

(a) Proof and certification that:

(*i*) The neighborhood meets the criteria established in section 7.

(*ii*) The organization meets the definition of neighborhood organization as provided in section 5.

(b) A detailed project work plan including:

(*i*) An assessment of the needs and objectives being addressed by the project.

(*ii*) A description of how the project will meet the stated objectives.

(*iii*) Letters of commitment from participating business firms, if any.

(*iv*) Other project details as required by the director.

(c) A detailed project budget including:

(*i*) Total project cost.

(*ii*) Project expenses by category of expense item.

(*iii*) Business contributions to the project cost.

(*iv*) Justification of administrative costs.

(*v*) Other budget details as required by the director.

(2) A project application may be for a project life of more than 1 year.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980.

125.809 Project application; approval or disapproval; review and comments.

Sec. 9. (1) The department shall approve or disapprove a project application within 45 working days after the date of receipt of the application. The decision and the detailed reasons for the approval or disapproval of a proposal shall be in writing, and, if the proposal is approved, the amount of rebates to business firms authorized for use shall be stated.

(2) Upon receipt of the application, the department shall provide a copy of the project application to the

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local unit of government and the county in which the project will be located for review and comments. Any review and comments of the project shall be returned to the department within 30 working days after receipt of the application. Comments shall include:

(a) Whether the project conflicts with any applicable comprehensive plan.

(b) Verification of the neighborhood organization and business firm submitting the project application.

(c) Other comments as may be considered appropriate.

(3) The department may provide any other person, group, community action agency, or division of federal, state, or local unit of government a copy of the project for review and comment.

(4) The department may approve a project application after 35 working days from receipt of the project application, whether or not comments have been received from a local unit of government, or any person, group, or division of federal, state, or a local unit of government to whom copies of the project application have been provided.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980.

125.810 Certification; entering into project; project representative; professional assistance.

Sec. 10. Upon certification by the department, a neighborhood organization may enter into a neighborhood assistance project with 1 or more business firms for the purpose of providing job training, community services, crime prevention, or physical revitalization through a project approved by the department. A business firm may appoint a person as a project representative to the neighborhood organization, or may provide professional assistance to the project upon request from the neighborhood organization.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980.

125.811 Rebate; reimbursement form; amount; review and approval; eligibility; prohibitions.

Sec. 11. (1) A business firm shall receive from a neighborhood organization with which it has entered into a neighborhood assistance project a reimbursement form for a rebate. The reimbursement form shall be submitted to the department for an amount not to exceed 50% of the total amount contributed by the business firm to a project approved by the department. The department shall review the reimbursement form and approve the rebate within 30 days after receipt of the form.

(2) A contribution by a business firm shall be eligible for rebate the first year for that portion that exceeds the total contributions by the firm for the project in the previous year.

(3) A rebate shall not be issued to a business firm until after a contribution has been received for a project by the neighborhood organization implementing that project.

(4) A rebate for any specific business firm shall not exceed $50,000.00 for the first year of the neighborhood assistance project. The total amount of the rebate may be increased by not more than $50,000.00 each year for the succeeding 4 years so that in the fifth consecutive year, and each year thereafter, the rebate shall be a maximum of $250,000.00.

(5) A rebate shall not be granted to a bank, insurance company, trust company, building and loan or savings and loan association, or a credit union for activities that are considered a part of its normal course of business.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980.

125.812 Annual report to department.

Sec. 12. A neighborhood organization with projects approved by the department shall submit to the department an annual report not later than 90 days after the close of the project year for each year in which the project is certified. The report shall contain:

(a) An assessment of how the project is attaining the project objectives.

(b) An independent audit of project expenditures.

(c) Any other items that the director requires.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980.

125.813 Annual report to legislature.

Sec. 13. The department shall submit to the legislature an annual report not later than 90 days after the close of the fiscal year. The report shall contain:

(a) An assessment of the economic impacts of all projects approved.

(b) An assessment of the social impacts of all projects approved.

(c) A description of and status report on all projects approved.

(d) Total reimbursements authorized and paid.

(e) Any other information that the legislature requires.

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History: 1980, Act 56, Imd. Eff. Apr. 1, 1980.

125.814 Transfer of duties and obligations.

Sec. 14. The duties and obligations imposed by this act upon the director and the department, other than by section 13, shall be transferred to, and be vested in, the community development commission after October 1, 1981.

History: 1980, Act 56, Imd. Eff. Apr. 1, 1980.

HOUSING PROJECTS FOR SERVICEMEN
Act 14 of 1946 (1st Ex. Sess.)

125.871,125.872 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.

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URBAN REDEVELOPMENT CORPORATIONS LAW
Act 250 of 1941

AN ACT to provide for the creation of urban redevelopment corporations for the purpose of clearing, replanning, rehabilitating, modernizing, beautifying, and reconstructing substandard and insanitary areas; to provide for the powers and duties of urban redevelopment corporations and certain local units of government; to grant limited tax exemptions and powers of condemnation; and to provide for certain regulations and control by public agencies.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—Am. 1945, Act 102, Eff. Sept. 6, 1945;—Am. 1968, Act 325, Imd. Eff. July 3, 1968;—Am. 1992, Act 138, Imd. Eff. July 15, 1992.

The People of the State of Michigan enact:

125.901 Urban redevelopment corporations law; short title; applicability to townships.

Sec. 1. (1) This act shall be known and may be cited as the "urban redevelopment corporations law."

(2) This act applies to townships in the same manner and to the same extent as it applies to cities. However, the development area in a township shall be limited to property that was used for a state office, hospital, prison, institution of higher education, or other state facility.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.901;—Am. 1992, Act 138, Imd. Eff. July 15, 1992.

Compiler's note: The catchlines following the act section numbers were incorporated as part of the act as enacted.

125.902 Legislative findings; policy of state; purpose of act.

Sec. 2. It is declared that in the cities of the state substandard and insanitary areas exist which have resulted from inadequate planning, excessive land coverage, lack of proper light, air, and open space, pollution, neglect, defective design and arrangement of buildings, lack of proper sanitary facilities, and the existence of buildings, which, by reason of age, obsolescence, inadequate or outmoded design, or physical deterioration, have become economic or social liabilities, or both; that such conditions are prevalent in areas where substandard, insanitary, outworn or outmoded industrial, commercial or residential buildings and polluted and neglected water courses prevail, and are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, crime and poverty; that such conditions impair the economic value of large areas, infecting them with economic blight, and that such areas are characterized by depreciated values, impaired investments, and reduced capacity to pay taxes; that such conditions are chiefly in areas which are so subdivided into small parcels in divided ownerships and frequently with defective titles, that their assembly for purposes of clearance, replanning, rehabilitation and reconstruction is difficult and costly; that the existence of such conditions and the failure to clear, replan, rehabilitate or reconstruct these areas result in a loss of population in some areas, and congestion and over-crowding in other areas and further deterioration, accompanied by added costs to the communities for creation of new public facilities and services elsewhere; that it is difficult and uneconomic for individual owners independently to undertake to remedy such conditions; that it is desirable to encourage owners of property or holders of claims thereon in such areas to join together and with outsiders in corporate groups for the purpose of the clearance, replanning, rehabilitation, modernization, improvement and reconstruction of such areas by joint action; that it is necessary to create, with proper safeguards, inducements and opportunities for the employment of private investment and equity capital in the clearance, replanning, rehabilitation, modernization, improvement and reconstruction of such areas; that such conditions require the employment of such capital on an investment rather than a speculative basis, allowing, however, the widest latitude in the amortization of any indebtedness created thereby; that such conditions further require the acquisition at fair prices of adequate areas, the gradual clearance of such areas through demolition of existing obsolete, inadequate, unsafe and insanitary buildings and the redevelopment of such areas under proper supervision with appropriate planning, land use and construction policies; that the clearance, replanning, rehabilitation, modernization, improvement and reconstruction of such areas on a large scale basis are necessary for the public welfare; that the clearance, replanning, reconstruction, modernization, improvement and rehabilitation of such areas are public uses and purposes for which private property may be acquired; that such substandard and insanitary areas constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the state; that such conditions require the creation of the agencies, instrumentalities and corporations hereinafter described, which are hereby declared to be agencies and instrumentalities of the state, for the purpose of attaining the ends herein recited; that the protection and promotion of the health, safety, morals, welfare and reasonable comfort of the citizens of the state are matters of public concern; and the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

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History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.902;—Am. 1968, Act 325, Imd. Eff. July 3, 1968.

125.903 Urban redevelopment corporations law; definitions.

Sec. 3. The following terms, whenever used or referred to in this act, shall, unless a different intent clearly appears from the context, be construed as follows:

The term "area" shall mean a portion of a city which a planning commission has found or shall find to be substandard or insanitary, so that the clearance, replanning, rehabilitation, modernization, improvement or reconstruction thereof is necessary or advisable to effectuate the public purposes declared in section 2. An area may include any buildings or improvements not in themselves substandard or insanitary, and any real property, whether improved or unimproved, the inclusion of which is deemed necessary for the effective clearance, replanning, reconstruction, modernization, improvement or rehabilitation of the area of which such buildings, improvements or real property form a part.

The term "assessed valuation" with respect to any local tax on any parcel of real property shall mean the value of such parcel, including therein buildings and improvements as well as land, as assessed by the respective official, bureau, board, commission or agency charged with assessing the same for such local tax.

The term "city" shall mean and be deemed to relate to any city in the state.

The term "development" shall mean a specific work, repair or improvement to put into effect a development plan. The term shall include the real property, buildings, and improvements owned, constructed, managed or operated by a redevelopment corporation.

The term "development area" shall mean that portion of an area to which a development plan is applicable.

The term "development cost" shall mean the amount determined by the supervising agency to be the actual cost of the development, or of the part thereof for which such determination is made, and shall include, among other costs, the reasonable costs of planning the development, including preliminary studies and surveys, neighborhood planning, and architectural, engineering and other professional services, the reasonable value of the services performed by or for the incorporators of a redevelopment corporation in connection with the development plan prior to the time when the redevelopment corporation was incorporated or became a redevelopment corporation, the costs of financing the development, including carrying charges during construction, working capital in such reasonable amount as shall be approved by the supervising agency, the actual cost of the real property or any part thereof where acquired partly or wholly in exchange for securities, plus an amount which shall be approved by the supervising agency as being equal to the reasonable value of the real property acquired therefor, the actual cost of demolition of existing structures, the actual cost of utilities, landscaping and roadways and improvement and beautification of water courses, the actual cost of construction, equipment and furnishing of buildings and improvements, including architectural, engineering, builder's and other professional fees, the actual cost of reconstruction, rehabilitation, remodeling or initial repair of existing buildings and improvements, reasonable management and operation costs until the development is ready for use, and the actual cost of improving that portion of the development area which is to remain as open space, and the cost of relocating families displaced by the redevelopment, together with such additions to development cost as shall equal the actual cost of additions to or changes in the development in accordance with the original development plan or after approved changes in or amendments thereto.

The term "development plan" shall mean a plan for the redevelopment of all or any part of an area, and shall include any amendments thereto approved in accordance with the requirements of paragraph 5 of section 4.

The term "dividend year" shall mean, whether or not there exists a maximum exemption period with respect to any 1 or more parcels of real property, any of the recurrent periods of 1 year each ending on the last day of the calendar month immediately preceding the calendar month in which the assessment rolls for the purpose of city taxes on real property are finally warranted to the official, bureau, board, commission or agency charged with collecting such taxes. The first dividend year may be a period of less than 1 year commencing with the beginning of the execution of the development plan and ending on such last day of such calendar month.

The term "local legislative body" shall mean the board of aldermen, common council, commission or other board or body vested by the charter of the city or other law with jurisdiction to adopt or enact ordinances or local laws.

The terms "local taxation" and "local tax" shall include state, county, city, and school taxes, any special district taxes, and any other tax on real property, but shall not include special assessments for local benefit improvements.

The term "maximum assessed valuation" shall mean, with respect to any local tax on any parcel of real property, the assessed valuation of such parcel appearing on the first assessment roll warranted to the official, bureau, board, commission or agency charged with collecting the particular local tax involved, after the

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completion of the development plan for the particular parcel and together with certification to that effect by the supervising agency to the official, bureau, board, commission or agency charged with the duty of determining and fixing the valuation of real property for local taxation purposes.

The term "maximum exemption period" shall mean, with respect to any parcel of real property, the period of maximum assessed valuation for that particular parcel as designated in the ordinance or local law adopted or enacted by the local legislative body pursuant to paragraph 1 of section 12.

The term "maximum dividend" shall mean, with respect to any dividend year an amount equal to 10% of the development cost less all amounts payable during the dividend year as interest on, but not as amortization of, any indebtedness of the redevelopment corporation. The maximum dividend, however, may be apportioned in accordance with the provisions of section 13. The maximum dividend may change from time to time in accordance with changes in development cost, in outstanding indebtedness and in capital structure due to refunding operations.

The term "mortgage" shall mean a mortgage, trust indenture, deed of trust, building and loan contract or other instrument creating a lien on real property, and the indebtedness secured by each of them.

The term "neighborhood unit" shall mean a primarily residential district having the facilities necessary for well-rounded family living, such as schools, parks, playgrounds, parking areas and local shopping districts.

The term "planning commission" shall mean the official bureau, board, commission or agency of the city authorized to prepare, adopt and amend or modify plans for the development and improvement of the city generally.

The term "real property" shall include lands, buildings, improvements, land under water, waterfront property, and any and all easements, franchises and hereditaments, corporeal or incorporeal, and every estate, interest, privilege, easement, franchise and right therein, or appurtenant thereto, legal or equitable, including right of ways, terms for years and liens, charges, or incumbrances by mortgage, judgment or otherwise.

The term "redevelopment" shall mean the clearance, replanning, reconstruction or rehabilitation of a substandard or insanitary area, and the provision of such industrial, commercial, residential or public structures and spaces as may be appropriate, including recreational and other facilities incidental or appurtenant thereto.

The term "redevelopment corporation" shall mean a corporation organized pursuant to the corporation laws of the state whose certificate of incorporation shall comply with the requirements of section 6.

The term "state" shall mean the state of Michigan.

The term "supervising agency" shall mean the official, bureau, commission or agency appointed, established or designated pursuant to section 5.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—Am. 1945, Act 102, Eff. Sept. 6, 1945;—CL 1948, 125.903;—Am. 1968, Act 325, Imd. Eff. July 3, 1968.

125.904 Development plans; contents; approval; requirements; amendments; fees.

Sec. 4. Development plans and approval thereof.

1. A development plan shall contain:

(a) A metes and bounds or a statement of the boundaries by streets, or other reasonably definite legal description of the redevelopment area;

(b) A statement of the various stages, if more than 1 stage is intended, by which the development is proposed to be constructed or undertaken, and the estimated time within which each stage is to be completed. The initial stage of the redevelopment plan shall be stated in reasonable detail. Subsequent stages shall be stated by brief general description in the original redevelopment plan, and in reasonable detail in amendments to the redevelopment plan made pursuant to subsection 5 of this section;

(c) A provision for all reasonable costs of relocating persons displaced during the completion of a stage of the redevelopment plan in decent, safe and sanitary dwellings adequate to their needs and within their financial means in reasonably convenient locations not less desirable than the development area with respect to utilities and facilities;

(d) Each redevelopment plan or stage thereof presented for approval shall contain such of the following items relevant to the proposed plan or stage;

(*i*) A description of the existing buildings or improvements in the development area, to be demolished immediately, if any;

(*ii*) A description of existing buildings or improvements, in the development area not to be demolished immediately, if any, and the approximate period of time during which the demolition, if any, of each such building or improvement is to take place;

(*iii*) A description of the proposed improvements, if any, to each building not to be demolished immediately, any proposed repairs or alterations to such building, and the approximate period of time during

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which such improvements, repairs or alterations are to be made;

(*iv*) A description of the type, number and character of each new industrial, commercial, residential or other building or improvement to be erected or made;

(*v*) A description of those portions, if any, of the development area which may be permitted or will be required to be left as open space, the use to which each such open space is to be put, the period of time each such open space will be required to remain an open space and the manner in which it will be improved and maintained, if at all;

(*vi*) A description of those portions, if any, of the development area which the redevelopment corporation proposes to sell, donate, exchange or lease to, with or from the city, and an outline of the terms of such proposed sale, donation, exchange or lease;

(*vii*) A statement of the proposed changes, if any, in zoning ordinances or maps, necessary or desirable for the development and its protection against blighting influences;

(*viii*) A description of the proposed changes, if any, in streets or street levels and any proposed street closings;

(*ix*) Reasonable estimates of the character of the existing dwelling accommodations, if any, in the area covered by the redevelopment plan or stage, the approximate number of families residing therein, the rentals being paid by them, the vacancies in such accommodations and of the rental demand therefor;

(*x*) A statement of the character, approximate number of units, approximate rentals and approximate date of availability of the proposed dwelling accommodations, if any, to be furnished during construction and upon completion of the development;

(*xi*) A statement of the proposed method of financing the redevelopment or stage, in sufficient detail to evidence the probability that the redevelopment corporation will be able to finance or arrange to finance the development;

(e) A statement of persons who it is proposed will be active in or associated with the management of the redevelopment corporation during a period of at least 1 year from the date of the approval of the development plan.

The development plan, and any application to the planning commission or supervising agency for approval thereof, may contain in addition such other statements or materials as may be deemed relevant by the proposer thereof, including limits on the amounts which may be paid as compensation for services to the officers and employees of the redevelopment corporation, suggestions for the clearance, replanning, reconstruction or rehabilitation of 1 or more areas which may be larger than the development area but which include it, and any other provisions for the redevelopment of such area or areas.

(f) A description of the means through which a representative council of residents of the redevelopment area shall be established and consulted throughout all stages of the planning of the redevelopment so that the desires of residents shall be incorporated into the plans for the area to the extent feasible.

(g) A description of the means through which, to the extent feasible, the housing to be developed shall reasonably be within the financial means of the residents of the general area.

(h) A description of the means through which persons displaced by the redevelopment shall have priority in occupying any new housing in the redevelopment area, if they meet reasonable requirements of responsibility.

2. No development shall be initiated until certificates of approval of the development plan therefor shall have been issued by both the planning commission and the supervising agency.

3. A planning commission may approve a development plan, but no certificate of approval thereof shall be issued by it unless and until an application for approval has been filed with it, together with the development plan, and unless and until the planning commission shall determine:

(a) That the area within which the development area is included is substandard or insanitary or is polluted or neglected and that the redevelopment of the development area in accordance with the development plan is necessary or advisable to effectuate the public purposes declared in section 2;

(b) That the development plan is in accord with the master plan, or city map, if any, of the city;

(c) That the development area is of sufficient size to allow its redevelopment in an efficient and economically satisfactory manner;

(d) That the various stages, if any, by which the development is proposed to be constructed or undertaken, as stated in the development plan, are practicable and in the public interest;

(e) That public facilities, including, but not limited to school, fire, police, transportation, park, playground and recreation, are presently adequate, or will be adequate, at the time that the development is ready for use, to service the development area;

(f) That the proposed changes, if any, in zoning ordinances or maps and in streets and street levels, or any proposed street closings, are necessary or desirable for the development and its protection against blighting

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influences and for the city as a whole;

(g) Upon data submitted by or on behalf of the redevelopment corporation, or upon data otherwise available to the planning commission, that there will be available for occupation by families, if any, then occupying dwelling accommodations in the development area similar accommodations at substantially similar rentals in the development area or elsewhere in a suitable location in the city, and that the carrying into effect of the development plan will not cause undue hardship to such families.

Any such determination shall be conclusive evidence of the facts so determined except upon proof of fraud or wilful misfeasance. In arriving at such determination, the planning commission shall consider only those elements of the development plan relevant to such determination under subparagraphs (a) through (g) of this paragraph 3 of section 4 and to the type of development which is physically desirable for the development area concerned from a city planning viewpoint, and from a neighborhood unit viewpoint if the development plan provides that the development area is to be primarily residential. Upon approval of a development plan by the planning commission, it shall forthwith issue a certificate of approval thereof.

A planning commission may state general standards of city and neighborhood unit planning to which a development plan should conform to be approved by it. Such standards, however, shall be as flexible as possible and only for the guidance of prospective proponents of development plans. Variations therefrom shall be freely allowed upon a showing of their advisability, to the end that individual initiative be encouraged.

4. A supervising agency may approve a development plan, but no certificate of approval thereof shall be issued by it unless and until the planning commission shall first have approved thereof and there has been filed with the supervising agency the development plan, the certificate of approval by the planning commission and an application for approval by the supervising agency, and unless and until the supervising agency shall determine:

(a) That the proposed method of financing the development is feasible and that it is probable that the redevelopment corporation will be able to finance or arrange to finance the development;

(b) That the persons who it is proposed will be active in or associated with the management of the redevelopment corporation during a period of at least 1 year from the date of the approval of the development plan have sufficient ability and experience to cause the development to be undertaken, consummated and managed in a satisfactory manner.

Any such determination shall be conclusive evidence of the facts so determined except upon proof of fraud or wilful misfeasance. In considering whether or not a certificate of approval of the development plan shall be issued, the supervising agency shall consider only those elements of the development plan relevant to such determination under subparagraphs (a) and (b) of this paragraph 4 of section 4. Upon approval of a development plan by the supervising agency, it shall forthwith issue a certificate of approval thereof.

5. The planning commission and the supervising agency may approve an amendment or amendments to a development plan, but no such amendment to a development plan which has theretofore been approved by the planning commission and the supervising agency shall be approved unless and until an application therefor has been filed with the planning commission or the supervising agency by the redevelopment corporation containing that part of the material required by paragraph 1 of this section 4 which shall be relevant to the proposed amendment, and unless and until the planning commission or the supervising agency, as the case may be, shall make the determinations required by paragraph 3 or 4 of this section 4 which shall be relevant to the proposed amendment.

6. The planning commission and the supervising agency may each adopt a schedule of fees to be paid upon the filing of the development plan, amendments thereto and other instruments in connection therewith. The amount of these fees shall not exceed the reasonable cost of the examining, inspectional and supervisory services required under this act.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.904;—Am. 1968, Act 325, Imd. Eff. July 3, 1968.

125.905 Supervising agency; appointment.

Sec. 5. The local legislative body of a city is hereby authorized by general ordinance or local law to appoint, establish or designate the chief financial officer of the city or some other official or bureau, commission or agency as the person or body to exercise the powers and perform the duties held by or incumbent upon a supervising agency pursuant to this act.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.905;—Am. 1968, Act 325, Imd. Eff. July 3, 1968.

125.906 Redevelopment corporation; organization; articles; forfeiture of rights; name.

Sec. 6. 1. At any time 1 or more natural persons, corporations or partnerships may incorporate a redevelopment corporation on making, subscribing, acknowledging and filing in the corporation and

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securities commission a certificate pursuant to the general corporation law, which shall be entitled and endorsed "certificate of incorporation of ..... redevelopment corporation, pursuant to the general corporation law," the blank space being filled in with the remainder of the name of the corporation. Such certificate shall contain the provisions required in, and may contain any provisions consistent with the provisions of this act permitted in, a certificate of incorporation filed pursuant to the general corporation law, except that:

(a) Included among the purposes for which the corporation is formed shall be the formulation, obtaining the approval of, and putting into effect of a development plan, the acquisition of real property in a development area, and the construction, maintenance and operation of a development pursuant to this act;

(b) The duration of the corporation shall not be less than 20 years;

(c) The certificate may provide for the issuance of income debentures, in which case the holders of such debentures may be allowed such voting rights as shall be specified therein;

(d) The certificate may provide that the corporation shall have the power to cooperate with and participate in any programs of the federal or state governments which have been or may be enacted for purposes of the development or redevelopment of areas of cities which are substandard, insanitary, polluted or neglected.

(e) The certificate may provide that the corporation shall have the power to guarantee, purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of any bonds, securities or evidence of indebtedness created by any person or other legal entity related to properties or businesses located in the redevelopment area.

(f) The certificate shall contain a declaration that the redevelopment corporation has been organized to serve a public purpose, and that it shall be subject to supervision and control as provided in this act. A copy of such certificate shall be filed with the planning commission and the supervising agency having jurisdiction within 10 days of its being filed in the corporation and securities commission.

2. At any time any domestic corporation which is not a redevelopment corporation, but which has been incorporated pursuant to the general corporation law may become a redevelopment corporation by filing an appropriate certificate or certificates pursuant to the general corporation law changing the provisions of its certificate of incorporation to eliminate any provisions therein inconsistent with the provisions of this act and adding or substituting the provisions required by this section by changing its name to a name corresponding to the form "..... redevelopment corporation," and making all the other changes necessary to enable it to conform with all of the provisions of this act. Any such certificate shall be prepared and filed pursuant to the general corporation law, except that in addition to citing such law in the title of such certificate, the title shall also state that it is being made pursuant to section 6.

3. If a redevelopment corporation shall not have obtained the certificates of approval of its development plan required by section 4 within 12 months of the date upon which it became a redevelopment corporation, or shall not substantially comply with the development plan within the time limit for the completion of each stage thereof as therein stated, reasonable delays caused by unforeseen difficulties excepted, then upon the filing in the department of state of a certified copy of the order of the court establishing such failure to obtain such certificate or substantially so to comply, obtained pursuant to section 14, such redevelopment corporation shall cease to have the special rights, powers and privileges granted to, or be subject to the special duties, liabilities and restrictions imposed upon, a redevelopment corporation by this act, and shall thereafter change its name to remove the word "redevelopment" therefrom. In such event, however, such corporation may thereafter continue in existence as a corporation, subject to the general corporation law. In the event that a certified copy of such order shall be so filed, all real property acquired by or for such redevelopment corporation by condemnation shall be disposed of, either alone or in conjunction with additional real property not so acquired, within a reasonable time by bona fide sale conducted in such a manner as may be prescribed by ordinance of the local legislative body. All amounts received by the redevelopment corporation for such real property in excess of an amount equal to that portion of the development cost allocable to the real property being disposed of, shall be paid to the city.

4. No corporation now organized under the laws of the state shall change its name to a name, and no such corporation hereafter organized shall have a name, containing the word "redevelopment" as a part thereof, unless and until such corporation is or becomes a redevelopment corporation. No foreign corporation now authorized to do business in the state shall change its name to a name, and no such corporation shall hereafter be authorized to do business in the state with a name, containing the word "redevelopment" as a part thereof.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.906;—Am. 1968, Act 325, Imd. Eff. July 3, 1968.

125.907 Limitations imposed upon redevelopment corporations; limitations.

Sec. 7. Limitation of redevelopment corporations. No redevelopment corporation shall:

1. Undertake any clearance, reconstruction, improvement, alteration or construction in connection with any

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development until the certificates of approval required by section 4 of this act have been issued;

2. Change, alter, amend, add to or depart from the development plan within 20 years of the issuance of the certificates of approval required by section 4 of this act, until the planning commission or the supervising agency, as the case may be, has issued a certificate of approval of that portion of such change, alteration, amendment, addition or departure relevant to the determination required to be made by it as set forth in section 4 of this act;

3. After a development has been commenced, sell, transfer or assign any real property in the development area without first obtaining the consent of the supervising agency;

4. Undertake more than 1 development;

5. Pay interest on its income debentures, if any, except out of net earnings which would have been applicable to the payment of dividends on its capital stock if there were no such income debentures;

6. Pay as compensation for services to, or enter into contracts for the payment of compensation for services to, its officers or employees in an amount greater than the limit thereon contained in the development plan, or in default thereof, then in an amount greater than the reasonable value of the services performed or to be performed by such officers or employees;

7. Lease an entire building or improvement in the development area to any person or corporation without obtaining the approval of the supervising agency, which may be withheld only if the lease is being made for the purpose of evading the regulatory provisions of this act;

8. Mortgage any of its real property without obtaining the approval of the supervising agency;

9. Make any guarantee without obtaining the approval of the supervising agency;

10. Dissolve without obtaining the approval of the supervising agency, which may be given upon such conditions as the supervising agency may deem necessary or appropriate to the protection of the interest of the city in the proceeds of the sale of the real property acquired by condemnation as provided in paragraph 3 of section 6 of this act, such approval to be endorsed on the certificate of dissolution and such certificate not to be filed in the department of state in the absence of such endorsement;

11. Reorganize without obtaining the approval of the supervising agency.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.907.

125.908 Corporation code; application to redevelopment corporations.

Sec. 8. Application of other corporation laws to redevelopment corporations. The provisions of the general corporation law as presently in effect and as hereafter from time to time amended, shall apply to redevelopment corporations, except where such provisions are in conflict with the provisions of this act. In the event that any action with respect to which the holders of income debentures shall have the right to vote is proposed to be taken, then notice of any meeting at which such action is proposed to be taken shall be given to such holders in the same manner and to the same extent as if they were stockholders entitled to notice of and to vote at such meeting, and any certificate filed pursuant to law in the department of state with respect to any such action, whether taken with or without meeting, and any affidavit required by law to be annexed to such certificate shall contain the same statements or recitals, and such certificate shall be subscribed and acknowledged, and such affidavit shall be made, in the same manner as if such holders were stockholders holding shares of an additional class of stock entitled to vote on such action, or with respect to the proceedings provided for in such certificate.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.908.

125.909 Consideration for issuance of stock, bond or debentures.

Sec. 9. Consideration for issuance of stock, bonds, or income debentures. No redevelopment corporation shall issue stock, bonds or income debentures, except for money or property actually received for the use and lawful purposes of the corporation or services actually performed for the corporation.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.909.

125.910 Determination of development cost; procedure.

Sec. 10. 1. Upon the completion of a development, a redevelopment corporation shall, or upon the completion of a principal part of a development, a redevelopment corporation may, file with the supervising agency an audited statement of the development cost thereof. Within a reasonable time after the filing of such statement, the supervising agency shall determine the development cost applicable to the development or such portion thereof and shall issue to the redevelopment corporation a certificate stating the amount thereof as so determined.

2. A redevelopment corporation may, at any time, whether prior or subsequent to the undertaking of any contract or expense, apply to the supervising agency for a ruling as to whether any particular item of cost

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therein may be included in development cost when finally determined by the supervising agency, and the amount thereof. The supervising agency shall, within a reasonable time after such application, not to exceed 60 days, render a ruling thereon, and in the event that it shall be ruled that any item of cost may be included in development cost, or upon failure of the supervising agency to make such ruling within 60 days, the amount thereof as so determined shall be so included in development cost when finally determined.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.910;—Am. 1968, Act 325, Imd. Eff. July 3, 1968.

125.911 Regulation of corporation by supervising agency.

Sec. 11. Regulation of redevelopment corporations by supervising agency.

A redevelopment corporation shall:

1. Furnish to the supervising agency from time to time, as required by it, but with respect to regular reports not more often than once every 6 months, such financial information, statements, audited reports or other material as such supervising agency shall require, each of which shall conform to such standards of accounting and financial procedure as the supervising agency may by general regulation prescribe.

2. Establish and maintain such depreciation and other reserves, surplus and other accounts as the supervising agency may reasonably require.

3. Any provision of the general corporation law to the contrary notwithstanding, 1 member of the board of directors of a redevelopment corporation shall be a designee of the supervising agency, as long as any of the real property of the redevelopment corporation is entitled to the tax exemption provided for in section 12 of this act.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.911.

125.912 Exemption from increase in assessed value; limitations; development plan; "qualified entity" defined.

Sec. 12. (1) A local legislative body is authorized by the adoption or enactment of an ordinance or local law to exempt real property located within the city or township owned by a redevelopment corporation or a qualified entity during a maximum exemption period that shall not exceed 40 years from any increase in assessed value over the maximum assessed value. After the adoption or enactment of the ordinance or local law, every parcel of real property owned by any redevelopment corporation or a qualified entity in a development shall be exempt during the maximum exemption period from any increase in assessed value over or in excess of the maximum assessed value. An exemption described in this subsection shall not, however, apply to any improvement made upon the real property after the beginning of the maximum exemption period but the local legislative body may, by appropriate legislative action, establish a maximum assessed value and maximum exemption period, not to exceed 40 years, for those subsequent improvements.

(2) For the purpose of fixing the date of commencement of the maximum exemption period for a group of parcels of real property in a development area, the city or township is authorized with the approval of its local legislative body to contract with a redevelopment corporation to place in 1 or more groups the various parcels of real property in a development area. A contract described in this subsection may provide that all the parcels in each group shall be considered to have a common stated date of completion of the development by the redevelopment corporation or qualified entity.

(3) A development plan may include property located in a township only if that property was previously used by this state for an office, hospital, prison, institution of higher education, or other state facility.

(4) For purposes of this section, "qualified entity" means either of the following:

(a) A Michigan nonprofit corporation or a Michigan limited partnership having a Michigan nonprofit corporation as its sole general partner, if 1 or more of the following apply:

(*i*) A majority of each class of stock in the nonprofit corporation is owned by the redevelopment corporation.

(*ii*) A majority of the members of the board of directors of the nonprofit corporation are elected and removable by the redevelopment corporation.

(*iii*) The redevelopment corporation is the sole member of the nonprofit corporation.

(b) A for-profit corporation, partnership, or limited liability company formed or incorporated by the redevelopment corporation for the sole purpose of syndicating historic tax credits or low-income housing tax credits in connection with the redevelopment of a property that has been owned by the redevelopment corporation, if the redevelopment corporation maintains oversight responsibility for the management and operation of the property for which historic tax credits or low-income housing tax credits were syndicated and the for-profit entity does not engage in any other business activity unrelated to the property.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.912;—Am. 1968, Act 325, Imd. Eff. July 3, 1968;—Am. 1998, Act 385, Imd. Eff. Oct. 23, 1998.

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125.912a Redevelopment corporation; powers and authority.

Sec. 12a. Except as otherwise provided in this act, a redevelopment corporation may do all of the following:

(a) Form or incorporate nonprofit corporations under the laws of this state for any purpose not inconsistent with the purposes for which the redevelopment corporation was formed.

(b) Serve as a shareholder or member of a qualified nonprofit corporation organized under the laws of this state.

(c) Authorize, approve, execute, and file with the Michigan department of consumer and industry services those documents that are appropriate to form and continue 1 or more nonprofit corporations.

(d) Form or incorporate for-profit corporations, partnerships, and limited liability companies under the laws of this state for any purpose not inconsistent with the purposes for which the redevelopment corporation was formed.

History: Add. 1998, Act 385, Imd. Eff. Oct. 23, 1998.

125.912b Redevelopment corporation; funds, grants, agreements.

Sec. 12b. (1) Funds for the operation of a redevelopment corporation may be loaned or granted by the city or township, this state, the federal government, or any agency or political subdivision of this state or the federal government. The city or township, through its local legislative body, may condition the provision of funds to the redevelopment corporation upon an agreement that the redevelopment corporation shall as soon as possible reimburse the city or township for all money expended by it for the redevelopment corporation from revenues received from other sources.

(2) A redevelopment corporation may solicit, accept, and enter into agreements relating to grants from any public or private source, including this state, the federal government, or any agency or political subdivision of this state or the federal government, and may carry out any federal or state program related to the purposes for which the redevelopment corporation is created.

History: Add. 1998, Act 385, Imd. Eff. Oct. 23, 1998.

125.913 Return on income debentures and stock; limitations.

Sec. 13. Limited return on income debentures and stock.

1. No redevelopment corporation shall pay any interest on its income debentures or dividends on its stock during any dividend year, unless there shall exist at the time of any such payment no default under any amortization requirements with respect to its indebtedness.

2. No redevelopment corporation shall pay or declare as interest on its income debentures and as dividends on its stock during any dividend year during any portion of which there shall exist pursuant to section 12 of this act any exemption from local taxation on any of its real property, in an amount in excess of the maximum dividend, except as provided in paragraphs 3 and 4 of this section 13.

3. In the event that in any dividend year the maximum exemption period with respect to some of the parcels of real property held by a redevelopment corporation shall have expired, and with respect to some such parcels shall not have expired, then that portion of its net earnings which may be paid or declared as interest on its income debentures and as dividends on its stock during such dividend year shall be determined as follows: Multiply the net earnings of the corporation subject to payment or declaration as such interest or dividends, by a fraction the numerator of which is the total of the maximum assessed valuation of all real property for which the maximum exemption period has not expired and the denominator of which is the total of the maximum assessed valuation of all the real property of the corporation; and the result will be the apportioned net earnings restricted as to payment as such interest or dividends; compute the amount of the maximum dividend as though no apportionment of the same were to be affected and multiply the amount so arrived at by the same fraction; and the result will be the apportioned maximum dividend; only that portion of such apportioned net earnings which does not exceed such apportioned maximum dividend may be paid or declared as such interest or dividends; and that portion of the net earnings obtained by subtracting from total net earnings such apportioned net earnings restricted as to payment as such interest and dividends may be paid or declared without restriction as such interest or dividends.

4. In the event that in any 1 or more prior dividend years the total amount paid or declared as interest on the corporation's income debentures or as dividends on its stock shall have been less than the amounts allowable pursuant to paragraphs 2 and 3 of this section 13, then cumulative interest and dividends equal to the difference may be paid out of any net income applicable thereto in any subsequent dividend year despite the limitation imposed by paragraph 2 of this section 13.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.913.

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125.914 Proceedings against redevelopment corporations; parties.

Sec. 14. Enforcement proceedings against redevelopment corporations. Whenever a redevelopment corporation shall not have obtained the certificates of approval of its development plan required by section 4 of this act within 12 months of the date upon which it became a redevelopment corporation, or shall not have substantially complied with its development plan within the time limits for the completion of each stage thereof as therein stated, reasonable delays caused by unforeseen difficulties excepted, or shall do, permit to be done or fail or omit to do anything contrary to or required of it, as the case may be, by this act, or shall be about so to do, permit to be done or fail or omit to have done, as the case may be, then any such fact may be certified by the planning commission or the supervising agency, whichever shall have supervision thereof, to the chief legal officer of the city, who may thereupon commence a proceeding in the circuit court of the county in which such city is located in its name for the purpose of having such action, failure or omission, or threatened action, failure or omission, established by order of the court for the purpose stated in paragraph 3 of section 6 of this act, or stopped, prevented or otherwise rectified by mandamus, injunction or otherwise. Such proceedings shall be commenced by a petition to the circuit court alleging the violation complained of and praying for appropriate relief. It shall thereupon be the duty of the court to specify the time, not exceeding 20 days after service of a copy of the petition, within which the redevelopment corporation complained of must answer the petition. The court shall, immediately after a default in answering or after answer, as the case may be, inquire into the facts and circumstances in such manner as the court shall direct without other or formal proceedings, and without respect to any technical requirements. Such other persons or corporations as it shall seem to the court necessary or proper to join as parties in order to make its orders or judgment effective may be joined as parties. The final judgment or order in any such action or proceeding shall dismiss the action or proceeding or establish the failure complained of or direct that a mandamus order, or an injunction, or both, issue, or grant such other relief as the court may deem appropriate.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.914.

125.915 Real estate; transfer to redevelopment corporations.

Sec. 15. Transfer of real property to redevelopment corporation. Notwithstanding any requirement of law to the contrary or the absence of direct provision therefor in the instrument under which a fiduciary is acting, every executor, administrator, trustee, guardian or any other person, holding trust funds or acting in a fiduciary capacity, unless the instrument under which such fiduciary is acting expressly forbids, the state, its subdivisions, cities, all other public bodies, all public officers, corporations organized under or subject to the provisions of the banking law (including savings banks, savings and loan associations, trust companies, private bankers and private banking corporations), the commissioner of the banking department as conservator, liquidator or rehabilitator of any such person, partnership or corporation, persons, partnerships and corporations organized under or subject to the provisions of the insurance law, the commissioner of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation, any of which owns or holds any real property within a development area, may grant, sell, lease or otherwise transfer any such real property to a redevelopment corporation, and receive and hold any cash, stocks, income debentures, mortgages, or other securities or obligations, secured or unsecured, exchanged therefor by such redevelopment corporation, and may execute such instruments and do such acts as may be deemed necessary or desirable by them or it and by the redevelopment corporation in connection with the development and the development plan.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.915.

125.916 Acquisition of real estate; methods; condemnation.

Sec. 16. 1. A redevelopment corporation may, whether before or after the certificates of approval of its development plan required by section 4 have been issued, acquire real property or secure options in its own name or in the name of nominees to acquire real property, by gift, grant, lease, purchase or otherwise.

2. A city may, upon request by a redevelopment corporation, and after a certificate of approval of condemnation with respect to the real property in question has been issued pursuant to sections 17 and 17a, acquire, or obligate itself to acquire, for such redevelopment corporation any real property included in such certificate of approval of condemnation, by condemnation. Real property acquired by a city for a redevelopment corporation shall be conveyed by such city to the redevelopment corporation upon payment to the city of all sums expended or required to be expended by the city in the acquisition of such real property, together with all costs which may have been incurred by the city.

3. The provisions of this act with respect to the condemnation of real property by a city for a redevelopment corporation shall prevail over the provisions of any other general, special or local law.

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History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.916;—Am. 1968, Act 325, Imd. Eff. July 3, 1968.

125.917 Condemnation; proceedings; damages; compensation.

Sec. 17. 1. When it is desired that any real property in a development area be acquired by condemnation, there shall be presented to the supervising agency by the redevelopment corporation a verified petition requesting the issuance of a certificate of approval of condemnation of such real property which shall contain, among other things:

(a) A metes and bounds description or other legal description of the real property involved and a statement of the estate, interest, privileges, franchise or right therein or appurtenant thereto to be condemned;

(b) Proof that such real property is within the development area;

(c) Proof that certificates of approval of the development plan required by section 4 have been issued.

The supervising agency shall determine within a reasonable time thereafter the truth or sufficiency of the statements and proof contained in such petition, and, if such determination shall be in the affirmative, the supervising agency shall issue to the petitioner a certificate of approval of condemnation. Such certificate shall contain a description of the real property proposed to be condemned, the facts so determined with respect thereto, and a statement that the real property proposed to be condemned is required for a public use and that its acquisition for such use is necessary. No condemnation proceeding to acquire real property in a development area, by a city for a redevelopment corporation, shall be commenced until such a certificate of approval of condemnation shall have been issued.

2. Condemnation proceedings for a redevelopment corporation shall be initiated by a petition to the city to institute proceedings to acquire for the redevelopment corporation any real property in the development area. Such petition shall be granted or rejected by the local legislative body, and the resolution or resolutions granting such petition shall contain a requirement that the redevelopment corporation shall pay to the city all sums expended or required to be expended by the city in the acquisition of such real property, together with all costs incurred by the city, and the time of payment and manner of securing payment thereof, and may require that the city shall receive, before proceeding with the acquisition of such real property, such assurances as to payment or reimbursement by the redevelopment corporation, or otherwise, as the city may deem advisable. Upon the passage of a resolution or resolutions by the local legislative body, granting the petition, the redevelopment corporation shall cause to be made 3 copies of surveys or maps of the real property described in the petition, 1 of which shall be filed in the office of the redevelopment corporation, 1 in the office of the corporation counsel or chief law officer of the city, and 1 in the office in which instruments affecting real property in the county are recorded. The filing of such copies of surveys or maps shall constitute the acceptance by the redevelopment corporation of the terms and conditions contained in such ordinance or ordinances. The city shall proceed under any provision of any general, special or local law applicable to the condemnation of real property for public improvements. When title to the real property shall have vested in the city, it shall convey the same to the redevelopment corporation upon payment by the redevelopment corporation of the sums and the giving of the security required by the resolution granting the petition. As soon as title shall have vested in the city, the redevelopment corporation may, upon the authorization of the local legislative body enter upon the real property taken, take over and dispose of existing improvements, and carry out the terms of the development plan with respect thereto.

3. The following provisions shall apply to any proceedings for the assessment of compensation and damages for real property in a development area taken or to be taken by condemnation for a redevelopment corporation:

(a) Evidence of the price and other terms upon any sale, offer to sell, or the rent received or reserved, whichever is less, and other terms upon any sales option, lease or tenancy relating to any of the real property taken or to be taken or to any comparable real property in the vicinity when the option, sale, offer or lease was given, occurred or the tenancy existed, within a reasonable time of the trial, shall be admissible on direct examination;

(b) Any time during the pendency of such action or proceeding, the redevelopment corporation, the city or any owner may apply to the court for an order directing any owner, the redevelopment corporation, or the city, as the case may be, to show cause why further proceedings should not be expedited, and the court may upon such application make an order requiring that the hearings proceed and that any other steps be taken with all possible expedition;

(c) For the purposes of this act, the award of compensation shall not be increased by reason of any increase in the value of the real property caused by the assembly, clearance or reconstruction, or proposed assembly, clearance or reconstruction for the purposes of this act of the real property in the development area. No allowance shall be made for the improvements begun on real property after notice to the owner of such property of the institution of the proceedings to condemn such property;

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(d) Evidence shall be admissible bearing upon the insanitary, unsafe or substandard condition of the premises, or the illegal use thereof, or the enhancement of rentals from such illegal use, and such evidence may be considered in fixing the compensation to be paid, notwithstanding that no steps to remedy or abate such conditions have been taken by the department or officers having jurisdiction. If a violation order is on file against the premises in any such department, it shall constitute prima facie evidence of the existence of the condition specified in such order;

(e) If any of the real property in the development area which is to be acquired by condemnation has, prior to such acquisition, been devoted to another public use, it may nevertheless be acquired provided that no real property belonging to the city or to any other governmental body, or agency or instrumentality thereof, corporate or otherwise, may be acquired without its consent;

(f) Upon the trial, evidence of the price and other terms upon a sale or assignment or of a contract for the sale or assignment of a mortgage, award, proposed award, transfer of a tax lien or lien of a judgment relating to property taken, shall be relevant, material and competent, upon the issue of value or damage and shall be admissible on direct examination;

(g) Upon the trial a statement, affidavit, deposition, report, transcript of testimony in an action or proceeding, or appraisal made or given by any owner or prior owner of the premises taken, or by any person on his behalf, to any court, governmental bureau, department or agency respecting the value of the real property for tax purposes, shall be relevant, material and competent upon the issue of value of damage and shall be admissible on direct examination;

(h) The term "owner," as used in this section, shall include a person having an estate, interest or easement in the real property to be acquired or a lien, charge or encumbrance thereon.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.917;—Am. 1968, Act 325, Imd. Eff. July 3, 1968.

125.917a Condemnation, law applicable.

Sec. 17a. Notwithstanding the provisions of section 17, condemnation proceedings under this act shall be pursuant to Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948.

History: Add. 1968, Act 325, Imd. Eff. July 3, 1968.

125.918 Leasing of property of corporation; termination of tenancy.

Sec. 18. Temporary use or occupation of real property taken by condemnation. When title to real property has vested in a redevelopment corporation or city by gift, grant, devise, purchase or in condemnation proceedings or otherwise, the redevelopment corporation or city, as the case may be, may agree with the previous owners of such property, or any tenants continuing to occupy or use it, or any other persons who may occupy or use or seek to occupy or use such property, that such former owner, tenant or other persons may occupy or use such property upon the payment of a fixed sum of money for a definite term or upon the payment periodically of an agreed sum of money. Such occupation or use shall not be construed as a tenancy from month to month, nor require the giving of notice by the redevelopment corporation or the city, as the case may be, for the termination of such occupation or use or the right to such occupation or use, but immediately upon the expiration of the term for which payment has been made the redevelopment corporation or city, as the case may be, shall be entitled to possession of the real property and may maintain summary proceedings, obtain a writ of assistance, and shall be entitled to such other remedy as may be provided by law for obtaining immediate possession thereof. A former owner, tenant or other person occupying or using such property shall not be required to give notice to the redevelopment corporation or city, as the case may be, at the expiration of the term for which he has made payment for such occupation or use, as a condition to his cessation of occupation or use and termination of liability therefor.

In the event that a city has acquired real property for a redevelopment corporation, the city shall, in transferring title to the redevelopment corporation, deduct from the consideration or other moneys which the redevelopment corporation has become obligated to pay to the city for such purpose, and credit the redevelopment corporation with the amounts received by the city as payment for temporary occupation and use of the real property by a former owner, tenant, or other person, as in this section 18 provided, less the cost and expense incurred by the city for the maintenance and operation of such real property.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.918.

125.919 Mortgages of corporation; provisions governing.

Sec. 19. Mortgages.

1. Any redevelopment corporation may borrow funds and secure the repayment thereof by mortgage. Every such mortgage shall contain reasonable amortization provisions and shall be a lien upon no other real

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property except that forming the whole or a part of a single development area.

2. Certificates, bonds and notes, or part interests therein, or any part of an issue thereof, which are secured by a first mortgage on the real property in a development area, or any part thereof, shall be securities in which all the following persons, partnerships or corporations and public bodies or public officers may legally invest the funds within their control: Provided, That the principal amount secured by such mortgage shall not exceed the limits, if any, imposed by law for such investments by the person, partnership, corporation, public body or public officer making the same:

Every executor, administrator, trustee, guardian, committee or other person or corporation holding trust funds or acting in a fiduciary capacity; the state, its subdivisions, cities, all other public bodies, all public officers; persons, partnerships and corporations organized under or subject to the provisions of the banking law (including savings banks, savings and loan associations, trust companies, private bankers and private banking corporations); the commissioner of the banking department as conservator, liquidator or rehabilitator of any such person, partnership or corporation; persons, partnerships or corporations organized under or subject to the provisions of the insurance law; fraternal benefit societies; and the commissioner of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation.

3. Any mortgage on the real property in a development area, or any part thereof, may create a first lien, or a second or other junior lien, upon such real property.

4. The limits as to principal amount secured by mortgage referred to in paragraph 2 of this section 19 shall not apply to certificates, bonds and notes, or part interests therein, or any part of an issue thereof, which are secured by first mortgage on real property in a development area, or any part thereof, which the federal housing administrator has insured or has made a commitment to insure under the national housing act. Any such person, partnership, corporation, public body or public officer may receive and hold any debentures, certificates or other instruments issued or delivered by the federal housing administrator, pursuant to the national housing act, in compliance with the contract of insurance of a mortgage on real property in the development area, or any part thereof.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.919.

125.920 Sale or lease of real estate by a city to corporation.

Sec. 20. Sale or lease of real property by a city to a redevelopment corporation.

1. The local legislative body may by resolution determine that real property, title to which is held by the city, specified and described in such resolution, is not required for use by the city and may authorize the city to convey, sell, or lease such real property to a redevelopment corporation: Provided, however, That the title of the city to such real property be not declared inalienable by charter of the city, or other similar law or instrument.

2. Notwithstanding the provisions of any general, special or local law or ordinance, such sale or lease may be made without appraisal, public notice or public bidding for such price or rental and upon such terms (and, in case of a lease, for such term not exceeding 50 years with a right to 1 renewal term of 30 years) as may be agreed upon between the city and the redevelopment corporation.

3. Before any sale or lease to a redevelopment corporation shall be authorized, a public hearing shall be held by the local legislative body to consider the proposed sale or lease.

4. Notice of such hearing shall be published at least 10 days before the date set for the hearing in such publication and in such manner as may be designated by the local legislative body.

5. The deed or lease of such real property shall be executed in the same manner as a deed or lease by the city of other real property owned by it and may contain appropriate conditions and provisions to enable the city to reenter the real property in the event of a violation by the redevelopment corporation of any of the provisions of this act relating to such redevelopment corporation or of the conditions or provisions of such deed or lease.

6. A redevelopment corporation purchasing or leasing real property from a city shall not, without the written approval of the city, use such real property for any purpose except in connection with its development. The deed shall contain a condition that the redevelopment corporation will devote the real property granted only for the purposes of its development subject to the restrictions of this act, for each of which the city shall have the right to reenter and repossess itself of the real property.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.920.

125.921 Provisions of lease.

Sec. 21. Provisions of lease.

If real property of a city be leased to a redevelopment corporation:

(1) The lease may provide that all improvements shall be the property of the lessor;

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(2) The lessor may grant to the redevelopment corporation the right to mortgage the fee of such property and thus enable the redevelopment corporation to give as security for its notes or bonds a first lien upon the land and improvements;

(3) The execution of a lease shall not impose upon the lessor any liability or obligation in connection with or arising out of the financing, construction, management or operation of a development involving the land so leased. The lessor shall not, by executing such lease, incur any obligation or liability with respect to such leased premises other than may devolve upon the lessor with respect to premises not owned by it. The lessor, by consenting to the execution by a redevelopment corporation of a mortgage upon the leased land, shall not thereby assume, and such consent shall not be construed as imposing upon the lessor, any liability upon the note or bond secured by the mortgage;

(4) The lease may reserve such easements or other rights in connection with the real property as may be deemed necessary or desirable for the future planning and development of the city and the extension of public facilities therein (including the construction of subways and conduits, the widening and change of grades of streets); and it may contain such other provisions for the protection of the parties as are not inconsistent with the provisions of this act.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.921.

125.922 Construction of act.

Sec. 22. Construction. This act shall be construed liberally to effectuate the purposes hereof, and the enumeration of specific powers in this act shall not operate to restrict the meaning of any general grant of power contained in this act or to exclude other powers comprehended in such general grant.

History: 1941, Act 250, Imd. Eff. June 16, 1941;—CL 1948, 125.922.

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NEIGHBORHOOD AREA IMPROVEMENTS
Act 208 of 1949

AN ACT to authorize cities, villages and townships of this state to designate neighborhood areas for the purpose of planning and carrying out local public improvements for the prevention of blight within such areas; to authorize assistance in carrying out plans for local improvements by the acquisition and disposal of real property in such areas; to provide for the combining of neighborhood improvements that benefit the entire neighborhood into 1 improvement project; to provide for the establishment of local assessment districts coterminous with the neighborhood boundaries; to prescribe the methods of financing the exercise of these powers, and to declare the effect of this act.

History: 1949, Act 208, Eff. Sept. 23, 1949;—Am. 1957, Act 298, Eff. Sept. 27, 1957.

The People of the State of Michigan enact:

125.941 Neighborhood areas in municipalities; improvement, declared to be public use and public purpose.

Sec. 1. It is hereby found and declared that many residential neighborhood areas in the municipalities of this state are in danger of becoming blighted, with the consequent impairment of taxable values upon which in large part, municipal revenues depend; that such areas can prove detrimental or inimical to the health, safety, morals and general welfare of the citizens and to the economic welfare of the municipality; that in order to improve and maintain the general character of the municipality, it may be necessary to improve, or better, such areas; that the conditions found in such areas cannot be efficiently and economically remedied, with due regard to the general welfare of the public, without public participation in the planning, property acquisition and disposal, and the financing thereof; that the purposes of this act are to improve such areas by acquiring and developing properties within such areas for the protection of the health, safety, morals and general welfare of the municipality, to preserve existing values of other properties within or adjacent to such areas, and to preserve the taxable value of the property within such areas; and the necessity in the public interest for provisions herein enacted is hereby declared as a matter of legislative determination to be a public use and a public purpose.

History: 1949, Act 208, Eff. Sept. 23, 1949.

125.942 Definitions.

Sec. 2. As used in this act:

(a) "Neighborhood area" means a portion of a municipality that has been delimited as a neighborhood unit in a plan of neighborhoods adopted by the legislative body, which plan has the function of designating the service area of elementary schools, playgrounds, or other local improvements.

(b) "Real property" includes land, building improvements, land under water, waterfront property, and any and all easements, franchises, and hereditaments, corporeal or incorporeal, and every estate, interest, privilege, easement, franchise, and right to that property, or appurtenant to that property, legal or equitable, including rights-of-way, terms for years, and liens, charges, or incumbrances by mortgage, judgment, or otherwise.

(c) "Municipality" means a city, village, or township.

(d) "Legislative body" means the city council, city commission, township board, or other legislative body of a city, village, or township.

(e) "Public use", when used with reference to land reserved for that purpose, means and relates to uses for the general benefit of the public, such as schools, libraries, public institutions, administration buildings, parks, boulevards, playgrounds, streets, alleys, easements or sewers, public lighting, water, gas, or other similar utilities, or improvements.

(f) "Privately owned lands" means all land not held by the municipal body, county, state, or federal government for public purposes.

(g) "Owner" means any person or persons, natural or corporate, owning a legal or equitable title to the land.

(h) "Project" means all of the undertakings authorized in this act for the improvement of a neighborhood area.

(i) "Blighted property" means property that meets any of the following criteria:

(*i*) The property has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.

(*ii*) The property is an attractive nuisance because of physical condition or use.

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(*iii*) The property is a fire hazard or is otherwise dangerous to the safety of persons or property.

(*iv*) The property has had the utilities, plumbing, heating, or sewerage disconnected, destroyed, removed, or rendered ineffective for a period of 1 year or more so that the property is unfit for its intended use.

(*v*) The property is tax reverted property owned by a municipality, by a county, or by this state. The sale, lease, or transfer of tax reverted property by a municipality, a county, or this state shall not result in the loss to the property of eligibility for any project authorized for the improvement of a neighborhood area under this act, tax or special assessment authorized under this act, or tax relief or assistance, including financial assistance, authorized under this act or any other act.

(*vi*) The property is owned or is under the control of a land bank fast track authority under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774. The sale, lease, or transfer of the property by a land bank fast track authority shall not result in the loss to the property of the eligibility for any project authorized for the improvement of a neighborhood area under this act, tax or special assessment authorized under this act, or tax relief or assistance, including financial assistance, authorized under this act or any other act.

(*vii*) The property is improved real property that has remained vacant for 5 consecutive years and that is not maintained in accordance with applicable local housing or property maintenance codes or ordinances.

(*viii*) The property has code violations posing a severe and immediate health or safety threat and has not been substantially rehabilitated within 1 year after the receipt of notice to rehabilitate from the appropriate code enforcement agency or final determination of any appeal, whichever is later.

History: 1949, Act 208, Eff. Sept. 23, 1949;—Am. 1957, Act 298, Eff. Sept. 27, 1957;—Am. 2006, Act 676, Imd. Eff. Jan. 10, 2007.

125.943 Neighborhood betterment plan; plans; statements; actions.

Sec. 3. The following plans, statements and actions are hereby made requisite for, and a condition of, the exercise of the powers herein granted for the acquisition, disposal, or lease of real property for the carrying out of a neighborhood betterment plan in a neighborhood area;

(a) A master plan of the municipality approved by the planning commission and adopted by the legislative body, or a master plan sufficiently advanced to permit the designation of neighborhood areas and so approved and adopted;

(b) A plan of neighborhoods that sets forth precisely, the location of neighborhood areas within the municipality, approved by the planning commission, and which has been adopted by the legislative body. Such a plan must conform with the master plan of the municipality;

(c) A neighborhood betterment plan approved by the planning commission and adopted by the legislative body after public hearing thereon as hereinafter provided of the neighborhood area in which is located the land proposed to be acquired for improvement purposes.

Such plan shall designate the location, extent, character and estimated cost of the improvements contemplated for the area; and may include any or all of the following improvements:

Partial or total vacation of plats, or replatting; opening, widening, straightening, extending, vacating or closing streets, alleys or walkways; locating or relocating water mains, sewers, or other public utilities; paving of streets, alleys or sidewalks in special situations; acquiring parks, playgrounds, or other recreational areas or facilities; elimination of nonconforming uses; rehabilitation of blighted areas; street tree planting; green belts, or buffer strips and other appropriate public improvements.

The plan shall also include a feasible method for the relocation of families who will be displaced from the area in decent, safe and sanitary dwelling accommodations within their means and without undue hardship to such families.

The local legislative body, prior to adopting a neighborhood betterment plan, shall hold a public hearing thereon. Notice of time and place of such hearing shall be given by publication in a newspaper of general circulation not less than 30 days prior to the date set for such hearing. Notice of such hearing shall be mailed at least 15 days before such hearing to the last known owner of each parcel of land in such area at the last known address of such owner as shown by the records of the assessor. Such notice shall contain a description of the neighborhood area. For purposes of this notice it shall be sufficient to describe the neighborhood area by its location in relation to highways, streets, streams or otherwise. Such notice shall further contain a statement that maps, plats and a particular description of the betterment plan are available for public inspection at a suitable place to be designated in such notice. At the time set for hearing, the local legislative body shall provide an opportunity for all persons interested to be heard and shall receive and consider communications in writing with reference thereto.

History: 1949, Act 208, Eff. Sept. 23, 1949;—Am. 1957, Act 298, Eff. Sept. 27, 1957.

125.944 Acquisition of property; condemnation; proceedings under eminent domain.

Sec. 4. (1) For the accomplishment of the purposes of this act, the municipality may acquire fee simple title

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in real property by purchase, gift, or exchange and may acquire under this act title to blighted property by condemnation. The municipality shall then apply that blighted property acquired by condemnation under this act and other real property acquired by other means to the expressed purposes of this act.

(2) By authority of this act for blighted property, or by authority of other state law authorizing the condemnation of property for other public uses, the local legislative body may institute and prosecute proceedings under the power of eminent domain in accordance with the state constitution of 1963 and the laws of the state or provisions of any local charter relative to condemnation.

History: 1949, Act 208, Eff. Sept. 23, 1949;—Am. 2006, Act 676, Imd. Eff. Jan. 10, 2007.

125.945 Neighborhood areas in municipalities; transfers to public agencies; excess land sold or exchanged; special assessment district.

Sec. 5. After the acquisition of the real property such property as will be used by public agencies shall be transferred to or placed under the jurisdiction of the appropriate public agencies for public use as defined in this act. The remainder of the land which, in accordance with the betterment plan, is to be devoted to private uses shall be sold or exchanged to individuals, companies, or corporations, whose use of such property shall be in accordance with the limitations and conditions provided in the development plan. If the cost and expense of acquiring and altering, removing or demolishing real property is assessed against a special district, the proceeds from the sale of any remainder shall be credited to the special assessment roll.

Any such sale or exchange may be made without public bidding but only after public hearing by the legislative body upon the proposed sale or exchange and the provisions thereof. The sale or exchange shall be under terms fixed by the legislative body and shall contain provisions that the betterment plan for the property be carried out.

History: 1949, Act 208, Eff. Sept. 23, 1949.

125.946 Repealed. 1957, Act 298, Eff. Sept. 27, 1957.

Compiler's note: The repealed section pertained to neighborhood area improvements, financing, special assessment districts.

125.946a Issuance of bonds or notes; purpose; securing payment by pledge of loan, grant, or contribution; bonds or notes not indebtedness within meaning of debt limitation or restriction; inapplicability of charter provisions; tax exemption.

Sec. 6a. A municipality may issue bonds or notes from time to time in its discretion to finance the undertaking of any project authorized by this act including, but not limited to, the payment of principal and interest on any advances or loans made for surveys and plans for any project authorized by this act. The bonds or notes shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues and funds of the municipality derived from or held in connection with its undertaking and carrying out of any projects under this act. Payment of the bonds or notes, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution due or to become due from the federal government or other source, in aid of any projects of the municipality under this act. Bonds or notes issued under this section shall not constitute an indebtedness within the meaning of any constitutional, statutory, or charter debt limitation or restriction, and shall not be subject to the provisions of any charter relating to the authorization, issuance, or sale of bonds or notes and may be issued without vote of the electors of the municipality. Bonds or notes issued under the provisions of this section are declared to be issued for an essential public and governmental purpose, and, together with interest on the bonds and notes and income on the bonds and notes, shall be exempted from all taxes. Bonds or notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: Add. 1957, Act 298, Eff. Sept. 27, 1957;—Am. 1983, Act 38, Imd. Eff. May 10, 1983;—Am. 2002, Act 285, Imd. Eff. May 9, 2002.

125.946b Issuance of general obligation bonds; maximum amount; designation; legislative determination; sale; applicability of other law or charter provisions; estimate of period of usefulness; definitions.

Sec. 6b. (1) For the purpose of providing funds to pay all or part of the cost of any project undertaken under this act or the net project cost of any project undertaken under this act with federal financial assistance, municipalities may provide by resolution duly adopted by its legislative body and without vote of the electors of the municipality for borrowing money and issuing general obligation bonds of the municipality, which bonds shall pledge the full faith and credit of the municipality.

(2) The bonds may be issued and sold from time to time during the progress of any project undertaken under this act, in which event the maximum amount of bonds issued shall not exceed the estimated cost of any

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project undertaken under this act or the estimated net cost of any project undertaken under this act with federal assistance. The legislative body in the resolution authorizing issuance of the bonds shall set forth the estimate or the bonds may be issued when any project has been completed. Bonds issued under this section shall be designated "neighborhood improvement bonds". All bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. It being the determination of the legislature that urban blight constitutes a serious menace to public health, welfare, and safety of municipalities and their inhabitants and that the financing of projects designed to prevent urban blight is necessary for the public health, welfare, and safety. The bonds authorized to be issued under this section are declared to be issued for an essential public and governmental purpose. The maximum principal amount of bonds that may be authorized under this section in any year shall not exceed an amount equal to the limitation on the maximum rate of taxation for the year for the municipality authorized by law less the taxes actually levied for the year exclusive of debt service tax levies and less budget bonds for the year issued or authorized to be issued, and less any bonds authorized in the year to be issued under sections 7a and 7b of 1945 PA 344, MCL 125.77a and 125.77b. Any bonds authorized to be issued pursuant to this section shall be sold not later than 3 full fiscal years from the end of the fiscal year in which the bonds are authorized to be issued. The maximum amount of bonds issued pursuant to this section that may be outstanding at any one time shall not, together with other outstanding indebtedness of the municipality, exceed the maximum limitations on bonded indebtedness of the municipality imposed by law.

(3) As used in this section:

(a) "Cost of any project" means the cost of land acquisition, demolition of buildings, land and site improvements, plans, surveys, appraisals, and all other costs relating to the acquisition, improvement, financing, and disposal of any project or any part of a project.

(b) "Net project cost" means that term as defined in former section 110(f) of title 1 of the housing act of 1949.

History: Add. 1957, Act 298, Eff. Sept. 27, 1957;—Am. 1958, Act 61, Imd. Eff. Apr. 8, 1958;—Am. 1983, Act 38, Imd. Eff. May 10, 1983;—Am. 2002, Act 285, Imd. Eff. May 9, 2002.

125.946c Tax levy; special assessment.

Sec. 6c. As an additional and alternative method of financing part or all of the costs of any project undertaken under this act, any municipality may use general tax revenues levied for the purpose or not otherwise earmarked, or the legislative body in its discretion may provide that the cost and expense or any portion thereof shall be assessed to a special district. The special assessment district shall be coterminous with the neighborhood area, and the special assessment district together with the tentative plan of assessment shall be set up as part of the neighborhood betterment plan before acquisition of the property involved in such plan. The written consent of a majority of the owners of property in the special district to the betterment plan shall be submitted to the legislative body. The rate of assessment shall be spread equally, on a front foot or land area basis, throughout the special district.

History: Add. 1957, Act 298, Eff. Sept. 27, 1957.

125.947 Gifts, loans, grants from private or public sources; contracts for assistance.

Sec. 7. Municipalities are authorized and permitted to accept gifts or loans and grants from other governmental agencies to finance the purposes of this act, to borrow money and may issue bonds or notes therefor, to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal government, the state, county, municipality or other public body or from any sources, public or private, for the purposes of this act, to give such security as may be required and to enter into and carry out contracts in connection therewith. A municipality notwithstanding the provisions of any other law, may include in any contract for financial assistance with the federal government for a project as defined in this act such conditions imposed pursuant to federal law, to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law, in the undertaking or carrying out of a project as defined in this act as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of this act, and to include in any contract let in connection with a project provisions to fulfill such of the conditions as it may deem reasonable and appropriate, including the payment of prevailing salaries and wages and compliance with federal labor standards.

History: 1949, Act 208, Eff. Sept. 23, 1949;—Am. 1957, Act 298, Eff. Sept. 27, 1957.

125.948 Neighborhood areas in municipalities; modification of plan, hearing.

Sec. 8. If previous to the sale or exchange of any real property in the neighborhood area the legislative

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body desires to modify the betterment plan, it shall hold a public hearing thereon, notice of such hearing to be given as provided in section 3 of this act. If modification be approved by the local legislative body it shall become a part of the approved betterment plan.

History: 1949, Act 208, Eff. Sept. 23, 1949.

125.949 Neighborhood areas in municipalities; permits, withholding.

Sec. 9. Upon advice of the planning commission that plans for the betterment of a neighborhood are in preparation, the legislative body may establish a date, and for a period of time not to exceed 6 months thereafter, temporarily withhold permits for building construction, sidewalks, drainage systems or other major improvements within the neighborhood.

History: 1949, Act 208, Eff. Sept. 23, 1949.

125.950 Neighborhood areas in municipalities; plans to be officially adopted; board of appeals; hearing, notice, publication.

Sec. 10. On and after the date when a plan has been approved for the betterment of a neighborhood area by the legislative body, no permit shall be issued for building construction, sidewalks, drainage systems or other major improvements done on properties indicated for public improvements which are not in accordance with the plans officially adopted and made effective by the legislative body: Provided, however, That the legislative body shall provide by ordinance that the zoning board of appeals, if the municipality has such a board, or if not, then a board of appeals created for such purpose, shall have the power on appeal filed with it by the owner of real property in the area to approve a minor deviation from the plan for the area in any case in which such board finds upon the evidence presented to it that the application of the plan results in unnecessary hardship or practical difficulties and a minor deviation from the betterment plan is required by consideration of justice and equity. Before taking any such action, the board shall hold a public hearing thereon, at least 10 days' notice of time and place of which shall be given by public notice in a newspaper published or circulated generally in the municipality and by notice to all property owners within the neighborhood area, such notice to be by mail addressed to the respective owners at the address given in the last assessment roll.

History: 1949, Act 208, Eff. Sept. 23, 1949.

125.951 Neighborhood areas in municipalities; actions to be by ordinance or resolution, procedure.

Sec. 11. All actions of legislative bodies under the provisions of this act shall be by ordinance or resolution and such ordinance or resolution shall be subject to the same provisions regarding procedure and executive veto as are applicable to other ordinances or resolutions of the legislative body.

History: 1949, Act 208, Eff. Sept. 23, 1949.

125.951a Neighborhood areas in municipalities; designation of administrative agency.

Sec. 11a. The local legislative body may designate an administrative agency to be responsible for the administration of this act and shall establish regulations for the guidance of the agency in the effectuation of the purposes of this act.

History: Add. 1961, Act 136, Imd. Eff. May 31, 1961.

125.952 Powers granted.

Sec. 12. The powers granted in this act shall be in addition to the powers granted to municipalities, the legislative bodies thereof and other officials and bodies thereof under the statutes and local charters. Nothing herein contained shall be construed to amend or repeal any of the provisions of Act No. 18 of the Public Acts of the Extra Session of 1933.

History: 1949, Act 208, Eff. Sept. 23, 1949.

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HOUSING FOR PERSONS DISPLACED BY URBAN RENEWAL
Act 323 of 1966

AN ACT relative to housing for persons displaced by urban renewal.

History: 1966, Act 323, Eff. Mar. 10, 1967.

The People of the State of Michigan enact:

125.961 Urban renewal; relocation of occupants by condemning unit.

Sec. 1. The final relocation of residents under urban renewal shall not occur until relocation of the occupants of such property in standard residential dwellings is assured by the condemning unit of government. This assurance shall include the opportunity to purchase or rent available standard residential dwellings in areas of their choice within the geographical boundaries of the unit of government acquiring the property within their reasonable means free from discrimination of any kind.

History: 1966, Act 323, Eff. Mar. 10, 1967.

125.962 Renewal of substandard residential area with new housing; relocation of residence.

Sec. 2. In case of urban renewal of a substandard residential area with new housing including the relocation of 200 or more occupied dwelling units the unit of government in which the project is located shall assure available land or housing for either rental or purchase in the same general area by low and middle income families. The urban renewal shall proceed in such a manner as to assure after a part of the area has been cleared that such housing shall be provided and ready for occupancy before any further removal of residents of the area. Residents of the area faced with relocation may relocate elsewhere as provided in section 1 or on a priority basis in the new housing provided under this section.

History: 1966, Act 323, Eff. Mar. 10, 1967.

125.963 Neighborhood advisory council; consultations with local government agency; records.

Sec. 3. The chief executive officer of the city, village or township shall appoint a neighborhood advisory council of citizens representative of and living in the area from which persons are to be displaced because of any urban renewal project. The designated local governmental agency shall periodically consult with and inform the advisory council regarding all aspects of the report and plan throughout the period of preparation of the report and plan. A record of meetings, information and data presented by and to the advisory council shall be maintained by the designated local governmental agency and a summary thereof shall be included in any report on the project.

History: 1966, Act 323, Eff. Mar. 10, 1967.

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ISSUANCE OF BONDS FOR SLUM CLEARANCE AND REDEVELOPMENT
Act 167 of 1952

AN ACT to provide for the issuance of bonds or other obligations by cities for the purpose of refinancing slum clearance and redevelopment costs.

History: 1952, Act 167, Imd. Eff. Apr. 24, 1952.

The People of the State of Michigan enact:

125.971 Clearance of slum or blighted areas; issuance of bonds by cities, maximum, sale.

Sec. 1. Any city which has been or is financing the cost of clearance, reconstruction or redevelopment of slum or blighted areas, including land acquisition, demolition or other land preparation work, by tax levies or through tax obligations is authorized to issue bonds or other obligations of the type and character authorized by and issued pursuant to Act No. 18 of the Public Acts of the Extra Session of 1933, as amended, being sections 125.651 to 125.698, inclusive, of the Compiled Laws of 1948, or Act No. 344 of the Public Acts of 1945, as amended, being sections 125.71 to 125.83, inclusive, of the Compiled Laws of 1948, for the purpose of reimbursement to the city for the amount, or any part thereof, of the proceeds of such tax levies and tax obligations expended since January 1, 1950, for such purposes: Provided, The maximum principal amount of such bonds or other obligations that may be issued therefor under such acts shall not in any event exceed the total amount of the proceeds of such tax levies and tax obligations thus expended or the total amount of any such bonds or obligations which the federal government under title I of the housing act of 1949 agrees to purchase, whichever is the lesser amount. Any such city is hereby authorized to enter into contracts for the sale of and to sell to the federal government any of the bonds or obligations authorized to be issued under this act, upon such terms and conditions as may be mutually agreed upon between such city and the federal government.

History: 1952, Act 167, Imd. Eff. Apr. 24, 1952.

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PRINCIPAL SHOPPING DISTRICTS AND BUSINESS IMPROVEMENT DISTRICTS
Act 120 of 1961

AN ACT to authorize the development or redevelopment of principal shopping districts and business improvement districts; to permit the creation of certain boards; to provide for the operation of principal shopping districts and business improvement districts; to provide for the creation, operation, and dissolution of business improvement zones; and to authorize the collection of revenue and the bonding of certain local governmental units for the development or redevelopment projects.

History: 1961, Act 120, Imd. Eff. May 26, 1961;—Am. 1984, Act 260, Imd. Eff. Dec. 13, 1984;—Am. 1992, Act 146, Imd. Eff. July 15, 1992;—Am. 1999, Act 49, Imd. Eff. June 15, 1999;—Am. 2001, Act 260, Eff. Mar. 1, 2002;—Am. 2003, Act 209, Imd. Eff. Nov. 26, 2003.

Popular name: Shopping Areas Redevelopment Act

The People of the State of Michigan enact:

CHAPTER 1
PRINCIPAL SHOPPING DISTRICT

125.981 Definitions; principal shopping district; business district; creation, appointment, and composition of board.

Sec. 1. (1) As used in this chapter:

(a) "Assessable property" means real property in a district area other than all of the following:

(*i*) Property classified as residential real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(*ii*) Property owned by the federal, a state, or a local unit of government where property is exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(*iii*) One or more classes of property owners whose property meets all of the following conditions:

(A) Is exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, other than property identified in subparagraph (*ii*).

(B) As a class has been determined by the legislative body of the local governmental unit not to be benefited by a project for which special assessments are to be levied.

(b) "Business improvement district" means 1 or more portions of a local governmental unit or combination of contiguous portions of 2 or more local governmental units that are predominantly commercial or industrial in use.

(c) "District" means a business improvement district or a principal shopping district.

(d) "Highways" means public streets, highways, and alleys.

(e) "Local governmental unit" means a city, village, or urban township.

(f) "Principal shopping district" means a portion of a local governmental unit designated by the governing body of the local governmental unit that is predominantly commercial and that contains at least 10 retail businesses.

(g) "Urban township" means a township that is an urban township as defined in section 2 of the local development financing act, 1986 PA 281, MCL 125.2152, and is a township located in a county with a population of more than 750,000.

(2) A local governmental unit with a master plan for the physical development of the local governmental unit that includes an urban design plan designating a principal shopping district or includes the development or redevelopment of a principal shopping district, or 1 or more local governmental units that establish a business improvement district by resolution, may do 1 or more of the following:

(a) Subject, where necessary, to approval of the governmental entity that has jurisdiction over the highway, open, widen, extend, realign, pave, maintain, or otherwise improve highways and construct, reconstruct, maintain, or relocate pedestrian walkways.

(b) Subject, where necessary, to approval of the governmental entity that has jurisdiction over the highway, prohibit or regulate vehicular traffic where necessary to carry out the purposes of the development or redevelopment project.

(c) Subject, where necessary, to approval of the governmental entity that has jurisdiction over the highway, regulate or prohibit vehicular parking on highways.

(d) Acquire, own, maintain, demolish, develop, improve, or operate properties, off-street parking lots, or structures.

(e) Contract for the operation or maintenance by others of off-street parking lots or structures owned by the

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local governmental unit, or appoint agents for the operation or maintenance.

(f) Construct, maintain, and operate malls with bus stops, information centers, and other buildings that will serve the public interest.

(g) Acquire by purchase, gift, or condemnation and own, maintain, or operate real or personal property necessary to implement this section.

(h) Promote economic activity in the district by undertakings including, but not limited to, conducting market research and public relations campaigns, developing, coordinating, and conducting retail and institutional promotions, and sponsoring special events and related activities. A business may prohibit the use of its name or logo in a public relations campaign, promotion, or special event or related activity for the district.

(i) Provide for or contract with other public or private entities for the administration, maintenance, security, operation, and provision of services that the board determines are a benefit to a district within the local governmental unit.

(3) A local governmental unit that provides for ongoing activities under subsection (2)(h) or (i) shall also provide for the creation of a board for the management of those activities.

(4) One member of the board of the principal shopping district shall be from the adjacent residential area, 1 member shall be a representative of the local governmental unit, and a majority of the members shall be nominees of individual businesses located within the principal shopping district. The board shall be appointed by the chief executive officer of the local governmental unit with the concurrence of the legislative body of the local governmental unit. However, if all of the following requirements are met, a business may appoint a member of the board of a principal shopping district, which member shall be counted toward the majority of members required to be nominees of businesses located within the principal shopping district:

(a) The business is located within the principal shopping district.

(b) The principal shopping district was designated by the governing body of a local governmental unit after July 14, 1992.

(c) The business is located within a special assessment district established under section 5.

(d) The special assessment district is divided into special assessment rate zones reflecting varying levels of special benefits.

(e) The business is located in the special assessment rate zone with the highest special assessment rates.

(f) The square footage of the business is greater than 5.0% of the total square footage of all businesses in that special assessment rate zone.

(5) If the boundaries of the principal shopping district are the same as those of a downtown district designated under 1975 PA 197, MCL 125.1651 to 125.1681, the governing body may provide that the members of the board of the downtown development authority, which manages the downtown district, shall compose the board of the principal shopping district, in which case subsection (4) does not apply.

(6) The members of the board of a business improvement district shall be determined by the local governmental unit as provided in this subsection. The board of a business improvement district shall consist of all of the following:

(a) One representative of the local governmental unit appointed by the chief executive officer of the local governmental unit with the concurrence of the legislative body of the local governmental unit in which the business improvement district is located. If the business improvement district is located in more than 1 local governmental unit, then 1 representative from each local governmental unit in which the business improvement district is located shall serve on the board as provided in this subdivision.

(b) Other members of the board shall be nominees of the businesses and property owners located within the business improvement district. If a class of business or property owners, as identified in the resolution described in subsection (8), is projected to pay more than 50% of the special assessment levied that benefits property in a business improvement district for the benefit of the business improvement district, the majority of the members of the board of the business improvement district shall be nominees of the business or property owners in that class.

(7) A local governmental unit may create 1 or more business improvement districts.

(8) If 1 or more local governmental units establish a business improvement district by resolution under subsection (2), the resolution shall identify all of the following:

(a) The geographic boundaries of the business improvement district.

(b) The number of board members in that business improvement district.

(c) The different classes of property owners in the business improvement district.

(d) The class of business or property owners, if any, who are projected to pay more than 50% of the special assessment levied that benefits property in that business improvement district.

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History: 1961, Act 120, Imd. Eff. May 26, 1961;—Am. 1980, Act 287, Imd. Eff. Oct. 14, 1980;—Am. 1984, Act 260, Imd. Eff. Dec. 13, 1984;—Am. 1992, Act 146, Imd. Eff. July 15, 1992;—Am. 1999, Act 49, Imd. Eff. June 15, 1999;—Am. 2001, Act 261, Imd. Eff. Jan. 9, 2002;—Am. 2003, Act 209, Imd. Eff. Nov. 26, 2003.

Popular name: Shopping Areas Redevelopment Act

125.982 Principal shopping district project or business improvement project; methods or criteria for financing costs.

Sec. 2. (1) The cost of the whole or any part of a principal shopping district project or business improvement district project as authorized in this chapter may be financed by 1 or more of the following methods:

(a) Grants and gifts to the local governmental unit or district.

(b) Local governmental unit funds.

(c) The issuance of general obligation bonds of the local governmental unit subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(d) The issuance of revenue bonds by the local governmental unit under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, or under any other applicable revenue bond act. The issuance of the bonds shall be limited to the part or parts of the district project that are public improvements.

(e) The levying of special assessments against land or interests in land, or both.

(f) Any other source.

(2) Beginning January 1, 2000, the proceeds of a bond, note, or other obligation issued to finance a project authorized under this chapter shall be used for capital expenditures, costs of a reserve fund securing the bonds, notes, or other obligations, and costs of issuing the bonds, notes, or other obligations. The proceeds of the bonds, notes, or other obligations shall not be used for operational expenses of a district.

History: 1961, Act 120, Imd. Eff. May 26, 1961;—Am. 1980, Act 287, Imd. Eff. Oct. 14, 1980;—Am. 1984, Act 260, Imd. Eff. Dec. 13, 1984;—Am. 1992, Act 146, Imd. Eff. July 15, 1992;—Am. 1999, Act 49, Imd. Eff. June 15, 1999;—Am. 2001, Act 261, Imd. Eff. Jan. 9, 2002;—Am. 2003, Act 209, Imd. Eff. Nov. 26, 2003.

Popular name: Shopping Areas Redevelopment Act

125.983 District project as public improvement.

Sec. 3. A district project as authorized under this chapter is a public improvement. The use in this chapter of the term "public improvement" does not prevent the levying of a special assessment for the cost of a part of a district project that represents special benefits.

History: 1961, Act 120, Imd. Eff. May 26, 1961;—Am. 1992, Act 146, Imd. Eff. July 15, 1992;—Am. 1999, Act 49, Imd. Eff. June 15, 1999;—Am. 2001, Act 261, Imd. Eff. Jan. 9, 2002.

Popular name: Shopping Areas Redevelopment Act

125.984 Development or redevelopment of district; single improvement.

Sec. 4. The development or redevelopment of a district, including the various phases of the development or redevelopment, is 1 project and, in the discretion of the governing body of the local governmental unit, may be financed as a single improvement.

History: 1961, Act 120, Imd. Eff. May 26, 1961;—Am. 1992, Act 146, Imd. Eff. July 15, 1992;—Am. 1999, Act 49, Imd. Eff. June 15, 1999;—Am. 2003, Act 209, Imd. Eff. Nov. 26, 2003.

Popular name: Shopping Areas Redevelopment Act

125.985 Special assessments; levy; installment payments; maximum annual amounts; adjustment; special assessment bonds; full faith and credit; maturity; statutory or charter provisions; review; marketing and development plan.

Sec. 5. (1) If a local governmental unit elects to levy special assessments to defray all or part of the cost of the district project, then the special assessments shall be levied pursuant to applicable statutory or charter provisions or, if there are no applicable statutory or charter provisions, pursuant to statutory or charter provisions applicable to local governmental unit street improvements. If a local governmental unit charter does not authorize special assessments for the purposes set forth in this chapter, the charter provisions authorizing special assessments for street improvements are made applicable to the purposes set forth in this chapter, without amendment to the charter. The total amount assessed for district purposes may be made payable in not more than 20 annual installments as determined by the governing body of the local governmental unit, the first installment to be payable in not more than 18 months after the date of the confirmation of the special assessment roll.

(2) A special assessment shall be levied against assessable property on the basis of the special benefits to

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that parcel from the total project. There is a rebuttable presumption that a district project specially benefits all assessable property located within the district.

(3) This subsection applies to a principal shopping district only if the principal shopping district is designated by the governing body of a local governmental unit after July 14, 1992. The special assessments annually levied on a parcel under this chapter shall not exceed the product of $10,000.00 and the number of businesses on that parcel. A business located on a single parcel shall not be responsible for a special assessment in excess of $10,000.00 annually. When the special assessment district is created, a lessor of a parcel subject to a special assessment may unilaterally revise an existing lease to a business located on that parcel to recover from that business all or part of the special assessment, as is proportionate considering the portion of the parcel occupied by the business.

(4) The $10,000.00 maximum amounts in subsection (3) shall be adjusted each January 1, beginning January 1, 1994, pursuant to the annual average percentage increase or decrease in the Detroit consumer price index for all items as reported by the United States department of labor. The adjustment for each year shall be made by comparing the Detroit consumer price index for the 12-month period ending the preceding October 31 with the corresponding Detroit consumer price index of 1 year earlier. The percentage increase or decrease shall then be multiplied by the current amounts under subsection (3) authorized by this section. The product shall be rounded up to the nearest multiple of 50 cents and shall be the new amount.

(5) The local governmental unit may issue special assessment bonds in anticipation of the collection of the special assessments for a district project and, by action of its governing body, may pledge its full faith and credit for the prompt payment of the bonds. Special assessment bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The last maturity on the bonds shall be not later than 2 years after the due date of the last installment on the special assessments. Special assessment bonds may be issued pursuant to statutory or charter provisions applicable to the issuance by the local governmental unit of special assessment bonds for the improvement or, if there are no applicable statutory or charter provisions, pursuant to statutory or charter provisions applicable to the issuance by the local governmental unit of special assessment bonds for street improvements.

(6) If a district project in a district designated by the governing body of a local governmental unit after July 14, 1992 is financed by special assessments, the governing body of the local governmental unit shall review the special assessments every 5 years, unless special assessment bonds are outstanding.

(7) Before a local governmental unit levies a special assessment under this chapter that benefits property within a business improvement district, the business improvement district board shall develop a marketing and development plan that details all of the following:

(a) The scope, nature, and duration of the business improvement district project or projects.

(b) The different classes of property owners who are going to be assessed and the projected amount of the special assessment on the different classes.

(8) A local governmental unit that levies a special assessment under this chapter that benefits property within a business improvement district is considered to have approved the marketing and development plan described in subsection (7).

History: 1961, Act 120, Imd. Eff. May 26, 1961;—Am. 1980, Act 287, Imd. Eff. Oct. 14, 1980;—Am. 1984, Act 260, Imd. Eff. Dec. 13, 1984;—Am. 1992, Act 146, Imd. Eff. July 15, 1992;—Am. 1999, Act 49, Imd. Eff. June 15, 1999;—Am. 2001, Act 261, Imd. Eff. Jan. 9, 2002;—Am. 2003, Act 209, Imd. Eff. Nov. 26, 2003.

Popular name: Shopping Areas Redevelopment Act

125.986 Special assessments; off-street parking lots or structures.

Sec. 6. If off-street parking lots or structures are essential to the principal shopping district project, if 1 or more off-street parking lots or structures are already owned by the local governmental unit and were acquired through the issuance of revenue bonds, and if the remaining parking lots or structures are to be financed in whole or in part by special assessments and special assessment bonds, then the local governmental unit, to place all parking lots or structures on the same basis, may include as a part of the cost of parking lots or structures for the project the amount necessary to retire all or any part of the outstanding revenue bonds, inclusive of any premium not exceeding 5% necessary to be paid upon the redemption or purchase of those outstanding bonds. From the proceeds of the special assessments or from the sale of bonds issued in anticipation of the payment of the special assessments, the local governmental unit shall retire by redemption or purchase the outstanding revenue bonds. This section does not authorize the refunding of noncallable bonds without the consent of the holders of the bonds.

History: 1961, Act 120, Eff. May 26, 1961;—Am. 1992, Act 146, Imd. Eff. July 15, 1992;—Am. 2003, Act 209, Imd. Eff. Nov. 26, 2003.

Popular name: Shopping Areas Redevelopment Act

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125.987 Additional powers.

Sec. 7. The powers granted by this chapter are in addition to and not in derogation of any other powers granted by law or charter.

History: Add. 1992, Act 146, Imd. Eff. July 15, 1992;—Am. 2001, Act 261, Imd. Eff. Jan. 9, 2002.

Popular name: Shopping Areas Redevelopment Act

CHAPTER 2
BUSINESS IMPROVEMENT ZONE

125.990 Definitions.

Sec. 10. As used in this chapter:

(a) "Assessable property" means real property in a zone area other than property classified as residential real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, or real property exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(b) "Assessment" means an assessment imposed under this chapter against assessable property for the benefit of the property owners.

(c) "Assessment revenues" means the money collected by a business improvement zone from any assessments, including any interest on the assessments.

(d) "Board" means the board of directors of a business improvement zone.

(e) "Business improvement zone" means a business improvement zone created under this chapter.

(f) "Nonprofit corporation" means a nonprofit corporation organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, and which complies with all of the following:

(*i*) The articles of incorporation of the nonprofit corporation provide that the nonprofit corporation may promote a business improvement zone and may also provide management services related to the implementation of a zone plan.

(*ii*) The nonprofit corporation is exempt from federal income tax under section 501(c)(4) or 501(c)(6) of the internal revenue code of 1986.

(g) "Person" means an individual, partnership, corporation, limited liability company, association, or other legal entity.

(h) "Project" means any activity for the benefit of property owners authorized by section 10a to enhance the business environment within a zone area.

(i) "Property owner" means a person who owns, or an agent authorized in writing by a person who owns, assessable property according to the records of the treasurer of the city or village in which the business improvement zone is located.

(j) "7-year period" means the period in which a business improvement zone is authorized to operate, beginning on the date that the business improvement zone is created or renewed and ending 7 calendar years after that date.

(k) "Zone area" means the area designated in the zone plan as the area to be served by the business improvement zone.

(*l*) "Zone plan" means a set of goals, strategies, objectives, and guidelines for the operation of a business improvement zone, as approved at a meeting of property owners conducted under section 10d.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002.

Popular name: Shopping Areas Redevelopment Act

125.990a Business improvement zone as public body corporate; powers; authority.

Sec. 10a. (1) A business improvement zone is a public body corporate and may do 1 or more of the following for the benefit of property owners located in the business improvement zone:

(a) Acquire, through purchase, lease, or gift, construct, develop, improve, maintain, operate, or reconstruct park areas, planting areas, and related facilities within the zone area.

(b) Acquire, construct, clean, improve, maintain, reconstruct, or relocate sidewalks, street curbing, street medians, fountains, and lighting within the zone area.

(c) Develop and propose lighting standards within the zone area.

(d) Acquire, plant, and maintain trees, shrubs, flowers, or other vegetation within the zone area.

(e) Provide or contract for security services with other public or private entities and purchase equipment or technology related to security services within the zone area.

(f) Promote and sponsor cultural or recreational activities.

(g) Engage in economic development activities, including, but not limited to, promotion of business, retail,

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or industrial development, developer recruitment, business recruitment, business marketing, business retention, public relations efforts, and market research.

(h) Engage in other activity with the purpose to enhance the economic prosperity, enjoyment, appearance, image, and safety of the zone area.

(i) Acquire by purchase or gift, maintain, or operate real or personal property necessary to implement this chapter.

(j) Solicit and accept gifts or grants to further the zone plan.

(k) Sue or be sued.

(2) A business improvement zone may contract with a nonprofit corporation or any other public or private entity and may pay a reasonable fee to the nonprofit corporation or other public or private entity for services provided.

(3) A business improvement zone has the authority to borrow money in anticipation of the receipt of assessments if all of the following conditions are satisfied:

(a) The loan will not be requested or authorized, or will not mature, within 90 days before the expiration of the 7-year period.

(b) The amount of the loan does not exceed 50% of the annual average assessment revenue of the business improvement zone during the previous year or, in the case of a business improvement zone that has been in existence for less than 1 year, the loan does not exceed 25% of the projected annual assessment revenue.

(c) The loan repayment period does not extend beyond the 7-year period.

(d) The loan is subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) The services provided by and projects of a business improvement zone are services and projects of the business improvement zone and are not services, functions, or projects of the municipality in which the business improvement zone is located. The services provided by and projects of a business improvement zone are supplemental to the services, projects, and functions of the city or village in which the business improvement zone is located.

(5) The business improvement zone has no other authority than the authority described in this act.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002.

Popular name: Shopping Areas Redevelopment Act

125.990b Business improvement zone; establishment within city or village; assessable property; establishment of business improvement zone in city or village with business improvement zone located before effective date of act.

Sec. 10b. (1) Except as provided in subsection (4), 1 or more business improvement zones may be established within a city or village.

(2) The majority of all parcels included in a zone area, both by area and by taxable value, shall be assessable property. A zone area shall be contiguous, with the exception of public streets, alleys, parks, and other public rights-of-way.

(3) Except as provided in subsection (4), a business improvement zone may be established in a city or village even if the city or village has established a principal shopping district or business improvement district under chapter 1. Assessable property shall not be included in any of the following:

(a) More than 1 business improvement zone established under this chapter.

(b) Both a principal shopping district and a business improvement district established under chapter 1.

(4) If at the time of the effective date of the amendatory act that added this subsection a business improvement district established under chapter 1 is located in a city or village, a business improvement zone may not be established under this chapter within that city or village unless within 180 days of the effective date of the amendatory act that added this subsection or during July 2005 or during July every third year after 2005 the governing body of the city or village adopts a resolution authorizing the governing body to consider, as provided in section 10e, the establishment of a business improvement zone under this chapter.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002.

Popular name: Shopping Areas Redevelopment Act

125.990c Initiation by delivery of petition; contents; filing; notice.

Sec. 10c. (1) A person may initiate the establishment of a business improvement zone by the delivery of a petition to the clerk of the city or village in which a proposed zone area is located. The petition shall include all of the following:

(a) The boundaries of the zone area.

(b) The signatures of property owners of parcels representing not less than 30% of the property owners within the zone area, weighted as provided in section 10f(2).

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(c) A listing, by tax parcel identification number, of all parcels within the zone area, separately identifying assessable property.

(2) After a petition is filed pursuant to subsection (1), the clerk shall notify all property owners within the zone area of a public meeting of the property owners regarding the establishment of the business improvement zone to be held not less than 45 days or more than 60 days after the filing of the petition. The notice shall be sent by first-class mail to the property owners not less than 14 days prior to the scheduled date of the meeting. The notice shall include the specific location and the scheduled date and time of the meeting.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002.

Popular name: Shopping Areas Redevelopment Act

125.990d Public meeting of property owners; adoption of zone plan; contents; adoption by majority vote; presentment to city or village clerk.

Sec. 10d. (1) At the meeting required by section 10c, the property owners may adopt a zone plan for submission to and approval by the governing body of the city or village in which the business improvement zone is located.

(2) A zone plan shall include all of the following:

(a) A description of the boundaries of the zone area sufficient to identify each assessable property included.

(b) The proposed initial board of directors, except for a director of the board who may be appointed by the city or village under section 10g(2).

(c) The method for removal, appointment, and replacement of the board.

(d) A description of projects planned during the 7-year period, including the scope, nature, and duration of the projects.

(e) An estimate of the total amount of expenditures for projects planned during the 7-year period.

(f) The proposed source or sources of financing for the projects.

(g) If the proposed financing includes assessments, the projected amount or rate of the assessments for each year and the basis upon which the assessments are to be imposed on assessable property.

(h) A listing, by tax parcel identification number, of all parcels within the zone area, separately identifying assessable property.

(i) A plan of dissolution for the business improvement zone.

(3) A zone plan shall be considered adopted by the property owners if a majority of the property owners voting at the meeting approve the zone plan. The votes of the property owners at the meeting shall be weighted in the manner indicated in section 10f(2).

(4) Any zone plan adopted under this section shall be presented to the clerk of the city or village in which the zone area is located.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002.

Popular name: Shopping Areas Redevelopment Act

125.990e Public hearing of governing body; notice; approval or rejection; amendment; resubmission; assessment; election; publication of notice; assisting in conduct of election.

Sec. 10e. (1) If a zone plan is adopted and presented to the clerk of the city or village in accordance with section 10d, the governing body of the city or village shall within 45 days schedule a public hearing of the governing body to review the zone plan and any proposed assessment and to receive public comment. The clerk shall notify all owners of parcels within the zone area of the public hearing by first-class mail.

(2) At the public hearing, or at the next regularly scheduled meeting of the governing body of the city or village, the governing body shall approve or reject the establishment of the business improvement zone and the zone plan as adopted by the property owners under section 10d(3). If the governing body rejects the establishment of the business improvement zone and the zone plan, the clerk shall notify all property owners within the zone of a reconvened meeting of the property owners which shall be held not sooner than 10 days or later than 21 days after the date of the rejection by the governing body. The notice shall be sent by first-class mail to the property owners not less than 7 days prior to the scheduled date of the meeting and shall include the specific location and the scheduled date and time of the meeting, as determined by the person initiating the establishment of the business improvement zone under section 10c(1). At the reconvened meeting, the property owners may amend the zone plan if approved by a majority of the property owners as provided in section 10d(3). The amended zone plan may be resubmitted to the clerk of the city or village without the requirement of a new petition under section 10c for approval or rejection at a meeting of the governing body of the city or village not later than 60 days after the amended zone plan is resubmitted to the

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clerk. If a zone plan is not rejected within 60 days of the date the amended zone plan is resubmitted to the clerk, the amended zone plan is considered approved by the governing body of the city or village. If the amended zone plan is rejected by the governing body, then the amended zone plan may not be resubmitted without the delivery of a new petition under section 10c.

(3) Approval of the business improvement zone and zone plan shall serve as a determination by the city or village that any assessment set forth in the zone plan, including the basis for allocating the assessment, is appropriate, subject only to the approval of the business improvement zone and the zone plan by the property owners in accordance with section 10f.

(4) If the governing body of the city or village approves the business improvement zone and zone plan or if the amended zone plan is considered approved under subsection (2), the clerk of the city or village shall set an election pursuant to section 10f not more than 60 days following the approval.

(5) The clerk of the city or village shall send to the property owners notice by first-class mail of the election not less than 30 days before the election and publish the notice at least twice in a newspaper of general circulation in the city or village in which the zone area is located. The first publication shall not be less than 10 days or more than 30 days prior to the date scheduled for the election. The second publication shall not be published less than 1 week after the first publication.

(6) The election described in this section and section 10f is not an election subject to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(7) The person who filed the petition under section 10c, the proposed board members, and the property owners may, at the option and under the direction of the clerk, assist the clerk of the city or village in conducting the election to keep the expenses of the election at a minimum.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002.

Popular name: Shopping Areas Redevelopment Act

125.990f Voting; eligibility; conduct; question; weight; adoption of business improvement zone and zone plan; expenses; duration; compliance with state and federal laws; immunity of city or village.

Sec. 10f. (1) All property owners as of the date of the delivery of the petition as provided in section 10c are eligible to participate in the election. The election shall be conducted by mail. The question to be voted on by the property owners is the adoption of the zone plan and the establishment of the business improvement zone, including the identity of the initial board.

(2) Votes of property owners shall be weighted in proportion to the amount that the taxable value of their respective real property for the preceding calendar year bears to the taxable value of all assessable property in the zone area, but in no case shall the total number of votes assigned to any 1 property owner be equal to more than 25% of the total number of votes eligible to be cast in the election.

(3) A zone plan and the proposal for the establishment of a business improvement zone, including the identity of the initial board, shall be considered adopted upon the approval of more than 60% of the property owners voting in the election, with votes weighted as provided in subsection (2).

(4) Upon acceptance or rejection of a business improvement zone and zone plan by the property owners, the resulting business improvement zone or the person filing the petition under section 10c shall, at the request of the city or village, reimburse the city or village for all or a portion of the reasonable expenses incurred to comply with this chapter. The governing body of the city or village may forgive and choose not to collect all or a portion of the reasonable expenses incurred to comply with this chapter.

(5) Adoption of a business improvement zone and zone plan under this section authorizes the creation of the business improvement zone and the implementation of the zone plan for the 7-year period.

(6) Adoption of a business improvement zone and zone plan under this section and the creation of the business improvement zone does not relieve the business improvement zone from following, or does not waive any rights of the city or village to enforce, any applicable laws, statutes, or ordinances. A business improvement zone created under this chapter shall comply with all applicable state and federal laws.

(7) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, a city or village that approves a business improvement zone within its boundaries is immune from civil or administrative liability arising from any actions of that business improvement zone.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002.

Popular name: Shopping Areas Redevelopment Act

125.990g Board of directors; management of day-to-day activities; members; duties and responsibilities; reimbursement.

Sec. 10g. (1) The day-to-day activities of the business improvement zone and implementation of the zone

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plan shall be managed by a board of directors.

(2) The board shall consist of an odd number of directors and shall not be smaller than 5 and not larger than 15 in number. The board may include 1 director nominated by the chief executive of the city or village and approved by the governing body of the city or village.

(3) The duties and responsibilities of the board shall be prescribed in the zone plan and to the extent applicable shall include all of the following duties and responsibilities:

(a) Developing administrative procedures relating to the implementation of the zone plan.

(b) Recommending amendments to the zone plan.

(c) Scheduling and conducting an annual meeting of the property owners.

(d) Developing a zone plan for the next 7-year period.

(4) Members of the board shall serve without compensation. However, members of the board may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the board.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002.

Popular name: Shopping Areas Redevelopment Act

125.990h Assessments.

Sec. 10h. (1) A business improvement zone may be funded in whole or in part by 1 or more assessments on assessable property, as provided in the zone plan. An assessment under this chapter shall be in addition to any taxes or special assessments otherwise imposed on assessable property.

(2) An assessment shall be imposed against assessable property only on the basis of the benefits to assessable property afforded by the zone plan. There is a rebuttable presumption that a zone plan and any project specially benefits all assessable property in a zone area.

(3) If a zone plan provides for an assessment, the treasurer of the city or village in which the zone area is located as an agent of the business improvement zone shall collect the assessment imposed by the board under the zone plan on all assessable property within the zone area in the amount authorized by the zone plan.

(4) Except as provided in subsection (7), assessments shall be collected by the treasurer of the city or village as an agent of the business improvement zone from each property owner and remitted promptly to the business improvement zone. Assessment revenue is the property of the business improvement zone and not the city or village in which the business improvement zone is located. The business improvement zone may, at the option and under the direction of the treasurer, assist the treasurer of the city or village in collecting the assessment to keep the expenses of collecting the assessment at a minimum.

(5) The business improvement zone may institute a civil action to collect any delinquent assessment and interest.

(6) An assessment imposed under this act is not a special assessment collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(7) An assessment is delinquent if it has not been paid within 90 days after it was due as provided under the zone plan imposed under this chapter. Delinquent assessments shall be collected by the business improvement zone. Delinquent assessments shall accrue interest at a rate of 1.5% per month until paid.

(8) If any portion of the assessment has not been paid within 90 days after it was due, that portion of the unpaid assessment shall constitute a lien on the property. The lien amount shall be for the unpaid portion of the assessment and shall not include any interest.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002.

Popular name: Shopping Areas Redevelopment Act

125.990i Audit.

Sec. 10i. (1) Expenses incurred in implementing any project or service of a business improvement zone shall be financed in accordance with the zone plan.

(2) Assessment revenues under section 10h are the funds of the business improvement zone and not funds of the state or of the city or village in which the business improvement zone is located. All money collected under section 10h shall be deposited in a financial institution in the name of the business improvement zone. Assessment revenues may be deposited in an interest generating account. The business improvement zone shall use the funds only to implement the zone plan.

(3) All expenditures by a business improvement zone shall be audited annually by a certified public accountant. The audit shall be completed within 9 months of the close of the fiscal year of the business improvement zone. Within 30 days after completion of an audit, the certified public accountant shall transmit a copy of the audit to the board and make copies of the audit available to the property owners and the public.

(4) If an annual audit required by this section contains material exceptions and the material exceptions are

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not substantially corrected within 90 days of the delivery of the audit, the business improvement zone shall be dissolved in accordance with the zone plan upon approval of the dissolution by the governing body of the city or village in which the business improvement zone is located.

(5) The board shall publish an annual activity and financial report. The report shall be available to the public. Each year, every property owner shall be notified of the availability of the annual activity and financial report.

(6) As used in this section, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state under the laws of this state or of the United States.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002.

Popular name: Shopping Areas Redevelopment Act

125.990j Zone plan amendment.

Sec. 10j. A zone plan may be amended. Amendments shall be effective if approved by a majority of the property owners voting on the amendment at the annual meeting of property owners or a special meeting called for that purpose, with the votes of the property owners weighted in accordance with section 10f(2). A zone plan amendment changing any assessment is effective only if also approved by the governing body of the city or village in which the business improvement zone is located.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002.

Popular name: Shopping Areas Redevelopment Act

125.990k Expiration of 7-year period; special meeting to approve new zone plan; notice.

Sec. 10k. (1) Prior to the expiration of any 7-year period, the board shall notify the property owners of a special meeting by first-class mail at least 14 days prior to the scheduled date of the meeting to approve a new zone plan for the next 7-year period. Notice under this section shall include the specific location, scheduled date, and time of the meeting.

(2) Approval of the new zone plan at the special meeting by 60% of the property owners of assessable property voting at that meeting, with the vote of the property owners being weighted in accordance with section 10f(2), constitutes reauthorization of the business improvement zone for an additional 7-year period, commencing as of the expiration of the 7-year period then in effect. If the new zone plan reflects any new assessment, or reflects an extension of any assessment beyond the period previously approved by the city or village in which the business improvement zone is located, the new or extended assessment shall be effective only with the approval of the governing body of the city or village.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002.

Popular name: Shopping Areas Redevelopment Act

125.990*l* Dissolution.

Sec. 10*l*. (1) Upon written petition duly signed by 20% of the property owners of assessable property within a zone area, the board shall place on the agenda of the next annual meeting, if the next annual meeting is to be held not later than 60 days after receipt of the written petition or a special meeting not to be held later than 60 days after receipt of the written petition, the issue of dissolution of the business improvement zone. Notice of the next annual meeting or special meeting described in this subsection shall be made to all property owners by first-class mail not less than 14 days prior to the date of the annual or special meeting. The notice shall include the specific location and the scheduled date and time of the meeting.

(2) The business improvement zone shall be dissolved upon a vote of more than 50% of the property owners of assessable property voting at the meeting. A dissolution shall not take effect until all contractual liabilities of the business improvement zone have been paid and discharged.

(3) Upon dissolution of a business improvement zone, the board shall dispose of the remaining physical assets of the business improvement zone. The proceeds of any physical assets disposed of by the business improvement zone and all money collected through assessments that is not required to defray the expenses of the business improvement zone shall be refunded on a pro rata basis to persons from whom assessments were collected. If the board finds that the refundable amount is so small as to make impracticable the computation and refunding of the money, it may be transferred to the treasurer of the city or village in which the business improvement zone is located for deposit in the treasury of the city or village to the credit of the general fund.

(4) Upon dissolution of a business improvement zone, any remaining assets of the business improvement zone shall be transferred to the treasurer of the city or village in which the business improvement zone is located for deposit in the treasury of the city or village to the credit of the general fund.

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History: Add. 2001, Act 260, Eff. Mar. 1, 2002.

Popular name: Shopping Areas Redevelopment Act

125.990m Public meeting; compliance with open meetings act; public records; meeting location.

Sec. 10m. (1) The board shall conduct business at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(2) A meeting of property owners under section 10c shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) A writing prepared, owned, used, in the possession of, or retained by the business improvement zone in the performance of its duties under this chapter is a public record under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) All meetings of the board or property owners described in this act shall be conducted within the city or village in which the business improvement zone is or is to be located.

History: Add. 2001, Act 260, Eff. Mar. 1, 2002.

Popular name: Shopping Areas Redevelopment Act

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UNIFORM MOBILE HOMES WARRANTY ACT
Act 288 of 1974

AN ACT to provide for a warranty relating to mobile homes and the sale thereof.

History: 1974, Act 288, Imd. Eff. Oct. 14, 1974.

The People of the State of Michigan enact:

125.991 Short title.

Sec. 1. This act shall be known and may be cited as the "Uniform mobile homes warranty act".

History: 1974, Act 288, Imd. Eff. Oct. 14, 1974.

125.992 Definitions.

Sec. 2. Unless clearly indicated otherwise by the context the following words and terms when used in this act for the purpose of this act, shall have the following meanings:

(a) "Dealer" means any person, other than the manufacturer as defined in this act, who sells 3 or more mobile homes in any consecutive 12-month period or is licensed by the state as a mobile home dealer.

(b) "Manufacturer" means any person who manufactures mobile homes.

(c) "Mobile home" means a movable or portable unit, designed and constructed to be towed on its own chassis, comprised of a frame and wheels, and designed to be connected to utilities for year-round occupancy as a dwelling unit. Mobile home includes:

(*i*) A unit containing parts that may be folded, collapsed, or telescoped when being towed and that may be expanded to provide additional cubic capacity.

(*ii*) A unit composed of 2 or more separately towable components designed to be joined into 1 integral unit capable of being separated again into the components for repeated towing.

(*iii*) The structure, plumbing, electrical, heating, and fire detection systems installed therein. A mobile home includes the appliances situated therein, unless covered by warranty from the appliance manufacturer, equaling or exceeding the warranty provided herein.

(d) "Purchaser" means the first retail buyer or a transferee or buyer of the first retail buyer.

History: 1974, Act 288, Imd. Eff. Oct. 14, 1974.

125.993 Warranty; scope.

Sec. 3. After the effective date of this act, a new mobile home sold by a mobile home dealer situated in this state shall be covered by the warranty hereinafter specified. The warranty shall cover the purchaser of the mobile home and shall respectively apply to the manufacturer of the mobile home and to the dealer who sells the mobile home to the buyer in accordance with the terms of the warranty hereinafter specified.

History: 1974, Act 288, Imd. Eff. Oct. 14, 1974.

125.994 Warranty; contents.

Sec. 4. A new mobile home sold by a dealer situated in this state shall be covered by a written warranty from the manufacturer or dealer and shall contain as a minimum, the following terms:

(a) The manufacturer warrants that the mobile home complies with Michigan law, both statute and rule, as to construction and fire protection and detection, in effect at the date of manufacture.

(b) The manufacturer warrants that the mobile home was manufactured free from substantial defects in materials or workmanship and was delivered to the dealer in such condition. A dealer shall warrant that the mobile home when sold to the buyer is free from substantial defects in materials or workmanship. The manufacturer and dealer shall not be liable for a defect in the mobile home which defect is the result of improper setup, move, materials furnished, or work done by a person other than manufacturer or dealer, after the sale, unless the work was performed by persons under contract with or an agent of the manufacturer or dealer.

(c) The manufacturer and dealer warrant that they, or 1 of them, shall take appropriate corrective action at the site of the mobile home in instances of breach of the warranty set forth in subdivision (a) or of a substantial defect in materials or workmanship for which either of them is responsible as provided in subdivision (a) or (b), which defect becomes evident within 1 year from the date of the delivery of the mobile home to the purchaser, if the purchaser gives written notice of the defect to the manufacturer or dealer at their last known business address not later than 1 year and 10 days after date of delivery to the first retail buyer.

History: 1974, Act 288, Imd. Eff. Oct. 14, 1974.

125.995 Provisions cumulative; waiver.

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Sec. 5. The required warranty provided for in this act shall be in addition to, and not in derogation of, any other right and privilege which the buyer may have under any other law or instrument. The manufacturer or dealer shall not require the buyer to waive his rights under this act and any such waiver shall be deemed contrary to public policy and shall be unenforceable and void.

History: 1974, Act 288, Imd. Eff. Oct. 14, 1974.

125.996 Treble damages.

Sec. 6. A manufacturer or dealer who knows or should have known that an alleged defect is covered by the warranty provided by this act and who wilfully or by gross negligence refuses or fails to take appropriate corrective action may be liable for treble damages.

History: 1974, Act 288, Imd. Eff. Oct. 14, 1974.

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TRAILER COACH PARKS
Act 243 of 1959

AN ACT to define, license and regulate trailer coach parks; to prescribe the powers and duties of the state health commissioner and other state and local officers; to provide for the levy and collection of specific taxes on occupied trailers in trailer coach parks and the disposition of the revenues therefrom; to provide remedies and penalties for the violation of this act; and to repeal certain acts and parts of acts.

History: 1959, Act 243, Eff. Mar. 19, 1960.

The People of the State of Michigan enact:

125.1001-125.1034 Repealed. 1976, Act 419, Eff. July 12, 1978.

125.1035 Trailer coach parks; location in more than one municipality.

Sec. 35. If a trailer coach park is located in more than one municipality, then it shall be considered to be a separate park for each of the municipalities in which it is located, except that all requirements pertaining to physical arrangement and provision of facilities shall be the same as though for a single park. Any license fees and monthly taxes accruing to municipalities under the provisions of this act shall be paid to each municipality on the basis of the number of trailer coach sites in each municipality and the number of occupied trailer coaches on sites in each municipality.

History: 1959, Act 243, Eff. Mar. 19, 1960.

125.1036 Repealed. 1970, Act 172, Imd. Eff. Jan. 1, 1971.

Compiler's note: The repealed section pertained to trailer park summer license.

125.1041 Specific tax; collection; exception; late payment penalty.

Sec. 41. (1) Each licensee shall collect and remit a specific tax of $3.00 per month, or major fraction thereof, per occupied trailer coach, which shall be a tax upon the owners or occupants of each occupied trailer coach, including trailer coaches licensed under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, notwithstanding any provision of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, to the contrary, occupying space within the trailer coach park. The specific tax shall be in lieu of any property tax levied upon the trailer coach pursuant to the provisions of the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, upon or on account of the trailer while located in the trailer coach park. The licensee of a trailer coach park shall not collect a monthly tax for any space occupied by a trailer coach accompanied by an automobile when the trailer coach and automobile bear license plates issued by any state other than this state for an accumulated period not to exceed 90 days in any 12-month period, if all the occupants of the trailer coach with accompanying automobiles are tourists or vacationers. When 1 or more persons occupying a trailer coach bearing a foreign license are employed or are conducting any manner of business or furnishing any service for gain within this state, there shall be no exemption from the specific tax under this act.

(2) If a licensee does not remit the specific tax by the date required under section 43, the licensee shall pay a late payment penalty of 3% of the unpaid balance. Interest shall accrue on the unpaid balance at a rate of 1% per month and the licensee shall be liable for a civil fine of not more than $10.00 per occupied trailer coach for each month the licensee does not remit the specific tax authorized under this section.

History: 1959, Act 243, Eff. Mar. 19, 1960;—Am. 2008, Act 5, Imd. Eff. Feb. 7, 2008.

125.1042 Trailer coach parks; disbursement of tax revenue.

Sec. 42. The treasurer of the municipality, in which a trailer coach park is located, shall accept and verify the monthly reports from licensees and collect and disburse the monthly tax payments as provided in this act. The municipal treasurer shall issue a receipt in triplicate for all money collected under this act, the original receipt to be given to the licensee, the duplicate to be retained by the treasurer for municipal records, and the triplicate, together with 50 cents per trailer coach shall be transmitted to the county treasurer, who shall issue a receipt for the amount received and credit the proceeds to the county general fund. The municipal treasurer shall credit the municipal general fund with 50 cents per trailer coach located within the municipality. For taxes transmitted after June 30, 1994, the municipal treasurer shall transmit $2.00 for each trailer coach parked in the municipality to the state treasury for credit to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

History: 1959, Act 243, Eff. Mar. 19, 1960;—Am. 1994, Act 365, Imd. Eff. Dec. 27, 1994.

125.1043 Trailer coach parks; tax, remittance; reimbursement of licensee.

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Sec. 43. All remittances of monthly taxes shall be made by the licensee on or before the fifth day of each month for the preceding month. Nothing in this act shall prohibit any licensee from reimbursing himself for the amount of each specific tax which he is obligated to collect and remit by adding to his charges for each parking space in his trailer coach park an amount equal to the specific tax levied hereunder.

History: 1959, Act 243, Eff. Mar. 19, 1960.

125.1051-125.1097 Repealed. 1970, Act 172, Eff. Jan. 1, 1971;—1976, Act 419, Eff. July 12, 1978.

MOBILE HOME COMMISSION
Act 419 of 1976

125.1101-125.1147 Repealed. 1986, Act 299, Imd. Eff. Dec. 22, 1986;—1987, Act 96, Imd. Eff. July 6, 1987.

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ECONOMIC EXPANSION
Act 116 of 1963

AN ACT to create a state department of economic expansion and an economic expansion council, and to prescribe their powers and duties; and to repeal certain acts and parts of acts.

History: 1963, Act 116, Imd. Eff. May 10, 1963.

The People of the State of Michigan enact:

125.1201 Economic expansion department; organization, subject to approval of governor.

Sec. 1. There is created a department of state government to be known as the department of economic expansion, consisting of the executive director of economic expansion as head of the department, a deputy executive director of economic expansion if appointed, such departmental divisions as the executive director establishes, and such other employees as are hereinafter provided for. The organization of the department is subject to the approval of the governor.

History: 1963, Act 116, Imd. Eff. May 10, 1963.

Compiler's note: For transfer of authority, powers, duties, functions, and management-related functions of the Department of Economic Expansion and the Economic Expansion Council, to the Chief Executive Officer of Michigan Jobs Commission, see E.R.O. No. 1993-3, compiled at MCL 408.46 of the Michigan Compiled Laws.

Transfer of powers: See MCL 16.332.

125.1202 Executive director; deputy executive director; appointment.

Sec. 2. The governor shall appoint, with the advise and consent of the senate, an executive director of economic expansion who shall serve at the pleasure of the governor. The executive director may appoint a deputy executive director of economic expansion.

History: 1963, Act 116, Imd. Eff. May 10, 1963.

Compiler's note: In the first sentence of this section, “advise and consent” evidently should read “advice and consent”.

125.1203 Economic development department; transfer of records, files, property.

Sec. 3. The records, files and property of the department of economic development are transferred to the department of economic expansion. Wherever reference is made in the laws of this state to the department of economic development or the commission of economic development, such reference shall be deemed to mean the department of economic expansion and wherever reference is made in the laws of this state to the chairman of the commission of economic development, such reference shall be deemed to mean the executive director of the department of economic expansion.

History: 1963, Act 116, Imd. Eff. May 10, 1963.

125.1204 Economic expansion program; activities.

Sec. 4. The executive director shall plan and direct the carrying out of an economic expansion program for the state, except as to planning functions transferred to the executive office of the governor by Act No. 380 of the Public Acts of 1965, as amended, being sections 16.101 to 16.608 of the Compiled Laws of 1948. The program shall aid the creation of new job opportunities, encourage the expansion, development and diversification of industry, commerce and agriculture and the bringing of new industry to this state, and create an atmosphere in which the businesses of the state may prosper and its citizens may enjoy the benefits of a growing economy. The program shall include, but not be restricted to, the following activities:

(a) Investigation and study of conditions affecting the economy of the state, technical studies and statistical research and surveys necessary or useful for the expansion of the economy, and collection and dissemination of such information as may be beneficial to public and private organizations.

(b) Encouragement of scientific research, and the development of new and more extensive use of forest, mineral and other resources, through the universities and colleges of the state, and other public and private agencies.

(c) Conducting research and recommendations of programs necessary to provide training for vocational skills needed to take full advantage of the state's human resources.

(d) Recommendations to the governor and the legislature, for the study and improvement of conditions, and for the elimination of restrictions, trade barriers and burdens imposed by law or otherwise, which may adversely affect or retard the legitimate development and expansion of industry, commerce or agriculture.

(e) Study and advice to the governor, the legislature, industry and interested organizations and associations as to means and methods of providing financing for economic expansion in the state.

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(f) Promotion and encouragement of the expansion and development of markets in domestic and international trade for products of the state.

(g) Publicizing of the material, economic and cultural advantages of the state which make it a desirable place for business and residence.

(h) Advise and cooperate with, regional, county, municipal and other local planning agencies within the state, for the purpose of encouraging cultural, economic and physical self-improvement of the communities and coordination of state and local planning under direction of the governor.

(i) Confer and cooperate with the executive, legislative and planning authorities of the United States and neighboring states, and of the counties and municipalities of such neighboring states, for the purpose of bringing about coordination between the development of such neighboring states, counties and municipalities, and the development of this state under direction of the governor.

(j) To conduct research and make recommendations to the governor for the general purpose of guiding and accomplishing a coordinated and efficient development of the state in accordance with present and future needs and to best utilize the state's natural, material and human resources. Upon direction of the governor the department shall utilize and coordinate the research facilities of state departments and institutions in the interest of Michigan's economic and other development.

History: 1963, Act 116, Imd. Eff. May 10, 1963;—Am. 1967, Act 88, Eff. Nov. 2, 1967.

Transfer of powers: See MCL 16.113.

125.1205 Economic expansion department; powers.

Sec. 5. The department of economic expansion, in addition to its other powers and duties, may:

(a) Accept, with legislative approval, grants of funds made by the United States or any department or agency thereof or other public or private agency or individual in this state or other states.

(b) Enter into contracts with boards, commissions and agencies, both public and private, and with individuals to carry out the purposes of this act.

(c) Succeed to the rights and carry out the obligations of this state with respect to existing contracts executed on behalf of the state by the department of economic development and execute necessary amendments thereto with the power to carry out the obligations set forth in such amendments.

(d) Act as the state's official liaison agency with federal agencies concerned with economic development and public works programs.

History: 1963, Act 116, Imd. Eff. May 10, 1963.

125.1206 Economic expansion department; acceptance of grants; transfer of records, files, property, and employees of department of administration.

Sec. 6. Upon the request of the governing body of any city, village, county, township or regional planning district, the department of economic expansion may apply for and accept grants without further legislative approval from the federal government for planning assistance for the local units of government, which includes but is not limited to surveys, land use studies, urban renewal plans, technical services and other planning work. State costs shall be reimbursed to the state by the local units of government. The department may accept and expend grants from the federal government and other public or private sources, contract with reference thereto, and enter into other contracts and exercise all other powers necessary to carry out the purposes of this section. The records, files and property of the department of administration relating to this power are transferred to the department of economic expansion. Employees of the department of administration as designated by the state controller are transferred to the department of economic expansion on the effective date of this act retaining their civil service classifications without further examination or qualification. Such employees shall perform such duties as may be assigned to them by the executive director.

History: 1963, Act 116, Imd. Eff. May 10, 1963.

125.1207 Economic expansion council; members, appointment, term, chairman, officers, quorum, committees, report, compensation, expenses.

Sec. 7. There is created an agency of the state to be known as the economic expansion council consisting of 25 members including the executive director of the department of economic expansion as an ex-officio member. The governor shall appoint the other members of the council for terms of office coterminous with that of the governor and until their successors are appointed. The governor shall appoint the chairman of the council who shall serve at the pleasure of the governor. The council shall elect such other officers it deems necessary, determine their terms of office and shall adopt such other rules and regulations necessary to govern its procedure and business. The council shall meet at the call of the governor or the chairman. Ten members constitute a quorum. The chairman may appoint, with the approval of the governor, such committees,

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including an executive committee, as may be necessary to carry out the duties of the council. The membership of the committees, except the executive committee, is not restricted to members of the council. The council shall advise the governor and the department of economic expansion in the areas in which the department is granted authority under section 4. The council shall be responsible to the governor and shall make an annual report to him and the legislature concerning the activities of the council. Members of the council shall serve without compensation but shall be entitled to reasonable and necessary expenses incurred in the discharge of their duties.

History: 1963, Act 116, Imd. Eff. May 10, 1963.

125.1208 Repeal.

Sec. 8. Act No. 302 of the Public Acts of 1947, as amended, being sections 125.1 to 125.8 of the Compiled Laws of 1948, and section 17 of Act No. 51 of the First Extra Session of 1948, as added by Act No. 110 of the Public Acts of 1960, being section 18.17 of the Compiled Laws of 1948, are repealed.

History: 1963, Act 116, Imd. Eff. May 10, 1963.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1972-1

125.1211 Office of community planning; transfer.

WHEREAS, certain powers, duties and functions of the Office of Economic Expansion enumerated in Section 125.1204(h), (i), and (j) of the Compiled Laws of 1948 were transferred to the Executive Office by Act 11, Public Acts of 1967, Extra Session; and

WHEREAS, an Office of Community Planning was retained in the Department of Commerce to perform assistance functions pertaining to community planning; and

WHEREAS, it is deemed that this function will operate in a more coordinated manner if such function is administered in concert with planning activities statutorially assigned to the Executive Office; and

WHEREAS, it is recognized that in the interests of economy, efficiency and good government it is necessary from time to time to effectuate changes in the organization of the Executive branch of government.

THEREFORE, I, WILLIAM G. MILLIKEN, Governor of the State of Michigan, by virtue of the power vested in me by Article V, Section 2, of the Constitution of 1963, do hereby order and direct that:

1. The Office of Community Planning, Department of Commerce, be transferred to the Bureau of Programs and Budget, within the Executive Office of the Governor.

2. All powers, duties, functions, and responsibilities now performed by the Office of Community Planning by virtue of federal and/or gubernatorial designation also be transferred to the Bureau of Programs and Budget, within the Executive Office of the Governor.

3. All records, property, personnel and unexpended balance of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Office of Community Planning are transferred to the Bureau of Programs and Budget, within the Executive Office of the Governor.

4. In fulfillment of the requirements of Article V, Section 2, of the Michigan Constitution, the provisions of this Order shall become effective March 15, 1972.

History: 1972, E.R.O. No. 1972-1, Eff. Mar. 15, 1972.

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DIVISION OF MINORITY BUSINESS ENTERPRISE
Act 165 of 1975

AN ACT to create a division of minority business enterprise within the department of commerce; to prescribe its powers and duties.

History: 1975, Act 165, Imd. Eff. July 15, 1975.

The People of the State of Michigan enact:

125.1221 Division of minority business enterprise; creation.

Sec. 1. A division of minority business enterprise is created within the office of economic expansion, department of commerce.

History: 1975, Act 165, Imd. Eff. July 15, 1975.

Compiler's note: For transfer of powers and duties of department of commerce for minority, women, and small business units, to the Michigan jobs commission, see E.R.O. No. 1994-10, compiled at MCL 408.48 of the Michigan Compiled Laws.

125.1222 Definitions.

Sec. 2. As used in this act:

(a) "Division" means the division of minority business enterprise.

(b) "Department" means the department of commerce.

(c) "Minority business enterprise" means a business enterprise that is owned or controlled solely by 1 or more socially or economically disadvantaged persons. The disadvantage may arise from cultural, racial, chronic economic circumstances or background, or other similar cause.

History: 1975, Act 165, Imd. Eff. July 15, 1975.

125.1223 Director as head of division; appointment.

Sec. 3. The head of the division is the director and shall be appointed by the director of the office of economic expansion.

History: 1975, Act 165, Imd. Eff. July 15, 1975.

125.1224 Powers and duties of division.

Sec. 4. The division shall:

(a) Provide technical, managerial, and counseling services and assistance to minority business enterprises.

(b) With the participation of other state departments and agencies as appropriate, develop comprehensive plans and specific program goals for a minority business enterprise program; establish regular performance monitoring and reporting systems to assure that the goals are being achieved; and evaluate the impact of federal and state support in achieving the objectives established by the division.

(c) Implement state policy in support of minority business enterprise development and coordinate the plans, programs, and operations of state government which affect or may contribute to the establishment, preservation, and strengthening of minority business enterprise.

(d) Coordinate, make application for, and administer federal funding grants from the United States office of minority business enterprise and other federal agencies where applicable.

(e) Promote the mobilization of activities and resources of state agencies and local governments, business and trade associations, universities, foundations, professional organizations, and volunteer and other groups toward the growth of minority business enterprises, and facilitate the coordination of the efforts of these groups with those of other state departments and agencies.

(f) Establish a center for the development, collection, and dissemination of information that will be helpful to persons and organizations throughout the state in undertaking or promoting the establishment and successful operation of minority business enterprise.

(g) Assist in experimental and demonstration projects, and defray all or part of the cost of such projects, designed to overcome the special problems of minority business enterprises.

(h) Conduct coordinated reviews of all proposed state training and technical assistance activities in direct support of the minority business enterprise program to insure consistency with program goals and to preclude duplication of effort of other state agencies with overlapping jurisdictions.

(i) Recommend appropriate legislative or executive actions to enhance minority business opportunities in this state.

(j) Assist minority businesses in obtaining governmental or commercial financing for business expansion, establishment of new businesses, or industrial development projects.

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(k) Provide services to promote the organization of local development corporations for rural development and assist minority businessmen in agrarian endeavors.

(*l*) Assist the director of the department of commerce to organize a representative statewide minority business advisory council to service the division of minority business enterprise. The council shall consist of 7 members. The governor shall appoint the council with the advice and consent of the senate. Except as otherwise provided by law, members of the council shall serve without compensation but shall be entitled to reasonable and necessary expenses incurred in the discharge of their duties. The term of office of the council shall be at the pleasure of the governor.

(m) Assist minority businesses to promote reciprocal foreign trade and investment.

(n) Assist minority businessmen in business contract procurement from governmental and private commercial sources.

(o) Employ accounting and managerial counselors and establish a statewide toll free telephone line to give minority businessmen throughout Michigan access to these counselors.

(p) Provide a program effort to ensure participation of veterans in Michigan minority business enterprise activities.

History: 1975, Act 165, Imd. Eff. July 15, 1975.

Compiler's note: For transfer of powers and duties of department of commerce for minority, women, and small business units, to the Michigan jobs commission, see E.R.O. No. 1994-10, compiled at MCL 408.48 of the Michigan Compiled Laws.

125.1225 Operating funds; appropriation.

Sec. 5. The legislature shall make an annual appropriation of operating funds to the division to be included in the budget for the department.

History: 1975, Act 165, Imd. Eff. July 15, 1975.

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COUNTY OR REGIONAL ECONOMIC DEVELOPMENT COMMISSION
Act 46 of 1966

AN ACT to create a county or regional economic development commission; and to prescribe the powers and duties thereof.

History: 1966, Act 46, Imd. Eff. June 2, 1966.

The People of the State of Michigan enact:

125.1231 County economic development commission; creation, membership.

Sec. 1. The board of supervisors of any county may create a county economic development commission, as a separate agency or by designation of an existing county board, commission, department or agency, as the county economic development commission. The boards of supervisors of 2 or more contiguous counties may create a regional economic development commission. Economic development commissions created under this act shall consist of not less than 3 nor more than 35 members with such powers and duties as are herein prescribed. Membership of a regional commission shall be apportioned according to the population of the respective member counties. County economic development commissions heretofore established by county boards of supervisors are validated as commissions established under this act.

History: 1966, Act 46, Imd. Eff. June 2, 1966;—Am. 1969, Act 102, Imd. Eff. July 24, 1969.

125.1232 County economic development commission; rules and regulations; compensation.

Sec. 2. The commission shall be deemed to be an agency of the county or region. The board or boards of supervisors may make such rules and regulations in respect to the commission as it deems advisable. The commissioners, in administering the activities of the commission, may adopt such further rules and regulations as they deem advisable. The compensation of the commissioners for carrying out the duties and responsibilities imposed hereunder, shall be fixed by the board or boards of supervisors.

History: 1966, Act 46, Imd. Eff. June 2, 1966.

125.1233 County economic development commission; appointment of employees.

Sec. 3. The commission shall appoint such employees as they deem necessary to carry out the provisions hereof, subject to civil service regulations in counties having adopted a civil service system.

History: 1966, Act 46, Imd. Eff. June 2, 1966.

125.1234 County economic development commission; expenses; provision by board of supervisors.

Sec. 4. The board or boards of supervisors shall provide each year in its annual budget for the expenses of the commission.

History: 1966, Act 46, Imd. Eff. June 2, 1966.

125.1235 Economic development and expansion program; activities.

Sec. 5. The commission shall plan and direct the carrying out of an economic development and expansion program for the county or region. The program shall include, but not be restricted to, the following activities:

(a) Investigation and study of conditions affecting the economy of the area, technical studies and statistical research and surveys necessary or useful for the expansion of the economy, and the collection and dissemination of such information.

(b) Recommendations to the board or boards of supervisors for the study and elimination of restrictions, barriers and burdens imposed by law or otherwise, which may adversely affect or retard the development and expansion of area industry, commerce or agriculture.

(c) Study and advise the board or boards of supervisors, industry and interested organizations and associations as to means and methods of providing financing for economic expansion in the county or region.

(d) Promotion and encouragement of the expansion and development of markets for products of the county or region.

(e) Publicizing of the material, economic and cultural advantages of the county or region.

(f) Conduct research and make recommendations to the board or boards of supervisors for the general purpose of guiding and accomplishing a coordinated and efficient development of the county or region in accordance with present and future needs and to best utilize the county's or region's resources.

History: 1966, Act 46, Imd. Eff. June 2, 1966.

125.1236 County economic development commission; additional powers and duties.

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Sec. 6. The commission, in addition to its other powers and duties, may:

(a) Accept, with the approval of the board or boards of supervisors, grants of funds made by the state, the United States, or any department or agency thereof, or other public or private agency or individual.

(b) Enter into contracts with boards, commissions and agencies, both public and private, and with individuals to carry out the purposes of this act.

(c) Act as the county's or region's official liaison agency with state and federal agencies concerned with economic development programs.

History: 1966, Act 46, Imd. Eff. June 2, 1966.

125.1237 Applications for state or federal grants; acceptance, expenditures.

Sec. 7. Upon the request of the governing body of any city, village or township located within the county or region, the commission may apply for and accept grants from the state or the federal government for assistance for the local units of government, which includes but is not limited to surveys, land use studies, urban renewal plans and technical services. County costs shall be reimbursed to the county or counties by the local units of government. The commission may accept and expend grants from the state and the federal government and other public or private sources, contract with reference thereto, and enter into other contracts and exercise all other powers necessary to carry out the purpose of this act.

History: 1966, Act 46, Imd. Eff. June 2, 1966.

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INDUSTRIAL DEVELOPMENT REVENUE BOND ACT OF 1963
Act 62 of 1963

AN ACT relating to industrial development; to authorize municipalities to acquire and dispose of industrial buildings and sites and industrial machinery and equipment, including water and air pollution control equipment, solid waste disposal facilities, and tourist and resort facilities and to lease the same to persons, firms, or corporations; to authorize municipalities to acquire and dispose of water and air pollution control equipment and solid waste disposal facilities and to lease or sell the same to persons, firms, corporations, or public utilities; to provide for the financing of such buildings, sites, machinery, and equipment or water and air pollution control equipment and solid waste disposal facilities by the issuance of revenue bonds and refunding bonds; to provide the terms and conditions of such bonds; to prescribe the powers and duties of the municipal finance commission; and to prescribe penalties and provide remedies.

History: 1963, Act 62, Imd. Eff. May 8, 1963;—Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966;—Am. 1970, Act 8, Imd. Eff. Mar. 24, 1970;—Am. 1972, Act 75, Imd. Eff. Mar. 9, 1972;—Am. 1973, Act 172, Imd. Eff. Dec. 21, 1973;—Am. 1978, Act 229, Imd. Eff. June 14, 1978;—Am. 1998, Act 164, Eff. Mar. 23, 1999.

The People of the State of Michigan enact:

125.1251 Legislative determination; short title.

Sec. 1. (1) It is determined that there exists in this state the continuing need for programs to alleviate and prevent conditions of unemployment, to assist and retain local industries, including employee-owned corporations, to meet growing competition for new industries, and to strengthen and revitalize the economy in general. It is further determined that in order to achieve these purposes, industries, including employee-owned corporations, need flexible forms of financing, including the ability to refund outstanding bonds in advance of redemption or maturity. It is further determined that the authority and powers conferred by this act constitute such a necessary program and serve a valid public purpose.

(2) This act shall be known and may be cited as the "industrial development revenue bond act of 1963".

History: 1963, Act 62, Imd. Eff. May 8, 1963;—Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966;—Am. 1978, Act 229, Imd. Eff. June 14, 1978;—Am. 1985, Act 153, Imd. Eff. Nov. 12, 1985.

125.1252 Definitions.

Sec. 2. As used in this act:

(a) "Industrial building" means a building or structure suitable for, and intended for or incidental to, use as a factory, mill, shop, processing plant, assembly plant, fabricating plant, warehouse, research and development facility, an engineering, architectural, or design facility, or a tourist and resort facility.

(b) "Municipality" means a county, city, incorporated village, township, or port district.

(c) "Governing body" means the board, by whatever name known, charged with governing the municipality.

(d) "Industrial machinery and equipment" means such machinery and equipment, including water and air pollution control equipment and solid waste disposal facilities, other than vehicular equipment, as shall be necessary, suitable, intended for, or incidental to the use to which the industrial building in or near which the machinery or equipment shall be situated is to be put.

(e) "Water and air pollution control equipment" means buildings, plants, structures, equipment, or facilities and their appurtenances, together with lands or interest in lands therefor or a portion thereof, for the purpose of controlling, eliminating, recovering, removing, reducing, dispersing, treating, or neutralizing atmospheric or water pollutants, including liquid, gaseous, or solid substances or discharges or radiation, or cooling the temperature of any of the foregoing, or any liquid, gas, or solid, resulting from any of the following: (*i*) Any process of industry, manufacture, trade, or business. (*ii*) The development, processing, or recovery of any natural resources. (*iii*) The operation of any public utility, any of which may pollute or may tend to pollute or affect the water or air of or adjacent to the state. "Water and air pollution control equipment" includes buildings, plants, structures, facilities, and equipment and their appurtenances, together with lands or interest in lands therefor or a portion thereof, used or to be used as a change in manufacturing, production, generation, transmission, or distribution process to prevent, reduce, recover, remove, disperse, neutralize, control, or eliminate air or water pollution. The term includes any and all buildings, plants, structures, equipment, or facilities and their appurtenances, together with lands or interest in lands therefor or a portion thereof, which qualify as air or water pollution control facilities under section 103(c)(4) of the federal internal revenue code.

(f) "Public utility" means a person, firm, or corporation engaged in the manufacture, production, generation, or distribution of electricity, steam heat, gas, or any combination thereof, for sale to the public.

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(g) "Solid waste disposal facilities" means buildings, plants, structures, equipment, or facilities and their appurtenances, together with lands or interest in lands therefor or a portion thereof, for the purpose of treating, shredding, compression, high temperature incineration, pyrolization, separation, or any other technology for recovery, transporting, storing, or the final placement and disposal of solid wastes resulting from any of the following: (*i*) Any process of industry, manufacture, trade, or business. (*ii*) The development, processing, or recovery of any natural resources. (*iii*) The operation of any public utility. "Solid waste disposal facilities" includes any and all buildings, plants, structures, equipment, or facilities and their appurtenances, together with lands or interest in lands therefor or a portion thereof, which qualify as solid waste disposal facilities under section 103(c)(4) of the federal internal revenue code.

(h) "Pollution control facilities" means water and air pollution control equipment and solid waste disposal facilities or any of them.

(i) "Employee-owned corporation" means an employee-owned corporation as defined by the employee-owned corporation act.

History: 1963, Act 62, Imd. Eff. May 8, 1963;—Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966;—Am. 1968, Act 200, Imd. Eff. June 22, 1968;—Am. 1970, Act 8, Imd. Eff. Mar. 24, 1970;—Am. 1972, Act 75, Imd. Eff. Mar. 9, 1972;—Am. 1973, Act 172, Imd. Eff. Dec. 21, 1973;—Am. 1985, Act 153, Imd. Eff. Nov. 12, 1985.

125.1253 Powers of municipality generally.

Sec. 3. A municipality may:

(a) Construct, acquire by gift or purchase, reconstruct, improve, maintain or repair industrial buildings within or without the municipality, acquire sites for those activities and enlarge or remodel industrial buildings.

(b) Acquire by gift or purchase industrial machinery and equipment, but only in conjunction with a project whereby the municipality will construct, acquire by gift or purchase, reconstruct, improve or remodel the industrial building in or near which the industrial machinery or equipment will be located.

(c) Issue revenue bonds to finance the costs of the acquisition, purchase, construction, reconstruction or remodeling of industrial buildings, the acquisition and improvement of sites, the acquisition of industrial machinery and equipment, and the refunding of bonds issued pursuant to this act.

(d) Enter into lease or lease purchase agreements with any person, firm or corporation for the use of the industrial building, the site therefor and industrial machinery and equipment. The agreement shall provide that the rents to be charged for the use shall be fixed and revised from time to time so as to produce income and revenues sufficient to pay promptly when due the interest upon and the principal of all bonds issued payable therefrom after provision has been made for the payment of operation and maintenance costs. Whenever such agreement shall relate to industrial machinery or equipment, it shall specify that the machinery or equipment shall remain in or near the industrial building until provision has been made for the retirement in full of all bonds issued therefor unless the industrial machinery and equipment is replaced without cost to the municipality with similar machinery and equipment of equivalent value and utility.

(e) Mortgage the industrial building, the site, and any industrial machinery and equipment in favor of the holders of the bonds issued therefor.

(f) Sell and convey the industrial building, the site, and any industrial machinery and equipment, including without limitation the sale and conveyance thereof subject to a mortgage, for a price and at a time which the governing body may determine, but a sale or conveyance shall not be made in a manner that would impair the rights or interests of the holders of bonds issued payable from the rentals of the building, site, machinery or equipment.

History: 1963, Act 62, Imd. Eff. May 8, 1963;—Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966;—Am. 1972, Act 75, Imd. Eff. Mar. 9, 1972;—Am. 1978, Act 229, Imd. Eff. June 14, 1978.

125.1253a Programs of water and air pollution control for industries and public utilities; water and air pollution control equipment; powers of municipality.

Sec. 3a. There exists in this state the continuing need for programs of water and air pollution control and solid waste disposal facilities for industries and public utilities in order to protect the public health, safety, and welfare of the residents of the state, and it is necessary to promote and encourage the acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving, repairing, operation, and maintenance of adequate and proper water and air pollution control equipment and solid waste disposal facilities for industrial buildings and the facilities of public utilities now or hereafter located in this state. The authority and powers conferred by this act, including the powers conferred with respect to the acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving, repairing, operation, and maintenance of pollution control facilities and the financing thereof whether by purchase, sale, lease, or otherwise, including pollution control

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facilities heretofore acquired, under construction, placed in operation, or completed by any person, firm, corporation, or public utility, and the issuance of bonds for the purpose of refunding outstanding bonds, constitutes such a necessary program and serves a valid public purpose. A municipality may do any or all of the following:

(a) Construct, acquire by gift or purchase, reconstruct, improve, enlarge, maintain, remodel, repair, or operate and maintain any pollution control facilities or portion thereof within or without the municipality whether the pollution control facilities have been or are operating, are under construction, or are completed. The interest of the municipality in the pollution control facilities leased or sold to a public utility may be subject or may be made subject to a mortgage, lien, security interest, or encumbrance given or made by a public utility from which the municipality acquired its interest or which, under an agreement made pursuant to subdivision (c), has or may acquire an interest in the pollution control facilities.

(b) Issue revenue bonds under, subject to, and in accordance with this act to finance, in whole or in part, the costs of acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving, or repair of pollution control facilities referred to in subdivision (a), or to refund outstanding bonds, or partly to finance, in whole or in part, the costs of acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving or repair of pollution control facilities referred to in subdivision (a) and partly to refund outstanding bonds. The revenue bonds may be issued by a municipality to finance the costs of the acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving, or repair of pollution control facilities located or to be located in 1 or more places within or without the municipality issuing the revenue bonds. Revenue bonds issued pursuant to this section may be issued solely for the acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving, or repair of pollution control facilities referred to in subdivision (a), notwithstanding that the municipality does not own or propose to own the industrial buildings or public utility facilities, including lands or interests in lands therefor in or near to which the pollution control facilities are or are to be located.

(c) Enter into a lease, lease-purchase agreement, or installment sales contract with any person, firm, corporation, or public utility for the use or sale of pollution control facilities referred to in subdivision (a). The agreement shall provide that the rents to be charged for the use or the sums to be paid under the installment sales contract shall be fixed so as to produce income and revenues therefrom sufficient to pay promptly when due the interest upon and the principal of all bonds issued payable therefrom after provision has been made for the payment of operation and maintenance costs, if the costs of operation and maintenance are required to be paid under the agreement by the municipality. An agreement may provide for conveyance of the pollution control facilities to the lessee or purchaser under the agreement after provision has been made for the retirement in full of all bonds issued therefor under terms and conditions provided in the agreement or, with respect to pollution control facilities leased or sold to a public utility, at any time where the obligation of the lessee or purchaser to make the payments prescribed by the preceding sentence of this subdivision shall remain fixed as therein provided notwithstanding the conveyance. The agreement shall specify that the pollution control facilities shall remain in or near the industrial building or plant or facility of the person, firm, corporation, or public utility until provision has been made for the retirement in full of all bonds issued therefor unless the pollution control facilities are conveyed by the municipality as authorized by this subdivision or are replaced without cost to the municipality with machinery and equipment of at least equivalent value or utility. Where the pollution control facilities are sold pursuant to an installment sales contract, the terms “lease,”“leased,”“lessee,” or words of similar import used in this act shall be construed respectively to mean “installment sales contract,”“sold,”“purchaser,” or words of similar import as the context may require, and the term “rent” or words of similar import as used in this act shall be construed to mean “purchase installments” or words of similar import as the context may require.

(d) Mortgage or create security interest in any pollution control facilities referred to in subdivision (a), or in any lease, lease-purchase agreement, or installment sales contract referred to in subdivision (c), or in the rents, revenues, or sums to be paid thereunder, in favor of the holders of the revenue bonds issued therefor. A mortgage or security interest in pollution control facilities leased or sold to a public utility may be subject, or may be made subject, to a mortgage, lien, security interest, or encumbrance to which the interest of the municipality may be subject to pursuant to the provisions of subdivision (a) or to a future mortgage, lien, security interest, or other encumbrance which may be created in any pollution control facilities by the lessee or purchaser.

(e) Sell and convey the pollution control facilities referred to in subdivision (a) owned by the municipality, including without limitation the sale and conveyance thereof subject to a mortgage or security interest referred to in subdivision (d) for such price and at such time as the governing body may determine. A sale or conveyance shall not be made in any manner as to impair the rights or interests of the holders of any revenue bonds previously issued therefor or the rights or interests of any lessee or the purchaser thereof under any

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agreement with the municipality for the lease or purchase thereof.

History: Add. 1972, Act 75, Imd. Eff. Mar. 9, 1972;—Am. 1973, Act 7, Imd. Eff. Apr. 4, 1973;—Am. 1973, Act 172, Imd. Eff. Dec. 31, 1973;—Am. 1978, Act 229, Imd. Eff. June 14, 1978.

125.1254 Bonds; purpose; issuance; serial or term bonds; interest; form of bonds and coupons; execution; payment; tax exemption; debt limitation inapplicable; registration; applicability of other acts.

Sec. 4. (1) For the purpose of defraying the cost of the industrial building, the site for the building, and industrial machinery and equipment, a municipality may borrow money and issue its negotiable bonds for that purpose. The bonds shall be serial bonds or term bonds or a combination of these and if serial bonds they shall be payable either semiannually or annually with the first maturity date not more than 5 years from the date of issuance. The last maturity date of the bonds, whether term or serial, shall be not more than 40 years from the date of issuance. A maturity date shall not fall due after the estimated period of usefulness of the industrial building, or, if the industrial machinery and equipment represent more than 2/3 of the total cost of the project, after the average estimated period of usefulness of said industrial machinery and equipment. The bonds shall bear a rate of interest as specified therein not to exceed the maximum rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, payable semiannually, except that the first coupon may be for any number of months not exceeding 10. The bonds and coupons shall be substantially in the form provided in the authorizing resolution and shall be executed in the manner prescribed in this act, which as to coupons may be by facsimile signature. The bonds and coupons shall be payable in lawful money of the United States, and shall be exempt from taxation by this state or by any taxing authority within this state. The principal and interest of the bonds shall be payable from the net revenues derived from the industrial building and site and industrial machinery and equipment, from the proceeds of the sale of bonds issued to refund outstanding bonds, from the investment earnings of the proceeds, or from any combination of these sources. A bond or coupon issued pursuant to this act shall not be a general obligation of the issuer nor constitute a debt of the issuer within the meaning of the constitutional or statutory limitation. Bonds may be made registerable as to principal or principal and interest under terms and conditions as may be determined by the governing body of the municipality.

(2) Bonds issued under this act are not subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(3) Bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

History: 1963, Act 62, Imd. Eff. May 8, 1963;—Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966;—Am. 1967, Act 48, Imd. Eff. June 14, 1967;—Am. 1973, Act 64, Imd. Eff. July 23, 1973;—Am. 1978, Act 229, Imd. Eff. June 14, 1978;—Am. 2002, Act 297, Imd. Eff. May 9, 2002.

Administrative rules: R 18.301 et seq. and R 125.1001 et seq. of the Michigan Administrative Code.

125.1255 Resolution authorizing issuance of bonds; contents.

Sec. 5. (1) Any resolution authorizing the issuance of bonds under this act may contain covenants as to

(a) The use and disposition of the rentals received under the agreement, including the creation and maintenance of reserves.

(b) The issuance of other or additional bonds payable from the income and revenues from the industrial building and site and any industrial machinery and equipment.

(c) The maintenance and repair costs of the industrial building and site and any industrial machinery and equipment, which costs may be assumed by the lessee, person, firm or corporation, in which event no provision need be made for rental payments to meet said costs.

(d) The insurance to be carried thereon and the use and disposition of insurance moneys.

(e) The terms and conditions upon which the holder of the bonds, or any portion thereof or any trustees therefor, shall be entitled to the appointment of a receiver by the circuit court, which court shall have jurisdiction in such proceedings, and which receiver may enter and take possession of the industrial building and site and any industrial machinery and equipment and lease and maintain it, prescribe rentals and collect, receive and apply all income and revenues thereafter arising therefrom in the same manner and to the same extent as the municipality might do.

(2) Any resolution authorizing the issuance of bonds under this act may provide that the principal of and interest on any bonds issued shall be secured by a mortgage or deed of trust covering the industrial building and site and any industrial machinery and equipment for which the bonds are issued and may include any additions, improvements or extensions thereafter made. The mortgage or deed of trust may contain such

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covenants and agreements to properly safeguard the bonds as may be provided for in the resolution authorizing the bonds but not inconsistent with this act and shall be executed in the manner provided in the resolution. The resolution may provide for the appointment of 1 or more trustees for bondholders, and any such trustee may be an individual or corporation domiciled or located within or without the state and may be given appropriate powers whether with or without the execution of a mortgage or deed of trust covering the industrial building or site or industrial machinery and equipment.

(3) The provisions of this act and any resolution and any mortgage or deed of trust shall continue in effect until the principal of and the interest on the bonds has been fully paid and the duties of the municipality and its governing body and officers under this act and any resolution and any mortgage or deed of trust shall be enforceable by any bondholder by mandamus, foreclosure of the mortgage or deed of trust or other appropriate action in any court of competent jurisdiction.

(4) The resolution authorizing the bond shall provide that the bonds shall contain a recital that they are issued pursuant to this act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(5) Any resolution authorizing the issuance of bonds under this act shall not be effective until publication once in a newspaper of general circulation within the municipality.

History: 1963, Act 62, Imd. Eff. May 8, 1963;—Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966;—Am. 1967, Act 48, Imd. Eff. June 14, 1967.

125.1256 Redemption of bonds.

Sec. 6. The bonds may provide that they may be called for redemption prior to the maturity date, on interest payment dates not earlier than 1 year from the date of issuance of the bonds, at a price and under conditions fixed by the governing body before issuing the bonds.

History: 1963, Act 62, Imd. Eff. May 8, 1963;—Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966.

125.1257 Default; receiver.

Sec. 7. If there is any default in the payment of principal of or interest on any bond issued hereunder, any circuit court having jurisdiction of the action may appoint a receiver to administer the industrial building and site and any industrial machinery and equipment on behalf of the municipality, with power to charge and collect rents sufficient to provide for the payment of any bonds outstanding, and for the payment of operating expenses and to apply the income and revenue in conformity with this act and the resolution made hereunder.

History: 1963, Act 62, Imd. Eff. May 8, 1963;—Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966.

125.1258 Repealed. 1966, Act 340, Imd. Eff. Sept. 21, 1966.

Compiler's note: The repealed section pertained to industrial development, providing for transfer of surplus from operating and maintenance funds to depreciation account to be used for improvements or additions to building.

125.1259 Additional bonds; refunding bonds.

Sec. 9. (1) If the governing body finds that the bonds originally authorized will be insufficient to accomplish the purpose desired, additional bonds, only in the amount necessary to complete the project as originally approved, may be authorized and issued in the same manner as the original bonds. Additional bonds may be issued to defray the cost of 1 or more of the following:

(a) An item of cost contained in section 10.

(b) Interest that has accrued, may accrue, or has been paid during the construction period of the project and for 6 months after the construction period on money borrowed or that is estimated to be borrowed pursuant to this act.

(c) Interest on previously issued bonds.

(2) At the time of issuing additional bonds, the governing body may provide that the additional bonds for additions, extensions, and permanent improvements, be placed in escrow and negotiated from time to time as the proceeds for those purposes are necessary. When negotiated, bonds placed in escrow shall have equal standing with bonds of the same issue.

(3) The municipality may issue bonds at any time to refund, in whole or in part, outstanding bonds issued pursuant to this act, including the payment of interest accrued, or to accrue, to the earliest or any subsequent date of redemption, purchase, or maturity of the bonds, redemption premium, if any, and any commission, service fees, and other expenses necessary to be paid in connection therewith, whether the bonds to be refunded have matured or are redeemable or shall thereafter mature or become redeemable. If considered advisable by the municipality, the municipality may issue bonds partly to refund outstanding bonds and partly for any other purpose contemplated by this act. Bonds issued to refund outstanding bonds may be issued in a

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principal amount greater than, the same as, or lesser than the principal amount of the bonds to be refunded, and may bear interest rates that are higher than, the same as, or lower than the interest rates of the bonds to be refunded. The interest rates, however, shall not exceed the maximum rate of interest permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) The principal, interest, and redemption premiums, if any, on bonds issued by a municipality pursuant to this section to refund outstanding bonds shall be payable from 1 or more of the following:

(a) The net revenues derived from the facilities constructed, acquired, reconstructed, remodeled, or repaired with the proceeds of the bonds to be refunded.

(b) The proceeds of the refunding bonds.

(c) Investment earnings on the proceeds of the refunding bonds.

History: 1963, Act 62, Imd. Eff. May 8, 1963;—Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966;—Am. 1978, Act 229, Imd. Eff. June 14, 1978;—Am. 1980, Act 90, Imd. Eff. Apr. 16, 1980;—Am. 2002, Act 297, Imd. Eff. May 9, 2002.

125.1260 Cost of project.

Sec. 10. In determining the cost of the project, the governing body may include all cost and estimated cost of the issuance of the bonds, all engineering, inspection, fiscal and legal expenses and interest which it is estimated will accrue during the construction period and for 6 months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this act.

History: 1963, Act 62, Imd. Eff. May 8, 1963.

125.1261 Taxation of lessee; liens; recovery.

Sec. 11. When any real or personal property acquired pursuant to this act is leased to a private person, firm or corporation, the lessee shall be subject to taxation in the same amount and to the same extent as though the lessee were the owner of the property. Taxes shall be assessed to the lessee of the real or personal property and collected in the same manner as taxes assessed to owners of real or personal property, except that the taxes shall not become a lien against the property. When due, the taxes shall constitute a debt due from the lessee to the taxing unit and shall be recoverable by direct action of assumpsit.

History: 1963, Act 62, Imd. Eff. May 8, 1963;—Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966.

125.1262 Referendum; intention to issue bonds.

Sec. 12. The governing body may issue bonds pursuant to this act without submitting the proposition to the electors of the municipality for approval unless within 45 days from the publication of a notice of intention to issue the bonds, which notice shall set forth the amount of the issue and the name of the person, firm or corporation who will lease the industrial building, the site therefor and the industrial machinery and equipment, a petition, signed by not less than 5% of the registered electors of the municipality is filed with the clerk of the municipality requesting a referendum upon the question of the issuance of the bonds, in which event the bonds shall not be issued until approved by a majority of the electors of the municipality voting thereon at a general or special election. The provisions of subdivision (g) of section 5 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.5 of the Compiled Laws of 1948, relative to notice of intention to issue bonds, shall not apply to the authorization of the issuance of any bonds under this act.

History: 1963, Act 62, Imd. Eff. May 8, 1963;—Am. 1966, Act 340, Imd. Eff. Sept. 21, 1966;—Am. 1967, Act 48, Imd. Eff. June 14, 1967.

125.1262a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 12a. A petition under section 12, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 164, Eff. Mar. 23, 1999.

125.1263 Issuance of bonds; application; resolution and project cost estimate; approval by municipal finance commission or successor agency; exception; effect of order; prior approval requirement subject to MCL 133.10 and 133.11; department of treasury order providing or denying exception from prior approval.

Sec. 13. (1) Unless an exception from prior approval is available pursuant to subsection (3), before any bonds are issued under this act, the issuing municipality shall make a sworn application to the municipal finance commission or its successor agency, on forms furnished by the commission, for permission to issue

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the bonds. The municipality shall attach a certified copy of the resolution authorizing the bonds and, except in the case of refunding bonds, a certified copy of the estimate of the cost of the project. The commission or its successor agency may request the municipality to furnish such information as the commission or its successor agency deems necessary in order to pass on the application. Unless an exception from prior approval is available pursuant to subsection (3), bonds shall not be issued until the municipal finance commission or its successor agency approves the issuance. In determining whether a proposed issue of bonds shall be approved, the municipal finance commission or its successor agency shall take into consideration: (a) whether the bonds conform to the provisions of this act; (b) whether the probable revenues pledged to the payment of the bonds will be sufficient to pay the principal and interest when due; and (c) whether the amount of the proposed issue is sufficient or excessive for the purpose for which they are to be issued.

(2) No order of the municipal finance commission or its successor agency permitting the issuance of bonds under this act shall be deemed an approval of the legality thereof. The issuance of the commission's or its successor agency's order granting permission to issue the bonds shall imply that the commission or its successor agency has made such determination of facts or circumstances, has given such approvals and has reached such opinions as are a necessary prerequisite to the issuance of the order.

(3) The requirement of subsection (1) for obtaining the prior approval of the municipal finance commission or its successor agency before issuing bonds under this act shall be subject to sections 10 and 11 of chapter III of Act No. 202 of the Public Acts of 1943, being sections 133.10 and 133.11 of the Michigan Compiled Laws, and the department of treasury shall have the same authority as provided by section 11 of chapter III of Act No. 202 of the Public Acts of 1943 to issue an order providing or denying an exception from the prior approval required by subsection (1) for bonds issued under this act.

History: 1963, Act 62, Imd. Eff. May 8, 1963;—Am. 1983, Act 46, Imd. Eff. May 12, 1983.

125.1264 Sale of bonds.

Sec. 14. Bonds issued under this act may be sold at private or public sale upon such terms as may be fixed by the governing body. Said bonds may be sold at a discount of not exceeding 10%: Provided, however, That said bonds shall not be sold at a price which would make the interest cost on the money borrowed after deducting any premium or adding any discount, exceed the maximum rate of interest permitted by Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Michigan Compiled Laws.

History: Add. 1966, Act 340, Imd. Eff. Sept. 21, 1966;—Am. 1967, Act 48, Imd. Eff. June 14, 1967;—Am. 1973, Act 172, Imd. Eff. Dec. 21, 1973.

125.1265 Municipalities; powers as to industrial buildings and machinery.

Sec. 15. Nothing herein contained shall be interpreted to grant to any municipality the authority to operate an industrial building or any industrial machinery or equipment for its own use. The prohibition of this section shall not prevent a municipality from conserving and maintaining an industrial building and site and any industrial machinery and equipment acquired hereunder pending lease thereof to a private person, firm or corporation.

History: Add. 1966, Act 340, Imd. Eff. Sept. 21, 1966.

125.1266 Construction of act; cumulative powers.

Sec. 16. This act shall be construed as granting cumulative authority for the exercise of the various powers herein conferred, and neither said powers nor any bonds issued hereunder shall be affected or limited by any other statutory or charter provision now or hereafter in force, other than as may be provided herein, it being the purpose and intention of this act to create full, separate and complete additional powers. The various powers conferred herein may be exercised independently and notwithstanding that no bonds are issued hereunder.

History: Add. 1966, Act 340, Imd. Eff. Sept. 21, 1966.

125.1267 Liberal construction of act.

Sec. 17. This act, being necessary for and to secure the public health, safety, convenience and welfare of the municipalities of the state of Michigan, shall be liberally construed to effect the public purposes hereof.

History: Add. 1966, Act 340, Imd. Eff. Sept. 21, 1966.

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FEDERAL FUNDS
Act 122 of 1965

AN ACT to authorize local governments to comply with, and accept and match federal funds under certain federal acts.

History: 1965, Act 122, Imd. Eff. July 8, 1965.

The People of the State of Michigan enact:

125.1281 Acceptance and expenditure of federal funds; matching funds.

Sec. 1. A county, city, village or township may take any necessary action consistent with state law to comply with the provisions of Public Law 415 of the 87th Congress, known as the "manpower development and training act of 1962", as amended, and Public Law 452 of the 88th Congress, known as the "economic opportunity act of 1964", as amended, and may accept and expend federal funds available under, and provide matching funds, facilities and services to the extent required by, such laws.

History: 1965, Act 122, Imd. Eff. July 8, 1965.

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UTILIZATION OF PUBLIC FACILITIES BY PHYSICALLY LIMITED
Act 1 of 1966

AN ACT to provide for the accessibility and the utilization by the physically limited persons of public facilities and facilities used by the public; to create a barrier free design board and to prescribe its powers and duties; to prescribe the powers and duties of certain other state and local authorities; to provide remedies; and to provide for the enforcement of this act.

History: 1966, Act 1, Eff. July 1, 1966;—Am. 1970, Act 243, Eff. July 1, 1971;—Am. 1974, Act 190, Imd. Eff. July 2, 1974;—Am. 1975, Act 177, Imd. Eff. July 20, 1975.

Compiler's note: For transfer of powers and duties relating to promulgation of rules by the barrier free design board from the department of labor to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

125.1351 Definitions.

Sec. 1. As used in this act:

(a) "Administrative authority" means the state or local official responsible for the administration and enforcement of this act.

(b) "Barrier free design" means those architectural designs which eliminate the type of barriers and hindrances that deter physically limited persons from having access to and free mobility in and around a building, structure, or improved area.

(c) "Building" means a building as defined in section 2 of Act No. 230 of the Public Acts of 1972, as amended, being section 125.1502 of the Michigan Compiled Laws.

(d) "Facility used by the public" means a building, structure, or improved area utilized for purposes of education, employment, housing other than a privately owned 1 or 2 family dwelling, transportation, or recreation and for the purchase, rental, or acquisition of goods or services. A facility used by the public does not include a public facility.

(e) "Improved area" includes parking lots, harbors, parks, beaches, public telephones, and drinking fountains.

(f) "Physically limited" means a temporary or permanent impairment or condition which causes a person to use a wheelchair; causes a person to walk with difficulty or insecurity; affects sight or hearing to the extent that a person is insecure or exposed to danger; or causes faulty coordination or reduces mobility, flexibility, coordination, or perceptiveness; and means persons who are limited in ambulation.

(g) "Public facility" means a building, structure, or improved area utilized for purposes of education, employment, housing other than a privately owned 1 or 2 family dwelling, transportation, or recreation and for the purchase, rental, or acquisition of goods or services, which is not a facility used by the public as defined in subdivision (d), and which is:

(*i*) Owned by, or on behalf of, the state or its political subdivisions.

(*ii*) Leased or rented in whole or in part by the state or its political subdivisions after June 30, 1974, and after construction or alteration is in accordance with the plans and specifications of the lessee. A public facility which is the subject of a lease or rental agreement on June 30, 1974, shall not be required to meet barrier free design requirements contained in the state construction code for the term of the existing lease or rental agreement but shall be brought into compliance before a lease or rental agreement is renewed.

(*iii*) Financed in whole or in part by a grant or a loan made or guaranteed by the state or its political subdivisions after June 30, 1974.

(*iv*) Constructed, purchased, leased, or rented in whole or in part by the use of federal funds except as otherwise provided by federal law.

(h) "Structure" means a structure as defined in section 2 of Act No. 230 of the Public Acts of 1972, as amended, being section 125.1502 of the Michigan Compiled Laws.

History: 1966, Act 1, Eff. July 1, 1966;—Am. 1970, Act 243, Eff. July 1, 1971;—Am. 1974, Act 190, Imd. Eff. July 2, 1974;—Am. 1975, Act 177, Imd. Eff. July 20, 1975.

Compiler's note: For transfer of powers and duties relating to promulgation of rules by the barrier free design board from the department of labor to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

125.1352 Compliance of public facility with barrier free design requirements; leases and rentals by state or political subdivisions; approval of state or local administrative authority as condition of construction, lease, building permit, or certificate of occupancy;

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displaying, issuing, making, and distributing symbols of access; "building" defined; penalty.

Sec. 2. (1) A public facility or facility used by the public the contract for construction of which or the first contract for construction of a portion of which is made after July 2, 1974, shall meet the barrier free design requirements contained in the state construction code.

(2) An existing public facility or facility used by the public undergoing a change in use group or occupancy load, or an alteration other than ordinary maintenance, after July 20, 1975, shall meet the barrier free design requirements contained in the state construction code according to the following:

(a) If the change in use group or occupancy load, or alteration, involves less than 50% of the floor area of the public facility or facility used by the public which can be used by the public or employees, only the area affected, and areas necessary to provide a continuous and unobstructed route of travel to and from the affected areas from and including the nearest entrance, shall be required to meet the barrier free design requirements of the state construction code.

(b) If the change in use group or occupancy load, or alteration, involves 50% or more of the floor area of the public facility or facility used by the public which can be occupied by the public or employees, the entire public facility or facility used by the public shall meet the barrier free design requirements of the state construction code.

(3) If a building, structure, or improved area is a public facility solely by reason of lease or rental of a portion thereof by the state or its political subdivisions, the portion not so leased or rented shall not be required to be altered to meet the barrier free design requirements unless required by subsection (2) or unless the portion rented by the state or its political subdivisions, or a combination thereof, represents 50% or more of the floor area of the public facility that can be occupied by the public or employees.

(4) Approval of the appropriate state administrative authority shall be secured before the award of a construction contract or the execution by the lessee of a lease for a public facility to be owned or occupied by the state or its political subdivisions, and the approval of the appropriate local or state administrative authority shall be secured before the issuance of a building permit or certificate of occupancy for a facility used by the public or a public facility which will not be owned or occupied by the state or its political subdivisions.

(5) A building which meets the requirements of this act shall display the symbol of access as provided for in the general rules of the state construction code. The appropriate administrative authority, under section 3, upon certification that the building, structure or improved area has met the requirements of section 2 of this act and the barrier free design requirements contained in the state construction code, shall issue symbols as are required to the facility manager for display. The department of corrections shall make the symbols available to the administrative authorities. Methods of distribution of the symbols shall be developed by the issuing bodies. When used in this section, the term "building" notwithstanding its definition in Michigan Compiled Laws 125.1502 section 2(e) of the state construction code, shall include, in addition to those buildings otherwise included, those buildings constructed in whole or in part with funds of the state or any of its political subdivisions.

(6) A person who displays or causes to be displayed a symbol of access on a facility used by the public which symbol of access does not comply with this act is subject to a fine of $250.00.

History: 1966, Act 1, Eff. July 1, 1966;—Am. 1970, Act 243, Eff. July 1, 1971;—Am. 1974, Act 190, Imd. Eff. July 2, 1974;—Am. 1975, Act 177, Imd. Eff. July 20, 1975;—Am. 1979, Act 137, Imd. Eff. Nov. 7, 1979.

Administrative rules: R 408.30427 et seq. of the Michigan Administrative Code.

125.1353 Administration and enforcement of act.

Sec. 3. (1) The administration and enforcement of this act in respect to all public facilities owned or leased by the state, except for school buildings or facilities other than facilities at institutions of higher education as defined in section 4, article 8 of the state constitution of 1963, are vested in the department of management and budget.

(2) The administration and enforcement of this act in respect to school buildings as defined in section 1a of Act No. 306 of the Public Acts of 1937, as amended, being section 388.851a of the Michigan Compiled Laws, are vested in the department of education.

(3) The administration and enforcement of this act in respect to public facilities for which the administration and enforcement is not provided for in subsection (1) or (2), are vested in the local or state unit of government responsible for issuing a building permit, and if a permit is not required, in the department of labor.

(4) The administration and enforcement of this act in respect to facilities used by the public are vested in the building and inspection departments or agencies of local administrative authority with the responsibility and duty of issuing building permits.

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History: 1966, Act 1, Eff. July 1, 1966;—Am. 1970, Act 243, Eff. July 1, 1971;—Am. 1974, Act 190, Imd. Eff. July 2, 1974;—Am. 1975, Act 177, Imd. Eff. July 20, 1975.

125.1354 Rules.

Sec. 4. The barrier free design board shall promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, to implement this act.

History: 1966, Act 1, Eff. July 1, 1966;—Am. 1970, Act 243, Eff. July 1, 1971;—Am. 1974, Act 190, Imd. Eff. July 2, 1974;—Am. 1975, Act 177, Imd. Eff. July 20, 1975.

Administrative rules: R 18.301 et seq. and R 125.1001 et seq. of the Michigan Administrative Code.

125.1355 Barrier free design board; creation; appointment, qualifications, and terms of members; vacancy; quorum; action by board; meetings; conducting business at public meeting; notice of meeting; powers and duties of board; recommendations; exception to rule; technical interpretation of rule; compensation and expenses; supportive services.

Sec. 5. (1) The barrier free design board is created within the department of labor. The board consists of 9 members who shall be appointed by the governor with the advice and consent of the senate. At least 4 members shall be physically limited of which 1 shall be a wheelchair user, 1 shall be a severely mobility limited person, 1 shall be visually impaired, and 1 shall have impaired hearing. Of the remaining members, 1 of which may be physically limited and may be a wheelchair user, 1 shall be from the construction industry, 1 shall be a building inspector of a local unit of government, 1 shall be a registered architect, 1 shall be a professional engineer, and 1 shall be from the general public.

(2) The members shall serve for a term of 3 years except of those initially appointed, 3 shall be appointed for a term of 1 year, 3 for a term of 2 years, and 3 for a term of 3 years. A vacancy shall be filled in the same manner as the original appointment for the balance of the unexpired term.

(3) Five members of the board constitute a quorum. The board shall not take action without the concurrence of a majority of the members present at a meeting.

(4) The board shall meet not less than 6 times annually. Meetings shall be held in Lansing or in any other appropriate location as determined by the board.

(5) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(6) The board may perform the following:

(a) Receive, review, process, grant, or deny requests for exceptions to the barrier free design requirements contained in Act No. 230 of the Public Acts of 1972, as amended, being sections 125.1501 to 125.1531 of the Michigan Compiled Laws, or rules promulgated under Act No. 230 of the Public Acts of 1972, as amended. The power to grant exceptions shall include the power to grant an exception to any or all of the barrier free design requirements contained in Act No. 230 of the Public Acts of 1972, as amended, for a stated time period and upon stated conditions.

(b) Require alternatives when exceptions are granted.

(c) Receive, process, review, and act on complaints of noncompliance.

(7) The barrier free design board shall make recommendations to the construction code commission created pursuant to section 3 of Act No. 230 of the Public Acts of 1972, as amended, being section 125.1503 of the Michigan Compiled Laws, for barrier free design rules.

(8) An exception to a rule promulgated by the construction code commission relative to barrier free design may not be made by a local governmental unit, state department or agency, or person except as provided in subsection (6).

(9) The technical interpretation of a rule promulgated by the construction code commission relative to barrier free design is subject to the interpretation of the construction code commission.

(10) Members of the barrier free design board shall receive a per diem compensation and shall be reimbursed for actual and necessary expenses incurred in the performance of board duties. The per diem compensation of the board and the schedule for reimbursement of expenses shall be established annually by the legislature.

(11) The principal department to which the barrier free design board is assigned shall provide the board with the necessary personnel, materials, and other supportive services as shall be provided by appropriation.

History: 1966, Act 1, Eff. July 1, 1966;—Am. 1974, Act 190, Imd. Eff. July 2, 1974;—Am. 1975, Act 177, Imd. Eff. July 20, 1975;—Am. 1977, Act 189, Imd. Eff. Nov. 17, 1977;—Am. 1978, Act 363, Imd. Eff. July 22, 1978.

Administrative rules: R 408.30101 et seq. of the Michigan Administrative Code.

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125.1355a Granting request for exception to barrier free design requirement; finding of compelling need; "compelling need" defined.

Sec. 5a. (1) Consistent with section 5(6), the barrier free design board shall grant a request for an exception to a barrier free design requirement contained in the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being sections 125.1501 to 125.1531 of the Michigan Compiled Laws, only upon a finding by the board of compelling need for the exception. The board may find compelling need if the literal application of the barrier free design requirement would result in exceptional, practical difficulty to the applicant.

(2) As used in subsection (1), "compelling need" includes, but is not limited to, 1 or more of the following:

(a) Structural limitations.

(b) Site limitations.

(c) Economic limitations.

(d) Technological limitations.

(e) Jurisdictional conflicts.

(f) Historical structures, under conditions prescribed by rule of the construction code commission.

History: Add. 1985, Act 196, Imd. Eff. Dec. 20, 1985.

Administrative rules: R 408.30428 of the Michigan Administrative Code.

125.1356 Injunction; venue.

Sec. 6. The barrier free design board or the administrative authority charged with responsibility for enforcement may seek an injunction to halt construction or prevent the use of the public facility or facility used by the public until compliance with this act is obtained. An action against the state or an agency or department of the state shall be brought in the circuit court for the county of Ingham. All other actions shall be brought in the circuit court for the county in which the public facility or facility used by the public, or the portion thereof that is not in compliance, is situated.

History: 1966, Act 1, Eff. July 1, 1966;—Am. 1970, Act 243, Eff. July 1, 1971;—Am. 1974, Act 190, Imd. Eff. July 2, 1974;—Am. 1975, Act 177, Imd. Eff. July 20, 1975.

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SIDEWALKS; PERSONS WITH DISABILITIES
Act 8 of 1973

AN ACT to provide for the construction and maintenance of sidewalks for use by persons with disabilities.

History: 1973, Act 8, Imd. Eff. Apr. 12, 1973;—Am. 1998, Act 35, Imd. Eff. Mar. 18, 1998.

The People of the State of Michigan enact:

125.1361 Construction of sidewalks for use by persons with physical disabilities.

Sec. 1. A sidewalk constructed or reconstructed after April 12, 1973 on public or private property for public use within this state, whether constructed by a public agency or a person, firm, corporation, nonprofit corporation, or organization, shall be constructed in a manner that will facilitate use by persons with physical disabilities. At points of intersection between pedestrian and motorized lines of travel, and at other points when necessary to avoid abrupt changes in grade, a sidewalk shall slope gradually to street level so as to provide an uninterrupted line of travel. The state transportation department shall prescribe standards of slope gradient, width, and slip-resistant qualities that will assure that a sidewalk accommodates a person in a wheelchair or other persons with physical disabilities. All agencies of state and local government including school districts and other groups aforementioned, public or private, shall comply with these standards and this act when undertaking construction or reconstruction of affected streets, curbs, or sidewalks, except that a local unit of government may adopt ordinances that provide for standards at least equal to those provided by the state transportation department.

History: 1973, Act 8, Imd. Eff. Apr. 12, 1973;—Am. 1998, Act 35, Imd. Eff. Mar. 18, 1998.

SAFETY GLAZING MATERIALS
Act 273 of 1972

125.1371-125.1378 Repealed. 1972, Act 311, Eff. Jan. 1, 1973.

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SAFETY GLAZING MATERIALS
Act 311 of 1972

AN ACT to require the use of safety glazing materials in hazardous locations in residential, commercial or public buildings; to provide a penalty; and to repeal certain acts and parts of acts.

History: 1972, Act 311, Eff. July 1, 1973.

The People of the State of Michigan enact:

125.1381 Definitions.

Sec. 1. As used in this act:

(a) "Safety glazing material" means any glazing material, such as tempered glass, laminated glass, wire glass or rigid plastic, which meets the test requirements of ANSI Standard Z-97.1-1972 and which are so constructed, treated or combined with other materials as to minimize the likelihood of cutting and piercing injuries resulting from human contact with the glazing material.

(b) "Hazardous locations" means those installations, to be glazed or reglazed in commercial and public buildings or structures, known as framed or unframed glass entrance doors; and those installations, to be glazed or reglazed in residential buildings and other structures used as dwellings, commercial buildings and public buildings, known as sliding glass doors, storm doors, shower doors, bathtub enclosures and fixed glazed panels of over 300 square inches in area adjacent to entrance and exit doors and interior doorways which because of their location present a barrier in the normal path traveled by persons going into, through or out of these buildings or because of their size and design may be mistaken as means of ingress, passage or egress; and any other installation, glazed or to be glazed of over 300 square inches in area, wherein a person knows or should have known that the use of other than safety glazing materials would constitute an unreasonable hazard whether or not the glazing in such doors, panels, enclosures and other installations is transparent.

History: 1972, Act 311, Eff. July 1, 1973.

125.1382 Labeling.

Sec. 2. (1) Each light of safety glazing material manufactured anywhere and distributed, imported within or into this state, or sold in this state, or for use in hazardous locations in this state or installed in such a location in this state shall be labeled. The label shall identify the labeler, whether manufacturer, fabricator, or installer, and the nominal thickness and the type of safety glazing material and the fact that the material meets the test requirements of ANSI Standard Z-97.1-1972. The label shall be legible and visible after installation.

(2) The safety glazing labeling shall not be used on other than safety glazing materials.

History: 1972, Act 311, Eff. July 1, 1973;—Am. 1974, Act 32, Eff. Apr. 1, 1975.

125.1383 Safety glazing materials required in hazardous locations and for certain doors.

Sec. 3. (1) A person shall not knowingly fabricate, assemble, glaze, install, consent or cause to be installed glazing materials other than safety glazing materials in, or for use in, a hazardous location in a commercial, public, or residential building or in any building constructed or substantially remodeled after the effective date of this act, and the building is located in this state.

(2) A person shall not knowingly sell, fabricate, or install a glazed storm door, shower door, tub enclosure, or sliding glass door in or for use in any building in this state unless the storm door, shower door, tub enclosure, or sliding glass door is equipped with safety glazing material.

History: 1972, Act 311, Eff. July 1, 1973;—Am. 1974, Act 32, Eff. Apr. 1, 1975.

125.1384 Sales; identification of nonconforming glazing material.

Sec. 4. A person shall not knowingly sell for use in this state any glazing material not meeting the requirements of ANSI Standard Z-97.1-1972 and of 300 square inches or more in area without a sticker or other identification affixed thereto clearly indicating it should not be used in doors or other hazardous locations.

History: 1972, Act 311, Eff. July 1, 1973;—Am. 1974, Act 32, Eff. Apr. 1, 1975.

125.1385 Certain workmen exempted from liability.

Sec. 5. Liability under this act is not created as to workmen who are employees of a contractor, subcontractor, or other employer responsible for compliance with this act.

History: 1972, Act 311, Eff. July 1, 1973.

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125.1386 Penalty.

Sec. 6. A person who violates the provisions of this act is guilty of a misdemeanor.

History: 1972, Act 311, Eff. July 1, 1973.

125.1387 Local permits; compliance with other laws.

Sec. 7. Nothing in this act shall relieve any person from responsibility for securing any local permits or complying with all applicable state or local codes, regulations, or ordinances not in conflict with this act.

History: 1972, Act 311, Eff. July 1, 1973.

125.1388 Repeal.

Sec. 8. Act No. 273 of the Public Acts of 1972, being sections 125.1371 to 125.1378 of the Compiled Laws of 1948, is repealed.

History: 1972, Act 311, Eff. Jan. 1, 1973.

125.1389 Effective date; exception.

Sec. 9. This act shall become effective July 1, 1973 except section 8 which shall become effective January 1, 1973.

History: 1972, Act 311, Eff. July 1, 1973.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1989-2

125.1391 Transfer of senior citizens' cooperative housing tax exemption payments program to department of commerce.

WHEREAS, it is in the public interest to promote coordination, cooperation and efficiency among certain property tax exemption programs; and

WHEREAS, Act 198 of the Public Acts of 1989 shifts appropriations for the Senior Citizens' Cooperative Housing Tax Exemption Payments Program from the Department of Management and Budget to the Department of Commerce; and

WHEREAS, Article 5, Section 2, of the Michigan Constitution of 1963 empowers the governor to make changes in the organization of the Executive Branch or assignment of functions among its units which are necessary for efficient administration;

NOW, THEREFORE, I, JAMES J. BLANCHARD, Governor of the State of Michigan, pursuant to the powers vested in me by the Michigan Constitution of 1963 and the laws of the State of Michigan, do hereby order the following:

1. The powers, duties, functions and responsibilities of the Department of Management and Budget conferred by Section 7d of Act No. 206 of the Public Acts of 1893, being Section 211.7d of the Michigan Compiled Laws, are hereby transferred to the Michigan State Housing Development Authority within the Department of Commerce.

2. All records, property, and unexpended balances of appropriations, allocations, and other funds used, held, available, or to be made available to the Department of Management and Budget for the Senior Citizens' Cooperative Housing Tax Exemption Program are also transferred to the Michigan State Housing Development Authority within the Department of Commerce.

In fulfillment of the requirements of Article 5, Section 2, of the Constitution of 1963, this Order shall become effective October 1, 1989.

History: 1989, E.R.O. No. 1989-2, Eff. Oct. 1, 1989.

Compiler's note: Executive Reorganization Order No. 1989-2 was promulgated October 30,1989, as Executive Order No. 1989-11 and became effective October 1, 1989.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2009-24

125.1392 Transfer of Michigan housing and community development fund advisory committee to Michigan state housing development authority by type III transfer; abolishment of Michigan housing and community development fund advisory committee.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, there is a continuing need to reorganize functions amongst state departments to ensure efficient administration and effectiveness of government;

WHEREAS, abolishing the Michigan Housing and Community Development Fund Advisory Committee will contribute to a smaller and more efficient state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Michigan State Housing Development Authority" means the public body corporate and politic created under Section 21 of the State Housing Development Authority Act of 1966, 1966 PA 346, MCL 125.1421.

B. "Michigan Housing and Community Development Fund Advisory Committee" means the committee created under Section 58e of the State Housing Development Authority Act of 1966, 1966 PA 346, MCL 125.1458e.

C. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

D. "Type III transfer" means that term as defined under Section 3(c) of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

II. TRANSFER OF AUTHORITY

A. Any and all of the authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds of the Michigan Housing and Community Development Fund Advisory Committee authorized under Section 58e of the State Housing Development Authority Act of 1966, 1966 PA 346, MCL 125.1458e, are transferred by Type III transfer to the Michigan State Housing Development Authority.

B. The Michigan Housing and Community Development Fund Advisory Committee is abolished.

III. IMPLEMENTATION OF TRANSFERS

A. The Executive Director of the Michigan State Housing Development Authority shall provide executive direction and supervision for the implementation of all transfers of functions under this Order and shall make internal organizational changes as necessary to complete the transfers under this Order.

B. The functions transferred under this Order shall be administered by the Executive Director of the Michigan State Housing Development Authority in such ways as to promote efficient administration.

C. All records, property, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Michigan Housing and Community Development Fund Advisory Committee for the activities, powers, duties, functions, and responsibilities transferred under this Order are transferred to the Michigan State Housing Development Authority.

D. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary for the implementation of this Order.

IV. MISCELLANEOUS

A. All rules, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

B. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

C.The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order,

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which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are effective August 10, 2009 at 12:01 a.m.

History: 2009, E.R.O. No. 2009-24, Eff. Aug. 10, 2009.

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STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966
Act 346 of 1966

AN ACT to create a state housing development authority; to define the powers and duties of the authority; to establish a housing development revolving fund; to establish a land acquisition and development fund; to establish a rehabilitation fund; to establish a conversion condominium fund; to create certain other funds and provide for the expenditure of certain funds; to authorize the making and purchase of loans, deferred payment loans, and grants to qualified developers, sponsors, individuals, mortgage lenders, and municipalities; to establish and provide acceleration and foreclosure procedures; to provide tax exemption; to authorize payments instead of taxes by nonprofit housing corporations, consumer housing cooperatives, limited dividend housing corporations, mobile home park corporations, and mobile home park associations; and to prescribe criminal penalties for violations of this act.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1977, Act 130, Imd. Eff. Oct. 25, 1977;—Am. 1978, Act 192, Imd. Eff. June 4, 1978;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1980, Act 284, Imd. Eff. Oct. 10, 1980;—Am. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983;—Am. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 2004, Act 480, Imd. Eff. Dec. 28, 2004.

The People of the State of Michigan enact:

125.1401 Legislative determinations and findings.

Sec. 1. (1) The legislature hereby determines that there exists in the state a seriously inadequate supply of, and a pressing need for, safe and sanitary dwelling accommodations within the financial means of low income or moderate income families or persons, including those families and persons displaced by the clearing of slums and blighted areas or by other public programs; that there exists in this state a high incidence of residential real property occupied by persons of low and moderate income which is not safe, sanitary, or adequate and that there is a pressing need for rehabilitation of that property; that large areas in municipalities have become blighted or, through programs to remove blight, have become vacant, resulting in the impairment or loss of taxable values upon which municipal revenue largely depends; that large numbers of middle and upper income persons and families have left municipalities which have high concentrations of low income persons and families resulting in a high demand for municipal services notwithstanding a low potential for generating revenues necessary to pay for those services; that the existence of blight, the inability to redevelop cleared areas, and the lack of economic integration is detrimental to the general welfare of the citizens of this state and the economic welfare of municipalities in this state; that the financing of housing for persons and families without regard to income will assist in preserving existing values of property within or adjacent to blighted or cleared areas; that economic integration will promote the financial and social stability of housing for families and persons of low and moderate income; that in order to improve and maintain the general character of municipalities having the aforesaid characteristics, it is necessary to promote the development of housing for persons and families without regard to income; that to increase the availability of safe and sanitary housing generally it is necessary to facilitate the purchase of existing housing by making financing for the purchase of existing housing available at affordable interest rates; that there are inadequate social, recreational, commercial, and communal facilities in residential areas inhabited by low income or moderate income families or persons and in areas blighted or vacant because of slum clearance, and that housing financed pursuant to this act will not be viable without adequate social, recreational, commercial, and communal facilities in the surrounding area; and that it is a valid public purpose to finance the acquisition and rehabilitation of existing housing or the construction of additional housing for those low or moderate income families and persons who would otherwise be unable to obtain adequate and affordable dwellings, to finance the rehabilitation of residential real property occupied or to be occupied by persons and families of low and moderate income who would otherwise be unable to afford the purchase or rehabilitation of residential real property which is safe, sanitary, or adequate, to finance housing for persons and families without regard to income in areas in municipalities which are experiencing blight or inability to redevelop land cleared of blight which are predominately populated by low and moderate income persons and families, to finance social, recreational, commercial, and communal facilities to serve those families or persons, to enhance authority-financed housing, to establish and provide acceleration and foreclosure procedures for authority-financed housing, and to acquire land for present or future development including that housing and social, recreational, commercial, and communal facilities; that it is a valid public purpose to finance safe, sanitary, and adequate mobile homes, mobile home parks, and mobile home condominium projects for persons and families of low and moderate income in order to facilitate the provision of affordable housing for such persons, to finance mobile homes, mobile home parks, and mobile home condominium projects without

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regard to income in areas in municipalities which are experiencing blight or inability to redevelop land cleared of blight which are predominately populated by low and moderate income persons and families, and to finance social, recreational, commercial, and communal facilities in mobile home parks and mobile home condominium projects, the financing of mobile homes, mobile home parks, and mobile home condominium projects being necessary to fill a gap in the housing market.

(2) It is further determined that the supply of low and moderate cost housing available for occupancy by certain persons with disabilities and certain elderly persons is being eroded through greatly increasing rental rates, and the conversion of low and moderate cost rental units into condominium units which are then sold at prices and under financing terms which are not affordable to those persons with disabilities and elderly persons. It is further determined that it is a proper public purpose to prevent the erosion of the supply of existing low and moderate cost housing available for occupancy by certain persons with disabilities and elderly persons by taking appropriate action to prevent the displacement of those persons with disabilities and elderly persons from existing low and moderate cost housing, including the making of loans enabling those persons with disabilities and elderly persons to continue to rent the units in which they reside.

(3) It is further determined that to assure an adequate supply of safe and sanitary housing for families of low and moderate income within the financial means of those families, it is necessary to facilitate the purchase of safe and sanitary existing housing by those families; that, in addition, new single-family housing construction is inhibited by the inability of prospective purchasers to sell existing single-family residences, and that those conditions result in the reduction of the number of safe and sanitary dwellings which would otherwise be made available to persons of low and moderate income; and that the depressed economy and decreased employment in this state are detrimental to the general welfare of the citizens of this state. It is further determined that it is necessary in order to alleviate those conditions and is a valid public purpose to provide for the financing or refinancing, with the assistance of the authority, of the purchase of existing single-family residences for occupancy by low and moderate income families and families without regard to income in areas in municipalities which are experiencing blight or inability to redevelop land cleared of blight and which are predominately populated by low and moderate income persons and families.

(4) It is further determined that there exists in this state a high incidence of residential rental property which is not safe, sanitary, adequate, or energy efficient, and that there is a pressing need for the rehabilitation of residential rental property in order to preserve and improve the state's existing housing stock. It is further determined that it is necessary in order to alleviate those conditions and is a valid public purpose to provide for the financing, with the assistance of the authority, of the rehabilitation of existing residential rental property without regard to the income of the persons or entities owning the property or of the tenants of the property.

(5) It is further determined that there is a statewide pressing need for programs to alleviate and prevent conditions of unemployment in the housing industry, to preserve existing jobs and create new jobs to meet the employment demands of population growth, to promote the development of construction related business enterprises, to revitalize and diversify the Michigan economy in general, and to achieve the goals of economic growth and full employment.

(6) It is further determined that the construction and rehabilitation of safe and sanitary dwellings are necessary to the creation and retention of jobs in the state.

(7) It is further determined that the retention, promotion, and development of the housing industry require additional means of financing to help existing business enterprises expand more rapidly, to promote the location of additional business enterprises in this state, and to alleviate and prevent conditions of unemployment.

(8) It is further determined that economic conditions and single-family home mortgage market standards, activities, and practices, including forms of predatory and abusive mortgage loan financing, have resulted in an increase in the incidence of mortgage loan default and mortgage foreclosure in the state, and that there is a pressing need for the creation of programs to assist low and moderate income individuals and families with the refinancing of single-family mortgages in this state, which programs will prevent families from losing their homes and help to stabilize the housing market in this state.

(9) The legislature finds that the conditions described in subsections (1) to (8) cannot be remedied by the ordinary operation of private enterprise without supplementary public participation and that the authority and powers conferred by this act constitute a necessary program and serve a valid public purpose.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1977, Act 130, Imd. Eff. Oct. 25, 1977;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1980, Act 284, Imd. Eff. Oct. 10, 1980;—Am. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1982, Act 506, Imd. Eff. Dec. 31, 1982;—Am. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983;—Am. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1998, Act 33, Imd. Eff. Mar. 18, 1998;—Am. 2008, Act 54, Imd. Eff. Apr. 3, 2008.

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125.1402 Short title.

Sec. 2. This act shall be known and may be cited as the “state housing development authority act of 1966”.

History: Add. 1979, Act 49, Imd. Eff. July 7, 1979.

CHAPTER 1

125.1411 Definitions.

Sec. 11. As used in this act:

(a) "Authority" means the Michigan state housing development authority created in this act.

(b) "Development costs" means the costs that have been approved by the authority as appropriate expenditures, and includes:

(*i*) Payments for options to purchase properties on the proposed housing project site, deposits on contracts of purchase, or, with the prior approval of the authority, payments for the purchases of those properties.

(*ii*) Legal, organizational, and marketing expenses, including payment of attorneys' fees, project manager and clerical staff salaries, office rent, and other incidental expenses.

(*iii*) Payment of fees for preliminary feasibility studies, advances for planning, engineering, and architectural work.

(*iv*) Expenses for surveys as to need, and market analyses.

(*v*) Necessary application and other fees to federal and other government agencies.

(*vi*) Other expenses incurred by the nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association that the authority considers appropriate to effectuate the purposes of this act.

(c) "Federally-aided mortgage" means any of the following:

(*i*) A below market interest rate mortgage insured, purchased, or held by the secretary of the department of housing and urban development.

(*ii*) A market interest rate mortgage insured by the secretary of the department of housing and urban development and augmented by a program of rent supplements.

(*iii*) A mortgage receiving interest reduction payments provided by the secretary of the department of housing and urban development.

(*iv*) A mortgage on a housing project to which the authority allocates low income housing tax credits under section 22b.

(*v*) A mortgage receiving special benefits under other federal law designated specifically to develop low and moderate income housing, consistent with this act.

(d) "Fund" means the housing development fund created by this act.

(e) "Project cost" means the sum total of all reasonable or necessary costs incurred by the nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association for carrying out all works and undertakings for the completion of a housing project and approved by the authority. In addition to other reasonable and necessary costs, "project costs" includes costs for all of the following: studies and surveys; plans, specifications, and architectural and engineering services; legal, organization, marketing, or other special services; financing, acquisition, demolition, construction, equipment, and site development of new and rehabilitated buildings; movement of existing buildings to other sites; rehabilitation, reconstruction, repair, or remodeling of existing buildings; carrying charges during construction; the cost of placement of tenants or occupants, and relocation services in connection with a housing project; and, to the extent not already included, all development costs.

(f) "Housing project" means any of the following:

(*i*) Residential real property developed or to be developed or receiving benefits under this act.

(*ii*) A specific work or improvement either for rental or for subsequent sale to an individual purchaser undertaken by a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association pursuant to or receiving benefits under this act to provide dwelling accommodations, including the acquisition, construction, or rehabilitation of lands, buildings, and improvements.

(*iii*) Social, recreational, commercial, and communal facilities that the authority finds necessary to serve and improve a residential area in which housing described in subparagraph (*i*) or (*ii*) is located or is planned to be located, thereby enhancing the viability of the housing.

(g) "Low income or moderate income persons" means families and persons who cannot afford to pay the amounts at which private enterprise, without federally-aided mortgages or loans from the authority, is providing a substantial supply of decent, safe, and sanitary housing and who fall within income limitations set

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in this act or by the authority in its rules. Among low income or moderate income persons, preference shall be given to the elderly and those displaced by urban renewal, slum clearance, or other governmental action.

(h) "Municipality" means a city, village, or township in this state.

(i) "County" means a county within this state.

(j) "Governing body" means in the case of a city, the council or commission of the city; in the case of a village, the council, commission, or board of trustees of the village; in the case of a township, the township board; and in the case of a county, the county board of commissioners.

(k) "Nonprofit housing corporation" means a nonprofit corporation incorporated under the corporation laws of this state and chapter 4.

(*l*) "Consumer housing cooperative" means a nonprofit corporation incorporated pursuant to the corporation laws of this state and chapter 5.

(m) "Annual shelter rent" means the total collections during an agreed annual period from all occupants of a housing project representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.

(n) "Taxing jurisdiction" means a municipality, county, or district, including a school district or any special district having the power to levy or collect taxes upon real property or in whose behalf taxes may be levied or collected.

(o) "Elderly" means a single person who is 55 years of age or older or a household in which at least 1 member is 55 years of age or older and all other members are 50 years of age or older.

(p) "Housing development" means a development that contains a significant element of housing for persons of low or moderate income and elements of other housing and commercial, recreational, industrial, communal, and educational facilities that the authority determines improve the quality of the development as it relates to housing for persons of low or moderate income.

(q) "Limited dividend housing corporation" means a corporation incorporated or qualified pursuant to the corporation laws of this state and chapter 6 and a limited dividend housing association organized and qualified pursuant to chapter 7.

(r) "Residential real property" means real property located in this state, used for residential purposes, and improved or to be improved by a residential structure. Residential real property includes a mobile home, a mobile home park, and a mobile home condominium project. When the terms "rehabilitate" or "rehabilitation" are used in conjunction with residential real property, residential real property refers to property improved by a residential structure.

(s) "Rehabilitation" means all or part of those repairs and improvements necessary to make residential real property safe, sanitary, or adequate.

(t) "Deferred payment loan" means a loan that is repayable or partially repayable upon the occurrence of a specified event as determined by the authority.

(u) "Eligible distressed area" means any of the following:

(*i*) An area located in a city with a population of at least 10,000, which area is either designated as a "blighted area" by a local legislative body pursuant to 1945 PA 344, MCL 125.71 to 125.84, or which area is determined by the authority to be blighted or largely vacant by reason of clearance of blight, if, with respect to the area, the authority determines all of the following:

(A) That private enterprise has failed to provide a supply of adequate, safe, and sanitary dwellings sufficient to meet market demand.

(B) That approval of elimination of income limits applicable in connection with authority loans has been received from the city in the form of either a resolution adopted by the highest legislative body of the city or, if the city charter provides for the mayor to be elected at large with that office specifically designated on the ballot, provides that the office of mayor is a full-time position, and provides that the mayor has the power to veto legislative actions of the legislative body of that city, a written communication from the mayor of that city.

(*ii*) A municipality that meets all of the following requirements:

(A) The municipality shows a negative population change from 1970 to the date of the most recent federal decennial census.

(B) The municipality shows an overall increase in the state equalized value of real and personal property of less than the statewide average increase since 1972.

(C) The municipality has a poverty rate, as defined by the most recent federal decennial census, greater than the statewide average.

(D) The municipality has had an unemployment rate higher than the statewide average unemployment rate for 3 of the preceding 5 years.

(*iii*) An area located in a local unit of government certified by the Michigan enterprise zone authority as

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meeting the criteria prescribed in section 2(d) of the neighborhood enterprise zone act, 1992 PA 147, MCL 207.772.

(v) "Mobile home" means a structure, transportable in 1 or more sections, that is built on a chassis and is designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Mobile home may, but need not, include the real property to which the mobile home may be attached. Mobile home does not include a recreational vehicle.

(w) "Mobile home condominium project" means a condominium project in which mobile homes are intended to be located upon separate sites that constitute individual condominium units and that complies with the condominium act, 1978 PA 59, MCL 559.101 to 559.276.

(x) "Mobile home park" means a parcel or tract of land under the control of a person or entity upon which 3 or more mobile homes are located on a continual, nonrecreational, residential basis and that is offered to the public for general public use for continual, nonrecreational, residential purposes regardless of whether a charge is made for that use, together with any social, recreational, commercial, and communal facilities used or intended for use incident to the occupancy of a mobile home. Mobile home park does not include trailer parks and courts for use on a transient basis.

(y) "Mobile home park association" means a mobile home park association organized and qualified in accordance with chapter 9.

(z) "Mobile home park corporation" means a corporation incorporated pursuant to the corporation laws of this state and qualified in accordance with chapter 8.

(aa) "Housing unit" means living accommodations that are intended for occupancy by up to 4 families, with a separate dwelling unit for each family, that may be site constructed or may be a mobile home or other form of manufactured housing, and with respect to which either of the following applies:

(*i*) The owner of the housing occupies at least 1 of the dwelling units.

(*ii*) A cooperative shareholder or member has a proprietary lease of the housing unit.

(bb) "Moderate cost residential rental property" means dwelling units for which the rental payments are equal to or less than that established from time to time as the fair market rents for existing housing in accordance with 1 of the following:

(*i*) The section 8 leased housing program established under section 8 of the United States housing act of 1937, 42 USC 1437f, and the regulations promulgated under that act, or a substantially equivalent successor federal program.

(*ii*) A determination made by the authority of the average fair market rent for existing rental property.

(cc) "Area of chronic economic distress" means an area that qualifies as a "qualified census tract" or an "area of chronic economic distress" as defined in former section 103A(k) of the internal revenue code, or an eligible distressed area.

(dd) "Mortgage lender" means a state or national bank, state or federal savings and loan association, mortgage company, insurance company, state pension fund, or any other financial institution, intermediary, or entity authorized to make mortgage loans in this state.

(ee) "Authority-aided mortgage" means a mortgage made, held, purchased, or assisted by the authority.

(ff) "Subsidiary nonprofit housing corporation" means an entity created under section 22c.

(gg) "Family income" means all income that is included in a determination of family income under section 143(f) of the internal revenue code, 26 USC 143(f), together with the income of all adults who will reside in the residence, which income might otherwise be excluded from consideration because the individual was not expected to both live in the residence and be primarily or secondarily liable on the mortgage note.

(hh) "Statewide median gross income" means the statewide median gross income as determined under section 143(f) of the internal revenue code, 26 USC 143(f).

(ii) "Mutual housing association" means a corporation organized in accordance with chapter 10.

(jj) "Internal revenue code" means the United States internal revenue code of 1986.

(kk) "Internal revenue code of 1954" means the United States internal revenue code of 1954 as in effect on the day immediately before the effective date of the internal revenue code of 1986.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1969, Act 109, Imd. Eff. July 24, 1969;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1977, Act 130, Imd. Eff. Oct. 25, 1977;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1982, Act 506, Imd. Eff. Dec. 31, 1982;—Am. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983;—Am. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1987, Act 180, Imd. Eff. Nov. 25, 1987;—Am. 1989, Act 220, Imd. Eff. Dec. 11, 1989;—Am. 1989, Act 281, Imd. Eff. Dec. 26, 1989;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 2004, Act 549, Imd. Eff. Jan. 3, 2005.

Administrative rules: R 125.101 et seq. of the Michigan Administrative Code.

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125.1412 Liberal construction.

Sec. 12. This act, being necessary for and to secure the public health, safety, convenience, and welfare of the citizens of the state, shall be liberally construed to effect its public purposes.

History: Add. 1987, Act 180, Imd. Eff. Nov. 25, 1987.

125.1415 Repealed. 1968, Act 334, Imd. Eff. July 14, 1968.

Compiler's note: The repealed section pertained to nonprofit housing corporation tax exemption and payments in lieu of taxes.

125.1415a Exemption of housing project from taxes; filing certified notification of exemption with local assessing authority; annual service charge; amount; duration of exemption; distribution of payments for public services; exceptions; payment of service charge equal to full amount of taxes; reduced housing charges; "low income persons and families" defined; rules; reimbursement prohibited.

Sec. 15a. (1) If a housing project owned by a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association is financed with a federally-aided or authority-aided mortgage or advance or grant from the authority, then, except as provided in this section, the housing project is exempt from all ad valorem property taxes imposed by this state or by any political subdivision, public body, or taxing district in which the project is located. The owner of a housing project eligible for the exemption shall file with the local assessing officer a notification of the exemption, which shall be in an affidavit form as provided by the authority. The completed affidavit form first shall be submitted to the authority for certification by the authority that the project is eligible for the exemption. The owner then shall file the certified notification of the exemption with the local assessing officer before November 1 of the year preceding the tax year in which the exemption is to begin.

(2) The owner of a housing project exempt from taxation under this section shall pay to the municipality in which the project is located an annual service charge for public services in lieu of all taxes. Subject to subsection (6), the amount to be paid as a service charge in lieu of taxes shall be for new construction projects the greater of, and for rehabilitation projects the lesser of, the tax on the property on which the project is located for the tax year before the date when construction or rehabilitation of the project was commenced or 10% of the annual shelter rents obtained from the project. A municipality, by ordinance, may establish or change, by any amount it chooses, the service charge to be paid in lieu of taxes by all or any class of housing projects exempt from taxation under this act. However, the service charge shall not exceed the taxes that would be paid but for this act.

(3) The exemption from taxation granted by this section shall remain in effect for as long as the federally-aided or authority-aided mortgage or advance or grant from the authority is outstanding, but not more than 50 years. The municipality may establish by ordinance a different period of time for the exemption to remain in effect.

(4) Except as otherwise provided in this subsection, any payments for public services received by a municipality in lieu of taxes under this section shall be distributed by the municipality to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. For payments in lieu of taxes collected after June 30, 1994, the distribution to the several units shall be made as if the number of mills levied for local school district operating purposes were equal to the number of mills levied for those purposes in 1993 minus the number of mills levied under the state education tax act, Act No. 331 of the Public Acts of 1993, being sections 211.901 to 211.906 of the Michigan Compiled Laws, for the year for which the distribution is calculated. For tax years after 1993, the amount of payments in lieu of taxes to be distributed to a local school district for operating purposes under this subsection shall not be distributed to the local school district but instead shall be paid to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(5) Notwithstanding subsection (1), a municipality may provide by ordinance that the tax exemption established in subsection (1) shall not apply to all or any class of housing projects within its boundaries to which subsection (1) applies. If the municipality makes that provision, the tax exemption established in subsection (1) shall not apply to the class of housing projects designated in the ordinance. If the ordinance so provides, the ordinance shall be effective with respect to housing projects for which an exemption has already been granted on December 31 of the year in which the ordinance is adopted, but not before. A municipality that has adopted an ordinance described in this subsection may repeal that ordinance, and the repeal shall become effective on the date designated in the repealing ordinance.

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(6) Notwithstanding subsection (2), the service charge to be paid each year in lieu of taxes for that part of a housing project that is tax exempt under subsection (1) and that is occupied by other than low income persons or families shall be equal to the full amount of the taxes that would be paid on that portion of the project if the project were not tax exempt. The benefits of any tax exemption granted under this section shall be allocated by the owner of the housing project exclusively to low income persons or families in the form of reduced housing charges.

(7) For purposes of this section only, "low income persons and families" means, with respect to any housing project that is tax exempt, persons and families eligible to move into that project. For purposes of this subsection, the authority may promulgate rules to redefine low income persons or families for each municipality on the basis of conditions existing in that municipality.

(8) This state shall not reimburse any unit of government for a tax exemption granted to any housing project under this section.

History: Add. 1968, Act 334, Imd. Eff. July 14, 1968;—Am. 1969, Act 109, Imd. Eff. July 24, 1969;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983;—Am. 1994, Act 363, Imd. Eff. Dec. 27, 1994.

Compiler's note: Section 2 of Act No. 363 of the Public Acts of 1994 provides:

"The provisions of this amendatory act, providing that the exemption from taxes provided in section 15a of this act be limited to ad valorem property taxes, are curative expressing the original intent of the legislature that the exemption extends only to ad valorem property taxes and does not apply to the other taxes levied under Michigan law."

Administrative rules: R 125.101 et seq. of the Michigan Administrative Code.

125.1417 Advisory and other services.

Sec. 17. The authority may provide to any organization or person participating or intending to participate in the development, design, or management of authority-assisted housing or in the contracting or subcontracting of the construction or rehabilitation of authority-assisted housing, such advisory, consultative, technical, training, and educational services as will assist them to more effectively provide authority-assisted housing. Advisory and educational services may include but are not necessarily limited to technical and professional planning assistance, the preparation and promulgation of organizational planning and development outlines and guides, consultation services, training courses, seminars and lectures, the preparation and dissemination of newsletters and other printed materials, and the services of field representatives.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993.

CHAPTER 2

125.1421 Michigan state housing development authority; creation; composition; appointment, qualifications, and terms of members; vacancy; expenses; certificate of appointment or reappointment; designated resident members; powers vested in members; quorum; actions of authority; findings of fact; meetings; chairperson and vice-chairperson; officers, agents, and employees; delegation of powers and duties; relationship to department of consumer and industry services; "section 8" defined.

Sec. 21. (1) There is created a public body corporate and politic to be known as the "Michigan state housing development authority". The authority shall consist of 3 heads of principal departments of the executive branch of the state government and 4 persons appointed by the governor with the advice and consent of the senate. Excluding the 3 heads of principal departments of the executive branch of state government and the designated resident member described in subsection (2), not more than 2 of the persons appointed shall be members of the same political party. Upon completion of each term, a person shall be appointed for a term of 4 years, except that a vacancy shall be filled for the unexpired term. A member of the authority shall not receive compensation for services but is entitled to the necessary expenses, including traveling expenses, incurred in the discharge of the member's duties. Each member shall hold office until a successor has been appointed and has qualified. A certificate of appointment or reappointment of a member shall be filed with the authority and this certificate shall be conclusive evidence of the proper appointment of that member.

(2) If federal law requires designation of a resident member on the authority, the number of gubernatorially appointed members, in addition to the 3 heads of principal departments, increases from 4 to 5. One of the 5 gubernatorially appointed members shall be the designated resident member. The resident member shall meet both of the following requirements:

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(a) The person is an individual directly assisted by a federal housing program administered through the authority. As used in this subdivision, “directly assisted” means residing in federally-supported public housing or receiving section 8 tenant-based assistance. Directly assisted does not include a state-financed housing assistance program, section 8 project-based assistance, or section 8 new construction assistance.

(b) The person is an eligible resident. As used in this subdivision, “eligible resident” means a person whose name appears on the lease of the assisted housing who is 18 years of age or older.

(3) A person who no longer meets either requirement of subsection (2)(a) or (b) is removed from the authority for cause upon the appointment of another person as the resident member position.

(4) The powers of the authority shall be vested in the members in office. A majority of the members of the authority constitutes a quorum for the purpose of conducting the authority's business, for exercising the authority's powers, and for other purposes, notwithstanding the existence of any vacancies. Action may be taken by the authority upon a vote of a majority of the members present, unless the bylaws of the authority require a larger number, except that to the extent required by federal law, the resident member shall only take part in, vote on, and exercise the powers of the authority concerning decisions related to the administration, operation, and management of federal public housing programs and section 8 tenant-based assistance programs. The resident member shall not take part in, vote on, or exercise the powers of the authority in a matter that uniquely applies to the resident member and is not generally applicable to all residents. In the absence of fraud, a determination of the authority with respect to findings of fact made by the authority acting within the scope of its powers is conclusive, except with respect to the approval of the municipal finance commission or its successor agency as required by law.

(5) Meetings of the members of the authority may be held anywhere in this state. The business that the authority may perform shall be conducted at a public meeting of the authority held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) The authority shall elect a chairperson and vice-chairperson. The authority shall employ an executive director, legal and technical experts, and other officers, agents, and employees, permanent and temporary, as the authority requires, and shall determine their qualifications, duties, and compensation. The authority may delegate to 1 or more agents or employees those powers or duties as the authority considers proper.

(7) The authority shall be within the department of consumer and industry services and shall exercise the authority's prescribed statutory powers, duties, and functions independently of the head of that department. However, the budgeting, procurement, and related functions of the authority shall be performed under the direction and supervision of the director of consumer and industry services.

(8) As used in this section, “section 8” means section 8 of the United States housing act of 1937, chapter 896, 88 Stat. 662, 42 U.S.C. 1437f.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1977, Act 161, Imd. Eff. Nov. 8, 1977;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1983, Act 49, Imd. Eff. May 16, 1983;—Am. 2000, Act 257, Imd. Eff. June 29, 2000.

Transfer of powers: See MCL 16.732.

125.1422 Powers of authority.

Sec. 22. The authority shall possess all powers necessary or convenient to carry out this act, including the following powers in addition to other powers granted by other provisions of this act:

(a) To sue and to be sued; to have a seal and to alter the seal at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make, amend, and repeal bylaws and rules.

(b) To undertake and carry out studies and analyses of housing needs within this state and ways of meeting those needs, including data with respect to population and family groups, the distribution of population and family groups according to income, and the amount and quality of available housing and its distribution according to rentals and sales prices, employment, wages, and other factors affecting housing needs and the meeting of housing needs; to make the results of those studies and analyses available to the public and the housing and supply industries; and to engage in research and disseminate information on housing.

(c) To agree and comply with conditions attached to federal financial assistance.

(d) To survey and investigate housing conditions and needs, both urban and rural, throughout this state and make recommendations to the governor and the legislature regarding legislation and other measures necessary or advisable to alleviate any existing housing shortage in this state.

(e) To establish and collect fees and charges in connection with the sale of the authority's publications and the authority's loans, commitments, and servicing, including, but not limited to, the reimbursement of costs of

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financing by the authority, service charges, and insurance premiums as the authority determines to be reasonable and as approved by the authority. Fees and charges shall be determined by the authority and shall not be considered to be interest. The authority may use any accumulated fees and charges and interest income for achieving any of the corporate purposes of the authority, to the extent that the fees, charges, and interest income are not pledged to the repayment of bonds and notes of the authority or the interest on those bonds and notes.

(f) To encourage community organizations to assist in initiating housing projects as provided in this act.

(g) To encourage the salvage of all possible usable housing scheduled for demolition because of highway, school, urban renewal, or other programs by seeking authority for the sponsors of the programs to use funds provided for the demolition of the buildings, to be allocated to those sponsors approved by the authority to defray moving and rehabilitation costs of the buildings.

(h) To engage and encourage research in, and to formulate demonstration projects to develop, new and better techniques and methods for increasing the supply of housing for persons eligible for assistance as provided in this act; and to provide technical assistance in the development of housing projects and in the development of programs to improve the quality of life for all the people of this state.

(i) To make or purchase loans, including loans for condominium units as defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104, and including loans to mortgage lenders, which are unsecured or the repayments of which are secured by mortgages, security interests, or other forms of security; to purchase and enter into commitments for the purchase of securities, certificates of deposits, time deposits, or mortgage loans from mortgage lenders; to participate in the making or purchasing of unsecured or secured loans and undertake commitments to make or purchase unsecured or secured loans; to sell mortgages, security interests, notes, and other instruments or obligations evidencing or securing loans, including certificates evidencing interests in 1 or more loans, at public or private sale; in connection with the sale of an instrument or obligation evidencing or securing 1 or more loans, to service, guarantee payment on, or repurchase the instrument or obligation, whether or not it is in default; to modify or alter mortgages and security interests; to foreclose on any mortgage, security interest, or other form of security; to finance housing units; to commence an action to protect or enforce a right conferred upon the authority by law, mortgage, security agreement, contract, or other agreement; to bid for and purchase property that was the subject of the mortgage, security interest, or other form of security, at a foreclosure or at any other sale, and to acquire or take possession of the property. Upon acquiring or taking possession of the property, the authority may complete, administer, and pay the principal and interest of obligations incurred in connection with the property, and may dispose of and otherwise deal with the property in any manner necessary or desirable to protect the interests of the authority in the property. If the authority or an entity that provides mortgage insurance to the authority acquires property upon the default of a borrower, the authority may make a mortgage loan to a subsequent purchaser of that property even if the purchaser does not meet otherwise applicable income limitations and purchase price limits.

(j) To set standards for housing projects that receive loans under this act and to provide for inspections to determine compliance with those standards. The standards for construction and rehabilitation of mobile homes, mobile home parks, and mobile home condominium projects shall be established jointly by the authority and the mobile home commission, created in the mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349. However, financing standards shall be established solely by the authority.

(k) To accept gifts, grants, loans, appropriations, or other aid from the federal, state, or local government, from a subdivision, agency, or instrumentality of a federal, state, or local government, or from a person, corporation, firm, or other organization.

(*l*) To acquire or contract to acquire from a person, firm, corporation, municipality, or federal or state agency, by grant, purchase, or otherwise, leaseholds or real or personal property, or any interest in a leasehold or real or personal property; to own, hold, clear, improve, and rehabilitate and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber any interest in a leasehold or real or personal property. This act shall not impede the operation and effect of local zoning, building, and housing ordinances, ordinances relating to subdivision control, land development, or fire prevention, or other ordinances having to do with housing or the development of housing.

(m) To procure insurance against any loss in connection with the property and other assets of the authority.

(n) To invest, at the discretion of the authority, funds held in reserve or sinking funds, or money not required for immediate use or disbursement, in obligations of this state or of the United States, in obligations the principal and interest of which are guaranteed by this state or the United States, or in other obligations as may be approved by the state treasurer.

(o) To promulgate rules necessary to carry out the purposes of this act and to exercise the powers expressly granted in this act in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201

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to 24.328.

(p) To enter into agreements with nonprofit housing corporations, consumer housing cooperatives, limited dividend housing corporations, mobile home park corporations, and mobile home park associations that provide for regulation by the authority of the planning, development, and management of any housing project undertaken by nonprofit housing corporations, consumer housing cooperatives, limited dividend housing corporations, mobile home park corporations, and mobile home park associations and that provide for the disposition of the property and franchises of those corporations, cooperatives, and associations.

(q) To appoint to the board of directors of a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association, a number of new directors sufficient to constitute a majority of the board notwithstanding other provisions of the articles of incorporation or other provisions of law. Directors appointed under this subsection need not be stockholders or members or meet other qualifications that may be described by the certificate of incorporation or bylaws. In the absence of fraud or bad faith, directors appointed under this subsection shall not be personally liable for debts, obligations, or liabilities of the corporation or association. The authority may appoint directors under this subsection only if 1 or more of the following occur:

(*i*) The nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association has received a loan or advance, as provided for in this act, and the authority determines that the loan or advance is in jeopardy of not being repaid.

(*ii*) The nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association received a loan or advance as provided for in this act and the authority determines that the proposed housing project for which the loan or advance was made is in jeopardy of not being constructed.

(*iii*) The authority determines that some part of the net income or net earnings of the nonprofit housing corporation is inuring to the benefit of a private individual, firm, corporation, partnership, or association; the authority determines that an unreasonable part of the net income or net earnings of the consumer housing cooperative is inuring to the benefit of a private individual, firm, corporation, partnership, or association; or the authority determines that some part of the net income or net earnings of the limited dividend housing corporation, in excess of that permitted by other provisions of this act, is inuring to the benefit of a private individual, firm, corporation, partnership, or association.

(*iv*) The authority determines that the nonprofit corporation or consumer housing cooperative is in some manner controlled by, under the direction of, or acting in the substantial interest of a private individual, firm, corporation, partnership, or association seeking to derive benefit or gain from, or seeking to eliminate or minimize losses in any dealings or transactions with, the nonprofit corporation or consumer housing cooperative. However, this subparagraph shall apply to individual cooperators in consumer housing cooperatives only in circumstances defined by the authority in its rules.

(*v*) The authority determines that the nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association is in violation of the rules promulgated under this section.

(*vi*) The authority determines that the nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association is in violation of 1 or more agreements entered into with the authority that provide for regulation by the authority of the planning, development, and management of a housing project undertaken by the nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association or that provide for the disposition of the property and franchises of the corporation, or cooperative, or association.

(r) To give approval or consent to the articles of incorporation submitted to the authority by a corporation seeking approval as a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, or mobile home park corporation under chapter 4, 5, 6, or 8; to give approval or consent to the partnership agreement, joint venture agreement, trust agreement, or other document of basic organization of a limited dividend housing association under chapter 7 or mobile home park association under chapter 9.

(s) To engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice.

(t) To lease real or personal property and to accept federal funds for, and participate in, federal programs of housing assistance.

(u) To review and approve rental charges for authority-financed housing projects and require whatever changes the authority determines to be necessary. The changes shall become effective after not less than 30 days' written notice is given to the residents of the affected authority-financed housing projects.

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(v) To set forth in the various loan documents of the authority those restrictions on the sale, conveyance by land contract, or transfer of residential real property, housing projects, or housing units for which a note is held by the authority and restrictions on the assumption by subsequent purchasers of loans originated by and held by, or originated for purchase by and held by, the authority as the authority determines to be necessary in order to comply with requirements of federal statutes, federal rules or regulations promulgated under sections 551 to 559 of title 5 of the United States Code, 5 USC 551 to 559, state statutes, or state rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, or to obtain and maintain the tax exempt status of authority bonds and notes. However, the authority shall not use a due on sale or acceleration clause solely for the purpose of renegotiating the interest rate on a loan made with respect to an owner-occupied single-family housing unit. Without limiting the authority's power to establish other restrictions, as provided in this section, on the sale, conveyance by land contract, or transfer of residential real property, housing projects, or housing units for which a note is held by the authority and the assumption by subsequent purchasers of loans made or purchased by the authority, the authority shall provide in its loan documents relating to a single family loan that the single family loan may be assumed by a new purchaser only when the new purchaser qualifies under the authority income limitations rules except where such a restriction diminishes or precludes the insurance or a guarantee by an agency of the federal government with respect to the single family loan. A loan made for a mobile home that the borrower does not intend to permanently affix to real property shall become immediately due and payable in the event the mobile home is moved out of the state. Any restrictions on conveyance by sale, conveyance by land contract, or transfer that are authorized in this section shall apply only to loans originated by and held by, or originated for purchase by and held by, the authority and may, at the option of the authority, be enforced by accelerating and declaring immediately due and payable all sums evidenced by the note held by the authority. An acceleration and declaration of all sums to be due and payable on conveyance by sale, land contract, or transfer is not an unreasonable restraint on alienation. An acceleration and declaration, unless otherwise prohibited in this subdivision, of all sums to be due and payable under this subdivision is enforceable in any court of competent jurisdiction. This subdivision is applicable to secured and unsecured loans. This subdivision is also applicable to loan documents utilized in conjunction with an authority-operated program of residential rehabilitation by an entity cooperating or participating with the authority under section 22a(4), which loans are originated with the intent to sell those loans to the authority.

(w) To set forth in the various loan documents of the authority those remedies for the making of a false statement, representation, or pretense or a material misstatement by a borrower during the loan application process. Without limiting the authority's power to pursue other remedies, the authority shall provide in its loan documents that, if a borrower makes a false statement, representation, or pretense or a material misstatement during the loan application process, the authority, at its option, may accelerate and declare immediately due and payable all sums evidenced by the note held by the authority. An acceleration and declaration of all sums to be due as authorized under this subdivision and payable as provided in this subdivision is enforceable in any court of competent jurisdiction. This subdivision is applicable to secured and unsecured loans.

(x) To collect interest on a real estate loan, the primary security for which is not a first lien on real estate, at the rate of 15% or less per annum on the unpaid balance. This subdivision does not impair the validity of a transaction or rate of interest that is lawful without regard to this subdivision.

(y) To encourage and engage or participate in programs to accomplish the preservation of housing in this state available for occupancy by persons and families of low or moderate income.

(z) To verify for the state treasurer statements submitted by a city, village, township, or county as to exempt properties under section 7d of the general property tax act, 1893 PA 206, MCL 211.7d.

(aa) For the purpose of more effectively managing its debt service, to enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the authority.

(bb) To make working capital loans to contractors or subcontractors on housing projects financed by the authority. The authority shall submit an annual report to the legislature containing the amount, recipient, duration, circumstance, and other related statistics for each capital loan made to a contractor or subcontractor under this subdivision. The authority shall include in the report statistics related to the cost of improvements made to adapt property for use by disabled individuals as provided in section 32b(5) or (6) or section 44(2)(a).

(cc) Subject to rules of the civil service commission, to adopt a code of ethics with respect to its employees that requires disclosure of financial interests, defines and precludes conflicts of interest, and establishes reasonable post-employment restrictions for a period of up to 1 year after an employee terminates employment with the authority.

(dd) To impose covenants running with the land in order to satisfy requirements of applicable federal law with respect to housing assisted or to be assisted through federal programs such as the low income housing

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tax credit program or the home investment partnerships program by executing and recording regulatory agreements between the authority or such municipality or other entity as may be designated by the authority and the person or entity to be bound. These covenants shall run with the land and be effective with respect to the parties making the covenants and other intended beneficiaries of the covenants, even though there is no privity of estate or privity of contract between the authority and the persons or entities to be bound.

(ee) To impose covenants running with the land in order to satisfy requirements of applicable state or federal law with respect to housing financed by the authority by executing and recording regulatory agreements between the authority and the person or entity to be bound. These covenants shall run with the land and be effective with respect to the parties making the covenants and other intended beneficiaries of the covenants, even though there is no privity of estate or privity of contract between the authority and the persons or entities to be bound. With respect to the application of any applicable environmental laws, this subdivision shall not be construed to grant to the authority any additional rights, privileges, or immunities not otherwise afforded to a private lender that is not in the chain of title for the land.

(ff) To participate in programs designed to assist persons and families whose incomes do not exceed 115% of the greater of statewide median gross income or the area median gross income become homeowners where loans are made by private lenders for purchase by the government national mortgage association, federal national mortgage association, federal home loan mortgage corporation, or other federally chartered organizations. Participation may include providing or funding homeownership counseling and providing some or all of a reserve fund to be used to pay for losses in excess of insurance coverage.

(gg) To invest up to 20% of funds held by or for the authority in escrow accounts for the benefit of the authority or mortgagors of authority-financed housing in loans originated or purchased by the authority, under the conditions prescribed in this subdivision and without the consent of the escrow depositors. In connection with loans described in this subdivision, the authority may charge and retain fees in amounts similar to those charged with respect to similar loans for which the source of funding does not come from escrow funds. The investment authorized by this subdivision shall not be made unless both of the following requirements are met:

(*i*) The return on the loan is approximately equivalent to that which could be obtained from investments of substantially similar credit quality and maturity, as determined by the authority.

(*ii*) The authority agrees to repurchase from its own funds and at the same prices at which the loans were sold to the escrow funds, as adjusted for the accretion of discount or amortization of premium, plus accrued interest, any loans that become delinquent in excess of 30 days. This subdivision does not obligate the authority to purchase a delinquent loan so long as with respect to that loan the authority advances money from its own funds in the amount of the delinquent payments. The authority's election to advance payments does not in any manner abate or cure the delinquency of the loan and the authority may resort to any remedies that would exist in the absence of that payment.

(hh) To acquire, develop, rehabilitate, own, operate, and enter into contracts with respect to the management and operation of real and personal property to use as office facilities by the authority and to enter into leases with respect to facilities not immediately necessary for the activities of the authority.

(ii) To make loans to certain qualified buyers and resident organizations and to make grants to resident organizations as provided in the following:

(*i*) The urban homestead act, 1999 PA 127, MCL 125.2701 to 125.2709.

(*ii*) The urban homesteading on vacant land act, 1999 PA 129, MCL 125.2741 to 125.2748.

(*iii*) The urban homesteading in single-family public housing act, 1999 PA 128, MCL 125.2761 to 125.2770.

(*iv*) The urban homesteading in multifamily public housing act, 1999 PA 84, MCL 125.2721 to 125.2734.

(jj) To implement and administer a housing and community development program as described in this act.

(kk) To implement, administer, or execute administrative, substantive, or supervisory powers pursuant to the individual or family development account program act, 2006 PA 513, MCL 206.701 to 206.711.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1977, Act 130, Imd. Eff. Oct. 25, 1977;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1982, Act 506, Imd. Eff. Dec. 31, 1982;—Am. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983;—Am. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1985, Act 183, Imd. Eff. Dec. 18, 1985;—Am. 1987, Act 180, Imd. Eff. Nov. 25, 1987;—Am. 1989, Act 220, Imd. Eff. Dec. 11, 1989;—Am. 1990, Act 330, Imd. Eff. Dec. 21, 1990;—Am. 1991, Act 138, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 1998, Act 33, Imd. Eff. Mar. 18, 1998;—Am. 1999, Act 131, Imd. Eff. July 23, 1999;—Am. 2002, Act 385, Imd. Eff. May 30, 2002;—Am. 2008, Act 216, Imd. Eff. July 16, 2008;—Am. 2008, Act 449, Imd. Eff. Jan. 9, 2009.

Administrative rules: R 125.101 et seq. of the Michigan Administrative Code.

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125.1422a Rehabilitation of residential real or rental property; loans, grants, or deferred payment loans to persons and families of low and moderate income; loans to persons in areas of chronic economic stress and to persons located elsewhere in state; powers of authority; participation or cooperation with governing bodies, private organizations, or public organizations; plan; selection of neighborhoods.

Sec. 22a. (1) In addition to the powers described in section 22, the authority may purchase, make, or otherwise participate in the making and may enter into commitments for the purchase, making, or participation in the making of loans, grants, or deferred payment loans to persons and families of low and moderate income for the rehabilitation of residential real property owned or to be owned by them or the authority may, without regard to the income of the owners or occupants of residential rental property, purchase, make, or otherwise participate in the making and may enter into commitments for the purchase, making, or participation in the making of loans for the rehabilitation of residential rental property to persons or entities owning residential rental property located in areas of chronic economic distress or to persons or entities owning moderate cost residential rental property located elsewhere in this state.

(2) In connection with the loans, grants, and deferred payment loans the authority may do any of the following:

(a) Sell mortgages and security interests at public or private sale.

(b) Modify or alter mortgages and security interests.

(c) Foreclose on a mortgage, security interest, or other form of security.

(d) Commence an action to protect or enforce a right conferred upon it by law, mortgage, security agreement, contract, or other agreement.

(e) Bid for and purchase property which was the subject of the mortgage, security interest, or other form of security at a foreclosure or at any other sale.

(f) Acquire or take possession of the property.

(3) If the authority takes any action under subsection (2), the authority may complete, administer, pay the principal and interest or obligations incurred in connection with the property, dispose of, and otherwise deal with, the property, in a manner necessary or desirable to protect the interests of the authority in the property.

(4) The authority may participate or cooperate with a governing body, or a subdivision or agency or instrumentality of a governing body, or any other private or public organization in planning or implementing programs of residential rehabilitation involving the purchase, making, or participation in loans, grants, or deferred payment loans to persons and families of low and moderate income. The participation or cooperation may involve a concentration of loan, grant, and deferred payment loan activity in particular neighborhoods. Before engaging in that participation or cooperation with a governing body or a subdivision or agency or instrumentality of a governing body, the authority shall receive from the governing body to be involved in the program a plan embracing the entire geographical area of the governing body. The plan shall do the following:

(a) Address by neighborhood the need for housing conservation, rehabilitation, and redevelopment.

(b) Indicate a substantial degree of coordination between the program to be instituted pursuant to this section and other governmental and private programs then in operation which may assist in conserving, rehabilitating, or redeveloping neighborhoods.

(c) Indicate to the extent possible the nature and source of revenues which are or are projected to be available to implement the plan.

(d) Indicate priorities in implementing the plan.

(5) Neighborhoods selected for housing conservation and rehabilitation under this section shall be determined upon mutual agreement of the authority and the governing body involved.

History: Add. 1977, Act 130, Imd. Eff. Oct. 25, 1977;—Am. 1978, Act 192, Imd. Eff. June 4, 1978;—Am. 1982, Act 506, Imd. Eff. Dec. 31, 1982.

125.1422b Designation of authority as housing credit agency; purpose; amount of housing credit ceiling; qualification of applicant; allocation plan; distribution; setting aside allocable amounts; reapportionment of unallocated credit amounts; applications for low income housing tax credit; fees; "rural housing projects" defined.

Sec. 22b. (1) The authority is designated as the housing credit agency for the state for the purpose of allocating and administering the low income housing credit established under section 42 of the internal revenue code of 1986.

(2) The state's housing credit ceiling applicable for a calendar year shall be an amount equal to the sum of all of the following:

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(a) One dollar and twenty-five cents multiplied by the state's population, unless a different amount is authorized by section 42 of the internal revenue code of 1986. The state's population shall be determined by the most recent census estimates of the state's population published by the United States bureau of census before the beginning of the calendar year or by another method as authorized by the internal revenue code of 1986.

(b) The unused state housing credit ceiling, if any, of the state for the preceding calendar year, for years subsequent to 1989.

(c) The amount of state housing credit ceiling returned in the calendar year, for years subsequent to 1989.

(d) The amount, if any, allocated to the state under section 42(h)(3)(D) of the internal revenue code of 1986.

(3) An applicant for an allocation of low income housing tax credit shall be qualified to receive the credit pursuant to the requirements of the internal revenue code of 1986 and the regulations, guidelines, rulings, and interpretations issued by the United States treasury department or the internal revenue service, that controls in the event of conflict with a requirement of this section.

(4) The state's low income housing tax credit is allocable pursuant to a qualified allocation plan prepared by the authority, submitted to the legislature, and approved by the governor after notice to the public and public hearing. The plan shall set forth criteria to be used to determine housing priorities of the state, and shall give the highest priority to those projects in which the highest percentage of the housing credit dollar amount is to be used for project costs other than the cost of intermediaries, unless granting such priority would impede the development of projects in hard-to-develop areas. In allocating low income housing tax credit dollar amounts among selected projects, the allocation plan shall give preference to projects serving the lowest income tenants and projects obligated to serve qualified tenants for the longest periods, and shall provide a procedure that the authority will follow in notifying the internal revenue service of noncompliance with the provisions of section 42 of the internal revenue code of 1986 of which the authority becomes aware. The plan shall set forth the process for selecting eligible projects and may be amended from time to time in accordance with its terms and the requirements of section 42 of the internal revenue code of 1986. The selection criteria in the qualified allocation plan shall include those set forth in section 42 of the internal revenue code of 1986.

(5) The state's low income housing tax credit authority shall be distributed in accordance with the qualified allocation plan. Amounts allocable under subsection (2) shall be set aside as follows:

(a) Qualified nonprofit organizations as required by section 42 of the internal revenue code of 1986 - not less than 10%.

(b) Rural housing projects - not less than 5%.

(c) Housing projects in eligible distressed areas - not less than 30%.

(d) Housing projects for the elderly - not less than 10%. Projects counted in 1 category shall not count in another category towards meeting the minimum set-aside requirements.

(6) Except for the amount for qualified nonprofit organizations, if the low income housing tax credit set aside under subsection (5) is not allocated before October 1 of the year in which that credit amount is authorized under subsection (2)(a), the authority may reapportion the unallocated credit amounts in a reasonable manner pursuant to the state's qualified allocation plan.

(7) All applications for low income housing tax credit shall be on the authority's prescribed forms and shall include information necessary pursuant to the qualified allocation plan and section 42 of the internal revenue code of 1986.

(8) The authority may charge applicants reasonable fees under the low income housing tax credit program.

(9) For the purposes of this section, “rural housing projects” means proposed or existing housing projects that fall into 1 or more of the following categories:

(a) Located in an area other than a metropolitan county.

(b) Funded by a federal program for the development of rural housing.

(c) Financed by a loan guaranteed by rural housing services or a successor agency.

History: Add. 1987, Act 86, Imd. Eff. June 30, 1987;—Am. 1989, Act 281, Imd. Eff. Dec. 26, 1989;—Am. 1991, Act 137, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 2000, Act 257, Imd. Eff. June 29, 2000.

125.1422c Subsidiary nonprofit housing corporation.

Sec. 22c. (1) The authority may incorporate 1 or more nonprofit housing corporations for 1 or more of the following purposes:

(a) Owning, holding, maintaining, improving, completing, receiving subsidy payments for, or transferring ownership of a housing project or housing unit either acquired through foreclosure or deed in lieu of foreclosure or over which the authority has, following a declaration of default, otherwise obtained control.

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(b) Acquiring housing projects or an interest in the ownership of 1 or more housing projects and owning, holding, maintaining, or improving the housing projects, if regulatory or contractual restrictions assuring occupancy of some or all of the units in 1 or more of the housing projects by families and persons of low or moderate income are subject to termination within a 2-year period following the acquisition of the housing project. A nonprofit housing corporation incorporated under this subsection may acquire a housing project only if all of the following requirements are met:

(*i*) At least 6 months have passed since the eighteenth anniversary of the commencement of amortization of the project's permanent mortgage loan on the housing project.

(*ii*) The authority by resolution determines all of the following:

(A) The tenants residing in the housing project have been notified of the opportunity to acquire the housing project in accordance with the Cranston-Gonzalez national affordable housing act, Public Law 101-625, 104 Stat. 4079.

(B) No tenant organization that the authority determines to have the legal, financial, and managerial capabilities to acquire the housing project has developed and submitted to the housing project owners an acquisition proposal with respect to which negotiations are ongoing.

(C) No local or statewide nonprofit housing corporation that the authority determines to have the legal, financial, and managerial capabilities to acquire the project has submitted to the housing project owners an acquisition proposal with respect to which negotiations are ongoing.

(*iii*) The nonprofit housing corporation incorporated pursuant to this section contracts with a private firm for the management of the housing project.

(c) Carrying out programs and oversight responsibilities on behalf of or in conjunction with the United States department of housing and urban development with respect to federal housing programs.

(2) A subsidiary nonprofit housing corporation may sue and be sued in its own name, and the circuit court of Ingham county has exclusive jurisdiction over all actions brought against a subsidiary nonprofit housing corporation, except if jurisdiction over the action is in the supreme court, the court of appeals, or the court of claims.

(3) A subsidiary nonprofit housing corporation is a separate legal entity. The authority is not liable for the debts or obligations or for any actions or inactions of the subsidiary nonprofit housing corporation unless it expressly agrees otherwise. A member, officer, or employee of a subsidiary nonprofit housing corporation is not individually liable for actions undertaken or failure to act on behalf of the subsidiary nonprofit housing corporation so long as the individual is acting or reasonably believes he or she is acting within the scope of his or her authority as a member, officer, or employee of the subsidiary nonprofit housing corporation.

(4) The authority may make loans or grants to a subsidiary nonprofit housing corporation to enable the subsidiary nonprofit housing corporation to carry out any of its purposes.

History: Add. 1987, Act 180, Imd. Eff. Nov. 25, 1987;—Am. 1991, Act 138, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 2000, Act 257, Imd. Eff. June 29, 2000.

125.1423 Housing development fund; creation; payments into fund.

Sec. 23. (1) There is created and established under the jurisdiction and control of the authority a revolving fund to be known as the “housing development fund”.

(2) There shall be paid into the housing development fund (a) any moneys appropriated and made available by the state for the purposes of the fund; (b) any moneys which the authority receives in repayment of advances made from the fund, and (c) any other moneys which may be made available to the authority for the purpose of the fund from any other source or sources.

History: 1966, Act 346, Eff. Mar. 10, 1967.

125.1424 Housing development fund; advances; grants; transfer of moneys.

Sec. 24. (1) The authority may use the moneys held in the fund to make interest-bearing or noninterest-bearing advances, in compliance with this act, to nonprofit housing corporations and consumer housing cooperatives for development costs of proposed housing projects. Advances may not be made unless the authority reasonably anticipates that a federally-aided or authority-aided mortgage may be obtained by the nonprofit housing corporation or consumer housing cooperative for the permanent financing of a housing project pursuant to section 44.

(2) The proceeds of the advance may be used only to defray the development costs of the housing project. Each advance shall be repaid in full to the authority by the nonprofit housing corporation or consumer housing cooperative concurrent with receipt of the portion of the mortgage loan paid under the initial indorsement of the federally-aided or authority-aided mortgage or construction loan, unless the authority extends the period for the repayment of the advances. The time of repayment shall not be extended later than

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the date of receipt of the portion of the mortgage loan paid on final indorsement of the federally-aided or authority-aided mortgage or construction loan.

(3) The authority may use the moneys held in the fund to make grants to local communities, as defined by the authority in rules promulgated under this act, the office of services to the aging established in section 5 of the older Michiganians act, Act No. 180 of the Public Acts of 1981, being section 400.585 of the Michigan Compiled Laws, or public or private nonprofit organizations or local governmental agencies organized to provide assistance to persons and families of low or moderate income. The grants may be in any amounts as the authority determines, not to exceed the net costs, exclusive of any federal aid or assistance, incurred by the recipient in planning for or implementing housing assistance or community or housing development. Examples of permissible community or housing development include land and building acquisition; housing rehabilitation; capital improvements or modifications, including streets, open space, utilities, recreation or community centers, and parking facilities; and the provision of necessary supportive services.

(4) The authority may transfer the moneys held in the housing development fund to the land acquisition and development fund or to the rehabilitation fund in amounts which the authority determines necessary.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1977, Act 130, Imd. Eff. Oct. 25, 1977;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1984, Act 363, Eff. Mar. 29, 1985.

Administrative rules: R 125.101 et seq. of the Michigan Administrative Code.

125.1424a Land acquisition and development fund; creation; payment of moneys into fund.

Sec. 24a. (1) A fund to be known as the "land acquisition and development fund" is created and established under the jurisdiction and control of the authority.

(2) There shall be paid into the land acquisition and development fund: any moneys appropriated and made available by the state for the purposes of this fund; any moneys which the authority receives from the sale or rental of real property purchased by the authority with moneys from this fund; and any other moneys which may be made available to or by the authority and designated by the authority for the purpose of this fund from any other source including unpledged accumulated fees and charges and unpledged interest income of the authority. As used in this section, "real property" means an interest, including fee or leasehold interest, in land or improvements to land or a portion thereof.

History: Add. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977.

125.1424b Land acquisition and development fund; use of moneys; acquisition and exchange of real property; improvements to real property; costs; conveyance of real property.

Sec. 24b. (1) The authority may use the money held in the land acquisition and development fund to lease, acquire, or contract to acquire real property by grant, purchase, or otherwise from any person, firm, partnership, corporation, municipality, county, or federal or state agency, upon determining that the real property may be suitable for a future housing development or housing project; or is located in a residential area where the authority has financed or has planned to finance housing and the proposed use of the real property will improve the quality of the residential area by eliminating blight or provide needed public or commercial facilities; or is so situated that the present or future use of the real property, if not acquired by the authority, will adversely affect the value or marketability of the authority financed housing project. The authority may acquire real property in its own name or through and in the name of an agent by means of land contract, option, or other form of deferred payment agreement, or subject to mortgages or other encumbrances, if the authority reserves money in this fund or authorization to issue notes and bonds, the aggregate amount of which equals the unpaid principal balance on the land contracts, options, mortgages, or other encumbrances or deferred payment agreements plus any anticipated carrying charges, including insurance premiums, interest, maintenance expenses, and property taxes. The authority may exchange real property purchased with money from this fund for other real property, if the authority determines that the real property will be acquired for a purpose for which real property can be purchased with money from this fund. Money received by the authority in connection with the exchange and any money received from the sale or rental of the real property shall be deposited in the land acquisition and development fund.

(2) The authority may contract for and use money held in the land acquisition and development fund for the following types of improvements to real property purchased or otherwise acquired for the purposes of this fund:

(a) Improvements that are necessary to place the real property in a safe, sanitary, and decent condition, including demolition, excavation, and landscaping.

(b) Improvements to real property which is to be dedicated for the public use and enjoyment, including the

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installation of recreational facilities, benches, shelters, lighting, and walkways.

(c) Improvements that are necessary to insure the planned development of the real property, including the installation of roads, sidewalks, sewers, and utilities. The authority may contract for and use money held in the land acquisition and development fund for services needed in connection with the acquisition, disposition, planning, development, and maintenance of real property.

(3) The authority may use the money held in the land acquisition and development fund to pay the following costs on real property purchased or being purchased with money from this fund or acquired by gift, grant, or exchange for the purposes of this fund:

(a) The costs of property taxes, insurance premiums, interest, maintenance expenses, and other carrying charges on real property notwithstanding the provisions of section 42, during the period when real property is owned or is being purchased by the authority or its agent, the authority shall pay all property taxes levied against the real property unless a taxing jurisdiction exempts the real property from property taxes. The assessed valuation of the real property while it is owned or being purchased by the authority or its agent shall not be increased by any taxing jurisdiction, except to reflect the state equalization valuation process.

(b) The costs of planning the development of the real property, including, but not limited to, the costs of economic feasibility studies, land use studies, site development planning, architectural and engineering design, market analysis and all related analyses, studies and planning services.

(c) The costs incurred in the transfer of real property, including brokerage and appraisal fees, recording expenses, and the costs of surveys and title insurance.

(d) The costs of the improvements to real property permitted by subsection (2).

(4) Real property may be conveyed by the authority to a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, limited dividend housing association, mobile home park corporation, mobile home park association, or municipality for the purpose of constructing housing projects at such price and on such terms and conditions as shall be determined by the authority. Real property may be conveyed by the authority to the state or federal government, or any county or municipality for the use and enjoyment of the public upon such terms and conditions as shall be determined by the authority. Real property may be sold by the authority to an individual, firm, partnership, corporation, county, municipality, authority, or federal or state agency for any purpose at a price, equal to or greater than the lesser of the fair market value of the property at the time of sale or the price paid by the authority to acquire, hold, and improve the real property, which conveyance shall be subject to terms and conditions determined by the authority. In conjunction with a sale or conveyance of real property, the authority may enter into agreements which regulate all aspects of the development of the real property, including, but not limited to, land use planning, site development, construction, architectural and engineering design, marketing, management, occupancy, operation, and all factors related to the foregoing.

History: Add. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983.

125.1424c Transfer of moneys to housing development fund or rehabilitation fund.

Sec. 24c. The authority may transfer the moneys held in the land acquisition and development fund to the housing development fund or to the rehabilitation fund in amounts the authority determines necessary.

History: Add. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1977, Act 130, Imd. Eff. Oct. 25, 1977.

125.1424d Rehabilitation fund; creation; jurisdiction; payments.

Sec. 24d. (1) A fund to be known as the "rehabilitation fund" is created and established under the jurisdiction and control of the authority.

(2) The following shall be paid into the rehabilitation fund:

(a) Moneys appropriated and made available by the state for the purposes of the rehabilitation fund.

(b) Other moneys which may be made available to or by the authority and designated by the authority for the purposes of the rehabilitation fund.

History: Add. 1977, Act 130, Imd. Eff. Oct. 25, 1977.

125.1424e Rehabilitation fund; use of moneys; allocations or pledges to holders of bonds.

Sec. 24e. (1) The authority may use moneys in the rehabilitation fund either separately or in conjunction with other moneys available to the authority to make, purchase, or otherwise participate in loans, grants, or deferred payment loans authorized pursuant to section 44a.

(2) The authority may use the moneys in the rehabilitation fund to make loans or grants to local communities in amounts the authority determines are necessary for planning for or implementing programs of residential rehabilitation involving loans, grants, or deferred payment loans to persons and families of low and

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moderate income.

(3) The authority may use money in the rehabilitation fund to pay for costs incurred by the authority in planning for or implementing a program of residential rehabilitation.

(4) Money in the rehabilitation fund and money received in repayment of loans, grants, and deferred payment loans made from the rehabilitation fund may be allocated or pledged to the holders of bonds and notes issued in connection with a rehabilitation loan program of the authority.

History: Add. 1977, Act 130, Imd. Eff. Oct. 25, 1977;—Am. 1978, Act 192, Imd. Eff. June 4, 1978.

125.1424f Recapture tax fund; creation; establishment; payment; use.

Sec. 24f. (1) There is created and established under the jurisdiction and control of the authority a fund to be known as the recapture tax fund.

(2) There may be paid into the recapture tax fund any money available to the authority from any source or sources, including, but not limited to, funds held by the authority. The authority is under no obligation to maintain a balance of money in the fund.

(3) The authority may use the money held in the fund to reimburse individual borrowers for any taxes the borrowers paid and for which they were liable under section 143(m) of the internal revenue code, or any similar recapture taxes applicable to programs the authority administers.

History: Add. 2008, Act 55, Imd. Eff. Apr. 3, 2008.

Compiler's note: Former MCL 125.1424f, which pertained to conversion condominium fund, was repealed by Act 183 of 1985, Imd. Eff. Dec. 18, 1985.

125.1424g Repealed. 1985, Act 183, Imd. Eff. Dec. 18, 1985.

Compiler's note: The repealed section pertained to conversion condominium loans and funds.

125.1425 Bonds and notes; issuance; purposes; issuing renewal notes, bonds to pay notes and refunding bonds; notes or bonds as general obligations and negotiable instruments; revised municipal finance act inapplicable; issuance subject to agency financing reporting act.

Sec. 25. (1) The authority may issue its negotiable bonds and notes in a principal amount, which in the opinion of the authority shall be necessary to provide sufficient funds for achieving its corporate purposes, including the making of loans for housing projects and the making or purchasing of loans for the rehabilitation of residential real property, the provision of money for the land acquisition and development fund as provided in this act, the payment of interest on bonds and notes of the authority during construction, the establishment of reserves to secure bonds and notes, the provision of money for the housing development fund in order to make noninterest bearing advances to nonprofit housing corporations and consumer housing cooperatives as provided in this act, the provision of money to be used for the land acquisition and development powers and purposes of the authority, the development, rehabilitation, or acquisition of real and personal property for use as office facilities by the authority, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(2) The authority may issue renewal notes, issue bonds to pay notes, and when it determines refunding expedient, refund bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded. The authority may issue instruments separate from the obligations described in this section that establish a contractual right in the holder of the instrument to require mandatory tender for purchase of the obligations to which the instrument applies for such period of time and subject to such provisions as the authority may determine.

(3) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of revenues or money of the authority, subject only to agreements with the holders of particular notes or bonds pledging any particular receipts or revenues.

(4) Whether or not the notes or bonds are of a form or character as to be negotiable instruments under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, the notes or bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, subject only to the provisions of the notes or bonds for registration.

(5) A bond issued by the authority is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(6) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

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History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1977, Act 130, Imd. Eff. Oct. 25, 1977;—Am. 1978, Act 192, Imd. Eff. June 4, 1978;—Am. 1983, Act 49, Imd. Eff. May 16, 1983;—Am. 1991, Act 137, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993;—Am. 2002, Act 385, Imd. Eff. May 30, 2002.

125.1426 Bonds and notes; authorization; terms.

Sec. 26. The notes and bonds shall be authorized by resolution of the members of the authority; shall bear such date or dates, and shall mature at such time or times, in the case of any note, or any renewal thereof, not exceeding 20 years, from the date of issue of such original note, and in the case of any bond not exceeding 50 years from the date of issue, as the resolution may provide. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption as such resolution or resolutions may provide. The notes and bonds of the authority may be sold by the authority, at public or private sale, at such price or prices as the authority shall determine.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1982, Act 506, Imd. Eff. Dec. 31, 1982.

125.1427 Notes or bonds; resolution authorizing issuance; contents.

Sec. 27. Any resolution authorizing any notes or bonds or any issue of notes or bonds may contain provisions, which shall be a part of the contract with the holders of the notes or bonds, as to:

(a) Pledging all or any part of the fees and charges made or received by the authority, and all or any part of the money received in payment of mortgage loans and interest on mortgage loans, and other money received or to be received, to secure the payment of the notes or bonds or of any issue of notes or bonds, and subject to such agreements with bondholders or noteholders as may then exist.

(b) Pledging all or any part of the assets of the authority, including mortgages and obligations securing the assets, to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist.

(c) Pledging of any loan, grant, or contribution from the federal, state, or local government, or source in aid of such development as provided for in this act.

(d) The use and disposition of the gross income from mortgages owned by the authority and payment of principal of mortgages owned by the authority.

(e) The setting aside of reserves or sinking funds and the regulation and disposition of reserves or sinking funds.

(f) Limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue of notes or bonds.

(g) Limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; and the refunding of outstanding or other notes or bonds.

(h) The procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent to the amendment or abrogation and the manner in which such consent may be given.

(i) Vesting in a trustee or trustees such property, rights, powers, and duties in trust as the authority may determine, which may include any or all of the rights, powers, and duties of the trustee appointed by the bondholders pursuant to this act and limiting or abrogating the right of the bondholders to appoint a trustee under this section or limiting the rights, powers, and duties of such trustee.

(j) Establishing a contractual right to require mandatory tender for purchase of the notes or bonds in an instrument separate from the notes or bonds, which instrument may be issued or sold by the authority to investors in such instruments.

(k) Any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

(*l*) Delegating to an officer or other employee of the authority, or an agent designated by the authority, the power to cause the issue, and sale and delivery, of the notes or bonds within limits on those notes or bonds established by the authority as to any of the following:

(*i*) The form.

(*ii*) The maximum interest rate or rates.

(*iii*) The maturity date or dates.

(*iv*) The purchase price.

(*v*) The denominations.

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(*vi*) The redemption premiums.

(*vii*) The nature of the security.

(*viii*) The selection of the applicable interest rate index.

(*ix*) Other terms and conditions with respect to issuance of the notes or bonds as the authority shall prescribe.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993.

125.1428 Notes and bonds; validity and effect of pledge.

Sec. 28. Any pledge made by the authority shall be valid and binding from the time when the pledge is made; the moneys or property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

History: 1966, Act 346, Eff. Mar. 10, 1967.

125.1429 Notes and bonds; personal liability of members of authority.

Sec. 29. Neither the members of the authority nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

History: 1966, Act 346, Eff. Mar. 10, 1967.

125.1430 Notes and bonds; purchase for cancellation; price.

Sec. 30. (1) Except as provided in subsection (2), and subject to such agreements with noteholders or bondholders as may then exist, the authority shall have power out of any funds available therefor to purchase notes or bonds of the authority, which shall thereupon be canceled, at a price not exceeding:

(a) If the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon.

(b) If the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

(2) If the authority determines that the payment of a higher price than that determined under subsection (1) is in the best interests of the authority, it may by resolution authorize the purchase at a higher price.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1982, Act 506, Imd. Eff. Dec. 31, 1982.

125.1431 Notes and bonds; liability of state.

Sec. 31. The state shall not be liable on notes or bonds of the authority and such notes and bonds shall not be a debt of the state. The notes and bonds shall contain on the face thereof a statement to such effect.

History: 1966, Act 346, Eff. Mar. 10, 1967.

125.1432 Capital reserve fund; federal housing subsidy programs; recommendations; priority; program of loans for mobile homes; program of loans for consumer housing cooperatives; notice of public hearing or proposed rule change; rules; identification of housing production goals; report to governor and committees; review of loans, financial instruments, and lines of credit; confidentiality.

Sec. 32. (1) The authority may create and establish 1 or more special funds called capital reserve funds to secure notes and bonds of the authority. The authority shall pay into a capital reserve fund money appropriated and made available by this state for the purposes of the fund, the proceeds of the sale of notes or bonds to the extent provided in the resolution of the authority authorizing the issuance of the notes or bonds, and other money that is made available to the authority for the purpose of a fund from any other source. In addition to, or in lieu of, depositing money in a capital reserve fund, the authority may obtain and pledge letters of credit and, effective retroactively as of June 1, 1993, insurance policies, surety bonds, guarantees, or other security arrangements if those other security arrangements are approved by the state treasurer, for the purposes of the capital reserve fund. The amount available under letters of credit, insurance policies, surety bonds, guarantees, or other security arrangements pledged to a capital reserve fund shall be credited toward the satisfaction of a capital reserve fund requirement. All money and proceeds under letters of credit, insurance policies, surety bonds, guarantees, or other security arrangements held in a capital reserve fund, except as specifically provided, shall be used as required solely for the payment of the principal of notes or

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bonds of the authority secured in whole or in part by the capital reserve fund, for the purchase or redemption of notes or bonds, for the payment of interest on the notes or bonds, or for the payment of a redemption premium required to be paid when the notes or bonds are redeemed prior to maturity. However, the authority shall not use the capital reserve fund for an optional purchase or optional redemption of notes or bonds if the use would reduce the total of the money on deposit in the capital reserve fund and amounts available under a letter of credit, insurance policy, surety bond, guarantee, or other security arrangement pledged to a capital reserve fund to less than the capital reserve fund requirement established for the fund. Income or interest earned by, or increment to, a capital reserve fund due to the investment of the money in the capital reserve fund may be transferred by the authority to other funds or accounts of the authority to the extent that the transfer does not reduce the total of the amount of money in a capital reserve fund and amounts available under a letter of credit, insurance policy, surety bond, guarantee, or other security arrangement pledged to the capital reserve fund below the capital reserve fund requirement for a fund.

(2) The authority shall not at any time issue notes or bonds secured in whole or in part by a capital reserve fund if, upon the issuance of the notes or bonds, the amount in the capital reserve fund, including the amounts available under a letter of credit, insurance policy, surety bond, guarantee, or other security arrangement pledged to the capital reserve fund, would be less than the capital reserve fund requirement for the fund, unless the authority, at the time of issuance of the notes or bonds, deposits in the fund from the proceeds of the notes or bonds to be issued, or from other sources, an amount that, together with the amount then in the fund, is not less than the capital reserve fund requirement for the fund, or obtains a letter of credit, insurance policy, surety bond, guarantee, or other security arrangement in an amount that, together with the amount then in the fund, is not less than the capital reserve fund requirement for the fund. For the purposes of this section, "capital reserve fund requirement" means the requirement provided in the resolution of the authority authorizing the notes or bonds with respect to which the fund is established, which amount shall not exceed the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the notes or bonds of the authority secured in whole or part by the fund.

(3) The authority has, before January 9, 1977, in connection with its housing development bonds issued pursuant to a bond resolution dated June 10, 1971, established within the capital reserve fund relating to housing development bonds, a capital reserve account and a capital reserve capital account. This capital reserve account constitutes a capital reserve fund under this act. Money in this capital reserve account shall secure only housing development bonds issued pursuant to the June 10, 1971 bond resolution. Unless otherwise provided by the authority, money in the capital reserve capital account shall secure all bonds and notes of the authority. In determining whether the capital reserve fund requirement established for a capital reserve fund has been met, the authority shall not include or take into account money in the capital reserve capital account.

(4) The authority has, before January 9, 1977, in connection with its insured mortgage revenue bonds issued pursuant to a bond resolution dated May 11, 1976, established a bond reserve fund. This bond reserve fund constitutes a capital reserve fund under this act.

(5) The authority may issue notes and bonds subject to the following limitations:

(a) The authority shall not have outstanding at any time bonds and notes for any of its corporate purposes in an aggregate principal amount exceeding $4,200,000,000.00, excluding all of the following:

(*i*) The principal amount of bonds and notes issued to refund outstanding bonds and notes.

(*ii*) The principal amount of bonds and notes that appreciate in principal amount, except to the extent of the principal amount of these bonds and notes payable at such time.

(*iii*) The principal amount of notes and bonds representing original issue discount, if any.

(b) After November 1, 2011, the limitation on the aggregate principal amount of notes and bonds provided in subdivision (a) is $3,000,000,000.00, excluding all of the following:

(*i*) The exclusions provided in subparagraphs (*i*), (*ii*), and (*iii*) of subdivision (a).

(*ii*) The aggregate principal amount of bonds and notes issued on or before November 1, 2011, that is outstanding on November 1, 2011, and that exceeds $3,000,000,000.00.

(6) Subject to the limitation in subsection (5), that portion of the state ceiling to be used for qualified mortgage bonds, mortgage credit certificates, or bonds to finance qualified residential rental projects shall be allocated to the authority unless the authority elects by resolution to allow another issuer to issue qualified mortgage bonds, mortgage credit certificates, or bonds to finance qualified residential rental projects. As used in this subsection:

(a) "State ceiling" means the aggregate amount of certain private activity bonds, including qualified mortgage bonds, that may be issued in any calendar year in this state pursuant to section 146 of the internal revenue code, 26 USC 146.

(b) "Qualified mortgage bond", "mortgage credit certificate", and "qualified residential rental project"

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mean those terms as defined in section 146 of the internal revenue code, 26 USC 146.

(7) To assure the continued operation and solvency of the authority for the carrying out of the public purposes of this act, the authority shall accumulate in each capital reserve fund an amount equal to the capital reserve fund requirement for that fund. If at any time the capital reserve fund requirement for a capital reserve fund exceeds the amount of the capital reserve fund, the authority shall transfer to this fund from the capital reserve capital account established by the authority's June 10, 1971 bond resolution the amount necessary to restore the capital reserve fund to an amount equal to the capital reserve fund requirement. If a deficiency exists in more than 1 capital reserve fund and the amount in the capital reserve capital account is not sufficient to fully restore the capital reserve funds, the money in the capital reserve capital account shall be allocated between the deficient capital reserve funds pro rata according to the amounts of the deficiencies. If at any time the capital reserve capital account has been exhausted and the capital reserve fund requirement for a capital reserve fund exceeds the amount of the capital reserve fund, the chairperson of the authority on or before September 1 shall certify to the governor and budget director the amount, if any, necessary to restore a capital reserve fund to an amount equal to the capital reserve fund requirement. The governor and the budget director shall include in the annual budget the amount certified by the chairperson of the authority.

(8) In computing the amount of a capital reserve fund for the purposes of this section, securities in which all or a portion of the fund is invested shall be valued at par. If the securities are purchased at other than par, the securities may be valued at their cost to the authority, as adjusted by amortization of the discount or premium paid upon purchase of the securities on a pro rata basis to the maturity date of the securities.

(9) To the extent possible and consistent with sound fiscal management and good housing development planning, the authority shall make full use of available federal housing subsidy programs. The authority shall recommend programs and legislation to better maintain and improve existing housing stock.

(10) The authority shall require that not less than 15% of the multifamily dwelling units financed by mortgage loans from the authority in a calendar year under federal government subsidy programs, subject to applicable federal regulations, be offered on a priority basis to low income families and persons receiving their primary incomes from social security programs or state and federal public assistance programs.

(11) The authority shall implement a program of loans for mobile homes as soon as is reasonably feasible. The authority shall develop a program for financing the construction or rehabilitation of mobile home parks and mobile home condominium projects within 24 months after December 31, 1982, subject to a determination of feasibility by the authority and the authority's ability to sell bonds.

(12) The authority shall implement a program of loans for consumer housing cooperatives as soon as is reasonably feasible. The authority shall develop a program for financing the construction or rehabilitation of consumer housing cooperative projects within 12 months after July 10, 1984, subject to a determination of feasibility by the authority and the authority's ability to sell bonds.

(13) In addition to the powers granted the authority in this act to promulgate rules in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the authority shall furnish to each member of the legislature a copy of notice of a public hearing or proposed rule change at least 10 days before the public hearing and at least 20 days before the adoption of the rule.

(14) Before October 1 of each year, the authority shall identify housing production goals for housing projects financed with bonds and notes issued under the limitations provided in section 32a. The authority shall identify a goal for the authority as a whole and a specific goal for each program. The authority shall submit those goals in an annual report to the governor and to the house committee on urban affairs and the senate committee on finance, or their successor committees.

(15) Within 6 months after the legislature enacts or the authority adopts a new program, the authority shall submit an interim report to the same persons to whom an annual report is submitted. If both the legislature and the authority establish a program, the authority shall submit the interim report within 6 months after the effective date of the act establishing the program. The authority shall include in an interim report all of the information required in an annual report that is specific to that program.

(16) After the initial or an interim report, the authority shall include in an annual report all of the following for each program:

(a) Whether the production goals for the previous 12-month period have been met. If those production goals have not been met, the authority shall explain in the report the reasons why those production goals have not been met.

(b) Any significant obstacles to the development of housing for low and moderate income persons that have been encountered by the authority.

(c) The estimated economic and social benefits of these housing projects to the immediate neighborhoods in which the housing projects have been constructed.

(d) The estimated economic and social benefits of these housing projects to the municipalities in which the

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housing projects have been constructed.

(e) The extent of displacement, direct and indirect, of lower income persons caused by these housing projects, and steps taken by the authority and other governmental and private parties to ameliorate the displacement, and the results of those efforts.

(f) The estimated extent of additional reinvestment activities by private lenders attributable to the authority's financing of these housing projects.

(g) The age, race, family size, median income, and average income of the tenants of these housing projects.

(h) The estimated economic impact of these housing projects, including the number of construction jobs created, wages paid, and taxes and payments in lieu of taxes paid.

(i) The progress in developing mobile home parks and mobile home condominium projects, in financing the construction or rehabilitation of consumer housing cooperative projects, and in financing the construction or rehabilitation of nonprofit housing corporation projects.

(j) A report on the neighborhood preservation program under section 44f shall include information about the progress in developing the program, the neighborhoods identified as being eligible for the program, the neighborhoods or municipalities that have applied for the program, the neighborhoods that have received funds from the program, and the reasons that neighborhoods or municipalities have been denied funds from the program.

(k) A report on the status of federal programs that provide assistance to low income tenants displaced as the result of prepayments of federally and authority assisted loans. If the authority determines that federal programs are inadequate for tenants of authority-financed housing projects, the authority will provide recommendations to the legislature as to how to address this problem on or before May 1, 1989.

(*l*) A report on the low income housing tax credit program under section 22b, that shall include information regarding the amount of tax credits allocated to the state under each of the subdivisions of section 22b(2); the projects that have received tax credits; and the reasons why projects have been denied tax credits under the program; a geographical description of the distribution of those tax credits; and a description of amendments to the allocation plan made during that year.

(m) A report on education and training opportunities provided by the authority under section 17 that will indicate the types of education and training opportunities made available and the amount of funding committed to these activities.

(n) For any programs or projects involving refinancings, the number of refinancings undertaken by the authority and the total dollar amount of all refinancings undertaken by the authority.

(17) The authority shall conduct an annual review of all loans, financial instruments that require repayment, or lines of credit with the Michigan broadband development authority. The review shall contain an analysis of the Michigan broadband development authority's ability to repay all loans, financial instruments that require repayment, and lines of credit with the authority and the amount and payment schedule of all current loans, financial instruments that require payment, and lines of credit with the authority. The review shall also contain an analysis of the number of authority-assisted or -financed developments and homes purchasing high-speed internet connections at substantially reduced rates as a direct result of loans from the Michigan broadband development authority, as specified in the memorandum of understanding between the authority and the Michigan broadband development authority.

(18) The authority shall insure that the income characteristics of individuals served by an authority program are provided in a manner that insures each individual's confidentiality. The authority shall also insure that proprietary information in its reports under this section concerning an individual, corporation, cooperative, or association is not released without the permission of that individual, corporation, cooperative, or association.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 27, Imd. Eff. June 2, 1970;—Am. 1972, Act 310, Imd. Eff. Dec. 28, 1972;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1980, Act 472, Imd. Eff. Jan. 17, 1981;—Am. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 73, Imd. Eff. June 6, 1983;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983;—Am. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1985, Act 2, Imd. Eff. Mar. 14, 1985;—Am. 1985, Act 183, Imd. Eff. Dec. 18, 1985;—Am. 1987, Act 86, Imd. Eff. June 30, 1987;—Am. 1987, Act 180, Imd. Eff. Nov. 25, 1987;—Am. 1989, Act 220, Imd. Eff. Dec. 11, 1989;—Am. 1989, Act 281, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 330, Imd. Eff. Dec. 21, 1990;—Am. 1991, Act 138, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993;—Am. 1995, Act 186, Imd. Eff. Oct. 23, 1995;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 2000, Act 257, Imd. Eff. June 29, 2000;—Am. 2004, Act 535, Imd. Eff. Jan. 3, 2005;—Am. 2008, Act 56, Imd. Eff. Apr. 3, 2008.

Administrative rules: R 125.101 et seq. of the Michigan Administrative Code.

125.1432a Issuance of bonds to finance single family homes; previous ownership interest; publicizing program; report to legislature; section inapplicable to refinancing single family

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homes.

Sec. 32a. With respect to bonds, other than refunding bonds, issued to finance single family homes after November 1, 1989, for the first 60 days following the announcement of a program funded by the proceeds of those bonds, 50% of the proceeds of those bonds available to make loans, as determined by the preliminary information obtained by originating lenders at the time a reservation is submitted, shall be reserved for applicants with gross annual incomes at or below 60% of the statewide median gross income. The authority may, by resolution, waive this requirement. The authority shall advise the house of representatives and senate standing committees with jurisdiction over housing issues 5 days prior to adopting a resolution waiving this requirement. With respect to bonds, other than refunding bonds, issued to finance single family homes after November 1, 1989, not more than 50% of the proceeds of those bonds may be used to finance single family homes for homebuyers who previously have had an ownership interest in a residence. For purposes of this section, a previous ownership interest in a mobile home shall not be considered to be an ownership interest in a residence. The authority may rely on the applicant's affidavit to determine whether or not the applicant has had a prior ownership interest in a residence. The authority shall publicize the programs funded under this section by using all reasonable means available, including, but not limited to, public interest announcements in the media, and announcements to lending institutions, community groups, and real estate organizations. The authority shall submit a report annually to the legislature containing all statistics necessary to indicate its compliance with this section. This section does not apply to bonds issued to refinance single family homes.

History: Add. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1985, Act 2, Imd. Eff. Mar. 14, 1985;—Am. 1985, Act 183, Imd. Eff. Dec. 18, 1985;—Am. 1989, Act 220, Imd. Eff. Dec. 11, 1989;—Am. 1989, Act 281, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 330, Imd. Eff. Dec. 21, 1990;—Am. 1991, Act 137, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 2000, Act 257, Imd. Eff. June 29, 2000;—Am. 2004, Act 535, Imd. Eff. Jan. 3, 2005;—Am. 2008, Act 53, Imd. Eff. Apr. 3, 2008.

125.1432b Mortgage credit certificate program; authority designated as administrator; guidelines; qualifying for receipt of mortgage credit certificate; adaptation of property for use by disabled individuals; applicability of internal revenue code; exception; retroactive effect of changes in subsections (3) and (4).

Sec. 32b. (1) The authority is designated as the administrator of the mortgage credit certificate program for this state permitted under section 25 of the internal revenue code, 26 USC 25.

(2) The authority shall prepare guidelines that would allow for the implementation of a mortgage credit certificate program through mortgage lenders.

(3) To qualify for receipt of a mortgage credit certificate with respect to the acquisition of a new or existing housing unit, including a residential condominium or mobile home, both of the following apply:

(a) The purchase price with respect to the new or existing unit shall not exceed 3 times the income limit, as established pursuant to subdivision (b), subsection (5)(a), or subsection (5)(b).

(b) The borrower's family income does not exceed the following:

(*i*) For eligible distressed areas, $69,800.00 until June 1, 2006, $72,250.00 until November 1, 2007, and $74,750.00 on and after November 1, 2007.

(*ii*) For any other area, $60,700.00 until June 1, 2006, $62,800.00 until November 1, 2007, and $65,000.00 on and after November 1, 2007.

(4) The authority may increase the purchase price limit in subsection (3) to cover the cost of improvements to adapt the property for use by disabled individuals or unexpected cost increases during construction. The amount of the increase shall be the amount of the costs described in this subsection or the sum of $3,500.00, whichever is less.

(5) To qualify for receipt of a mortgage credit certificate with respect to the improvement or rehabilitation of an existing housing unit, including a residential condominium or mobile home, the borrower's family income shall not exceed the following:

(a) For eligible distressed areas, $69,800.00 until June 1, 2006, $72,250.00 until November 1, 2007, and $74,750.00 on and after November 1, 2007.

(b) For any other area, $60,700.00 until June 1, 2006, $62,800.00 until November 1, 2007, and $65,000.00 on and after November 1, 2007.

(6) If an income or purchase price limit prescribed by subsection (3), (4), or (5) exceeds an applicable limit prescribed by the internal revenue code, 26 USC 1 to 9833, the internal revenue code limit applies. Except with respect to newly constructed housing units, the authority may at any time by resolution establish, for a length of time it considers appropriate, maximum borrower income or purchase price limits more restrictive than those maximum limitations set forth in this section. The authority shall advise the appropriate house and senate standing committees 5 days prior to the adoption of a resolution establishing more restrictive income or

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purchase price limits.

(7) The changes made by 1995 PA 186 to purchase price limits in the subsections that at the time were designated subsections (3) and (4) were retroactive, effective as of October 29, 1993.

History: Add. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1985, Act 183, Imd. Eff. Dec. 18, 1985;—Am. 1987, Act 179, Imd. Eff. Nov. 25, 1987;—Am. 1989, Act 220, Imd. Eff. Dec. 11, 1989;—Am. 1991, Act 137, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993;—Am. 1995, Act 186, Imd. Eff. Oct. 23, 1995;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 1998, Act 33, Imd. Eff. Mar. 18, 1998;—Am. 2000, Act 257, Imd. Eff. June 29, 2000;—Am. 2004, Act 549, Imd. Eff. Jan. 3, 2005.

125.1432c Repealed. 1988, Act 496, Eff. Mar. 30, 1989.

Compiler's note: The repealed section pertained to allocation to authority from state's unified volume limitation and to reallocation to municipalities.

125.1432d Legislative intent.

Sec. 32d. The legislature intends that the authority explore the possibility of reducing the cost of financing multifamily housing projects through the issuance of variable rate obligations that could be converted to long-term fixed-rate obligations. The authority is authorized to make fixed-rate mortgages with the proceeds of these obligations. The legislature also intends that the authority explore the possibility of providing subsidies to projects to assist owners in meeting the 20-50 test established in section 142 of the internal revenue code.

History: Add. 1987, Act 179, Imd. Eff. Nov. 25, 1987.

125.1433 General reserve fund; creation; payments into fund; use of fund.

Sec. 33. The authority shall create and establish a special fund, referred to as general reserve fund, and, subject to agreements with bondholders and noteholders, shall pay into the fund all fees and charges collected by the authority on loans made from and residential mortgages acquired with the proceeds of the sale of bonds and any moneys which the authority shall transfer from the capital reserve fund. Such moneys and any other moneys paid into the general reserve fund, in the discretion of the authority but subject to agreements with bondholders and noteholders, may be used by the authority (a) for the repayment of advances from the state in accordance with the provisions of repayment agreements between the authority and the director of the budget, (b) to pay all costs, expenses, and charges of financing, including fees and expenses of trustees and paying agents, (c) for transfers to the capital reserve fund, (d) for the payment of the principal of and interest on bonds or notes issued by the authority when they shall become due whether at maturity or on call for redemption and for the payment of any redemption premium required to be paid where the bonds or notes are redeemed prior to their stated maturities, and to purchase bonds or notes, or (e) for such other corporate purposes of the authority as the authority in its discretion shall determine and provide.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977.

125.1434 Notes and bonds; pledge and agreement of state.

Sec. 34. The state pledges and agrees with the holders of any notes or bonds issued under this act, that the state will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of the holders until the notes or bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

History: 1966, Act 346, Eff. Mar. 10, 1967.

125.1435 Trustee; default; powers and duties.

Sec. 35. (1) If the authority defaults in the payment of principal of or interest on any issue of notes or bonds after the same shall become due, whether at maturity or upon call for redemption, and such default continues for a period of 30 days, or if the authority fails or refuses to comply with the provisions of this act, or defaults in any agreement made with the holders of any issue of notes or bonds, the holders of 25% in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Ingham and approved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

(2) The trustee may, and upon written request of the holders of 25% in principal amount of such notes or bonds then outstanding shall, in his own name; (a) by action or proceeding, enforce all rights of the noteholders or bondholders, including the right to require the authority to collect fees and charges and interest

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and amortization payments on mortgage loans made by it adequate to carry out any agreement as to, or pledge of, such fees and charges and interest and amortization payments on such mortgages, and other properties and to require the authority to carry out any other agreements with the holders of such notes or bonds and to perform its duties under this act; (b) bring suit upon such notes or bonds; (c) by action, require the authority to account as if it were the trustee of an express trust for the holders of such notes or bonds; (d) by action, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes or bonds; (e) declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of 25% of the principal amount of such notes or bonds then outstanding, to annul such declaration and its consequences.

History: 1966, Act 346, Eff. Mar. 10, 1967.

125.1436 Trustee; additional powers.

Sec. 36. The trustee, in addition to the powers granted in section 35, shall have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

History: 1966, Act 346, Eff. Mar. 10, 1967.

125.1437 Venue.

Sec. 37. The venue of any such action or proceeding shall be in the county of Ingham.

History: 1966, Act 346, Eff. Mar. 10, 1967.

125.1438 Notes and bonds; notice; declaration, due and payable.

Sec. 38. Before declaring the principal of notes or bonds due and payable, the trustee shall first give 30 days' notice in writing to the governor, to the authority, and to the attorney general of the state.

History: 1966, Act 346, Eff. Mar. 10, 1967.

125.1439 Money of authority; deposit; security for deposits; contracts with holders of notes or bonds; security for money held in trust; system of accounts; spending for operating purposes; periodic audits; copies.

Sec. 39. (1) Money of the authority shall be held by the authority and deposited in a bank, national banking association, or a savings and loan association approved by the state treasurer. All deposits of money which are not fully insured by an agency of the United States shall, if required by the state treasurer or the authority, be secured by obligations of the United States, agencies of the United States, or of the state or of municipalities within the state, of a market value equal at all times to the uninsured amount of the deposit. All banks, national banking associations, and savings and loan associations may give security for the deposits.

(2) The authority may, subject to the approval of the state treasurer, contract with the holders of any of its notes or bonds as to the custody, collection, securing, investment, and payment of moneys of the authority, of any moneys held in trust or otherwise for the payment of notes or bonds, and to carry out the contract. Money held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of money may be secured in the same manner as money of the authority, and all banks and trust companies may give security for the deposits.

(3) Subject to agreements with noteholders and bondholders and to the approval of the auditor general, the authority shall prescribe a system of accounts.

(4) The authority may spend for operating purposes the funds appropriated to it annually by the legislature for operating purposes or funds otherwise authorized. The auditor general shall make periodic audits of the books and records of the authority at least every 3 years and submit copies of those audits to the legislature.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1972, Act 310, Imd. Eff. Dec. 28, 1972;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1980, Act 472, Imd. Eff. Jan. 17, 1981;—Am. 1985, Act 183, Imd. Eff. Dec. 18, 1985.

125.1440 Notes and bonds; legal investment.

Sec. 40. The notes and bonds of the authority are securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on an insurance business, all banks, trust companies, savings banks and savings associations, savings and loan associations, investment companies, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

History: 1966, Act 346, Eff. Mar. 10, 1967.

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125.1441 Faith and credit bonds.

Sec. 41. The authority from time to time at its discretion may recommend an issuance of faith and credit bonds to the legislature for a vote of the people.

History: 1966, Act 346, Eff. Mar. 10, 1967.

125.1442 Property of authority; exempt from taxation.

Sec. 42. The property of the authority and its income and operation shall be exempt from all taxation by the state or any of its political subdivisions and all bonds and notes of the authority shall be exempt from all taxation by the state or any of its political subdivisions.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. June 19, 1968.

125.1443 Notes and bonds; exemption from taxation.

Sec. 43. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the authority, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the authority, issued pursuant to this act and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received or to be received, pledged to pay or secure the payment of such notes or bonds shall at all times be free and exempt from all state, city, county or other taxation provided by the laws of the state, except for estate and gift taxes and taxes on transfers.

History: 1966, Act 346, Eff. Mar. 10, 1967.

125.1443a Authorization of covenant and consent.

Sec. 43a. The authority may covenant and consent in any resolution authorizing the issuance of notes or bonds that such notes or bonds shall be treated as an obligation not described in section 103(a) of the internal revenue code or any successor provision. This section shall not be construed to covenant or consent or to authorize any covenant or consent to the application of any other provision of any other laws, federal or state, to the authority or its obligations or to the elimination or modification in any way of any other exemption, privilege, or immunity of the authority or its obligations.

History: Add. 1984, Act 215, Imd. Eff. July 10, 1984.

125.1444 Loans; purposes; conditions; amount; eligibility; sales and resales; long-term financing or refinancing; securing and repaying loans; interest rate; misrepresentation of income; time period for refinancing.

Sec. 44. (1)(a) The authority may make loans to a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, limited dividend housing association, mobile home park corporation, or mobile home park association or to a public body or agency for the construction or rehabilitation, and for the long-term financing, of the following:

(*i*) Housing for low income or moderate income persons.

(*ii*) For the period of time beginning May 1, 1984, and ending November 1, 1987, housing projects in which not less than 20% of the dwelling units are allotted to individuals of low or moderate income within the meaning of former section 103(b)(4)(A) of the internal revenue code of 1954; not less than 60% of the dwelling units are available to persons and families whose gross household income does not exceed 125% of the higher of either the median income for a family in this state or the median income for a family within the nonmetropolitan county or metropolitan statistical area in which the housing project is located, as determined by the authority; and not more than 20% of the dwelling units are available for occupancy without regard to income. The enactment of this subparagraph or the expiration of the authority granted by it does not affect rules in effect before July 10, 1984, or promulgated after July 9, 1984, to define low or moderate income persons.

(*iii*) For the period of time beginning May 1, 1984, and ending November 1, 1987, housing projects in eligible distressed areas in which housing projects not less than 20% of the dwelling units are allotted to individuals of low or moderate income within the meaning of former section 103(b)(4)(A) of the internal revenue code of 1954; not less than 60% of the dwelling units are available to persons and families whose gross household income does not exceed 150% of the higher of either the median income for a family in this state or the median income for a family within the nonmetropolitan county or metropolitan statistical area in which the housing project is located, as determined by the authority, and not more than 20% of the dwelling units are available for occupancy without regard to income.

(*iv*) Beginning November 1, 1987, multifamily housing projects that meet the 20-50 or 40-60 test established in section 142 of the internal revenue code, 26 USC 142, and, in addition, in which the remaining

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dwelling units are available for occupancy without regard to income.

(*v*) Social, recreational, commercial, or communal facilities necessary to serve and improve the residential area in which an authority-financed housing project is located or is planned to be located thereby enhancing the viability of the housing.

(b) Notwithstanding the provisions of this section, the authority may establish by resolution higher income limits that it considers necessary to achieve sustained occupancy of a housing project financed under subsection (1)(a)(*i*), (*ii*), (*iii*), (*iv*), or (*v*) if the authority determines both of the following:

(*i*) The owner of the housing project exercised reasonable efforts to rent the dwelling units to persons and families whose incomes did not exceed the income limitations originally applicable.

(*ii*) For an annual period after the first tenant has occupied the housing project, the owner of the housing project has been unable to attain and sustain at least a 95% occupancy level at the housing project.

(c) A loan under this section may be in an amount not to exceed 90% of the project cost as approved by the authority. For purposes of this section, the term "project cost" includes all items included in the definition of a project cost in section 11 and also includes a builder's fee equal to an amount up to 5% of the amount of the construction contract, developer overhead allowance and fee of 5% of the amount of the project cost, the cost of furnishings, and a sponsor's risk allowance equal to 10% of the project cost. A loan shall not be made under this section unless a market analysis has been conducted that demonstrates a sufficient market exists for the housing project.

(d) After November 1, 1987, the authority may continue to finance multifamily housing projects for families or persons whose incomes do not exceed the limits provided in subsection (1)(a)(*ii*) or (*iii*) or (1)(b), until funds derived from the proceeds of bonds or notes issued before November 2, 1987, for that purpose, including the proceeds of prepayments or recovery payments with respect to these multifamily housing projects, have been expended. Multifamily housing projects or single family housing units in an eligible distressed area that are financed by proceeds of notes or bonds issued before June 30, 1984, and that the authority has designated for occupancy by persons and families without regard to income pursuant to this act shall remain eligible for occupancy by families and persons without regard to income until the authority's mortgage loan issued with respect to these multifamily housing projects is fully repaid.

(e) Notwithstanding the expiration of lending authority under subsection (1)(a)(*ii*), (*iii*), (*iv*), or (*v*), multifamily housing projects financed under those subparagraphs may continue to remain eligible for occupancy by persons and families whose incomes do not exceed the limits provided in those subparagraphs or subsection (1)(b).

(f) For purposes of this subsection:

(*i*) "Gross household income" means gross income of a household as those terms are defined in rules of the authority.

(*ii*) "Median income for a family in this state" and "median income for a family within the nonmetropolitan county or metropolitan statistical area" mean those income levels as determined by the authority.

(2)(a) The authority may make loans to a nonprofit housing corporation, limited dividend housing corporation, mobile home park corporation, or mobile home park association for the construction or rehabilitation of housing units, including residential condominium units as defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104, for sale to individual purchasers of low or moderate income or to individual purchasers without regard to income when the housing units are located in an eligible distressed area. A loan under this section may be in an amount not to exceed 100% of the project cost as approved by the authority in the case of a nonprofit housing corporation or individual purchaser, and in an amount not to exceed 90% of the project cost as approved by the authority in the case of a limited dividend housing corporation, mobile home park corporation, or mobile home park association.

(b) While a loan under this subsection is outstanding, a sale by a nonprofit housing corporation or limited dividend housing corporation or a subsequent resale is subject to approval by the authority. The authority may provide in its rules concerning these sales and resales that the price of the housing unit sold, the method of making payments after the sale, the security afforded, and the interest rate, fees, and charges to be paid shall at all times be sufficient to permit the authority to make the payments on its bonds and notes and to meet administrative or other costs of the authority in connection with the transactions. Housing units shall be sold under terms that provide for monthly payments including principal, interest, taxes, and insurance.

(c) While a loan under this subsection is outstanding, the authority, before the approval of sale by a nonprofit housing corporation, limited dividend housing corporation, mobile home park corporation, or mobile home park association, shall satisfy itself that the sale is to persons of low or moderate income if the housing unit is not located in an eligible distressed area, or to persons without regard to income if the housing unit is located in an eligible distressed area.

(3) The authority may make, purchase, or participate in loans made to individual purchasers for acquisition

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and long-term financing or refinancing of newly rehabilitated, newly constructed, or existing 1- to 4-unit housing units, including a residential condominium unit as defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104. To qualify, all of the following apply:

(a) The borrower's family income shall not exceed $108,000.00.

(b) The purchase price or, in the case of a refinancing, the appraised value does not exceed the following:

(*i*) With respect to a 1- or 2-family unit, $224,500.00.

(*ii*) With respect to a 3-family unit, $261,625.00.

(*iii*) With respect to a 4-family unit, $299,000.00.

(c) For unexpected cost increases during construction or improvements to adapt new or existing property for use by disabled individuals, the authority may increase the purchase price limit by an amount sufficient to cover these cost increases, but not to exceed $3,500.00.

(d) If an income or purchase price limit prescribed by this subsection exceeds an applicable limit prescribed by the internal revenue code, the internal revenue code limit applies if the loan will be financed with the proceeds of a tax-exempt bond.

(e) Except with respect to newly constructed housing units, the authority may by resolution establish, for a length of time the authority considers appropriate, maximum borrower income or purchase price limits more restrictive than those maximum limitations set forth in this section. The authority shall advise the appropriate house and senate standing committees 5 days prior to adopting a resolution establishing more restrictive maximum borrower income or purchase price limits.

(f) Before making a loan under this section, authority staff shall determine that the borrower has the ability to repay the loan.

(g) A loan made or purchased to finance the acquisition of an existing housing unit may include funds for rehabilitation.

(h) If the loan made is a loan for refinancing of a 1- to 4-unit housing unit, including a residential condominium unit as defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104, the authority shall determine that 1 of the units is occupied by the borrower.

(4) A loan shall be secured in a manner and be repaid in a period, not exceeding 50 years, as may be determined by the authority. A loan shall bear interest at a rate determined by the authority.

(5) A person who, for purposes of securing a loan under this act, misrepresents his or her income, including taking a leave of absence from his or her employment for purposes of diminishing his or her income, is not to be eligible for a loan under this act.

(6) With regard to refinancing, the authority shall not enter into any new making, purchasing, or participation in loans to individual purchasers pursuant to subsection (3) later than 3 years after the effective date of the amendatory act that added this subsection.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1982, Act 506, Imd. Eff. Dec. 31, 1982;—Am. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983;—Am. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1985, Act 183, Imd. Eff. Dec. 18, 1985;—Am. 1987, Act 86, Imd. Eff. June 30, 1987;—Am. 1987, Act 179, Imd. Eff. Nov. 25, 1987;—Am. 1989, Act 220, Imd. Eff. Dec. 11, 1989;—Am. 1989, Act 281, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 330, Imd. Eff. Dec. 21, 1990;—Am. 1991, Act 137, Imd. Eff. Nov. 22, 1991;—Am. 1991, Act 138, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993;—Am. 1995, Act 186, Imd. Eff. Oct. 23, 1995;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 1998, Act 33, Imd. Eff. Mar. 18, 1998;—Am. 2000, Act 257, Imd. Eff. June 29, 2000;—Am. 2004, Act 549, Imd. Eff. Jan. 3, 2005;—Am. 2008, Act 57, Imd. Eff. Apr. 3, 2008;—Am. 2008, Act 58, Imd. Eff. Apr. 3, 2008.

125.1444a Rehabilitation loans, grants, or deferred payment loans; eligibility; secured or unsecured loans or grants; insurance; reserve; interest; terms and conditions; rules; maximum principal loan amounts; minimum age of structure.

Sec. 44a. (1) The authority may make, purchase, or participate in loans, grants, or deferred payment loans to persons and families of low and moderate income to finance the rehabilitation of residential real property designed for occupancy by not more than 24 families that is owned or is being purchased by 1 or more persons or families of low and moderate income and that is for occupancy by persons or families of low and moderate income.

(2) The authority, without regard to the income of the owners or occupants of residential rental property, may make, purchase, or participate in loans, grants, or deferred payment loans for the rehabilitation of residential rental property to persons or entities owning residential rental property located in areas of chronic economic distress and moderate cost residential rental property located elsewhere in this state.

(3) A loan under this section may be secured or unsecured as determined by the authority. If the loan is unsecured, it shall be accepted for insurance under title 1 of the national housing act, 12 USC 1702, 1703,

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1705, and 1706b to 1706d, or another federal or private insurance program providing coverage at least equal to that provided by that title, or the authority shall establish a reserve for losses on uninsured loans made under this section and shall deposit into that reserve an amount equal to 5% of the principal amount of each such uninsured loan on or before the making of the loan. Money may be withdrawn by the authority from this reserve for application as loan repayments in connection with loans that are delinquent. In addition, upon repayment of a loan made, purchased, or participated in under this section, the authority may withdraw the amount deposited in the reserve in connection with that loan, reduced by amounts withdrawn as loan repayments in connection with the loan, and may apply the amounts to any of the authority's programs and purposes. Income or interest earned by or increment to the reserve due to the investment of the money in the reserve may, at the times determined by the authority, be transferred by the authority to other funds or accounts of the authority and applied to any of the corporate purposes of the authority. A loan under this section shall bear interest at a rate and be repaid in the period, not exceeding 20 years, as determined by the authority and under additional terms and conditions as determined by the authority.

(4) A deferred payment loan or grant may be secured or unsecured as determined by the authority, and shall be made under additional terms and conditions determined by the authority.

(5) In recognition of the need for rehabilitation loans, grants, and deferred payment loans in all geographic areas of the state, the authority shall promulgate rules that provide for the availability of loans, grants, and deferred payment loans on an equitable basis to qualified applicants in all geographic areas of this state. With respect to loans, grants, and deferred payment loans made pursuant to this section that are not based on residency in a neighborhood selected under section 22a(5), eligibility for loans, grants, or deferred payment loans shall not be based upon the number of qualified applicants in the geographic area in which the individual resides.

(6) For purposes of this section, persons and families of low and moderate income means persons and families whose family income does not exceed the following:

(a) For eligible distressed areas, $69,800.00 until June 1, 2006, $72,250.00 until November 1, 2007, and $74,750.00 on and after November 1, 2007.

(b) For any other area, $60,700.00 until June 1, 2006, $62,800.00 until November 1, 2007, and $65,000.00 on and after November 1, 2007.

(7) The maximum principal loan amounts for home improvement loans, exclusive of finance charges, are as follows:

(a) $50,000.00 for a residential structure containing 1 dwelling unit, unless the loan is made in conjunction with additional money provided by a municipality or nonprofit community-based organization, in which case a loan for a residential structure containing 1 dwelling unit is $35,000.00.

(b) $25,000.00 per dwelling unit for a residential structure containing 2 to 24 dwelling units.

(8) A structure is not required to be of a minimum age to be eligible for rehabilitation under this section.

History: Add. 1977, Act 130, Imd. Eff. Oct. 25, 1977;—Am. 1978, Act 192, Imd. Eff. June 4, 1978;—Am. 1982, Act 506, Imd. Eff. Dec. 31, 1982;—Am. 1989, Act 220, Imd. Eff. Dec. 11, 1989;—Am. 1991, Act 138, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 2000, Act 257, Imd. Eff. June 29, 2000;—Am. 2004, Act 549, Imd. Eff. Jan. 3, 2005.

Administrative rules: R 125.101 et seq. of the Michigan Administrative Code.

125.1444b Loans to mortgage lenders; authorized purchases and commitments; requirements and conditions; report.

Sec. 44b. (1) The authority may make and contract to make loans to mortgage lenders, and may purchase and enter into commitments for the purchase of securities, certificates of deposit, time deposits, or mortgage loans from mortgage lenders, on terms and conditions it determines are reasonably related to protecting the security of the authority's investment and to implementing the purposes of financing housing projects. Mortgage lenders are authorized to borrow from the authority pursuant to this section.

(2) The authority shall require as a condition of a loan to a mortgage lender that, within a reasonable period after receipt of the loan proceeds as the authority determines, the mortgage lender enter into written commitments to make new mortgage or secured loans and, within a reasonable period after entering into those commitments as the authority determines, disburse the loan proceeds in new mortgage or secured loans to borrowers eligible under this act in an aggregate principal amount of not less than the amount of the loan to the mortgage lender.

(3) To assure compliance with this section, the authority, through its members, employees, or agents, may inspect the books and records of a mortgage lender. As a condition of a loan to a mortgage lender, the authority may require agreement by the mortgage lender to the payment of penalties to the authority for violation by the mortgage lender of its agreement with the authority.

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(4) The authority shall require that a mortgage lender receiving a loan pursuant to this section shall issue and deliver to the authority evidence of its indebtedness to the authority which evidence shall constitute a general obligation of the mortgage lender and shall bear a date, mature at a time, be subject to prepayment, and contain other provisions consistent with this section and related to protecting the security of the authority's investment, as the authority determines.

(5) The authority may require that the interest rate and other terms of loans to mortgage lenders made from the proceeds of an issue of bonds or notes of the authority shall be at least sufficient to assure the payment of the bonds or notes and the interest on them as they become due. In addition, the authority may require that loans to mortgage lenders are additionally secured as to payment of both principal and interest by a pledge of and lien upon collateral security by special escrow funds or other forms of guarantees and in amounts and forms as the authority determines by resolution to be necessary to assure the payment of the loans and the interest as they become due.

(6) The authority may establish additional requirements it considers necessary with respect to the pledging, assigning, setting aside, or holding of collateral; the making of substitutions for or additions to the collateral; and the disposition of income and receipts from the collateral.

(7) The authority may require as a condition of a loan to a mortgage lender any representations and warranties it determines are necessary to secure the loans and carry out the purposes of this section.

(8) The authority may make loans to mortgage lenders under this section to finance loans for the construction of housing projects or rehabilitation of existing structures for housing projects and for social, recreational, commercial, or communal facilities necessary to serve and improve the residential area in which a housing project is located or is planned to be located thereby enhancing the viability of such housing project.

(9) The authority shall require that any housing project assisted under this section comply with the income limitations established under section 44, 44a, or 44c together with any additional income limitations required to maintain the tax exemption of notes or bonds issued to provide the financing.

(10) The authority may require additional conditions regarding the planning, development, and management of projects to be financed by the mortgage lender from the proceeds of the authority notes or bonds and may provide for the disposition of the property and franchises of the borrower.

(11) The authority shall submit a report to the governor and the legislature on its progress in implementing loans to mortgage lenders pursuant to section 44b at 6-month intervals from the effective date of this subsection.

History: Add. 1984, Act 215, Imd. Eff. July 10, 1984.

125.1444c Use of proceeds of notes or bonds; qualification as rehabilitation; establishment of higher income limits; eligibility for occupancy; application; issuance of 6-month commitment to loan funds; limitation on outstanding loan commitments; fees; direct or indirect loan; sale, refinancing, or resyndication; allowable distributions; report to authority; authority-aided mortgage; monitoring compliance; remedies; regulation; liability; priority consideration; unified volume cap not as impairment; student housing project.

Sec. 44c. (1) If the resolution authorizing the issuance of notes or bonds provides that the notes or bonds are limited and not general obligations of the authority, are not secured by the capital reserve capital account, and are secured solely by revenues and property derived from or obtained in connection with the housing project, the authority shall use the proceeds of those notes or bonds to make loans directly, or indirectly by a loan through a mortgage lender, to a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, limited dividend housing association, mobile home park corporation, mobile home park association, or public body or agency for the construction, rehabilitation, long-term financing or any combination of construction, rehabilitation, or long-term financing of any of the following:

(a) Multifamily housing projects for students or low income or moderate income persons.

(b) Beginning May 1, 1984, multifamily housing projects in eligible distressed areas in which not less than 20% of the dwelling units are allotted to individuals of low or moderate income within the meaning of former section 103(b)(4)(A) of the internal revenue code of 1954 and in which not more than 80% of the dwelling units are available for occupancy without regard to income.

(c) Social, recreational, commercial, or communal facilities to serve and improve the residential area in which an authority-financed multifamily housing project is located or is planned to be located, thereby enhancing the viability of such housing.

(2) To qualify as rehabilitation under this section, the rehabilitation expenditures with respect to the project

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must equal or exceed 30% of the portion of the cost of acquiring the building and equipment financed with the proceeds of the notes or bonds issued to acquire and rehabilitate the project. For a project located in an eligible distressed area, the amount of rehabilitation may be less than the 30% requirement if the authority determines and expresses by resolution that the likely benefit to the community or the proposed residents of the project merits the use of this financing source. This subsection does not apply to a project for which the authority has authorized a loan commitment under this section before December 18, 1985. The authority shall not provide long-term financing for a project under this section unless the project is constructed or rehabilitated in anticipation of authority financing, the construction or rehabilitation is undertaken with authority financing, long-term financing is being provided with respect to a housing project for which regulatory or contractual restrictions assuring occupancy of some or all of the units by families or persons of low or moderate income are subject to termination within a 2-year period following the acquisition of the housing project, or a housing project which is to be owned and operated by a nonprofit housing corporation which is qualified under section 501(c)(3) of the internal revenue code, 26 USC 501(c)(3).

(3) Notwithstanding the provisions of this section, the authority shall establish by resolution higher income limits for a housing project financed under either subsection (1)(a) or (b) equal to the income limits of subsection (1)(c) if the authority determines all of the following:

(a) The owner of the housing project exercised reasonable efforts to rent the dwelling units to persons and families whose incomes did not exceed the originally applicable income limitations.

(b) For any annual period after the first tenant has occupied the housing project, the owner of the housing project has been unable to attain and sustain at least a 95% occupancy level at the housing project.

(4) Notwithstanding the expiration of lending authority under this section, multifamily housing projects financed under this section may continue to remain eligible for occupancy by persons and families whose incomes do not exceed the limits provided in subsection (1) or (3).

(5) A borrower seeking to qualify for a loan under this section shall file an application with the authority which includes the following:

(a) A description of the proposed credit enhancement. The proposed credit enhancement may be in the form of a letter of credit, bonding, guarantee, mortgage insurance, or other appropriate security in an amount sufficient to assure the authority that repayment of notes or bonds issued by the authority is reasonably secure.

(b) An undertaking to pay all costs of issuing the notes or bonds and to provide compensation for, as considered appropriate by the borrower and at no cost to the authority, any underwriters, trustees, counsel, and other professionals as are necessary to complete the financing.

(c) An application fee equal to the greater of $4,000.00 or 0.0005 multiplied by the principal amount of notes or bonds for which issuance is requested. For a project located in an eligible distressed area, the fee required by this subdivision shall be refundable if the notes or bonds are not delivered or may be waived by the authority in the event the owner of the housing project is or will be a nonprofit housing corporation qualified under section 501(c)(3) of the internal revenue code, 26 USC 501(c)(3), or a limited dividend housing association wholly owned and controlled by 1 or more nonprofit corporations qualified under section 501(c)(3) of the internal revenue code, 26 USC 501(c)(3). In all other cases, the fee is nonrefundable.

(6) So long as there is uncommitted bonding capability under the limitations of section 32, the authority shall issue a 6-month commitment to loan funds, subject to sale by the authority of its notes and bonds in compliance with applicable law and pursuant to terms and conditions which permit the funding of such loan, either directly or indirectly by a loan through a mortgage lender, to the borrower in the amount of the total development cost of the proposed multifamily housing project or $25,000,000.00, whichever is less, or if the proposed multifamily housing project is located in an eligible distressed area, in the amount of the total development cost of the proposed project or $50,000,000.00, whichever is less, upon the determination by the authority of all of the following:

(a) The housing project is eligible for financing under this section.

(b) The borrower is an eligible borrower under this act.

(c) The requirements of subsection (5) have been met.

(d) The borrower has provided evidence of a commitment to issue a credit enhancement in the form of a letter of credit, bonding, guarantee, mortgage insurance, or other appropriate security in a form and amount sufficient to assure the authority that the repayment of notes or bonds issued by the authority for purposes of making a loan to the borrower is reasonably secure. If the authority determines that repayment of the notes or bonds will be reasonably secure, the authority's review of the credit enhancement shall take the place of the authority's normal underwriting and feasibility review.

(e) If the loan is made indirectly by a loan through a mortgage lender, the requirements of section 44b have been met.

(7) Unless a borrower is either a nonprofit housing corporation qualified under section 501(c)(3) of the

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internal revenue code, 26 USC 501(c)(3), or a limited dividend housing association that is wholly owned and controlled by 1 or more nonprofit corporations qualified under section 501(c)(3) of the internal revenue code, 26 USC 501(c)(3), and may borrow money from the authority without an allocation of the state volume limitation, a borrower and any person who is a related person to the borrower as defined in section 144(a)(3) of the internal revenue code, 26 USC 144(a)(3), shall not have outstanding loan commitments under this section which total more than the greater of $25,000,000.00 or the amount of financing approved for a single project under subsection (6). Once a loan has been made under this section, the commitment made with respect to the loan shall no longer be considered to be outstanding.

(8) Simultaneously with the issuance of the loan commitment by the authority, the borrower shall pay a commitment fee established by the authority in the amount of not more than 0.1% of the principal amount of notes or bonds to be issued. The authority shall credit the amount paid by the borrower as an application fee under subsection (5) against this commitment fee. The authority shall extend a 6-month loan commitment issued under subsection (6) for an additional 6 months upon payment by the borrower of a nonrefundable extension fee of $5,000.00 which fee shall not be credited against any other fee or payment to the authority.

(9) Within the period during which the commitment is effective, the authority, upon a determination that the terms and conditions of the commitment have been satisfied, shall make its loan directly, or indirectly through a loan to a mortgage lender, to the borrower.

(10) Except as otherwise provided in this subsection, upon issuance of any notes or bonds to finance a housing project under this section, the borrower shall pay at the time the notes or bonds are issued, in addition to any commitment or extension fee paid under subsection (8), a fee established by the authority of either not more than 0.9% of the principal amount of the notes or bonds for a loan made for a project located in an eligible distressed area or not more than 1.9% of the principal amount of the notes or bonds for a loan made for a project located in other than an eligible distressed area. If notes or bonds have been issued under this section for a project owned by the borrower located in an eligible distressed area within 180 days before the issuance of notes or bonds for the next project financed by that borrower, which next project is located in other than an eligible distressed area, the fee under this subsection shall be not more than 0.9% of the principal amount of the notes or bonds. If notes or bonds have been issued under this section for a project located in other than an eligible distressed area and the borrower has paid the 1.9% fee, the authority shall not charge a fee under this subsection for the next project financed by that borrower if that next project is located in an eligible distressed area and if the notes or bonds are issued within 180 days after the notes or bonds were issued for the project located in other than an eligible distressed area. In addition to the fee to be paid to the authority at the time notes or bonds are issued under this section, the authority may, at its sole discretion, establish an annual fee, or other administrative fees, to be paid by the borrower during the term of the loan. All or any portion of the fees due to the authority under this subsection shall be paid by the borrower to the authority in annual or semiannual installments, as the authority shall determine, after the date on which notes or bonds are issued to finance the related housing project.

(11) Subject to any rights of the holders of any notes or bonds issued to finance a multifamily housing project under this section, if the owner of a multifamily housing project financed under this section provides evidence satisfactory to the authority that the new owner of the multifamily housing project is an eligible borrower under this act and the exemption from federal income taxation of interest on the notes or bonds issued to finance the multifamily housing project will not be impaired as a result of a sale, refinancing, or resyndication, the borrower may sell, refinance from a source other than the authority, or resyndicate that housing project at any time. There shall not be a prepayment penalty or fee required for the sale, refinancing, or resyndication in addition to any prepayment penalty or fee owing to the holders of notes or bonds issued to finance a housing project under this section except that the owner shall pay all fees of the authority described in subsection (10) before or concurrent with the sale, refinancing, or resyndication. For student housing, a transfer of ownership shall be approved by a resolution of the college or university board of trustees for the college or university that approved the initial financing under this section.

(12) A borrower is allowed distributions equal to a 12% return on the borrower's investment in a multifamily housing project financed under this section for the first 12 months of operation of the housing project following substantial completion. The allowable return shall be increased by 1% for each 12-month period after the first 12 months. The maximum allowable return for a housing project located in other than an eligible distressed area is 25%. Any return less than the allowable rate in any preceding period may be received in any subsequent period on a cumulative basis.

(13) Before September 1 of each year after 1984, the owner of a housing project financed under this section shall report to the authority all of the following which the authority shall include in the report required by section 32(14):

(a) The incomes of the tenants residing in that housing project in a manner that preserves the anonymity of

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those tenants.

(b) The estimated economic and social benefits of that housing project to the immediate neighborhoods in which it has been constructed.

(c) The estimated economic and social benefits of that housing project to the city in which it has been constructed.

(d) Information requested by the authority about that housing project that is needed so that the authority can report the extent of displacement, direct and indirect, of lower income persons caused by housing projects financed under this section, the steps taken by governmental and private parties to ameliorate the displacement, and the results of those efforts.

(e) Information requested by the authority about that housing project that is needed so that the authority can report the estimated extent of additional reinvestment activities by private lenders attributable to the authority's financing of housing projects financed under this section.

(f) Except for housing for students, the age, race, family size, and average income of the tenants of these housing projects.

(g) The estimated economic impact of these housing projects, including the number of construction jobs created, wages paid, and taxes and payments in lieu of taxes paid.

(14) Mortgages securing loans made under this section are authority-aided mortgages.

(15) The authority may inspect and audit projects and records of projects financed under this section in order to monitor compliance with the requirements of this section. If there is noncompliance, the authority, pursuant to the provisions of the financing and organizational documents applicable to the transaction, may pursue the remedies that the authority considers appropriate. Except as is required to assure compliance with this section or section 46 or otherwise required by purchasers of, or a third party credit enhancement provider with respect to, notes or bonds issued to finance a multifamily housing project under this section, the authority shall not regulate, in any manner, a multifamily housing project financed under this section. This section does not preclude the authority from regulating a multifamily housing project in consideration for other types of program benefits, incentives, or concessions provided by the authority over and above the financing made available under this section.

(16) Notwithstanding any other provision of this section, there shall not be any liability on the part of the authority or its members, officers, employees, or agents, and the assets of the authority shall not be subject to any liability, as a result of any act or failure to act under this section on the part of the authority or its members, officers, employees, or agents.

(17) If notes or bonds have been issued under this section for a project located in an eligible distressed area within 180 days before the submission, by the same borrower or a borrower having the same general partners, of a commitment for credit enhancement, that borrower's application shall be given priority over the other applications submitted under this section to finance projects located in other than eligible distressed areas, except for projects for which the authority has authorized loan commitments. The principal amount of notes or bonds issued to finance a project given priority under this subsection shall not exceed 10 times the principal amount of the notes or bonds issued to finance the distressed area project that qualifies the borrower for priority consideration.

(18) Except for housing projects for which the authority has adopted an inducement resolution on or before April 1, 1991, loans shall not be made under this section unless the authority determines that use of the state's unified volume cap for a project will not impair the ability of the authority to carry out programs or finance housing developments or housing units which are targeted to lower income persons.

(19) Beginning on the effective date of the amendatory act that added this subsection, a person or entity who proposes a student housing project shall cooperate with the college or university from which the majority of tenants are proposed to be drawn by using its best efforts to communicate with the college or university regarding the location of and the need for the project. If, in the judgment of the authority, the person or entity proposing the project does not communicate with the college or university and the unit of local government where the project is located regarding the location of and need for the project, the authority may deny financing for the project. The authority shall not make a financing commitment for a housing project unless the board of trustees of the college or university from which a majority of students are anticipated to be residents of the housing project adopts a resolution in support of the proposed development.

History: Add. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1985, Act 183, Imd. Eff. Dec. 18, 1985;—Am. 1987, Act 86, Imd. Eff. June 30, 1987;—Am. 1987, Act 179, Imd. Eff. Nov. 25, 1987;—Am. 1989, Act 281, Imd. Eff. Dec. 26, 1989;—Am. 1991, Act 138, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 2004, Act 535, Imd. Eff. Jan. 3, 2005.

125.1444d Authorized loans; purpose; criteria.

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Sec. 44d. (1) The authority may make loans to any nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, limited dividend housing association, mobile home park association, or mobile home park corporation, or to any public body or agency for the construction or rehabilitation, and for the long-term financing, of housing projects that meet the following criteria:

(a) The housing project provides a system of support services that promote and preserve the independent living of persons with disabilities, the elderly, or other persons at risk of institutionalization.

(b) Social, recreational, medical, and shopping facilities are readily accessible to the residents who cannot provide their own transportation.

(c) An affordable, daily demand actuated transportation system is integrated into the project for elderly and residents with disabilities who are unable to transport themselves.

History: Add. 1987, Act 86, Imd. Eff. June 30, 1987;—Am. 1998, Act 33, Imd. Eff. Mar. 18, 1998.

125.1444e Income eligibility standards applicable to tenant of housing project.

Sec. 44e. Income eligibility standards applicable to a tenant of a housing project financed under this act shall be complied with at the time of the initial occupancy of the tenant. The authority shall require subsequent compliance with income eligibility standards by an initially eligible tenant only to the extent that the authority determines that compliance is necessary or desirable to effectuate the purposes of this act or applicable federal law.

History: Add. 1987, Act 179, Imd. Eff. Nov. 25, 1987.

125.1444f Loan for housing project in effectively treatable area; demonstration of community support; return on investment.

Sec. 44f. (1) The authority may make a loan to any person or entity, whether for profit or not for profit, for predevelopment costs, or for the construction or rehabilitation, and for the long-term financing, of a 2 to 49 unit housing project located in an effectively treatable area, which project meets the 20-50 or 40-60 test established in section 142 of the internal revenue code, 26 USC 142. For rehabilitation of a housing project in an effectively treatable area by more than 1 owner, the 20-50 or 40-60 test may be met on an aggregate basis.

(2) For purposes of this section, an effectively treatable area is an area that includes or is in close proximity to a downtown or traditional commercial center and for which the authority has received a plan, to be known as a neighborhood partnership plan, from a municipality or neighborhood organization, or both. The plan shall establish as a goal that at least 75% of the property in the area will be brought to a safe and sanitary condition and shall enable the authority to determine that available private, public, and authority resources will be combined in such a manner as to assure that a majority of the housing in the area will be brought to a safe and sanitary condition. To qualify as an effectively treatable area, the area shall be in a qualified local governmental unit as defined in section 2 of the obsolete properties rehabilitation act, 2000 PA 146, MCL 125.2782, or a county seat and either be within a census tract having a serious housing need or in an area that meets all of the following criteria:

(a) The increase in the state equalized value of real and personal property in the area is less than the increase in the municipality-wide or statewide average, whichever is the lesser increase.

(b) The poverty rate in the area is greater than the statewide average as determined by the most recent federal decennial census.

(c) The average income of the area is less than 80% of the statewide or area median, whichever is greater, as determined using the most recent federal decennial census.

(d) The percentage of overcrowded or underutilized housing units in the area is greater than the municipality-wide average.

(3) The authority shall provide technical assistance to help develop neighborhood partnership plans. The municipality or neighborhood organization that submits the plan shall demonstrate that community support exists and that the provision of a loan under this section will contribute to the larger effort to revitalize the area.

(4) The return on investment to the owner of a project financed under this section is not restricted as long as the housing remains in compliance with all applicable state and local codes and ordinances.

History: Add. 1987, Act 180, Imd. Eff. Nov. 25, 1987;—Am. 2004, Act 535, Imd. Eff. Jan. 3, 2005.

125.1444g Enforcement of promises or commitments; action to be brought against authority.

Sec. 44g. An action shall not be brought against the authority to enforce any of the following promises or commitments of the authority unless the promise or commitment is in writing and signed with an authorized signature by the authority:

(a) A promise or commitment to lend money, grant or extend credit, or make any other financial

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accommodation.

(b) A promise or commitment to renew, extend, modify, or permit a delay in repayment or performance of a loan, extension of credit, or other financial accommodation.

(c) A promise or commitment to waive a provision of a loan, extension of credit, or other financial accommodation.

History: Add. 1996, Act 475, Imd. Eff. Dec. 26, 1996.

125.1445 Preference to displaced persons.

Sec. 45. Among low income or moderate income persons, preference shall be given to those displaced by urban renewal, slum clearance, or other governmental action.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993.

125.1446 Discrimination.

Sec. 46. The authority shall require that occupancy of housing projects and residential real property assisted under this act shall be open to all regardless of sex, race, religion, color, national origin, age, marital status, familial status, or disability and that contractors and subcontractors engaged in the construction of housing projects and lending institutions engaged in making residential mortgages, shall take affirmative action to assure an equal opportunity for employment and borrowing. This section does not apply, with respect to the age and familial status provisions only, to the sale, rental, or lease of housing accommodations meeting the requirements of federal, state, or local housing programs for senior citizens, or housing accommodations otherwise intended, advertised, designed, or operated, bona fide, for the purpose of providing housing accommodations for persons 55 years of age or older.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1985, Act 183, Imd. Eff. Dec. 18, 1985;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993;—Am. 2000, Act 257, Imd. Eff. June 29, 2000.

125.1447 Obtaining money, property, or service with intent to defraud or cheat; penalty; determination of total value; prior convictions; prohibited use.

Sec. 47. (1) A person who, with intent to defraud or cheat, designedly by false pretense, including any false statement or representation, obtains money, real or personal property, or the use of an instrument, facility, article, or other valuable thing or service, including without limitation participation in programs initiated pursuant to this act is guilty of a crime as follows:

(a) If the value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service is less than $200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00 or 3 times the value of the land, money, or personal property, or use of an instrument, facility, article, or other valuable thing or service, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service, whichever is greater, or both imprisonment and a fine:

(*i*) The value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service is $200.00 or more but less than $1,000.00.

(*ii*) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00 or 3 times the value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service, whichever is greater, or both imprisonment and a fine:

(*i*) The value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service is $1,000.00 or more but less than $20,000.00.

(*ii*) The person violates subdivision (b)(*i*) and has 1 or more prior convictions for violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service, whichever is greater, or both imprisonment and a fine:

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(*i*) The land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service has a value of $20,000.00 or more.

(*ii*) The person violates subdivision (c)(*i*) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(2) The values of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service obtained in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: Add. 1979, Act 49, Eff. Jan. 1, 1980;—Am. 2001, Act 153, Eff. Jan. 1, 2002.

125.1448 Foreclosure procedures applicable to authority.

Sec. 48. In addition to other procedures and remedies which may otherwise be available to the authority, the foreclosure procedures set forth in sections 48a to 49u shall be applicable to the authority for the foreclosure of a mortgage or land contract held by the authority and commenced after the effective date of this section.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1448a Jurisdiction to foreclose mortgages and land contracts held by authority.

Sec. 48a. The circuit court has jurisdiction to foreclose mortgages of real estate and land contracts held by the authority.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1448b Other civil actions.

Sec. 48b. (1) If a judgment has been obtained in any other civil action for the money, or part thereof, demanded in the complaint in an action to foreclose a mortgage on real estate or a land contract held by the authority, no proceeding shall be had in the action to foreclose unless the sheriff or other proper officer has returned an execution as unsatisfied, in whole or in part, and certified that he or she can find no property of the defendant out of which to satisfy the execution except the mortgaged premises.

(2) After a complaint has been filed to foreclose a mortgage on real estate or land contract held by the authority, while it is pending, and after a judgment has been rendered upon it, no separate proceeding shall be had for the recovery of the debt secured by the mortgage, or any part of it, unless authorized by the court.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1448c Bringing amount due into court before judgment of sale; dismissal of complaint.

Sec. 48c. Whenever a complaint is filed for the satisfaction or foreclosure of any mortgage on real estate or land contract held by the authority, upon which there is due any interest or any portion or installment of the principal and there are other portions or installments to become due subsequently, the complaint shall be dismissed upon the defendant's bringing into court, at any time before the judgment of sale, the principal and interest due, with costs.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1448d Sale of premises pursuant to circuit court order.

Sec. 48d. Whenever a complaint is filed for the foreclosure or satisfaction of any mortgage on real estate or land contract held by the authority, the court has power to order a sale of the premises which are the subject of the mortgage on real estate or land contract held by the authority, or of that part of the premises which is

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sufficient to discharge the amount due on the mortgage on real estate or land contract held by the authority, plus costs. But the circuit judge shall not order that the lands subject to the mortgage be sold within 6 months after the filing of the complaint for foreclosure of the mortgage or that the lands which are the subject of the land contract be sold within 3 months after the filing of the complaint for foreclosure of the land contract.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1448e Bringing amount due into court after judgment of sale; stay of proceedings; subsequent default.

Sec. 48e. If, after a judgment of sale is entered against him or her, the defendant brings into court the principal and interest due with costs, the proceedings in the action shall be stayed; but the court shall enter a judgment of foreclosure and sale to be enforced by a further order of the court upon a subsequent default in the payment of any portion or installment of the principal, or of any interest thereafter to become due.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1448f Public sale of land by county clerk, deputy county clerk, or other authorized person; hours; location; sale subject to MCL 600.6091.

Sec. 48f. All sales of land on foreclosure of a land contract or mortgage on real estate held by the authority shall be made by the county clerk of the county in which the judgment was rendered or of the county where the land or some part of the land is situated, by a deputy county clerk, or by some other person duly authorized by the order of the court. These sales shall be at public sale between the hours of 9 a.m. and 4 p.m. and shall take place at the courthouse or place of holding of the circuit court for the county in which the land or some part of it is situated or at any other place the court directs. The sale is subject to section 6091 of Act No. 236 of the Public Acts of 1961, as amended, being section 600.6091 of the Michigan Compiled Laws.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1448g Deed of sale; execution; operation; right, title, and interest vested in grantee; recordation; redemption of premises.

Sec. 48g. (1) The person making the sale shall execute deeds specifying the names of the parties in the action, the date of the land contract or mortgage held by the authority, when and where it was recorded, a description of the premises sold, and the amount for which each parcel of land described in the deed was sold; and shall indorse upon each deed the time it becomes operative if the premises are not redeemed according to law. Unless the premises or any parcel of them are redeemed within the time limited for redemption the deed shall become operative as to all parcels not redeemed, and shall vest in the grantee named in the deed or his or her heirs or assigns all the right, title, and interest which the mortgagor had at the time of the execution of the mortgage or at any time thereafter.

(2) The deed of sale as soon as practicable, and within 20 days after the sale, shall be deposited with the register of deeds of the county in which the land described in the deed of sale is situated, and the register shall indorse upon the deed the time it was received and shall record the deed at length in a book to be provided in his or her office for that purpose and shall index the deed in the regular index of deeds, and the fee for recording the deed shall be included among the other costs and expenses allowed by law. If the premises or any parcel of them are redeemed the register of deeds shall write on the face of the record the word “redeemed” and shall write at what date the entry is made and sign the entry with his or her official signature.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1448h Sale proceeds; application to discharge of debt; surplus; interest.

Sec. 48h. (1) The proceeds of every sale under a judgment shall be applied to the discharge of the debt adjudged by the court to be due and of the costs awarded. If there is any surplus, it shall be brought into court for the use of the defendant, or of the person entitled to it, subject to the order of the court.

(2) If the surplus or any part of it remains in the court for the term of 3 months without being applied for, the circuit court may direct that it be put out at interest under the direction of the court for the benefit of the defendant or his or her representatives, or assigns to be paid to them by the order of the court.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1448i Redemption of premises; effect on deed of sale; affidavit.

Sec. 48i. (1) The mortgagor, the mortgagor's heirs, executors, administrators, or any person lawfully claiming under the mortgagor or the mortgagor's heirs, executors, or administrators may redeem the entire premises sold by paying, within 6 months from the date of the sale, to the purchaser or the purchaser's executors, administrators, or assigns, or to the register of deeds in whose office the deed of sale is deposited

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as provided in the court rules, for the benefit of the purchaser, the sum which was bid with interest from the date of the sale at the interest rate provided for by the mortgage.

(2) The vendee of a land contract, the vendee's heirs, executors, administrators, or any person lawfully claiming under the vendee of a land contract or the vendee's heirs, executors, or administrators of a land contract may redeem the entire premises sold within 6 months from the date of the sale by paying to the purchaser or the purchaser's executors, administrators, or assigns, or to the register of deeds in whose office the deed of sale is deposited as provided in the court rules, for the benefit of the purchaser, the sum which was bid with interest from the date of the sale at the interest rate provided for by the land contract. In case the sum is paid to the register of deeds, the sum of $5.00 shall be paid to the register of deeds as a fee for the care and custody of the redemption money.

(3) Upon the payment of sums required under this section, the deed of sale is void. If a distinct lot or parcel separately sold is redeemed, leaving a portion of the premises unredeemed, then the deed of sale is void only as to the portion or portions of the premises which are redeemed. The register of deeds shall not determine the amount necessary for redemption. The purchaser shall attach an affidavit with the deed to be recorded that states the exact amount required to redeem the property, including any daily per diem amounts, and the date by which the property must be redeemed shall be stated in the certificate of sale. The purchaser may include in the affidavit the name of a designee responsible on behalf of the purchaser to assist the person redeeming the property in computing the exact amount required to redeem the property. The designee may charge a fee as stated in the affidavit and may be authorized by the purchaser to receive redemption funds. The purchaser shall accept the amount computed by the designee.

(4) The amount stated in any affidavits recorded under this section shall be the amount necessary to satisfy the requirements for redemption under this section.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 2004, Act 540, Eff. Mar. 30, 2005.

125.1448j Adding property tax and insurance premium payments made after foreclosure to amount due in judgment; determination of additional liability; affidavits; receipt; redemption.

Sec. 48j. The court may make provision in any judgment of foreclosure for the adding to the amount determined in the judgment to be due, any sum or sums paid at any time after the foreclosure and prior to the expiration of the period of redemption, as taxes assessed against the property or the portion of the premium of any insurance policy covering any buildings located on the premises as is required to keep the policy in force until the expiration of the period of redemption or both the taxes assessed the property and the portion of the premium of any insurance policy covering any buildings located on the premises as is required to keep the policy in force until the expiration of the period of redemption, if under the terms of the mortgage it would have been the duty of the defendants determined to be personally liable to have paid the taxes or insurance premium had the mortgage not been foreclosed. In case of any such payment which is made prior to the entry of the order confirming the report of sale by the person making the sale, determination of the additional liability shall be made in the order. In case of any such payment made after the entry of the order, proof of the payment may be made by filing with the register of deeds with whom the deed of sale is deposited, an affidavit of payment by the purchaser or someone in his or her behalf having knowledge of the facts together with a receipt evidencing the payment of the taxes, or, in case of insurance premiums, an affidavit of an agent of the insurance company stating the making of the payment and also what portion of the payment covers the premium for the period prior to the expiration of the period of redemption. Redemption shall not be effected after the determination, or filing of affidavit and receipt, or affidavits, as the case may be, except upon payment of the additional sum or sums. In case the property is not redeemed, the taxes or premiums paid after the confirmation of sale shall not be added to or included in the deficiency judgment.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1448k Personal liability on land contract or for mortgage debt; original judgment; deficiency; delivery of premises to purchaser; order.

Sec. 48k. In the original judgment in foreclosure cases the court shall determine and adjudge which defendants, if any, are personally liable on the land contract or for the mortgage debt. The judgment shall provide that upon the confirmation of the report of sale that if either the principal, interest, or costs ordered to be paid, is left unpaid after applying the amount received upon the sale of the premises, the clerk of the court shall issue execution for the amount of the deficiency, upon the application of the attorney for the authority without notice to the defendant or his or her attorney. The court may order and compel the delivery of the possession of the premises to the purchaser at the sale.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

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125.1448*l* Forfeiture, foreclosure, or specific performance proceedings; minimum price.

Sec. 48*l*. In any forfeiture, foreclosure, or specific performance case based upon a mortgage on real estate or land contract held by the authority, the court may fix and determine the minimum price at which the real property covered by the mortgage or land contract may be sold at the sale under the forfeiture, foreclosure, or specific performance proceedings.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1448m Land contract or mortgage debt secured by evidence of debt of person other than vendee or mortgagor; party; court order.

Sec. 48m. If the land contract or mortgage debt is secured by the obligation or other evidence of debt of any other person besides the vendee or mortgagor, the authority may make that person a party to the action, and the court may order payment of the balance of the debt remaining unsatisfied, after a sale of the mortgaged premises, against this other person as well as against the vendee or mortgagor, and may enforce this judgment as in other cases.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1448n Sale of premises; default subsequent to judgment.

Sec. 48n. (1) If the defendant does not bring into the court the amount due, with costs, or if for any other cause a judgment is entered for the authority, and if it appears that the premises can be sold, in parcels, without injury to the interests of the parties, the judgment shall direct as much of the premises subject to the mortgage or land contract held by the authority to be sold as is sufficient to pay the amount then due on the mortgage or land contract, with costs, and the judgment shall remain as security for any subsequent default.

(2) If there is any default subsequent to the judgment, in the payment of any portion or installment of the principal or of any interest due upon the mortgage or land contract held by the authority, the court may, upon the petition of the authority, by a further order founded upon the first judgment, direct a sale to be made of as much of the premises subject to the mortgage or land contract as is sufficient to satisfy the amount due, with costs of the petition and subsequent proceedings on it, and the same proceedings may be had as often as a default happens.

(3) If it appears to the court that the premises subject to the mortgage or land contract held by the authority are so situated that a sale of the whole premises will be most beneficial to the parties, the judgment shall be entered for the sale of the whole premises in the first instance. In this case the proceeds of the sale shall be applied to the interest and each portion or installment of the principal due as well as towards the whole or residue of the sum secured by the mortgage or land contract and not due and payable at the time of the sale. If the residue does not bear interest, the court may direct that the residue be paid with a rebate of the legal interest for the time during which the residue will not be due and payable; or the court may direct that the balance of the proceeds of the sale, after paying the sum due with costs, be put out at interest for the benefit of the authority, to be paid to the authority as the installments or portions of the principal, or the interest become due, and the surplus for the benefit of the defendant or his or her representatives or assigns, to be paid to the defendant or his or her representatives on the order of the court.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1448o Action to discharge mortgage or land contract; judgment entered by court; contents; minutes; delivery of judgment to authority; recordation of judgment.

Sec. 48o. (1) When a recorded mortgage on real property or land contract held by the authority has been paid or satisfied or when 15 years have elapsed since the debt secured by the mortgage or land contract became due and payable or since the last payment made upon it, and no civil action or proceedings have been commenced to collect the same, the owner of the land or property may institute an action in the circuit court to discharge the mortgage or land contract.

(2) If it appears to the court at the trial, either by the production in evidence of the original mortgage, land contract, or note to secure the payment of which the mortgage was given, or by any other competent evidence, that the debt secured by the mortgage or land contract has been fully paid both in principal and interest; or if it appears to the court by competent evidence that the debt has been past due for 15 years, or that 15 years have elapsed since the last payment was made on the debt and that no action or proceeding has been commenced to foreclose or perfect the mortgage or land contract, the court shall enter judgment to that effect which contains within it the names of the witnesses and the nature of the evidence by which the facts have been made to appear. A minute of this shall be entered in the court's journal. A copy of the judgment, signed by the judge or the court and attested by the clerk of the court under the seal of the court shall be delivered to the authority

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and may be recorded in the office of the register of deeds of the county or counties in which the mortgage or land contract is recorded in the same manner and with the same effects in all respects as if it were a formal discharge of the mortgage or land contract duly executed by the authority.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1448p Equitable actions.

Sec. 48p. Actions under sections 48a to 48o are equitable in nature.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1449 Foreclosure by advertisement.

Sec. 49. Every mortgage of real estate held by the authority which contains a power of sale, upon default being made in any condition of such mortgage, may be foreclosed by advertisement, in the cases and in the manner specified in sections 49a to 49v, including the giving of a notice as described in sections 49b and 49c.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993.

125.1449a Right of authority to give notice and make foreclosure; conditions; mortgage securing payment of money by installments; installment as separate and independent mortgage; foreclosure and redemption.

Sec. 49a. (1) To entitle the authority to give a notice as prescribed in sections 49b and 49c, and to make such foreclosure, all of the following are required:

(a) That some default in a condition of such mortgage shall have occurred, by which the power to sell became operative.

(b) That no suit or proceeding shall have been instituted, at law, to recover the debt then remaining secured by such mortgage, or any part thereof; or if any suit or proceeding has been instituted, that the suit or proceeding has been discontinued, or that an execution upon the judgment rendered therein has been returned unsatisfied, in whole or in part.

(c) That the mortgage containing such power of sale has been duly recorded; and if it shall have been assigned, that all the assignments thereof have been recorded.

(2) In cases of mortgages given to secure the payment of money by installments, each of the installments mentioned in such mortgage after the first, shall be taken and deemed to be, a separate and independent mortgage, and such mortgage for each of such installments may be foreclosed in the same manner and with the identical effect as if such separate mortgages were given for each of such subsequent installments and a redemption of any such sale by the mortgagor shall have the identical effect as if the sale for such installments had been made upon an independent prior mortgage.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1449b Notice of sale; publication; posting copy of notice upon premises.

Sec. 49b. Notice that the mortgage held by the authority will be foreclosed by a sale of the mortgaged premises, or some part of them, shall be given by publishing the same for 4 successive weeks at least once in each week, in a newspaper published in the county where the premises included in the mortgage and intended to be sold, or some part of them, are situated. If no newspaper is published in the county, the notice shall be published in a newspaper published in an adjacent county. In every case within 15 days after the first publication of the notice, a true copy shall be posted in a conspicuous place upon any part of the premises described in the notice.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1449c Notice of sale; contents.

Sec. 49c. Every notice required under section 49 shall specify all of the following:

(a) The names of the mortgagor and of the mortgagee, and the assignee of the mortgage, if any.

(b) The date of the mortgage, and when recorded.

(c) The amount claimed to be due on the mortgage at the date of the notice.

(d) A description of the mortgaged premises, conforming substantially with that contained in the mortgage.

(e) The length of the redemption period as determined under section 49j.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1449d Sale of premises at public sale; hours; location; appointed person; highest bidder.

Sec. 49d. The sale shall be at public sale, between the hours of 9 a.m. and 4 p.m., at the place of holding the circuit court for the county in which the premises to be sold, or some part of them, are situated, and shall

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be made by the person appointed for that purpose in the mortgage, or by the sheriff, undersheriff, or a deputy sheriff of the county, to the highest bidder.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1449e Adjournment of sale; request; notice; oral announcement unnecessary.

Sec. 49e. The sale may be adjourned from time to time, by the sheriff or other officer or person appointed to make such sale at the request of the party in whose name the notice of sale is published by posting a notice of such adjournment before or at the time of and at the place where the sale is to be made, and if any adjournment be for more than 1 week, at 1 time, the notice of the adjournment, appended to the original notice of sale, shall also be published in the newspaper in which the original notice was published, the first publication to be within 10 days of the date from which the sale was adjourned and thereafter once in each full calendar week during the time for which such sale shall be adjourned. No oral announcement of any adjournment shall be necessary.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1449f Sale of distinct farms, tracts, or lots separately or together.

Sec. 49f. If the mortgaged premises consist of distinct farms, tracts, or lots not occupied as 1 parcel, they shall be sold separately, and no more farms, tracts, or lots shall be sold than shall be necessary to satisfy the amount due on such mortgage at the date of the notice of sale, with interest and the cost and expenses allowed by law but if distinct lots be occupied as 1 parcel, they may in such case be sold together.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1449g Purchase of premises by authority or its successor or assign permitted.

Sec. 49g. The authority or its successor or assign, may fairly and in good faith, purchase the premises so advertised, or any part thereof, at such sale.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1449h Deed; execution, acknowledgment, and delivery by officer or person making sale; separate deeds where lands situated in several counties; endorsement, recordation, and indexation of deed by register of deeds; redemption.

Sec. 49h. The officer or person making the sale shall forthwith execute, acknowledge, and deliver, to each purchaser a deed of the premises bid off by the officer or person making the sale; and if the lands are situated in several counties, the officer or person making the sale shall make separate deeds of the lands in each county, and specify in each deed the precise amount for which each parcel of land described in the deed was sold. The officer or person making the sale shall endorse upon each deed the time when the deed becomes operative, if the premises are not redeemed according to law. Each deed shall, as soon as practicable, and within 20 days after such sale, be deposited with the register of deeds of the county in which the land described in the deed is situated, and the register shall endorse on the deed the time the deed was received, and for the better preservation thereof, shall record the deed at length in a book to be provided in his or her office for that purpose; and shall index the deed in the regular index of deeds. The fee for recording the deed shall be included among the other costs and expenses allowed by law. In case such premises shall be redeemed, the register of deeds shall, at the time of destroying the deed, as provided in section 49l, write on the face of the record the word “redeemed”, stating at what date the entry is made, and signing the entry with his or her official signature.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1449i Deed; right, title, and interest vested in grantee; record of deed valid without re-recordation; effect of sale on valid subsisting lien created before mortgage lien took effect.

Sec. 49i. Unless the premises described in such deed shall be redeemed within the time limited for such redemption as provided in section 49j, such deed shall thereupon become operative, and shall vest in the grantee therein named or his or her heirs or assigns, all the right, title, and interest which the mortgagor had at the time of the execution of the mortgage, or at any time thereafter, except as to any parcel or parcels which may have been redeemed and canceled, as provided in sections 49j to 49u; and the record thereof shall thereafter, for all purposes be deemed a valid record of the deed without being re-recorded, but no person having any valid subsisting lien upon the mortgaged premises or any part thereof, created before the lien of such mortgage took effect, shall be prejudiced by any such sale, nor shall his or her rights or interests be in any way affected thereby.

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History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1449j Redemption of premises; payment of taxes or insurance premiums; redemption period; fees or charges.

Sec. 49j. (1) If the mortgagor, the mortgagor's heirs, executors, administrators, or any person lawfully claiming under the mortgagor or the mortgagor's heirs, executors, or administrators, redeems the entire premises sold within the time prescribed in this section by paying to the purchaser or the purchaser's executors, administrators, or assigns, or to the register of deeds in whose office the deed is deposited for the benefit of the purchaser, the sum which was bid for the premises, with interest from the date of the sale at the interest rate provided for by the mortgage, and in case the payment is made to the register of deeds, the sum of $5.00 as a fee for the care and custody of the redemption money, then the deed is void. If a distinct lot or parcel separately sold is redeemed, leaving a portion of the premises unredeemed, then the deed is void only as to the parcel or parcels redeemed. The register of deeds shall not determine the amount necessary for redemption. The purchaser shall attach an affidavit with the deed to be recorded that states the exact amount required to redeem the property, including any daily per diem amounts, and the date by which the property must be redeemed shall be stated in the certificate of sale. The purchaser may include in the affidavit the name of a designee responsible on behalf of the purchaser to assist the person redeeming the property in computing the exact amount required to redeem the property. The designee may charge a fee as stated in the affidavit and may be authorized by the purchaser to receive redemption funds. The purchaser shall accept the amount computed by the designee.

(2) If, following the sale, the purchaser pays any taxes assessed against the property or insurance premiums covering any buildings located on the property which under the terms of the mortgage were the duty of the mortgagor and are necessary to keep the policy in force until the expiration of the period of redemption, and the purchaser or a representative of the purchaser having knowledge of the facts may make an affidavit of the payment showing the amount and items paid, together with the receipt of payment of the taxes or insurance premiums, together with an affidavit of an insurance agent of the insurance company stating the making of the payment and also what portion of the policy covers the premium for the period before the expiration of the period of redemption, the affidavits and the receipt shall be filed with the register of deeds with whom the deed is deposited, who shall endorse on the deed the time the affidavits and receipt were received. The register of deeds shall record the affidavit of the purchaser only and file the recorded affidavit, together with the tax and insurance receipts and insurance agent's affidavit, until expiration of the period of redemption.

(3) After the purchaser's affidavit is recorded under this section, redemption shall only be made upon payment of the sum specified in subsections (1) and (2), with interest on the amount, from the date of the payment to the date of redemption, at the interest rate specified in the mortgage.

(4) In the case of a mortgage executed on commercial or industrial property, or multifamily residential property in excess of 4 units, the redemption period is 6 months from the time of the sale.

(5) In the case of a mortgage executed on residential property not exceeding 4 units and not more than 3 acres in size, if the amount claimed to be due on the mortgage at the date of the notice of foreclosure is more than 66-2/3% of the original indebtedness secured by the mortgage, the redemption period is 6 months.

(6) In the case of a mortgage on residential property not exceeding 4 units and not more than 3 acres in size, if the property is abandoned as determined under section 49k, the redemption period is 3 months.

(7) In the case of any mortgage on residential property not exceeding 4 units and not more than 3 acres in size, if the amount claimed to be due on the mortgage at the date of the notice of foreclosure is more than 66-2/3% of the original indebtedness secured by the mortgage and the property is abandoned as determined under section 49k, the redemption period is 1 month.

(8) If the property is abandoned as determined under section 49v, the redemption period is 30 days.

(9) In any other case not otherwise described in this section, the redemption period is 1 year from the date of the sale.

(10) If an automation fund is established under section 2568 of the revised judicature act of 1961, MCL 600.2568, any fees or charges collected by the register of deeds under this section or section 48i shall be credited to the automation fund.

(11) The amount stated in any affidavits recorded under this section shall be the amount necessary to satisfy the requirements for redemption under this section.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993;—Am. 2004, Act 540, Eff. Mar. 30, 2005.

125.1449k Abandonment of premises; presumption.

Sec. 49k. For purposes of sections 49 to 49u, abandonment of premises shall be conclusively presumed

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upon satisfaction of all of the following requirements:

(a) Within 30 days before the commencement of foreclosure proceedings under this chapter, the authority mails by certified mail, return receipt requested, to the mortgagor's last known address a notice that the subject mortgage is in default and that the authority intends to foreclose it.

(b) Before commencement of foreclosure proceedings under this chapter, the authority executes and causes to be duly recorded in the county where the premises are located an affidavit that states all of the following:

(*i*) That the authority has mailed to the last known address of the mortgagor a notice of default and intention to foreclose pursuant to subdivision (a) and that the mortgagor has not responded to the notice.

(*ii*) That the authority has made a personal inspection of the mortgaged premises and that the inspection does not reveal that the mortgagor or persons claiming under him or her are presently occupying or intend to occupy the premises.

(c) The authority mails by certified mail, return receipt requested, a copy of the affidavit recorded pursuant to subdivision (b) to the mortgagor at his or her last known address before commencement of foreclosure proceedings.

(d) The mortgagor; his or her heirs, executors, or administrators; or any person lawfully claiming from, or under the mortgagor or the mortgagor's heirs, executors, or administrators, before expiration of the period of redemption, does not give a written affidavit to the authority and record a duplicate original in the county where the premises are located stating that the mortgagor or person claiming under him or her is occupying or intends to occupy the premises.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993.

125.1449*l* Payment of entire sum bid at sale, interest, and fee, or delivery of certificate of payment to register; destruction of deed; memoranda.

Sec. 49*l*. Upon the payment of the entire sum bid at such sale, and interest on the entire sum bid, and the fee of $5.00 mentioned in section 49j to the register in whose office the deed therefor shall have been deposited, or upon delivering to such register a certificate, signed and acknowledged by the person entitled to receive the certificate, and certified by some officer authorized to take the acknowledgment of deeds, setting forth that such sum, with interest, has been paid to such person, and upon paying to such register a fee of 25 cents, the register shall thereupon destroy such deed, and shall enter in the margin of the record of such mortgage, a memorandum that such mortgage is satisfied; or in case the premises shall have been sold in parcels, and 1 or more of said parcels shall have been redeemed, as provided in section 49j, it shall then be the duty of the register to enter upon the face of the sheriff's deed, and the record thereof, a memorandum that the sheriff's deed is inoperative as to the parcel or parcels so redeemed, and to enter in the margin of the record of such mortgage a memorandum that the mortgage is satisfied as to the parcel or parcels so redeemed.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1449m Refusal to make and acknowledge certificate of payment; liability; damages; civil action.

Sec. 49m. If any person entitled to receive such redemption moneys, shall, upon payment or tender thereof to him or her, refuse to make and acknowledge such certificate of payment, he or she shall be liable to the person aggrieved thereby, in the sum of $100.00 damages, over and above all the actual damages sustained, to be recovered in a civil action, except that no damages of any kind may be recovered from any register of deeds who refuses to accept tender of payment after the time indorsed upon the deed when the deed becomes operative in case the premises are not redeemed, and the officer or person making the sale shall be entitled to rely conclusively upon the recital of the length of the redemption period contained in the notice of foreclosure in making such indorsement upon the deed.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1449n Disposition of surplus money remaining after sale of real estate.

Sec. 49n. If after any sale of real estate, made as prescribed in sections 49 to 49v, the officer or other person making the sale has any surplus money after satisfying the mortgage on which the real estate was sold, and payment of the costs and expenses of the foreclosure and sale, the surplus shall be paid over by the officer or other person on demand, to the mortgagor or his or her legal representatives or assigns, unless at the time of the sale, or before the surplus is paid over, a claimant or claimants file with the person making the sale, a claim or claims, in writing, duly verified by the oath of the claimant or his or her agent or attorney, that the claimant has a subsequent mortgage or lien encumbering the real estate, or some part of the real estate, and stating the amount of the mortgage or lien unpaid, setting forth the facts and nature of the mortgage or lien, in which case the person making the sale shall immediately upon receiving the claim pay the surplus to, and file

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the written claim with, the clerk of the circuit court for the county in which the sale is made. A person interested in the surplus may apply to the court for an order to take proofs of the facts and circumstances contained in the claim or claims filed. The court shall summon the claimant or claimants, party, or parties interested in the surplus to appear before the court at a time and place named by the court, and attend the taking of the proof, and the claimant or claimants or party interested who appear may examine witnesses and produce such proof as they see fit. The court shall make an order directing the disposition of the surplus money or payment of the surplus money in accordance with the rights of the claimant or claimants or persons interested.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993.

125.1449o Perpetuating evidence of sale; affidavit; endorsement upon or annexation to instrument; references.

Sec. 49o. (1) A party desiring to perpetuate the evidence of a sale made pursuant to sections 49 to 49v, may procure 1 or more of the following:

(a) An affidavit of the publication of the notice of sale, and of any notice of postponement, to be made by the publisher of the newspaper in which the notice was inserted, or by a person in the employ of the publisher of the newspaper knowing the facts.

(b) An affidavit of the fact of a sale pursuant to such notice, to be made by the person who acted as auctioneer at the sale, stating the time and place at which the sale took place, the sum bid, and the name of the purchaser.

(c) An affidavit setting forth the time, manner, and place of posting a copy of such notice of sale to be made by the person posting the copy of the notice.

(2) Where any or all of the affidavits described in subsection (1) are endorsed upon or annexed to 1 instrument, a single copy of the notice of sale, and a single copy of any notice of postponement, is sufficient to annex to the instrument, and reference made in any of the affidavits to the copy of notice of sale and to the copy of any notice of postponement of sale as annexed or attached shall be considered to refer to the single copy of notice of sale and to the single copy of any notice of postponement.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993.

125.1449p Taking and certifying affidavits.

Sec. 49p. The affidavits specified in section 49o may be taken and certified by any officer authorized by law to administer oaths.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1449q Recording affidavits; presumptive evidence of facts.

Sec. 49q. Such affidavits shall be recorded at length by the register of deeds of the county in which the premises are situated, in a book kept for the record of deeds; and such original affidavits, the record thereof, and certified copies of such record, shall be presumptive evidence of the facts therein contained.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1449r Note recording evidence of sale to be made in margin of mortgage record.

Sec. 49r. A note referring to the page and book where the evidence of any sale having been made under a mortgage, is recorded, shall be made by the register recording such evidence, in the margin of the record of such mortgage, if such record be in his or her office.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1449s Notice of payment to purchaser, agent, or attorney.

Sec. 49s. Upon the payment of the entire sum bid at such sale, and the interest thereon and expenses, as mentioned in section 49j, to the register of deeds of the county in whose office the sheriff's deed shall have been deposited, the register of deeds shall give notice of such payment, by mail or otherwise to the purchaser or his or her agent or attorney.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

125.1449t Right to enter mortgaged premises to post or serve notices.

Sec. 49t. Incident to the foreclosure of a mortgage pursuant to sections 49 to 49v, the authority or its agents or assigns may enter the mortgaged premises for the purpose of posting or serving the notices required by sections 49 to 49v.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993.

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125.1449u Action to recover deficiency judgment against mortgagor; defense; applicability of section.

Sec. 49u. If, in the foreclosure of a mortgage by advertisement under this section and sections 49 to 49v, a sale of real property has been made or is made by the authority, at which the authority has become or becomes the purchaser, or takes or has taken title to the real property at the sale either directly or indirectly, and the authority sues for and undertakes to recover a deficiency judgment against the mortgagor or other maker of the obligation or any other person liable on the obligation, the defendant against whom such deficiency judgment is sought may allege and show, as a matter of defense and set-off to the extent only of the amount of the authority's claim, that the property sold was fairly worth the amount of the debt secured by it at the time and place of sale or that the amount bid was substantially less than its true value. The showing constitutes a defense to the action and defeats the deficiency judgment against the defendant, either in whole or in part to that extent. This section does not affect nor apply to the rights of other purchasers or of innocent third parties, nor shall it be held to affect or defeat the negotiability of any note, or other obligation secured by such mortgage or other instrument. The proceedings described in this section in no way affect the title of the purchaser to the lands acquired by such purchase. This section does not apply to foreclosure sales made pursuant to an order or decree of court nor to any judgment sought or rendered in any foreclosure suit nor to any chancery sale made and confirmed.

History: Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993.

125.1449v Foreclosure against residential property not exceeding 4 units and not more than 3 acres; applicability of section.

Sec. 49v. (1) For purposes of this chapter, if foreclosure proceedings have been commenced under this chapter against residential property not exceeding 4 units and not more than 3 acres in size, abandonment of premises shall be conclusively presumed upon satisfaction of all of the following requirements:

(a) The mortgagee has made a personal inspection of the mortgaged premises and the inspection does not reveal that the mortgagor or persons claiming under the mortgagor are presently occupying or will occupy the premises.

(b) The mortgagee has posted a notice at the time of making the personal inspection and has mailed by certified mail, return receipt requested, a notice to the mortgagor at the mortgagor's last known address, which notices state that the mortgagee considers the premises abandoned and that the mortgagor will lose all rights of ownership 30 days after the foreclosure sale unless the mortgagor; the mortgagor's heirs, executor, or administrator; or a person lawfully claiming from or under 1 of them provides the notice described in subdivision (c).

(c) Within 15 days after receipt of a notice required by subdivision (b), the mortgagor; the mortgagor's heirs, executor, or administrator; or a person lawfully claiming from or under 1 of them does not give written notice by first-class mail to the mortgagee at an address provided by the mortgagee in the notices required by subdivision (b) stating that the premises are not abandoned.

(2) This section applies to a foreclosure proceeding filed or pending after the effective date of the amendatory act that added this section.

History: Add. 1993, Act 221, Imd. Eff. Oct. 29, 1993.

CHAPTER 3

125.1451 Definitions.

Sec. 51. (1) The definitions in section 11 shall apply to this chapter, unless otherwise provided in this chapter.

(2) As used in this chapter:

(a) “Low and moderate income housing” means housing financed by bond issues authorized under this act, by federally-aided mortgages as defined in section 11(c), or by other programs directed toward providing housing within the financial means of low and moderate income families as the authority shall determine.

(b) “Probable aggregate annual income” means the total annual income of the chief wage earner or supporter of the family, plus the income of secondary wage earners in excess of $1,200.00 per year and the income of minors in excess of $800.00 per year, but excluding completely the income of college students.

(c) “Carrying charges” or “rental” means all regular charges paid on a periodic basis to a housing corporation by a person or family living in a rental or cooperative housing project, excluding initial down payments.

(d) “Housing charges” means monthly rentals or carrying charges, and includes estimated or actual

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expenditures for heat, light, water, cooking fuel, and other utilities, and other reasonable expenditures which the authority determines to be a part of housing charges.

(e) "Shelter rent" means the rental or carrying charges established for occupancy in housing projects, exclusive of payments for taxes and charges for heat, light, water, cooking fuel, and other necessary utilities.

(f) "Low income persons" means those persons designated as "low income persons" by the authority under section 22(o).

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1979, Act 49, Imd. Eff. July 7, 1979.

125.1452 Low and moderate income housing; dwelling units to certain low income persons and families.

Sec. 52. The authority may provide that up to 25% of the dwelling units in any development providing low and moderate income housing under federal, state or local government programs be made available to low income families and persons whose probable aggregate yearly income is less than 4 times as large as the regular yearly housing charges for such dwelling units. The dwelling units shall be made available to these families and persons at monthly rental payments or carrying charges so that yearly housing charges do not exceed 25% of the probable aggregate yearly income of such persons or families. The authority is authorized to contract with sponsors or owners of housing developments for up to 3,750 such units during the fiscal year ending June 30, 1967.

History: 1966, Act 346, Eff. Mar. 10, 1967.

125.1453 Low income housing; criteria for determination of occupant eligibility; rental charges.

Sec. 53. For purposes of carrying out the provisions of this chapter, the authority shall establish criteria and procedures for determining the eligibility of occupants and rental or carrying charges, including criteria and procedures with respect to periodic review of occupant incomes and periodic adjustment of rental or carrying charges.

History: 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1970, Act 129, Imd. Eff. July 29, 1970.

125.1454 Low and moderate income housing; agreements for services of selection of eligible families and individuals.

Sec. 54. The authority may enter into agreements, or authorize housing owners or sponsors to enter into agreements, with public or private agencies for services required in the selection of families and individuals who qualify under this chapter.

History: 1966, Act 346, Eff. Mar. 10, 1967.

125.1455 Low and moderate income housing; rights of persons or families benefited.

Sec. 55. The authority shall provide that low income families or persons benefiting under this chapter shall have the same rights, privileges and duties as other residents, except that no member of a cooperative, upon the resale of his membership in the cooperative, shall be reimbursed for any equity increment accumulated as a result of payments under this chapter. The authority shall endeavor to guarantee that knowledge of the special circumstances of such low income families is not divulged to other residents.

History: 1966, Act 346, Eff. Mar. 10, 1967.

125.1456 Low and moderate income housing; financing for small scale housing developments.

Sec. 56. In special circumstances where the authority deems it appropriate in order to accomplish the purposes of this act, the authority may provide the necessary financing for small scale housing developments built primarily for low income families and individuals eligible for lower rentals or carrying charges under this chapter, and may waive the requirement that no more than 25% of the dwelling units in any particular project may be made available to low income families under this section.

History: 1966, Act 346, Eff. Mar. 10, 1967.

125.1457 Appropriation.

Sec. 57. There is hereby appropriated $5,000.00 from the general fund for the fiscal year ending June 30, 1967 for the administration of this act.

History: 1966, Act 346, Eff. Mar. 10, 1967.

CHAPTER 3A

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125.1458 Definitions.

Sec. 58. (1) The definitions in section 11 apply to this chapter unless otherwise provided in this chapter.

(2) As used in this chapter:

(a) "Adjacent neighborhood" means a residential area as determined by the authority immediately adjoining or near a downtown area within the same municipality.

(b) "Adjusted household income" means that term as defined in rules of the authority.

(c) "Downtown area" means an area where 20 or more contiguous properties have been planned, zoned, or used for commercial purposes for 50 or more years and where a majority of the buildings are built adjacent to each other as determined by the authority and up to the public right-of-way. In order to be a downtown area, the area shall contain a significant number of multilevel, mixed use buildings and property in the downtown area must be owned by more than 3 private owners.

(d) "Eligible applicant" means a not-for-profit corporation, a for-profit corporation, a municipality, a land bank fast track authority organized under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774, or a partnership that is approved by the authority and that is organized for the purpose of developing and supporting affordable housing for low income, very low income, or extremely low income households or projects located in a downtown area or adjacent neighborhood.

(e) "Extremely low income household" means a person, a family, or unrelated persons living together whose adjusted household income is not more than 30% of the area median income, as determined by the authority.

(f) "Fund" means the Michigan housing and community development fund created in section 58a.

(g) "Low income household" means a person, a family, or unrelated persons living together whose adjusted household income is more than 50% but not more than 60% of the area median income, as determined by the authority.

(h) "Mixed use buildings" means buildings that can be used for more than 1 purpose, and in any combination, including, but not limited to, residential housing combined with either commercial or retail space.

(i) "Multifamily housing" means a building or buildings providing housing to 2 or more households, none of which is owner occupied.

(j) "Project" means those activities defined under section 58c.

(k) "Supportive housing" means a rental housing project in which some or all of the units are targeted to people with household incomes at or below 30% of area median income and that provide services, either directly or contracted for, to those people that include, but are not limited to, mental health, substance abuse services, counseling services, and daily living services.

(*l*) "Very low income household" means a person, a family, or unrelated persons living together whose adjusted household income is not more than 50% of the area median income, as determined by the authority.

History: Add. 2004, Act 480, Imd. Eff. Dec. 28, 2004;—Am. 2008, Act 216, Imd. Eff. July 16, 2008.

125.1458a Michigan housing and community development fund; creation; administration; credit of amounts and earnings from investments; availability of money for disbursement; money in fund at end of fiscal year.

Sec. 58a. (1) The Michigan housing and community development fund is created as a separate fund in the authority.

(2) The fund shall be administered by the authority, and money in the fund shall be expended only as provided in this act.

(3) The authority shall credit to the fund all amounts appropriated to the fund or to the authority for the fund and any other money made available to the authority for the fund from any other source for the purposes under this act. The authority, on behalf of the fund, may solicit and accept gifts, grants, labor, loans, and other aid from any person, government, or entity. The authority may receive money or other assets from any source for deposit into the fund, including, but not limited to, federal funds, gifts, bequests, and donations.

(4) The authority shall invest the money and credit the earnings from the investments to the fund in accordance with section 22.

(5) Money appropriated to the fund or to the authority for the fund shall be available for disbursement by the authority upon appropriation.

(6) Money in the fund at the close of a fiscal year shall remain in the fund and shall not lapse to the general fund.

History: Add. 2004, Act 480, Imd. Eff. Dec. 28, 2004;—Am. 2008, Act 216, Imd. Eff. July 16, 2008.

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125.1458b Michigan housing and community development program; creation and implementation; purpose; availability of financing to eligible applicants; biennial allocation plan; public hearings; annual report; rules.

Sec. 58b. (1) The authority shall create and implement the Michigan housing and community development program for the purpose of developing and coordinating public and private resources to meet the housing needs of low income, very low income, and extremely low income households and to finance projects located in a downtown area or adjacent neighborhood in this state.

(2) The authority shall identify, select, and make financing available to eligible applicants from money in the fund or from money secured by the fund for housing for low income, very low income, and extremely low income households and for projects located in a downtown area or adjacent neighborhood. This subsection does not preclude the authority from using other resources in conjunction with the fund for a purpose authorized under this chapter.

(3) The authority shall develop a biennial allocation plan providing for the allocation of money from the fund, according to all of the following:

(a) The allocation plan shall contain a formula for distributing money throughout the state based on the number of persons experiencing poverty, economic, and housing distress in various regions of the state.

(b) The allocation plan shall include a preference for special population groups described in section 58c(2).

(c) Not less than 25% of the fund shall be earmarked for rental housing projects that do not qualify under preferences for special population groups or other preferences contained in the allocation plan.

(d) Not less than 30% of the fund shall be earmarked for projects that target extremely low income households and include at a minimum developing housing for the homeless, supportive housing, transitional housing, and permanent housing.

(e) A rental housing project assisted by the fund must set aside at least 20% of the rental units included in the project for households earning no more than 60% of the area median income.

(f) A home ownership project assisted by the fund must set aside at least 20% of the housing units in the project for households earning no more than 60% of the area median income.

(g) Money that has not been committed at the end of a fiscal year shall not be carried over in the category to which the money had been allocated during that fiscal year, but shall be reallocated for the next fiscal year according to the next fiscal year's allocation plan.

(5) Prior to developing the biennial allocation plan, the authority shall hold public hearings in at least 3 separate locations in this state regarding the content of the biennial allocation plan. The authority may make modifications to the allocation plan necessary to facilitate the administration of the Michigan housing and community development program or to address unforeseen circumstances.

(6) The authority shall issue an annual report to the governor and the legislature summarizing the expenditures of the fund for the prior fiscal year including at a minimum a description of the eligible applicants that received funding, the number of housing units that were produced, the income levels of the households that were served, the number of homeless persons served, and the number of downtown areas and adjacent neighborhoods that receive financing.

(7) The authority may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this chapter.

History: Add. 2004, Act 480, Imd. Eff. Dec. 28, 2004;—Am. 2008, Act 244, Imd. Eff. July 17, 2008.

Compiler's note: Subsection (5) should evidently be numbered (4), subsection (6) should evidently be numbered (5), and subsection (7) should evidently be numbered (6).

125.1458c Expenditures; purposes.

Sec. 58c. (1) The authority shall expend money in the fund to make grants, mortgage loans, or other loans to eligible applicants as provided in this section to enable eligible applicants to finance any of the following with respect to housing or home ownership for low income, very low income, and extremely low income households and with respect to projects located in a downtown area or adjacent neighborhood:

(a) Acquisition of land and buildings.

(b) Rehabilitation.

(c) New construction.

(d) Development and predevelopment costs.

(e) Preservation of existing housing.

(f) Community development projects, including, but not limited to, infrastructure improvements, economic development projects, blight elimination, or community facilities.

(g) Insurance.

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(h) Operating and replacement reserves.

(i) Down payment assistance.

(j) Security deposit assistance.

(k) Foreclosure prevention and assistance.

(*l*) Individual development accounts established under the individual or family development account program act, 2006 PA 513, MCL 206.701 to 206.711.

(m) Activities related to ending homelessness.

(n) Assistance to nonprofit organizations, municipalities, and land bank fast track authorities organized under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774.

(o) Predatory lending prevention or relief.

(2) The authority shall expend a portion of the fund for housing for persons with physical or mental handicaps and persons living in eligible distressed areas.

(3) The authority may make a loan to an eligible applicant from the fund at no interest or at below market interest rates, with or without security, and may make a loan for predevelopment financing.

(4) The authority may provide assistance to eligible applicants for housing units for very low income or extremely low income households within multifamily housing that is occupied partly by very low income or extremely low income households and partly by households that do not qualify as very low income or extremely low income households, subject to the rules promulgated by the authority.

(5) The authority may expend money in the fund for all other things necessary to achieve the objectives and purposes of the fund or this chapter.

(6) When performing functions under this chapter, the authority shall consider advice provided by the committee created under section 58e.

History: Add. 2004, Act 480, Imd. Eff. Dec. 28, 2004;—Am. 2008, Act 216, Imd. Eff. July 16, 2008.

125.1458d Housing assistance; conditions.

Sec. 58d. The authority shall not provide assistance for housing under this chapter unless both of the following circumstances exist:

(a) If the housing is multifamily housing, the owner or manager agrees in writing not to evict a tenant without just cause, as defined in section 44a of 1933 (Ex Sess) PA 18, MCL 125.694a.

(b) The housing is sold or rented with a deed restriction, agreement, or other legal document that provides for the recapture of some or all of the assistance provided under this chapter upon terms and conditions specified in rules of the authority promulgated under section 58b(3).

History: Add. 2004, Act 480, Imd. Eff. Dec. 28, 2004.

125.1458e Michigan housing and community development fund advisory committee; creation; membership; terms; vacancy; compensation; expenses; chairperson; vice-chairperson; scope of advice; space, supplies, and staff; public meetings; quorum; majority vote; information used for personal gain prohibited; adoption of code of ethics.

Sec. 58e. (1) The Michigan housing and community development fund advisory committee is created in the authority. The committee shall have 10 members. Members of the committee shall include the executive director of the authority, who shall serve as a nonvoting ex officio member, and the following 9 members appointed by the governor with the advice and consent of the senate:

(a) An individual representing housing lenders, developers, or builders appointed by the governor from a list of 3 or more individuals nominated by the speaker of the house of representatives.

(b) An individual representing housing lenders, developers, or builders appointed by the governor from a list of 3 or more individuals nominated by the majority leader of the senate.

(c) An individual representing cities, villages, or townships.

(d) An individual representing local housing organizations.

(e) An individual representing nonprofit organizations.

(f) An individual representing a local economic development corporation, a downtown development authority, a corridor improvement authority, a business improvement district, or a principal shopping district.

(g) An individual representing a local neighborhood association or neighborhood improvement authority.

(h) Two other residents of this state.

(2) Except as provided in subsection (3), the term of a member of the committee appointed by the governor under subsection (1) shall be 4 years.

(3) Of the members initially appointed by the governor under subsection (1), 2 members shall be appointed for a term expiring on November 30, 2008, 2 members shall be appointed for a term expiring on November 30, 2009, 3 members shall be appointed for a term expiring on November 30, 2010, and 2 members shall be

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appointed for a term expiring on November 30, 2011.

(4) A vacancy on the committee arising for a reason other than the expiration of a term shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

(5) Members of the committee shall serve without compensation but, subject to available funding, may receive reimbursement for their actual and necessary expenses while attending meetings or performing other authorized official business of the committee.

(6) The governor shall designate 1 member of the committee to serve as chairperson of the committee at the pleasure of the governor. The members of the committee may elect a member of the committee to serve as vice-chairperson of the committee and may elect other members of the committee as officers of the committee as the committee considers appropriate.

(7) The committee may advise the authority on all of the following:

(a) Recommendations for the biennial allocation plan required under section 58b.

(b) Expenditures from the fund under this chapter, including all of the following:

(*i*) Whether expenditures are distributed fairly and equitably.

(*ii*) Whether expenditures satisfy housing needs and priorities in this state.

(*iii*) Whether expenditures satisfy the economic needs and priorities of communities benefiting from the expenditures.

(8) The committee may meet with representatives of the authority, including authority employees and members of the board of directors of the authority, to discuss and provide advice on matters relating to the fund.

(9) The authority may provide the committee with meeting space, supplies, and staff to support the functions of the committee under this section.

(10) A meeting of the committee shall be conducted as a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Notice of the date, time, and place of a public meeting of the committee shall be given as prescribed in the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A majority of the members of the committee serving constitute a quorum for the transaction of the committee's business. The committee shall act by a majority vote of its serving members.

(11) A member of the committee shall not use for personal gain information obtained by the member while performing business of the committee, nor shall a member of the committee disclose confidential information obtained by the member while conducting committee business, except as necessary to perform committee business. The committee shall adopt a code of ethics for its members and establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of interest. The committee shall require that any member of the committee with a direct or indirect interest in any matter before the committee disclose the member's interest to the committee before the committee takes any action on the matter.

History: Add. 2008, Act 244, Imd. Eff. July 17, 2008.

125.1458f Rights of holders of authority bonds or notes; construction of chapter as to status of money controlled by authority.

Sec. 58f. (1) When performing duties under this chapter, the authority and the committee created under section 58e shall remain cognizant of the rights of the holders of authority bonds or notes and the extent to which certain authority bond and note contracts may require the authority to either maintain sufficient personnel or contract for services to plan authority programs and to supervise enforcement and, where necessary, foreclosure of authority mortgage agreements.

(2) Nothing in this chapter shall be construed to affect the status of money of the authority controlled by the authority as state funds appropriated to the authority lose their identity as state funds upon payment to the authority and become public funds of the authority solely under the control of the authority and funds established by or within the authority and are public trust funds administered by the authority. Nothing in this chapter shall be construed to impair the obligation of any bond or note issued by the authority. Bonds and notes issued by the authority are obligations of the authority and not obligations of this state.

History: Add. 2008, Act 244, Imd. Eff. July 17, 2008.

CHAPTER 3B

125.1459 Definitions.

Sec. 59. (1) The definitions in section 11 apply to this chapter unless otherwise provided in this chapter.

(2) As used in this chapter:

(a) "Area median income" means the median income for the area as determined under section 8 of the United States housing act of 1937, 42 USC 1437f, adjusted for family size.

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(b) "Income" means an amount determined in a manner consistent with the determination of lower income families under section 8 of the United States housing act of 1937, 42 USC 1437f.

(c) "Supportive housing property" means property that meets all of the following requirements:

(*i*) Is owned by an organization exempt under section 501(c)(3) of the internal revenue code, 26 USC 501.

(*ii*) All living units are occupied by 1 or more persons each having incomes at or below 30% of the area median income and who each individually receive services for not less than 1 hour per month either directly from or contracted for by an organization identified in subparagraph (*i*), which services include, but are not limited to, mental health, substance abuse, counseling, and assistance with daily living.

(*iii*) Consists of not more than 6 individual living units.

History: Add. 2008, Act 456, Eff. Oct. 29, 2009.

Compiler's note: Enacting section 1 of Act 456 of 2008 contained tie bars to House Bills 5437 and 5438. House Bill 5437 was filed with the Secretary of State January 9, 2009, and became 2008 PA 454, Imd. Eff. Jan. 9, 2009. House Bill 5438 was not enacted by the legislature of the 2008 regular session; it was not presented to the governor and did not become a public act.

Enacting section 1 of Act 127 of 2009 repealed enacting section 1 of Act 456 of 2008, thereby removing the tie bars. Act 456 of 2008 became effective October 29, 2009.

125.1459a Supportive housing property; filing in affidavit form; certification by authority; filing of certified notification of exemption with local assessing officer; denial; appeal of authority's determination; certification on first-come, first-served basis; limitation.

Sec. 59a. (1) The owner of supportive housing property shall file with the local assessing officer a notification of that status, which shall be in an affidavit form as provided by the authority. The completed affidavit form first shall be submitted to the authority for certification by the authority that the project is supportive housing property. The owner then shall file the certified notification of the exemption with the local assessing officer before November 1 of the year preceding the tax year in which the exemption is to begin.

(2) An owner of property for which certification as supportive housing property is denied or a local unit of government in which property certified as supportive housing property is located may appeal the authority's determination to the circuit court of the county in which the property is located.

(3) The authority shall certify property as supportive housing property on a first-come, first-served basis. However, not more than 25% of the number of living units that may be certified as supportive housing property for a year can be in a single county. If by October 1 of that year the total number of living units for that year is less than the 250 living units authorized in subsection (1), the authority may certify living units on a first-come, first-served basis in counties that received 25% of the living units for that year.

History: Add. 2008, Act 456, Eff. Oct. 29, 2009.

Compiler's note: Enacting section 1 of Act 456 of 2008 contained tie bars to House Bills 5437 and 5438. House Bill 5437 was filed with the Secretary of State January 9, 2009, and became 2008 PA 454, Imd. Eff. Jan. 9, 2009. House Bill 5438 was not enacted by the legislature of the 2008 regular session; it was not presented to the governor and did not become a public act.

Enacting section 1 of Act 127 of 2009 repealed enacting section 1 of Act 456 of 2008, thereby removing the tie bars. Act 456 of 2008 became effective October 29, 2009.

CHAPTER 4

125.1461 Nonprofit housing corporations; incorporation.

Sec. 61. Nonprofit housing corporations shall be incorporated pursuant to the provisions of this chapter and the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws.

History: Add. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1987, Act 180, Imd. Eff. Nov. 25, 1987.

125.1462 Qualified nonprofit housing corporations; corporate name.

Sec. 62. The term “nonprofit housing corporation” or “nonprofit housing company” shall be included as a part of the corporate name as set forth in the certificate of incorporation.

History: Add. 1968, Act 343, Imd. Eff. July 19, 1968.

125.1463 Nonprofit housing corporation; articles of incorporation.

Sec. 63. In addition to other requirements of law, the articles of incorporation of a nonprofit housing corporation shall provide all of the following:

(a) That the corporation has been organized exclusively to provide housing facilities for any 1 or more of the following classes of persons, to be specified in the articles of incorporation: (i) persons of low income, (ii) persons of low and moderate income, and (iii) persons whose income does not exceed limits established in

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this act. The articles of incorporation may also permit the corporation to provide any social, recreational, commercial, and communal facilities necessary to serve and improve a residential area in which authority-aided or federally-aided housing is located or is planned to be located, thereby enhancing the viability of the housing.

(b) That all the income and earnings of the corporation shall be used exclusively for corporate purposes and that no part of the net income or net earnings of the corporation shall inure to the benefit or profit of a private individual, firm, corporation, partnership, or association.

(c) That the corporation is in no manner controlled or under the direction or acting in the substantial interest of any private individual, firm, partnership, or association seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in any dealing or transactions with the corporation.

(d) That the operations of the corporation may be supervised by the authority or by any other governmental body as the authority directs, and that the corporation shall enter into agreements with the authority or with the governmental body as the authority from time to time requires. These agreements shall provide for regulation by the authority or by the governmental body of the planning, development, and management of any housing project undertaken by the corporation and the disposition of the property and franchises of the corporation.

History: Add. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1978, Act 192, Imd. Eff. June 4, 1978;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1984, Act 215, Imd. Eff. July 10, 1984.

125.1464 Directors, additional, power of authority.

Sec. 64. The articles shall provide that the authority shall have the power to appoint to the board of directors of the corporation a number of new directors, which number shall be sufficient to constitute a majority of the board, notwithstanding any other provisions of the articles of incorporation or any other provisions of law, if:

(a) The corporation has received a loan or advance as provided for in this act and the authority determines that the loan or advance is in jeopardy of not being repaid.

(b) The corporation has received a loan or advance as provided for in this act and the authority determines that the proposed housing project for which the loan or advance was made is in jeopardy of not being constructed.

(c) The authority determines that some part of the net income or net earnings of the corporation is inuring to the benefit of any private individual, firm, corporation, partnership or association.

(d) The authority determines that the corporation is in some manner controlled by or under the direction of or acting in the substantial interest of any private individual, firm, corporation, partnership or association seeking to derive benefit or gain therefrom or seeking to eliminate or minimize losses in any dealings or transactions therewith.

(e) The authority determines that the corporation is in violation of the rules promulgated under section 22.

(f) The authority determines that the corporation is in violation of any agreements entered into with the authority providing for regulation by the authority of the planning, development and management of any housing project undertaken by the corporation and the disposition of the property and franchises of such corporation.

History: Add. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 129, Imd. Eff. July 29, 1970.

Administrative rules: R 125.101 et seq. of the Michigan Administrative Code.

125.1465 Articles of incorporation; filing, approval.

Sec. 65. The department of the treasury, corporation division, shall not file the articles of incorporation of the corporation unless the consent or approval of the authority is attached or affixed thereto.

History: Add. 1968, Act 343, Imd. Eff. July 19, 1968.

CHAPTER 5

125.1471 Consumer housing cooperatives; incorporation.

Sec. 71. Consumer housing cooperatives shall be incorporated pursuant to the provisions of the Michigan general corporation act and the provisions of this chapter.

History: Add. 1968, Act 343, Imd. Eff. July 19, 1968.

125.1472 “Consumer housing cooperative” as part of corporate name; exception.

Sec. 72. (1) Except as provided in subsection (2), the term “consumer housing cooperative” shall be included as a part of the corporate name as set forth in the certificate of incorporation.

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(2) This section shall not apply to a corporation organized before March 10, 1967, as a nonprofit cooperative corporation pursuant to sections 98 to 132 of Act No. 327 of the Public Acts of 1931, as amended, being sections 450.98 to 450.132 of the Michigan Compiled Laws.

History: Add. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1978, Act 192, Imd. Eff. June 4, 1978.

125.1473 Consumer housing cooperative; articles of incorporation.

Sec. 73. In addition to other requirements of law, the articles of incorporation of a consumer housing cooperative shall provide all of the following:

(a) That the consumer housing cooperative has been organized exclusively to provide authority-aided housing facilities for persons of low and moderate income, or for persons whose income does not exceed limits established in this act, and for social, recreational, commercial, and communal facilities necessary to serve and improve a residential area in which authority-aided or federally-aided housing is located or is planned to be located thereby enhancing the viability of the housing or that the consumer housing cooperative has been organized to provide nonauthority aided housing for persons of low and moderate income or persons whose income does not exceed limits established in this act, and at least 50% of the cooperative's assets are in housing with the remaining assets being utilized to meet other consumer needs.

(b) That all income and earnings of the consumer housing cooperative shall be used exclusively for consumer housing cooperative purposes and that an unreasonable part of the net income or net earnings of the cooperative shall not inure to the benefit or profit of a private individual, firm, corporation, partnership, or association.

(c) That the consumer housing cooperative is not controlled or under the direction of or acting in the substantial interest of a private individual, firm, corporation, partnership, or association seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in any dealing or transaction with the cooperative. However, this subdivision shall apply to individual cooperators of a consumer housing cooperative only in those circumstances prescribed by the authority in its rules.

(d) That the housing operations of the consumer housing cooperative may be supervised by the authority or by any other governmental body as the authority directs, and that the consumer housing cooperative shall enter into agreements with the authority or with the governmental body as the authority requires. These agreements shall provide for regulation by the authority or by the governmental body of the planning, development, and management of a housing project undertaken by the consumer housing cooperative and the disposition of the property and franchises of the cooperative. This subdivision shall not apply to a consumer housing cooperative which was organized before March 10, 1967, as a nonprofit cooperative corporation pursuant to sections 98 to 132 of Act No. 327 of the Public Acts of 1931, as amended, being sections 450.98 to 450.132 of the Michigan Compiled Laws.

History: Add. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1978, Act 192, Imd. Eff. June 4, 1978;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1984, Act 215, Imd. Eff. July 10, 1984.

Administrative rules: R 125.101 et seq. of the Michigan Administrative Code.

125.1474 Appointment of directors sufficient in number to constitute majority of board; conditions; exception.

Sec. 74. (1) Except as provided in subsection (2), the articles shall provide that the authority shall have the power to appoint to the board of directors of the consumer housing cooperative a number of new directors, which number shall be sufficient to constitute a majority of the board, notwithstanding any other provisions of the articles of incorporation or any other provisions of law, if:

(a) The consumer housing cooperative has received a loan or advance as provided for in this act and the authority determines that the loan or advance is in jeopardy of not being repaid.

(b) The consumer housing cooperative has received a loan or advance as provided for in this act and the authority determines that the proposed housing project for which the loan or advance was made is in jeopardy of not being constructed.

(c) The authority determines that some unreasonable part of the net income or net earnings of the consumer housing cooperative shall inure to the benefit of a private individual, firm, corporation, partnership, or association.

(d) The authority determines that the consumer housing cooperative is in some manner controlled by or under the direction of or acting in the substantial interest of a private individual, firm, corporation, partnership, or association seeking to derive benefit or gain therefrom or seeking to eliminate or minimize losses in any dealing or transaction therewith, except that the foregoing shall apply to individual cooperators of a consumer housing cooperative only in those circumstances defined by the authority in its rules.

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(e) The authority determines that the consumer housing cooperative is in violation of the rules promulgated under section 22.

(f) The authority determines that the consumer housing cooperative is in violation of an agreement entered into with the authority providing for regulation by the authority of the planning, development, and management of a housing project undertaken by the consumer housing cooperative or the disposition of the property and franchises of the cooperative.

(2) This section shall not apply to a consumer housing cooperative which was organized before March 10, 1967, as a nonprofit cooperative corporation pursuant to sections 98 to 132 of Act No. 327 of the Public Acts of 1931, as amended.

History: Add. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1978, Act 192, Imd. Eff. June 4, 1978.

Administrative rules: R 125.101 et seq. of the Michigan Administrative Code.

125.1475 Articles of incorporation; filing, approval of authority.

Sec. 75. The department of the treasury, corporation division, shall not file the articles of incorporation of the consumer housing cooperative unless the consent or approval of the authority is attached or affixed thereto.

History: Add. 1968, Act 343, Imd. Eff. July 19, 1968.

CHAPTER 6

125.1481 Limited dividend housing corporations; incorporation.

Sec. 81. Limited dividend housing corporations shall be incorporated or qualified pursuant to the provisions of the general corporation act and this chapter.

History: Add. 1970, Act 129, Imd. Eff. July 29, 1970.

125.1482 Corporate name.

Sec. 82. The term "limited dividend housing corporation" shall be included as a part of the corporate name as set forth in the certificate of incorporation or certificate of authority.

History: Add. 1970, Act 129, Imd. Eff. July 29, 1970.

Compiler's note: The phrase "certificate of incorporation" in this section should evidently read "articles of incorporation."

125.1483 Limited dividend housing corporation; articles of incorporation.

Sec. 83. In addition to other requirements of law, the articles of incorporation of any limited dividend housing corporation shall provide all of the following:

(a) That the limited dividend housing corporation has been organized exclusively to provide housing facilities for persons of low and moderate income, or for persons whose income does not exceed limits established in this act, and for social, recreational, commercial, and communal facilities as may be necessary to serve and improve a residential area in which authority-aided or federally-aided housing is located or is planned to be located, thereby enhancing the viability of the housing.

(b) That every stockholder of the limited dividend housing corporation shall be deemed, by the subscription to or receipt of stock in the corporation, to have agreed that he or she at no time shall receive from the corporation in repayment of his or her investment any sums in excess of the face value of the investment plus cumulative dividends at a rate which the authority determines to be reasonable and proper, computed from the initial date on which money was paid or property delivered in consideration for the proprietary interest of the stockholder; and that upon the dissolution of the limited dividend housing corporation, any surplus in excess of those amounts shall be paid to the authority or to any other regulating governmental body as the authority directs.

(c) That the operations of the limited dividend housing corporation may be supervised by the authority or by any other governmental body as the authority directs, and that the limited dividend housing corporation shall enter into agreements with the authority or with the governmental body as the authority from time to time requires. These agreements shall provide for regulation by the authority or the governmental body of the planning, development, and management of any housing project undertaken by the limited housing corporation and the disposition of the property and franchises of the corporation.

History: Add. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1984, Act 215, Imd. Eff. July 10, 1984.

Compiler's note: In the last sentence of subsection (c), the phrase "limited housing corporation" should evidently read "limited dividend housing corporation."

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125.1484 Surplus; definition.

Sec. 84. As used in this chapter, the term "surplus" shall not be deemed to include any increase in assets of any limited dividend housing corporation organized in accordance with the provisions of this chapter, by reason of reduction of mortgage, by amortization or similar payments or realized from the sale or disposition of any assets of a limited dividend housing corporation to the extent such surplus can be attributed to any increase in market value of any real property or tangible personal property accruing during the period the assets were owned and held by the limited dividend housing corporation.

History: Add. 1970, Act 129, Imd. Eff. July 29, 1970.

125.1485 Directors, additional, power of authority.

Sec. 85. The articles shall provide that the authority shall have the power to appoint to the board of directors of the limited dividend housing corporation a number of new directors, which number shall be sufficient to constitute a majority of the board, notwithstanding any other provisions of the articles or any other provisions of law, if:

(a) The limited dividend housing corporation has received a loan or advance as provided for in this act and the authority determines that the loan or advance is in jeopardy of not being repaid.

(b) The limited dividend housing corporation has received a loan or advance as provided for in this act and the authority determines that the proposed housing project for which the loan or advance was made is in jeopardy of not being constructed.

(c) The authority determines that some part of the net income or net earnings of the limited dividend housing corporation, in excess of that permitted by other provisions of this act, shall inure to the benefit of any private individual, firm, corporation, partnership or association.

(d) The authority determines that the limited dividend housing corporation is in violation of the rules promulgated under section 22.

(e) The authority determines that the limited dividend housing corporation is in violation of any agreements entered into with the authority providing for regulation by the authority of the planning, development and management of any housing project undertaken by the limited dividend housing corporation or the disposition of the property and franchises of such corporation.

History: Add. 1970, Act 129, Imd. Eff. July 29, 1970.

Administrative rules: R 125.101 et seq. of the Michigan Administrative Code.

125.1486 Articles of incorporation; filing, approval.

Sec. 86. The department of the treasury, corporation division, shall not accept the articles of incorporation of the limited dividend housing corporation unless the consent or approval of the authority is attached or affixed thereto.

History: Add. 1970, Act 129, Imd. Eff. July 29, 1970.

CHAPTER 7

125.1491 Limited dividend housing association; approval; membership.

Sec. 91. Limited dividend housing association includes general or limited partnerships, limited liability companies, joint ventures, or trusts, as any such entities shall be approved by resolution of the authority. Members of a limited dividend housing association shall include each and all persons with a legal or beneficial interest of any kind in a limited dividend housing association or its assets.

History: Add. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996.

125.1492 Association name.

Sec. 92. The term "limited dividend housing association" shall be included as part of the name of any limited dividend housing association.

History: Add. 1970, Act 129, Imd. Eff. July 29, 1970.

125.1493 Limited dividend housing association; provisions of partnership agreement, joint venture agreement, trust agreement, or other document of basic organization.

Sec. 93. In addition to other requirements of law, the partnership agreement, joint venture agreement, trust agreement, or other document of basic organization of the limited dividend housing association shall provide all of the following:

(a) That the limited dividend housing association has been organized exclusively to provide housing facilities for persons of low and moderate income, or for persons whose income does not exceed limits

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established in this act, and for social, recreational, commercial, and communal facilities as may be necessary to serve and improve a residential area in which authority-aided or federally-aided housing is located or is planned to be located, thereby enhancing the viability of such housing.

(b) That every member of a limited dividend housing association shall be deemed, by acceptance of a beneficial interest in the limited dividend housing association or by executing the document of basic organization, to have agreed that he or she at no time shall receive from the limited dividend housing association any return in excess of the face value of the investment attributable to his or her respective interest plus cumulative dividend payments at a rate which the authority determines to be reasonable and proper, computed from the initial date on which money was paid or property delivered in consideration for the interest; and that upon the dissolution of the limited dividend housing association, any surplus in excess of those amounts shall be paid to the authority or to any other regulating governmental body as the authority directs.

(c) That the operations of the limited dividend housing association may be supervised by the authority or by any other governmental body as the authority directs, and that the limited dividend housing association shall enter into agreements with the authority or with the governmental body as the authority from time to time requires. The agreements shall provide for regulation by the authority or the governmental body of the planning, development, and management of any housing project undertaken by the limited dividend housing association and the disposition of the property and franchises of the limited dividend housing association.

History: Add. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1984, Act 215, Imd. Eff. July 10, 1984.

125.1494 Surplus; definition.

Sec. 94. As used in this chapter, the term “surplus” shall not be deemed to include any increase in assets of any limited dividend housing association organized in accordance with the provisions of this chapter, by reason of reduction of mortgage, by amortization or similar payments or realized from the sale or disposition of any assets of a limited dividend housing association to the extent such surplus can be attributed to any increase in market value of any real property or tangible personal property accruing during the period the assets were owned and held by the limited dividend housing association.

History: Add. 1970, Act 129, Imd. Eff. July 29, 1970.

125.1495 Managing agent; power of authority.

Sec. 95. The partnership agreement, joint venture agreement, trust agreement or other document of basic organization, as the case may be, shall provide that the authority shall have the power to appoint a managing agent of the limited dividend housing association and its members, who may be an officer, employee, or agent of the authority, and said managing agent shall have complete power to act as agent and attorney in fact for the limited dividend housing association and its members, in connection with any asset or liability of the limited dividend housing association, to fulfill any obligations the limited dividend housing association may have the authority, if:

(a) The limited dividend housing association has received a loan or advance as provided for in this act and the authority determines that the loan or advance is in jeopardy of not being repaid.

(b) The limited dividend housing association has received a loan or advance as provided for in this act and the authority determines that the proposed housing project for which the loan or advance was made is in jeopardy of not being constructed.

(c) The authority determines that some part of the net income or net earnings of the limited dividend housing association, in excess of that permitted by other provisions of this act, shall inure to the benefit of any private individual, firm, corporation, partnership, trust or association.

(d) The authority determines that the limited dividend housing association is in violation of the rules promulgated under section 22.

(e) The authority determines that the limited dividend housing association is in violation of any agreements entered into with the authority providing for regulation by the authority of the planning, development and management of any housing project undertaken by the limited dividend housing association or the disposition of the property and franchises of such limited dividend housing association.

History: Add. 1970, Act 129, Imd. Eff. July 29, 1970.

Compiler's note: The phrase “may have the authority, if:” in the last sentence of the first paragraph of this section should evidently read “may have the authority, if any one of the following occurs:”.

Administrative rules: R 125.101 et seq. of the Michigan Administrative Code.

125.1496 Basic organization document; approval.

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Sec. 96. Before any limited dividend housing association can receive any benefits as a result of qualifying under this act, the authority must approve the terms of the partnership agreement, joint venture agreement, trust agreement or other document of basic organization.

History: Add. 1970, Act 129, Imd. Eff. July 29, 1970.

CHAPTER 8

125.1497 Applicability of chapter to mobile home park corporations.

Sec. 97. This chapter shall apply to mobile home park corporations receiving benefits under this act.

History: Add. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983.

125.1497a Mobile home park corporation; incorporation and qualification requirements.

Sec. 97a. A mobile home park corporation shall be incorporated and qualified pursuant to the provisions of the corporation laws of this state and this chapter.

History: Add. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983.

125.1497b Corporate name.

Sec. 97b. The term "mobile home park corporation" shall be included as part of the corporate name set forth in the certificate of incorporation or certificate of authority.

History: Add. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983.

125.1497c Mobile home park corporation; articles of incorporation.

Sec. 97c. In addition to other requirements of law, the articles of incorporation of any mobile home park corporation shall provide all of the following:

(a) That the mobile home park corporation has been organized exclusively to provide housing facilities for persons of low and moderate income, or for persons whose income does not exceed limits established in this act, and for social, recreational, commercial, and communal facilities as may be necessary to serve and improve a residential area in which authority-aided or federally-aided housing is located or planned to be located, thereby enhancing the viability of the housing.

(b) That every stockholder of the mobile home park corporation shall be deemed, by the subscription to or receipt of stock in the corporation, to have agreed that he or she at no time shall receive from the corporation in repayment of his or her investment any sums in excess of the face value of the investment plus cumulative dividends at a rate which the authority determines to be reasonable and proper, computed from the initial date on which money was paid or property delivered in consideration for the proprietary interest of the stockholders; and that upon the dissolution of the mobile home park corporation, any surplus in excess of those amounts shall be paid to the authority or to any other regulating governmental body as the authority directs.

(c) That the operations of the mobile home park corporation may be supervised by the authority or by any other governmental body as the authority directs, and that the mobile home park corporation shall enter into agreements with the authority or with the governmental body as the authority from time to time requires. These agreements shall provide for regulation by the authority or the governmental body of the planning, development, and management of any housing project undertaken by the mobile home park corporation and the disposition of the property and franchises of the corporation.

History: Add. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983;—Am. 1984, Act 215, Imd. Eff. July 10, 1984.

125.1497d Articles of incorporation; appointment of new directors to board of directors; majority; conditions.

Sec. 97d. The articles of incorporation shall provide that the authority may appoint to the board of directors of the mobile home park corporation a number of new directors, which number shall be sufficient to constitute a majority of the board, notwithstanding any other provisions of the articles or any other provisions of law, if any 1 of the following occurs:

(a) The mobile home park corporation has received a loan or advance as provided for in this act and the authority determines that the loan or advance is in jeopardy of not being repaid.

(b) The mobile home park corporation has received a loan or advance as provided for in this act and the authority determines that the proposed housing project for which the loan or advance was made is in jeopardy of not being constructed.

(c) The authority determines that a portion of the net income or net earnings of the mobile home park corporation, in excess of that permitted by other provisions of this act, shall inure to the benefit of any private

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individual, firm, corporation, partnership, or association.

(d) The authority determines that the mobile home park corporation is in violation of the rules promulgated under section 22.

(e) The authority determines that the mobile home park corporation is in violation of any agreements entered into with the authority providing for regulation by the authority of the planning, development, and management of any housing project undertaken by the mobile home park corporation or the disposition of the property and franchises of the corporation.

History: Add. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983.

Administrative rules: R 125.101 et seq. of the Michigan Administrative Code.

125.1497e Articles of incorporation; approval of terms.

Sec. 97e. Before any mobile home park corporation can receive any benefits under this act, the authority must approve the terms of the articles of incorporation.

History: Add. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983.

125.1497f "Surplus" construed.

Sec. 97f. As used in this chapter, the term "surplus" shall not be deemed to include any increase in assets of any mobile home park corporation organized in accordance with the provisions of this chapter, by reason of reduction of mortgage, by amortization or similar payments, or realized from the sale or disposition of any assets of a mobile home park corporation to the extent such surplus can be attributed to any increase in market value of any real property or tangible personal property accruing during the period the assets were owned and held by the mobile home park corporation.

History: Add. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983.

CHAPTER 9

125.1498 Applicability of chapter to mobile home park associations.

Sec. 98. This chapter shall apply to mobile home park associations receiving benefits under this act.

History: Add. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983.

125.1498a Mobile home park association; included entities; approval; membership.

Sec. 98a. A mobile home park association includes general or limited partnerships, limited liability companies, joint ventures, or trusts, as any such entities may be approved by resolution of the authority. Members of a mobile home park association shall include each and all persons with a legal or beneficial interest of any kind in a mobile home park association or its assets.

History: Add. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996.

125.1498b Mobile home park association name.

Sec. 98b. The term "mobile home park association" shall be included as part of the name of any mobile home park association.

History: Add. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983.

125.1498c Mobile home park association; provisions of partnership agreement, joint venture agreement, trust agreement, or other document of basic organization.

Sec. 98c. In addition to other requirements of law, the partnership agreement, joint venture agreement, trust agreement, or other document of basic organization of the mobile home park association shall provide all of the following:

(a) That the mobile home park association has been organized exclusively to provide housing facilities for persons of low and moderate income, or for persons whose income does not exceed limits established in this act, and for social, recreational, commercial, and communal facilities as may be necessary to serve and improve a residential area in which authority-aided or federally-aided housing is located or is planned to be located, thereby enhancing the viability of such housing.

(b) That every member of the mobile home park association shall be deemed, by acceptance of a beneficial interest in the mobile home park association or by executing the document of basic organization, to have agreed that he or she at no time shall receive from the mobile home park association any return in excess of the face value of the investment attributable to his or her respective interest plus cumulative dividend payments at a rate which the authority determines to be reasonable and proper, computed from the initial date on which money was paid or property delivered in consideration for the interest; and that upon the dissolution

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of the mobile home park association, any surplus in excess of those amounts shall be paid to the authority or to any other regulating governmental body as the authority directs.

(c) That the operations of the mobile home park association may be supervised by the authority or by any other governmental body the authority directs, and that the mobile home park association shall enter into agreements with the authority or with the governmental body as the authority from time to time requires pursuant to rules promulgated under section 22. The agreements shall provide for regulation by the authority or the governmental body of the planning, development, and management of any housing project undertaken by the mobile home park association and the disposition of the property and franchises of the mobile home park association.

History: Add. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983;—Am. 1984, Act 215, Imd. Eff. July 10, 1984.

Administrative rules: R 125.101 et seq. of the Michigan Administrative Code.

125.1498d Document of basic organization; managing agent; appointment; powers; conditions.

Sec. 98d. The partnership agreement, joint venture agreement, trust agreement, or other document of basic organization shall provide that the authority may appoint a managing agent of the mobile home park association and its members, who may be an officer, employee, or agent of the authority. The managing agent appointed shall have complete power to act as agent and attorney-in-fact for the mobile home park association and its members, in connection with any assets or liability of the mobile home park association, to fulfill any obligations the mobile home park association may have to the authority, if any 1 of the following occurs:

(a) The mobile home park association has received a loan or advance as provided for in this act and the authority determines that the loan or advance is in jeopardy of not being repaid.

(b) The mobile home park association has received a loan or advance as provided for in this act and the authority determines that the proposed housing project for which the loan or advance was made is in jeopardy of not being constructed.

(c) The authority determines that a portion of the net income or net earnings of the mobile home park association, in excess of that permitted by other provisions of this act, shall inure to the benefit of any private individual, firm, corporation, partnership, trust, or association.

(d) The authority determines that the mobile home park association is in violation of the rules promulgated under section 22.

(e) The authority determines that the mobile home park association is in violation of any agreements entered into with the authority providing for regulation by the authority of the planning, development, and management of any housing project undertaken by the mobile home park association or the disposition of the property and franchises of the mobile home park association.

History: Add. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983.

Administrative rules: R 125.101 et seq. of the Michigan Administrative Code.

125.1498e Document of basic organization; approval of terms.

Sec. 98e. Before any mobile home park association can receive any benefits as a result of qualifying under this act, the authority must approve the terms of the partnership agreement, joint venture agreement, trust agreement, or other document of basic organization.

History: Add. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983.

125.1498f "Surplus" construed.

Sec. 98f. As used in this chapter, the term "surplus" shall not be deemed to include any increase in assets of any mobile home park association organized in accordance with the provisions of this chapter, by reason of reduction of mortgage, by amortization or similar payments, or realized from the sale or disposition of any assets of a mobile home park association to the extent such surplus can be attributed to any increase in market value of any such real property or tangible personal property accruing during the period the assets were owned and held by the mobile home park association.

History: Add. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983.

CHAPTER 10

125.1499 Mutual housing association generally.

Sec. 99. A mutual housing association shall be a nonprofit corporation or cooperative corporation incorporated pursuant to the laws of this state or authorized to transact business in this state that operates in

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accordance with this chapter.

History: Add. 1989, Act 220, Imd. Eff. Dec. 11, 1989.

125.1499a Mutual housing association; corporate name.

Sec. 99a. The term "cooperative" or "mutual housing association" shall be included as a part of the corporate name as set forth in the certificate of incorporation of a mutual housing association.

History: Add. 1989, Act 220, Imd. Eff. Dec. 11, 1989.

125.1499b Mutual housing association; requirements.

Sec. 99b. A mutual housing association shall meet all of the following requirements:

(a) At least 75% of its voting members or shareholders shall be residents of housing owned or operated by it.

(b) A major purpose of the mutual housing association shall be to provide high quality, long-term housing to low and moderate income persons who have no equity or ownership interest in the housing except through membership in the mutual housing association, and who shall have the following rights:

(*i*) A right to become a member of the mutual housing association.

(*ii*) A right to participate in the ongoing operation and management of the housing.

(*iii*) A right to continue to reside in the housing for as long as the member complies with the terms of the occupancy agreement and rules and regulations of the mutual housing association, and meets any health requirements that the mutual housing association establishes as a condition of continued occupancy.

(c) Any profit or surplus earned by the mutual housing association is used, as determined by its board of directors, for 1 or more of the following purposes:

(*i*) To establish reserves.

(*ii*) To reduce rent.

(*iii*) To make physical improvements to the housing.

(*iv*) To develop or acquire new affordable housing.

History: Add. 1989, Act 220, Imd. Eff. Dec. 11, 1989.

125.1499c Loans or grants.

Sec. 99c. The authority may make a loan or grant to a nonprofit housing corporation or association, mobile home park corporation or association, or limited dividend housing corporation or association that is established and controlled by a mutual housing association on the same basis as a loan or grant may be made to such an organization not established and controlled by a mutual housing association.

History: Add. 1989, Act 220, Imd. Eff. Dec. 11, 1989.

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STILLE-DEROSSETT-HALE SINGLE STATE CONSTRUCTION CODE ACT
Act 230 of 1972

AN ACT to create a construction code commission and prescribe its functions; to authorize the director to promulgate rules with recommendations from each affected board relating to the construction, alteration, demolition, occupancy, and use of buildings and structures; to prescribe energy conservation standards for the construction of certain buildings; to provide for statewide approval of premanufactured units; to provide for the testing of new devices, materials, and techniques for the construction of buildings and structures; to define the classes of buildings and structures affected by the act; to provide for administration and enforcement of the act; to create a state construction code fund; to prohibit certain conduct; to establish penalties, remedies, and sanctions for violations of the act; to repeal acts and parts of acts; and to provide an appropriation.

History: 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1978, Act 442, Imd. Eff. Oct. 9, 1978;—Am. 1980, Act 371, Imd. Eff. Dec. 30, 1980;—Am. 1989, Act 135, Eff. Oct. 1, 1989;—Am. 1994, Act 22, Eff. May 1, 1994;—Am. 1995, Act 270, Imd. Eff. Jan. 8, 1996;—Am. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

Compiler's note: Enacting sections 1 and 2 of Act 245 of 1999 provide:

"Enacting section 1. The title and sections 2a, 3a, 8a, 8b, and 9b of the state construction code act of 1972, 1972 PA 230, the title as amended and sections 2a, 3a, 8a, 8b, and 9b as added by this amendatory act, are effective upon enactment but apply only to 1 or more of the following codes only upon the effective date of the particular code update promulgated after October 15, 1999:

"(a) The plumbing code, R 408.30701 to 408.30796 of the Michigan administrative code. [Effective July 31, 2001]

"(b) The electrical code, R 408.30801 to 408.30873 of the Michigan administrative code. [Effective December 7, 1999]

"(c) The mechanical code, R 408.30901a to 408.30995a of the Michigan administrative code. [Effective July 31, 2001]

"(d) The building code, R 408.30401 to 408.30499 of the Michigan administrative code. [Effective July 31, 2001]

"Enacting section 2. The title and sections 2, 3, 8, 9, and 9a of the state construction code act of 1972, 1972 PA 230, MCL 125.1502, 125.1503, 125.1508, 125.1509, and 125.1509a, the title and sections 2 and 8 as amended by this amendatory act, apply to 1 or more of the following codes until the rules for the code update promulgated after October 15, 1999 for the specific code become effective, at which time each section does not apply to the particular code. Sections 2, 3, 8, 9, and 9a of the state construction code act of 1972, 1972 PA 230, MCL 125.1502, 125.1503, 125.1508, 125.1509, and 125.1509a, are repealed on the effective date of the last of the rules updating the following codes promulgated after October 15, 1999:

"(a) The plumbing code, R 408.30701 to 408.30796 of the Michigan administrative code. [Effective July 31, 2001]

"(b) The electrical code, R 408.30801 to 408.30873 of the Michigan administrative code. [Effective December 7, 1999]

"(c) The mechanical code, R 408.30901a to 408.30995a of the Michigan administrative code. [Effective July 31, 2001]

"(d) The building code, R 408.30401 to 408.30499 of the Michigan administrative code." [Effective July 31, 2001]

Rules updating the electrical code (R 408.30801 et seq.) were promulgated November 19, 1999, and became effective December 7, 1999.

Popular name: Act 230

Popular name: Uniform Construction Code

The People of the State of Michigan enact:

125.1501 Short title.

Sec. 1. This act shall be known and may be cited as the "Stille-DeRossett-Hale single state construction code act".

History: 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

Compiler's note: Former MCL 125.1501 to 125.1512, deriving from Act 304 of 1969 and pertaining to bonds for urban redevelopment, were rejected by the voters at the general election of November 3, 1970.

For transfer of powers and duties relating to the promulgation of rules by the state construction code commission from the department of labor to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

For transfer of powers and duties of the executive director of the state construction code commission to the director of the department of consumer and industry services, and abolishment of the position, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1502 Repealed. 1999, Act 245, Eff. July 31, 2001.

Compiler's note: The repealed section pertained to definitions and references to act and code.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1502a Additional definitions.

Sec. 2a. (1) As used in this act:

(a) "Agricultural or agricultural purposes" means of, or pertaining to, or connected with, or engaged in agriculture or tillage which is characterized by the act or business of cultivating or using land and soil for the

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production of crops for the use of animals or humans, and includes, but is not limited to, purposes related to agriculture, farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry.

(b) "Application for a building permit" means an application for a building permit submitted to an enforcing agency pursuant to this act and plans, specifications, surveys, statements, and other material submitted to the enforcing agency together or in connection with the application.

(c) "Barrier free design" means design complying with legal requirements for architectural designs which eliminate the type of barriers and hindrances that deter persons with disabilities from having access to and free mobility in and around a building or structure.

(d) "Board of appeals" means the construction board of appeals of a governmental subdivision provided for in section 14.

(e) "Boards" means the state plumbing, board of mechanical rules, and electrical administrative boards and the barrier free design board created in section 5 of 1966 PA 1, MCL 125.1355.

(f) "Building" means a combination of materials, whether portable or fixed, forming a structure affording a facility or shelter for use or occupancy by persons, animals, or property. Building does not include a building, whether temporary or permanent, incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business of retail trade. Building includes the meaning "or part or parts of the building and all equipment in the building" unless the context clearly requires a different meaning.

(g) "Building envelope" means the elements of a building which enclose conditioned spaces through which thermal energy may be transferred to or from the exterior.

(h) "Business day" means a day of the year, exclusive of a Saturday, Sunday, or legal holiday.

(i) "Chief elected official" means the chairperson of the county board of commissioners, the city mayor, the village president, or the township supervisor.

(j) "Code" means the state construction code provided for in section 4 or a part of that code of limited application and includes a modification of or amendment to the code.

(k) "Commission" means the state construction code commission created by section 3.

(*l*) "Construction" means the construction, erection, reconstruction, alteration, conversion, demolition, repair, moving, or equipping of buildings or structures.

(m) "Construction regulation" means a law, act, rule, regulation, or code, general or special, or compilation thereof, enacted or adopted before or after January 1, 1973, by this state including a department, board, bureau, commission, or other agency thereof, relating to the design, construction, or use of buildings and structures and the installation of equipment in the building or structure. Construction regulation does not include a zoning ordinance or rule issued pursuant to a zoning ordinance and related to zoning.

(n) "Cost-effective", in reference to section 4(3)(f) and (g), means, using the existing energy efficiency standards and requirements as the base of comparison, the economic benefits of the proposed energy efficiency standards and requirements will exceed the economic costs of the requirements of the proposed rules based upon an incremental multiyear analysis. All of the following provisions apply:

(*i*) The analysis shall take into consideration the perspective of a typical first-time home buyer.

(*ii*) The analysis shall consider benefits and costs over a 7-year time period.

(*iii*) The analysis shall not assume fuel price increases in excess of the assumed general rate of inflation.

(*iv*) The analysis shall assure that the buyer of a home who qualifies to purchase the home before the addition of the energy efficient standards would still qualify to purchase the same home after the additional cost of the energy-saving construction features.

(*v*) The analysis shall assure that the costs of principal, interest, taxes, insurance, and utilities will not be greater after the inclusion of the proposed cost of the additional energy-saving construction features required by the proposed energy efficiency rules as opposed to the provisions of the existing energy efficiency rules.

(o) "Department" means the department of consumer and industry services.

(p) "Director" means the director of the department or an authorized representative of the director.

(q) "Energy conservation" means the efficient use of energy by providing building envelopes with high thermal resistance and low air leakage, and the selection of energy efficient mechanical, electrical service, and illumination systems, equipment, devices, or apparatus.

(r) "Enforcing agency" means the enforcing agency, in accordance with section 8a or 8b, which is responsible for administration and enforcement of the code within a governmental subdivision, except for the purposes of section 19 enforcing agency means the agency in a governmental unit principally responsible for the administration and enforcement of applicable construction regulations.

(s) "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating equipment.

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(t) “Governmental subdivision” means a county, city, village, or township which in accordance with section 8 has assumed responsibility for administration and enforcement of this act and the code within its jurisdiction.

(u) “Mobile home” means a vehicular, portable structure built on a chassis pursuant to the national manufactured housing construction and safety standards act of 1974, title VI of the housing and community development act of 1974, Public Law 93-383, 42 U.S.C. 5401 to 5426, and designed to be used without a permanent foundation as a dwelling when connected to required utilities and which is, or is intended to be, attached to the ground, to another structure, or to a utility system on the same premises for more than 30 consecutive days.

(v) “Other laws and ordinances” means other laws and ordinances whether enacted by this state or by a county, city, village, or township and the rules issued under those laws and ordinances.

(w) “Owner” means the owner of the freehold of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property or his or her duly authorized agent.

(x) “Person with disabilities” means an individual whose physical characteristics have a particular relationship to that individual's ability to be self-reliant in the individual's movement throughout and use of the building environment.

(y) “Premanufactured unit” means an assembly of materials or products intended to comprise all or part of a building or structure, and which is assembled at other than the final location of the unit of the building or structures by a repetitive process under circumstances intended to insure uniformity of quality and material content. Premanufactured unit includes a mobile home.

(z) “Structure” means that which is built or constructed, an edifice or building of any kind, or a piece of work artificially built up or composed of parts joined together in some definite manner. Structure does not include a structure incident to the use for agricultural purposes of the land on which the structure is located and does not include works of heavy civil construction including, but not limited to, a highway, bridge, dam, reservoir, lock, mine, harbor, dockside port facility, an airport landing facility and facilities for the generation or transmission, or distribution of electricity. Structure includes the meaning “or part or parts of the structure and all equipment in the structure” unless the context clearly requires a different meaning.

(2) Unless the context clearly indicates otherwise, a reference to this act, or to this act and the code, means this act and rules promulgated pursuant to this act including the code.

History: Add. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

Compiler's note: Enacting section 1 of Act 245 of 1999 provides:

“Enacting section 1. The title and sections 2a, 3a, 8a, 8b, and 9b of the state construction code act of 1972, 1972 PA 230, the title as amended and sections 2a, 3a, 8a, 8b, and 9b as added by this amendatory act, are effective upon enactment but apply only to 1 or more of the following codes only upon the effective date of the particular code update promulgated after October 15, 1999:

“(a) The plumbing code, R 408.30701 to 408.30796 of the Michigan administrative code. [Effective July 31, 2001]

“(b) The electrical code, R 408.30801 to 408.30873 of the Michigan administrative code. [Effective December 7, 1999]

“(c) The mechanical code, R 408.30901a to 408.30995a of the Michigan administrative code. [Effective July 31, 2001]

“(d) The building code, R 408.30401 to 408.30499 of the Michigan administrative code.” [Effective July 31, 2001]

Popular name: Act 230

Popular name: Uniform Construction Code

125.1503 Repealed. 1999, Act 245, Eff. July 31, 2001.

Compiler's note: The repealed section pertained to state construction code commission.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1503a State construction code commission; creation; membership; quorum; meetings; designation of chairperson; exercise of authority; rules; compliance with open meetings act and freedom of information act.

Sec. 3a. (1) The state construction code commission is created and consists of the state fire marshal or an employee of the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, designated by the state fire marshal and a designee of the chairpersons of the barrier free design board, the electrical administrative board, the state plumbing board, and the board of mechanical rules, who shall be permanent members, and 12 residents of the state to be appointed by the governor with the advice and consent of the senate. Appointed members of the commission shall include 1 person from each of the fields of industrial management, architecture, professional engineering, building contracting, organized labor, premanufactured building, and 3 members representing municipal building inspection; 2 persons from the

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general public; and a licensed residential builder. A member of the commission appointed by the governor before January 1, 2007 shall be appointed for a term of 2 years, except that a vacancy shall be filled for the unexpired portion of the term. A member of the commission appointed by the governor after December 31, 2006 shall be appointed for a term of 4 years, except that a vacancy shall be filled for the unexpired portion of the term. A member of the commission may be removed from office by the governor for inefficiency, neglect of duty, or misconduct or malfeasance in office. A member of the commission who has a pecuniary interest in a matter before the commission shall disclose the interest before the commission takes action in the matter, which disclosures shall be made a matter of record in its official proceedings. Each member of the commission, except the state fire marshal or the state fire marshal's designee, shall receive reimbursement for actual expenses incurred by the member in the performance of the duties as a member of the commission, subject to available appropriations.

(2) Nine members of the commission constitute a quorum. Except as otherwise provided in the commission's bylaws, action may be taken by the commission by vote of a majority of the members present at a meeting. Meetings of the commission may be called by the chairperson or by 3 members on 10 days' written notice. Not less than 1 meeting shall be held each calendar quarter. A meeting of the commission may be held anywhere in this state.

(3) The commission may elect 1 member as vice-chairperson, and other officers as it determines appropriate, for the terms and with the duties and powers as the commission determines. The vice-chairperson and other officers of the commission shall be elected from those members appointed to the commission by the governor. After December 31, 2006, the governor shall designate a member of the commission to serve as chairperson at the pleasure of the governor.

(4) The commission is within the department but shall exercise its statutory functions independently of the director, except that budgeting, personnel, and procurement functions of the commission shall be performed under the direction and supervision of the director. The director has the sole statutory authority to promulgate rules.

(5) The business that the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: Add. 1999, Act 245, Imd. Eff. Dec. 28, 1999;—Am. 2006, Act 192, Imd. Eff. June 19, 2006.

Compiler's note: Enacting section 1 of Act 245 of 1999 provides:

"Enacting section 1. The title and sections 2a, 3a, 8a, 8b, and 9b of the state construction code act of 1972, 1972 PA 230, the title as amended and sections 2a, 3a, 8a, 8b, and 9b as added by this amendatory act, are effective upon enactment but apply only to 1 or more of the following codes only upon the effective date of the particular code update promulgated after October 15, 1999:

"(a) The plumbing code, R 408.30701 to 408.30796 of the Michigan administrative code. [Effective July 31, 2001]

"(b) The electrical code, R 408.30801 to 408.30873 of the Michigan administrative code. [Effective December 7, 1999]

"(c) The mechanical code, R 408.30901a to 408.30995a of the Michigan administrative code. [Effective July 31, 2001]

"(d) The building code, R 408.30401 to 408.30499 of the Michigan administrative code." [Effective July 31, 2001]

For transfer of powers and duties of the office of fire safety and state fire marshal to the director of the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1504 State construction code; rules; promulgation; contents; purposes, objectives, and standards; availability of code to public.

Sec. 4. (1) The director shall prepare and promulgate the state construction code consisting of rules governing the construction, use, and occupation of buildings and structures, including land area incidental to the buildings and structures, the manufacture and installation of building components and equipment, the construction and installation of premanufactured units, the standards and requirements for materials to be used in connection with the units, and other requirements relating to the safety, including safety from fire, and sanitation facilities of the buildings and structures.

(2) The code shall consist of the international residential code, the international building code, the international mechanical code, the international plumbing code published by the international code council, the national electrical code published by the national fire prevention association, and the Michigan uniform energy code with amendments, additions, or deletions as the director determines appropriate.

(3) The code shall be designed to effectuate the general purposes of this act and the following objectives

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and standards:

(a) To provide standards and requirements for construction and construction materials consistent with nationally recognized standards and requirements.

(b) To formulate standards and requirements, to the extent practicable in terms of performance objectives, so as to make adequate performance for the use intended the test of acceptability.

(c) To permit to the fullest extent feasible the use of modern technical methods, devices, and improvements, including premanufactured units, consistent with reasonable requirements for the health, safety, and welfare of the occupants and users of buildings and structures.

(d) To eliminate restrictive, obsolete, conflicting, and unnecessary construction regulations that tend to increase construction costs unnecessarily or restrict the use of new materials, products, or methods of construction, or provide preferential treatment to types or classes of materials or products or methods of construction.

(e) To insure adequate maintenance of buildings and structures throughout this state and to adequately protect the health, safety, and welfare of the people.

(f) To provide standards and requirements for cost-effective energy efficiency that will be effective April 1, 1997.

(g) Upon periodic review, to continue to seek ever-improving, cost-effective energy efficiencies.

(h) The development of a voluntary consumer information system relating to energy efficiencies.

(4) The code shall be divided into sections as the director considers appropriate including, without limitation, building, plumbing, electrical, and mechanical sections. The boards shall participate in and work with the staff of the director in the preparation of parts relating to their functions. Before the promulgation of an amendment to the code, the boards whose functions relate to that code shall be permitted to draft and recommend to the director proposed language. The director shall give consideration to all submissions by the boards. However, the director has final responsibility for the promulgation of the code.

(5) The code may incorporate the provisions of a code, standard, or other material by reference. The director shall add, amend, and rescind rules to update the code not less than once every 3 years to coincide with the national code change cycle.

(6) Before the Michigan building code, the Michigan residential code, the Michigan plumbing code, the Michigan mechanical code, the Michigan uniform energy code, and the Michigan rehabilitation code may be enforced, the director shall make each Michigan-specific code available to the general public for at least 45 days in printed, electronic, or other form that does not require the user to purchase additional documents or data in any form in order to have an updated complete version of each specific code, excluding other referenced standards within each code. This subsection does not apply to any code effective before April 1, 2005.

History: 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1978, Act 442, Imd. Eff. Oct. 9, 1978;—Am. 1980, Act 371, Imd. Eff. Dec. 30, 1980;—Am. 1995, Act 270, Imd. Eff. Jan. 8, 1996;—Am. 1999, Act 245, Imd. Eff. Dec. 28, 1999;—Am. 2004, Act 584, Imd. Eff. Jan. 4, 2005.

Popular name: Act 230

Popular name: Uniform Construction Code

Administrative rules: R 408.30101 et seq.; R 408.31070; R 408.31087 et seq. of the Michigan Administrative Code.

125.1504a Repealed. 1985, Act 220, Eff. Jan. 13, 1988.

Compiler's note: The report of the advisory committee's actions and recommendations, required by this section, was transmitted by the Director of the Department of Labor to the Clerk of the House of Representatives and the Secretary of the Senate by letters dated January 5, 1988. 1988 Journal of the House 9 (No. 1, January 13, 1988) and 1988 Journal of the Senate 5 (No. 1, January 13, 1988).

Popular name: Act 230

Popular name: Uniform Construction Code

125.1504b Bed and breakfast.

Sec. 4b. (1) A bed and breakfast is considered under the code to be a single family residential structure and shall not be treated as a hotel or other facility serving transient tenants. This section is effective throughout the state without local modification, notwithstanding the exemption provisions of section 8.

(2) This section does not affect local zoning, fire safety, or housing regulations.

(3) As used in this section, “bed and breakfast” means a single family residential structure that meets all of the following criteria:

(a) Has 10 or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper, 1 or more of which are available for rent to transient tenants.

(b) Serves meals at no extra cost to its transient tenants.

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(c) Has a smoke detector in proper working order in each sleeping room and a fire extinguisher in proper working order on each floor.

History: Add. 1987, Act 112, Imd. Eff. July 13, 1987;—Am. 1996, Act 292, Imd. Eff. June 19, 1996.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1504c Installation of smoke alarms in existing buildings or structures; promulgation of rules required.

Sec. 4c. (1) Beginning 1 year after the effective date of the rules promulgated under subsection (2), the owner of an existing building or structure constructed before November 6, 1974 shall install 1 or more smoke alarms in that building or structure, as provided in those rules.

(2) The director shall promulgate rules that establish standards and requirements for the installation of smoke alarms in a building or structure described in subsection (1). The rules shall include both of the following:

(a) For a single family dwelling, 1 or 2 family detached dwelling, or multiple family dwelling, a requirement for the installation of at least 1 single-station smoke alarm in each dwelling unit.

(b) For a building or structure that is not a single family dwelling, 1 or 2 family detached dwelling, or multiple family dwelling, a requirement for the installation of smoke alarms as provided in the code.

(3) A building that is renovated, reconstructed, or added to or whose use or occupancy is changed shall meet the requirements contained in the code for installation of smoke alarms.

(4) As used in this section, “smoke alarm” and “single-station smoke alarm” mean those terms as defined in section 82a of the housing law of Michigan, 1917 PA 167, MCL 125.482a.

History: Add. 2004, Act 65, Imd. Eff. Apr. 20, 2004.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1504d Residential occupancies; installation of operational carbon monoxide device; requirements; liability; definitions.

Sec. 4d. (1) Beginning December 1, 2009 and involving only buildings and structures newly constructed on or after that date, the owner, operator, or builder of residential occupancies where the occupants are primarily transient in nature, including, but not limited to, boarding houses, hotels, and motels, shall install 1 operational carbon monoxide device at each source point.

(2) The carbon monoxide device described in subsection (1) may be battery-powered, plug-in with or without battery backup, wired into the dwelling's AC power line with secondary battery backup, or connected to a system by means of a control panel. The carbon monoxide device required under subsection (1) shall have an alarm that is audible. If the international building code contains a requirement for a carbon monoxide device and that requirement is adopted by the director as part of a code adopted after the effective date of the amendatory act that added this subsection, those requirements apply and shall be followed upon the effective date of the code.

(3) A person who installs, in accordance with the manufacturer's published instructions in existence at the time of installation, a carbon monoxide device shall have no liability, directly or indirectly, to any person with respect to the operation, maintenance, or effectiveness of the carbon monoxide device.

(4) The owner or operator of the residential occupancy described in subsection (1), who installs or arranges for the installation of and who maintains a carbon monoxide device in accordance with the manufacturer's published instructions in existence at the time of the installation, shall have no liability, directly or indirectly, to any person with respect to the operation or effectiveness of the carbon monoxide device.

(5) As used in this section:

(a) "Carbon monoxide device" means a device that detects carbon monoxide, alerts occupants via a distinct and audible signal that is either self-contained in the unit or activated via a system connection, and is certified by a nationally recognized testing laboratory to conform to the latest standards of the underwriters laboratories standards.

(b) "Operational" means working and in service.

(c) "Source point" means an area where a mechanism is present that provides a common source of heat from a fossil-fuel-burning furnace, boiler, or water heater, but does not include only the presence of a wood or fossil-fuel-burning fireplace or a wood or fossil-fuel-burning space heater.

History: Add. 2008, Act 376, Imd. Eff. Dec. 23, 2008.

Popular name: Act 230

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Popular name: Uniform Construction Code

125.1504f Single-family or multifamily dwelling; installation of operational and approved carbon monoxide device; requirements; failure to comply; penalty; liability; definitions; name of section.

Sec. 4f. (1) The director may provide for, at the time of initial construction of a single-family dwelling or a multifamily dwelling, or at the time of renovation of any existing single-family dwelling in which a permit is required, or upon the addition or creation of a bedroom, the installation of at least 1 operational and approved carbon monoxide device within the single-family dwelling or within each unit of the multifamily dwelling. A carbon monoxide device shall be located in the vicinity of the bedrooms, which may include 1 device capable of detecting carbon monoxide near all adjacent bedrooms; in areas within the dwelling adjacent to an attached garage; and in areas adjacent to any fuel-burning appliances.

(2) The carbon monoxide device described in subsection (1) may be battery-powered, plug-in with or without battery backup, wired into the dwelling's AC power line with secondary battery backup, or connected to a system by means of a control panel. If the international residential code is adopted by the director as part of a code adopted after the effective date of the amendatory act that added this section, those requirements apply and shall be followed upon the effective date of the code.

(3) An enforcing agency shall not impose a penalty for the failure of a person to comply with subsection (1) until the effective date of the code that may be adopted after the effective date of the amendatory act that added this section that incorporates that requirement.

(4) A person licensed under article 24 of the occupational code, 1980 PA 299, MCL 339.2401 to 339.2412, who is in compliance with this section or rules promulgated under the code and installs, in accordance with manufacturer's published instructions at the time of installation, a carbon monoxide device shall have no liability, directly or indirectly, to any person with respect to the operation, maintenance, or effectiveness of the carbon monoxide device.

(5) As used in this section:

(a) "Approved" means a carbon monoxide device that is listed as complying with either ANSI/UL 2034 or ANSI/UL 2075 and that is installed in accordance with the manufacturer's instructions.

(b) "Carbon monoxide device" means a device that detects carbon monoxide and alerts occupants via a distinct and audible signal that is either self-contained in the unit or activated via a system connection.

(c) "Operational" means working and in service.

(6) This section shall be known and may be cited as the "Overbeck law".

History: Add. 2008, Act 377, Eff. Mar. 23, 2009.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1505 Powers of commission.

Sec. 5. (1) The commission has all powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including, without limitation, the powers hereinafter set forth.

(2) The commission may sue and be sued; have a seal and alter it; make and execute contracts and other instruments; and adopt, amend and rescind bylaws for its organization and internal management.

(3) The commission may promulgate, amend and rescind rules necessary, desirable or proper to carry out its powers and duties under this act and relating to the administration and enforcement of the code by enforcing agencies and relating to the qualifications and licensing of persons making inspections provided for under this act.

(4) The commission may encourage, support or conduct, either by itself or in cooperation with enforcing agencies, associations of building code officials, or any other persons, educational and training programs for employees, agents and inspectors of enforcing agencies.

(5) The commission may study the effect of the code, and other related laws, to ascertain their effect on the cost of building construction and maintenance, and the effectiveness of their provisions for insuring the health, safety and welfare of the people of this state.

(6) The commission may determine after testing and evaluation whether a material, product, method of manufacture or method of construction or installation is acceptable under the code; issue certificates of such acceptability; and establish procedures for the testing of such devices, materials, fixtures, methods, systems or processes, including contracting with an existing testing laboratory for such testing.

(7) The commission may take testimony and hold hearings relating to any aspect or matter relative to the administration or enforcement of this act. In the enforcement of this act, it may issue subpoenas to compel the attendance of witnesses and the production of evidence. The commission may designate 1 or more or its

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members or employees to hold public hearings and report thereon to the commission.

History: 1972, Act 230, Eff. Jan. 1, 1973.

Compiler's note: In the last sentence of subsection (7), the phrase "1 or more or its members" should evidently read "1 or more of its members."

Popular name: Act 230

Popular name: Uniform Construction Code

Administrative rules: R 408.30101 et seq. of the Michigan Administrative Code.

125.1506 Rules; promulgation; copies; exceptions.

Sec. 6. Rules promulgated by the commission shall be promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. The commission shall send or deliver a copy of its promulgated rules to each governmental subdivision. This section shall not apply to rules adopted by the commission relating only to its organization or internal management or which fix fees to be established by the commission.

History: 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1980, Act 371, Imd. Eff. Dec. 30, 1980.

Popular name: Act 230

Popular name: Uniform Construction Code

Administrative rules: R 408.30101 et seq. of the Michigan Administrative Code.

125.1507 Director, subordinate officers, employees, experts, consultants, technical advisers, and advisory committees; appointment; duties; compensation; effectuating objectives of act; federal cooperation, funds, and grants.

Sec. 7. (1) After consultation and with the approval of the commission, the director may do the following:

(a) Subject to civil service requirements, appoint subordinate officers and employees of the commission, including legal counsel, and prescribe their duties and fix their compensation.

(b) Appoint or use experts, consultants, technical advisers, and advisory committees for assistance and recommendations relative to preparation and promulgation of the code and to assist the commission and the director in carrying out this act.

(c) Subject to the advice of the commission, do those things necessary or desirable to effectuate the general purposes and specific objectives of this act.

(2) The director shall cooperate with agencies of the federal government, may enter into contracts to receive funds, and may receive grants from the federal government to carry out the purposes of this act.

History: 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1977, Act 254, Imd. Eff. Dec. 6, 1977;—Am. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1508 Repealed. 1999, Act 245, Eff. July 31, 2001.

Compiler's note: The repealed section pertained to applicability of act and state construction code.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1508a Applicability of act and state construction code.

Sec. 8a. (1) This act and the code apply throughout the state.

(2) Within 10 days after the effective date of this subsection, the director shall provide a notice of intent form to all governmental subdivisions administering and enforcing a nationally recognized model code other than the code established by the commission under this act. This form shall set forth the date return receipt is required, which date shall not be less than 60 days after receipt. The chief elected official of the governmental subdivision that receives this notice shall indicate on the form the intention of the governmental subdivision as to whether it shall administer and enforce the code and transmit this notice to the director within the prescribed period. If a governmental subdivision fails to submit a notice of intent to administer and enforce the code within the date set forth in the notice, the director shall send a notice by registered mail to the clerk of that governmental subdivision. The registered notice shall indicate that the governmental subdivision has 15 additional days in which to submit a notice of intent to administer and enforce the code. If the governmental subdivision does not respond by the end of the 15 additional days, it shall be conclusively presumed that the governmental subdivision does not intend to administer and enforce the code, and the director shall assume the responsibility for administering and enforcing this act and the code in that

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governmental subdivision, unless the county within which that governmental subdivision is located has submitted a notice of intent to continue to administer and enforce this act and the code. Governmental subdivisions may provide by agreement for joint enforcement of the code.

(3) A governmental subdivision that has elected to assume responsibility for the administration and enforcement of this act and the code, and has submitted a notice of intent to continue to administer and enforce the code to the director pursuant to section 8b, after the effective date of this subsection, may reverse that election.

(4) A governmental subdivision that, before the effective date of this subsection, has elected to exempt itself pursuant to section 8(1) may reverse that election, making itself subject to the act and the code. However, that action shall not take effect until 60 days after passage of an ordinance to that effect. A structure commenced under an effective code shall be completed under that code.

(5) A governmental subdivision that, before the effective date of this subsection, has not administered and enforced either this act and the code or another nationally recognized model code may elect to enforce this act and the code pursuant to subsection (1) by the passage of an ordinance to that effect. A governmental subdivision that makes this election after the effective date of this subsection shall submit, in addition to the ordinance, an application to the commission for approval to administer and enforce that code within its jurisdiction. This application shall be made on the proper form to be provided by the commission. The standards for approval shall include, but not be limited to, the certification by the governmental subdivision that the enforcing agency is qualified by experience or training to administer and enforce the code and all related acts and rules, that agency personnel are provided as necessary, administrative services are provided, plan review services are provided, and timely field inspection services shall be provided. The director shall seek additional information if the director considers it necessary. The commission shall render a decision on the application for approval to administer and enforce the code that has been adopted and transmit its findings to that governmental subdivision within 90 days of receipt of the application. The commission shall document its reasons if the commission disapproves an application. A governmental subdivision that receives a disapproval may resubmit its application for approval. Upon receipt of approval from the commission for the administration and enforcement of the code, the governmental subdivision shall administer and enforce the code within its jurisdiction pursuant to the provisions of its approved application.

(6) The code or any of its sections shall take effect 6 months after the code's initial promulgation. The 6-month delay does not apply to rules promulgated to implement sections 13a, 13b, 13c, 19, and 21 and the requirements of barrier free design and energy conservation of this act and code. The 6-month delay does not apply to amendments to the code or any of the code's sections after the initial promulgation.

(7) The standards for premanufactured housing shall not be less than the standards required for nonpremanufactured housing, except that manufactured homes labeled pursuant to the national manufactured housing construction and safety standards act of 1974, title VI of the housing and community development act of 1974, Public Law 93-383, 42 U.S.C. 5401 to 5426, shall be considered to have complied with this requirement.

(8) The commission may limit the application of a part of the code to include or exclude the following:

(a) Specified classes or types of buildings or structures, according to use, or other distinctions as may make differentiation or separate classification or regulation necessary, proper, or desirable. The commission shall consider the specific problems of the construction or alteration of a single family, owner-occupied recreational dwelling that is located in a sparsely populated area and that is to be occupied on a part-time basis.

(b) Specified areas of the state based on size, population density, special conditions prevailing in the area, or other factors as may make differentiation or separate classification or regulation necessary, proper, or desirable.

(9) A building or structure that has baby changing stations in the women's restrooms shall have baby changing stations in the men's restrooms.

(10) The code shall provide, where appropriate, for standards involving location and construction of ratwalls that are not less than those standards in existence on the effective date of this section.

History: Add. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

Compiler's note: Enacting section 1 of Act 245 of 1999 provides:

"Enacting section 1. The title and sections 2a, 3a, 8a, 8b, and 9b of the state construction code act of 1972, 1972 PA 230, the title as amended and sections 2a, 3a, 8a, 8b, and 9b as added by this amendatory act, are effective upon enactment but apply only to 1 or more of the following codes only upon the effective date of the particular code update promulgated after October 15, 1999:

"(a) The plumbing code, R 408.30701 to 408.30796 of the Michigan administrative code. [Effective July 31, 2001]

"(b) The electrical code, R 408.30801 to 408.30873 of the Michigan administrative code. [Effective December 7, 1999]

"(c) The mechanical code, R 408.30901a to 408.30995a of the Michigan administrative code. [Effective July 31, 2001]

"(d) The building code, R 408.30401 to 408.30499 of the Michigan administrative code." [Effective July 31, 2001]

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125.1508b Administration and enforcement of act and state construction code.

Sec. 8b. (1) Except as otherwise provided in this section, the director is responsible for administration and enforcement of this act and the code. A governmental subdivision may by ordinance assume responsibility for administration and enforcement of this act within its political boundary. A county ordinance adopted pursuant to this act shall be adopted by the county board of commissioners and shall be signed by the chairperson of the county board of commissioners and certified by the county clerk.

(2) A governmental subdivision that has assumed the responsibility for administering and enforcing this act and the code may, through its chief legal officer, issue a complaint and obtain a warrant for a violation of this act or the code and prosecute the violation with the same power and authority it possesses in prosecuting a local ordinance violation. If pursuant to section 23, a governmental subdivision has by ordinance designated a violation of the act or code as a municipal civil infraction, the governmental subdivision may issue a citation or municipal ordinance violation notice pursuant to chapter 87 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8701 to 600.8735, for a violation of the act or code. Unless otherwise provided by local law or ordinance, the legislative body of a governmental subdivision responsible for administration and enforcement of this act and the code shall designate an enforcing agency that shall discharge the responsibilities of the governmental subdivision under this act. Governmental subdivisions may provide by agreement for joint enforcement of this act.

(3) Subject to the other provisions of this act, an enforcing agency is any official or agent of a governmental subdivision that is registered under the building officials and inspectors registration act, 1986 PA 54, MCL 338.2301 to 338.2313, qualified by experience or training to perform the duties associated with construction code administration and enforcement.

(4) Before December 28, 1999, the director shall provide each governmental subdivision administering and enforcing this act and the code with a notice of intent form. This form shall set forth the date return receipt is required, which date shall not be less than 60 days. The chief elected official of the governmental subdivision that receives this notice shall indicate on the form the intention of the governmental subdivision as to whether it shall continue to administer and enforce this act and the code and transmit this notice to the director within the prescribed period. If a governmental subdivision fails to submit a notice of intent to continue to administer and enforce this act and the code within the date set forth in the notice, the director shall send a notice by registered mail to the clerk of that governmental subdivision. This notice shall indicate that the governmental subdivision has 15 additional days in which to submit a notice of intent to continue to administer and enforce this act and the code. If the governmental subdivision does not respond by the end of the 15 additional days, it shall be conclusively presumed that the governmental subdivision does not intend to continue to administer and enforce this act and the code and the director shall assume the responsibility for administering and enforcing this act and the code in that governmental subdivision, unless the county within which the governmental subdivision is located submits a notice of intent to continue to administer and enforce this act and the code.

(5) A county that is administering and enforcing this act and the code on December 28, 1999 and that submits a notice of intent to continue to administer and enforce this act and the code pursuant to subsection (4) is responsible for the administration and enforcement of this act and the code for each governmental subdivision within the county that does not submit a notice of intent to continue to administer and enforce this act and the code. The director shall notify the county of those governmental subdivisions that do not submit a notice of intent.

(6) A governmental subdivision that, before December 28, 1999, did not administer and enforce this act and the code may elect to assume the responsibility for the administration and enforcement of this act and the code pursuant to subsection (1) by the passage of an ordinance to that effect. A governmental subdivision that makes this election after December 28, 1999 shall submit, in addition to the ordinance, an application to the commission for approval to administer and enforce this act and the code within its jurisdiction. This application shall be made on the proper form to be provided by the commission. The standards for approval shall include, but not be limited to, the certification by the governmental subdivision that the enforcing agency is qualified by experience or training to administer and enforce this act and the code and all related acts and rules, that agency personnel are provided as necessary, that administrative services are provided, that plan review services are provided, and that timely field inspection services will be provided. The director shall seek additional information if the director considers it necessary. The commission shall render a decision on the application for approval to administer and enforce this act and the code and transmit its findings to the governmental subdivision within 90 days of receipt of the application. The commission shall document its

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reasons, if the commission disapproves an application. A governmental subdivision that receives a disapproval may resubmit its application for approval. Upon receipt of approval from the commission for the administration and enforcement of this act and the code, the governmental subdivision shall administer and enforce this act and the code within its jurisdiction pursuant to the provisions of this act and the application.

(7) A governmental subdivision that elects to administer and enforce this act and the code within its jurisdiction by the adoption of an ordinance may rescind that ordinance and transfer the responsibility for the administration and enforcement of this act and the code to the director. The director shall assume the responsibility for administering and enforcing this act and the code in that governmental subdivision, unless the county within which that governmental subdivision is located has submitted a notice of intent to continue to administer and enforce the code. However, that action shall not take effect until 12 months after the passage of an ordinance to that effect. A structure commenced under an effective code shall be completed under that code.

(8) The director is responsible for administration and enforcement of this act and the code for buildings and structures that are not under the responsibility of an enforcing agency in those governmental subdivisions that elect to administer and enforce this act and the code. A building or structure owned by the state shall not be erected, remodeled, or reconstructed in the state, except school buildings or facilities or institutions of higher education as described in section 4 of article VIII of the state constitution of 1963, until written approval of the plans and specifications has been obtained from the bureau of construction codes and safety located within the department indicating that the state owned facilities shall be designed and constructed in conformance with the state construction code. The bureau of construction codes and safety shall be the lead agency in the coordination and implementation of this subsection. The bureau of construction codes and safety shall perform required plan reviews and inspections as required by the state construction code. Each department shall secure required plan approvals and permits from the bureau. Fees charged by the bureau for permits shall be in accordance with the commission's approved schedule of fees. State departments and institutions may allow local inspectors to inspect the construction of state owned facilities. However, an inspection conducted by a local inspector shall be of an advisory nature only.

(9) This section does not affect the responsibilities of the commission for administration and enforcement of this act under other sections of this act, or responsibilities under the fire prevention code, 1941 PA 207, MCL 29.1 to 29.33; 1937 PA 306, MCL 388.851 to 388.855a; the firefighters training council act of 1966, 1966 PA 291, MCL 29.361 to 29.377; 1942 (1st Ex Sess) PA 9, MCL 419.201 to 419.205; parts 215 and 217 of the public health code, 1978 PA 368, MCL 333.21501 to 333.21799e; and section 58 of the social welfare act, 1939 PA 280, MCL 400.58.

(10) Pursuant to parts 215 and 217 of the public health code, 1978 PA 368, MCL 333.21501 to 333.21799e, the director shall develop consistent construction standards for hospitals and nursing homes. These standards shall ensure that consistent, uniform, and equitable construction requirements and state supervision of the requirements are achieved. This subsection does not preclude a state agency or a governmental subdivision from conducting plan reviews or inspections necessary to ensure compliance with approved construction plans.

(11) Except as otherwise provided in this act, this act does not limit or restrict existing powers or authority of governmental subdivisions, and this act shall be enforced by governmental subdivisions in the manner prescribed by local law or ordinance. To the extent not inconsistent with this act, local laws and ordinances relating to administration and enforcement of construction regulations enacted before the effective date of the code by or for a governmental subdivision are applicable to administration and enforcement of the code in that governmental subdivision.

History: Add. 1999, Act 245, Imd. Eff. Dec. 28, 1999;—Am. 2006, Act 192, Imd. Eff. June 19, 2006.

Compiler's note: Enacting section 1 of Act 245 of 1999 provides:

"Enacting section 1. The title and sections 2a, 3a, 8a, 8b, and 9b of the state construction code act of 1972, 1972 PA 230, the title as amended and sections 2a, 3a, 8a, 8b, and 9b as added by this amendatory act, are effective upon enactment but apply only to 1 or more of the following codes only upon the effective date of the particular code update promulgated after October 15, 1999:

"(a) The plumbing code, R 408.30701 to 408.30796 of the Michigan administrative code. [Effective July 31, 2001]

"(b) The electrical code, R 408.30801 to 408.30873 of the Michigan administrative code. [Effective December 7, 1999]

"(c) The mechanical code, R 408.30901a to 408.30995a of the Michigan administrative code. [Effective July 31, 2001]

"(d) The building code, R 408.30401 to 408.30499 of the Michigan administrative code." [Effective July 31, 2001]

Popular name: Act 230

Popular name: Uniform Construction Code

125.1509, 125.1509a Repealed. 1999, Act 245, Eff. July 31, 2001.

Compiler's note: The repealed sections pertained to administration and enforcement of act and state construction code, and performance evaluation of enforcement agency.

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Popular name: Act 230

Popular name: Uniform Construction Code

125.1509b Performance evaluation of enforcing agency.

Sec. 9b. (1) The director, as prescribed in this section, may conduct a performance evaluation of an enforcing agency to assure that the administration and enforcement of this act and the code is being done pursuant to either section 8a or 8b. A performance evaluation may only be conducted either at the request of the local enforcing agency or upon the receipt of a written complaint. If a performance evaluation is to be conducted upon the receipt of a written complaint, the director shall first refer the written complaint to the affected enforcing agency requesting a written response within 10 days. If the local enforcing agency fails to provide a written response, or if the response is considered inadequate, the director shall consult with the commission and request approval to conduct the performance evaluation. The director shall submit a written recommendation to the commission and shall send a copy to the affected enforcing agency, along with a reasonable notice of the commission meeting at which the recommendation will be presented. The decision of the commission to proceed with a performance evaluation shall be made at a public meeting. This decision shall be mailed to the enforcing agency 10 days in advance of conducting the performance evaluation.

(2) When conducting a performance evaluation of an enforcing agency, the director may request that the local enforcing agency accompany the director or other state inspectors on inspections. The inspections shall be for the enforcement of this act and the code. The enforcing agency shall maintain all official records and documents relating to applications for permits, inspection records including correction notices, orders to stop construction, and certificates of use and occupancy. The enforcing agency shall make available for review all official records between 8 a.m. and 5 p.m. on business days.

(3) Upon completion of a performance evaluation, the director shall report the findings and any recommendations to the commission and the local enforcing agency. The commission may issue a notice of intent to withdraw the responsibility for the administration and enforcement of this act and the code from a governmental subdivision after receiving the results of a performance evaluation. The notice shall include the right to appeal within 30 business days after receipt of the notice of intent to withdraw the responsibility. The notice shall also include the findings of the director, after completion of a performance evaluation, that the enforcing agency of that governmental subdivision has failed to follow the duties recognized under this act, the code, or its ordinance. Failure by the enforcing agency or the chief elected official of that governmental subdivision to request a hearing within 30 business days after receipt of the notice of intent to withdraw the responsibility shall be considered to exhaust the enforcing agency's administrative remedies and the notice shall be considered a final order of the commission under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The director shall assume responsibility for the administration and enforcement of this act and the code, unless the county within which that governmental subdivision is located has submitted a notice of intent to continue to administer and enforce this act and the code, when the notice is considered a final order of the commission. A structure commenced under an effective code shall be completed under that code.

(4) If an enforcing agency or the chief elected official of the governmental subdivision transmits an appeal of the notice of intent to withdraw the responsibility issued under subsection (3), the commission chairperson shall request appointment of a hearings officer. The hearings officer shall conduct a hearing of the appeal pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and issue a proposed decision which shall be sent to the affected parties. The proposed decision shall become the final order issued by the commission, unless exceptions are filed by a party within 30 days after receipt of the proposed decision. The commission shall review the proposed decision when exceptions are filed.

(5) The commission in reviewing a proposed decision may affirm, modify, reverse, or remand the proposed decision. When the commission affirms, modifies, reverses, or remands a proposed decision, the decision of the commission shall be in writing and contain the findings of fact and conclusions of law upon which its decision is based. Other than in a case of remand, the period for seeking judicial review of the commission's decision under section 104 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.304, shall begin to run upon receipt by the parties of the commission's written decision.

History: Add. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

Compiler's note: Enacting section 1 of Act 245 of 1999 provides:

"Enacting section 1. The title and sections 2a, 3a, 8a, 8b, and 9b of the state construction code act of 1972, 1972 PA 230, the title as amended and sections 2a, 3a, 8a, 8b, and 9b as added by this amendatory act, are effective upon enactment but apply only to 1 or more of the following codes only upon the effective date of the particular code update promulgated after October 15, 1999:

"(a) The plumbing code, R 408.30701 to 408.30796 of the Michigan administrative code. [Effective July 31, 2001]

"(b) The electrical code, R 408.30801 to 408.30873 of the Michigan administrative code. [Effective December 7, 1999]

"(c) The mechanical code, R 408.30901a to 408.30995a of the Michigan administrative code. [Effective July 31, 2001]

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"(d) The building code, R 408.30401 to 408.30499 of the Michigan administrative code." [Effective July 31, 2001]

Popular name: Act 230

Popular name: Uniform Construction Code

125.1510 Application for building permit; form; fee; contents; statement; site plan; affidavit; filing written instrument designating agent, attorney, architect, engineer, or builder; additional information required for residential builder or residential maintenance and alteration contractor, master or journeyman plumber, electrical contractor or master or journeyman electrician, or mechanical contractor; statement required in building application form; filing application; availability of application and other writings to public; custody of application; imposition of requirements for additional permits; buildings for which permit not required.

Sec. 10. (1) Except as otherwise provided in the code, before construction of a building or structure, the owner, or the owner's builder, architect, engineer, or agent, shall submit an application in writing to the appropriate enforcing agency for a building permit. The application shall be on a form prescribed by the commission and shall be accompanied by payment of the fee established by the enforcing agency. The application shall contain a detailed statement in writing, verified by affidavit of the person making it, of the specifications for the building or structure, and full and complete copies of the plans drawn to scale of the proposed work. A site plan showing the dimensions, and the location of the proposed building or structure and other buildings or structures on the same premises, shall be submitted with the application. The application shall state in full the name and residence, by street and number, of the owner in fee of the premises on which the building or structure will be constructed, and the purposes for which it will be used.

(2) If construction is proposed to be undertaken by a person other than the owner of the land in fee, the statement shall contain the full name and residence, by street and number, of the owner and also of the person proposing the construction. The affidavit shall state that the specifications and plans are true and complete and contain a correct description of the building or structure, lot, and proposed work. The statements and affidavits may be made by an owner, or the owner's attorney, agent, engineer, architect, or builder, by the person who proposes to make the construction or alteration, or by that person's agent, engineer, architect, or builder. A person shall not be recognized as the agent, attorney, engineer, architect, or builder of another person unless the person files with the enforcing agency a written instrument, which shall be an architectural, engineering or construction contract, power of attorney, or letter of authorization signed by that other person designating the person as the agent, attorney, architect, engineer, or builder and, in case of a residential builder or maintenance and alteration contractor, architect, or engineer, setting forth the person's license number and the expiration date of the license.

(3) A person licensed or required to be licensed as a residential builder or residential maintenance and alteration contractor under the occupational code, 1980 PA 299, MCL 339.101 to 339.2721, a master or journeyman plumber pursuant to 1929 PA 266, MCL 338.901 to 338.917, an electrical contractor or master or journeyman electrician pursuant to the electrical administrative act, 1956 PA 217, MCL 338.881 to 338.892, or pursuant to a local ordinance, or as a mechanical contractor pursuant to the forbes mechanical contractors act, 1984 PA 192, MCL 338.971 to 338.988, who applies for a building permit to perform work on a residential building or a residential structure shall, in addition to any other information required pursuant to this act, provide on the building permit application all of the following information:

(a) The occupational license number of the applicant and the expiration date of the occupational license.

(b) One of the following:

(*i*) The name of each carrier providing worker's disability compensation insurance to the applicant if the applicant is required to be insured pursuant to the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(*ii*) The reasons for exemption from the requirement to be insured if the applicant is not required to be insured under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(c) One of the following:

(*i*) The employer identification number, if the applicant is required to have an employer identification number pursuant to section 6109 of the internal revenue code.

(*ii*) The reasons for exemption from the requirement to have an employer identification number pursuant to section 6109 of the internal revenue code if the applicant is not required to have an employer identification number pursuant to section 6109 of the internal revenue code.

(d) One of the following:

(*i*) The Michigan employment security commission employer number, if the applicant is required to make

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contributions pursuant to the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

(*ii*) If the applicant is not required to make contributions, the reasons for exemptions from the requirement to make contributions under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

(4) The building permit application form shall contain the following statement in 8-point boldfaced type immediately above the location for the applicant's signature:

"Section 23a of the state construction code act of 1972, 1972 PA 230, MCL 125.1523a, prohibits a person from conspiring to circumvent the licensing requirements of this state relating to persons who are to perform work on a residential building or a residential structure. Violators of section 23a are subjected to civil fines."

(5) The application for a building permit shall be filed with the enforcing agency and the application and any other writing prepared, owned, used, in the possession of, or retained by the enforcing agency in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. An application shall not be removed from the custody of the enforcing agency after a building permit has been issued.

(6) This section shall be construed to allow the imposition of requirements in the code, or in other laws or ordinances, for additional permits for particular kinds of work, including plumbing and electrical, or in other specified situations. The requirements of the code may provide for issuance of construction permits for certain of the systems of a structure and allow construction to commence on those systems approved under that permit even though the design and approval of all the systems of the structure have not been completed and subsequent construction permits have not been issued.

(7) Notwithstanding this section, a building permit is not required for ordinary repairs of a building and structure.

(8) Notwithstanding this section, a building permit is not required for a building incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business of retail trade.

History: 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1977, Act 195, Imd. Eff. Nov. 17, 1977;—Am. 1989, Act 135, Eff. Oct. 1, 1989;—Am. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

Compiler's note: In subsection (3), "forbes mechanical contractors act" evidently should read "Forbes mechanical contractors act."

Popular name: Act 230

Popular name: Uniform Construction Code

125.1511 Building permit; examination and approval of application; issuance; changes in plans; commencement of construction; compliance with application; suspension, revocation, or cancellation.

Sec. 11. (1) The enforcing agency shall examine an application for a building permit. If the application conforms to this act, the code and the requirements of other applicable laws and ordinances, the enforcing agency shall approve the application and issue a building permit to the applicant. An application shall be granted, in whole or in part, or denied within 10 business days, except that in case of an unusually complicated building or structure, action shall be taken within 15 business days. Failure by an enforcing agency to grant, in whole or in part, or deny an application within these periods of time shall be deemed a denial of the application for purposes of authorizing the institution of an appeal to the appropriate board of appeals. The enforcing agency shall approve changes in plans and specifications previously approved by it, if the changes require approval and if the plans and specifications when so changed remain in conformity with law. Except as otherwise provided in this act or the code, the construction or alteration of a building or structure shall not be commenced until a building permit has been issued. The construction of a building or structure shall comply with the approved application for a building permit, and the enforcing agency shall insure such compliance in the manner provided in section 12 and in any other way it deems appropriate.

(2) The enforcing agency may suspend, revoke or cancel a building permit in case of failure or neglect to comply with the provisions of this act or the code, or upon a finding by it that a false statement or representation has been made in the application for the building permit.

History: 1972, Act 230, Eff. Jan. 1, 1973.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1512 Inspection of construction; consent; time; inspectors; notice of violation; stop order; injunction.

Sec. 12. (1) An enforcing agency shall periodically inspect all construction undertaken pursuant to a

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building permit issued by it to insure that the construction is performed in accordance with conditions of the building permit and is consistent with requirements of the code and other applicable laws and ordinances.

(2) The owner of premises on which a building or structure is being constructed is deemed to have consented to inspection by the enforcing agency and the commission of the entire premises and of any construction being performed on it until a certificate of use and occupancy has been issued. An inspector, or team of inspectors, on presentation of proper credentials, may enter and inspect the premises and construction thereon, for purposes of insuring compliance with the building permit, the code and other applicable laws and regulations. An inspection shall be made between 8 a.m. and 6 p.m. on business days, or when construction is actually being undertaken, except if the enforcing agency has probable cause to believe that an immediate danger to life, limb or property exists, or except with permission of an owner, or his agent, architect, engineer or builder. An inspection pursuant to this section shall be solely for purposes of enforcing this act and other laws and ordinances related to construction of buildings and structures. A person other than the owner, his agent, architect, engineer or builder shall not accompany an inspector or team of inspectors on an inspection, unless his presence is necessary for the enforcement of this act, or other laws and ordinances related to construction of the building or structure, or except with the consent of an owner, or his agent, architect, engineer or builder.

(3) If construction is being undertaken contrary to a building permit, this act, or other applicable laws or ordinances, the enforcing agency shall give written notice to the holder of the building permit, or if a permit has not been issued then to the person doing the construction, notifying him of the violation of this act, or other applicable laws and ordinances, and to appear and show cause why the construction should not be stopped. If the person doing the construction is not known, or cannot be located with reasonable effort, the notice may be delivered to the person in charge of, or apparently in charge of, the construction. If the holder of the permit or the person doing the construction fails to appear and show good cause within 1 full working day after notice is delivered, the enforcing agency shall cause a written order to stop construction to be posted on the premises. A person shall not continue, or cause or allow to be continued, construction in violation of a stop construction order, except with permission of the enforcing agency to abate the dangerous condition or remove the violation, or except by court order. If an order to stop construction is not obeyed, the enforcing agency may apply to the circuit court for the county in which the premises are located for an order enjoining the violation of the stop construction order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal prosecution for failure to obey the order.

(4) Without limitation on other available remedies, an interested person may apply for an order, enjoining the continuation of construction undertaken in violation of a building permit, this act, the code or other applicable laws or ordinances, to the circuit court for the county in which the premises are located.

History: 1972, Act 230, Eff. Jan. 1, 1973.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1513 Certificate of use and occupancy; issuance; contents; application; fee; temporary certificate; notice of final inspection.

Sec. 13. A building or structure hereafter constructed shall not be used or occupied in whole or in part until a certificate of use and occupancy has been issued by the appropriate enforcing agency. A building or structure hereafter altered in whole or in part shall not be used or occupied until such a certificate has been issued, except that a use or occupancy in an already existing building or structure that was not discontinued during its alteration may be continued for 30 days after completion of the alteration without issuance of a certificate of use and occupancy. A certificate of use and occupancy shall be issued by the enforcing agency when the work covered by a building permit has been completed in accordance with the permit, the code and other applicable laws and ordinances. On request of a holder of a building permit the enforcing agency may issue a temporary certificate of use and occupancy for a building or structure, or part thereof, before the entire work covered by the building permit has been completed, if the parts of the building or structure to be covered by the certificate may be occupied before completion of all the work in accordance with the permit, the code and other applicable laws and ordinances, without endangering the health or safety of the occupants or users. When a building or structure is entitled thereto, the enforcing agency shall issue a certificate of use and occupancy within 5 business days after receipt of a written application therefor on a form to be prescribed by the enforcing agency and payment of the fee to be established by it. The certificate of use and occupancy shall certify that the building or structure has been constructed in accordance with the building permit, the code and other applicable laws and ordinances. The application for a certificate of use and occupancy for a new dwelling with a unit or units for rent shall set forth the information required in an application for a certificate of compliance for such a dwelling pursuant to the state housing law, and the certificate of use and occupancy

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for such a dwelling shall be deemed its initial certificate of compliance. The enforcing agency shall give the owner of the building or structure or his agent at least 12 hours' notice of the time of any final inspection, by the enforcing agency of the work covered by the building permit, pursuant to the application for a certificate of use and occupancy.

History: 1972, Act 230, Eff. Jan. 1, 1973.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1513a Definitions; prohibited appliances; exceptions; promulgation date.

Sec. 13a. (1) As used in this section:

(a) "Central furnace" means a self-contained, gas-burning appliance for heating air by transfer of heat of combustion through metal to the air, and designed to supply heated air through ducts to spaces remote from, or adjacent to, the appliance location.

(b) "Clothes dryer" means a device used to dry wet laundry by means of heat derived from the combustion of fuel gases.

(c) "Household cooking gas appliance" means a gas appliance for domestic food preparation, providing any 1 or combination of the following:

(*i*) Top or surface cooking.

(*ii*) Oven cooking.

(*iii*) Broiling.

(2) The code shall contain, as a part of the energy conservation provisions, 1 or more provisions prohibiting the installation in a building or structure of any of the following new appliances which requires for its operation the use of a continuously burning pilot light:

(a) A central furnace having an input rate of 225,000 BTU per hour or less.

(b) A clothes dryer.

(c) A household cooking gas appliance having an electrical supply cord.

(3) The provisions of the code required by this section shall not apply to the following:

(a) A mobile home or modular home.

(b) An appliance that is designed to burn exclusively liquefied petroleum gas.

(c) An appliance which meets the energy efficiency standards prescribed by the federal regulations promulgated pursuant to the energy policy and conservation act, 42 U.S.C. 6201 to 6422.

(4) The provisions of the code required by this section shall be promulgated not later than 90 days after the effective date of this section.

History: Add. 1980, Act 233, Imd. Eff. July 20, 1980.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1513b "Lead free" defined; pipes, pipe fittings, solder, or flux to be lead free; exception.

Sec. 13b. (1) As used in this section, "lead free" means either of the following:

(a) Solder and flux containing not more than 0.2% lead.

(b) Pipe and pipe fittings containing not more than 8% lead.

(2) Beginning on the effective date of this section, pipes, pipe fittings, solder, or flux which are used in the installation or repair of a plumbing system in a building or structure providing water for human consumption or a public water system shall be lead free.

(3) This section shall not apply to leaded joints necessary for the repair of cast iron pipes.

History: Add. 1988, Act 146, Imd. Eff. June 7, 1988.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1513c Definitions; minimum standards for board and room facilities; inspection; noncompliance; order; penalty; hearing; payment and recovery of civil penalty; applicability of section.

Sec. 13c. (1) As used in this section:

(a) "Board and room facility" means a residential building that does not provide separate cooking facilities for individual occupants and that is arranged for primarily nontransient shelter and sleeping accommodations for 3 or more adults. Board and room facility does not include any of the following:

(*i*) A residential facility for students attending a college or university.

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(*ii*) A facility operated, licensed, or regulated by the state or the federal government.

(*iii*) A bed and breakfast regulated under section 4b.

(*iv*) A hotel or motel.

(*v*) A private dwelling as that term is defined in section 2 of the housing law of Michigan, Act No. 167 of the Public Acts of 1917, being section 125.402 of the Michigan Compiled Laws.

(b) "Operator" means a person who has charge, care, control, or management of a board and room facility.

(c) "Owner" means a person who knows that a residential building in which that person has a legal or equitable interest is being used as a board and room facility, regardless of whether the person has possession of the facility. Owner includes an executor, administrator, trustee, or guardian of the estate of an owner of a residential building if the executor, administrator, trustee, or guardian knows that the residential building is being used as a board and room facility.

(d) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(2) A board and room facility shall comply with the minimum property maintenance standards set forth in this act and in the BOCA national property maintenance code, 1993 edition, as published by the building officials and code administrators international, inc., or the uniform housing code, 1991 edition, as published by the international conference of building officials, which codes are adopted by reference and made a part of this section as if fully set out in this section. In addition, a board and room facility shall comply with all of the following:

(a) Interior stairways shall be enclosed by fire separation assemblies having a 1-hour fire resistance rating with all openings protected with smoke-actuated automatic-closing or self-closing doors having a fire resistance comparable to that required for the enclosure.

(b) Vertical openings shall be protected so that no primary exit route is exposed to an unprotected vertical opening. The vertical opening is protected if the opening is cut off and enclosed in a manner that provides a smoke and fire resisting capability of not less than 1 hour. Any doors or openings shall have fire and smoke resisting capability equivalent to that of the enclosure and shall be automatic-closing on detection of smoke or shall be self-closing.

(c) A fire alarm system shall be installed in accordance with the building code, except in buildings that have a smoke detection system meeting or exceeding the requirements of subdivision (f) if that detection system includes at least 1 manual fire alarm station per floor arranged to initiate the smoke detection alarm.

(d) Initiation of the required fire protective signaling system shall be by manual means as provided by the building code, except in buildings protected throughout with an approved fire suppression system installed in accordance with the building code, with initiation upon actuation of the extinguishing system operation.

(e) Occupant notification of a fire shall be provided automatically, without delay by internal audible alarm in accordance with the building code. Presignal systems are prohibited.

(f) Approved single station or multiple station smoke detectors powered by the building electrical service shall be installed in accordance with the building code on every level. In addition, approved single station smoke detectors powered by the building electrical service shall be provided in each sleeping room, except that existing battery powered detectors shall be accepted if, in the opinion of the code official, they are in operating condition.

(g) Portable fire extinguishers shall bear the label of an approved agency, be of an approved type, and be installed in a visible and accessible location on each occupied floor and basement.

(h) Fire exit drills shall be conducted at least once every 2 months in each facility. Each occupant shall be provided with a written evacuation plan filed with the local authority having jurisdiction. An egress plan shall be posted in each sleeping room showing the building diagram, the room location, and the location of exits.

(i) The interior finish on wall and ceilings and trim materials shall be a minimum class III, tested in accordance with ASTM E-84.

(3) An enforcing agency shall inspect a board and room facility after receiving a complaint alleging a violation by that board and room facility of the minimum standards described in subsection (2), and shall determine whether the board and room facility is in compliance with this act.

(4) If, following an inspection described in subsection (3), an enforcing agency determines that a board and room facility is not in compliance with this act, the enforcing agency shall issue an order to remedy the noncompliance and may issue an order to vacate the premises. The enforcing agency shall serve the order or orders upon the operator of the board and room facility and, if known, the owner of the residential building in which the board and room facility is situated.

(5) This section prescribes minimum standards for board and room facilities. It does not invalidate ordinances or regulations that impose higher standards or stricter requirements.

(6) The enforcing agency may adopt a schedule of monetary civil penalties, not to exceed $500.00 for each

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violation or day that a violation continues, which may be assessed for a violation of this section. If the enforcing agency believes that an owner or operator has violated this section, it may issue a citation after discovery of the alleged violation. The citation shall be written and shall state with particularity the nature of the violation, the civil penalty established for the violation, and the right to appeal the citation pursuant to subsection (7). The citation shall be delivered or sent by registered mail to the alleged violator.

(7) Not later than 20 days after receipt of the citation, the alleged violator may petition the enforcing agency for an administrative hearing, which shall be held within 60 days after the enforcing agency receives the petition. The administrative hearing may be conducted by a hearing officer, who may affirm, dismiss, or modify the citation. The decision of the hearing officer is final and is not subject to appeal.

(8) A civil penalty assessed by the issuance of a citation under subsection (6) becomes final if a petition is not received within the time specified in subsection (7). A civil penalty imposed shall be paid to the governmental subdivision that has the responsibility of enforcing this section. A civil penalty may be recovered in a civil action brought by the governmental subdivision in the county in which the violation occurred or the defendant resides.

(9) This section applies to a board and room facility constructed or converted for use as a board and room facility after the effective date of this section. Beginning 6 months after the effective date of this section, this section also applies to a board and room facility constructed or converted for use as a board and room facility before the effective date of this section.

History: Add. 1994, Act 106, Imd. Eff. Apr. 18, 1994.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1513d Requirements for stairwell geometry.

Sec. 13d. (1) Notwithstanding any provision in this act and until the promulgation of the complete building code update after October 15, 1999, a governmental subdivision shall not enforce a requirement for stairwell geometry in occupancies in use group R-3 structures and within dwelling units in occupancies in use group R-2 structures that differs from the stairwell geometry described in this section.

(2) As used in this section:

(a) "Stairwell geometry" refers to the configuration of a stairwell of a building in which the maximum riser height is 8-1/4 inches (210 mm), the minimum tread depth is 9 inches (229 mm), and a 1-inch (25 mm) nosing on stairwells with solid risers.

(b) "Use group R-2 structures" means all multiple-family dwellings having more than 2 dwelling units including, but not limited to, boarding houses and similar buildings arranged for shelter and sleeping accommodations in which the occupants are primarily not transient in nature and dormitory facilities that accommodate more than 5 persons over 2-1/2 years of age.

(c) "Use group R-3 structures" means all buildings arranged for occupancy as 1-family or 2-family dwelling units including, but not limited to, not more than 5 lodgers or boarders per family; multiple single-family dwellings where each unit has an independent means of egress and is separated by a 2-hour fire separation assembly; and a child care facility that accommodates 5 or less children of any age.

History: Add. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1513e Sharing elevator between 2 buildings.

Sec. 13e. This act does not prohibit the sharing of an elevator between 2 buildings as long as the buildings are in compliance with this act, the code, and the following acts and rules promulgated under those acts:

(a) The fire prevention code, 1941 PA 207, MCL 29.1 to 29.34.

(b) 1976 PA 333, MCL 338.2151 to 338.2160.

(c) 1967 PA 227, MCL 408.801 to 408.824.

(d) Any other act or rules regulating elevators in buildings.

History: Add. 2005, Act 50, Imd. Eff. June 23, 2005.

125.1514 Construction board of appeals; creation; appointment, qualifications, and terms of members; appeal to board; hearing; decision; statement of reasons for decision; appeal to commission; copy of decision; additional powers or duties; procedures; conducting business at public meeting; notice; availability of certain writings to public.

Sec. 14. (1) A construction board of appeals for each governmental subdivision enforcing the code shall be created consisting of not less than 3 nor more than 7 members, as determined by the governing body of the

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governmental subdivision. Unless otherwise provided by local law or ordinance, the members of the board of appeals shall be appointed for 2-year terms by the chief executive officer of a city, village, or township and the chairperson of the county board of commissioners of a county. A member of the board of appeals shall be qualified by experience or training to perform the duties of members of the board of appeals. A person may serve on the board of appeals of more than 1 governmental subdivision. If an enforcing agency refuses to grant an application for a building permit, or if the enforcing agency makes any other decision pursuant or related to this act, or the code, an interested person, or the person's authorized agent, may appeal in writing to the board of appeals. The board of appeals shall hear the appeal and render and file its decision with a statement of reasons for the decision with the enforcing agency from whom the appeal was taken not more than 30 days after submission of the appeal. Failure by the board of appeals to hear an appeal and file a decision within the time limit is a denial of the appeal for purposes of authorizing the institution of an appeal to the commission. A copy of the decision and statement of the reasons for the decision shall be delivered or mailed, before filing, to the party taking the appeal.

(2) This act does not prevent a governmental subdivision from granting its board of appeals additional powers or duties not inconsistent with this act, or from establishing procedures to be followed by its board of appeals insofar as the procedures do not conflict with this act. Except as otherwise provided by this act, or by other laws or ordinances, a board of appeals may by rules establish its own procedures.

(3) The business which the board of appeals may perform shall be conducted at a public meeting of the board of appeals held in compliance with Act No. 267 of the Public Acts of 1976. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(4) A record of decisions made by the board of appeals, properly indexed, and any other writing prepared, owned, used, in the possession of, or retained by the board of appeals in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976.

History: 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1977, Act 195, Imd. Eff. Nov. 17, 1977;—Am. 1978, Act 442, Imd. Eff. Oct. 9, 1978.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1515 Specific variance from code; requirements; breach of condition; permissible variance.

Sec. 15. (1) After a public hearing a board of appeals may grant a specific variance to a substantive requirement of the code if the literal application of the substantive requirement would result in an exceptional, practical difficulty to the applicant, and if both of the following requirements are satisfied:

(a) The performance of the particular item or part of the building or structure with respect to which the variance is granted shall be adequate for its intended use and shall not substantially deviate from performance required by the code of that particular item or part for the health, safety and welfare of the people of this state.

(b) The specific condition justifying the variance shall be neither so general nor recurrent in nature as to make an amendment of the code with respect to the condition reasonably practical or desirable.

(2) A board of appeals may attach in writing any condition in connection with the granting of a variance that in its judgment is necessary to protect the health, safety and welfare of the people of this state. The breach of a condition shall automatically invalidate the variance and any permit, license and certificate granted on the basis of it. In no case shall more than minimum variance from the code be granted than is necessary to alleviate the exceptional, practical difficulty.

History: 1972, Act 230, Eff. Jan. 1, 1973.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1516 Appeal to commission; time; hearing; quorum; effect of decision; copy of decision and statement of reasons; record of decisions; public inspection; referral of certain appeals to appropriate board; review of board's decision; petition.

Sec. 16. (1) An interested person, or the interested person's authorized agent, may appeal a decision of a board of appeals to the commission within 10 business days after filing of the decision with the enforcing agency or, in case of an appeal because of failure of a board of appeals to act within the prescribed time, at any time before filing of the decision. The hearing of an appeal based on the denial of a request for a variance by a board of appeals is within the sole discretion of the commission. If deciding an appeal, the commission may act either as a whole or by a panel of 3 or more of the commission members designated by the

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commission's chairperson to hear and decide the appeal. A majority of a panel constitutes a quorum and a decision by a panel requires concurrence of at least a majority of the panel's members. If an appeal has been presented to the commission within the time prescribed, the appeal shall be heard de novo by the commission. The commission may affirm, modify, or reverse a decision of the board of appeals or the enforcing agency. Except if modified or reversed by a court of competent jurisdiction, a decision of the commission made under this section is binding on the applicant and the affected board of appeals and enforcing agency. An appeal to the commission shall be decided within 30 days after receipt of the appeal by the commission. A copy of the decision and a statement of reasons for the decision shall be sent to the applicant and filed with the affected board of appeals and enforcing agency within 5 business days after the making of the decision. A record of decisions made by the commission under this section, properly indexed, shall be kept in the office of the commission, and be open to public inspection during business hours in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) Notwithstanding subsection (1), the executive director of the commission shall refer an appeal to the commission under subsection (1) which in the executive director's judgment relates principally to a mechanical, plumbing, electrical, or barrier free design matter to the appropriate board. The board shall hear and decide the appeal in the same manner as an appeal is heard and decided by the commission under this section, except that a board shall meet as a whole and not in a panel. A person aggrieved by a decision of a board on any appeal under this subsection may petition the commission to review the decision. The commission shall act on the petition within 5 business days after receipt, and may grant the petition at the commission's discretion except that the commission shall grant the petition if it appears that the appeal involves a question of major significance to the people of this state and that the case of the appellant has substantial merit. If the commission grants the petition, the commission acting as a whole shall review the decision in accordance with a procedure established by the commission's rules.

History: 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1974, Act 180, Imd. Eff. June 27, 1974;—Am. 1978, Act 442, Imd. Eff. Oct. 9, 1978;—Am. 2001, Act 164, Imd. Eff. Nov. 7, 2001.

Popular name: Act 230

Popular name: Uniform Construction Code

Administrative rules: R 408.30101 et seq. of the Michigan Administrative Code.

125.1517 Effect of appeal on orders, determinations, decisions, and actions.

Sec. 17. An appeal to a board of appeals or the commission pursuant to this act, or to a court of competent jurisdiction pursuant to Act No. 306 of the Public Acts of 1969, as amended, does not stay a stop construction order issued by an enforcing agency or prevent an enforcing agency from seeking an order in a court of competent jurisdiction enjoining the violation of a stop construction order. In other cases, an appeal to a board of appeals, or to the commission pursuant to this act, or to a court of competent jurisdiction pursuant to Act No. 306 of the Public Acts of 1969, as amended, shall act as a stay upon an order, determination, decision or action appealed from, unless the enforcing agency establishes that immediate enforcement of the order, determination, decision or action is necessary to avoid substantial peril to life or property.

History: 1972, Act 230, Eff. Jan. 1, 1973.

Compiler's note: For provisions of Act 306 of 1969, referred to in this section, see MCL 24.201 et seq.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1518 Filing claim of appeal or petition to review.

Sec. 18. An appeal pursuant to Act No. 306 of the Public Acts of 1969, as amended, from a decision of the commission or a board, following an appeal from a decision of a board of appeals or enforcing agency shall be made by a claim of appeal filed with the court of appeals. An appeal pursuant to that act from any other decision of the commission or of a board shall be by petition to review filed with the Ingham county circuit court.

History: 1972, Act 230, Eff. Jan. 1, 1973.

Compiler's note: For provisions of Act 306 of 1969, referred to in this section, see MCL 24.201 et seq.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1519 Premanufactured units; certificate of acceptability; rules; building permit; fee; objections; hearing.

Sec. 19. (1) The department shall promulgate rules establishing a procedure by which a premanufactured

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unit intended for use in this state may be issued a certificate of acceptability by the department at its place of manufacture.

(2) The procedure shall require that the manufacturer submit to the department detailed plans and specifications for the premanufactured unit for approval as in compliance with the code. The department may require that the manufacturer submit test results on the premanufactured unit or its components, any material or information the department considers relevant, or 1 or more of the premanufactured units for testing and evaluation by the department.

(3) Each premanufactured unit shall be inspected by the department, or a qualified person approved by the department, to determine that the premanufactured unit has been manufactured in accordance with plans and specifications submitted under subsection (2). The department may issue a certificate of acceptability for a premanufactured unit that bears the approved label of an independent, nationally recognized body having follow-up inspection service satisfactory to the commission, certifying that the premanufactured unit complies with plans and specifications submitted under subsection (2).

(4) Plans and specifications for 1- and 2-family dwelling premanufactured units may be reviewed by the department or by an independent entity approved by the commission under rules promulgated by the department. The department shall establish submission procedures for plans and specifications reviewed by an independent entity approved by the commission.

(5) A local enforcing agency may also inspect a premanufactured unit at its place of manufacture to determine that it has been manufactured in accordance with plans and specifications submitted under subsection (2) and shall advise the state inspector and the commission in writing of any deviations found.

(6) An approved independent entity shall not conduct in-plant inspections of units for which it performed plan reviews. However, the manufacturer may request a variance from the commission if the literal application of the requirements of this section would result in an exceptional, practical difficulty relating to inspection of specific units. For purposes of this subsection, “exceptional, practical difficulty” includes, but is not limited to, a geographic distance between the manufacturing facility where the units are manufactured and the primary business location of the independent entity that conducts in-plant inspections on behalf of the manufacturer of more than 250 miles and is located in another state.

(7) If an application for a building permit specifying use of a premanufactured unit with a certificate of acceptability is submitted to an enforcing agency, and if the application, except for the part calling for use of a premanufactured unit with a certificate of acceptability, complies with applicable construction regulations, zoning laws, and local ordinances, the enforcing agency shall issue the building permit within the time specified in this act.

(8) At the time of installation, a premanufactured unit with a certificate of acceptability is subject only to the nondestructive tests approved by the department necessary to determine that it has not been damaged in transit or installation, and that it has been installed in accordance with the building permit and construction regulations.

(9) The fees established for a building permit when the application specifies use of a premanufactured unit with a certificate of acceptability, or for inspection of the installation of the premanufactured unit shall bear a reasonable relation to the costs incurred by the enforcing agency in issuing a permit or performing an inspection.

(10) Notwithstanding any other provision of this section, an enforcing agency may object to use of a premanufactured unit with a certificate of acceptability on the basis that the premanufactured unit does not comply with the code. If an enforcing agency on receipt of an application for a building permit specifying the use of a premanufactured unit does object, it may set forth its objections in writing to the department before issuance of a building permit and within 10 business days after receipt of the application. Within 10 business days after receipt of the objections, the commission, or a panel of 3 or more members designated for that purpose by its chairman, shall hold a hearing on the objections in accordance with rules promulgated by the department. After the hearing, the commission, or its panel, within 3 business days shall determine 1 of the following:

(a) The premanufactured unit does not comply with the code and order that the certificate of acceptability be voided.

(b) The premanufactured unit requires additional testing and evaluation in which case the testing and evaluation shall be conducted in accordance with this section.

(c) The objections are not valid and order the enforcing agency to issue the building permit within 3 business days.

(11) A certificate of acceptability issued by the department shall not be used for advertising purposes.

History: 1972, Act 230, Eff. Jan. 1, 1973;—Am. 2002, Act 721, Imd. Eff. Dec. 30, 2002.

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Popular name: Act 230

Popular name: Uniform Construction Code

Administrative rules: R 408.30101 et seq. of the Michigan Administrative Code.

125.1520 Examination of plans and specifications; assistance in inspection of construction or performance of duties.

Sec. 20. At the request of an enforcing agency or the governmental subdivision, the commission may agree to examine any plans and specifications submitted to the enforcing agency or the governmental subdivision, in connection with an application for a building permit to determine whether they comply with the code. At the request of an enforcing agency or the governmental subdivision, the commission may agree to assist the agency or the governmental subdivision, in the inspection of any construction of buildings or structures, or in the performance of any other duty related to the administration and enforcement of the code.

History: 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1980, Act 371, Imd. Eff. Dec. 30, 1980.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1521 Petition for approval of materials, products and methods; testing and evaluation; certificate of acceptability.

Sec. 21. A person may petition the commission to approve the use of a particular material, product, method of manufacture or method or manner of construction or installation. The petition shall be in writing on a form to be prescribed by the commission accompanied by such information and material as the commission may by rule require and by an initial fee. On receipt of the petition, the commission shall cause to be conducted testing and evaluation it deems desirable for the particular material, product, method of manufacture or method or manner of construction or installation. After the testing and evaluation, and after a hearing open to the public in which the results of the testing and evaluation are made part of the record, and the petitioner or any other interested party is allowed to present evidence in support of or against the petition, the commission may reject the petition in whole or in part, may in accordance with procedures established in this act amend the code in such manner as the commission deems appropriate, or may grant a certificate of acceptability for the particular material, product, method of manufacture, or method or manner of construction or installation. A petition shall not be rejected if the application is in proper form and the fees are paid, and if performance of the particular material, product, method of manufacture, or method or manner of construction or installation is adequate for its intended use and consistent with reasonable requirements for the health, safety and welfare of the people of this state. The commission may attach any condition it deems appropriate to a certificate of acceptability. A material, product, method of manufacture, or method or manner of construction or installation shall be acceptable for use throughout this state in accordance with the terms of a certificate of acceptability issued with respect to it. A copy of each certificate of acceptability shall be sent or delivered by the commission to each governmental subdivision, however, failure of the commission to comply with this requirement does not prevent or delay effectiveness of a certificate of acceptability. A certificate of acceptability issued by the commission pursuant to this section shall not be used for advertising purposes.

History: 1972, Act 230, Eff. Jan. 1, 1973.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1521a Installation or use of heating cable; application for approval; "heating cable" defined; construction of section.

Sec. 21a. (1) Beginning 1 year after the effective date of the amendatory act that added this section, heating cable shall not be installed or used in a building or structure in this state until approved by the commission pursuant to section 21. As provided in section 8, this section is effective throughout the state without local modification.

(2) An application for approval of heating cable submitted to the commission, which includes listing by a nationally recognized testing laboratory found to comply with established standards, shall be approved unless the commission finds it would endanger the public safety.

(3) For purposes of this section, "heating cable" means heating cable as defined in section 2 of the heating cable safety act, that is, cable designed to be secured to pipes and vessels to reduce their likelihood of freezing or to facilitate the flow of viscous liquids. Heating cable also includes products used for deicing on roofs and in gutters and downspouts. Heating cable intended for industrial and commercial use is connected to the supply system by a permanent wiring method or by an attachment plug for connection to a receptacle outlet. Heating cable intended for residential and mobile home use has an attachment plug for connection to a

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receptacle outlet. Heating cable is commonly known as heat tape.

(4) This section shall not be construed to limit the powers and duties granted pursuant to any other law to a state agency or official.

History: Add. 1994, Act 128, Imd. Eff. May 17, 1994.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1522 Fees; state construction code fund; fund for purchase and sale of codes and standards.

Sec. 22. (1) The legislative body of a governmental subdivision shall establish reasonable fees to be charged by the governmental subdivision for acts and services performed by the enforcing agency or construction board of appeals under this act, which fees shall be intended to bear a reasonable relation to the cost, including overhead, to the governmental subdivision of the acts and services, including, without limitation, those services and acts as, in case of an enforcing agency, issuance of building permits, examination of plans and specifications, inspection of construction undertaken pursuant to a building permit, and the issuance of certificates of use and occupancy, and, in case of a board of appeals, hearing appeals in accordance with this act. The enforcing agency shall collect the fees established under this subsection. The legislative body of a governmental subdivision shall only use fees generated under this section for the operation of the enforcing agency or the construction board of appeals, or both, and shall not use the fees for any other purpose.

(2) To accomplish the objectives of this section and this act, a state construction code fund is created. The director, after approval by the commission and following a public hearing held by the commission, shall establish reasonable fees to be charged by the commission for acts and services performed by the commission including, without limitation, inspection of plans and specifications, issuance of certificates of acceptability, testing and evaluation of new products, methods and processes of construction or alteration, issuance of building permits, inspection of construction undertaken pursuant to a building permit, the issuance of certificates of use and occupancy, and hearing of appeals. Fees established by the department shall be intended to bear a reasonable relation to the cost, including overhead, of the service or act. Until the director establishes fees pursuant to this act, the fees established pursuant to this subsection shall remain in effect. The state treasurer shall be the custodian of the fund and may invest the surplus of the fund in investments as in the state treasurer's judgment are in the best interest of the fund. Earnings from those investments shall be credited to the fund. The state treasurer shall notify the director and the legislature of interest credited and the balance of the fund as of September 30 of each year. The director shall supervise and administer the fund. Fees received by the department and money collected under this act shall be deposited in the state construction code fund and shall be appropriated by the legislature for the operation of the bureau of construction codes, and indirect overhead expenses in the department. Funds that are unexpended at the end of each fiscal year shall be returned to the state construction code fund. A self-supporting fund shall be established within the commission to provide for the purchase and sale of codes and standards to the general public.

History: 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1978, Act 442, Imd. Eff. Oct. 9, 1978;—Am. 1980, Act 371, Imd. Eff. Dec. 30, 1980;—Am. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1523 Unlawful conduct; penalty; separate offenses; retention of fine by governmental subdivision; designation of violation as municipal civil infraction.

Sec. 23. (1) Except as provided in subsection (3), a person or corporation, including an officer, director, or employee of a corporation, or a governmental official or agent charged with the responsibility of issuing permits or inspecting buildings or structures, who does any of the following is guilty of a misdemeanor punishable by a fine of not more than $500.00 or imprisonment for not more than 90 days, or both:

(a) Knowingly violates this act or the code or a rule for the enforcement of this act or code.

(b) Knowingly constructs or builds a structure or building in violation of a condition of a building permit.

(c) Knowingly fails to comply with an order issued by an enforcing agency, a construction board of appeals, a board, or the commission pursuant to this act.

(d) Knowingly makes a false or misleading written statement, or knowingly omits required information or a statement in an inspection report, application, petition, request for approval, or appeal to an enforcing agency, a construction board of appeals, a board, or the commission.

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(e) Knowingly refuses entry or access to an inspector lawfully authorized to inspect any premises, building, or structure pursuant to this act.

(f) Unreasonably interferes with an authorized inspection.

(g) Knowingly issues, fails to issue, causes to be issued, or assists in the issuance of a certificate, permit, or license in violation of this act or a rule promulgated under this act or other applicable laws.

(h) Having a duty to report violations of this act or a rule promulgated under this act or other applicable laws, knowingly conceals a violation.

(2) With respect to subsection (1)(c), a person is guilty of a separate offense for each day that the person fails to comply with a stop construction order validly issued by an enforcing agency and for each week that the person fails to comply with any other order validly issued by an enforcing agency. With respect to subsection (1)(a) or (d), a person is guilty of a separate offense for each knowing violation of this act or a rule promulgated under this act and for each false or misleading written statement or omission of required information or statement knowingly made in an application, petition, request for approval, or appeal to an enforcing agency, a construction board of appeals, a board, or the commission. With respect to subsection (1)(b), a person is guilty of a separate offense for each knowing violation of a condition of a building permit.

(3) If a governmental subdivision has the responsibility of administering and enforcing this act and prosecutes a violation of this act, the governmental subdivision may retain a fine imposed upon conviction. If a governmental subdivision has the responsibility of administering and enforcing this act, the governmental subdivision may by ordinance designate a violation described in subsection (1) or (2) as a municipal civil infraction and provide a civil fine for the violation. The governmental subdivision may retain the civil fine imposed upon judgment.

History: 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1978, Act 442, Imd. Eff. Oct. 9, 1978;—Am. 1980, Act 371, Imd. Eff. Dec. 30, 1980;—Am. 1994, Act 22, Eff. May 1, 1994.

Popular name: Act 230

Popular name: Uniform Construction Code

Administrative rules: R 408.30101 et seq. of the Michigan Administrative Code.

125.1523a Civil violation; penalty; enforcement.

Sec. 23a. (1) In addition to any other penalties or remedies provided by law, a person who is required to be licensed as a residential builder or residential maintenance and alteration contractor, or as a master or journeyman plumber, an electrical contractor or master or journeyman electrician, or a mechanical contractor shall not perform work on a residential building or a residential structure without first obtaining a license. A person who violates this section is responsible for a civil violation, and shall be fined not less than $100.00 or more than $500.00.

(2) The prosecuting attorney of the county in which the residential building or residential structure is located or the attorney general may enforce this section.

History: Add. 1989, Act 135, Eff. Oct. 1, 1989.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1524 Effect of existing construction regulations and permits.

Sec. 24. Until 6 months after promulgation of the code, construction regulations heretofore or hereafter adopted by a governmental subdivision continue in effect unless repealed by local law or ordinance. Six months after the promulgation of the code and thereafter, construction regulations adopted by a governmental subdivision shall be considered repealed and invalid, except as provided in section 8. A building permit validly issued under local construction regulations within 6 months before promulgation of the code is valid, and the construction of a building or structure may be completed pursuant to that building permit. The construction of a building or structure started before promulgation of the code in an area of the state that did not as of the date of beginning of construction require a building permit may be completed without a building permit. Except as provided in section 28, construction regulations incorporated in any act of this state in effect or validly promulgated by any board, department, commission, or agency continue in effect until promulgation of the code at which time they shall be considered to be superseded.

History: 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1980, Act 371, Imd. Eff. Dec. 30, 1980.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1525 Effect of act on functions of state plumbing and electrical administrative boards.

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Sec. 25. This act does not affect the functions of the state plumbing board with respect to the licensing of master or journeyman plumbers and the registration of plumbers' apprentices, and of the electrical administrative board with respect to the issuance of class 1, electrical contractor's licenses, class 2, master electricians' licenses and class 3, journeyman's licenses.

History: 1972, Act 230, Eff. Jan. 1, 1973.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1526 Transfer of state plumbing and electrical administrative boards to commission.

Sec. 26. Subject to other provisions of this act concerned with the relationship between the commission and the boards, the state plumbing and electrical administrative boards are transferred to the commission without alteration of their functions.

History: 1972, Act 230, Eff. Jan. 1, 1973.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1528 Inconsistent or conflicting provisions; construction of act.

Sec. 28. (1) Any provision of section 34 of Act No. 18 of the Public Acts of the Extra Session of 1933, being section 125.684 of the Michigan Compiled Laws; Act No. 266 of the Public Acts of 1929, being sections 338.901 to 338.917 of the Michigan Compiled Laws; Act No. 222 of the Public Acts of 1901, being sections 338.951 to 338.965 of the Michigan Compiled Laws; the electrical administrative act, Act No. 217 of the Public Acts of 1956, being sections 338.881 to 338.892 of the Michigan Compiled Laws; and any other public act of this state which is inconsistent or in conflict with this act is superseded to the extent of the inconsistency or conflict.

(2) This act shall not be construed to repeal, amend, supersede, or otherwise affect the powers and duties presently exercised under part 55 (air pollution) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.5501 to 324.5542 of the Michigan Compiled Laws; part 124 of Act No. 368 of the Public Acts of 1978, being sections 333.12401 to 333.12434 of the Michigan Compiled Laws; the Michigan occupational safety and health act, Act No. 154 of the Public Acts of 1974, being sections 408.1001 to 408.1094 of the Michigan Compiled Laws; the boiler act of 1965, Act No. 290 of the Public Acts of 1965, being sections 408.751 to 408.776 of the Michigan Compiled Laws; or Act No. 227 of the Public Acts of 1967, being sections 408.801 to 408.824 of the Michigan Compiled Laws. This act shall not be construed to repeal, amend, or otherwise affect Act No. 306 of the Public Acts of 1937, being sections 388.851 to 388.855a of the Michigan Compiled Laws.

History: 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1980, Act 371, Imd. Eff. Dec. 30, 1980;—Am. 1996, Act 48, Imd. Eff. Feb. 26, 1996.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1529 Enforcement of code or construction regulations by governmental subdivision or enforcing agency.

Sec. 29. Except as otherwise provided in this act, this act does not abrogate or impair the power of a governmental subdivision or enforcing agency to enforce the provisions of the code or any other applicable construction regulations, or to prevent violations or impose sanctions on violators.

History: 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1994, Act 22, Eff. May 1, 1994.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1530 Saving clause; pending or subsequent prosecutions.

Sec. 30. Proceedings pending and rights and liabilities existing, acquired or incurred under existing construction regulations as long as they remain in effect are saved. The proceedings may be consummated according to the law in force when the proceedings were commenced. Neither this act nor the code shall be construed to alter, affect or abate a pending prosecution, or prevent prosecution hereafter instituted under such repealed construction regulations for offenses committed as long as the construction regulations remain in effect. Prosecutions instituted after the repeal of existing construction regulations for offenses committed before the effective date of the repeal may be continued or instituted in accordance with construction regulations in effect at the time of the commission of the offenses.

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History: 1972, Act 230, Eff. Jan. 1, 1973.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1531 Effective date.

Sec. 31. This act shall take effect January 1, 1973.

History: 1972, Act 230, Eff. Jan. 1, 1973.

Popular name: Act 230

Popular name: Uniform Construction Code

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INDIAN HOUSING AUTHORITY
Act 220 of 1979

AN ACT to provide for the establishment of Indian housing authorities on Indian reservations in this state; and to prescribe the powers and duties of an Indian housing authority.

History: 1979, Act 220, Imd. Eff. Jan. 21, 1980.

The People of the State of Michigan enact:

125.1551 Definitions.

Sec. 1. As used in this act:

(a) "Authority" means an Indian housing authority created pursuant to section 2.

(b) "Indian reservation" means an Indian community which has land held in trust for the Indian community by the federal or state government, or a local unit of government, or which owns the land in its own name.

(c) "Reservation governor" means the chairperson or president of the elected governing council of an Indian reservation.

History: 1979, Act 220, Imd. Eff. Jan. 21, 1980.

125.1552 Indian housing authority; creation; appointment, qualifications, and terms of members; vacancy; election of officers; commissioner as secretary and treasurer.

Sec. 2. (1) Each Indian reservation in this state may create an Indian housing authority. Each authority shall have 5 commissioners appointed by the reservation governor, with the advice and consent of the tribal council of the reservation for which the authority is created. Not less than 4 commissioners, including the chairperson, shall be members of the tribe of the respective reservation. The holding of any tribal office shall not bar appointment of a tribal member to the authority of the member's reservation.

(2) The term of a member appointed, except to fill a vacancy occurring other than by expiration of term, shall be 4 years from the expiration of the term of the member's predecessor. However, the terms of the members first appointed shall be as follows: 1 shall be appointed for 1 year, 1 for 2 years, 1 for 3 years, and 2 for 4 years. A vacancy in the office of an appointed member occurring other than by expiration of term shall be filled in the same manner as the original appointment for the balance of the term.

(3) Each authority shall elect a chairperson, a vice-chairperson, a secretary, and a treasurer from among the commissioners. A commissioner may hold the positions of both secretary and treasurer.

History: 1979, Act 220, Imd. Eff. Jan. 21, 1980.

125.1553 Conducting business at public meeting; notice; availability of writings to public.

Sec. 3. (1) The business which an authority may perform shall be conducted at a public meeting of the authority held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

(2) A writing prepared, owned, used, in the possession of, or retained by an authority in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1979, Act 220, Imd. Eff. Jan. 21, 1980.

125.1554 Indian housing authority; powers and duties.

Sec. 4. An authority shall have all of the following powers and duties:

(a) To purchase, lease, sell, exchange, transfer, assign, and mortgage real or personal property or any interest in the property, or acquire real or personal property by gift or bequest. The authority also may clear and improve property, engage in or contract for the design, construction, alteration, improvement, extension, or repair of a house or housing project under the authority's jurisdiction.

(b) To lease, operate, and maintain, or provide for the leasing, operation, and maintenance of a housing project.

(c) To provide for water, sewage, drainage, recreational, community, and educational facilities which the authority considers a necessary part of a housing project.

(d) To provide for streets, sidewalks, bicycle paths, or any other type of thoroughfare which the authority considers necessary for the transportation needs of the inhabitants of a housing project.

(e) To arrange for financing of housing projects and to enter into grants or contracts for the implementation of the activities described in this section.

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History: 1979, Act 220, Imd. Eff. Jan. 21, 1980.

125.1555 Facilities, services, and financial aid; agreement with state.

Sec. 5. The state may provide facilities, services, and financial aid, by loan, grant, or appropriation, to an authority. In addition, the state may enter into an agreement with an authority for the purposes of implementing this act.

History: 1979, Act 220, Imd. Eff. Jan. 21, 1980.

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CONSTRUCTION CONTRACTS WITH CERTAIN PUBLIC AGENCIES
Act 524 of 1980

AN ACT to provide for the terms of certain construction contracts with certain public agencies; to regulate the payment and retainage of payments on construction contracts with certain public agencies; and to provide for the resolution of certain disputes.

History: 1980, Act 524, Eff. Jan. 1, 1983.

The People of the State of Michigan enact:

125.1561 Definitions.

Sec. 1. As used in this act:

(a) "Agent" means the person or persons agreed to or selected by the contractor and the public agency pursuant to section 4(2).

(b) "Architect or professional engineer" means an architect or professional engineer licensed under Act No. 299 of the Public Acts of 1980, being sections 339.101 to 339.2601 of the Michigan Compiled Laws, and designated by a public agency in a construction contract to recommend progress payments.

(c) "Construction contract" or "contract" means a written agreement between a contractor and a public agency for the construction, alteration, demolition, or repair of a facility, other than a contract having a dollar value of less than $30,000.00 or a contract that provides for 3 or fewer payments.

(d) "Contract documents" means the construction contract; instructions to bidders; proposal; conditions of the contract; performance bond; labor and material bond; drawings; specifications; all addenda issued before execution of the construction contract and all modifications issued subsequently.

(e) "Contractor" means an individual, sole proprietorship, partnership, corporation, or joint venture, that is a party to a construction contract with a public agency.

(f) "Facility" means a building, utility, road, street, boulevard, parkway, bridge, ditch, drain, levee, dike, sewer, park, playground, or other structure or work that is paid for with public funds or a special assessment.

(g) "Progress payment" means a payment by a public agency to a contractor for work in place under the terms of a construction contract.

(h) "Public agency" means this state, or a county, city, township, village, assessment district, or other political subdivision, corporation, commission, agency, or authority created by law. However, public agency does not include the state transportation department, a school district, junior or community college, the Michigan state housing development authority created in Act No. 346 of the Public Acts of 1966, as amended, being sections 125.1401 to 125.1496 of the Michigan Compiled Laws, and a municipal electric utility or agency. "Assessment district" means the real property within a distinct area upon which special assessments are levied or imposed for the construction, reconstruction, betterment, replacement, or repair of a facility to be paid for by funds derived from those special assessments imposed or levied on the benefited real property.

(i) "Retainage" or "retained funds" means the amount withheld from a progress payment to a contractor pursuant to section 3.

History: 1980, Act 524, Eff. Jan. 1, 1983.

125.1562 Construction contract; designation of person to submit written requests for progress payments; designation of person to whom requests for progress payments to be submitted; manner and times of submissions; deferring the processing of progress payments; payment of requested progress payment; failure of public agency to make timely progress payment; interest.

Sec. 2. (1) The construction contract shall designate a person representing the contractor who will submit written requests for progress payments, and a person representing the public agency to whom request for progress payments are to be submitted. The written requests for progress payments shall be submitted to the designated person in a manner and at such times as provided in the construction contract.

(2) The processing of progress payments by the public agency may be deferred by the public agency until work having a prior sequence, as provided in the contract documents, is in place and is approved.

(3) Each progress payment requested, including reasonable interest if requested under subsection (4), shall be paid within 1 of the following time periods, whichever is later:

(a) Thirty days after the architect or professional engineer has certified to the public agency that work is in place in the portion of the facility covered by the applicable request for payment in accordance with the contract documents.

(b) Fifteen days after the public agency has received the funds with which to make the progress payment

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from a department or agency of the federal or state government, if any funds are to come from either of those sources.

(4) Upon failure of a public agency to make a timely progress payment pursuant to this section, the person designated to submit requests for progress payments may include reasonable interest on amounts past due in the next request for payment.

History: 1980, Act 524, Eff. Jan. 1, 1983.

125.1563 Retaining portion of each progress payment to assure proper performance of construction contract; retainage; limitations; exceeding pro rata share of public agency's matching requirement; commingling and deposit of retained funds; releasing to contractor retainage and interest earned on retainage; irrevocable letter of credit.

Sec. 3. (1) To assure proper performance of a construction contract by the contractor, a public agency may retain a portion of each progress payment otherwise due as provided in this section.

(2) The retainage shall be limited to the following:

(a) Not more than 10% of the dollar value of all work in place until work is 50% in place.

(b) After the work is 50% in place, additional retainage shall not be withheld unless the public agency determines that the contractor is not making satisfactory progress, or for other specific cause relating to the contractor's performance under the contract. If the public agency so determines, the public agency may retain not more than 10% of the dollar value of work more than 50% in place.

(3) The retained funds shall not exceed the pro rata share of the public agency's matching requirement under the construction contract and shall not be commingled with other funds of the public agency and shall be deposited in an interest bearing account in a regulated financial institution in this state wherein all such retained funds are kept by the public agency which shall account for both retainage and interest on each construction contract separately. A public agency is not required to deposit retained funds in an interest bearing account if the retained funds are to be provided under a state or federal grant and the retained funds have not been paid to the public agency.

(4) Except as provided in section 4(7) and (8), retainage and interest earned on retainage shall be released to a contractor together with the final progress payment.

(5) At any time after 94% of work under the contract is in place and at the request of the original contractor, the public agency shall release the retainage plus interest to the original contractor only if the original contractor provides to the public agency an irrevocable letter of credit in the amount of the retainage plus interest, issued by a bank authorized to do business in this state, containing terms mutually acceptable to the contractor and the public agency.

History: 1980, Act 524, Eff. Jan. 1, 1983.

125.1564 Construction contract; agreement to submit matters described in subsection (3) to decision of agent; designation of agent; dispute resolution process; use; agent to receive pertinent information and provide opportunity for informal meeting; decision of agent to be final and binding; vacation of decision by circuit court; dispute resolution resulting in decision; final progress payment to original contractor where public agency contracts with subsequent contractor.

Sec. 4. (1) The construction contract shall contain an agreement to submit those matters described in subsection (3) to the decision of an agent at the option of the public agency.

(2) If a dispute regarding a matter described in subsection (3) arises, the contractor and the public agency shall designate an agent who has background, training, and experience in the construction of facilities similar to that which is the subject of the contract, as follows:

(a) In an agreement reached within 10 days after a dispute arises.

(b) If an agreement cannot be reached within 10 days after a dispute arises, the public agency shall designate an agent who has background, training, and experience in the construction of facilities similar to that which is the subject of the contract and who is not an employee of the agency.

(3) The public agency may request dispute resolution by the agent regarding the following:

(a) At any time during the term of the contract, to determine whether there has been a delay for reasons that were within the control of the contractor, and the period of time that delay has been caused, continued, or aggravated by actions of the contractor.

(b) At any time after 94% of work under the contract is in place, whether there has been an unacceptable delay by the contractor in the performance of the remaining 6% of work under the contract. The agent shall consider the terms of the contract and the procedures normally followed in the industry and shall determine

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whether the delay was for failure to follow reasonable and prudent practices in the industry for completion of the project.

(4) This dispute resolution process shall be used only for the purpose of determining the rights of the parties to retained funds and interest earned on retained funds and is not intended to alter, abrogate, or limit any rights with respect to remedies that are available to enforce or compel performance of the terms of the contract by either party.

(5) The agent may request and shall receive all pertinent information from the parties and shall provide an opportunity for an informal meeting to receive comments, documents, and other relevant information in order to resolve the dispute. The agent shall determine the time, place, and procedure for the informal meeting. A written decision and reasons for the decision shall be given to the parties within 14 days after the meeting.

(6) The decision of the agent shall be final and binding upon all parties. Upon application of either party, the decision of the agent may be vacated by order of the circuit court only upon a finding by the court that the decision was procured by fraud, duress, or other illegal means.

(7) If the dispute resolution results in a decision:

(a) That there has been a delay as described in subsection (3)(a), all interest earned on retained funds during the period of delay shall become the property of the public agency.

(b) That there has been unacceptable delay as described in subsection (3)(b), the public agency may contract with a subsequent contractor to complete the remaining 6% of work under the contract, and interest earned on retained funds shall become the property of the public agency. A subsequent contractor under this subdivision shall be paid by the public agency from the following sources until each source is depleted, in the order listed below:

(*i*) The dollar value of the original contract, less the dollar value of funds already paid to the original contractor and the dollar value of work in place for which the original contractor has not received payment.

(*ii*) Retainage from the original contractor, or funds made available under a letter of credit provided under section 3(5).

(*iii*) Interest earned on retainage from the original contractor, or funds made available under a letter of credit provided under section 3(5).

(8) If the public agency contracts with a subsequent contractor as provided in subsection (7)(b), the final progress payment shall be payable to the original contractor within the time period specified in section 2(3). The amount of the final progress payment to the original contractor shall not include interest earned on retained funds. The public agency may deduct from the final progress payment all expenses of contracting with the subsequent contractor. This act shall not impair the right of the public agency to bring an action or to otherwise enforce a performance bond to complete work under a construction contract.

History: 1980, Act 524, Eff. Jan. 1, 1983.

125.1565 Construction contracts to which act applicable.

Sec. 5. (1) Except as provided in subsection (2), this act shall apply only to a construction contract entered into after the effective date of this act.

(2) For a construction contract entered into before the effective date of this act, the provisions of this act may be implemented by a public agency, through a contract amendment, upon the written request of the contractor, with such consideration as the public agency considers adequate.

History: 1980, Act 524, Eff. Jan. 1, 1983.

125.1566 Effective date.

Sec. 6. This act shall take effect January 1, 1983.

History: 1980, Act 524, Eff. Jan. 1, 1983.

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MICHIGAN BUSINESS INCUBATION ACT
Act 198 of 1984

AN ACT to encourage and assist in the establishment and expansion of certain small businesses within this state through the creation of business incubation centers; to provide for community boards and to prescribe their powers and duties; to prescribe the duties of the department of commerce; to prescribe the duties of, and certain benefits provided to, lessees of business incubation centers; and to make an appropriation.

History: 1984, Act 198, Imd. Eff. July 3, 1984.

Compiler's note: For transfer of powers and duties under the Michigan business incubation act from the department of commerce to the chief executive officer of the Michigan jobs commission, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

125.1571 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan business incubation act".

History: 1984, Act 198, Imd. Eff. July 3, 1984.

Compiler's note: For transfer of powers and duties under the Michigan business incubation act from the department of commerce to the chief executive officer of the Michigan jobs commission, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

125.1572 Definitions.

Sec. 2. As used in this act:

(a) "Business incubation center" or "center" means a building described in section 3.

(b) "Community board" or "board" means a board created pursuant to section 4.

(c) "Department" means the department of commerce.

(d) "Educational institution" means a local school district, an intermediate school district, or a college, university, community college, or junior college within this state.

(e) "Local governmental unit" means a county, township, city, or village within this state.

History: 1984, Act 198, Imd. Eff. July 3, 1984.

125.1573 Designation of business incubation centers; purpose; title to or lease of building; priority of proposals.

Sec. 3. (1) Upon receipt of a petition from a community board pursuant to section 5, the department shall designate, in whole or in part, not more than 10 vacant or nearly vacant buildings as business incubation centers for the purpose of encouraging and assisting, as described in this act, the establishment and expansion of small businesses within this state. A community board described in section 4, a local governmental unit, or an educational institution may hold title to the building or may lease the building from the title holder.

(2) In designating business incubation centers, priority shall be given to those proposals that the department determines conform with all of the following:

(a) Will generate a significant number of jobs.

(b) Are supported by 2 or more proximate local governmental units, or 1 local governmental unit and at least 1 educational unit, each of which agrees to contribute monetarily or in kind to the center.

(c) Are supported by local representatives of business, labor, and education.

(d) Have financial commitment of at least 50% of the projected unreimbursed costs of the establishment and maintenance of the center for a 3-year period. As used in this subdivision:

(*i*) "Costs of the establishment" includes the fair market rental value of the center.

(*ii*) "Unreimbursed costs" means total costs less rental receipts.

History: 1984, Act 198, Imd. Eff. July 3, 1984.

125.1574 Community board; appointment or designation; membership; chairperson; compensation prohibited; terms; conducting business at public meeting; notice; availability of writings to public; disclosing matters of proprietary nature.

Sec. 4. (1) A local governmental unit or educational institution or other organization that desires to have a vacant or nearly vacant building designated, in whole or in part, as a business incubation center shall appoint, in conjunction with local governmental units or private organizations that agree to contribute monetarily or in kind to the center, a community board to perform the duties required of the board by this act. A local governmental unit or educational institution may designate an existing board of an economic development entity, such as an economic development corporation created pursuant to the economic development

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corporations act, Act No. 338 of the Public Acts of 1974, being sections 125.1601 to 125.1636 of the Michigan Compiled Laws, a downtown development authority created pursuant to Act No. 197 of the Public Acts of 1975, being sections 125.1651 to 125.1680 of the Michigan Compiled Laws, or other similar economic development entity, upon consent of that entity, as the community board.

(2) Except as provided in subsection (3), the board shall be of a size that the appointing bodies determine to be appropriate, but shall consist of not more than 15 persons. The members of the board shall consist of representatives from key segments of the community, including, but not limited to, political, financial, business, labor, and educational representatives. The board shall elect from its members a chairperson.

(3) An existing board of an economic development entity designated as a community board pursuant to subsection (1) need not meet the number requirements of subsection (2), but must meet the composition requirements of subsection (2).

(4) Board members shall serve without compensation and shall serve at the pleasure of the appointing bodies or until the board's task is completed, whichever occurs first.

(5) Except as provided in subsection (7), the business which the board may perform shall be conducted at a public meeting held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(6) Except as provided in subsection (7), a writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(7) The board shall not disclose, either orally or in writing, matters of a proprietary nature without the consent of the applicant or lessee submitting the information.

History: 1984, Act 198, Imd. Eff. July 3, 1984.

125.1575 Community board; duties; petition for designation.

Sec. 5. (1) Upon appointment, the community board shall do all of the following:

(a) Identify the building or part of the building under consideration for designation as a business incubation center.

(b) Advertise the concept of a business incubation center in the surrounding area.

(c) Solicit the views of the community concerning the designation of the building or part of the building under consideration as a business incubation center.

(d) Identify possible tenants for the center.

(e) Obtain commitments from persons, organizations, businesses, local governmental units, or other sources amounting to at least 50% of those costs not covered by rental fees that the board estimates will be needed for the establishment and operation of the business incubation center for 3 years.

(2) If, after performing the duties required by subsection (1), the board determines that a designation of the building under consideration as a business incubation center is desirable and possible, the board shall petition the department for the designation.

History: 1984, Act 198, Imd. Eff. July 3, 1984.

125.1576 Feasibility study; factors; notice of decision; reapplication or designation.

Sec. 6. (1) After filing a petition pursuant to section 5, the community board, in cooperation with the department, shall conduct and complete within 180 calendar days an in-depth center feasibility study. The study shall include, but not be limited to, all of the following factors:

(a) Necessary lease, purchase, renovation, or construction costs.

(b) Estimated rental costs for lessees of the center.

(c) Estimated utility costs.

(d) Estimated wage or salary rates of future employees of the center, including a building manager, receptionist, typist, and security guard.

(e) Estimated income for the center, including the estimated annual local subsidies and state appropriation, and, if necessary, the cost of financing.

(f) Prospects of attracting suitable businesses to the center.

(g) The ability of the community to provide necessary support for the center, including but not limited to, technical assistance and training, assistance in attracting employees, assistance in relocating a business, assistance in business start-up, and library facilities.

(2) Within 30 calendar days after completion of the feasibility study, the department, based upon the study and the criteria set forth in section 3, shall notify the board of its decision. If the department does not

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designate the building as a business incubation center, the department shall set forth the reasons for its decision in its notification letter to the board. A board receiving a negative response may reapply for designation of the building when circumstances which led to its initial rejection have been remedied.

History: 1984, Act 198, Imd. Eff. July 3, 1984.

125.1577 Period of designation; return of building to previous state; notification; publicizing closing date.

Sec. 7. (1) Except as provided in subsection (2), a designation of a building as a business incubation center shall remain in effect for 15 years unless otherwise agreed to at any time during the period of designation by the department and a community board.

(2) A local governmental unit or educational institution that has a building designated as a business incubation center and that desires to have the building returned to its previous state before the expiration of 15 years shall notify the board 5 years before the time the building will be needed. Upon receipt of notification, the board shall forward a copy of the notification to the department and shall publicize the closing date of the center to the lessees of the center and to the community.

History: 1984, Act 198, Imd. Eff. July 3, 1984.

125.1578 Application to start or expand small business in business incubation center; contents; waiver for existing business.

Sec. 8. (1) When a building is designated as a business incubation center by the department, its community board shall accept applications from persons desiring to start or expand a small business and to locate that business within a business incubation center. The application, developed by the department, shall elicit, at a minimum, all of the following information:

(a) The type of business that the applicant wishes to start or expand.

(b) An estimate of the number of employees the applicant will need in order to start or expand the business and a 2-year projection of future employment.

(c) The skill and educational level of the employees that the applicant plans to hire.

(d) The ability of the applicant to start or operate a successful business.

(e) A general statement as to why the applicant wishes to be accepted into the business incubation center.

(f) A signed statement by the applicant that he or she understands and accepts the obligations placed upon him or her under section 11 if accepted into the business incubation center.

(g) Information that the applicant considers to be of a proprietary nature and that he or she does not want to be made public.

(2) An existing business located within this state is not eligible to participate in the business incubation program unless a waiver is granted for that business by the department.

History: 1984, Act 198, Imd. Eff. July 3, 1984.

125.1579 Evaluation of applicants; factors; notice of rejection; notice of favorable evaluation.

Sec. 9. (1) A community board shall evaluate applicants who want to start or expand a small business and to locate within the business incubation center based upon, but not limited to, all of the following factors:

(a) The likelihood that the business will be profitable.

(b) Whether the product that would be manufactured, or the service that would be rendered, would be new or improved to the state or the area.

(c) The potential marketability of the product or service.

(d) The likelihood that the business will generate a significant number of new jobs and not eliminate existing jobs.

(e) The likelihood that new jobs generated will be filled by persons who presently are unemployed or whose skills are not in great demand.

(f) The likelihood that the business will not be started if the applicant is not accepted into the business incubation center.

(2) A board shall forward to each applicant whose application it rejects notice of its rejection, together with the reasons for the rejection.

(3) A board shall forward to each local governmental unit that has agreed to contribute monetarily or in kind to the center and to each applicant it favorably evaluates notification of its decision and of whether or not space exists to accept the applicant.

History: 1984, Act 198, Imd. Eff. July 3, 1984.

125.1580 Report; hiring management consultants or contracting with management

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consulting firm.

Sec. 10. (1) A community board shall report in writing at least annually to the department on the activities of the board and the center. The report shall include, at minimum, the name of each applicant whose application it rejects, together with the reasons for the rejection, and the name of each applicant whose application it favorably evaluates.

(2) A community board may hire 1 or more management consultants or contract with a management consulting firm that shall recommend possible tenants for the building and that shall provide the services described in section 12.

History: 1984, Act 198, Imd. Eff. July 3, 1984.

125.1581 Lessee of business incubation center; duties.

Sec. 11. A lessee of a business incubation center shall do all of the following:

(a) Pay rent, which amount shall be determined by the board. The board may agree to have the rent for a predetermined number of months payable at a later date by which time the business is expected to have received committed starting capital.

(b) Pay utilities as determined by the board.

(c) Make every effort to relocate to a permanent location not later than 18 months after entering a business incubation center. A business may request extensions of this requirement for periods of not more than 12 months. The board may grant extensions of up to 12 months at a time upon a determination that a business still requires the services of the center. This subdivision does not apply to support services. As used in this subdivision, “support services” means those services provided to all lessees of the center to assist them in the operation of their business. Support services includes, but is not limited to, bookkeeping, secretarial services, duplicating, and delivery.

History: 1984, Act 198, Imd. Eff. July 3, 1984.

125.1582 Lessee benefits.

Sec. 12. (1) In return for his or her monthly rent, a lessee of a business incubation center shall receive the following benefits:

(a) Physical space within the center.

(b) The services of a building management consultant or management consulting firm.

(c) Services or facilities available within the center that are agreed upon by the board and the lessees of the center. These services and facilities may include, but are not limited to, cleaning, building security, typing, and reception services; conference, laboratory, and library facilities; duplicating machines; and computers.

(2) In addition to the benefits described in subsection (1), the center shall make available certain professional services on a fee for use basis. These services, which the building management consultant of the management consulting firm shall arrange, may include, but are not limited to, information on government regulations, basic management skills, advertising and promotion, marketing, sales, control of inventory levels, recruitment of employees, labor relations, and financial counseling in areas such as venture capital, risk management, taxes, insurance, and qualifying for government small business loans.

History: 1984, Act 198, Imd. Eff. July 3, 1984.

125.1583 Powers and duties of department generally.

Sec. 13. (1) The department shall work closely with business incubation centers, offering advice and assistance when possible, and shall promote, through advertising and other appropriate means, the concept and benefits of business incubation centers and their availability.

(2) The department shall cooperate with community boards, local governmental units, and educational institutions to effectuate the purposes of this act.

(3) The department, if it finds that a community board or center is not operating in compliance with the requirements of the act, may withdraw state funding from the center.

History: 1984, Act 198, Imd. Eff. July 3, 1984.

125.1584 Administration of state funding.

Sec. 14. (1) The department shall administer state funding for the centers it designates.

(2) During the first 3 years of operation, the department shall provide funding for any designated center up to 50% of the costs of establishment and maintenance that are not covered by rental fees. The department shall not provide any state funding to a center after the center's first 3 years of operation. As used in this subsection, “costs of establishment” means the actual cost of leasing the center or the actual cost of acquisition of the center prorated over a period of not less than 15 years.

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History: 1984, Act 198, Imd. Eff. July 3, 1984.

125.1585 Annual appropriation.

Sec. 15. The legislature annually shall appropriate a sum sufficient to implement this act.

History: 1984, Act 198, Imd. Eff. July 3, 1984.

125.1586 Reports.

Sec. 16. The department shall submit to the senate and house committees that have the responsibility for economic development matters 2 reports covering the effectiveness of this act, the number of applicants who were accepted into business incubation centers, and the number of such businesses in operation at the time of the writing of each report. The first report shall be submitted before January 31, 1985, and the second report before January 31, 1990.

History: 1984, Act 198, Imd. Eff. July 3, 1984.

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CONTRACTS FOR IMPROVMENT TO REAL PROPERTY
Act 57 of 1998

AN ACT to require contractors to provide certain notices to governmental entities concerning improvements on real property; to allow for the modification of contracts for improvement to real property; to provide for remedies; and to repeal acts and parts of acts.

History: 1998, Act 57, Eff. Oct. 6, 1998.

The People of the State of Michigan enact:

125.1591 Definitions.

Sec. 1. As used in this act:

(a) "Contractor" means a person who contracts with a governmental entity to improve real property or perform or manage construction services. Contractor does not include a person licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014.

(b) "Governmental entity" means the state, a county, city, township, village, public educational institution, or any political subdivision thereof.

(c) "Improve" means to build, alter, repair, or demolish an improvement upon, connected with, or beneath the surface of any real property, to excavate, clear, grade, fill, or landscape any real property, to construct driveways and roadways, or to perform labor upon improvements.

(d) "Improvement" includes, but is not limited to, all or any part of any building, structure, erection, alteration, demolition, excavation, clearing, grading, filling, landscaping, trees, shrubbery, driveways, and roadways on real property.

(e) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

(f) "Real property" means the real estate that is improved, including, but not limited to, lands, leaseholds, tenements, hereditaments, and improvements placed on the real property.

History: 1998, Act 57, Eff. Oct. 6, 1998.

125.1592 Improvement contract exceeding $75,000; provisions.

Sec. 2. A contract between a contractor and a governmental entity for an improvement that exceeds $75,000.00 shall contain all of the following provisions:

(a) That if a contractor discovers 1 or both of the following physical conditions of the surface or subsurface at the improvement site, before disturbing the physical condition, the contractor shall promptly notify the governmental entity of the physical condition in writing:

(*i*) A subsurface or a latent physical condition at the site is differing materially from those indicated in the improvement contract.

(*ii*) An unknown physical condition at the site is of an unusual nature differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the improvement contract.

(b) That if the governmental entity receives a notice under subdivision (a), the governmental entity shall promptly investigate the physical condition.

(c) That if the governmental entity determines that the physical conditions do materially differ and will cause an increase or decrease in costs or additional time needed to perform the contract, the governmental entity's determination shall be made in writing and an equitable adjustment shall be made and the contract modified in writing accordingly.

(d) That the contractor cannot make a claim for additional costs or time because of a physical condition unless the contractor has complied with the notice requirements of subdivision (a). The governmental entity may extend the time required for notice under subdivision (a).

(e) That the contractor cannot make a claim for an adjustment under the contract after the contractor has received the final payment under the contract.

History: 1998, Act 57, Eff. Oct. 6, 1998.

125.1593 Contract completion; performance; consent of governmental entity; arbitration; judgment rendered.

Sec. 3. (1) If the contractor does not agree with the governmental entity's determination, with the governmental entity's consent the contractor may complete performance on the contract.

(2) At the option of the governmental entity, the contractor and the governmental entity shall arbitrate the

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contractor's entitlement to recover the actual increase in contract time and costs incurred because of the physical condition of the improvement site. The arbitration shall be conducted in accordance with the rules of the American arbitration association and judgment rendered may be entered in any court having jurisdiction.

History: 1998, Act 57, Eff. Oct. 6, 1998.

125.1594 Incorporation of additional provisions.

Sec. 4. If an improvement contract does not contain the provisions required under section 2, the provisions shall be incorporated into and considered part of the improvement contract.

History: 1998, Act 57, Eff. Oct. 6, 1998.

125.1595 Rights or remedies.

Sec. 5. This act does not limit the rights or remedies otherwise available to a contractor or the governmental entity under any other law or statute.

History: 1998, Act 57, Eff. Oct. 6, 1998.

125.1596 Repealed. 2001, Act 28, Imd. Eff. June 22, 2001.

Compiler's note: The repealed section pertained to repeal of act.

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ECONOMIC DEVELOPMENT CORPORATIONS ACT
Act 338 of 1974

AN ACT to provide for the creation of public economic development corporations; to prescribe their powers and duties; to provide for their dissolution; to provide for the issuance of notes and other evidence of indebtedness; to provide for the issuance of bonds; to validate bonds, notes, and other evidence of indebtedness; to provide for condemnation of property; to provide for the undertaking of projects relative to the economic development of municipalities; to provide for loans, grants, transfers, and conveyances of funds and property by municipalities, and disbursement of certain funds to public economic development corporations; to provide for the creation of subsidiary neighborhood development corporations by certain economic development corporations; to provide for the receipt by public economic development corporations of funds and property; to provide for industrial and commercial enterprises and for enterprises involved in housing or neighborhood improvement, and furnishings, equipment, and machinery for the industrial and commercial enterprises and housing; to validate the incorporation of de facto economic development corporations and all actions of the de facto corporations; and to provide savings provisions.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981.

The People of the State of Michigan enact:

125.1601 Short title.

Sec. 1. This act shall be known and may be cited as the “economic development corporations act”.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974.

125.1602 Legislative finding.

Sec. 2. There exists in this state the continuing need for programs to alleviate and prevent conditions of unemployment, and the legislature finds that it is accordingly necessary to assist and retain local industrial and commercial enterprises, including employee-owned corporations, to strengthen and revitalize the economy of this state and its municipalities; that accordingly it is necessary to provide means and methods for the encouragement and assistance of industrial and commercial enterprises, including employee-owned corporations, in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing, equipping, and expanding in this state and in its municipalities; and that it is also necessary to encourage the location and expansion of industrial and commercial enterprises, including employee-owned corporations, to more conveniently provide needed services and facilities of the industrial and commercial enterprises to municipalities and the residents of the municipalities. It is also necessary to promote economic activity in the forestry and agricultural sectors by providing incentives to combat inflation, to reduce energy consumption, to retain the family farm unit, to reduce the rate at which urban sprawl has been devouring our productive farm lands, and to provide our farmers and foresters with a more favorable export market; all this to be accomplished by reducing costs of production. It is also necessary to encourage the development of facilities designed to produce energy from renewable resources. Therefore, the powers granted in this act constitute the performance of essential public purposes and functions for this state and its municipalities.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981;—Am. 1985, Act 154, Imd. Eff. Nov. 12, 1985.

Compiler's note: Section 2 of Act 501 of 1980 provides: “This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h).”

Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: “Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h).”

125.1603 Definitions.

Sec. 3. As used in this act:

(a) “Corporation” means a corporation organized pursuant to this act.

(b) “Employee-owned corporation” means an employee-owned corporation as defined by the employee-owned corporation act.

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(c) “Governing body” means the body in which the legislative powers of a municipality are vested.

(d) “Municipality” means a county, city, village, or township.

(e) “Local public agency” means the official body of a municipality authorized to plan and implement the development and redevelopment of the municipality.

(f) “Project” means land or an interest in land, existing or planned improvements, machinery, furnishings, or equipment suitable for use by any of the following:

(*i*) An industrial or commercial enterprise, including agricultural and forestry enterprises and enterprises designed to produce energy from renewable resources. Projects of such an enterprise may include any of the following:

(A) Necessary buildings, improvements, or structures suitable for and intended for or incidental to use as an industrial or commercial enterprise.

(B) Industrial park or industrial site improvements or port improvements.

(C) A replacement housing project incidental to an industrial or commercial enterprise.

(D) The machinery, furnishings, leasehold improvements, or equipment necessary, suitable, intended for or incidental to a commercial, industrial, or residential use in connection with the buildings, improvements, or structures.

(E) Machinery, furnishings, leasehold improvements, or equipment, including pollution control facilities, to be installed or used primarily within a project area.

(*ii*) An enterprise in relation to a housing and neighborhood improvement program, which program involves either the clearing of land or the rehabilitation or construction of housing for the immediate sale of single family or multi-family units at fair market value, or both. Housing and neighborhood improvement programs identified by this subparagraph shall constitute a project for purposes of this subparagraph if the area in which these improvement programs are to be undertaken are located in, or are eligible to be included in, blighted or redevelopment areas identified pursuant to Act No. 344 of the Public Acts of 1945, as amended, being sections 125.71 to 125.84 of the Michigan Compiled Laws; the urban redevelopment corporations law, Act No. 250 of the Public Acts of 1941, as amended, being sections 125.901 to 125.922 of the Michigan Compiled Laws; Act No. 197 of the Public Acts of 1975, as amended, being sections 125.1651 to 125.1680, of the Michigan Compiled Laws, or the tax increment finance authority act, Act No. 450 of the Public Acts of 1980, being sections 125.1801 to 125.1828 of the Michigan Compiled Laws.

(g) “Project area” means that land area or an interest in a land area within the municipality which will be acquired in the implementation of a project or which will be the permanent site of machinery, furnishings, or equipment constituting all or part of a project.

(h) “Project citizens district council” means a project citizens district council established pursuant to this act.

(i) “Project cost” or “costs” means the cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing a project. Project cost or costs includes any engineering, architectural, legal, accounting, financial, and other expenses incidental to the purchasing, acquiring, constructing, improving, enlarging, extending, or repairing of a project. Project cost or costs also includes the interest on the bonds and other obligations issued to pay project costs during the period of construction and after the period of construction until sufficient revenues have developed. Project cost or costs also includes a reserve or addition to a reserve for payment of principal and interest on the bonds and the amount required for operation and maintenance until sufficient revenues have developed.

(j) “Project district area” means that portion of a municipality and any area adjacent to a municipality, as determined by its governing body, which contains a project area and the surrounding territory that will be significantly affected by a project.

(k) “Project plan” means that information and those requirements for a project set forth in section 8.

(*l*) “Pollution control facilities” means water or air pollution control equipment or solid waste disposal facilities located within or without the limits of the municipality.

(m) “Solid waste disposal facilities” means buildings, plants, structures, equipment, or facilities and their appurtenances, together with land or an interest in land or a portion of land, for the purpose of treating, shredding, compression, high temperature incineration, pyrolization, separation, or any other technology for recovery, transporting, storing, or the final placement and disposal of solid wastes resulting from any process of industry, manufacture, trade, or business, from the development, processing, or recovery of any natural resources, or from the operation of any public utility. Solid waste disposal facilities includes buildings, plants, structures, equipment, or facilities and their appurtenances, together with land or an interest in land or a portion of land, which qualify as solid waste disposal facilities under section 103(b)(4) of the internal revenue code.

(n) “Water and air pollution control equipment” means buildings, plants, structures, equipment, or facilities

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and their appurtenances, together with land or an interest in land or a portion of land, for the purpose of controlling, eliminating, recovering, removing, reducing, dispersing, treating, or neutralizing atmospheric or water pollutants, including liquid, gaseous, or solid substances or discharges or radiation, or cooling the temperature of atmospheric or water pollutants, or any liquid, gas, or solid, resulting from any process of industry, manufacture, trade, or business; the development, processing, or recovery of any natural resources; or the operation of any public utility, any of which may pollute or may tend to pollute or affect the water or air of this state or adjacent to this state. Water and air pollution control equipment includes buildings, plants, structures, facilities, and equipment and their appurtenances, together with land or an interest in land or a portion of land, used or to be used as a change in a manufacturing, production, generation, transmission, or distribution process to prevent, reduce, recover, remove, disperse, neutralize, control, or eliminate air or water pollution. Water and air pollution control equipment includes buildings, plants, structures, equipment, or facilities and their appurtenances, together with land or an interest in land or a portion of land, which qualify as air or water pollution control facilities under section 103(b)(4) of the internal revenue code.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981;—Am. 1985, Act 154, Imd. Eff. Nov. 12, 1985.

Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1604 Economic development corporation; incorporation; application; notice; hearing; approval; board of directors; appointment, qualifications, terms, and compensation of directors; public meetings; directors as public officers; vacancy; removal; disclosure of interest; planning commission of certain municipalities serving as board of directors.

Sec. 4. (1) Application, in writing, may be made by a group of 3 or more persons to the governing body for permission to incorporate the economic development corporation for the municipality. Application shall include proposed articles of incorporation. The governing body shall give public notice of the application, and after public hearing, with notice of the hearing given in accordance with section 17(1), may approve the application. As a part of the approval, the governing body may make such amendments to the proposed articles of incorporation as it considers appropriate.

(2) The board of directors of the corporation shall consist of not less than 9 persons, not more than 3 of whom shall be an officer or employee of the municipality. The chief executive officer and any member of the governing body of the municipality may serve on the board of directors. These directors shall be appointed for terms of 6 years, except of the directors first appointed, 4 shall be appointed for 6 years, 1 for 5 years, 1 for 4 years, 1 for 3 years, 1 for 2 years, and 1 for 1 year. The corporation shall notify the chief executive officer of the municipality in writing upon the corporation's designation of the project area as provided in section 8(1), and there shall be appointed promptly after that notice 2 additional directors of the corporation who shall serve only in respect to that project and shall be representative of neighborhood residents and business interests likely to be affected by the project proposed by the corporation and who shall cease to serve when the project for which they are appointed is either abandoned or, if undertaken, is completed in accordance with the project plan. Directors shall serve without salary, but may be reimbursed their actual expenses incurred in the performance of their official duties, and may receive a per diem of not more than $50.00. The meetings of the board of directors shall be public. Directors shall be public officers.

(3) The chief executive officer of a municipality, with the advice and consent of the governing body, or in the case of a county where there is not an elected chief executive officer, the chairperson of the county board of commissioners, with the advice and consent of the county board of commissioners, shall appoint the members of the board of directors.

(4) Subsequent directors shall be appointed in the same manner as original appointments at the expiration of each director's term of office.

(5) A director whose term of office has expired shall continue to hold office until the director's successor has been appointed with the advice and consent of the governing body. A director may be reappointed with the advice and consent of the governing body to serve additional terms. If a vacancy is created by death or resignation or removal by operation of law, a successor shall be appointed with the advice and consent of the

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governing body within 30 days to hold office for the remainder of the term of the vacated office.

(6) A director may be removed from office for cause by a majority vote of the governing body.

(7) A director who has a direct interest in any matter before the corporation shall disclose the director's interest before the corporation takes any action with respect to the matter, which disclosure shall become a part of the record of the corporation's official proceedings and the interested director shall further refrain from participation in the corporation's proceedings relating to the matter.

(8) By ordinance, the governing body of a municipality that has a population of less than 5,000 may have the municipality's planning commission created pursuant to Act No. 285 of the Public Acts of 1931, being sections 125.31 to 125.45 of the Michigan Compiled Laws, serve as the board of directors provided for in this section.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981;—Am. 1987, Act 67, Imd. Eff. June 25, 1987.

Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1605 Approval of application to incorporate and articles of incorporation by resolution; incorporation pursuant to MCL 125.1628 to 125.1636.

Sec. 5. After the governing body approves the application to incorporate the economic development corporation and the articles of incorporation by resolution, and the resolution is in effect and is filed with the secretary of state, the clerk of the municipality shall incorporate the economic development corporation pursuant to sections 28 to 36.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981.

Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

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125.1606 Organization of corporation at municipal and county levels; limitation.

Sec. 6. Not more than 1 corporation shall be organized under this act for a municipality, except for subsidiaries established pursuant to section 6a. If a corporation is organized at the county level, thereafter, a corporation may be organized for a municipality within that county, the effect of which shall be to exclude that municipality from subsequent project jurisdiction of the county corporation, except on specific subsequent consent by the governing body of the municipality. The organization of a corporation at less than the county level does not preclude the organization of a corporation at the county level for the remainder of the county. More than 1 corporation may join or cooperate in a project or act together in coordinating more than 1 project.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981.

Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

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125.1606a Subsidiary neighborhood development corporation; creation; powers; exemption from prevailing wage and fringe benefit rate requirements; disposition of surplus from sale of property; repayment of bonds or notes.

Sec. 6a. (1) In order to implement section 3(f)(*ii*), a corporation incorporated by a city with a population of greater than 750,000 persons may create subsidiary neighborhood development corporations within the city in which the parent corporation may operate. A subsidiary neighborhood development corporation created pursuant to this subsection shall have power to conduct business solely for the purpose of a project under section 3(f)(*ii*), but in respect to those projects the subsidiary shall have the same powers of a corporation formed under this act, except as may be limited by the parent corporation in the articles of incorporation or bylaws of the subsidiary.

(2) To the extent the project involves training for disadvantaged youths, a subsidiary created pursuant to this section shall be exempt from the requirement of the payment of prevailing wage and fringe benefit rates described in section 8(4)(h).

(3) Any surplus from the sale of property in the involved project area under section 3(f)(*ii*), after payment of principal and interest or other evidences of indebtedness, shall be deposited in a revolving fund of the corporation creating the subsidiary corporation, which fund shall be restricted to provide revenue for other projects authorized by section 3(f)(*ii*), within the city.

(4) When bonds or notes are sold to implement projects under section 3(f)(*ii*), provision shall be made for the immediate repayment of the bonds or notes at the time all property in the involved project area is sold.

History: Add. 1980, Act 501, Imd. Eff. Jan. 22, 1981;—Am. 2002, Act 357, Imd. Eff. May 23, 2002.

Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1607 Powers of corporation generally.

Sec. 7. (1) In order to accomplish the public purposes set forth in section 2 the corporation may:

(a) Construct, acquire by gift or purchase, reconstruct, improve, maintain, or repair projects and acquire the necessary land, or an interest in land or portions of the land, for the site of a project.

(b) Acquire by gift or purchase the necessary machinery, furnishings, and equipment for a project.

(c) Make secured or unsecured loans, participate in the making of secured or unsecured loans, undertake commitments to make secured or unsecured loans and mortgages, sell loans and mortgages at public or private sale, rewrite loans and mortgages, discharge loans and mortgages, foreclose on a mortgage, or commence an action to protect or enforce a right conferred upon it by a law, mortgage, loan, contract, or other agreement.

(d) Borrow money and issue its revenue bonds or revenue notes to finance or refinance part or all of the project costs and the costs necessary or incidental to the borrowing of money and issuing of bonds or notes for that purpose, and may secure those bonds and notes by mortgage, assignment, or pledge of any of its money, revenues, income, and properties. Bonds and notes may be issued under this act to acquire and install projects, necessary lands, or an interest in the land or a portion of the land, for the site of the project, and the necessary machinery, furnishings, and equipment for a project notwithstanding that the corporation does not own or propose to own the projects, lands, or machinery, furnishings, and equipment. The corporation for a municipality that has a population of more than 1,000,000 persons may combine part or all of the project costs of more than 1 project for pollution control facilities in a single financing arrangement. However, the bonds and notes for each project for pollution control facilities shall be secured by a separate agreement and collateral for each project.

(e) Enter into leases, lease purchase agreements, installment sales contracts or loan agreements with any person, firm, or corporation for the use or sale of the project.

(f) Mortgage or create security interests in the project, a part of the project, a lease or loan, or the rents, revenues, or sums to be paid during the term of a lease or loan, in favor of holders of bonds or notes issued by the corporation.

(g) Sell and convey the project or any part of the project for a price and at a time as the corporation determines.

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(h) Lend, grant, transfer, or convey funds, described in section 27, as permitted by law, but subject to applicable restrictions affecting the use of those funds.

(2) Bonds and notes issued under this act are not subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(3) Bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981;—Am. 2002, Act 357, Imd. Eff. May 23, 2002.

Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1607a Pledge by corporation; validity; lien; filing or recording instruments not required.

Sec. 7a. A pledge made by the corporation shall be valid and binding from the time the pledge is made. The money or property pledged and thereafter received by the corporation immediately shall be subject to the lien of the pledge without a physical delivery, filing, or further act. The lien of such a pledge shall be valid and binding as against parties having claims of any kind in tort, contract, or otherwise, against the corporation, irrespective of whether the parties have notice. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created need be filed or recorded.

History: Add. 1980, Act 501, Imd. Eff. Jan. 22, 1981.

Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

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125.1607b Board of directors serving as planning commission; agenda.

Sec. 7b. If the board of directors of a corporation created under this act serves as the planning commission under section 2 of Act No. 285 of the Public Acts of 1931, being section 125.32 of the Michigan Compiled Laws, the board of directors shall include planning commission business in its agenda.

History: Add. 1987, Act 67, Imd. Eff. June 25, 1987.

125.1608 Designation of project area; certification of approval; preparation and approval of project plan; transfer of employment; contents of project plan; corporation as instrumentality of political subdivision; notice to vacate; corporation to operate project as lessor; issuance of obligations; project plans for agricultural and forestry enterprises.

Sec. 8. (1) The corporation shall designate the project area to the governing body of the municipality for which the corporation is incorporated. The governing body of the municipality for which the corporation is incorporated shall certify its approval of the designation of a project area by resolution.

(2) Before acquiring property, or an interest in land, or incurring obligations for a specific project, other than the acquisition of an option, the corporation shall prepare a project plan and secure the recommendation of the local public agency of the municipality for which the corporation is incorporated, except as provided in section 9(3), the approval of the governing body of each city, village, or township in which all or a part of the project is located, and the approval of the county, if the corporation is an economic development corporation for the county.

(3) The corporation shall certify to the governing body of the municipality for which the corporation is incorporated that at the time the project plan is approved by the corporation, the project shall not have the effect of transferring employment of more than 20 full-time persons from a municipality of this state to the

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municipality in which the project is to be located. This restriction shall not prevent the approval of a project if the governing body of each municipality from which employment is to be transferred consents by resolution to the transfer.

(4) The project plan shall contain the following, except that agricultural and forestry enterprise projects need only comply with subsection (9) with respect to project plans:

(a) The location and extent of existing streets and other public facilities within the project district area, and shall designate the location, character, and extent of the categories of public and private land uses then existing and proposed for the project area, including residential, recreational, commercial, industrial, educational, and other uses and shall include a legal description of the project area.

(b) A description of existing improvements in the project area to be demolished, repaired, or altered, a description of repairs and alterations, and an estimate of the time required for completion.

(c) The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the project area and an estimate of the time required for completion.

(d) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(e) A description of the parts of the project area to be left as open space and the use contemplated for the space.

(f) A description of portions of the project area that the corporation desires to sell, donate, exchange, or lease to or from the municipality, and the proposed terms.

(g) A description of desired zoning changes and changes in streets, street levels, intersections, and utilities.

(h) A statement of the proposed method of financing the project, including, except as provided in section 6a, a statement by a person described in subparagraph (j) indicating the payment to all persons performing work on the construction project of the prevailing wage and fringe benefit rates for the same or similar work in the locality in which the work is to be performed, and a statement of the ability of the corporation to arrange the financing. The prevailing wage and fringe benefit rates shall be determined under 1965 PA 166, MCL 408.551 to 408.558. A corporation may conclusively rely upon the statement required under this subsection as to compliance with the payment of prevailing wage and fringe benefit rates and any contracts, bonds or notes of any corporation entered into or issued upon reliance on any statement shall not be subsequently voided by reason of the failure to comply with the requirements of this subsection.

(i) A list of persons who will manage or be associated with the management of the project for a period of not less than 1 year from the date of approval of the project plan.

(j) Designation of the person or persons, natural or corporate, to whom the project is to be leased, sold, or conveyed and for whose benefit the project is being undertaken if that information is available to the corporation.

(k) If there is not an express or implied agreement between the corporation and persons, natural or corporate, that the project will be leased, sold, or conveyed to those persons, the procedures for bidding for the leasing, purchasing, or conveying of the project upon its completion.

(*l*) Estimates of the number of persons residing in the project area, and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the corporation, a project plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(m) A plan for establishing priority for the relocation of persons displaced by the project in new housing in the project area.

(n) Provision for the costs of relocating persons displaced by the project and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646, 84 Stat. 1894.

(o) A plan for compliance with 1972 PA 227, MCL 213.321 to 213.332.

(p) Other material as the corporation, local public agency, or governing body considers pertinent.

(5) The corporation shall be considered an instrumentality of a political subdivision for purposes of 1972 PA 227, MCL 213.321 to 213.332.

(6) A person shall be given not less than 90 days' written notice to vacate unless modified by court order for good cause.

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(7) The corporation shall not operate a project or an enterprise in a project, other than as lessor.

(8) The governing body may utilize the corporation to issue obligations pursuant to section 7 to accomplish the public purposes of the municipality set forth in section 2, and for that purpose may by resolution direct the corporation to take appropriate action as set forth in subsections (1) and (2) with respect to a proposed project.

(9) In the case of project plans for agricultural and forestry enterprises, the following information shall be provided in lieu of the requirements of subsections (2) and (4):

(a) A statement of intention regarding the objectives of the project.

(b) A general description of the kinds of buildings, improvements, storage facilities, restorations, acquisition of machinery, equipment furnishings, leasehold improvements and incidental related costs to be financed.

(c) A statement regarding the length of the project and the maximum amount to be financed over the life of the project.

(d) A statement by the corporation that no zoning change or eminent domain proceedings will be necessary to implement the project.

(e) A description of the process to be followed in implementing the individual transactions that may comprise the project.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981;—Am. 2002, Act 357, Imd. Eff. May 23, 2002.

Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1609 Project plan; findings and recommendations of local public agency; determinations; publication of general standards for project plans; local public agency recommendations concerning project plan not required.

Sec. 9. (1) A local public agency shall submit its findings and recommendations concerning a project plan after the project citizens district council is consulted and advised as provided in section 14, if it determines the following from the application:

(a) The project plan has been submitted to the project citizens district council for its findings and recommendations, if a project citizens district council is required.

(b) The project plan meets all the requirements set forth in section 8.

(c) The land included within the project area to be acquired is reasonably necessary to carry out the purpose of the plan and of this act in an efficient and economically satisfactory manner.

(d) The project plan is in reasonable accord with the master plan of the municipality, if a master plan has been adopted.

(e) The project plan and size is practicable and in the public interest.

(f) Public services, such as fire and police protection and utilities, are or shall be adequate to service the project area.

(g) Changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

(2) A local public agency may publish general standards for project plans within the provisions of this section.

(3) If the implementation of the project plan does not require a zoning change or the taking of private property pursuant to section 22, the recommendations of the local public agency concerning the project plan shall not be required.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981.

Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of

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1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1610 Project plan; submission of findings and recommendations; determination of public purpose; considerations.

Sec. 10. (1) The local public agency, if required, shall submit its findings and recommendations for approval or rejection of the project plan, with any recommendations for modification, to the governing body of the municipality for which the corporation is incorporated.

(2) The governing body of the municipality for which the corporation is incorporated, after a public hearing on the project plan with notice of the hearing given in accordance with section 17 shall determine whether the project plan constitutes a public purpose. If it determines that the project plan constitutes a public purpose, it shall then approve or reject the plan, or approve it with modification, based on the following considerations:

(a) The findings and recommendations of the local public agency, if required.

(b) The findings and recommendations of the project citizens district council, if established.

(c) That the plan meets the requirements set forth in section 8.

(d) The persons who will be active in the management of the project for not less than 1 year after the approval of the project plan have sufficient ability and experience to manage the plan properly.

(e) The proposed method of financing the project is feasible and the corporation has the ability to arrange the financing.

(f) The project is reasonable and necessary to carry out the purposes of this act.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981.

Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

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125.1611 Amendments to project plan; compliance with local ordinances and resolutions.

Sec. 11. The governing body of the municipality for which the corporation is incorporated after a public hearing with notice of the public hearing given in accordance with section 17 may consider and approve amendments, by resolution, to the project plan. The corporation shall comply with local ordinances and resolutions.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978.

125.1612 Establishment of project district area boundaries; project citizens district council; establishment; appointment and qualifications of members; council as representative of project area.

Sec. 12. (1) The governing body of the municipality for which the corporation is incorporated shall, by resolution, do the following:

(a) Establish the project district area boundaries.

(b) Determine the necessity of establishing a project citizens district council.

(2) A project citizens district council may be established for a project district area promptly after the designation of the project area is approved by the governing body as provided in section 8(1). The project citizens district council shall be established by the governing body and shall consist of not less than 9 members. The members of the project citizens district council shall be appointed by the governing body. A member of a project citizens district council shall be at least 18 years of age.

(3) A project citizens district council shall be representative of the project area giving particular attention to those persons who reside, own real property, or maintain an establishment located in the project area.

(4) A majority of the members of a project citizens district council shall be persons residing in the project area, except if the persons of the age of majority in the project area number less than 20, or if, at the time a project citizens district council is established, the number of establishments located in the project area exceeds

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the number of occupied dwelling units in the project area.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978.

125.1613 Project citizens district council as advisory body.

Sec. 13. A project citizens district council established pursuant to this act shall act as an advisory body to the corporation, the local public agency, and the governing body.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974.

125.1614 Consultation between representative of corporation and project citizens district council.

Sec. 14. Periodically the representative of the corporation responsible for preparation of the project plan within the district area shall consult with and advise the project citizens district council regarding all aspects of the project plan, including the development of new housing for relocation purposes located either inside or outside of the development area. The consultation shall begin before any final decisions by the corporation, the local public agency, and the governing body regarding the project plan other than the designation of the project area and the project district area. The consultation shall continue throughout the preparation and implementation of the project plan.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974.

125.1615 Project citizens district council; meetings; notice; right of person to be heard; record of meeting; information and technical assistance; conditions to adoption of project plan.

Sec. 15. (1) Meetings of the project citizens district council shall be open to the public. Notice of the time and place of the meetings shall be given by publication in a newspaper of general circulation not less than 3 days before the dates set for meetings of the project citizens district council. A person present at those meetings shall have reasonable opportunity to be heard.

(2) A record of the meetings of a project citizens district council, including information and data presented, shall be maintained by the council.

(3) A project citizens district council may request of and receive from the corporation and the local public agency information and technical assistance relevant to the preparation of a project plan for its district area.

(4) Failure of a project citizens district council to organize or to consult with and be advised by a corporation and the local public agency, or failure to advise the local public agency or the governing body, as provided herein, shall not preclude the adoption of a project plan by a municipality if the municipality complies with the other provisions of this act.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974.

125.1616 Existing citizens district council as authorized projects citizens district council.

Sec. 16. In a project district area where there already exists a citizens district council established according to Act No. 344 of the Public Acts of 1945, as amended, being sections 125.71 to 125.84 of the Michigan Compiled Laws, the governing body may designate it as the project citizens district council authorized by this act.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974.

125.1617 Public hearing before adoption of resolution approving project plan; notice; record of public hearing; availability of record to public.

Sec. 17. (1) The governing body of the municipality for which the corporation is incorporated, before adoption of a resolution approving a project plan authorized by this act, shall hold a public hearing. This act shall not be construed to require any other municipality, other than the municipality for which the corporation is incorporated, to hold a public hearing. Notice of the time and place of the hearing shall be given by publication once in a newspaper of general circulation designated by the municipality, not less than 10 days before the date set for the hearing. In the case of an agricultural and forestry enterprise project undertaken by a county corporation, each unit of government within the county shall be notified by mail.

(2) Notice of the hearing shall be posted in at least 10 conspicuous and public places in the proposed project district area not less than 10 days before the hearing and shall be mailed not less than 10 days before the hearing to the last known owner of each parcel of real property in the proposed project district area at the last known address of the owner as shown by the tax assessment records of the municipality in which the project area is located. Agricultural and forestry enterprise projects shall not be required to comply with this

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subsection.

(3) Notice of the time, date, and place of hearing on a proposed project plan shall contain a description of the location of the project area in relation to highways, streets, streams, or otherwise. The notice shall contain a statement that maps, plats, and a description of the proposed project plan, including the method of relocating families and individuals who will be displaced from the area, are available for public inspection at a place designated in the notice and that all aspects of the proposed project plan will be open for discussion at the public hearing and shall contain other information the governing body considers appropriate. At the time set for hearing, the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference to the hearing. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the proposed project plan. The governing body shall make and preserve a record of the public hearing, including all data presented at the public hearing. The record shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981.

Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1618 Finding and recommendations of project citizens district council; notice.

Sec. 18. Promptly after the public hearing provided in section 10 (2), the project citizens district council shall notify the governing body, in writing, of its findings and recommendations concerning the proposed project plan.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976.

125.1619 Revision of boundaries of project district area.

Sec. 19. The boundaries of a project district area may be revised by the inclusion of additional area or by exclusion of existing area by the governing body by resolution.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976.

125.1620 Situations not requiring project citizens district council; dissolution of council.

Sec. 20. A project citizens district council shall not be required and, if formed, shall be dissolved in any of the following situations:

(a) On petition of not less than 20% of the adult resident population of the project district area by the last federal decennial or municipal census, a governing body, after public hearing with notice given in accordance with section 17, and by a 2/3 vote, may adopt a resolution for the project to eliminate the necessity of a project citizens district council.

(b) When there are less than 18 residents, real property owners, or representatives of establishments located in the project district area eligible to serve on the project citizens district council.

(c) When the governing body determines that the objectives of the project plan have been substantially achieved. The determination shall not become effective until 20 days after notice is given, in writing, to the project citizens district council advising the project citizens district council of the determination. If, within the 20-day period, the project citizens district council notifies the governing body, in writing, of its disapproval of the determination, the determination shall not become effective unless thereafter approved by a 2/3 majority of the governing body more than 30 days after receipt of the notice of disapproval. During that period, the governing body shall consult with the project citizens district council concerning the objections of the project citizens district council to the determination.

(d) Upon termination of a project by resolution of the governing body.

(e) When the project plan does not include a zoning change and the implementation of the project plan does not require the taking of private property pursuant to section 22.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981.

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Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

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125.1621 Injunction, mandamus, or other appropriate remedy at law; equitable relief.

Sec. 21. A municipality may commence an action for an injunction, or any other appropriate remedy at law, against a corporation which has not substantially complied with the time limits established in its approved project plan, reasonable delays caused by unforeseen difficulties excepted, or which has failed to substantially perform its obligations. The corporation may commence an action for an injunction, mandamus, or any other appropriate remedy at law, against a municipality for failure to render a final decision on a project plan within 6 months after the date on which the plan was first submitted to the governing body for approval. A citizen residing in the project or district area whose interest is substantially affected by the project plan may bring an action against the corporation or municipality for an appropriate remedy at law or for equitable relief.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974.

125.1622 Condemnation.

Sec. 22. A municipality may take private property under Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Michigan Compiled Laws, for the purpose of transfer to the corporation, and may transfer the property to the corporation for use in an approved project, on terms and conditions it deems appropriate, and the taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974.

125.1623 Borrowing money and issuing revenue bonds or revenue notes; issuing refunding bonds; bonds or notes and interest exempt from taxation; exceptions; liability of municipality on notes or bonds; statement; investment in bonds and notes; deposit of bonds and notes; report; inspection of records and reports; publication and distribution of statement of revenues and expenditures.

Sec. 23. (1) For the purpose of defraying all or part of its project costs, refunding or refunding in advance obligations authorized under this act or obligations authorized under the industrial development revenue bond act of 1963, 1963 PA 62, MCL 125.1251 to 125.1267, by a municipality incorporating a corporation under this act, a corporation may borrow money and issue its revenue bonds or revenue notes. Refunding bonds may be issued by the corporation whether the bonds to be refunded have or have not matured, are or are not redeemable on the date of issuance of the refunding bonds, or are or are not subject to redemption before maturity, and may be issued to pay principal, interest, redemption premiums, or any combination thereof of the obligations to be refunded. The bonds may be issued partly to refund bonds and partly for any other purpose authorized by this act. The refunding bonds may be issued in a principal amount greater than the principal amount of the bonds to be refunded as may be necessary to effect the refunding pursuant to the plan of refunding. The bonds or notes shall be exempt from all taxation except inheritance and transfer taxes and the interest on the bonds or notes shall be exempt from all taxation in the state of Michigan, notwithstanding that the interest may be subject to federal income tax.

(2) The municipality shall not be liable on notes or bonds of the corporation and the notes and bonds shall not be a debt of the municipality. The notes and bonds shall contain on their face a statement to that effect.

(3) The bonds and notes of the corporation may be invested in by all public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by all public officers and the agencies and political subdivisions of this state for any purpose for which the deposit of bonds is authorized.

(4) The corporation shall report to the governing body of the municipality for which the corporation is incorporated and the Michigan economic development corporation not less than once per year, which report shall fully describe the activities of the corporation including a statement of all revenues and expenditures since the previous report.

(5) The financial records, accountings, audit reports, and other reports of public money under the control of

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the corporation shall be public records and open to inspection. The corporation shall publish in a newspaper of general circulation in the incorporating municipality not more than 120 days after the conclusion of the corporation's operating year a statement of all of its revenues and expenditures for the year and shall distribute copies of the report upon request.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981;—Am. 2002, Act 357, Imd. Eff. May 23, 2002.

Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

For transfer of powers and duties in connection with reports filed by municipalities pursuant to MCL 125.1623(4) from the department of commerce to the chief executive officer of the Michigan jobs commission, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

125.1624 Disposition of net earnings and property upon dissolution of corporation.

Sec. 24. Any net earnings of the corporation beyond that necessary for the retirement of indebtedness or to implement the public purposes or program of the municipality may not inure to the benefit of a person other than the municipality and, upon dissolution of the corporation shall belong to the municipality. Upon dissolution of the corporation title to all property owned by the corporation, subject to existing rights in other parties, shall vest in the municipality.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976.

125.1625 Exemption of corporation and instruments of conveyance from taxation.

Sec. 25. The corporation shall be exempt from all taxation on its earnings or property. Instruments of conveyance to or from a corporation shall be exempt from all taxation including taxes imposed by Act No. 134 of the Public Acts of 1966, as amended, being sections 207.501 to 207.513 of the Michigan Compiled Laws.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981.

Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

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125.1626 Repealed. 1976, Act 175, Imd. Eff. June 29, 1976.

Compiler's note: The repealed section pertained to disposition of property and assets on dissolution of corporation.

125.1627 Powers of public bodies.

Sec. 27. (1) Any municipality and any agency or department thereof, or any other official public body, may do any of the following:

(a) Anything necessary or convenient to aid in the planning and execution of a project plan.

(b) Lend, grant, transfer, or contribute funds to the corporation in furtherance of its public purposes.

(c) Use any funds within its control, including funds derived from the sale or furnishing of property, service, or facilities to the corporation, in the purchase of bonds or other obligations of the corporation, and to exercise any rights connected with such bonds or other obligations of the corporation which it holds.

(d) Enter into agreements up to 50 years with the corporation regarding action it will take pursuant to the provisions of this section.

(e) Arrange for economic and business development on a consumer cooperative basis for the citizens to participate in the development of their own housing as an integral part of the commercial, industrial, and residential development under this act.

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(f) Lend, grant, transfer, or convey funds received from the federal or state government or from any nongovernmental entity in aid of the purposes described in section 2, and the corporation may accept these funds.

(2) Any state agency or department may do any of the following:

(a) Lend cooperation and assistance to the municipality and its economic development corporation.

(b) Disburse funds to an economic development corporation in accordance with the terms and condition of any grant or transfer of funds from the federal government or its agencies or any nongovernmental entity.

History: 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976.

125.1628 Incorporation of economic development corporation; name of corporation.

Sec. 28. Any number of persons, not less than 3, may incorporate, as provided in this act, an economic development corporation for the purpose of implementing or furthering the public purposes stated in section 2 through the exercise of some or all of the powers created in section 7. The name of the corporation shall be "the economic development corporation of the (name of municipality)".

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976.

125.1629 Articles of incorporation; approval by resolution; contents.

Sec. 29. The incorporation of the corporation shall be accomplished by the approval of articles of incorporation by resolution of the municipality. The articles of incorporation shall set forth the name of the corporation; the purpose for which the corporation is created; the number, terms, and manner of selection of its officers and their powers and duties; the date upon which the corporation shall become effective; the name of the newspaper in which the articles of incorporation shall be published; the manner of adopting bylaws; and other matters expedient to be incorporated in the articles.

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978.

125.1630 Amendment of articles of incorporation.

Sec. 30. The articles of incorporation of the corporation may be amended by resolution of the municipality which resolution shall be filed with the secretary of state. The effect of an amendment may include the alteration or changing of the structure, organization, programs, or activities of the corporation including the power to terminate the existence of the corporation. However, an amendment shall not impair the obligation of a bond or contract.

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981.

Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1631 Articles of incorporation; execution; delivery; filing; publication; statement of right to question incorporation; certificate; effective date and validity of incorporation.

Sec. 31. (1) The articles of incorporation shall be executed in duplicate and delivered to the county clerk who shall file 1 copy in his or her office and the other with the recording officer of the corporation when a recording officer is selected. The municipality's clerk shall cause a copy of the articles of incorporation to be published once in a newspaper designated in the articles of incorporation and circulating within the municipality accompanied by a statement that the right exists to question the incorporation in court as provided in this section.

(2) The county clerk shall file 1 printed copy of the articles of incorporation with the secretary of state and 1 printed copy in his or her office, attached to each of which printed copies shall be his or her certificate setting forth that the same is a true and complete copy of the original articles of incorporation on file in his or her office.

(3) The corporation shall become effective at the time provided in the articles of incorporation.

(4) The validity of the incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of a certified copy with the secretary of state.

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981.

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Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

125.1632 Corporation as body corporate; powers.

Sec. 32. The corporation shall be a body corporate with power to sue and be sued in any court of this state. The corporation shall possess all the powers necessary to carry out the purpose of its incorporation and those incident thereto. The enumeration of any powers in this act shall not be construed as a limitation upon the general powers of the corporation.

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976.

125.1632a Personal liability of board members; insurance.

Sec. 32a. The members of the board of directors of any corporation organized pursuant to this act or any person executing any revenue bond or revenue note on behalf of a corporation shall not be liable personally on the revenue bond or revenue note, or be subject to any personal liability or accountability by reason of the issuance of the revenue bond or revenue note, by reason of acquisition, construction, ownership, or operation of a project, or by reason of any other action taken or omitted by the board of directors. By resolution the board of directors of any corporation organized pursuant to this act may provide for the purchase of insurance indemnifying the members of the board from and against any and all personal liability or accountability described in this section or any loss or expense related thereto.

History: Add. 1980, Act 501, Imd. Eff. Jan. 22, 1981.

Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

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125.1633 Dissolution of corporation; referendum on continued existence of corporation.

Sec. 33. (1) A corporation which has completed the purposes for which it was organized shall be dissolved by the adoption of a resolution by a 2/3 majority of its directors, which resolution shall be approved by a majority of the governing body of the municipality and filed with the secretary of state.

(2) At any time during the existence of a corporation, the voters of the municipality for which the corporation was organized shall have the right of referendum on the continued existence of the corporation. A referendum on the continued existence of a corporation shall be conducted pursuant to the laws of the municipality which provide for the referendum of ordinances generally. If a majority of those voting approve the rescission of the resolution approving the articles of incorporation, the dissolution of the corporation shall be effective 90 days after certification of a majority of the votes cast. Provided however, that if the corporation has, prior to the date it is to be dissolved pursuant to this section entered into contracts or issued bonds or notes the corporation shall remain in existence after the date it would otherwise be dissolved but only for purpose of carrying out its obligations under such contracts, bonds or notes. A certification of the referendum vote shall be filed with the secretary of state. Another corporation may not be incorporated for a municipality within 5 years after the effective date of a corporation's dissolution by referendum under this section.

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981.

Compiler's note: Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

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125.1634 Corporations organized and incorporated pursuant to MCL 450.62 to 450.192; validation, force, and effect of prior actions.

Sec. 34. A corporation organized and incorporated pursuant to section 5 and Act No. 327 of the Public Acts of 1931, as amended, being sections 450.62 to 450.192 of the Michigan Compiled Laws, before the effective date of this section, is subject to this act, as amended, without formal reorganization and the corporation shall be deemed to exist solely under this act, as amended. Actions taken under this act by a person, municipality, or corporation in good faith before the effective date of this section and which would have been valid under this act before sections 28 to 36 were added are hereby validated and shall have the same force and effect as if those actions were taken under this act, as amended by the act which added this section.

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976.

125.1634a Corporation deemed validly incorporated; validity of action taken by corporation under act; validity and legality of evidences of indebtedness and related instruments.

Sec. 34a. (1) Notwithstanding any other provision of this act, a corporation for which a copy of articles of incorporation is on file with the secretary of state on or before the effective date of this section shall be deemed validly incorporated under this act from the date on which the articles of incorporation were filed, whether or not the articles of incorporation were adopted, executed, printed, certified, or filed in accordance with this act as in effect at the time of filing.

(2) Any action taken by the corporation under this act, which at the time of the taking of the action the corporation would have been empowered to take, is deemed valid from the date the action was taken.

(3) Any bond, note, or other evidence of indebtedness of any corporation and any instrument relating thereto authorized, issued, or delivered prior to the effective date of this section, is valid and legal for all purposes.

History: Add. 1980, Act 501, Imd. Eff. Jan. 22, 1981.

Compiler's note: Section 2 of Act 501 of 1980 provides: “This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h).”

Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: “Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h).”

125.1635 Liberal construction.

Sec. 35. This act, being necessary for and to secure the performance of essential public purposes and functions for the state and its municipalities shall be liberally construed to effect the purposes of this act.

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976.

125.1636 Authority cumulative.

Sec. 36. The authority given by this act shall be in addition to and not in derogation of any power existing in any of the municipalities under any statutory or charter provisions.

History: Add. 1976, Act 175, Imd. Eff. June 29, 1976.

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DOWNTOWN DEVELOPMENT AUTHORITY
Act 197 of 1975

AN ACT to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1988, Act 425, Imd. Eff. Dec. 27, 1988;—Am. 1993, Act 323, Eff. Mar. 15, 1994.

Popular name: DDA

Popular name: Downtown Development Authority Act

The People of the State of Michigan enact:

125.1651 Definitions.

Sec. 1. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

(b) "Assessed value" means 1 of the following:

(*i*) For valuations made before January 1, 1995, the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(*ii*) For valuations made after December 31, 1994, the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) "Authority" means a downtown development authority created pursuant to this act.

(d) "Board" means the governing body of an authority.

(e) "Business district" means an area in the downtown of a municipality zoned and used principally for business.

(f) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the project area, including the assessed value of property for which specific local taxes are paid in lieu of property taxes as determined in subdivision (z), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(g) "Chief executive officer" means the mayor or city manager of a city, the president or village manager of a village, or the supervisor of a township or, if designated by the township board for purposes of this act, the township superintendent or township manager of a township.

(h) "Development area" means that area to which a development plan is applicable.

(i) "Development plan" means that information and those requirements for a development plan set forth in section 17.

(j) "Development program" means the implementation of the development plan.

(k) "Downtown district" means that part of an area in a business district that is specifically designated by ordinance of the governing body of the municipality pursuant to this act. A downtown district may include 1 or more separate and distinct geographic areas in a business district as determined by the municipality if the municipality enters into an agreement with a qualified township under section 3(7) or if the municipality is a city that surrounds another city and that other city lies between the 2 separate and distinct geographic areas. If the downtown district contains more than 1 separate and distinct geographic area in the downtown district, the separate and distinct geographic areas shall be considered 1 downtown district.

(*l*) "Eligible advance" means an advance made before August 19, 1993.

(m) "Eligible obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority before August 19, 1993 and its subsequent refunding by a qualified refunding obligation. Eligible obligation includes an authority's written agreement entered into before August 19, 1993 to pay an obligation issued after August 18, 1993 and before December 31, 1996 by another entity on behalf of the authority.

(n) "Fire alarm system" means a system designed to detect and annunciate the presence of fire, or

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by-products of fire. Fire alarm system includes smoke detectors.

(o) "Fiscal year" means the fiscal year of the authority.

(p) "Governing body of a municipality" means the elected body of a municipality having legislative powers.

(q) "Initial assessed value" means the assessed value, as equalized, of all the taxable property within the boundaries of the development area at the time the ordinance establishing the tax increment financing plan is approved, as shown by the most recent assessment roll of the municipality for which equalization has been completed at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax is paid in lieu of a property tax shall not be considered to be property that is exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of a property tax shall be determined as provided in subdivision (z). In the case of a municipality having a population of less than 35,000 that established an authority prior to 1985, created a district or districts, and approved a development plan or tax increment financing plan or amendments to a plan, and which plan or tax increment financing plan or amendments to a plan, and which plan expired by its terms December 31, 1991, the initial assessed value for the purpose of any plan or plan amendment adopted as an extension of the expired plan shall be determined as if the plan had not expired December 31, 1991. For a development area designated before 1997 in which a renaissance zone has subsequently been designated pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, the initial assessed value of the development area otherwise determined under this subdivision shall be reduced by the amount by which the current assessed value of the development area was reduced in 1997 due to the exemption of property under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, but in no case shall the initial assessed value be less than zero.

(r) "Municipality" means a city, village, or township.

(s) "Obligation" means a written promise to pay, whether evidenced by a contract, agreement, lease, sublease, bond, or note, or a requirement to pay imposed by law. An obligation does not include a payment required solely because of default upon an obligation, employee salaries, or consideration paid for the use of municipal offices. An obligation does not include those bonds that have been economically defeased by refunding bonds issued under this act. Obligation includes, but is not limited to, the following:

(*i*) A requirement to pay proceeds derived from ad valorem property taxes or taxes levied in lieu of ad valorem property taxes.

(*ii*) A management contract or a contract for professional services.

(*iii*) A payment required on a contract, agreement, bond, or note if the requirement to make or assume the payment arose before August 19, 1993.

(*iv*) A requirement to pay or reimburse a person for the cost of insurance for, or to maintain, property subject to a lease, land contract, purchase agreement, or other agreement.

(*v*) A letter of credit, paying agent, transfer agent, bond registrar, or trustee fee associated with a contract, agreement, bond, or note.

(t) "On behalf of an authority", in relation to an eligible advance made by a municipality, or an eligible obligation or other protected obligation issued or incurred by a municipality, means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible advance made by the municipality, or eligible obligation or other protected obligation issued or incurred by the municipality, if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following:

(*i*) A reimbursement agreement between the municipality and an authority it established.

(*ii*) A requirement imposed by law that the authority transfer tax increment revenues to the municipality.

(*iii*) A resolution of the authority agreeing to make payments to the incorporating unit.

(*iv*) Provisions in a tax increment financing plan describing the project for which the obligation was incurred.

(u) "Operations" means office maintenance, including salaries and expenses of employees, office supplies, consultation fees, design costs, and other expenses incurred in the daily management of the authority and planning of its activities.

(v) "Other protected obligation" means:

(*i*) A qualified refunding obligation issued to refund an obligation described in subparagraph (*ii*), (*iii*), or (*iv*), an obligation that is not a qualified refunding obligation that is issued to refund an eligible obligation, or a qualified refunding obligation issued to refund an obligation described in this subparagraph.

(*ii*) An obligation issued or incurred by an authority or by a municipality on behalf of an authority after

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August 19, 1993, but before December 31, 1994, to finance a project described in a tax increment finance plan approved by the municipality in accordance with this act before December 31, 1993, for which a contract for final design is entered into by or on behalf of the municipality or authority before March 1, 1994 or for which a written agreement with a developer, titled preferred development agreement, was entered into by or on behalf of the municipality or authority in July 1993.

(*iii*) An obligation incurred by an authority or municipality after August 19, 1993, to reimburse a party to a development agreement entered into by a municipality or authority before August 19, 1993, for a project described in a tax increment financing plan approved in accordance with this act before August 19, 1993, and undertaken and installed by that party in accordance with the development agreement.

(*iv*) An obligation incurred by the authority evidenced by or to finance a contract to purchase real property within a development area or a contract to develop that property within the development area, or both, if all of the following requirements are met:

(A) The authority purchased the real property in 1993.

(B) Before June 30, 1995, the authority enters a contract for the development of the real property located within the development area.

(C) In 1993, the authority or municipality on behalf of the authority received approval for a grant from both of the following:

(I) The department of natural resources for site reclamation of the real property.

(II) The department of consumer and industry services for development of the real property.

(*v*) An ongoing management or professional services contract with the governing body of a county which was entered into before March 1, 1994 and which was preceded by a series of limited term management or professional services contracts with the governing body of the county, the last of which was entered into before August 19, 1993.

(*vi*) A loan from a municipality to an authority if the loan was approved by the legislative body of the municipality on April 18, 1994.

(*vii*) Funds expended to match a grant received by a municipality on behalf of an authority for sidewalk improvements from the Michigan department of transportation if the legislative body of the municipality approved the grant application on April 5, 1993 and the grant was received by the municipality in June 1993.

(*viii*) For taxes captured in 1994, an obligation described in this subparagraph issued or incurred to finance a project. An obligation is considered issued or incurred to finance a project described in this subparagraph only if all of the following are met:

(A) The obligation requires raising capital for the project or paying for the project, whether or not a borrowing is involved.

(B) The obligation was part of a development plan and the tax increment financing plan was approved by a municipality on May 6, 1991.

(C) The obligation is in the form of a written memorandum of understanding between a municipality and a public utility dated October 27, 1994.

(D) The authority or municipality captured school taxes during 1994.

(w) "Public facility" means a street, plaza, pedestrian mall, and any improvements to a street, plaza, or pedestrian mall including street furniture and beautification, park, parking facility, recreational facility, right-of-way, structure, waterway, bridge, lake, pond, canal, utility line or pipe, building, and access routes to any of the foregoing, designed and dedicated to use by the public generally, or used by a public agency. Public facility includes an improvement to a facility used by the public or a public facility as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351, which improvement is made to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531. Public facility also includes the acquisition, construction, improvement, and operation of a building owned or leased by the authority to be used as a retail business incubator.

(x) "Qualified refunding obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority to refund an obligation if 1 or more of the following apply:

(*i*) The obligation is issued to refund a qualified refunding obligation issued in November 1997 and any subsequent refundings of that obligation issued before January 1, 2010 or the obligation is issued to refund a qualified refunding obligation issued on May 15, 1997 and any subsequent refundings of that obligation issued before January 1, 2010 in an authority in which 1 parcel or group of parcels under common ownership represents 50% or more of the taxable value captured within the tax increment finance district and that will ultimately provide for at least a 40% reduction in the taxable value of the property as part of a negotiated settlement as a result of an appeal filed with the state tax tribunal. Qualified refunding obligations issued under this subparagraph are not subject to the requirements of section 611 of the revised municipal finance

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act, 2001 PA 34, MCL 141.2611, if issued before January 1, 2010. The duration of the development program described in the tax increment financing plan relating to the qualified refunding obligations issued under this subparagraph is hereby extended to 1 year after the final date of maturity of the qualified refunding obligations.

(*ii*) The refunding obligation meets both of the following:

(A) The net present value of the principal and interest to be paid on the refunding obligation, including the cost of issuance, will be less than the net present value of the principal and interest to be paid on the obligation being refunded, as calculated using a method approved by the department of treasury.

(B) The net present value of the sum of the tax increment revenues described in subdivision (bb)(*ii*) and the distributions under section 13b to repay the refunding obligation will not be greater than the net present value of the sum of the tax increment revenues described in subdivision (bb)(*ii*) and the distributions under section 13b to repay the obligation being refunded, as calculated using a method approved by the department of treasury.

(y) "Qualified township" means a township that meets all of the following requirements:

(*i*) Was not eligible to create an authority prior to January 3, 2005.

(*ii*) Adjoins a municipality that previously created an authority.

(*iii*) Along with the adjoining municipality that previously created an authority, is a member of the same joint planning commission under the joint municipal planning act, 2003 PA 226, MCL 125.131 to 125.143.

(z) "Specific local tax" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the technology park development act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL 211.181 to 211.182. The initial assessed value or current assessed value of property subject to a specific local tax shall be the quotient of the specific local tax paid divided by the ad valorem millage rate. However, after 1993, the state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

(aa) "State fiscal year" means the annual period commencing October 1 of each year.

(bb) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area, subject to the following requirements:

(*i*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions other than the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area for any purpose authorized by this act.

(*ii*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area in an amount equal to the amount necessary, without regard to subparagraph (*i*), to repay eligible advances, eligible obligations, and other protected obligations.

(*iii*) Tax increment revenues do not include any of the following:

(A) Ad valorem property taxes attributable either to a portion of the captured assessed value shared with taxing jurisdictions within the jurisdictional area of the authority or to a portion of value of property that may be excluded from captured assessed value or specific local taxes attributable to such ad valorem property taxes.

(B) Ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority or specific local taxes attributable to such ad valorem property taxes.

(C) Ad valorem property taxes exempted from capture under section 3(3) or specific local taxes attributable to such ad valorem property taxes.

(*iv*) The amount of tax increment revenues authorized to be included under subparagraph (*ii*) or (*v*), and required to be transmitted to the authority under section 14(1), from ad valorem property taxes and specific local taxes attributable to the application of the levy of the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, a local school district or an intermediate school district upon the captured assessed value of real and personal property in a development area shall be determined separately for the levy by the state, each school district, and each intermediate school district as the product of sub-subparagraphs (A) and (B):

(A) The percentage that the total ad valorem taxes and specific local taxes available for distribution by law to the state, local school district, or intermediate school district, respectively, bears to the aggregate amount of ad valorem millage taxes and specific taxes available for distribution by law to the state, each local school district, and each intermediate school district.

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(B) The maximum amount of ad valorem property taxes and specific local taxes considered tax increment revenues under subparagraph (*ii*) or (*v*).

(*v*) Tax increment revenues include ad valorem property taxes and specific local taxes, in an annual amount and for each year approved by the state treasurer, attributable to the levy by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and by local or intermediate school districts, upon the captured assessed value of real and personal property in the development area of an authority established in a city with a population of 750,000 or more to pay for, or reimburse an advance for, not more than $8,000,000.00 for the demolition of buildings or structures on public or privately owned property within a development area that commences in 2005, or to pay the annual principal of or interest on an obligation, the terms of which are approved by the state treasurer, issued by an authority, or by a city on behalf of an authority, to pay not more than $8,000,000.00 of the costs to demolish buildings or structures on public or privately owned property within a development area that commences in 2005.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1985, Act 221, Imd. Eff. Jan. 10, 1986;—Am. 1993, Act 323, Eff. Mar. 15, 1994;—Am. 1994, Act 280, Imd. Eff. July 11, 1994;—Am. 1994, Act 330, Imd. Eff. Oct. 14, 1994;—Am. 1994, Act 381, Imd. Eff. Dec. 28, 1994;—Am. 1996, Act 269, Imd. Eff. June 12, 1996;—Am. 1996, Act 454, Imd. Eff. Dec. 19, 1996;—Am. 1997, Act 202, Imd. Eff. Jan. 13, 1998;—Am. 2003, Act 136, Imd. Eff. Aug. 1, 2003;—Am. 2004, Act 66, Imd. Eff. Apr. 20, 2004;—Am. 2004, Act 158, Imd. Eff. June 17, 2004;—Am. 2004, Act 196, Imd. Eff. July 8, 2004;—Am. 2005, Act 13, Imd. Eff. May 4, 2005;—Am. 2005, Act 115, Imd. Eff. Sept. 22, 2005;—Am. 2006, Act 659, Imd. Eff. Jan. 10, 2007;—Am. 2008, Act 35, Imd. Eff. Mar. 14, 2008;—Am. 2008, Act 225, Imd. Eff. July 17, 2008.

Compiler's note: Enacting section 1 of Act 202 of 1997 provides:

"The provisions of section 1 and section 13b, as amended by this amendatory act, are retroactive and effective for taxes levied after 1993."

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1651a Legislative findings.

Sec. 1a. The legislature finds all of the following:

(a) That there exists in this state conditions of property value deterioration detrimental to the state economy and the economic growth of the state and its local units of government.

(b) That government programs are desirable and necessary to eliminate the causes of property value deterioration thereby benefiting the economic growth of the state.

(c) That it is appropriate to finance these government programs by means available to the state and local units of government in the state, including tax increment financing.

(d) That tax increment financing is a government financing program that contributes to economic growth and development by dedicating a portion of the increase in the tax base resulting from economic growth and development to facilities, structures, or improvements within a development area thereby facilitating economic growth and development.

(e) That it is necessary for the legislature to exercise its power to legislate tax increment financing as authorized in this act and in the exercise of this power to mandate the transfer of tax increment revenues by city, village, township, school district, and county treasurers to authorities created under this act in order to effectuate the legislative government programs to eliminate property value deterioration and to promote economic growth.

(f) That halting property value deterioration and promoting economic growth in the state are essential governmental functions and constitute essential public purposes.

(g) That economic development strengthens the tax base upon which local units of government rely and that government programs to eliminate property value deterioration benefit local units of government and are for the use of the local units of government.

(h) That the provisions of this act are enacted to provide a means for local units of government to eliminate property value deterioration and to promote economic growth in the communities served by those local units of government.

History: Add. 1988, Act 425, Imd. Eff. Dec. 27, 1988.

Compiler's note: Section 2 of Act 425 of 1988 provides: "This amendatory act is effective beginning with taxes levied in 1989. However, for taxes levied before 1989, tax increment revenues based on the definition of initial assessed value provided for in this amendatory act that were received by an authority are validated."

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1652 Authority; establishment; restriction; public body corporate; powers generally.

Sec. 2. (1) Except as otherwise provided in this subsection, a municipality may establish 1 authority. If,

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before November 1, 1985, a municipality establishes more than 1 authority, those authorities may continue to exist as separate authorities. Under the conditions described in section 3a, a municipality may have more than 1 authority within that municipality's boundaries. A parcel of property shall not be included in more than 1 authority created by this act.

(2) An authority shall be a public body corporate which may sue and be sued in any court of this state. An authority possesses all the powers necessary to carry out the purpose of its incorporation. The enumeration of a power in this act shall not be construed as a limitation upon the general powers of an authority.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1985, Act 159, Imd. Eff. Nov. 15, 1985.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1653 Resolution of intent to create and provide for operation of authority; public hearing on proposed ordinance creating authority and designating boundaries of downtown district; notice; exemption of taxes from capture; adoption, filing, and publication of ordinance; altering or amending boundaries; agreement with adjoining municipality; agreement with qualified township.

Sec. 3. (1) When the governing body of a municipality determines that it is necessary for the best interests of the public to halt property value deterioration and increase property tax valuation where possible in its business district, to eliminate the causes of that deterioration, and to promote economic growth, the governing body may, by resolution, declare its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body shall set a date for the holding of a public hearing on the adoption of a proposed ordinance creating the authority and designating the boundaries of the downtown district. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 or more than 40 days before the date of the hearing. Not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in the proposed district and for a public hearing to be held after February 15, 1994 to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure of a property taxpayer to receive the notice shall not invalidate these proceedings. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the proposed downtown district not less than 20 days before the hearing. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed downtown district. A citizen, taxpayer, or property owner of the municipality or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of the proposed downtown district. The governing body of the municipality shall not incorporate land into the downtown district not included in the description contained in the notice of public hearing, but it may eliminate described lands from the downtown district in the final determination of the boundaries.

(3) Not more than 60 days after a public hearing held after February 15, 1994, the governing body of a taxing jurisdiction levying ad valorem property taxes that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to create the authority. The resolution takes effect when filed with that clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

(4) Not less than 60 days after the public hearing, if the governing body of the municipality intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members, an ordinance establishing the authority and designating the boundaries of the downtown district within which the authority shall exercise its powers. The adoption of the ordinance is subject to any applicable statutory or charter provisions in respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of an ordinance over his or her veto. This ordinance shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(5) The governing body of the municipality may alter or amend the boundaries of the downtown district to include or exclude lands from the downtown district pursuant to the same requirements for adopting the ordinance creating the authority.

(6) A municipality that has created an authority may enter into an agreement with an adjoining

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municipality that has created an authority to jointly operate and administer those authorities under an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(7) A municipality that has created an authority may enter into an agreement with a qualified township to operate its authority in a downtown district in the qualified township under an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512. The interlocal agreement between the municipality and the qualified township shall provide for, but is not limited to, all of the following:

(a) Size and makeup of the board.

(b) Determination and modification of downtown district, business district, and development area.

(c) Modification of development area and development plan.

(d) Issuance and repayment of obligations.

(e) Capture of taxes.

(f) Notice, hearing, and exemption of taxes from capture provisions described in this section.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1993, Act 323, Eff. Mar. 15, 1994;—Am. 2004, Act 521, Imd. Eff. Jan. 3, 2005;—Am. 2005, Act 13, Imd. Eff. May 4, 2005;—Am. 2005, Act 115, Imd. Eff. Sept. 22, 2005.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1653a Authority of annexing or consolidated municipality; obligations, agreements, and bonds.

Sec. 3a. If a downtown district is part of an area annexed to or consolidated with another municipality, the authority managing that district shall become an authority of the annexing or consolidated municipality. Obligations of that authority incurred under a development or tax increment plan, agreements related to a development or tax increment plan, and bonds issued under this act shall remain in effect following the annexation or consolidation.

History: Add. 1985, Act 159, Imd. Eff. Nov. 15, 1985.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1653b Ratification and validation of ordinance and actions; compliance.

Sec. 3b. (1) An ordinance enacted by a municipality that has a population of less than 50,000 establishing an authority, creating a district, or approving a development plan or tax increment financing plan, or an amendment to an authority, district, or plan, and all actions taken under that ordinance, including the issuance of bonds, are ratified and validated notwithstanding that notice for the public hearing on the establishment of the authority, creation of the district, or approval of the development plan or tax increment financing plan, or on the amendment, was not published, posted, or mailed at least 20 days before the hearing, if the notice was published or posted at least 15 days before the hearing or the authority was established in 1984 by a village that filed the ordinance with the secretary of state not later than March, 1986. This section applies only to an ordinance adopted by a municipality before February 1, 1991, and shall include any bonds or amounts to be used by the authority to pay the principal of and interest on bonds that have been issued or that are to be issued by the authority, the incorporating municipality, or a county on behalf of the incorporating municipality. An authority for which an ordinance or amendment to the ordinance establishing the authority has been published before February 1, 1991 is considered for purposes of section 3(4) to have promptly filed the ordinance or amendment to the ordinance with the secretary of state if the ordinance or amendment to the ordinance is filed with the secretary of state before October 1, 1991. As used in this section, "notice was published" means publication of the notice occurred at least once.

(2) A development plan and tax increment financing plan approved by a resolution adopted by the village council of a village having a population of less than 3,000 before June 15, 1988 rather than by adoption of an ordinance is ratified and validated, if an amendment to the plans was adopted by the village council in compliance with sections 18 and 19.

(3) A development plan and tax increment financing plan approved by a resolution adopted by the village council of a village having a population of less than 7,000 before June 1, 1998 rather than by adoption of an ordinance is ratified and validated if an amendment to the plans was adopted by the village council in compliance with sections 18 and 19.

History: Add. 1989, Act 242, Imd. Eff. Dec. 21, 1989;—Am. 1991, Act 66, Imd. Eff. July 3, 1991;—Am. 1993, Act 42, Imd. Eff. May 27, 1993;—Am. 1993, Act 323, Eff. Mar. 15, 1994;—Am. 2006, Act 329, Imd. Eff. Aug. 10, 2006.

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Popular name: DDA

Popular name: Downtown Development Authority Act

125.1653c Proceedings or findings; validity.

Sec. 3c. The validity of the proceedings or findings establishing an authority, or of the procedure, adequacy of notice, or findings with respect to the approval of a development plan or tax increment financing plan is conclusive with respect to the capture of tax increment revenues for an other protected obligation that is a bond issued after October 1, 1994.

History: Add. 1994, Act 381, Imd. Eff. Dec. 28, 1994.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1653d Establishment or amendment of authority, district, or plan; notice; publication or posting.

Sec. 3d. An ordinance enacted by a municipality that has a population of greater than 1,000 and less than 2,000 establishing an authority, creating a district, or approving a development plan or tax increment financing plan, or an amendment to an authority, district, or plan, and all actions taken or to be taken under that ordinance, including the issuance of bonds, are ratified and validated notwithstanding that notice for the public hearing on the establishment of the authority, creation of the district, or approval of the development plan or tax increment financing plan, or on the amendment, was not published, posted, or mailed at least 20 days before the hearing, provided that the notice was either published or posted at least 10 days before the hearing or that the authority was established in 1990 by a municipality that filed the ordinance with the secretary of state not later than July 1991. This section applies only to an ordinance or an amendment adopted by a municipality before January 1, 1999 and shall include any bonds or amounts to be used by the authority to pay the principal of and interest on bonds that have been issued or that are to be issued by the authority or the incorporating municipality. An authority for which an ordinance or amendment to the ordinance establishing the authority has been published before February 1, 1991 is considered for purposes of section 3(3) to have promptly filed the ordinance or amendment to the ordinance with the secretary of state if the ordinance or amendment to the ordinance is filed with the secretary of state before December 31, 2002. The validity of the proceedings or findings establishing an authority described in this section, or of the procedure, adequacy of notice, or findings with respect to the approval of a development plan or tax increment financing plan for an authority described in this section is conclusive with respect to the capture of tax increment revenues for a bond issued after June 1, 2002 and before June 1, 2006. As used in this section, "notice was either published or posted" means either publication or posting of the notice occurred at least once.

History: Add. 2002, Act 460, Imd. Eff. June 21, 2002.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1654 Board; appointment, terms, and qualifications of members; vacancy; compensation and expenses; election of chairperson; oath; conducting business at public meeting; public notice; special meetings; removal of members; review; expense items and financial records; availability of writings to public; single board governing all authorities; member as resident or having interest in property; planning commission serving as board in certain municipalities; modification by interlocal agreement.

Sec. 4. (1) Except as provided in subsections (7), (8), and (9), an authority shall be under the supervision and control of a board consisting of the chief executive officer of the municipality and not less than 8 or more than 12 members as determined by the governing body of the municipality. Members shall be appointed by the chief executive officer of the municipality, subject to approval by the governing body of the municipality. Not less than a majority of the members shall be persons having an interest in property located in the downtown district or officers, members, trustees, principals, or employees of a legal entity having an interest in property located in the downtown district. Not less than 1 of the members shall be a resident of the downtown district, if the downtown district has 100 or more persons residing within it. Of the members first appointed, an equal number of the members, as near as is practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years. A member shall hold office until the member's successor is appointed. Thereafter, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board.

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(2) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(3) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall adopt rules consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held if called in the manner provided in the rules of the board.

(4) Pursuant to notice and after having been given an opportunity to be heard, a member of the board may be removed for cause by the governing body. Removal of a member is subject to review by the circuit court.

(5) All expense items of the authority shall be publicized monthly and the financial records shall always be open to the public.

(6) In addition to the items and records prescribed in subsection (5), a writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) By resolution of its governing body, a municipality having more than 1 authority may establish a single board to govern all authorities in the municipality. The governing body may designate the board of an existing authority as the board for all authorities or may establish by resolution a new board in the same manner as provided in subsection (1). A member of a board governing more than 1 authority may be a resident of or have an interest in property in any of the downtown districts controlled by the board in order to meet the requirements of this section.

(8) By ordinance, the governing body of a municipality that has a population of less than 5,000 may have the municipality's planning commission created pursuant to 1931 PA 285, MCL 125.31 to 125.45, serve as the board provided for in subsection (1).

(9) If a municipality enters into an agreement with a qualified township under section 3(7), the membership of the board may be modified by the interlocal agreement described in section 3(7).

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1978, Act 521, Imd. Eff. Dec. 20, 1978;—Am. 1985, Act 159, Imd. Eff. Nov. 15, 1985;—Am. 1987, Act 66, Imd. Eff. June 25, 1987;—Am. 2005, Act 115, Imd. Eff. Sept. 22, 2005;—Am. 2006, Act 279, Imd. Eff. July 7, 2006.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1655 Director, acting director, treasurer, secretary, legal counsel, and other personnel.

Sec. 5. (1) The board may employ and fix the compensation of a director, subject to the approval of the governing body of the municipality. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before entering upon the duties of his office, the director shall take and subscribe to the constitutional oath, and furnish bond, by posting a bond in the penal sum determined in the ordinance establishing the authority payable to the authority for use and benefit of the authority, approved by the board, and filed with the municipal clerk. The premium on the bond shall be deemed an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive officer of the authority. Subject to the approval of the board, the director shall supervise, and be responsible for, the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board, and shall render to the board and to the governing body of the municipality a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before entering upon the duties of his office, the acting director shall take and subscribe to the oath, and furnish bond, as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

(2) The board may employ and fix the compensation of a treasurer, who shall keep the financial records of the authority and who, together with the director, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform such other duties as may be delegated to him by the board and shall furnish bond in an amount as prescribed by the board.

(3) The board may employ and fix the compensation of a secretary, who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings, and shall perform such other duties delegated by the board.

(4) The board may retain legal counsel to advise the board in the proper performance of its duties. The

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legal counsel shall represent the authority in actions brought by or against the authority.

(5) The board may employ other personnel deemed necessary by the board.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1656 Participation of employees in municipal retirement and insurance programs.

Sec. 6. The employees of an authority shall be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees except that the employees of an authority are not civil service employees.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1657 Powers of board; creation, operation, or funding of retail business incubator.

Sec. 7. (1) The board may:

(a) Prepare an analysis of economic changes taking place in the downtown district.

(b) Study and analyze the impact of metropolitan growth upon the downtown district.

(c) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility, an existing building, or a multiple-family dwelling unit which may be necessary or appropriate to the execution of a plan which, in the opinion of the board, aids in the economic growth of the downtown district.

(d) Plan, propose, and implement an improvement to a public facility within the development area to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(e) Develop long-range plans, in cooperation with the agency which is chiefly responsible for planning in the municipality, designed to halt the deterioration of property values in the downtown district and to promote the economic growth of the downtown district, and take such steps as may be necessary to persuade property owners to implement the plans to the fullest extent possible.

(f) Implement any plan of development in the downtown district necessary to achieve the purposes of this act, in accordance with the powers of the authority as granted by this act.

(g) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.

(h) Acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in property, which the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect to that property.

(i) Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, and operate any building, including multiple-family dwellings, and any necessary or desirable appurtenances to that property, within the downtown district for the use, in whole or in part, of any public or private person or corporation, or a combination of them.

(j) Fix, charge, and collect fees, rents, and charges for the use of any building or property under its control or any part thereof, or facility therein, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(k) Lease any building or property under its control, or any part of a building or property.

(*l*) Accept grants and donations of property, labor, or other things of value from a public or private source.

(m) Acquire and construct public facilities.

(n) Create, operate, and fund marketing initiatives that benefit only retail and general marketing of the downtown district.

(o) Contract for broadband service and wireless technology service in the downtown district.

(p) Operate and perform all duties and exercise all responsibilities described in this section in a qualified township if the qualified township has entered into an agreement with the municipality under section 3(7).

(q) Create, operate, and fund a loan program to fund improvements for existing buildings located in a downtown district to make them marketable for sale or lease. The board may make loans with interest at a market rate or may make loans with interest at a below market rate, as determined by the board.

(r) Create, operate, and fund retail business incubators in the downtown district.

(2) If it is the express determination of the board to create, operate, or fund a retail business incubator in the downtown district, the board shall give preference to tenants who will provide goods or services that are

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not available or that are underserved in the downtown area. If the board creates, operates, or funds retail business incubators in the downtown district, the board and each tenant who leases space in a retail business incubator shall enter into a written contract that includes, but is not limited to, all of the following:

(a) The lease or rental rate that may be below the fair market rate as determined by the board.

(b) The requirement that a tenant may lease space in the retail business incubator for a period not to exceed 18 months.

(c) The terms of a joint operating plan with 1 or more other businesses located in the downtown district.

(d) A copy of the business plan of the tenant that contains measurable goals and objectives.

(e) The requirement that the tenant participate in basic management classes, business seminars, or other business education programs offered by the authority, the local chamber of commerce, local community colleges, or institutions of higher education, as determined by the board.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1985, Act 221, Imd. Eff. Jan. 10, 1986;—Am. 2004, Act 196, Imd. Eff. July 8, 2004;—Am. 2005, Act 115, Imd. Eff. Sept. 22, 2005;—Am. 2008, Act 226, Imd. Eff. July 17, 2008.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1658 Board serving as planning commission; agenda.

Sec. 8. If a board created under this act serves as the planning commission under section 2 of Act No. 285 of the Public Acts of 1931, being section 125.32 of the Michigan Compiled Laws, the board shall include planning commission business in its agenda.

History: Add. 1987, Act 66, Imd. Eff. June 25, 1987.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1659 Authority as instrumentality of political subdivision.

Sec. 9. The authority shall be deemed an instrumentality of a political subdivision for purposes of Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1660 Taking, transfer, and use of private property.

Sec. 10. A municipality may take private property under Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Michigan Compiled Laws, for the purpose of transfer to the authority, and may transfer the property to the authority for use in an approved development, on terms and conditions it deems appropriate, and the taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1661 Financing activities of authority; disposition of money received by authority; municipal obligations.

Sec. 11. (1) The activities of the authority shall be financed from 1 or more of the following sources:

(a) Donations to the authority for the performance of its functions.

(b) Proceeds of a tax imposed pursuant to section 12.

(c) Money borrowed and to be repaid as authorized by sections 13 and 13a.

(d) Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(e) Proceeds of a tax increment financing plan, established under sections 14 to 16.

(f) Proceeds from a special assessment district created as provided by law.

(g) Money obtained from other sources approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance a development program.

(h) Money obtained pursuant to section 13b.

(i) Revenue from the federal facility development act, Act No. 275 of the Public Acts of 1992, being sections 3.931 to 3.940 of the Michigan Compiled Laws, or revenue transferred pursuant to section 11a of chapter 2 of the city income tax act, Act No. 284 of the Public Acts of 1964, being section 141.611a of the Michigan Compiled Laws.

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(j) Revenue from the federal data facility act, Act No. 126 of the Public Acts of 1993, being sections 3.951 to 3.961 of the Michigan Compiled Laws, or revenue transferred pursuant to section 11b of chapter 2 of the city income tax act, Act No. 284 of the Public Acts of 1964, being section 141.611b of the Michigan Compiled Laws.

(2) Money received by the authority and not covered under subsection (1) shall immediately be deposited to the credit of the authority, subject to disbursement pursuant to this act. Except as provided in this act, the municipality shall not obligate itself, nor shall it ever be obligated to pay any sums from public funds, other than money received by the municipality pursuant to this section, for or on account of the activities of the authority.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1981, Act 34, Imd. Eff. May 11, 1981;—Am. 1992, Act 279, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 122, Imd. Eff. July 20, 1993;—Am. 1993, Act 323, Eff. Mar. 15, 1994.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1662 Ad valorem tax; borrowing in anticipation of collection.

Sec. 12. (1) An authority with the approval of the municipal governing body may levy an ad valorem tax on the real and tangible personal property not exempt by law and as finally equalized in the downtown district. The tax shall not be more than 1 mill if the downtown district is in a municipality having a population of 1,000,000 or more, or not more than 2 mills if the downtown district is in a municipality having a population of less than 1,000,000. The tax shall be collected by the municipality creating the authority levying the tax. The municipality shall collect the tax at the same time and in the same manner as it collects its other ad valorem taxes. The tax shall be paid to the treasurer of the authority and credited to the general fund of the authority for purposes of the authority.

(2) The municipality may at the request of the authority borrow money and issue its notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of the ad valorem tax authorized in this section.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1983, Act 86, Imd. Eff. June 16, 1983;—Am. 2002, Act 234, Imd. Eff. Apr. 29, 2002.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1663 Revenue bonds.

Sec. 13. The authority may borrow money and issue its negotiable revenue bonds therefor pursuant to Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Michigan Compiled Laws. Revenue bonds issued by the authority shall not except as hereinafter provided be deemed a debt of the municipality or the state. The municipality by majority vote of the members of its governing body may pledge its full faith and credit to support the authority's revenue bonds.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1663a Borrowing money; issuing revenue bonds or notes; purpose; costs; security; pledge and lien of pledge valid and binding; filing or recordation not required; tax exemption; bonds or notes neither liability nor debt of municipality; statement; investment and deposit of bonds and notes.

Sec. 13a. (1) The authority may with approval of the local governing body borrow money and issue its revenue bonds or notes to finance all or part of the costs of acquiring or constructing property in connection with the implementation of a development plan in the downtown district or to refund or refund in advance bonds or notes issued pursuant to this section. The costs which may be financed by the issuance of revenue bonds or notes may include the cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing property in connection with the implementation of a development plan in the downtown district; any engineering, architectural, legal, accounting, or financial expenses; the costs necessary or incidental to the borrowing of money; interest on the bonds or notes during the period of construction; a reserve for payment of principal and interest on the bonds or notes; and a reserve for operation and maintenance until sufficient revenues have developed. The authority may secure the bonds and notes by mortgage, assignment, or pledge of the property and any money, revenues, or income received in connection therewith.

(2) A pledge made by the authority shall be valid and binding from the time the pledge is made. The

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money or property pledged by the authority immediately shall be subject to the lien of the pledge without a physical delivery, filing, or further act. The lien of such a pledge shall be valid and binding as against parties having claims of any kind in tort, contract, or otherwise, against the authority, irrespective of whether the parties have notice of the lien. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created need be filed or recorded.

(3) Bonds or notes issued pursuant to this section shall be exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes shall be exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(4) The municipality shall not be liable on bonds or notes of the authority issued pursuant to this section and the bonds or notes shall not be a debt of the municipality. The bonds or notes shall contain on their face a statement to that effect.

(5) The bonds and notes of the authority may be invested in by all public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by all public officers and the agencies and political subdivisions of this state for any purpose for which the deposit of bonds is authorized.

History: Add. 1981, Act 151, Imd. Eff. Nov. 19, 1981.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1663b Insufficient tax increment revenues to repay advance or pay obligation; contents, time, and payment of claim; appropriation and distribution of aggregate amount; limitations; distribution subject to lien; obligation as debt or liability; certification of distribution amount; basis for calculation of distributions and claim reports.

Sec. 13b. (1) If the amount of tax increment revenues lost as a result of the reduction of taxes levied by local school districts for school operating purposes required by the millage limitations under section 1211 of the school code of 1976, 1976 PA 451, MCL 380.1211, reduced by the amount of tax increment revenues received from the capture of taxes levied under or attributable to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, will cause the tax increment revenues received in a fiscal year by an authority under section 15 to be insufficient to repay an eligible advance or to pay an eligible obligation, the legislature shall appropriate and distribute to the authority the amount described in subsection (5).

(2) Not less than 30 days before the first day of a fiscal year, an authority eligible to retain tax increment revenues from taxes levied by a local or intermediate school district or this state or to receive a distribution under this section for that fiscal year shall file a claim with the department of treasury. The claim shall include the following information:

(a) The property tax millage rates levied in 1993 by local school districts within the jurisdictional area of the authority for school operating purposes.

(b) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(c) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.

(d) The tax increment revenues the authority estimates it would have received for that fiscal year if property taxes were levied by local school districts within the jurisdictional area of the authority for school operating purposes at the millage rates described in subdivision (a) and if no property taxes were levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(e) A list and documentation of eligible obligations and eligible advances and the payments due on each of those eligible obligations or eligible advances in that fiscal year, and the total amount of all the payments due on those eligible obligations and eligible advances in that fiscal year.

(f) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation or the repayment of an eligible advance. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development project.

(g) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

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(h) A list and documentation of other protected obligations and the payments due on each of those other protected obligations in that fiscal year, and the total amount of all the payments due on those other protected obligations in that fiscal year.

(3) For the fiscal year that commences after September 30, 1993 and before October 1, 1994, an authority may make a claim with all information required by subsection (2) at any time after March 15, 1994.

(4) After review and verification of claims submitted pursuant to this section, amounts appropriated by the state in compliance with this act shall be distributed as 2 equal payments on March 1 and September 1 after receipt of a claim. An authority shall allocate a distribution it receives for an eligible obligation issued on behalf of a municipality to the municipality.

(5) Subject to subsections (6) and (7), the aggregate amount to be appropriated and distributed pursuant to this section to an authority shall be the sum of the amounts determined pursuant to subdivisions (a) and (b) minus the amount determined pursuant to subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received for the fiscal year, excluding taxes exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, if property taxes were levied by local school districts for school operating purposes at the millage rates described in subsection (2)(a) and if no property taxes were levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, exceed the tax increment revenues the authority actually received for the fiscal year.

(b) A shortfall required to be reported pursuant to subsection (2)(g) that had not previously increased a distribution.

(c) An excess amount required to be reported pursuant to subsection (2)(g) that had not previously decreased a distribution.

(6) The amount distributed under subsection (5) shall not exceed the difference between the amount described in subsection (2)(e) and the sum of the amounts described in subsection (2)(c) and (f).

(7) If, based upon the tax increment financing plan in effect on August 19, 1993, the payment due on eligible obligations or eligible advances anticipates the use of excess prior year tax increment revenues permitted by law to be retained by the authority, and if the sum of the amounts described in subsection (2)(c) and (f) plus the amount to be distributed under subsections (5) and (6) is less than the amount described in subsection (2)(e), the amount to be distributed under subsections (5) and (6) shall be increased by the amount of the shortfall. However, the amount authorized to be distributed pursuant to this section shall not exceed that portion of the cumulative difference, for each preceding fiscal year, between the amount that could have been distributed pursuant to subsection (5) and the amount actually distributed pursuant to subsections (5) and (6) and this subsection.

(8) A distribution under this section replacing tax increment revenues pledged by an authority or a municipality is subject to the lien of the pledge, whether or not there has been physical delivery of the distribution.

(9) Obligations for which distributions are made pursuant to this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(10) Not later than July 1 of each year, the authority shall certify to the local tax collecting treasurer the amount of the distribution required under subsection (5), calculated without regard to the receipt of tax increment revenues attributable to local or intermediate school district taxes or attributable to taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(11) Calculations of distributions under this section and claims reports required to be made under subsection (2) shall be made on the basis of each development area of the authority.

(12) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

History: Add. 1993, Act 323, Eff. Mar. 15, 1994;—Am. 1994, Act 280, Imd. Eff. July 11, 1994;—Am. 1996, Act 269, Imd. Eff. June 12, 1996;—Am. 1996, Act 454, Imd. Eff. Dec. 19, 1996;—Am. 1997, Act 202, Imd. Eff. Jan. 13, 1998.

Compiler's note: Enacting section 1 of Act 202 of 1997 provides:

"The provisions of section 1 and section 13b, as amended by this amendatory act, are retroactive and effective for taxes levied after 1993."

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1663c Retention and payment of taxes levied under state education tax act; conditions; application by authority for approval; information to be included; approval, modification,

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or denial of application by department of treasury; appropriation and distribution of amount; calculation of aggregate amount; lien; reimbursement calculations; legislative intent.

Sec. 13c. (1) If the amount of tax increment revenues lost as a result of the personal property tax exemptions provided by section 1211(4) of the revised school code, 1976 PA 451, MCL 380.1211, section 3 of the state education tax act, 1993 PA 331, MCL 211.903, section 14(4) of 1974 PA 198, MCL 207.564, and section 9k of the general property tax act, 1893 PA 206, MCL 211.9k, will reduce the allowable school tax capture received in a fiscal year, then, notwithstanding any other provision of this act, the authority, with approval of the department of treasury under subsection (3), may request the local tax collecting treasurer to retain and pay to the authority taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, to be used for the following:

(a) To repay an eligible advance.

(b) To repay an eligible obligation.

(c) To repay an other protected obligation.

(2) Not later than June 15, 2008, not later than September 30, 2009, and not later than June 1 of each subsequent year, an authority eligible under subsection (1) to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section, shall apply for approval with the department of treasury. The application for approval shall include the following information:

(a) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(b) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.

(c) The tax increment revenues the authority estimates it would have received for that fiscal year if the personal property tax exemptions described in subsection (1) were not in effect.

(d) A list of eligible obligations, eligible advances, and other protected obligations, the payments due on each of those in that fiscal year, and the total amount of all the payments due on all of those in that fiscal year.

(e) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation, the repayment of an eligible advance, or the payment of an other protected obligation. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development plan.

(f) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(3) Not later than August 15, 2008; for 2009 only, not later than 30 days after the effective date of the amendatory act that amended this sentence; and not later than August 15 of each subsequent year, based on the calculations under subsection (5), the department of treasury shall approve, modify, or deny the application for approval to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section. If the application for approval contains the information required under subsection (2)(a) through (f) and appears to be in substantial compliance with the provisions of this section, then the department of treasury shall approve the application. If the application is denied by the department of treasury, then the department of treasury shall provide the opportunity for a representative of the authority to discuss the denial within 21 days after the denial occurs and shall sustain or modify its decision within 30 days after receiving information from the authority. If the application for approval is approved or modified by the department of treasury, the local tax collecting treasurer shall retain and pay to the authority the amount described in subsection (5) as approved by the department. If the department of treasury denies the authority's application for approval, the local tax collecting treasurer shall not retain or pay to the authority the taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the department does not prohibit a subsequent audit of taxes retained in accordance with the procedures currently authorized by law.

(4) Each year the legislature shall appropriate and distribute an amount sufficient to pay each authority the following:

(a) If the amount to be retained and paid under subsection (3) is less than the amount calculated under subsection (5), the difference between those amounts.

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(b) If the application for approval is denied by the department of treasury, an amount verified by the department equal to the amount calculated under subsection (5).

(5) Subject to subsection (6), the aggregate amount under this section shall be the sum of the amounts determined under subdivisions (a) and (b) minus the amount determined under subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received and retained for the fiscal year, excluding taxes exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax exemptions described in subsection (1) were not in effect, exceed the tax increment revenues the authority actually received for the fiscal year.

(b) A shortfall required to be reported under subsection (2)(f) that had not previously increased a distribution.

(c) An excess amount required to be reported under subsection (2)(f) that had not previously decreased a distribution.

(6) A distribution or taxes retained under this section replacing tax increment revenues pledged by an authority or a municipality are subject to any lien of the pledge described in subsection (1), whether or not there has been physical delivery of the distribution.

(7) Obligations for which distributions are made under this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(8) Not later than September 15 of each year, the authority shall provide a copy of the application for approval approved by the department of treasury to the local tax collecting treasurer and provide the amount of the taxes retained and paid to the authority under subsection (5).

(9) Calculations of amounts retained and paid and appropriations to be distributed under this section shall be made on the basis of each development area of the authority.

(10) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

(11) It is the intent of the legislature that, to the extent that the total amount of taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be retained under this section and section 11b of the local development financing act, 1986 PA 281, MCL 125.2161b, section 15a of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2665a, and section 12b of the tax increment financing act, 1980 PA 450, MCL 125.1812b, exceeds the difference of the total school aid fund revenue for the tax year minus the estimated amount of revenue the school aid fund would have received for the tax year had the tax exemptions described in subsection (1) and the earmark created by section 515 of the Michigan business tax act, 2007 PA 36, MCL 208.1515, not taken effect, the general fund shall reimburse the school aid fund the difference.

History: Add. 2008, Act 157, Imd. Eff. June 5, 2008;—Am. 2009, Act 213, Imd. Eff. Jan. 4, 2010.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1664 Tax increment financing plan; preparation and contents; limitation; definition; public hearing; fiscal and economic implications; recommendations; agreements; modification of plan.

Sec. 14. (1) When the authority determines that it is necessary for the achievement of the purposes of this act, the authority shall prepare and submit a tax increment financing plan to the governing body of the municipality. The plan shall include a development plan as provided in section 17, a detailed explanation of the tax increment procedure, the maximum amount of bonded indebtedness to be incurred, and the duration of the program, and shall be in compliance with section 15. The plan shall contain a statement of the estimated impact of tax increment financing on the assessed values of all taxing jurisdictions in which the development area is located. The plan may provide for the use of part or all of the captured assessed value, but the portion intended to be used by the authority shall be clearly stated in the tax increment financing plan. The authority or municipality may exclude from captured assessed value growth in property value resulting solely from inflation. The plan shall set forth the method for excluding growth in property value resulting solely from inflation.

(2) The percentage of taxes levied for school operating purposes that is captured and used by the tax increment financing plan shall not be greater than the plan's percentage capture and use of taxes levied by a municipality or county for operating purposes. For purposes of the previous sentence, taxes levied by a county for operating purposes include only millage allocated for county or charter county purposes under the

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property tax limitation act, Act No. 62 of the Public Acts of 1933, being sections 211.201 to 211.217a of the Michigan Compiled Laws. For purposes of this subsection, tax increment revenues used to pay bonds issued by a municipality under section 16(1) shall be considered to be used by the tax increment financing plan rather than shared with the municipality. The limitation of this subsection does not apply to the portion of the captured assessed value shared pursuant to an agreement entered into before 1989 with a county or with a city in which an enterprise zone is approved under section 13 of the enterprise zone act, Act No. 224 of the Public Acts of 1985, being section 125.2113 of the Michigan Compiled Laws.

(3) Approval of the tax increment financing plan shall be pursuant to the notice, hearing, and disclosure provisions of section 18. If the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together.

(4) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to meet with the governing body. The authority shall fully inform the taxing jurisdictions of the fiscal and economic implications of the proposed development area. The taxing jurisdictions may present their recommendations at the public hearing on the tax increment financing plan. The authority may enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the development area is located to share a portion of the captured assessed value of the district.

(5) A tax increment financing plan may be modified if the modification is approved by the governing body upon notice and after public hearings and agreements as are required for approval of the original plan.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1979, Act 26, Imd. Eff. June 6, 1979;—Am. 1981, Act 34, Imd. Eff. May 11, 1981;—Am. 1986, Act 229, Imd. Eff. Oct. 1, 1986;—Am. 1988, Act 425, Imd. Eff. Dec. 27, 1988;—Am. 1989, Act 108, Imd. Eff. June 23, 1989;—Am. 1993, Act 323, Eff. Mar. 15, 1994.

Compiler's note: Section 2 of Act 425 of 1988 provides: "This amendatory act is effective beginning with taxes levied in 1989. However, for taxes levied before 1989, tax increment revenues based on the definition of initial assessed value provided for in this amendatory act that were received by an authority are validated."

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1665 Transmitting and expending tax increments revenues; reversion of surplus funds; abolition of tax increment financing plan; conditions; annual report on status of tax increment financing account; contents; publication.

Sec. 15. (1) The municipal and county treasurers shall transmit to the authority tax increment revenues.

(2) The authority shall expend the tax increment revenues received for the development program only pursuant to the tax increment financing plan. Surplus funds shall revert proportionately to the respective taxing bodies. These revenues shall not be used to circumvent existing property tax limitations. The governing body of the municipality may abolish the tax increment financing plan when it finds that the purposes for which it was established are accomplished. However, the tax increment financing plan shall not be abolished until the principal of, and interest on, bonds issued pursuant to section 16 have been paid or funds sufficient to make the payment have been segregated.

(3) Annually the authority shall submit to the governing body of the municipality and the state tax commission a report on the status of the tax increment financing account. The report shall be published in a newspaper of general circulation in the municipality and shall include the following:

(a) The amount and source of revenue in the account.

(b) The amount in any bond reserve account.

(c) The amount and purpose of expenditures from the account.

(d) The amount of principal and interest on any outstanding bonded indebtedness.

(e) The initial assessed value of the project area.

(f) The captured assessed value retained by the authority.

(g) The tax increment revenues received.

(h) The number of jobs created as a result of the implementation of the tax increment financing plan.

(i) Any additional information the governing body or the state tax commission considers necessary.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1979, Act 26, Imd. Eff. June 6, 1979;—Am. 1981, Act 34, Imd. Eff. May 11, 1981;—Am. 1986, Act 229, Imd. Eff. Oct. 1, 1986;—Am. 1988, Act 425, Imd. Eff. Dec. 27, 1988;—Am. 1992, Act 279, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 323, Eff. Mar. 15, 1994.

Compiler's note: Section 2 of Act 425 of 1988 provides: "This amendatory act is effective beginning with taxes levied in 1989. However, for taxes levied before 1989, tax increment revenues based on the definition of initial assessed value provided for in this amendatory act that were received by an authority are validated."

Popular name: DDA

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Popular name: Downtown Development Authority Act

125.1666 General obligation bonds and tax increment bonds; qualified refunding obligation.

Sec. 16. (1) The municipality may by resolution of its governing body authorize, issue, and sell general obligation bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan and shall pledge its full faith and credit for the payment of the bonds. The municipality may pledge as additional security for the bonds any money received by the authority or the municipality pursuant to section 11. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Before the municipality may authorize the borrowing, the authority shall submit an estimate of the anticipated tax increment revenues and other revenue available under section 11 to be available for payment of principal and interest on the bonds, to the governing body of the municipality. This estimate shall be approved by the governing body of the municipality by resolution adopted by majority vote of the members of the governing body in the resolution authorizing the bonds. If the governing body of the municipality adopts the resolution authorizing the bonds, the estimate of the anticipated tax increment revenues and other revenue available under section 11 to be available for payment of principal and interest on the bonds shall be conclusive for purposes of this section. The bonds issued under this subsection shall be considered a single series for the purposes of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2801.

(2) By resolution of its governing body, the authority may authorize, issue, and sell tax increment bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan. The tax increment bonds issued by the authority under this subsection shall pledge solely the tax increment revenues of a development area in which the project is located or a development area from which tax increment revenues may be used for this project, or both. In addition or in the alternative, the bonds issued by the authority pursuant to this subsection may be secured by any other revenues identified in section 11 as sources of financing for activities of the authority that the authority shall specifically pledge in the resolution. However, the full faith and credit of the municipality shall not be pledged to secure bonds issued pursuant to this subsection. The bond issue may include a sum sufficient to pay interest on the tax increment bonds until full development of tax increment revenues from the project and also a sum to provide a reasonable reserve for payment of principal and interest on the bonds. The resolution authorizing the bonds shall create a lien on the tax increment revenues and other revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds may be issued of equal standing and parity of lien as to the tax increment revenues and other revenues pledged under the resolution. Bonds issued under this subsection that pledge revenue received under section 11 for repayment of the bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) Notwithstanding any other provision of this act, if the state treasurer determines that an authority or municipality can issue a qualified refunding obligation and the authority or municipality does not make a good faith effort to issue the qualified refunding obligation as determined by the state treasurer, the state treasurer may reduce the amount claimed by the authority or municipality under section 13b by an amount equal to the net present value saving that would have been realized had the authority or municipality refunded the obligation or the state treasurer may require a reduction in the capture of tax increment revenues from taxes levied by a local or intermediate school district or this state by an amount equal to the net present value savings that would have been realized had the authority or municipality refunded the obligation. This subsection does not authorize the state treasurer to require the authority or municipality to pledge security greater than the security pledged for the obligation being refunded.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1981, Act 34, Imd. Eff. May 11, 1981;—Am. 1983, Act 34, Imd. Eff. May 10, 1983;—Am. 1985, Act 159, Imd. Eff. Nov. 15, 1985;—Am. 1992, Act 279, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 122, Imd. Eff. July 20, 1993;—Am. 1993, Act 323, Eff. Mar. 15, 1994;—Am. 1996, Act 269, Imd. Eff. June 12, 1996;—Am. 2002, Act 234, Imd. Eff. Apr. 29, 2002.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1667 Development plan; preparation; contents; improvements related to qualified facility.

Sec. 17. (1) When a board decides to finance a project in the downtown district by the use of revenue bonds as authorized in section 13 or tax increment financing as authorized in sections 14, 15, and 16, it shall prepare a development plan.

(2) The development plan shall contain all of the following:

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(a) The designation of boundaries of the development area in relation to highways, streets, streams, or otherwise.

(b) The location and extent of existing streets and other public facilities within the development area, shall designate the location, character, and extent of the categories of public and private land uses then existing and proposed for the development area, including residential, recreational, commercial, industrial, educational, and other uses, and shall include a legal description of the development area.

(c) A description of existing improvements in the development area to be demolished, repaired, or altered, a description of any repairs and alterations, and an estimate of the time required for completion.

(d) The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the development area and an estimate of the time required for completion.

(e) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(f) A description of any parts of the development area to be left as open space and the use contemplated for the space.

(g) A description of any portions of the development area that the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.

(h) A description of desired zoning changes and changes in streets, street levels, intersections, or utilities.

(i) An estimate of the cost of the development, a statement of the proposed method of financing the development, and the ability of the authority to arrange the financing.

(j) Designation of the person or persons, natural or corporate, to whom all or a portion of the development is to be leased, sold, or conveyed in any manner and for whose benefit the project is being undertaken if that information is available to the authority.

(k) The procedures for bidding for the leasing, purchasing, or conveying in any manner of all or a portion of the development upon its completion, if there is no express or implied agreement between the authority and persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed in any manner to those persons.

(*l*) Estimates of the number of persons residing in the development area and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, a development plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those units in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(m) A plan for establishing priority for the relocation of persons displaced by the development in any new housing in the development area.

(n) Provision for the costs of relocating persons displaced by the development and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the federal uniform relocation assistance and real property acquisition policies act of 1970, being Public Law 91-646, 42 U.S.C. sections 4601, et seq.

(o) A plan for compliance with Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

(p) Other material that the authority, local public agency, or governing body considers pertinent.

(3) A development plan may provide for improvements related to a qualified facility, as defined in the federal facility development act, Act No. 275 of the Public Acts of 1992, being sections 3.931 to 3.940 of the Michigan Compiled Laws, that is located outside of the boundaries of the development area but within the district, including the cost of construction, renovation, rehabilitation, or acquisition of that qualified facility or of public facilities and improvements related to that qualified facility.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1992, Act 279, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 122, Imd. Eff. July 20, 1993.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1668 Ordinance approving development plan or tax increment financing plan; public hearing; notice; record.

Sec. 18. (1) The governing body, before adoption of an ordinance approving or amending a development plan or approving or amending a tax increment financing plan, shall hold a public hearing on the development

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plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall be not less than 20 days before the date set for the hearing. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the downtown district not less than 20 days before the hearing. Notice shall also be mailed to all property taxpayers of record in the downtown district not less than 20 days before the hearing. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the development plan or the tax increment financing plan is approved or amended.

(2) Notice of the time and place of hearing on a development plan shall contain: a description of the proposed development area in relation to highways, streets, streams, or otherwise; a statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice, and that all aspects of the development plan will be open for discussion at the public hearing; and other information that the governing body considers appropriate. At the time set for hearing, the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference to the development plan. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented thereat.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 2005, Act 13, Imd. Eff. May 4, 2005.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1669 Development plan or tax increment financing plan as constituting public purpose; determination; ordinance; considerations.

Sec. 19. (1) The governing body after a public hearing on the development plan or the tax increment financing plan, or both, with notice thereof given in accordance with section 18, shall determine whether the development plan or tax increment financing plan constitutes a public purpose. If it determines that the development plan or tax increment financing plan constitutes a public purpose, it shall then approve or reject the plan, or approve it with modification, by ordinance based on the following considerations:

(a) The findings and recommendations of a development area citizens council, if a development area citizens council was formed.

(b) The plan meets the requirements set forth in section 17 (2).

(c) The proposed method of financing the development is feasible and the authority has the ability to arrange the financing.

(d) The development is reasonable and necessary to carry out the purposes of this act.

(e) The land included within the development area to be acquired is reasonably necessary to carry out the purposes of the plan and of this act in an efficient and economically satisfactory manner.

(f) The development plan is in reasonable accord with the master plan of the municipality.

(g) Public services, such as fire and police protection and utilities, are or will be adequate to service the project area.

(h) Changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

(2) Amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1670 Notice to vacate.

Sec. 20. A person to be relocated under this act shall be given not less than 90 days' written notice to vacate unless modified by court order for good cause.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1671 Development area citizens council; establishment; appointment and qualifications

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of members; representative of development area.

Sec. 21. (1) If a proposed development area has residing within it 100 or more residents, a development area citizens council shall be established at least 90 days before the public hearing on the development or tax increment financing plan. The development area citizens council shall be established by the governing body and shall consist of not less than 9 members. The members of the development area citizens council shall be residents of the development area and shall be appointed by the governing body. A member of a development area citizens council shall be at least 18 years of age.

(2) A development area citizens council shall be representative of the development area.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1672 Development area citizens council; advisory body.

Sec. 22. A development area citizens council established pursuant to this act shall act an advisory body to the authority and the governing body in the adoption of the development or tax increment financing plans.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1673 Consultation.

Sec. 23. Periodically a representative of the authority responsible for preparation of a development or tax increment financing plan within the development area shall consult with and advise the development area citizens council regarding the aspects of a development plan, including the development of new housing for relocation purposes located either inside or outside of the development area. The consultation shall begin before any final decisions by the authority and the governing body regarding a development or tax increment financing plan. The consultation shall continue throughout the preparation and implementation of the development or tax increment financing plan.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1674 Development area citizens council; meetings; notice; record; information and technical assistance; failure to organize, consult, or advise.

Sec. 24. (1) Meetings of the development area citizens council shall be open to the public. Notice of the time and place of the meetings shall be given by publication in a newspaper of general circulation not less than 5 days before the dates set for meetings of the development area citizens council. A person present at those meetings shall have reasonable opportunity to be heard.

(2) A record of the meetings of a development area citizens council, including information and data presented, shall be maintained by the council.

(3) A development area citizens council may request of and receive from the authority information and technical assistance relevant to the preparation of the development plan for the development area.

(4) Failure of a development area citizens council to organize or to consult with and be advised by the authority, or failure to advise the governing body, as provided in this act, shall not preclude the adoption of a development plan by a municipality if the municipality complies with the other provisions of this act.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1675 Citizens district council as development area citizens council.

Sec. 25. In a development area where a citizens district council established according to Act No. 344 of the Public Acts of 1945, as amended, being sections 125.71 to 125.84 of the Michigan Compiled Laws, already exists the governing body may designate it as the development area citizens council authorized by this act.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1676 Notice of findings and recommendations.

Sec. 26. Within 20 days after the public hearing on a development or tax increment financing plan, the

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development area citizens council shall notify the governing body, in writing, of its findings and recommendations concerning a proposed development plan.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1677 Development area citizens council; dissolution.

Sec. 27. A development area citizens council may not be required and, if formed, may be dissolved in any of the following situations:

(a) On petition of not less than 20% of the adult resident population of the development area by the last federal decennial or municipal census, a governing body, after public hearing with notice thereof given in accordance with section 18 and by a 2/3 vote, may adopt an ordinance for the development area to eliminate the necessity of a development area citizens council.

(b) When there are less than 18 residents, real property owners, or representatives of establishments located in the development area eligible to serve on the development area citizens council.

(c) Upon termination of the authority by ordinance of the governing body.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1678 Budget; cost of handling and auditing funds.

Sec. 28. (1) The director of the authority shall prepare and submit for the approval of the board a budget for the operation of the authority for the ensuing fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. Before the budget may be adopted by the board, it shall be approved by the governing body of the municipality. Funds of the municipality shall not be included in the budget of the authority except those funds authorized in this act or by the governing body of the municipality.

(2) The governing body of the municipality may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed, which cost shall be paid annually by the board pursuant to an appropriate item in its budget.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1679 Historic sites.

Sec. 29. (1) A public facility, building, or structure that is determined by the municipality to have significant historical interests shall be preserved in a manner as considered necessary by the municipality in accordance with laws relative to the preservation of historical sites. The preservation of facilities, buildings, or structures determined to be historic sites by a municipality shall include, at a minimum, equipping the historic site with a fire alarm system.

(2) An authority shall refer all proposed changes to the exterior of sites listed on the state register of historic sites and the national register of historic places to the applicable historic district commission created under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, or the department of history, arts, and libraries for review.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 2001, Act 68, Imd. Eff. July 24, 2001;—Am. 2004, Act 66, Imd. Eff. Apr. 20, 2004.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1680 Dissolution of authority; disposition of property and assets; reinstatement of authority; contesting validity of proceedings, findings, and determinations.

Sec. 30. (1) An authority that has completed the purposes for which it was organized shall be dissolved by ordinance of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority belong to the municipality.

(2) An authority established under this act before December 31, 1988, that is dissolved by ordinance of the

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governing body before September 30, 1990 and that is reinstated by ordinance of the governing body after notice and public hearing as provided in section 3(2) shall not be invalidated pursuant to a claim that, based upon the standards set forth in section 3(1), a governing body improperly determined that the necessary conditions existed for the reinstatement of an authority under the act if at the time the governing body established the authority the governing body determined or could have determined that the necessary conditions existed for the establishment of an authority under this act or could have determined that establishment of an authority under this act would serve to promote economic growth and notwithstanding that the boundaries of the downtown district are altered at the time of reinstatement of the authority.

(3) In the resolution of intent, the municipality shall set a date for the holding of a public hearing on the adoption of a proposed ordinance reinstating the authority. The procedure for publishing the notice of hearing, holding the hearing, and adopting the ordinance reinstating the authority shall be as provided in section 3(2), (4), and (5).

(4) The validity of the proceedings, findings, and determinations reinstating an authority shall be conclusive unless contested in a court of competent jurisdiction within 60 days after the last of the following occurs:

(a) Publication of the ordinance reinstating the authority as adopted.

(b) Filing of the ordinance reinstating the authority with the secretary of state.

(c) May 27, 1993.

History: 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1993, Act 42, Imd. Eff. May 27, 1993;—Am. 1993, Act 323, Eff. Mar. 15, 1994.

Popular name: DDA

Popular name: Downtown Development Authority Act

125.1681 Proceedings to compel enforcement of act; rules.

Sec. 31. (1) The state tax commission may institute proceedings to compel enforcement of this act.

(2) The state tax commission may promulgate rules necessary for the administration of this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: Add. 1988, Act 425, Imd. Eff. Dec. 27, 1988.

Compiler's note: Section 2 of Act 425 of 1988 provides: “This amendatory act is effective beginning with taxes levied in 1989. However, for taxes levied before 1989, tax increment revenues based on the definition of initial assessed value provided for in this amendatory act that were received by an authority are validated.”

Popular name: DDA

Popular name: Downtown Development Authority Act

DEREZINSKI-GEERLINGS JOB DEVELOPMENT AUTHORITY ACT
Act 301 of 1975

125.1701-125.1770 Repealed. 1984, Act 270, Eff. Sept. 26, 1985.

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WATER RESOURCE IMPROVEMENT TAX INCREMENT FINANCE AUTHORITY ACT
Act 94 of 2008

AN ACT to provide for the establishment of a water improvement tax increment finance authority; to prescribe the powers and duties of the authority; to correct and prevent deterioration in water resources; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans and development areas; to promote water resource improvement; to create a board; to prescribe the powers and duties of the board; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to prescribe powers and duties of certain state officials; to provide for rule promulgation; and to provide for enforcement of the act.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

The People of the State of Michigan enact:

125.1771 Short title.

Sec. 1. This act shall be known and may be cited as the "water resource improvement tax increment finance authority act".

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1772 Definitions; A to M.

Sec. 2. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

(b) "Assessed value" means the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) "Authority" means a water resource improvement tax increment finance authority created under this act.

(d) "Board" means the governing body of an authority.

(e) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the development area, including the assessed value of property for which specific local taxes are paid in lieu of property taxes as determined in section 3(d), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(f) "Chief executive officer" means the mayor or city manager of a city, the president or village manager of a village, or the supervisor of a township.

(g) "Development area" means that area described in section 5 to which a development plan is applicable.

(h) "Development plan" means that information and those requirements for a development area set forth in section 22.

(i) "Development program" means the implementation of the development plan.

(j) "Fiscal year" means the fiscal year of the authority.

(k) "Governing body" or "governing body of a municipality" means the elected body of a municipality having legislative powers.

(*l*) "Initial assessed value" means the assessed value of all the taxable property within the boundaries of the development area at the time the ordinance establishing the tax increment financing plan is approved, as shown by the most recent assessment roll of the municipality at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax is paid in lieu of a property tax shall not be considered to be property that is exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of a property tax shall be determined as provided in section 3(d).

(m) "Inland lake" means a natural or artificial lake, pond, or impoundment. Inland lake does not include the Great Lakes, Lake St. Clair, or a lake or pond that has a surface area of less than 5 acres.

(n) "Land use plan" means a plan prepared under former 1921 PA 207, or a site plan under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3102.

(o) "Municipality" means a city, village, or township.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

Compiler's note: In subdivision (n), the citation to "MCL 125.3101 to 125.3102" evidently should read "MCL 125.3101 to

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125.3702".

125.1773 Definitions; O to W.

Sec. 3. As used in this act:

(a) "Operations" means office maintenance, including salaries and expenses of employees, office supplies, consultation fees, design costs, and other expenses incurred in the daily management of the authority and planning of its activities.

(b) "Parcel" means an identifiable unit of land that is treated as separate for valuation or zoning purposes.

(c) "Public facility" means a street, and any improvements to a street, including street furniture and beautification, park, parking facility, recreational facility, right-of-way, structure, waterway, bridge, lake, pond, canal, utility line or pipe, or building, including access routes designed and dedicated to use by the public generally, or used by a public agency, that is related to access to inland lakes or a water resource improvement, or means a water resource improvement. Public facility includes an improvement to a facility used by the public or a public facility as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351, if the improvement complies with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(d) "Specific local tax" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the technology park development act, 1984 PA 385, MCL 207.701 to 207.718, or 1953 PA 189, MCL 211.181 to 211.182. The initial assessed value or current assessed value of property subject to a specific local tax shall be the quotient of the specific local tax paid divided by the ad valorem millage rate. The state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

(e) "State fiscal year" means the annual period commencing October 1 of each year.

(f) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area. Tax increment revenues do not include any of the following:

(*i*) Taxes under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(*ii*) Taxes levied by local or intermediate school districts.

(*iii*) Ad valorem property taxes attributable either to a portion of the captured assessed value shared with taxing jurisdictions within the jurisdictional area of the authority or to a portion of value of property that may be excluded from captured assessed value or specific local taxes attributable to the ad valorem property taxes.

(*iv*) Ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority or specific local taxes attributable to the ad valorem property taxes.

(*v*) Ad valorem property taxes exempted from capture under section 15(5) or specific local taxes attributable to the ad valorem property taxes.

(*vi*) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit or specific taxes attributable to those ad valorem property taxes.

(g) "Water resource improvement" means enhancement of water quality and water dependent natural resources, including, but not limited to, the following:

(*i*) The elimination of the causes and the proliferation of aquatic nuisance species, as defined in section 3101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3101. For purposes of this act, water resources improvement does not include chemical treatment of waters for aquatic nuisance control.

(*ii*) Sewer systems that service existing structures that have failing on-site disposal systems.

(*iii*) Storm water systems that service existing infrastructure.

(h) "Water resource improvement district" or "district" means 1 or both of the following:

(*i*) An inland body of water and land that is up to 1 mile from the shoreline of an inland lake that contains 1 or more public access points.

(*ii*) An inland body of water and parcels of land that are contiguous to the shoreline of an inland lake that does not contain a public access point.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1774 Establishment of multiple authorities; powers.

Sec. 4. (1) Except as otherwise provided in this subsection, a municipality may establish multiple

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authorities. A parcel of property shall not be included in more than 1 authority created under this act.

(2) An authority is a public body corporate that may sue and be sued in any court of this state. An authority possesses all the powers necessary to carry out its purpose. The enumeration of a power in this act shall not be construed as a limitation upon the general powers of an authority.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1775 Intent to create and provide for operation of authority within water resource improvement district; resolution of intent; notice of public hearing; adoption of ordinance; filing; publication; alteration or amendment of boundaries; agreement with adjoining municipality.

Sec. 5. (1) If the governing body of a municipality determines that it is necessary for the best interests of the public to promote water resource improvement or access to inland lakes, or both, in a water resource improvement district, the governing body may, by resolution, declare its intention to create and provide for the operation of an authority within the boundaries of a water resource improvement district.

(2) In the resolution of intent, the governing body shall set a date for a public hearing on the adoption of a proposed ordinance creating the authority and designating the boundaries of the development area. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 or more than 40 days before the date of the hearing. Not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in the proposed development area and to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure of a property taxpayer to receive the notice does not invalidate these proceedings. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the proposed development area not less than 20 days before the hearing. The notice shall state the date, time, and place of the hearing and shall describe the boundaries of the proposed development area. A citizen, taxpayer, or property owner of the municipality or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of the proposed development area. The governing body of the municipality shall not incorporate land into the development area not included in the description contained in the notice of public hearing, but it may eliminate described lands from the development area in the final determination of the boundaries.

(3) Not less than 60 days after the public hearing, if the governing body of the municipality intends to proceed with the establishment of the authority it shall adopt, by majority vote of its members, an ordinance establishing the authority and designating the boundaries of the development area within which the authority shall exercise its powers. The adoption of the ordinance is subject to any applicable statutory or charter provisions in respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of an ordinance over his or her veto. This ordinance shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(4) The governing body of the municipality may alter or amend the boundaries of the development area to include or exclude lands from the development area in the same manner as adopting the ordinance creating the authority.

(5) A municipality that has created an authority may enter into an agreement with an adjoining municipality that has created an authority to jointly operate and administer those authorities under an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1776 Annexation or consolidation.

Sec. 6. If a development area is part of an area annexed to or consolidated with another municipality, the authority managing that development area shall become an authority of the annexing or consolidated municipality. Obligations of that authority incurred under a development or tax increment plan, agreements related to a development or tax increment plan, and bonds issued under this act shall remain in effect following the annexation or consolidation.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1777 Board; membership; qualifications; terms; appointment to fill vacancy; compensation; oath of office; proceedings and rules subject to open meetings act; meetings; removal of board member; publication of expense items; availability of financial

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records; writings subject to freedom of information act.

Sec. 7. (1) An authority shall be under the supervision and control of a board consisting of the chief executive officer of the municipality or his or her designee and not less than 5 or more than 9 members as determined by the governing body of the municipality. Members shall be appointed by the chief executive officer of the municipality, subject to approval by the governing body of the municipality. Not less than a majority of the members shall be persons having an ownership or business interest in property located in the development area. At least 1 of the members shall be a resident of the development area or of an area within 1/2 mile of any part of the development area. Of the members first appointed, an equal number of the members, as near as is practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years. A member shall hold office until the member's successor is appointed. After the initial appointment, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board.

(2) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(3) The proceedings and rules of the board are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held if called in the manner provided in the rules of the board.

(4) After having been given notice and an opportunity to be heard, a member of the board may be removed for cause by the governing body.

(5) All expense items of the authority shall be publicized monthly and the financial records shall always be open to the public.

(6) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1778 Director; compensation; service; oath; bond; duties; acting director; treasurer; secretary; legal counsel; duties; other personnel.

Sec. 8. (1) The board may employ and fix the compensation of a director, subject to the approval of the governing body of the municipality. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before beginning his or her duties, the director shall take and subscribe to the constitutional oath, and furnish bond, by posting a bond in the sum determined in the ordinance establishing the authority payable to the authority for use and benefit of the authority, approved by the board, and filed with the municipal clerk. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive officer of the authority. Subject to the approval of the board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board and shall provide to the board and to the governing body of the municipality a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before beginning his or her duties, the acting director shall take and subscribe to the oath, and furnish bond, as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

(2) The board may employ and fix the compensation of a treasurer, who shall keep the financial records of the authority and who, together with the director, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform all duties delegated to him or her by the board and shall furnish bond in an amount prescribed by the board.

(3) The board may employ and fix the compensation of a secretary, who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform other duties delegated by the board.

(4) The board may retain legal counsel to advise the board in the proper performance of its duties. The legal counsel shall represent the authority in actions brought by or against the authority.

(5) The board may employ other personnel considered necessary by the board.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1779 Participation of employees in municipal retirement and insurance programs;

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employees not civil service employees.

Sec. 9. The employees of an authority shall be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees except that the employees of an authority are not civil service employees.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1780 Board; powers; duties; preparation of water resource management plan; consultation with certain entities.

Sec. 10. (1) The board may do any of the following:

(a) Prepare an analysis of water resource improvement and access to inland lakes issues taking place in the development area.

(b) Study and analyze the need for water resource improvements and access to inland lakes upon the development area.

(c) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility that may be necessary or appropriate to the execution of a plan that, in the opinion of the board, aids in water resource improvement or access to inland lakes in the development area. The board is encouraged to develop a plan that conserves the natural features, reduces impervious surfaces, and uses landscaping and natural features to reflect the predevelopment site.

(d) Plan, propose, and implement an improvement to a public facility within the development area to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(e) Develop long-range plans for water resource improvement and access to inland lakes within the district.

(f) Implement any plan of development for water resource improvement and access to inland lakes in the development area necessary to achieve the purposes of this act in accordance with the powers of the authority granted by this act.

(g) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.

(h) Acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in the property, that the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options.

(i) Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, clear, improve, maintain, and repair any public facility, building, and any necessary or desirable appurtenances to those buildings and operate a water resource improvement, as determined by the authority to be reasonably necessary to achieve the purposes of this act, within the development area for the use, in whole or in part, of any public or private person or corporation, or a combination thereof.

(j) Fix, charge, and collect fees, rents, and charges for the use of any facility, building, or property under its control or any part of the facility, building, or property, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(k) Lease, in whole or in part, any facility, building, or property under its control.

(*l*) Accept grants and donations of property, labor, or other things of value from a public or private source.

(m) Acquire and construct public facilities.

(2) The board shall prepare a water resource management plan in consultation with the department of environmental quality, the department of natural resources, or any other entity with expertise in water quality management and invasive species management.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1781 Authority as instrumentality of political subdivision.

Sec. 11. The authority is an instrumentality of a political subdivision for purposes of 1972 PA 227, MCL 213.321 to 213.332.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1782 Financing sources; disposition of money received.

Sec. 12. (1) The activities of the authority shall be financed from 1 or more of the following sources:

(a) Donations to the authority for the performance of its functions.

(b) Money borrowed and to be repaid as authorized by sections 13 and 14.

(c) Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

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(d) Proceeds of a tax increment financing plan established under sections 15 to 17.

(e) Proceeds from a special assessment district created as provided by law.

(f) Money obtained from other sources approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance a development program.

(2) Money received by the authority and not covered under subsection (1) shall immediately be deposited to the credit of the authority, subject to disbursement under this act. Except as provided in this act, the municipality shall not obligate itself, and shall not be obligated, to pay any sums from public funds, other than money received by the municipality under this section, for or on account of the activities of the authority.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1783 Borrowing money and issuing bonds.

Sec. 13. The authority may borrow money and issue its negotiable revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1784 Borrowing money and issuing bonds or notes; security; pledge; lien; exemption of bonds or notes from taxation; municipality not liable on bonds and notes of authority; statement; investment; deposit.

Sec. 14. (1) The authority may with approval of the local governing body borrow money and issue its revenue bonds or notes to finance all or part of the costs of water resource improvements in connection with either of the following:

(a) The implementation of a development plan in the development area.

(b) The refund, or refund in advance, of bonds or notes issued under this section.

(2) Any of the following may be financed by the issuance of revenue bonds or notes:

(a) The cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing property in connection with the implementation of a development plan in the development area.

(b) Any engineering, architectural, legal, accounting, or financial expenses.

(c) The costs necessary or incidental to the borrowing of money.

(d) Interest on the bonds or notes during the period of construction.

(e) A reserve for payment of principal and interest on the bonds or notes.

(f) A reserve for operation and maintenance until sufficient revenues have developed.

(3) The authority may secure the bonds and notes by mortgage, assignment, or pledge of the property and any money, revenues, or income received in connection with the property.

(4) A pledge made by the authority is valid and binding from the time the pledge is made. The money or property pledged by the authority immediately is subject to the lien of the pledge without a physical delivery, filing, or further act. The lien of a pledge is valid and binding against parties having claims of any kind in tort, contract, or otherwise, against the authority, whether or not the parties have notice of the lien. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created must be filed or recorded to be enforceable.

(5) Bonds or notes issued under this section are exempt from all taxation in this state, and the interest on the bonds or notes is exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(6) The municipality is not liable on bonds or notes of the authority issued under this section, and the bonds or notes are not a debt of the municipality. The bonds or notes shall contain on their face a statement to that effect.

(7) The bonds and notes of the authority may be invested in by all public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by all public officers and the agencies and political subdivisions of this state for any purpose for which the deposit of bonds is authorized.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1785 Tax increment financing plan; preparation and submission; development plan; statement of estimated impact; approval; notice, hearing, and disclosure provisions; modification; exempting taxes from capture; resolution.

Sec. 15. (1) If the authority determines that it is necessary for the achievement of the purposes of this act, the authority shall prepare and submit a tax increment financing plan to the governing body of the municipality. The plan shall include a development plan as provided in section 18, a detailed explanation of the tax increment procedure, the maximum amount of bonded indebtedness to be incurred, and the duration of

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the program, and shall be in compliance with section 16. The plan shall contain a statement of the estimated impact of tax increment financing on the assessed values of all taxing jurisdictions in which the development area is located. The plan may provide for the use of part or all of the captured assessed value, but the portion intended to be used by the authority shall be clearly stated in the tax increment financing plan. The authority or municipality may exclude from captured assessed value growth in property value resulting solely from inflation. The plan shall set forth the method for excluding growth in property value resulting solely from inflation.

(2) Approval of the tax increment financing plan shall comply with the notice, hearing, and disclosure provisions of section 21. If the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together.

(3) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to meet with the governing body. The authority shall fully inform the taxing jurisdictions of the fiscal and economic implications of the proposed development area. The taxing jurisdictions may present their recommendations at the public hearing on the tax increment financing plan. The authority may enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the development area is located to share a portion of the captured assessed value of the development area.

(4) A tax increment financing plan may be modified if the modification is approved by the governing body upon notice and after public hearings and agreements as are required for approval of the original plan.

(5) Not more than 60 days after the public hearing, the governing body in a taxing jurisdiction levying ad valorem property taxes that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to create the authority. In the event that the governing body levies a separate millage for public library purposes, at the request of the public library board, that separate millage shall be exempt from the capture. The resolution shall take effect when filed with the clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1786 Transmission of tax increment revenues to authority; expenditures; terms; reversion of unused funds; abolishment of plan; conditions; status report on tax increment financing account.

Sec. 16. (1) The municipal and county treasurers shall transmit tax increment revenues to the authority.

(2) The authority shall expend the tax increment revenues received for the development program only under the terms of the tax increment financing plan. Unused funds shall revert proportionately to the respective taxing bodies. Tax increment revenues shall not be used to circumvent existing property tax limitations. The governing body of the municipality may abolish the tax increment financing plan if it finds that the purposes for which it was established are accomplished. However, the tax increment financing plan shall not be abolished until the principal of, and interest on, bonds issued under section 17 have been paid or funds sufficient to make the payment have been segregated.

(3) Annually the authority shall submit to the governing body of the municipality and the state tax commission a report on the status of the tax increment financing account. The report shall include the following:

(a) The amount and source of revenue in the account.

(b) The amount in any bond reserve account.

(c) The amount and purpose of expenditures from the account.

(d) The amount of principal and interest on any outstanding bonded indebtedness.

(e) The initial assessed value of the project area.

(f) The captured assessed value retained by the authority.

(g) The tax increment revenues received.

(h) The number of public facilities developed.

(i) The number of water resource improvements made.

(j) A brief description of each water resource improvement made within the district.

(k) Any additional information the governing body considers necessary.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1787 Authorization, issuance, and sale of tax increment bonds.

Sec. 17. (1) By resolution of its governing body, the authority may authorize, issue, and sell tax increment bonds subject to the limitations set forth in this subsection to finance the development program of the tax

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increment financing plan. The tax increment bonds issued by the authority under this subsection shall pledge solely the tax increment revenues of a development area in which the project is located or a development area from which tax increment revenues may be used for this project, or both. In addition or in the alternative, the bonds issued by the authority under this subsection may be secured by any other revenues identified in section 12 as sources of financing for activities of the authority that the authority shall specifically pledge in the resolution. However, except as otherwise provided in this section, the full faith and credit of the municipality shall not be pledged to secure bonds issued under this subsection. The bond issue may include a sum sufficient to pay interest on the tax increment bonds until full development of tax increment revenues from the project and also a sum to provide a reasonable reserve for payment of principal and interest on the bonds. The resolution authorizing the bonds shall create a lien on the tax increment revenues and other revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds may be issued of equal standing and parity of lien as to the tax increment revenues and other revenues pledged under the resolution. Bonds issued under this subsection that pledge revenue received under section 15 for repayment of the bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The municipality, by majority vote of the members of its governing body, may make a limited tax pledge to support the authority's tax increment bonds or notes or, if authorized by the voters of the municipality, may pledge its unlimited tax full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds or notes.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1788 Development plan; contents.

Sec. 18. (1) If a board decides to finance a project in a development area by the use of revenue bonds as authorized in section 13 or tax increment financing as authorized in sections 15, 16, and 17, it shall prepare a development plan.

(2) The development plan shall contain all of the following:

(a) The designation of boundaries of the development area in relation to highways, streets, streams, lakes, other bodies of water, or otherwise.

(b) The location and extent of existing streets and other public facilities within the development area, designating the location, character, and extent of the categories of public and private land uses then existing and proposed for the development area, including residential, recreational, commercial, industrial, educational, and other uses, and including a legal description of the development area.

(c) A description of existing improvements in the development area to be demolished, repaired, or altered, a description of any repairs and alterations, and an estimate of the time required for completion.

(d) The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the development area and an estimate of the time required for completion.

(e) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(f) A description of any parts of the development area to be left as open space and the use contemplated for the space.

(g) A description of any portions of the development area that the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.

(h) A description of desired zoning changes and changes in streets, street levels, intersections, or utilities.

(i) An estimate of the cost of the development, a statement of the proposed method of financing the development, and the ability of the authority to arrange the financing.

(j) Designation of the person or persons, natural or corporate, to whom all or a portion of the development is to be leased, sold, or conveyed in any manner and for whose benefit the project is being undertaken if that information is available to the authority.

(k) The procedures for bidding for the leasing, purchasing, or conveying in any manner of all or a portion of the development upon its completion, if there is no express or implied agreement between the authority and persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed in any manner to those persons.

(*l*) The requirement that amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection.

(m) The water resource improvements that will be made in the development area.

(n) Other material that the authority, local public agency, or governing body considers pertinent.

(o) Based on consultation with the affected state and federal authorities, an identification of the permits the board believes necessary to complete the proposed public facility and an explanation of how the proposed

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public facility will meet the requirements necessary for issuance of each permit.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1789 Development plan or tax increment financing plan; adoption of ordinance; notice of public hearing; purpose of public hearing.

Sec. 19. (1) The governing body, before adoption of an ordinance approving a development plan or tax increment financing plan, shall hold a public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall be not less than 20 days before the date set for the hearing. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the development area not less than 20 days before the hearing. Notice shall also be mailed to all property taxpayers of record in the development area and to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the tax increment financing plan is approved not less than 20 days before the hearing.

(2) Notice of the time and place of hearing on a development plan shall contain all of the following:

(a) A description of the proposed development area in relation to highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice.

(c) A statement that all aspects of the development plan will be open for discussion at the public hearing.

(d) Other information that the governing body considers appropriate.

(3) At the time set for the hearing, the governing body shall provide an opportunity for interested persons to speak and shall receive and consider communications in writing. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for consideration of documentary evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented at the hearing.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1790 Determination of public purpose; approval or rejection of plan; modifications; considerations.

Sec. 20. The governing body after a public hearing on the development plan or the tax increment financing plan, or both, with notice given under section 19, shall determine whether the development plan or tax increment financing plan constitutes a public purpose. If it determines that the development plan or tax increment financing plan constitutes a public purpose, it shall by ordinance approve or reject the plan, or approve it with modification, based on the following considerations:

(a) The findings and recommendations of a development area citizens council, if a development area citizens council was formed.

(b) The plan meets the requirements under section 18(2).

(c) The proposed method of financing the development is feasible and the authority has the ability to arrange the financing.

(d) The development is reasonable and necessary to carry out the purposes of this act.

(e) The land included within the development area to be acquired is reasonably necessary to carry out the purposes of the plan and of this act in an efficient and economically satisfactory manner.

(f) The development plan is in reasonable accord with the land use plan of the municipality.

(g) Public services, such as fire and police protection and utilities, are or will be adequate to service the project area.

(h) Changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1791 Operation of authority; budget; review by board; submission to governing body; adoption; cost of handling and auditing funds.

Sec. 21. (1) The director of the authority shall submit a budget to the board for the operation of the authority for each fiscal year before the beginning of the fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. After review by the board, the budget shall be submitted to the governing body. The governing body must approve the budget before the board may adopt the budget. Unless authorized by the governing body or this act, funds of the municipality shall not be included in the budget of the authority.

(2) The governing body of the municipality may assess a reasonable pro rata share of the funds for the cost

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of handling and auditing the funds against the funds of the authority, other than those committed, which shall be paid annually by the board pursuant to an appropriate item in its budget.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1792 Dissolution of authority.

Sec. 22. An authority that has completed the purposes for which it was organized shall be dissolved by ordinance of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority belong to the municipality.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1793 Enforcement of act; rules.

Sec. 23. (1) The state tax commission may institute proceedings to compel enforcement of this act.

(2) The state tax commission may promulgate rules necessary for the administration of this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

125.1794 Prohibition.

Sec. 24. After December 31, 2011, a municipality shall not create an authority or expand the boundaries of a development plan.

History: 2008, Act 94, Imd. Eff. Apr. 8, 2008.

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THE TAX INCREMENT FINANCE AUTHORITY ACT
Act 450 of 1980

AN ACT to prevent urban deterioration and encourage economic development and activity and to encourage neighborhood revitalization and historic preservation; to provide for the establishment of tax increment finance authorities and to prescribe their powers and duties; to authorize the acquisition and disposal of interests in real and personal property; to provide for the creation and implementation of development plans; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to permit the issuance of bonds and other evidences of indebtedness by an authority; to permit the use of tax increment financing; to reimburse authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state agencies and officers.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981;—Am. 1988, Act 420, Imd. Eff. Dec. 27, 1988;—Am. 1993, Act 322, Eff. Mar. 15, 1994.

Popular name: TIFA

The People of the State of Michigan enact:

125.1801 Definitions.

Sec. 1. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority. Evidence of the intent to repay an advance is required and may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved before the advance or before August 14, 1993, or a resolution of the authority or the municipality.

(b) "Assessed value" means 1 of the following:

(*i*) For valuations made before January 1, 1995, the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(*ii*) For valuations made after December 31, 1994, taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) "Authority" means a tax increment finance authority created under this act.

(d) "Authority district" means that area within which an authority exercises its powers and within which 1 or more development areas may exist.

(e) "Board" means the governing body of an authority.

(f) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the development area, including the assessed value of property for which specific local taxes are paid in lieu of property taxes as determined in subdivision (w), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(g) "Chief executive officer" means the mayor or city manager of a city, the president of a village, or the supervisor of a township.

(h) "Development area" means that area to which a development plan is applicable.

(i) "Development area citizens council" or "council" means that advisory body established pursuant to section 20.

(j) "Development plan" means that information and those requirements for a development set forth in section 16.

(k) "Development program" means the implementation of the development plan.

(*l*) "Eligible advance" means an advance made before August 19, 1993.

(m) "Eligible obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority before August 19, 1993 and its subsequent refunding by a qualified refunding obligation. Eligible obligation includes an authority's written agreement entered into before August 19, 1993 to pay an obligation issued after August 18, 1993 and before December 31, 1996 by another entity on behalf of the authority. Eligible obligation also includes an ongoing management contract or contract for professional services or development services that was entered into by the authority or a municipality on behalf of the authority in 1991, and related similar written agreements executed before 1984, if the 1991 agreement both provides for automatic annual renewal and incorporates by reference the prior related agreements; however, receipt by an authority of tax increment revenues authorized under subdivision (aa)(*ii*) in order to pay costs arising under those contracts shall be limited to:

(*i*) For taxes levied before July 1, 2005, the amount permitted to be received by an authority for an eligible obligation as provided in this act.

(*ii*) For taxes levied after June 30, 2005 and before July 1, 2006, $3,000,000.00.

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(*iii*) For taxes levied after June 30, 2006 and before July 1, 2007, $3,000,000.00.
(*iv*) For taxes levied after June 30, 2007 and before July 1, 2008, $3,000,000.00.
(*v*) For taxes levied after June 30, 2008 and before July 1, 2009, $3,000,000.00.
(*vi*) For taxes levied after June 30, 2009 and before July 1, 2010, $3,000,000.00.
(*vii*) For taxes levied after June 30, 2010 and before July 1, 2011, $2,650,000.00.
(*viii*) For taxes levied after June 30, 2011 and before July 1, 2012, $2,400,000.00.
(*ix*) For taxes levied after June 30, 2012 and before July 1, 2013, $2,125,000.00.
(*x*) For taxes levied after June 30, 2013 and before July 1, 2014, $1,500,000.00.
(*xi*) For taxes levied after June 30, 2014 and before July 1, 2015, $1,150,000.00.
(*xii*) For taxes levied after June 30, 2015, $0.00.

(n) "Fiscal year" means the fiscal year of the authority.

(o) "Governing body" means the elected body of a municipality having legislative powers.

(p) "Initial assessed value" means the assessed value, as equalized, of all the taxable property within the boundaries of the development area at the time the resolution establishing the tax increment financing plan is approved as shown by the most recent assessment roll of the municipality for which equalization has been completed at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax is paid in lieu of a property tax shall not be considered property that is exempt from taxation. The initial assessed value of property for which a specific tax was paid in lieu of a property tax shall be determined as provided in subdivision (w).

(q) "Municipality" means a city.

(r) "Obligation" means a written promise to pay, whether evidenced by a contract, agreement, lease, sublease, bond, or note, or a requirement to pay imposed by law. An obligation does not include a payment required solely because of default upon an obligation, employee salaries, or consideration paid for the use of municipal offices. An obligation does not include those bonds that have been economically defeased by refunding bonds issued under this act. Obligation includes, but is not limited to, the following:

(*i*) A requirement to pay proceeds derived from ad valorem property taxes or taxes levied in lieu of ad valorem property taxes.

(*ii*) A management contract or a contract for professional services.

(*iii*) A payment required on a contract, agreement, bond, or note if the requirement to make or assume the payment arose before August 19, 1993.

(*iv*) A requirement to pay or reimburse a person for the cost of insurance for, or to maintain, property subject to a lease, land contract, purchase agreement, or other agreement.

(*v*) A letter of credit, paying agent, transfer agent, bond registrar, or trustee fee associated with a contract, agreement, bond, or note.

(s) "On behalf of an authority", in relation to an eligible advance made by a municipality, or an eligible obligation or other protected obligation issued or incurred by a municipality, means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible advance made by a municipality, or the eligible obligation or other protected obligation issued or incurred by the municipality, if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following:

(*i*) A reimbursement agreement between the municipality and an authority it established.

(*ii*) A requirement imposed by law that the authority transfer tax increment revenues to the municipality.

(*iii*) A resolution of the authority agreeing to make payments to the incorporating unit.

(*iv*) Provisions in a tax increment financing plan describing the project for which the obligation was incurred.

(t) "Other protected obligation" means:

(*i*) A qualified refunding obligation issued to refund an obligation described in subparagraph (*ii*) or (*iii*), an obligation that is not a qualified refunding obligation that is issued to refund an eligible obligation, or a qualified refunding obligation issued to refund an obligation described in this subparagraph.

(*ii*) An obligation issued or incurred by an authority or by a municipality on behalf of an authority after August 19, 1993, but before December 31, 1994, to finance a project described in a tax increment finance plan approved by the municipality in accordance with this act before December 31, 1993, for which a contract for final design is entered into by the municipality or authority before March 1, 1994.

(*iii*) An obligation incurred by an authority or municipality after August 19, 1993, to reimburse a party to a development agreement entered into by a municipality or authority before August 19, 1993, for a project described in a tax increment financing plan approved in accordance with this act before August 19, 1993, and

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undertaken and installed by that party in accordance with the development agreement.

(*iv*) An obligation issued or incurred by an authority or by a municipality on behalf of an authority to implement a project described in a tax increment finance plan approved by the municipality in accordance with this act before August 19, 1993, that is located on land owned by a public university on the date the tax increment financing plan is approved, and for which a contract for final design is entered into before December 31, 1993.

(*v*) An ongoing management or professional services contract with the governing body of a county which was entered into before March 1, 1994 and which was preceded by a series of limited term management or professional services contracts with the governing body of the county, the last of which was entered into before August 19, 1993.

(*vi*) An obligation issued or incurred by a municipality under a contract executed on December 19, 1994 as subsequently amended between the municipality and the authority to implement a project described in a tax increment finance plan approved by the municipality under this act before August 19, 1993 for which a contract for final design was entered into by the municipality before March 1, 1994 provided that final payment by the municipality is made on or before December 31, 2001.

(*vii*) An obligation issued or incurred by an authority or by a municipality on behalf of an authority that meets all of the following qualifications:

(A) The obligation is issued or incurred to finance a project described in a tax increment financing plan approved before August 19, 1993 by a municipality in accordance with this act.

(B) The obligation qualifies as an other protected obligation under subparagraph (*ii*) and was issued or incurred by the authority before December 31, 1994 for the purpose of financing the project.

(C) A portion of the obligation issued or incurred by the authority before December 31, 1994 for the purpose of financing the project was retired prior to December 31, 1996.

(D) The obligation does not exceed the dollar amount of the portion of the obligation retired prior to December 31, 1996.

(*viii*) An obligation incurred by an authority that meets both of the following qualifications:

(A) The obligation is a contract of lease originally executed on December 20, 1994 between the municipality and the authority to partially implement the authority's development plan and tax increment financing plan.

(B) The obligation qualifies as an obligation under subparagraph (*ii*). The obligation described in this subparagraph may be amended to extend cash rental payments for a period not to exceed 30 years through the year 2039. The duration of the development plan and tax increment financing plan described in this subparagraph is extended to 1 year after the final date that the extended cash rental payments are due.

(u) "Public facility" means 1 or more of the following:

(*i*) A street, plaza, or pedestrian mall, and any improvements to a street, plaza, boulevard, alley, or pedestrian mall, including street furniture and beautification, park, parking facility, recreation facility, playground, school, library, public institution or administration building, right of way, structure, waterway, bridge, lake, pond, canal, utility line or pipeline, and other similar facilities and necessary easements of these facilities designed and dedicated to use by the public generally or used by a public agency. As used in this subparagraph, public institution or administration building includes, but is not limited to, a police station, fire station, court building, or other public safety facility.

(*ii*) The acquisition and disposal of real and personal property or interests in real and personal property, demolition of structures, site preparation, relocation costs, building rehabilitation, and all associated administrative costs, including, but not limited to, architect's, engineer's, legal, and accounting fees as contained in the resolution establishing the district's development plan.

(*iii*) An improvement to a facility used by the public or a public facility as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351, which improvement is made to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(v) "Qualified refunding obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority to refund an obligation if 1 of the following applies:

(*i*) The refunding obligation meets both of the following:

(A) The net present value of the principal and interest to be paid on the refunding obligation, including the cost of issuance, will be less than the net present value of the principal and interest to be paid on the obligation being refunded, as calculated using a method approved by the department of treasury.

(B) The net present value of the sum of the tax increment revenues described in subdivision (aa)(*ii*) and the distributions under section 12a to repay the refunding obligation will not be greater than the net present value of the sum of the tax increment revenues described in subdivision (aa)(*ii*) and the distributions under section

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12a to repay the obligation being refunded, as calculated using a method approved by the department of treasury.

(*ii*) The refunding obligation is a tax increment refunding bond issued to refund a refunding bond that is an other protected obligation issued as a capital appreciation bond delivered to the Michigan municipal bond authority on December 21, 1994, and the authority, by resolution of its board, authorized issuance of the refunding obligation before January 1, 2011 with a final maturity not later than 2039. The municipality by majority vote of the members of its governing body may pledge its full faith and credit for the payment of the principal of and interest on the refunding obligation. A refunding obligation issued under this subparagraph is not subject to the requirements of section 305(2), (3), (5), or (6), 501, or 503 of the revised municipal finance act, 2001 PA 34, MCL 141.2305, 141.2501, and 141.2503. The duration of the development plan and the tax increment financing plan relating to the refunding obligations described in this subparagraph is extended to 1 year after the final date of maturity of the refunding obligation.

(w) "Specific local tax" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the technology park development act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL 211.181 to 211.182. The initial assessed value or current assessed value of property subject to a specific local tax shall be the quotient of the specific local tax paid divided by the ad valorem millage rate. However, after 1993, the state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

(x) "State fiscal year" means the annual period commencing October 1 of each year.

(y) "Tax increment district" or "district" means that area to which the tax increment finance plan pertains.

(z) "Tax increment financing plan" means that information and those requirements set forth in sections 13 to 15.

(aa) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area, subject to the following requirements:

(*i*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions other than the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area for any purpose authorized by this act.

(*ii*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area in an amount equal to the amount necessary, without regard to subparagraph (*i*), to repay eligible advances, eligible obligations, and other protected obligations.

(*iii*) Tax increment revenues do not include any of the following:

(A) Ad valorem property taxes attributable either to a portion of the captured assessed value shared with taxing jurisdictions within the jurisdictional area of the authority or to a portion of value of property that may be excluded from captured assessed value or specific local taxes attributable to such ad valorem property taxes.

(B) Ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority or specific local taxes attributable to such ad valorem property taxes.

(*iv*) The amount of tax increment revenues authorized to be included under subparagraph (*ii*), and required to be transmitted to the authority under section 14(1), from ad valorem property taxes and specific local taxes attributable to the application of the levy of the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, a local school district or an intermediate school district upon the captured assessed value of real and personal property in a development area shall be determined separately for the levy by the state, each school district, and each intermediate school district as the product of sub-subparagraphs (A) and (B):

(A) The percentage which the total ad valorem taxes and specific local taxes available for distribution by law to the state, local school district, or intermediate school district, respectively, bear to the aggregate amount of ad valorem millage taxes and specific taxes available for distribution by law to the state, each local school district, and each intermediate school district.

(B) The maximum amount of ad valorem property taxes and specific local taxes considered tax increment revenues under subparagraph (*ii*).

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981;—Am. 1985, Act 193, Imd. Eff. Dec. 20, 1985;—Am. 1993, Act 322, Eff. Mar. 15, 1994;—Am. 1994, Act 281, Imd. Eff. July 11, 1994;—Am. 1994, Act 329, Imd. Eff. Oct. 14, 1994;—Am. 1996, Act 271, Imd. Eff. June

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12, 1996;—Am. 1997, Act 201, Imd. Eff. Jan. 13, 1998;—Am. 1998, Act 499, Imd. Eff. Jan. 5, 1999;—Am. 2005, Act 29, Imd. Eff. May 25, 2005;—Am. 2008, Act 453, Imd. Eff. Jan. 9, 2009.

Compiler's note: Enacting section 1 of Act 201 of 1997 provides:

"The provisions of section 1 and section 12a, as amended by this amendatory act, are retroactive and effective for taxes levied after 1993."

Popular name: TIFA

125.1801a Short title.

Sec. 1a. This act shall be known and may be cited as "the tax increment finance authority act".

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981.

Popular name: TIFA

125.1802 Authority; establishment; public body corporate; powers generally.

Sec. 2. (1) A municipality may establish not more than 1 authority. An authority shall exercise its powers in all development areas designated pursuant to this act.

(2) The authority shall be a public body corporate which may sue and be sued in any court of this state. The authority possesses all the powers necessary to carry out the purpose of its incorporation. The enumeration of a power in this act shall not be construed as a limitation upon the general powers of the authority. The powers granted in this act to an authority may be exercised notwithstanding that bonds are not issued by the authority.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981.

Popular name: TIFA

125.1803 Resolution of intent; determinations; notice of public hearing; adoption, filing, and publication of resolution establishing authority and designating boundaries of authority district; alteration or amendment of boundaries; validity of proceedings establishing authority.

Sec. 3. (1) If the governing body of a municipality determines that it is in the best interests of the public to halt a decline in property values, increase property tax valuation, eliminate the causes of the decline in property values, and to promote growth in an area in the municipality, the governing body of that municipality may declare by resolution its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body shall set a date for the holding of a public hearing on the adoption of a proposed resolution creating the authority and designating the boundaries of the authority district. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 nor more than 40 days before the date of the hearing. Notice shall also be mailed to the property taxpayers of record in the proposed authority district not less than 20 days before the hearing. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure to receive the notice shall not invalidate these proceedings. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed authority district. At that hearing, a citizen, taxpayer, or property owner of the municipality has the right to be heard in regard to the establishment of the authority and the boundaries of the proposed authority district. The governing body of the municipality shall not incorporate land into the authority district not included in the description contained in the notice of public hearing, but it may eliminate described lands from the authority district in the final determination of the boundaries.

(3) After the public hearing, if the governing body intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members, a resolution establishing the authority and designating the boundaries of the authority district within which the authority shall exercise its powers. The adoption of the resolution is subject to any applicable statutory or charter provisions with respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of a resolution over his or her veto. This resolution shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(4) The governing body may alter or amend the boundaries of the authority district to include or exclude lands from the authority district in accordance with the same requirements prescribed for adopting the resolution creating the authority.

(5) The validity of the proceedings establishing an authority shall be conclusive unless contested in a court of competent jurisdiction within 60 days after the last of the following takes place:

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(a) Publication of the resolution as adopted.

(b) Filing of the resolution with the secretary of state.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981;—Am. 1983, Act 148, Imd. Eff. July 18, 1983;—Am. 2005, Act 14, Imd. Eff. May 4, 2005.

Popular name: TIFA

125.1804 Board; composition; chairperson; oath of member; rules governing procedure and meetings; meetings open to public; removal of member; publicizing expense items; financial records open to public.

Sec. 4. (1) The authority shall be under the supervision and control of a board chosen by the governing body which may by majority vote designate any 1 of the following to constitute the board:

(a) The board of directors of the economic development corporation of the municipality established pursuant to the economic development corporations act, Act No. 338 of the Public Acts of 1974, as amended, being sections 125.1601 to 125.1636 of the Michigan Compiled Laws.

(b) The trustees of the board of a downtown development authority established pursuant to Act No. 197 of the Public Acts of 1975, as amended, being sections 125.1651 to 125.1680 of the Michigan Compiled Laws.

(c) The trustees of the board of an urban redevelopment corporation established pursuant to the urban redevelopment corporations law, Act No. 250 of the Public Acts of 1941, as amended, being sections 125.901 to 125.922 of the Michigan Compiled Laws.

(d) The members of the commission established pursuant to Act No. 344 of the Public Acts of 1945, being sections 125.71 to 125.84 of the Michigan Compiled Laws.

(e) In a municipality that has a population of less than 5,000, the planning commission of the municipality established pursuant to Act No. 285 of the Public Acts of 1931, being sections 125.31 to 125.45 of the Michigan Compiled Laws.

(f) Not less than 7 nor more than 13 persons appointed by the chief executive officer of the municipality subject to the approval of the governing body. Of the members appointed, an equal number, as near as practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years. A member shall hold office until the member's successor is appointed. Thereafter, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses.

(2) The chairperson of the board shall be elected by the board.

(3) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(4) The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held when called in the manner provided in the rules of the board. Meetings of the board shall be open to the public, in accordance with the open meetings act, Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(5) Pursuant to notice and an opportunity to be heard, a member of the board appointed pursuant to subsection (1)(f) may be removed before the expiration of his or her term for cause by the governing body. Removal of a member is subject to the review by the circuit court.

(6) All expense items of the authority shall be publicized annually and the financial records shall be open to the public pursuant to the freedom of information act, Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981;—Am. 1987, Act 68, Imd. Eff. June 25, 1987.

Popular name: TIFA

125.1805 Board; employment, compensation, term, oath, and bond of director; chief executive office; duties of director; absence or disability of director; reports; employment, compensation, and duties of treasurer and secretary; retention and duties of legal counsel; employment of other personnel; participation in municipal retirement and insurance programs.

Sec. 5. (1) The board may employ and fix the compensation of a director, subject to the approval of the governing body. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before entering upon the duties of the office, the director shall take and subscribe to the constitutional oath and furnish bond by posting a bond in the penal sum determined in the

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resolution establishing the authority, payable to the authority for use and benefit of the authority, approved by the board, and filed with the clerk of the municipality. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive office of the authority. Subject to the approval of the board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board and shall render to the board and to the governing body a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before entering upon the duties of the office, the acting director shall take and subscribe to the constitutional oath and furnish bond as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

(2) The board may appoint or employ and fix the compensation of a treasurer who shall keep the financial records of the authority, and who, together with the director, if a director is appointed, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform such other duties as may be delegated by the board and shall furnish bond in an amount as prescribed by the board.

(3) The board may appoint or employ and fix the compensation of a secretary, who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform such other duties as may be delegated by the board.

(4) The board may retain legal counsel to advise the board in the proper performance of its duties. The legal counsel shall represent the authority in actions brought by or against the authority.

(5) The board may employ other personnel considered necessary by the board.

(6) The employees of an authority may be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees on the same basis as civil service employees.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981.

Compiler's note: In subsection (1), the sentence “The director shall be the chief executive office of the authority.” evidently should read “The director shall be the chief executive officer of the authority.”

Popular name: TIFA

125.1807 Board; powers generally.

Sec. 7. The board may:

(a) Prepare an analysis of economic changes taking place in the municipality and its environs as those changes relate to urban deterioration in the development areas.

(b) Study and analyze the impact of growth upon development areas.

(c) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility, an existing building, or a multiple family dwelling unit which may be necessary or appropriate to the execution of a plan which, in the opinion of the board, aids in the revitalization and growth of the development area.

(d) Plan, propose, and implement an improvement to a public facility within the development area to comply with the barrier free design requirements of the state construction code promulgated under the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being sections 125.1501 to 125.1531 of the Michigan Compiled Laws.

(e) Develop long-range plans, in cooperation with the agency which is chiefly responsible for planning in the municipality, designed to halt the decline of property values and to promote the growth of the development area, and take such steps as may be necessary to implement the plans to the fullest extent possible.

(f) Implement any plan of development in a development area necessary to achieve the purposes of this act, in accordance with the powers of the authority as granted by this act.

(g) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.

(h) Acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper, own, convey, demolish, relocate, rehabilitate, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests therein, which the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect thereto.

(i) Improve land, prepare sites for buildings, including the demolition of existing structures and construct,

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reconstruct, rehabilitate, restore, and preserve, equip, improve, maintain, repair, and operate any building, including any type of housing, and any necessary or desirable appurtenances thereto, within the development area for the use, in whole or in part, of any public or private person or corporation, or a combination thereof.

(j) Fix, charge, and collect fees, rents, and charges for the use of any building or property or any part of a building or property under its control, or a facility in the building or on the property, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(k) Lease any building or property or part of a building or property under its control.

(*l*) Accept grants and donations of property, labor, or other things of value from a public or private source.

(m) Acquire and construct public facilities.

(n) Incur costs in connection with the performance of its authorized functions, including but not limited to, administrative costs, and architects, engineers, legal, and accounting fees.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981;—Am. 1985, Act 193, Imd. Eff. Dec. 20, 1985.

Popular name: TIFA

Administrative rules: R 408.30101 et seq. of the Michigan Administrative Code.

125.1808 Board serving as planning commission; agenda.

Sec. 8. If a board created under this act serves as the planning commission under section 2 of Act No. 285 of the Public Acts of 1931, being section 125.32 of the Michigan Compiled Laws, the board shall include planning commission business in its agenda.

History: Add. 1987, Act 68, Imd. Eff. June 25, 1987.

Popular name: TIFA

125.1809 Authority as instrumentality of political subdivision.

Sec. 9. The authority shall be considered an instrumentality of a political subdivision for purposes of Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981.

Popular name: TIFA

125.1810 Taking, transfer, and use of private property by municipality.

Sec. 10. A municipality may take private property under Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws, for the purpose of transfer to the authority, and may transfer the property to the authority for use as authorized in the development program, on terms and conditions it considers appropriate. The taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981.

Popular name: TIFA

125.1811 Financing activities of authority; sources.

Sec. 11. The activities of the authority shall be financed from 1 or more of the following sources:

(a) Contributions to the authority for the performance of its functions.

(b) Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(c) Tax increment revenues received pursuant to a tax increment financing plan established under sections 13 to 15.

(d) Proceeds of tax increment bonds issued pursuant to section 15.

(e) Proceeds of revenue bonds issued pursuant to section 12.

(f) Money obtained from any other sources approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance a development program.

(g) Money obtained pursuant to section 12a.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981;—Am. 1993, Act 322, Eff. Mar. 15, 1994.

Popular name: TIFA

125.1812 Borrowing money; issuing negotiable revenue bonds; full faith and credit.

Sec. 12. (1) The authority may borrow money and issue its negotiable revenue bonds pursuant to Act No. 94 of the Public Acts of 1933, as amended, being section 141.101 to 141.139 of the Michigan Compiled Laws. Revenue bonds issued by the authority shall not, except as hereinafter provided, be considered a debt of the municipality or of the state.

(2) The municipality by majority vote of the members of its governing body may pledge its full faith and

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credit limited tax to support the authority's revenue bonds.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981.

Popular name: TIFA

125.1812a Insufficient tax increment revenues for repayment of advance or payment of obligation; appropriation and distribution to authority; filing, time, and contents of claim; distribution of amounts in 2 equal payments; appropriation and distribution of aggregate amount; limitations; distribution subject to lien; obligation as debt or liability; certification of distribution amount; basis for calculations of distributions and claims reports; debt payment period.

Sec. 12a. (1) If the amount of tax increment revenues lost as a result of the reduction of taxes levied by local school districts for school operating purposes required by the millage limitations under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, reduced by the amount of tax increment revenues received from the capture of taxes levied under or attributable to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, will cause the tax increment revenues received in a fiscal year by an authority under section 14 to be insufficient to repay an eligible advance or to pay an eligible obligation, the legislature shall appropriate and distribute to the authority the amount described in subsection (5).

(2) Not less than 30 days before the first day of a fiscal year, an authority eligible to retain tax increment revenues from taxes levied by a local or intermediate school district or this state, or to receive a distribution under this section for that fiscal year shall file a claim with the department of treasury. The claim shall include the following information:

(a) The property tax millage rates levied in 1993 by local school districts within the jurisdictional area of the authority for school operating purposes.

(b) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(c) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority plus any tax increment revenues the authority would have received for the fiscal year from property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated.

(d) The tax increment revenues the authority estimates it would have received for that fiscal year if property taxes were levied by local school districts within the jurisdictional area of the authority for school operating purposes at the millage rates described in subdivision (a) and if no property taxes were levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(e) A list and documentation of eligible obligations and eligible advances and the payments due on each of those eligible obligations or eligible advances in that fiscal year, and the total amount of all the payments due on those eligible obligations and eligible advances in that fiscal year.

(f) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation or the repayment of an eligible advance. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development project.

(g) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(h) A list and documentation of other protected obligations and the payments due on each of those other protected obligations in that fiscal year, and the total amount of all the payments due on those other protected obligations in that fiscal year.

(3) For the fiscal year that commences after September 30, 1993 and before October 1, 1994, an authority may make a claim with all information required by subsection (2) at any time after March 15, 1994.

(4) After review and verification of claims submitted pursuant to this section, amounts appropriated by the state in compliance with this act shall be distributed as 2 equal payments on March 1 and September 1 after receipt of a claim. An authority shall allocate a distribution it receives for an eligible obligation issued on behalf of a municipality to the municipality.

(5) Subject to subsections (6) and (7), the aggregate amount to be appropriated and distributed pursuant to

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this section to an authority shall be the sum of the amounts determined pursuant to subdivisions (a) and (b) minus the amount determined pursuant to subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received for the fiscal year, if property taxes were levied by local school districts on property, including property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated, for school operating purposes at the millage rates described in subsection (2)(a) and if no property taxes were levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, exceed the sum of tax increment revenues the authority actually received for the fiscal year plus any tax increment revenues the authority would have received for the fiscal year from property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated.

(b) A shortfall required to be reported pursuant to subsection (2)(g) that had not previously increased a distribution.

(c) An excess amount required to be reported pursuant to subsection (2)(g) that had not previously decreased a distribution.

(6) The amount distributed under subsection (5) shall not exceed the difference between the amount described in subsection (2)(e) and the sum of the amounts described in subsection (2)(c) and (f).

(7) If, based upon the tax increment financing plan in effect on August 19, 1993, the payment due on eligible obligations or eligible advances anticipates the use of excess prior year tax increment revenues permitted by law to be retained by the authority, and if the sum of the amounts described in subsection (2)(c) and (f) plus the amount to be distributed under subsections (5) and (6) is less than the amount described in subsection (2)(e), the amount to be distributed under subsections (5) and (6) shall be increased by the amount of the shortfall. However, the amount authorized to be distributed pursuant to this section shall not exceed that portion of the cumulative difference, for each preceding fiscal year, between the amount that could have been distributed pursuant to subsection (5) and the amount actually distributed pursuant to subsections (5) and (6) and this subsection.

(8) A distribution under this section replacing tax increment revenues pledged by an authority or a municipality is subject to the lien of the pledge, whether or not there has been physical delivery of the distribution.

(9) Obligations for which distributions are made pursuant to this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(10) Not later than July 1 of each year, the authority shall certify to the local tax collecting treasurer the amount of the distribution required under subsection (5), calculated without regard to the receipt of tax increment revenues attributable to local or intermediate school district taxes or attributable to taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(11) Calculations of distributions under this section and claims reports required to be made under subsection (2) shall be made on the basis of each development area of the authority.

(12) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

History: Add. 1993, Act 322, Eff. Mar. 15, 1994;—Am. 1994, Act 281, Imd. Eff. July 11, 1994;—Am. 1996, Act 271, Imd. Eff. June 12, 1996;—Am. 1996, Act 453, Imd. Eff. Dec. 19, 1996;—Am. 1997, Act 201, Imd. Eff. Jan. 13, 1998.

Compiler's note: Enacting section 1 of Act 201 of 1997 provides:

"The provisions of section 1 and section 12a, as amended by this amendatory act, are retroactive and effective for taxes levied after 1993."

Popular name: TIFA

125.1812b Retention and payment of taxes levied under state education tax act; conditions; application by authority for approval; information to be included; approval, modification, or denial of application by department of treasury; appropriation and distribution of amount; calculation of aggregate amount; lien; reimbursement calculations; legislative intent.

Sec. 12b. (1) If the amount of tax increment revenues lost as a result of the personal property tax exemptions provided by section 1211(4) of the revised school code, 1976 PA 451, MCL 380.1211, section 3 of the state education tax act, 1993 PA 331, MCL 211.903, section 14(4) of 1974 PA 198, MCL 207.564, and section 9k of the general property tax act, 1893 PA 206, MCL 211.9k, will reduce the allowable school tax capture received in a fiscal year, then, notwithstanding any other provision of this act, the authority, with

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approval of the department of treasury under subsection (3), may request the local tax collecting treasurer to retain and pay to the authority taxes levied within the municipality under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, to be used for the following:

(a) To repay an eligible advance.

(b) To repay an eligible obligation.

(c) To repay an other protected obligation.

(2) Not later than June 15, 2008, not later than September 30, 2009, and not later than June 1 of each subsequent year, an authority eligible under subsection (1) to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section, shall apply for approval with the department of treasury. The application for approval shall include the following information:

(a) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(b) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.

(c) The tax increment revenues the authority estimates it would have received for that fiscal year if the personal property tax exemptions described in subsection (1) were not in effect.

(d) A list of eligible obligations, eligible advances, and other protected obligations, the payments due on each of those in that fiscal year, and the total amount of all the payments due on all of those in that fiscal year.

(e) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation, the repayment of an eligible advance, or the payment of an other protected obligation. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development plan.

(f) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(3) Not later than August 15, 2008; for 2009 only, not later than 30 days after the effective date of the amendatory act that amended this sentence; and not later than August 15 of each subsequent year, based on the calculations under subsection (5), the department of treasury shall approve, modify, or deny the application for approval to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section. If the application for approval contains the information required under subsection (2)(a) through (f) and appears to be in substantial compliance with the provisions of this section, then the department of treasury shall approve the application. If the application is denied by the department of treasury, then the department of treasury shall provide the opportunity for a representative of the authority to discuss the denial within 21 days after the denial occurs and shall sustain or modify its decision within 30 days after receiving information from the authority. If the application for approval is approved or modified by the department of treasury, the local tax collecting treasurer shall retain and pay to the authority the amount described in subsection (5) as approved by the department. If the department of treasury denies the authority's application for approval, the local tax collecting treasurer shall not retain or pay to the authority the taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the department does not prohibit a subsequent audit of taxes retained in accordance with the procedures currently authorized by law.

(4) Each year, the legislature shall appropriate and distribute an amount sufficient to pay each authority the following:

(a) If the amount to be retained and paid under subsection (3) is less than the amount calculated under subsection (5), the difference between those amounts.

(b) If the application for approval is denied by the department of treasury, an amount verified by the department equal to the amount calculated under subsection (5).

(5) Subject to subsection (6), the aggregate amount under this section shall be the sum of the amounts determined under subdivisions (a) and (b) minus the amount determined under subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received and retained for the fiscal year, excluding taxes exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax exemptions described in subsection (1) were not in effect, exceed the tax increment revenues the authority actually received for the fiscal year.

(b) A shortfall required to be reported under subsection (2)(f) that had not previously increased a

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distribution.

(c) An excess amount required to be reported under subsection (2)(f) that had not previously decreased a distribution.

(6) A distribution or taxes retained under this section replacing tax increment revenues pledged by an authority or a municipality are subject to any lien of the pledge described in subsection (1), whether or not there has been physical delivery of the distribution.

(7) Obligations for which distributions are made under this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(8) Not later than September 15 of each year, the authority shall provide a copy of the application for approval approved by the department of treasury to the local tax collecting treasurer and provide the amount of the taxes retained and paid to the authority under subsection (5).

(9) Calculations of amounts retained and paid and appropriations to be distributed under this section shall be made on the basis of each development area of the authority.

(10) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

(11) It is the intent of the legislature that, to the extent that the total amount of taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be retained under this section and section 11b of the local development financing act, 1986 PA 281, MCL 125.2161b, section 15a of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2665a, and section 13c of 1975 PA 197, MCL 125.1663c, exceeds the difference of the total school aid fund revenue for the tax year minus the estimated amount of revenue the school aid fund would have received for the tax year had the tax exemptions described in subsection (1) and the earmark created by section 515 of the Michigan business tax act, 2007 PA 36, MCL 208.1515, not taken effect, the general fund shall reimburse the school aid fund the difference.

History: Add. 2008, Act 156, Imd. Eff. June 5, 2008;—Am. 2009, Act 214, Imd. Eff. Jan. 4, 2010.

Popular name: TIFA

125.1813 Preparation and submission of tax increment financing plan; contents and approval of plan; public hearing; taxing jurisdictions.

Sec. 13. (1) When the authority determines that it is necessary for the achievement of the purposes of this act, the authority shall prepare and submit a tax increment financing plan to the governing body. The plan shall be in compliance with section 14 and shall include a development plan as provided in section 16. The plan shall also contain the following:

(a) A statement of the reasons that the plan will result in the development of captured assessed value that could not otherwise be expected. The reasons may include, but are not limited to, activities of the municipality, authority, or others undertaken before formulation or adoption of the plan in reasonable anticipation that the objectives of the plan would be achieved by some means.

(b) An estimate of the captured assessed value for each year of the plan. The plan may provide for the use of part or all of the captured assessed value, but the portion intended to be used shall be clearly stated in the plan. The authority or municipality may exclude from captured assessed value growth in property value resulting solely from inflation. The plan shall set forth the method for excluding growth in property value resulting solely from inflation. The percentage of taxes levied for school operating purposes that is captured and used by the plan shall not be greater than the plan's percentage capture and use of taxes levied by a municipality or county for operating purposes. For purposes of the previous sentence, taxes levied by a county for operating purposes include only millage allocated for county or charter county purposes under the property tax limitation act, Act No. 62 of the Public Acts of 1933, being sections 211.201 to 211.217a of the Michigan Compiled Laws. This limitation does not apply to the portion of the captured assessed value shared pursuant to an agreement entered into before 1989 with a county or with a city in which an enterprise zone is approved under section 13 of the enterprise zone act, Act No. 224 of the Public Acts of 1985, being section 125.2113 of the Michigan Compiled Laws.

(c) The estimated tax increment revenues for each year of the plan.

(d) A detailed explanation of the tax increment procedure.

(e) The maximum amount of bonded indebtedness to be incurred.

(f) The amount of operating and planning expenditures of the authority and municipality, the amount of advances extended by or indebtedness incurred by the municipality, and the amount of advances by others to be repaid from tax increment revenues.

(g) The costs of the plan anticipated to be paid from tax increment revenues as received.

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(h) The duration of the development plan and the tax increment plan.

(i) An estimate of the impact of tax increment financing on the revenues of all taxing jurisdictions in which the development area is located.

(2) Approval of the tax increment financing plan shall be in accordance with the notice, hearing, disclosure, and approval provisions of sections 17 and 18. When the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together.

(3) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions in which the development is located to express their views and recommendations regarding the tax increment financing plan. The authority shall fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed tax increment financing plan. The taxing jurisdictions may present their recommendations at the public hearing on the tax increment financing plan. The authority may enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the development area is located to share a portion of the captured assessed value of the district.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981;—Am. 1982, Act 492, Imd. Eff. Dec. 30, 1982;—Am. 1983, Act 148, Imd. Eff. July 18, 1983;—Am. 1986, Act 294, Imd. Eff. Dec. 22, 1986;—Am. 1988, Act 420, Imd. Eff. Dec. 27, 1988;—Am. 1989, Act 120, Imd. Eff. June 28, 1989;—Am. 1993, Act 322, Eff. Mar. 15, 1994.

Compiler's note: Section 2 of Act 420 of 1988 provides: “This amendatory act is effective beginning with taxes levied in 1989.”

Popular name: TIFA

125.1814 Transmitting and expending tax increment revenues; disposition of surplus funds; abolition of tax increment financing plan; financial report.

Sec. 14. (1) The municipal and county treasurers shall transmit to the authority tax increment revenues.

(2) The authority shall expend the tax increment revenues received for the development program only in accordance with the tax increment financing plan. Surplus funds may be retained by the authority for the payment of the principal of and interest on outstanding tax increment bonds or for other purposes that, by resolution of the board, are determined to further the development program. Any surplus funds not so used shall revert proportionately to the respective taxing bodies. These revenues shall not be used to circumvent existing property tax laws or a local charter that provides a maximum authorized rate for levy of property taxes. The governing body may abolish the tax increment financing plan when it finds that the purposes for which the plan was established are accomplished. However, the tax increment finance plan shall not be abolished until the principal of and interest on bonds issued pursuant to section 15 have been paid or funds sufficient to make the payment have been segregated.

(3) The authority shall submit annually to the governing body and the state tax commission a financial report on the status of the tax increment financing plan. The report shall include the following:

(a) The amount and source of tax increments received.

(b) The amount in any bond reserve account.

(c) The amount and purpose of expenditures of tax increment revenues.

(d) The amount of principal and interest on any outstanding bonded indebtedness.

(e) The initial assessed value of the development area.

(f) The captured assessed value retained by the authority.

(g) The number of jobs created as a result of the implementation of the tax increment financing plan.

(h) Any additional information the governing body or the state tax commission considers necessary.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981;—Am. 1983, Act 148, Imd. Eff. July 18, 1983;—Am. 1986, Act 294, Imd. Eff. Dec. 22, 1986;—Am. 1988, Act 420, Imd. Eff. Dec. 27, 1988;—Am. 1993, Act 322, Eff. Mar. 15, 1994.

Compiler's note: Section 2 of Act 420 of 1988 provides: “This amendatory act is effective beginning with taxes levied in 1989.”

Popular name: TIFA

125.1815 Tax increment bonds; qualified refunding obligation.

Sec. 15. (1) By resolution of its board, the authority may authorize, issue, and sell its tax increment bonds, subject to the limitations set forth in this section, to finance a development program. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The bonds issued under this section shall be considered a single series for the purposes of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The municipality by majority vote of the members of its governing body may pledge its full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds. The municipality may pledge as additional security for the bonds any money received by the authority or the municipality pursuant to section 11.

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(3) Notwithstanding any other provision of this act, if the state treasurer determines that an authority or municipality can issue a qualified refunding obligation and the authority or municipality does not make a good faith effort to issue the qualified refunding obligation as determined by the state treasurer, the state treasurer may reduce the amount claimed by the authority or municipality under section 12a by an amount equal to the net present value saving that would have been realized had the authority or municipality refunded the obligation or the state treasurer may require a reduction in the capture of tax increment revenues from taxes levied by a local or intermediate school district or this state by an amount equal to the net present value savings that would have been realized had the authority or municipality refunded the obligation. This subsection does not authorize the state treasurer to require the authority or municipality to pledge security greater than the security pledged for the obligation being refunded.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981;—Am. 1993, Act 322, Eff. Mar. 15, 1994;—Am. 1996, Act 271, Imd. Eff. June 12, 1996;—Am. 2002, Act 190, Imd. Eff. Apr. 24, 2002.

Popular name: TIFA

125.1816 Development plan; preparation; contents.

Sec. 16. (1) When a board decides to finance a project in a development area pursuant to this act, it shall prepare a development plan.

(2) To the extent necessary to accomplish the proposed development program the development plan shall contain:

(a) The designation of boundaries of the development area in relation to the boundaries of the authority district and any other development areas within the authority district.

(b) The designation of boundaries of the development area in relation to highways, streets, or otherwise.

(c) The location and extent of existing streets and other public facilities within the development area and the location, character, and extent of the categories of public and private land uses then existing and proposed for the development area, including residential, recreational, commercial, industrial, educational, and other uses and shall include a legal description of the development area.

(d) A description of improvements to be made in the development area, a description of any repairs and alterations necessary to make those improvements, and an estimate of the time required for completion of the improvements.

(e) The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the development area and an estimate of the time required for completion.

(f) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(g) A description of any parts of the development area to be left as open space and the use contemplated for the space.

(h) A description of any portions of the development area which the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.

(i) A description of desired zoning changes and changes in streets, street levels, intersections, and utilities.

(j) An estimate of the cost of the development, a statement of the proposed method of financing the development, and the ability of the authority to arrange the financing.

(k) Designation of the person or persons, natural or corporate, to whom all or a portion of the development is to be leased, sold, or conveyed and for whose benefit the project is being undertaken, if that information is available to the authority.

(*l*) The procedures for bidding for the leasing, purchasing, or conveying of all or a portion of the development upon its completion, if there is no express or implied agreement between the authority and persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed to those persons.

(m) Estimates of the number of persons residing in the development area and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, a development plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(n) A plan for establishing priority for the relocation of persons displaced by the development in any new housing in the development area.

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(o) Provision for the costs of relocating persons displaced by the development, and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the federal uniform relocation assistance and real property acquisition policies act of 1970, 42 U.S.C. 4601 to 4655.

(p) A plan for compliance with Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

(q) Other material which the authority, local public agency, or governing body considers pertinent.

(3) It shall not be necessary for the board to prepare a development plan pursuant to this section where a development plan that adequately provides for accomplishing the proposed development program has already been prepared by any of the organizations described in section 4(1)(a) to (d) and where the development plan has been approved by the board and governing body pursuant to sections 17 and 18.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981.

Popular name: TIFA

125.1817 Public hearing on development plan; publication, mailing, and contents of notice; presentation of data; record.

Sec. 17. (1) The governing body, before adoption of a resolution approving or amending a development plan or approving or amending a tax increment financing plan, shall hold a public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall not be less than 20 days before the date set for the hearing. Notice shall also be mailed to all property taxpayers of record in the development area not less than 20 days before the hearing. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the development plan or the tax increment financing plan is approved or amended.

(2) Notice of the time and place of hearing on a development plan shall contain the following:

(a) A description of the proposed development area in relation to highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice, and that all aspects of the development plan will be open for discussion at the public hearing.

(c) Other information that the governing body considers appropriate.

(3) At the time set for hearing, the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference thereto. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented at that time.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981;—Am. 2005, Act 14, Imd. Eff. May 4, 2005.

Popular name: TIFA

125.1818 Development plan or tax increment plan as public purpose; determination; approval or rejection of plan; notice and public hearing; conclusiveness of procedure, adequacy of notice, and certain findings; validation and conclusiveness of plan; contesting plan.

Sec. 18. (1) The governing body, after a public hearing on the development plan or the tax increment financing plan, or both, with notice of the hearing given pursuant to section 17, shall determine whether the development plan or tax increment financing plan constitutes a public purpose. If the governing body determines that the development plan or tax increment financing plan constitutes a public purpose, the governing body shall then approve or reject the plan, or approve it with modification, by resolution based on the following considerations:

(a) The findings and recommendations of a development area citizens council, if a development area citizens council was formed.

(b) Whether the development plan meets the requirements set forth in section 16(2) and the tax increment financing plan meets the requirements set forth in section 13(1).

(c) Whether the proposed method of financing the development is feasible and the authority has the ability to arrange the financing.

(d) Whether the development is reasonable and necessary to carry out the purposes of this act.

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(e) Whether the amount of captured assessed value estimated to result from adoption of the plan is reasonable.

(f) Whether the land to be acquired within the development area is reasonably necessary to carry out the purposes of the plan and the purposes of this act.

(g) Whether the development plan is in reasonable accord with the approved master plan of the municipality, if an approved master plan exists.

(h) Whether public services, such as fire and police protection and utilities, are or will be adequate to service the development area.

(i) Whether changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

(2) Except as provided in this subsection, amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection following the same notice and public hearing provisions that are necessary for approval or rejection of the original plan. Notice and hearing shall not be necessary for revisions in the estimates of captured assessed value and tax increment revenues.

(3) The procedure, adequacy of notice, and findings with respect to purpose and captured assessed value shall be conclusive unless contested in a court of competent jurisdiction within 60 days after adoption of the resolution adopting the plan. A plan adopted before July 18, 1983 is validated and shall be conclusive unless contested in a court of competent jurisdiction within 60 days after July 18, 1983. A plan in effect before July 18, 1983 shall not be contested to the extent that tax increment revenues are necessary for the payment of principal and interest on outstanding bonds issued pursuant to the plan and payable from the tax increment revenues or to the extent the authority or municipality has incurred other obligations or made commitments dependent upon tax increment revenues.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981;—Am. 1983, Act 148, Imd. Eff. July 18, 1983;—Am. 1993, Act 322, Eff. Mar. 15, 1994.

Popular name: TIFA

125.1819 Notice to vacate.

Sec. 19. A person to be relocated under this act shall be given not less than 90 days' written notice to vacate unless modified by court order for good cause.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981.

Popular name: TIFA

125.1820 Development area citizens council; establishment; advisory body; appointment and qualifications of members.

Sec. 20. (1) A development area citizens council shall be established if the proposed development area has 100 or more persons residing within it and a change in zoning or a taking of property by eminent domain is necessary to accomplish the proposed development program. The council shall act as an advisory body to the authority and the governing body in the adoption of the development plan or tax increment financing plan.

(2) If a development area citizens council is required, the council shall be appointed by the governing body, and shall consist of not less than 9 members. Each member shall be at least 18 years of age and reside in the development area. The council shall be established at least 60 days before the public hearing on the development plan or the tax increment financing plan, or both.

(3) If a development area citizens council is required pursuant to subsection (1) and if the authority was established pursuant to section 4(1)(a), (b), (c), or (d), a council established in conjunction with any of those boards or commissions, may serve in an advisory capacity to the authority, if the authority determines it is representative of the development area.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981.

Popular name: TIFA

125.1821 Consultation representative of authority and council.

Sec. 21. Periodically a representative of the authority responsible for preparation of a development or tax increment financing plan within the development area shall consult with and advise the development area citizens council regarding the aspects of a development plan, including the development of new housing for relocation purposes located either inside or outside of the development area. The consultation shall begin before any final decisions by the authority and the governing body regarding a development or tax increment financing plan. The consultation shall continue throughout the preparation and implementation of the development or tax increment financing plan.

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History: 1980, Act 450, Imd. Eff. Jan. 15, 1981.

Popular name: TIFA

125.1822 Meetings of council; open to public; notice; hearing persons present at meeting; record; information and technical assistance; failures not precluding adoption of development plan.

Sec. 22. (1) Meetings of the council shall be open to the public. Notice of the time and place of the meetings shall be posted in at least 10 conspicuous places in the development area accessible to the public not less than 5 days before the dates set for meetings of the council. A person present at those meetings shall have reasonable opportunity to be heard.

(2) A record of the meetings of a council, including information and data presented, shall be maintained by the council.

(3) A council may request of and receive from the authority information and technical assistance relevant to the preparation of the development plan for the development area.

(4) Failure of a council to organize or to consult with and be advised by the authority, or failure to advise the governing body, as provided in this act, shall not preclude the adoption of a development plan by a municipality if the municipality complies with the other provisions of this act.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981.

Popular name: TIFA

125.1823 Development plan; notice of findings and recommendations.

Sec. 23. Within 20 days after the public hearing on a development or tax increment financing plan, the council, if established, shall notify the governing body, in writing, of its findings and recommendations concerning a proposed development plan.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981.

Popular name: TIFA

125.1824 Development area citizens council; dissolution.

Sec. 24. A development area citizens council may not be required and, if formed, may be dissolved in any of the following situations:

(a) On petition of not less than 20% of the adult resident population of the development area by the last federal decennial or municipal census, a governing body, after public hearing with notice given in accordance with section 17 and by a 2/3 vote, may adopt a resolution eliminating the necessity of a council for the development area.

(b) If there are less than 18 residents located in the development area eligible to serve on the council.

(c) Upon termination of the authority by resolution of the governing body.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981.

Popular name: TIFA

125.1825 Budget; cost of handling and auditing funds.

Sec. 25. (1) The director of the authority shall prepare and submit for the approval of the board a budget for the operation of the authority for the ensuing fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. Before the budget may be adopted by the board, it shall be approved by the governing body. Funds of the municipality shall not be included in the budget of the authority except those funds authorized in this act or by the governing body.

(2) The governing body may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed for designated purposes, which cost shall be paid annually by the board pursuant to an appropriate item in its budget.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981.

Popular name: TIFA

125.1826 Preservation of public facility, building, or structure having significant historical interest; review of proposed changes to exterior of historic site.

Sec. 26. (1) A public facility, building, or structure which is determined by the municipality to have significant historical interests shall be preserved in a manner as considered necessary by the municipality in accordance with laws relative to the preservation of historical sites.

(2) An authority shall refer all proposed changes to the exterior of sites listed on the state register of historic sites and the national register of historic places to the applicable historic district commission created

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under Act No. 169 of the Public Acts of 1970, as amended, being sections 399.201 to 399.212 of the Michigan Compiled Laws, or the secretary of state for review.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: TIFA

125.1827 Dissolution of authority; resolution; disposition of property and assets.

Sec. 27. An authority which has completed the purposes for which it was organized shall be dissolved by resolution of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority shall belong to the municipality.

History: 1980, Act 450, Imd. Eff. Jan. 15, 1981.

Popular name: TIFA

125.1828 Authority district part of area annexed to or consolidated with another municipality; authority of annexing or consolidated municipality; status of obligations, agreements, and bonds.

Sec. 28. Notwithstanding the limitation provided by section 2(1) on having more than 1 authority, if an authority district is part of an area annexed to or consolidated with another municipality, the authority managing that authority district shall become an authority of the annexing or consolidated municipality. All obligations of that authority incurred pursuant to development plans or tax increment plans, all agreements related to the plans, and bonds issued pursuant to this act shall remain in effect following the annexation or consolidation.

History: Add. 1983, Act 148, Imd. Eff. July 18, 1983.

Popular name: TIFA

125.1829 New authority or authority district and boundaries of authority district; prohibitions; validity of tax increment finance authority, authority district, development area, development plan, or tax increment financing plan established before December 30, 1986; development area created or expanded after December 29, 1986.

Sec. 29. (1) Beginning January 1, 1987, a new authority or authority district shall not be created and the boundaries of an authority district shall not be expanded to include additional land.

(2) A tax increment finance authority, authority district, development area, development plan, or tax increment financing plan established under this act before December 30, 1986 shall not be invalidated pursuant to a claim that based on the standards set forth in section 3(1), a governing body improperly determined that the necessary conditions existed for the establishment of a tax increment financing authority under this act, if, at the time the governing body established the authority, the governing body could have determined that establishment of an authority under this act would serve to create jobs or promote economic development growth.

(3) A development area created or expanded after December 29, 1986 shall be subject to the requirements of section 3(1).

History: Add. 1986, Act 280, Imd. Eff. Dec. 22, 1986.

Popular name: TIFA

125.1830 Proceedings to compel enforcement of act; rules.

Sec. 30. (1) The state tax commission may institute proceedings to compel enforcement of this act.

(2) The state tax commission may promulgate rules necessary for the administration of this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: Add. 1988, Act 420, Imd. Eff. Dec. 27, 1988.

Compiler's note: Section 2 of Act 420 of 1988 provides: “This amendatory act is effective beginning with taxes levied in 1989.”

Popular name: TIFA

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MICHIGAN URBAN LAND ASSEMBLY ACT
Act 171 of 1981

AN ACT to provide for the creation of an urban land assembly fund to assist eligible municipalities in the acquisition of certain real property for economic development purposes; to prescribe procedures and criteria for loan eligibility and for the issuance and repayment of loans; to transfer certain revenues, records, and the authority to receive certain loan repayments to the urban land assembly fund; and to prescribe the powers and duties of the department of commerce and of municipalities and certain administering agencies.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981.

The People of the State of Michigan enact:

125.1851 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan urban land assembly act".

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981.

Compiler's note: For transfer of powers and duties of department of commerce under Act 171 of 1981 to the chief executive officer of Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

125.1852 Definitions.

Sec. 2. As used in this act:

(a) "Administering agency" means a municipality or nonprofit development organization designated by a municipality and authorized by the municipality to plan and implement a project.

(b) "Application" means an application for a loan from the fund.

(c) "Department" means the department of commerce.

(d) "Displacement" means the moving of persons from a project area to another sector of the municipality, another municipality, or another governmental unit.

(e) "Fund" means the urban land assembly fund created in section 3.

(f) "Loan" means a disbursement of money available from the fund to the administering agency for project purposes.

(g) "Municipality" means a city which meets funding eligibility requirements established by the department.

(h) "Project" means the assembly of urban parcels of real property within a municipality for economic development purposes, excluding land to be used by a public utility. Project may include, but is not limited to, the purchase, demolition, relocation, and site improvements required to make the land marketable.

(i) "Project area" means the boundaries of the real property to be purchased as described in the project plan.

(j) "Project plan" means the information required by the department for review of a proposed project.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981.

125.1853 Urban land assembly loan fund; creation; administration; use; operation on revolving basis; total amount of loans.

Sec. 3. (1) An urban land assembly loan fund is created within the state treasury and shall be administered by the department.

(2) The fund shall be used in assembling parcels of real property within municipalities for economic development purposes for municipalities which meet the funding eligibility requirements set forth by the department.

(3) The fund shall operate on a revolving basis. Annual appropriations, repayments to the fund, and all interest earned by the fund shall be available for future urban land assembly projects.

(4) The total amount of loans of money from the fund which a municipality may receive in any 1 year shall not exceed 1/2 of the assets in the fund.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981.

Compiler's note: For transfer of powers and duties of department of commerce under Act 171 of 1981 to the chief executive officer of Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

125.1854 Disbursement of money from fund.

Sec. 4. The disbursement of money from the fund shall be determined by the department and provided to municipalities which file an application pursuant to section 6 and which meet the funding eligibility requirements established by the department consistent with criteria described in section 5.

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History: 1981, Act 171, Imd. Eff. Dec. 3, 1981.

125.1855 Eligibility; primary consideration to municipalities with high unemployment.

Sec. 5. To be eligible under this act for a loan for a project, a municipality shall meet eligibility criteria established by the department. The department shall give primary consideration to those municipalities with high unemployment.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981.

125.1856 Application for loan; contents; guidelines for evaluating economic impact of proposed projects; system for ordering priority of projects.

Sec. 6. (1) An administering agency requesting a loan shall file an application with the department. The application shall include the following:

(a) Proof and certification that at least 1 of the funding eligibility requirements set forth by the department has been met.

(b) A demonstration that within the municipality a severe shortage of industrial real property parcels exists for new or expanded industrial development, or a demonstration that within the municipality a shortage of commercial real property parcels exists in the area under the jurisdiction of a downtown development authority pursuant to Act No. 197 of the Public Acts of 1975, as amended, being sections 125.1651 to 125.1680 of the Michigan Compiled Laws.

(c) A project plan.

(d) A description of the project's consistency with the municipality's plans for economic development and the municipality's master plan, if a master plan has been adopted.

(e) A description of the planned real property acquisition for industrial use of at least 10 contiguous acres, or a planned acquisition for industrial use of a critical parcel of less than 10 acres, if the department determines that the municipality making the application has presented sufficient documentation demonstrating the critical nature of obtaining the parcel for industrial development purposes, or in a downtown development authority area.

(f) A description of the planned industrial or commercial reuse of the project area and, if displacement is to occur, a plan for providing for the persons to be displaced.

(g) A description of the economic impact of the proposed project, including but not limited to the types of impact described in subsection (2).

(h) The administering agency shall certify to the department that at the time the project plan is approved by the department, the project shall not have the effect of transferring employment from a city of this state to the city in which the project is to be located. This restriction shall not prevent the approval of a project if the governing body of each city from which employment is to be transferred consents by resolution to the transfer.

(2) The department shall develop guidelines for evaluating the economic impact of the proposed projects and a system for ordering the priority of projects shall be implemented. The department shall give priority to those projects which:

(a) Yield the highest number of new jobs per loan fund dollar invested.

(b) Receive contributions equal to 1/2 of the project cost from the private sector, or from local or federal governments, or from both.

(c) Make long term contributions to the local tax base.

(d) Contribute significantly to neighborhood revitalization.

(e) Identify a potential immediate user for the property to be purchased.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981.

125.1857 Loan document; contents; execution; changes to project; annual report.

Sec. 7. (1) A loan document shall be executed between the department and the applicant which shall include a description of the project, and provisions for repayment of the loan. Following the execution of the loan document, changes to the project shall not be made by the applicant without the written approval of the department.

(2) The administering agency shall submit an annual report to the department, which shall include those items required by the department.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981.

125.1858 Repayment into fund of proceeds from sale or lease of land and improvements to industrial or commercial user; amount repaid; repayment of remainder of loan; sale of real

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property at less than cost of acquisition.

Sec. 8. (1) Upon sale or lease of the real property, the administering agency shall repay into the fund a portion of the proceeds from the sale or lease of land and improvements within a project to an industrial or commercial user. The amount repaid shall be in the same proportion to the total proceeds received from the sale or lease as the original contribution from the fund is to the total cost of the project.

(2) If repayment in accordance with subsection (1) does not fully repay the loan, the remainder of the loan shall be repaid pursuant to the provisions of the loan document. In determining the provisions of repayment of the remainder of the loan, the department shall take into consideration the economic impact criteria contained in section 6(2) and the demonstrated need to sell the land below total project cost in accordance with subsection (3). The remainder of the loan shall be repaid no later than 10 years after the sale or lease of the real property by the administering agency.

(3) The administering agency may sell real property to an industrial or commercial user at less than the administering agency's cost of acquisition, if the administering agency demonstrates to the department the need to lower the cost of the real property to make the land economically competitive with similar parcels of real property, and if loan repayments to the fund are made in accordance with subsections (1) and (2).

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981.

125.1859 Annual report.

Sec. 9. The department shall annually report to the legislature on the use of the fund. The report shall include the following:

(a) A list and description of approved projects.

(b) The number of jobs created by approved projects.

(c) Other accomplishments of the fund.

(d) The department's recommendations on the continuation or cessation of the fund as well as other recommendations for changes in the fund.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981.

125.1860 Transfer of funds for urban land banking purposes, loan interest, authority to receive repayments, and related records to fund.

Sec. 10. All funds for urban land banking purposes, including unexpended appropriations made under Act No. 401 of the Public Acts of 1978, interest earned on loans and investments of funds for urban land banking purposes, and the authority to receive repayments of interest and principal on loans made of funds for urban land banking purposes, and all related records shall be transferred intact from the Michigan state housing development authority to the fund created by this act.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981.

125.1861 Rules.

Sec. 11. The agency shall promulgate rules to implement this act. The rules shall be promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: 1981, Act 171, Imd. Eff. Dec. 3, 1981.

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MICHIGAN SUPPLY CHAIN MANAGEMENT DEVELOPMENT COMMISSION ACT
Act 398 of 2008

AN ACT to create the Michigan supply chain management development commission; to prescribe the powers and duties of the commission; and to provide for certain regulations.

History: 2008, Act 398, Imd. Eff. Jan. 6, 2009.

The People of the State of Michigan enact:

125.1891 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan supply chain management development commission act".

History: 2008, Act 398, Imd. Eff. Jan. 6, 2009.

125.1892 Definitions.

Sec. 2. As used in this act:

(a) "Commission" means the Michigan supply chain management development commission created under section 3.

(b) "Supply chain management" means an integrated approach to planning, implementing, and controlling the flow of information, materials, and services from raw materials to the distribution of the finished product to the end customer. Supply chain management includes the process of collaborating horizontally among suppliers, retailers, and customers to create value. Supply chain management also includes manufacturing, technology, distribution, warehousing, marketing, logistics, all modes of transportation, and focuses on eliminating points of friction at borders, the adoption of efficiencies, and improving global collaboration.

History: 2008, Act 398, Imd. Eff. Jan. 6, 2009.

125.1893 Michigan supply chain management development commission; creation; purpose; membership; compensation.

Sec. 3. (1) The Michigan supply chain management development commission is created within the department of treasury.

(2) The commission shall create a road map for attracting, supporting, marketing, and growing the international trade, supply chain, and logistics industries by advising on the development and coordination of state transportation and economic development policies. Based upon an inventory of industry needs and state strengths and an economic multiplier impact analysis, the commission shall study and design programs to provide incentives and otherwise support these growth industries through workforce development, tax incentives, recruitment, marketing, and other activities.

(3) The commission shall be made up of the following members:

(a) The president of the Michigan strategic fund.

(b) The director of the state transportation department.

(c) The director of the department of environmental quality.

(d) The state treasurer.

(e) Two individuals who are residents of this state and who live within 1 mile of an international border crossing, airport, rail yard, intermodal facility, port, or other major transportation infrastructure that has significant impacts on the local residential community, appointed by the governor from a list of 4 or more individuals selected by the senate majority leader.

(f) Two individuals who are residents of this state and who live within 1 mile of an international border crossing, airport, rail yard, intermodal facility, port, or other major transportation infrastructure that has significant impacts on the local residential community, appointed by the governor from a list of 4 or more individuals selected by the speaker of the house of representatives.

(g) Seven individuals appointed by the governor who have education in, experience with, or knowledge of supply chain management and logistics, including, but not limited to, individuals representing commerce, transportation, border operators, warehousing, local economic development agencies, and institutions of higher learning.

(4) A member of the commission shall not receive compensation for services as a member of the commission, but the commission may reimburse each member of the commission for expenses necessarily incurred in the performance of his or her duties.

History: 2008, Act 398, Imd. Eff. Jan. 6, 2009.

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125.1894 Commission; powers and duties; funds.

Sec. 4. (1) The commission shall have and exercise all of the following powers and duties:

(a) Advise the governor and appropriate state agencies on methods, proposals, programs, and initiatives involving supply chain management in this state that may stimulate state economies and provide additional employment opportunities for this state.

(b) Create avenues of communication between this state and Ontario and the federal government of Canada concerning economic development, trade and commerce, transportation, and industrial affairs concerning supply chain management.

(c) Survey and audit how other states have used supply chain management capabilities to attract industry.

(d) Determine which industries in this state would benefit from supply chain coordination.

(e) Make recommendations to the governor and the legislature on all the following:

(*i*) Changes to the tax structure of this state to make Michigan competitive with other jurisdictions.

(*ii*) Mechanisms to attract long-term capital investment.

(*iii*) How to improve access to credit or financing resources.

(*iv*) How to improve workforce training and retraining support to maximize productivity.

(*v*) Expediting regulatory oversight to facilitate expansion and new investment.

(*vi*) Reducing regulatory burden.

(*vii*) Developing growth strategy for targeted industries.

(*viii*) How to prioritize and coordinate investment in transportation infrastructure of this state.

(f) Develop integrated state strategy regarding policy to global supply chain operations.

(2) State funds shall not be used to fund the operations of the commission. The commission may be funded with private funds, federal funds, or other funds that are not state funds.

History: 2008, Act 398, Imd. Eff. Jan. 6, 2009.

ECONOMIC DEVELOPMENT
Act 70 of 1982

125.1901-125.1934 Repealed. 1984, Act 270, Eff. Sept. 26, 1985.

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STATE RESEARCH FUND
Act 175 of 1982

AN ACT to create a state research fund within the department of commerce; to provide for the administration of the fund; to prescribe the powers and duties of certain state agencies and officers; to provide for feasibility review panels; to provide for certain appropriations; and to repeal certain acts and parts of acts.

History: 1982, Act 175, Imd. Eff. June 6, 1982.

The People of the State of Michigan enact:

125.1951 Legislative finding and declaration.

Sec. 1. The legislature hereby finds and declares:

(a) That there is a statewide pressing need for programs to alleviate and prevent conditions of unemployment; to preserve existing jobs and create new jobs to meet the employment demands of population growth; to promote the development of business enterprises and to meet the growing competition for business enterprises; to revitalize and diversify the Michigan economy in general and achieve the goals of economic growth and full employment; and to encourage and develop close relationships between the research and development resources of Michigan colleges and universities and the business enterprises in Michigan.

(b) That, for the preservation and betterment of the health, safety, and general welfare of the people of Michigan, it is necessary to promote and develop new and diversified technology based industries.

(c) That the goals of full employment and maximum economic growth can best be provided by the stimulation of innovative research.

History: 1982, Act 175, Imd. Eff. June 6, 1982.

125.1952 State research fund; creation; public notice; grants for specific projects; evaluation criteria for proposed project; allocation of amount appropriated; priority for proposals.

Sec. 2. (1) The state research fund is hereby created. The department of labor and economic growth shall give public notice of the existence of the fund, the fund's objectives, and requirements for participation in the fund. From the amounts received by the fund, the department of labor and economic growth shall make grants for specific projects that are either proposed by Michigan colleges and universities in cooperation with a business or other private entity, or that are proposed by a business or other private entity, that is either a profit or nonprofit entity and that is doing business in Michigan. The department of labor and economic growth shall evaluate a proposed project according to whether it meets 1 or more of the following criteria:

(a) The project applies technological discoveries to new applications.

(b) The project provides a tangible, direct benefit for the economy of the state.

(c) The project is of interest to 1 or more of the following:

(*i*) The college or university.

(*ii*) The business or other private entity.

(d) The project is of general interest to an entire industrial field.

(e) The project contributes directly or indirectly to the development of additional products or processes.

(f) The applicant demonstrates the capability to implement the proposed project.

(g) The project meets any other criteria prescribed by the director of the department of labor and economic growth.

(2) Not more than 35% of the amount appropriated to the fund shall be allocated to any 1 college or university. Priority for proposed projects in subsection (1) shall be given to those projects that are submitted by a Michigan college or university in cooperation with a business or private entity, that do not require continuing grants, and that have prospects of receiving necessary financial assistance from other sources in the future.

(3) If a proposed project complies with subsection (1), the director of the department of labor and economic growth shall determine the amount and priority of the grant and release the grant to the college or university or the business or private entity named in the proposed project in accordance with the accounting laws of the state.

History: 1982, Act 175, Imd. Eff. June 6, 1982;—Am. 2006, Act 229, Imd. Eff. June 26, 2006.

125.1953 Rules; annual report.

Sec. 3. (1) The department of commerce shall promulgate rules to implement and administer this act pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. The rules shall include special oversight provisions for those grants not provided

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in cooperation with a state institution of higher education.

(2) The department of commerce shall submit an annual report within 60 days after the end of the fiscal year to the legislature with copies to the appropriations committees of the senate and house of representatives describing each grant released under the state research fund. The annual report shall specify suggestions for targeting new commercialized ventures initially assisted by the state research fund into areas of high unemployment and in distressed communities within Michigan.

History: 1982, Act 175, Imd. Eff. June 6, 1982.

125.1954 Exemption of proprietary information on proposal from disclosure under freedom of information act.

Sec. 4. (1) Proprietary information on a proposal submitted under this act shall be exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws. The entities submitting a proposal under this act shall indicate that information on the proposal which they consider to be proprietary information.

(2) The department shall not disclose proprietary information on a proposal without the consent of the entities submitting the proposal.

History: 1982, Act 175, Imd. Eff. June 6, 1982.

125.1955 Transfer of sum from technology based innovation and development fund appropriation to department of commerce; establishment of state research fund.

Sec. 5. The sum of $990,000.00 from the appropriation made for the technology based innovation and development fund by Act No. 30 of the Public Acts of 1981 to the department of management and budget for the fiscal year ending September 30, 1982, is hereby transferred from the department of management and budget to the department of commerce to establish the state research fund.

History: 1982, Act 175, Imd. Eff. June 6, 1982.

125.1956 Repeal of section 73 of P.A. 1981, No. 30.

Sec. 6. Section 73 of Act No. 30 of the Public Acts of 1981 is repealed.

History: 1982, Act 175, Imd. Eff. June 6, 1982.

Compiler's note: Section 73 of Act 30 of 1981 provided for the creation of a technology-based innovation and development fund.

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****** Act 317 of 2006 THIS ACT IS REPEALED BY ACT 317 OF 2006 EFFECTIVE JULY 20, 2011 ******

MICHIGAN STRATEGIC FUND CENTERS

Act 317 of 2006

AN ACT to create certain centers in the Michigan strategic fund; to impose certain duties and responsibilities on those centers and on certain state employees and public employees; and to repeal acts and parts of acts.

History: 2006, Act 317, Imd. Eff. July 20, 2006.

The People of the State of Michigan enact:

****** 125.1971 THIS SECTION IS REPEALED BY ACT 317 OF 2006 EFFECTIVE JULY 20, 2011 ******

125.1971 Definitions.

Sec. 1. As used in this act:

(a) "Center" or "defense contract coordination center" means the defense contract coordination center created in section 2.

(b) "Michigan strategic fund" means the Michigan strategic fund created under the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

(c) "Municipality" means a township, village, city, or county.

(d) "Small business" means a business with less than 400 employees.

History: 2006, Act 317, Imd. Eff. July 20, 2006.

****** 125.1972 THIS SECTION IS REPEALED BY ACT 317 OF 2006 EFFECTIVE JULY 20, 2011 ******

125.1972 Defense contract coordination center; creation; operation; staff; development plan; powers, privileges, and authorities; use of state funds; limitation.

Sec. 2. (1) The defense contract coordination center is created in the Michigan strategic fund. The board of the Michigan strategic fund may delegate those functions and authority that the board considers necessary or appropriate as provided in section 5 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2005.

(2) The center shall do all of the following:

(a) Focus solely on job creation and job retention from business opportunities associated with the procurement technical assistance center for homeland security and defense contracts and contracts related to homeland security and defense.

(b) Coordinate with procurement technical assistance centers in this state to maximize homeland security and defense business opportunities for small businesses and small business innovation research programs located in this state.

(c) Give priority to bring homeland security and defense business opportunities to municipalities hardest hit by manufacturing layoffs.

(d) Set a performance objective of increasing defense and homeland security contracts awarded to businesses located in this state by 25% by the time this act is repealed.

(e) Provide resources needed to meet the performance objective described in subdivision (d) within 1 year of the date this act is enacted.

(f) Coordinate center efforts with programs funded with proceeds from the 21st century jobs trust fund under the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, and other initiatives that are targeted toward commercialization activities related to homeland security and defense research and development in higher education institutions, research centers, and other businesses working in the homeland security and defense arena.

(g) Coordinate with businesses and nonprofit organizations located in this state for the purposes of maximizing homeland security and defense business opportunities.

(3) The center shall hire an executive director and a support person to operate the center. Additional staff may be hired once a business plan has been developed and approved by the board of the Michigan strategic fund. The development plan shall include the percentage of funds used for grants, loans, and operating expenses.

(4) The defense contract coordination center may exercise those powers, privileges, and authorities that the Michigan strategic fund and local public agencies share in common and that each might exercise separately. The shared power, privilege, or authority shall be exercised by a public body corporate created under section

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28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999 between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund.

(5) The center shall not use any state funds to construct or renovate a building for its own use.

History: 2006, Act 317, Imd. Eff. July 20, 2006.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2006-1

125.1991 Transfer of position as member of Michigan economic growth authority that was transferred to chief executive officer of Michigan economic development corporation to president of Michigan strategic fund; transfer of designation of chairperson of Michigan economic growth authority that was transferred to director of department of labor and economic growth to president of Michigan strategic fund; transfer of position on brownfield redevelopment board to president of Michigan strategic fund.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, the organization of economic development functions within state government can benefit from regular review and periodic reorganization;

WHEREAS, improvements in the organization of state government are necessary to provide Michigan residents and job providers with improved delivery of state services;

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to change the organization of the executive branch of state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power vested in the Governor by the Michigan Constitution of 1963 and Michigan law direct the following:

I. DEFINITIONS

As used in this Order:

A. "Brownfield Redevelopment Board" means the board created within the Department of Environmental Quality under Section 20104a of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.20104a.

B. "Department of Environmental Quality" means the principal department of state government created under Executive Order 1995-18, MCL 324.99903.

C. "Michigan Economic Growth Authority" means the authority created under the Michigan Economic Growth Authority Act, 1995 PA 24, MCL 207.801 to 207.810, and transferred to the Michigan Strategic Fund under Executive Order 1999-1, MCL 408.40.

D. "Michigan Strategic Fund" means the public body corporate and politic created under Section 5 of the Michigan Strategic Fund Act, 1984 PA 270, MCL 125.2005.

II. MICHIGAN ECONOMIC GROWTH AUTHORITY

A. The position as a member of the Michigan Economic Growth Authority designated for the Director of the Michigan Jobs Commission or his or her authorized representative under Section 4(2)(a) of the Michigan Economic Growth Authority Act, 1995 PA 24, MCL 207.804(2)(a), and transferred to the Chief Executive Officer of the Michigan Economic Development Corporation or his or her authorized representative under Executive Order 2003-18, MCL 445.2011, is transferred to the President of the Michigan Strategic Fund. The President of the Michigan Strategic Fund, or his or her authorized representative from within the Michigan Strategic Fund, shall serve as a member of the Michigan Economic Growth Authority.

B. The designation as Chairperson of the Michigan Economic Growth Authority provided for the Director of the Michigan Jobs Commission or his or her authorized representative under Section 4(2)(a) of the Michigan Economic Growth Authority Act, 1995 PA 24, MCL 207.804(2)(a), and transferred to the Director of the Department of Labor and Economic Growth under Executive Order 2003-18, MCL 445.2011, is transferred to the President of the Michigan Strategic Fund or his or her authorized representative from within the Michigan Strategic Fund. The President of the Michigan Strategic Fund, or his or her authorized representative from within the Michigan Strategic Fund serving as a member of the Michigan Economic Growth Authority under Section II.A, shall serve as the Chairperson of the Michigan Economic Growth Authority.

III. BROWNFIELD REDEVELOPMENT BOARD

A. The position on the Brownfield Redevelopment Board created under Section 20104a of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.20104a, designated for the Chief Executive Officer of the Michigan Jobs Commission or his or her designee and transferred to the Director of the Department of Labor and Economic Growth or his or her authorized representative under Executive Order

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2003-18, MCL 445.2011, is transferred to the President of the Michigan Strategic Fund. The President of the Michigan Strategic Fund, or his or her authorized representative from within the Michigan Strategic Fund, shall serve as a member of the Brownfield Redevelopment Board.

B. The Director of the Department of Environmental Quality or the authorized representative of the Director of the Department of Environmental Quality serving as a member of the Brownfield Development Board shall serve as the Chairperson of the Brownfield Redevelopment Board.

IV. MISCELLANEOUS

A. The President of the Michigan Strategic Fund shall provide executive direction and supervision for the implementation of all transfers under this Order.

B. The President of the Michigan Strategic Fund shall administer the assigned functions transferred under this Order in such ways as to promote efficient administration.

C. The President of the Michigan Strategic Fund may delegate within the Michigan Strategic Fund a duty or power conferred on the President of the Michigan Strategic Fund by this Order or by other law or order, and the individual to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the power is delegated by the President of the Michigan Strategic Fund.

D. All rules, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

E. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

F. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

History: 2006, E.R.O. No. 2006-1, Eff. Sept. 24, 2006.

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MICHIGAN STRATEGIC FUND ACT
Act 270 of 1984

AN ACT relating to the economic development of this state; to create the Michigan strategic fund and to prescribe its powers and duties; to transfer and provide for the acquisition and succession to the rights, properties, obligations, and duties of the job development authority and the Michigan economic development authority to the Michigan strategic fund; to provide for the expenditure of proceeds in certain funds to which the Michigan strategic fund succeeds in ownership; to provide for the issuance of, and terms and conditions for, certain notes and bonds of the Michigan strategic fund; to create certain boards and funds; to create certain permanent funds; to exempt the property, income, and operation of the fund and its bonds and notes, and the interest thereon, from certain taxes; to provide for the creation of certain centers within and for the purposes of the Michigan strategic fund; to provide for the creation and funding of certain accounts for certain purposes; to impose certain powers and duties upon certain officials, departments, and authorities of this state; to make certain loans, grants, and investments; to provide penalties; to make an appropriation; and to repeal acts and parts of acts.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 2005, Act 225, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund

The People of the State of Michigan enact:

CHAPTER 1

125.2001 Legislative finding and declaration.

Sec. 1. The legislature hereby finds and declares the following problems and objectives:

(a) The economy of the state of Michigan is at present recovering from a recession and action is needed to encourage increased employment and business expansion in this state.

(b) The economy of the state of Michigan is undergoing a long-term transition requiring new and innovative policies from state government and greater coordination of existing policies and programs related to jobs and economic development.

(c) It is necessary to provide a mechanism to foster greater coordination of state policies and to make available public and private development finance opportunities to agriculture, forestry, business, and industry, and to communities within the state, in order to expand the number of jobs in the state and to help agriculture, forestry, business, and industry prosper in the state.

(d) There exists a need to leverage private sector investment in new and innovative products, in entrepreneurial activity, and in economic development finance; therefore, state assistance for development finance should reflect a leveraging investment strategy.

(e) There is a statewide pressing need for programs to alleviate and prevent conditions of unemployment; to preserve existing jobs and create new jobs to meet the employment demands of population growth and population shifts; to promote the development of existing business enterprises and to meet the growing competition among states and nations for business enterprises; to revitalize and diversify the Michigan economy in general to achieve the goals of long-term economic growth and full employment, and to provide a solid tax base for the state and its local units of government to provide funds for needed public services.

(f) The goals of long-term economic growth and full employment can best be provided by the promotion, attraction, stimulation, retention, rehabilitation, and revitalization of business enterprises and worker-owned enterprises and by actions to lower the costs of business and production.

(g) The retention, promotion, diversification, and development of business enterprises and the lowering of costs of business and production require additional means of financing, including economic development finance mechanisms that support private capital resources, to help existing business enterprises expand more rapidly, and to promote the location of additional business enterprises in Michigan.

(h) It is necessary to provide means and methods for the encouragement and assistance of industrial and commercial development projects, including but not limited to providing aid to development enterprises utilizing new or experimental technologies in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing, equipping, and expanding in this state and its local units of government.

(i) The retention and expansion of existing business enterprise and the acquiring of new business enterprises to Michigan requires the availability of energy supplies and that, to this end, known sources of energy in Michigan should be developed to the fullest extent possible consistent with environmental protection and ecological preservation.

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(j) To conserve the public benefits of nonrenewable oil, gas, and mineral resources which are now subject to increasing development and depletion it is necessary to apply the proceeds of such resources to the encouragement of capital growth and the financing of self-sustaining sources of economic activity.

(k) It is necessary to promote economic activity in the forestry and agricultural sectors by providing incentives to reduce energy consumption, to retain agricultural and forestry enterprises, to reduce the rate at which urban sprawl has been devouring productive farm and forestry lands, and to provide our farmers and foresters with a more favorable export market. It is also necessary to encourage the development of facilities designed to produce energy from renewable resources.

(*l*) For the preservation and betterment of the health, safety, and general welfare of the people of Michigan, it is necessary to promote and develop new and adequate water and air pollution control and solid waste disposal facilities for business enterprises and public utilities located in this state, which equipment or facilities need not be incidental to an industrial building, but may serve the general public.

(m) It is necessary for a sound economy of the state for the local units of government of the state to provide quality services and this requires an adequate and modern infrastructure in the local units of government which makes it necessary for such units to finance local improvements in an economical manner which in many cases can be best done through assistance by the state.

(n) The lending and investment of funds to develop and improve the economy of the state requires specialized and unique knowledge, skills, and experience.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Compiler's note: For transfer of powers and duties of department of commerce for minority, women, and small business service units to the Michigan jobs commission, see E.R.O. No. 1994-10, compiled at MCL 408.48 of the Michigan Compiled Laws.

For creation of Michigan public educational facilities authority within department of treasury; transfer of certain powers and duties from Michigan strategic fund and Michigan strategic fund board of directors to Michigan public educational facilities authority and Michigan public educational facilities authority board of trustees; transfer of certain powers and duties of Michigan municipal bond authority and Michigan municipal bond authority board of trustees to Michigan public and educational facilities authority and Michigan public education facilities authority board of trustees, see E.R.O. No. 2002-3, compiled at MCL 12.192 of the Michigan Compiled Laws.

For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Strategic Fund

125.2002 Purposes of act.

Sec. 2. It is hereby declared to be the purposes of this act and of the Michigan strategic fund created by this act to help diversify the economy of this state, to develop and expand existing and alternative sources of energy and the conservation of energy, to assist business enterprise in obtaining additional sources of financing to aid this state in achieving the goal of long-term economic growth and full employment, to meet the growing competition for business enterprises, to preserve existing jobs, to create new jobs, to reduce the cost of business and production, to foster export activity, to alleviate and prevent unemployment through the retention, promotion, and development of agriculture and agricultural facilities, forestry and forestry facilities, commerce and commercial facilities, export markets and export activities, industry and industrial buildings and facilities, including the sites therefor, and agricultural, forestry, commercial, and industrial machinery and equipment, water and air pollution control equipment, and solid waste disposal facilities with respect thereto or for use by individuals for private sector employment, and to otherwise assist in the achievement of the solution to the problems and objectives set forth in section 1.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2003 Short title.

Sec. 3. This act shall be known and may be cited as the “Michigan strategic fund act”.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Compiler's note: For transfer of the Michigan strategic fund, and its powers and duties, to the Michigan jobs commission, see E.R.O. No. 1994-10, compiled at MCL 408.48 of the Michigan Compiled Laws.

Popular name: Strategic Fund

125.2004 Definitions.

Sec. 4. As used in this act:

(a) "Board" means the board of directors of the Michigan strategic fund, except where the context clearly requires a different definition.

(b) "Economic development project" means an endeavor related to industrial, commercial, or agricultural enterprise. Economic development project includes, but is not limited to, a theme or recreation park; agricultural or forestry production, harvesting, storage, or processing facilities or equipment; and the use of

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equipment or facilities designed to produce energy from renewable resources. Economic development project does not include that portion of an endeavor devoted to the sale of goods at retail, except that, as used in relation to the fund insuring a transaction entered into by a depository institution, and as used in relation to a loan by the fund to a minority owned business, an economic development project may include that portion of an endeavor devoted to the sale of goods at retail. Economic development project does not include that portion of an endeavor devoted to housing or a program or activity authorized under chapter 8A.

(c) "Financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office in this state under the laws of this state or the United States.

(d) "Fund" means the Michigan strategic fund created under section 5, except where the context clearly requires a different definition.

(e) "Michigan economic development corporation" or "MEDC" means the Michigan economic development corporation, the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999, and subsequently amended, between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the fund.

(f) "Municipality" means a county, city, village, township, port district, development organization, institution of higher education, community or junior college, or subdivision or instrumentality of any of the legal entities listed in this subdivision.

(g) "Person" means an individual, sole proprietorship, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, profit or nonprofit corporation including a public or private college or university, public utility, local industrial development corporation, economic development corporation, or other association of persons organized for agricultural, commercial, or industrial purposes.

(h) "Project" means an economic development project and, in addition, means the acquisition, construction, reconstruction, conversion, or leasing of an industrial, commercial, retail, agricultural, or forestry enterprise, or any part of these, to carry out the purposes and objectives of this act and of the fund, including, but not limited to, acquisition of land or interest in land, buildings, structures, or other planned or existing planned improvements to land including leasehold improvements, machinery, equipment, or furnishings which include, but are not limited to, the following: research parks; office facilities; engineering facilities; research and development laboratories; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right of way, and appurtenances; airports; water and air pollution control equipment or waste disposal facilities; theme or recreational parks; equipment or facilities designed to produce energy from renewable resources; farms, ranches, forests, and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; warehouses; wharves and dock facilities; water, electricity, hydro electric, coal, petroleum, or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities. Project does not include a program or activity authorized under chapter 8A.

(i) "Private sector" means other than the fund, a state or federal source, or an agency of a state or the federal government.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988;—Am. 2005, Act 225, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund

125.2005 Michigan strategic fund; creation; purposes, powers, duties, and functions generally; appointment, qualifications, and terms of members; chairperson, president, and vice-president; compensation and expenses; delegation of functions and authority; quorum; voting; meetings; conducting business at public meeting; notice; confidentiality; closed sessions; "financial or proprietary information" defined.

Sec. 5. (1) There is created by this act a public body corporate and politic to be known as the Michigan strategic fund. The fund shall be within the department of treasury and shall exercise its prescribed statutory powers, duties, and functions independently of the state treasurer. The statutory authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, and other funds of the fund, including the functions of budgeting, procurement, personnel, and management-related functions, shall be retained by the fund, and the fund shall be an autonomous entity within the department of treasury in the same manner as the Michigan employment security commission was designated an autonomous entity

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within the Michigan department of labor under section 379 of the executive organization act of 1965, 1965 PA 380, MCL 16.479.

(2) Except as otherwise provided in this act, the purposes, powers, and duties of the Michigan strategic fund are vested in and shall be exercised by a board of directors.

(3) Except as provided in subsection (4), the board shall consist of the director of the department of labor and economic growth or his or her designee from within the department of labor and economic growth, the state treasurer or his or her designee from within the department of treasury, the chief executive officer of the MEDC, and 6 other members with knowledge, skill, and experience in the academic, business, or financial field, who shall be appointed by the governor with the advice and consent of the senate. None of the 6 members appointed under this section shall be employees of this state. Not less than 5 members of the board appointed under this subsection shall be members of the private sector. Five of the 6 members appointed under this subsection shall serve for fixed terms. Upon completion of each fixed term expiring after December 30, 2005, a member shall be appointed for a term of 4 years. Of the private sector members appointed by the governor for a fixed term, 1 shall be appointed from a list of 3 or more nominees of the speaker of the house of representatives representing persons within the private sector with experience in private equity or venture capital investments, commercial lending, or commercialization of technology and 1 shall be appointed from a list of 3 or more nominees of the senate majority leader representing persons within the private sector with experience in private equity or venture capital investments, commercial lending, or commercialization of technology. A member appointed under this subsection or subsection (4) shall serve until a successor is appointed, and a vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment. The member appointed under this subsection and serving without a fixed term shall serve at the pleasure of the governor. Of the members appointed under this subsection and subsection (4), there shall be minority, female, and small business representation. After December 31, 2005, at least 2 of the members of the board shall have experience in private equity or venture capital investments, at least 1 of the members shall have experience in commercial lending, and at least 1 of the members of the board shall have experience in commercialization of technology.

(4) In addition to the 9 members of the board under subsection (3), not later than December 15, 2005, the governor shall appoint, with the advice and consent of the senate, 2 additional members to the board for terms expiring December 31, 2007. After the initial appointments under this subsection, members appointed under this subsection shall be appointed for a term of 4 years. The members appointed under this subsection shall be from the private sector and shall have experience in private equity or venture capital investments, commercial lending, or commercialization of technology. From the date of the appointment of the members under this subsection until December 31, 2015, the board shall have 11 members. After December 31, 2015, the board shall have 9 members and no members shall be appointed under this subsection.

(5) The governor shall designate 1 member of the board to serve as its chairperson. The governor shall designate 1 member of the board to serve as president of the fund and may designate 1 member to serve as vice-president of the fund. The chairperson, president, and vice-president, if a vice-president is designated, shall serve as those officers at the pleasure of the governor.

(6) Members of the board shall serve without compensation for their membership on the board, except that members of the board may receive reasonable reimbursement for necessary travel and expenses.

(7) The board may delegate to its president, vice-president, staff, or others those functions and authority that the board deems necessary or appropriate, which may include the oversight and supervision of employees of the fund. However, responsibilities specifically vested in the board under chapter 8A shall be performed by the board and shall not be transferred to the MEDC.

(8) A majority of the members of the board appointed and serving constitutes a quorum for the transaction of business at a meeting, or the exercise of a power or function of the fund, notwithstanding the existence of 1 or more vacancies. The board may act only by resolution approved by a majority of board members appointed and serving. Voting upon action taken by the board shall be conducted by majority vote of the members appointed and serving. Members of the board may be present in person at a meeting of the board or, if authorized by the bylaws of the board, by use of telecommunications or other electronic equipment. The fund shall meet at the call of the chair and as may be provided in the bylaws of the fund. Meetings of the fund may be held anywhere within the state of Michigan.

(9) The business of the board shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and shall also be provided on an internet website operated by the fund. A record or portion of a record, material, or other data received, prepared, used, or retained by the fund or any of its centers in connection with an application to or with a project or product assisted by the fund or any of its centers or with

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an award, grant, loan, or investment under chapter 8A that relates to financial or proprietary information submitted by the applicant that is considered by the applicant and acknowledged by the board as confidential shall not be subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The disclosure of a record concerning investment information described in section 88c under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, is subject to the limitations provided in section 88c. The board may also meet in closed session pursuant to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, to make a determination of whether it acknowledges as confidential any financial or proprietary information submitted by the applicant and considered by the applicant as confidential. Unless considered proprietary information, the board shall not acknowledge routine financial information as confidential. If the board determines that information submitted to the fund is financial or proprietary information and is confidential, the board shall release a written statement, subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, that states all of the following:

(a) The name and business location of the person requesting that the information submitted be confidential as financial or proprietary information.

(b) That the information submitted was determined by the board to be confidential as financial or proprietary information.

(c) A broad nonspecific overview of the financial or proprietary information determined to be confidential.

(10) The fund shall not disclose financial or proprietary information not subject to disclosure pursuant to subsection (9) without consent of the applicant submitting the information.

(11) Any document to which the fund is a party evidencing a loan, insurance, mortgage, lease, venture, or other type of agreement the fund is authorized to enter into shall not be considered financial or proprietary information that may be exempt from disclosure under subsection (9).

(12) For purposes of subsections (9), (10), and (11), "financial or proprietary information" means information that has not been publicly disseminated or which is unavailable from other sources, the release of which might cause the applicant significant competitive harm.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988;—Am. 2005, Act 225, Imd. Eff. Nov. 21, 2005;—Am. 2008, Act 224, Imd. Eff. July 16, 2008.

Compiler's note: For transfer of the Michigan strategic fund, and its powers and duties, to the Michigan jobs commission, see E.R.O. No. 1994-10, compiled at MCL 408.48 of the Michigan Compiled Laws.

For transfer of powers and duties of the Michigan strategic fund from the director of the Michigan jobs commission to the Michigan strategic fund housed within the Michigan jobs commission, see E.R.O. No. 1995-4, compiled at MCL 408.50 of the Michigan Compiled Laws.

Popular name: Strategic Fund

125.2006 Members, officers, and employees subject to MCL 15.321 to 15.330 or MCL 15.301 to 15.310; discharge of duties by member, officer, employee, or agent; prohibited conduct; conflict of interest; noncompliance; expenditures.

Sec. 6. (1) Notwithstanding section 3(1) of 1968 PA 317, MCL 15.323, members of the board and officers and employees of the fund are subject to 1968 PA 317, MCL 15.321 to 15.330, or 1968 PA 318, MCL 15.301 to 15.310, as applicable.

(2) A member of the board or officer, employee, or agent of the fund shall discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill which an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging the duties, a member of the board or an officer, employee, or agent, when acting in good faith, may rely upon the opinion of counsel for the fund, upon the report of an independent appraiser selected with reasonable care by the board, or upon financial statements of the fund represented to the member of the board or officer, employee, or agent of the fund to be correct by the president or the officer of the fund having charge of its books or account, or stated in a written report by a certified public accountant or firm of certified public accountants fairly to reflect the financial condition of the fund.

(3) A member of the board shall not make, participate in making, or in any way attempt to use his or her position as a member of the board to influence a decision regarding a loan, grant, investment, or other expenditure under this act to his or her employer.

(4) A member, employee, or agent of the board shall not engage in any conduct that constitutes a conflict of interest and shall immediately advise the board in writing of the details of any incident or circumstances that may present the existence of a conflict of interest with respect to the performance of the board-related work or duty of the member, employee, or agent of the board.

(5) A member who has a conflict of interest related to any matter before the board shall disclose the conflict of interest before the board takes any action with respect to the matter, which disclosure shall become

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a part of the record of the board's official proceedings. The member with the conflict of interest shall refrain from doing all of the following with respect to the matter that is the basis of the conflict of interest:

(a) Voting in the board's proceedings related to the matter.

(b) Participating in the board's discussion of and deliberation on the matter.

(c) Being present at the meeting when the discussion, deliberation, and voting on the matter take place.

(d) Discussing the matter with any other board member.

(6) Failure of a member to comply with subsection (5) constitutes misconduct in office subject to removal under section 94.

(7) When authorizing expenditures and investments under this act, the board shall not consider whether a recipient has made a contribution or expenditure under the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

(8) Expenditures under this act shall not be used to finance or influence political activities.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988;—Am. 2005, Act 225, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund

125.2007 Powers and duties of fund.

Sec. 7. The fund shall have the powers and duties provided in this act, the powers delegated by other laws or executive orders, including, but not limited to, the power to:

(a) Sue and be sued; to have a seal and alter the same at pleasure; to have perpetual succession; to make, execute, and deliver contracts, conveyances, and other instruments necessary or convenient to the exercise of its powers; and to make and amend bylaws.

(b) Solicit and accept gifts, grants, loans, and other aids from any person or the federal, state, or a local government or any agency of the federal, state, or a local government, or to participate in any other way in any federal, state, or local government program.

(c) Make grants, loans, and investments; to guarantee and insure loans, leases, bonds, notes, or other indebtedness, whether public or private; and to issue letters of credit.

(d) Construct; acquire by gift, purchase, installment purchase, or lease; and reconstruct, improve, repair, or equip a project or any part of a project.

(e) Borrow money and issue bonds and notes to finance part or all of the project costs of a project, or of a loan under subdivision (r) for an export transaction, and to secure those bonds and notes by mortgage, assignment, or pledge of any of its money, revenues, income, and properties. The authority provided by this subdivision includes, but is not limited to, issuing bonds and notes to acquire and install machinery, equipment, furnishings, and other personal property, notwithstanding that the fund does not own or propose to own or finance the building or land in or near to which the machinery, equipment, furnishings, and other personal property is or is to be located.

(f) Acquire or contract to acquire from any person, municipality, the federal or state government, or any agency of the foregoing, or otherwise, leaseholds, real or personal property or any interest in real or personal property; to own, hold, clear, improve, and rehabilitate and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber leaseholds, real or personal property or any interest in real or personal property, as is convenient for the accomplishment of the purposes of this act and of the fund.

(g) Procure insurance against any loss in connection with the fund's property, assets, or activities.

(h) Invest any money of the fund at the fund's discretion, in any obligations determined proper by the fund, and name and use depositories for its money.

(i) Engage personnel as is necessary and engage the services of private consultants, managers, counsel, auditors, engineers, and scientists for rendering professional management and technical assistance and advice, payable out of any money of the fund legally available for this purpose.

(j) Charge, impose, and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees or charges.

(k) Indemnify and procure insurance indemnifying any members of the board from personal loss or accountability from liability asserted by a person on the bonds or notes of the fund or from any personal liability or accountability by reason of the issuance of the bonds, notes, insurance, or guarantees; by reason of acquisition, construction, ownership, or operation of a project; or by reason of any other action taken or the failure to act by the fund.

(*l*) Enter into a lease for the use or sale of a project. The lease may provide for options to purchase or renew.

(m) Mortgage or create security interests in a project or any part of a project, or in a lease or loan, or in the rents, revenues, or sums to be paid thereunder, in favor of the holders of the bonds or notes issued by the fund.

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(n) Convey or release a project or any part of a project to a lessee, purchaser, or borrower under any agreement after provision has been made for the retirement in full of the bonds or notes issued for that project under terms and conditions provided in the agreement or as may be agreed with the holders of the bonds or notes, at any time where the obligation of the lessee, purchaser, or borrower to make the payments prescribed shall remain fixed as provided in the agreement notwithstanding the conveyance or release, or as may otherwise be agreed with the holders of the bonds or notes.

(o) Make loans, participate in the making of loans, undertake commitments to make loans and mortgages, buy and sell loans and mortgages at public or private sale, rewrite loans and mortgages, discharge loans and mortgages, foreclose on a mortgage, commence an action to protect or enforce a right conferred upon the fund by a law, mortgage, loan, contract, or other agreement, bid for and purchase property which was the subject of the mortgage at a foreclosure or other sale, acquire or take possession of the property and in that event complete, administer, pay the principal and interest on obligations incurred in connection with that property, and dispose of and otherwise deal with the property, in a manner as may be necessary or desirable to protect the interests of the fund.

(p) Certify, for the purpose of determining eligible investments for the basis of a single business tax credit, minority venture capital companies, as defined by law.

(q) Except as otherwise provided in this subdivision, to create and operate centers, accounts, and funds as required or permitted by law for the use and disbursement of assets of the fund. The powers granted under this subdivision do not apply to chapter 8A.

(r) To make loans to a financial institution to facilitate financing of all or part of an export related transaction including, but not limited to, pre-export working capital financing and postexport receivable financing.

(s) Do all other things necessary or convenient to achieve the objectives and purposes of the fund, this act, or other laws that relate to the purposes and responsibilities of the fund.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 2005, Act 225, Imd. Eff. Nov. 21, 2005.

Compiler's note: For transfer of the Michigan strategic fund, and its powers and duties, to the Michigan jobs commission, see E.R.O. No. 1994-10, compiled at MCL 408.48 of the Michigan Compiled Laws.

For transfer of powers and duties of the Michigan strategic fund from the director of the Michigan jobs commission to the Michigan strategic fund housed within the Michigan jobs commission, see E.R.O. No. 1995-4, compiled at MCL 408.50 of the Michigan Compiled Laws.

Popular name: Strategic Fund

125.2007a Compliance with divestment from terror act.

Sec. 7a. The board shall comply with the divestment from terror act, 2008 PA 234, MCL 129.291 to 129.301, in making investments under this act.

History: Add. 2008, Act 272, Imd. Eff. Sept. 29, 2008.

Compiler's note: Strategic Fund

125.2008 Evaluation procedures; priorities; targets.

Sec. 8. (1) The fund shall develop procedures to evaluate types of business and industry and to set priorities as to which types of business and industry are most likely to provide significant opportunities for jobs and economic development in this state, consistent with the purposes of this act and of the fund. This evaluation shall include, but not be limited to, the location of the firm and the direct and indirect impact of assistance on state revenues and expenditures. Priorities shall be based on this evaluation and may give preference to any of the following:

(a) The retention of those businesses and industries which would be likely to leave the state absent economic incentives to remain.

(b) The revitalization and diversification of the economic base.

(c) Generating and retaining the greatest number of direct and indirect jobs.

(2) Based on the findings under subsection (1), the fund shall establish targets by which the operations and centers of the fund may be guided.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2009 Annual status report; audit.

Sec. 9. (1) The fund shall transmit to the legislature an annual status report of its activities. The report shall include, but not be limited to, information on name and location of all applicants, amount and type of financial assistance being requested, type of project or product being financed, number of net jobs created or retained, duration of financial assistance, amount of financial support other than state resources, and the status

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of any loans of the fund, excluding industrial development revenue loans, which are in default. The report shall not include information exempt from disclosure under section 5.

(2) The auditor general or a certified public accountant appointed by the auditor general annually shall conduct and remit to the legislature an audit of the fund and, in the conduct of the audit, shall have access to all records of the fund at any time, whether or not confidential. Each audit required by this section shall include a determination of whether the fund is likely to be able to continue to meet its obligations, including a report on the status of outstanding loans and agreements made by the fund.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988.

Popular name: Strategic Fund

125.2010 Applicability of limitation or restriction.

Sec. 10. If the exercise of a power granted to the fund under this act is expressly limited or restricted under a particular chapter of this act, the limitation or restriction applies only when the fund is acting under that chapter.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988.

Popular name: Strategic Fund

125.2011 Request for assistance; approval or disapproval; reconsideration.

Sec. 11. Within 90 days after assistance for a project is requested from the fund by the filing of a written application with the board, the board shall approve or disapprove the request for assistance. Upon written request by an applicant, the board may reconsider its denial of an application for assistance under this section or may waive the 90-day deadline for approving or disapproving an application.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988.

Popular name: Strategic Fund

125.2012 Private sector financial support; associated transactions.

Sec. 12. (1) Significant private sector financial support shall be associated with all of the following transactions of the fund or any of its concerns:

(a) A product or an economic development project for which an applicant is being provided assistance from the fund or any of its centers.

(b) An economic development project in assistance of which, directly or indirectly, an applicant other than a municipality will use the financial support of the fund.

(2) Private sector financial support shall be associated with any loan or lease insurance, guarantee, or letter of credit being provided by the fund or any of its centers in relation to an economic development project.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2012a Loan, loan insurance, or guarantee for public work; requirements.

Sec. 12a. The fund shall not provide a loan, loan insurance, or guarantee for a public work which assists a project or exercise any of its power in relation to a project if completion of the project will cause the transfer of employment of more than 20 full-time persons from 1 or more municipalities of the state to the municipality for which the loan, loan insurance, or guarantee is provided or in which the project is located unless all of the following are met:

(a) The fund provides notification to each municipality from which such employment is to be transferred.

(b) If any notified municipality objects within 30 days to the transfer of the employment, the board votes by a majority vote of its members to enter the transaction notwithstanding the employment transfer and the objections to the transfer.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2013 Total debt owed to fund; limitation.

Sec. 13. The total debt owed to the fund, excluding rights and royalties under a venture capital agreement or obligations to the fund resulting from an industrial development revenue bond or note, in relation to any 1 project shall at no time exceed 5% of the total assets of the fund, except that upon approval by a 2/3 vote of the board this amount may be increased to not to exceed 10% of the assets of the fund. This section does not apply to a program or activity authorized under chapter 8A.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988;—Am. 2005, Act 225, Imd. Eff. Nov. 21, 2005.

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Popular name: Strategic Fund

125.2014 Loans and transactions.

Sec. 14. A loan made by the fund pursuant to this act or through any of its centers shall not be considered a loan proscribed by section 11 of Act No. 472 of the Public Acts of 1978, being section 4.421 of the Michigan Compiled Laws. In addition, any transaction of the fund pursuant to this act or through any of its centers shall be considered a financial transaction in the ordinary course of business of the fund for purposes of Act No. 472 of the Public Acts of 1978, being sections 4.411 to 4.431 of the Michigan Compiled Laws.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

CHAPTER 2

125.2021 Job development authority and Michigan economic development authority; acquisitions and succession by fund to rights, properties, obligations, and duties thereof.

Sec. 21. Upon the expiration of 180 days after the effective date of this act, the fund shall acquire and succeed to all of the rights, properties, obligations, and duties of the job development authority under the provisions of Act No. 301 of the Public Acts of 1975, being sections 125.1701 to 125.1770 of the Michigan Compiled Laws, and the Michigan economic development authority under Act No. 70 of the Public Acts of 1982, being sections 125.1901 to 125.1934 of the Michigan Compiled Laws, including the right to receive distributions required pursuant to the heritage trust act of 1982, Act No. 327 of the Public Acts of 1982, being sections 318.421 to 318.434 of the Michigan Compiled Laws, to the Michigan economic development authority for deposit in either the Michigan economic development fund or the research center fund. Upon the expiration of 180 days after the effective date of this act, all property of the job development authority and the Michigan economic development authority shall be transferred to and shall be the property of the fund, subject to any liens thereon and restrictions and limitations on the use thereof, heretofore provided by the job development authority and the Michigan economic development authority, respectively. The members, directors, and officers of the job development authority and the Michigan economic development authority, and the department of commerce, shall execute such conveyances, assignments, and transfers as may be necessary or appropriate to accomplish the foregoing. Upon the expiration of 180 days after the effective date of this act, the fund shall be considered to be the owner of all property of the job development authority and the Michigan economic development authority. Upon the expiration of 180 days after the effective date of this act, the fund shall assume and be liable for all of the obligations, promises, covenants, commitments, and other requirements of the job development authority and the Michigan economic development authority under Act No. 301 of the Public Acts of 1975 and Act No. 70 of the Public Acts of 1982, respectively, and shall perform all of the duties and obligations and shall be entitled to all of the rights of the job development authority and the Michigan economic development authority under any of its agreements, indentures, or other instruments and the foregoing acts. All actions, commitments, and proceedings, including but not limited to industrial development revenue bond projects for which an inducement resolution has been adopted, of the job development authority and the Michigan economic development authority made, given, or undertaken before the date of assumption by the fund under this section are hereby ratified, confirmed, and validated upon assumption by the fund. All actions, commitments, or proceedings undertaken, and all industrial development revenue bond projects for which an inducement resolution has been adopted by the job development authority or the Michigan economic development authority shall, and all actions, commitments, or proceedings of these authorities heretofore in the process of being undertaken by but not yet a commitment or obligation of the respective authority may, from and after the date of assumption by the fund under this section, be undertaken and completed by the fund in the manner and at the times provided in this act or other applicable law and in any agreements made before the date of assumption by the fund under this section by the job development authority under Act No. 301 of the Public Acts of 1975 or by the Michigan economic development authority under Act No. 70 of the Public Acts of 1982, and such actions undertaken and completed by the fund shall be considered to be the actions of the job development authority and the Michigan economic development authority, respectively. Upon the expiration of 180 days after the effective date of this act and thereafter, for purposes of the resolution of the Michigan economic development authority authorizing issuance of its economic development revenue bonds (oil and gas revenues), series 1982 A, dated December 1, 1982, this act and any other acts adopted which relate to the fund shall be considered an amendment to Act No. 70 of the Public Acts of 1982.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

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125.2022 Economic development fund; succession by fund to ownership and operation thereof; payments pursuant to heritage trust act of 1982; appropriation; utilization and expenditure of money; priorities; transfer and repayments of money; utilization of proceeds from bonds or notes.

Sec. 22. (1) Upon the expiration of 180 days after the effective date of this act, the fund shall succeed to the ownership and operation of the economic development fund created by Act No. 70 of the Public Acts of 1982, being sections 125.1901 to 125.1934 of the Michigan Compiled Laws. Payments into the economic development fund pursuant to the heritage trust act of 1982, Act No. 327 of the Public Acts of 1982, being sections 318.421 to 318.434 of the Michigan Compiled Laws, shall continue to be made as provided by that act upon and after the fund succeeds to the ownership and operation of the economic development fund.

(2) The fund shall pay into the economic development fund any money appropriated or otherwise provided by this state for the economic development fund and any other money made available to the fund for the economic development fund from any other source, public or private.

(3) After the fund succeeds to ownership and operation of the economic development fund, money in the economic development fund shall be utilized to achieve the purposes and objectives of the fund, this act, and other acts related to the fund and shall be expended in the following order of priority:

(a) To pay the principal and interest on bonds and notes issued pursuant to section 7 of Act No. 70 of the Public Acts of 1982, being section 125.1907 of the Michigan Compiled Laws, as provided in and to the extent authorized by the authorizing resolution pledging such funds for payment of such bonds or notes.

(b) To pay the principal and interest on bonds and notes issued by the fund, as provided in and to the extent authorized by the authorizing resolution pledging such funds for payment of such bonds or notes.

(c) To pay the costs of administration of the authority including the cost of administration of the economic development fund.

(d) To make a transfer to any of the accounts or funds created or operated by the fund in such amounts and at such times as the fund shall by resolution determine.

(4) After the fund succeeds to ownership and operation of the economic development fund, money previously transferred from the economic development fund to other funds created by Act No. 70 of the Public Acts of 1982 but not yet expended or obligated shall be transferred to the economic development fund or to 1 or more of the accounts or funds to which a transfer may be made under subsection (3)(d).

(5) After the fund succeeds to ownership and operation of the economic development fund, repayments of money expended from a fund created by Act No. 70 of the Public Acts of 1982 shall be made to 1 or more of the accounts or funds to which a transfer may be made under subsection (3)(d), as specified by the fund.

(6) Money deposited in the economic development fund from the proceeds of a bond or note of the fund or to which the fund succeeds pledging money directly derived from payments from the heritage trust fund created by Act No. 327 of the Public Acts of 1982, shall be utilized by the fund only in carrying out its powers in relation to an economic development project, to an export related transaction pursuant to section 7(r), to an enterprise eligible to receive financial aid from the research center fund, or to a process, technique, product, or device eligible to receive financial aid from the product development program account.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2023 Bonds or notes.

Sec. 23. (1) The fund may borrow money and issue bonds or notes for the following purposes:

(a) To provide sufficient funds for achieving the fund's purposes and objectives including, but not limited to, amounts necessary to pay the costs of acquiring a project or part of a project; to make loans for the costs of a project or part of a project; to make loans pursuant to section 7(r) for an export related transaction; for making grants; for providing money to guarantee or insure loans, leases, bonds, notes, or other indebtedness; for making working capital loans; for all other expenditures of the fund incident to and necessary or convenient to carry out the fund's purposes, objectives, and powers; and for any combination of the foregoing. The cost of a project may include administrative costs including, but not limited to, engineering, architectural, legal, and accounting fees that are necessary for the project.

(b) To refund bonds or notes of the fund issued under this act, of the job development authority issued under former 1975 PA 301, of the Michigan economic development authority issued under former 1982 PA 70, of an economic development corporation issued under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, or of a municipality issued under the industrial development revenue bond act of 1963, 1963 PA 62, MCL 125.1251 to 125.1267, by the issuance of new bonds, whether or not the bonds or notes to be refunded have matured or are subject to prior redemption or are to be paid, redeemed, or

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surrendered at the time of the issuance of the refunding bonds or notes; and to issue bonds or notes partly to refund the bonds or notes and partly for any other purpose provided for by this section.

(c) To pay the costs of issuance of bonds or notes under this act; to pay interest on bonds or notes becoming payable prior to the receipt of the first revenues available for payment of that interest as determined by the board; and to establish, in full or in part, a reserve for the payment of the principal and interest on the bonds or notes in the amount determined by the board.

(2) The bonds and notes, including, but not limited to, commercial paper, shall be authorized by resolution adopted by the board, shall bear the date or dates, and shall mature at the time or times not exceeding 50 years from the date of issuance, as the resolution may provide. The bonds and notes shall bear interest at the rate or rates as may be set, reset, or calculated from time to time, or may bear no interest, as provided in the resolution. The bonds and notes shall be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be transferable, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of prior redemption at the option of the fund or the holders of the bonds and notes as the resolution or resolutions may provide. The bonds and notes of the fund may be sold at public or private sale at the price or prices determined by the fund. For purposes of 1966 PA 326, MCL 438.31 to 438.33, this act and other acts applicable to the fund shall regulate the rate of interest payable or charged by the fund, and 1966 PA 326, MCL 438.31 to 438.33, does not apply. Bonds and notes may be sold at a discount.

(3) Bonds or notes may be 1 or more of the following:

(a) Made the subject of a put or agreement to repurchase by the fund or others.

(b) Secured by a letter of credit or by any other collateral that the resolution may authorize.

(c) Reissued by the fund once reacquired by the fund pursuant to any put or repurchase agreement.

(4) The fund may authorize by resolution any member of the board to do 1 or more of the following:

(a) Sell and deliver, and receive payment for notes or bonds.

(b) Refund notes or bonds by the delivery of new notes or bonds whether or not the notes or bonds to be refunded have matured, are subject to prior redemption, or are to be paid, redeemed, or surrendered at the time of the issuance of refunding bonds or notes.

(c) Deliver notes or bonds, partly to refund notes or bonds and partly for any other authorized purposes.

(d) Buy notes or bonds so issued at not more than the face value of the notes or bonds.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights at the option of the fund or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(5) Except as may otherwise be expressly provided by the fund, every issue of its notes or bonds shall be general obligations of the fund payable out of revenues, properties, or money of the fund, subject only to agreements with the holders of particular notes or bonds pledging particular receipts, revenues, properties, or money as security for the notes or bonds.

(6) The notes or bonds of the fund are negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, subject only to the provisions of the notes or bonds for registration.

(7) Bonds or notes issued by the fund are not subject to the terms of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The bonds or notes issued by the fund are not required to be registered. A filing of a bond or note of the fund is not required under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, or the uniform securities act (2002), 2008 PA 551, MCL 451.2101 to 451.2703.

(8) A resolution authorizing notes or bonds may contain any or all of the following covenants, which shall be a part of the contract with the holders of the notes or bonds:

(a) A pledge of all or a part of the fees, charges, and revenues made or received by the fund, or all or a part of the money received in payment of lease rentals, or loans and interest on the loans, and other money received or to be received to secure the payment of the notes or bonds or of an issue of the notes or bonds, subject to agreements with bondholders or noteholders as may then exist.

(b) A pledge of all or a part of the assets of the fund, including leases, or notes or mortgages and obligations securing the same to secure the payment of the notes or bonds or of an issue of notes or bonds, subject to agreements with noteholders or bondholders as may then exist.

(c) A pledge of a loan, grant, or contribution from the federal, state, or local government, or source in aid of a project as provided for in this act.

(d) A pledge of money directly derived from payments from the heritage trust fund created by the heritage trust fund act of 1982, former 1982 PA 327.

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(e) The use and disposition of the revenues and income from leases, or from loans, notes, and mortgages owned by the fund.

(f) The establishment and setting aside of reserves or sinking funds and the regulation and disposition of reserves or sinking funds subject to this act.

(g) Limitations on the purpose to which the proceeds of sale of the notes or bonds may be applied and limitations on pledging those proceeds to secure the payment of other bonds or notes.

(h) Authority for and limitations on the issuance of additional notes or bonds for the purposes provided for in the resolution and the terms upon which additional notes or bonds may be issued and secured. Additional bonds pledging money derived from the heritage trust fund as provided in subdivision (d) may only be issued if the issuance meets the requirements of section 204 of the resolution adopted by the Michigan economic development authority authorizing issuance of its bonds dated December 1, 1982, and any requirement of former 1982 PA 70, provided that these requirements do not apply if those bonds have been defeased.

(i) The procedure, if any, by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the number of noteholders or bondholders who are required to consent to an amendment or abrogation, and the manner in which the consent may be given.

(j) Vest in a trustee or a secured party the property, income, revenues, receipts, rights, remedies, powers, and duties in trust or otherwise as the fund may determine necessary or appropriate to adequately secure and protect noteholders and bondholders or to limit or abrogate the rights of the noteholders and bondholders. A trust agreement may be executed by the fund with any trustee who may be located inside or outside this state to accomplish any of the foregoing.

(k) Pay maintenance and repair costs of a project.

(*l*) The insurance to be carried on a project and the use and disposition of insurance money and condemnation awards.

(m) The terms, conditions, and agreements upon which the holder of the bonds, or a portion of the bonds, is entitled to the appointment of a receiver by the circuit court. A receiver who is appointed may enter and take possession of the project and maintain it or lease or sell the project for cash or on an installment sales contract and prescribe rentals and payments therefor and collect, receive, and apply all income and revenues thereafter arising in the same manner and to the same extent as the fund.

(n) Any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

(9) A pledge made by the fund is valid and binding from the time the pledge is made. The money or property so pledged and thereafter received by the fund is immediately subject to the lien of the pledge without a physical delivery or further act. The lien of a pledge is valid and binding as against parties having claims of any kind in tort, contract, or otherwise against the fund and is valid and binding as against the transfer of the money or property pledged, irrespective of whether the parties have notice. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created need be recorded.

(10) A member of the board or a person executing the notes or bonds is not liable personally on the notes or bonds and is not subject to personal liability of accountability by reason of the issuance of the notes or bonds.

(11) This state is not liable on notes or bonds of the fund, and the notes or bonds shall not be considered a debt of this state. The notes and bonds shall contain on their face a statement indicating this fact.

(12) The notes and bonds of the fund are securities in which the public officers and bodies of this state; municipalities and municipal subdivisions; insurance companies, associations, and other persons carrying on an insurance business; banks, trust companies, savings banks, savings associations, and savings and loan associations; investment companies; administrators, guardians, executors, trustees, and other fiduciaries; and all other persons who are authorized to invest in bonds or other obligations of this state may properly and legally invest funds.

(13) The property of the fund and its income and operation is exempt from all taxation by this state or any of its political subdivisions, and all bonds and notes of the fund, the interest on the bonds and notes, and their transfer are exempt from all taxation by this state or any of its political subdivisions, except for estate, gift, and inheritance taxes. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the fund under this act, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the fund, issued pursuant to this act, the interest on the notes and bonds, the transfer of the notes and bonds, and all its fees, charges, gifts, grants, revenues, receipts, and other money received or to be received and pledged to pay or secure the payment of the notes or bonds shall at all times be free and exempt from all state or local taxation provided by the laws of this state, except for estate, gift, and inheritance taxes.

(14) The issuance of bonds and notes under this act is subject to the agency financing reporting act, 2002

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PA 470, MCL 129.171 to 129.177.

(15) For the purpose of more effectively managing its debt service, the fund may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the board.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988;—Am. 2002, Act 556, Imd. Eff. July 26, 2002;—Am. 2009, Act 85, Imd. Eff. Aug. 31, 2009.

Popular name: Strategic Fund

125.2024 Contracts for management and operation of fund.

Sec. 24. The fund, in its discretion, may contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the fund.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2025 Actions by fund; equal opportunity criteria; considerations when entering transaction.

Sec. 25. All actions taken by the fund shall be necessary or convenient to achieve the purposes and objectives of this act or of the fund. The fund shall establish criteria to assure equal opportunity to women, minorities, and small businesses. When deciding whether to enter into a transaction, the fund shall consider whether:

(a) The project is economically sound.

(b) The project can be successfully completed.

(c) The project is located or will locate in this state.

(d) The project can be partially financed through ordinary means at reasonable terms.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2026 Staff and other support; cooperation of state agencies.

Sec. 26. (1) If requested by the fund, the department of commerce shall provide staff and other support to the Michigan strategic fund sufficient to carry out its duties, powers, and responsibilities.

(2) All departments and agencies of state government shall provide full cooperation to the fund in the performance of its duties, powers, and responsibilities.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

CHAPTER 2A

125.2029 Definitions.

Sec. 29. As used in this chapter:

(a) "Commissioner" means the Michigan film commissioner created in section 29b.

(b) "Council" means the Michigan film office advisory council created in section 29c.

(c) "Local film office" means an office, agency, bureau, or department of a political subdivision of this state that seeks to promote film production within the political subdivision and that is funded principally by the political subdivision.

(d) "Office" means the Michigan film office created in section 29a.

(e) "Promotion fund" means the Michigan film promotion fund created under section 29d.

History: Add. 2008, Act 75, Eff. May 4, 2008.

Popular name: Strategic Fund

125.2029a Michigan film office; creation in fund; successor office; duties; powers; budget, procurement, and management functions; administration by commissioner and president of fund; support staff; cooperation with departments, agencies, boards, commissions, and officers.

Sec. 29a. (1) The Michigan film office is created in the fund. The office shall be the successor to any authority, powers, duties, functions, or responsibilities of the Michigan film office under section 21 of the history, arts, and libraries act, 2001 PA 63, MCL 399.721.

(2) The office may do all of the following:

(a) Promote and market locations, talent, crews, facilities, and technical production and other services

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related to film, digital media, and television production in this state.

(b) Provide to interested persons descriptive and pertinent information on locations, talent, crews, facilities, and technical production and other services related to film, digital media, and television production in this state.

(c) Provide technical assistance to the film, television, and digital media industry in locating and securing the use of locations, talent, crews, facilities, and services in this state.

(d) Encourage community and Michigan film, digital media, and television production industry participation in, and coordination with, state and local efforts to attract film, digital media, and television production in this state.

(e) Serve as this state's chief liaison with the film, digital media, and television production industry and with other governmental units and agencies for the purpose of promoting, encouraging, and facilitating film, digital media, and television production in this state.

(f) Explain the benefits and advantages of producing films, digital media, and television productions in this state.

(g) Assist film, digital media, and television producers with securing location authorization and other appropriate services connected with film, digital media, and television production in this state.

(h) Scout potential film locations for national and international film, digital media, and television prospects.

(i) Escort film, digital media, and television producers on location scouting trips.

(j) Serve as a liaison between film, digital media, and television producers, state agencies, local agencies, federal agencies, community organizations and leaders, and the film, digital media, and television industry in this state.

(k) Assist film, digital media, and television producers in securing permits to film at specific locations in this state and in obtaining needed services related to the production of a film, digital media, or a television program.

(*l*) Represent this state at film, digital media, and television industry trade shows and film festivals.

(m) Sponsor workshops or conferences on topics relating to filmmaking, including, but not limited to, screenwriting, film financing, and the preparation of communities to attract and assist film, digital media, and television productions in this state.

(n) Encourage cooperation between local, state, and federal government agencies and local film offices in the location and production of films, digital media, and television programming in this state.

(o) Coordinate activities with local film offices.

(p) Facilitate cooperation from state departments and agencies, local governments, local film offices, federal agencies, and private sector entities in the location and production of films, digital media, and television programming in this state.

(q) Prepare, maintain, and distribute a directory of persons, firms, and governmental agencies available to assist in the production of films, digital media, and television programming in this state.

(r) Prepare, maintain, and distribute a digital library depicting the variety and extent of the locations within this state for film, digital media, and television productions.

(s) Prepare and distribute appropriate promotional and informational materials that do all of the following:

(*i*) Describe desirable locations in this state for film, digital media, and television production.

(*ii*) Explain the benefits and advantages of producing films, digital media, and television productions in this state.

(*iii*) Detail services and assistance available from state government, from local film offices, and from the film, digital media, and television industry in this state.

(t) Solicit and accept gifts, grants, labor, loans, and other aid from any person, government, or entity.

(u) Employ technical experts, other officers, agents, or employees, permanent or temporary, paid from the funds of the office. The office shall determine the qualifications, duties, and compensation of those the office employs.

(v) Contract for goods and services and engage personnel as necessary to perform the duties of the office under this chapter.

(w) Study, develop, and prepare reports or plans the office considers necessary to assist the office in the exercise of its powers under this chapter and to monitor and evaluate progress under this chapter.

(x) Exercise the duties and responsibilities vested in the office under this chapter and all of the following:

(*i*) Section 88d.

(*ii*) Section 88j(3)(e).

(*iii*) Section 4cc of the general sales tax act, 1933 PA 167, MCL 205.54cc.

(*iv*) Sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459.

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(y) All other things necessary or convenient to achieve the objectives and purposes of the office, this chapter, or other laws that relate to the purposes and responsibilities of the office.

(3) The enumeration of a power in this chapter shall not be construed as a limitation upon the general powers of the office. The powers granted under this chapter are in addition to those powers granted by any other law.

(4) The commissioner and the president of the fund shall cooperate in administering the budget, procurement, and related management functions of the office. The fund may provide the office with staff support and other services to assist the office in performing the functions and duties of the office.

(5) State departments, agencies, boards, commissions, and officers and local film offices shall cooperate with the office in the performance of the office's duties under this chapter.

History: Add. 2008, Act 75, Eff. May 4, 2008.

Popular name: Strategic Fund

125.2029b Michigan film commissioner; member of state classified service; terms and conditions of employment; agreement; term; oath of office; service as advisor; duties; meetings; exercise of powers, duties, functions, and responsibilities; rules.

Sec. 29b. (1) The head of the office shall be the Michigan film commissioner. The commissioner shall be a member of the state classified service. The terms and conditions of the employment of the commissioner shall be governed by a senior executive service limited term employment agreement and the rules and regulations of the civil service commission governing the senior executive service. The term of the agreement shall not exceed 2 years and shall end on December 31 of an even-numbered year consistent with the rules and regulations of the civil service commission. The governor shall be the appointing authority for the commissioner. Before entering upon the duties of his or her office, the commissioner shall take and file the constitutional oath of office provided in section 1 of article XI of the state constitution of 1963.

(2) The commissioner shall serve as an advisor to the governor on matters relating to films and other digital media. The commissioner may report directly to the governor and the president of the fund on matters relating to the office, to the council, and to films and digital media generally.

(3) The commissioner shall supervise, and be responsible for, the performance of the functions of the office under this chapter. The commissioner shall perform all duties vested in the commissioner under the laws of this state. The commissioner shall consult with the president of the fund on activities of the office affecting the fund.

(4) The commissioner shall attend the meetings of the council and provide the council and the president of the fund with regular reports and other information describing the activities of the office.

(5) Except as otherwise provided in this chapter, the commissioner shall exercise his or her powers, duties, functions, and responsibilities under this chapter independently of the fund.

(6) The commissioner may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as the commissioner deems necessary to execute the duties and responsibilities of the office.

History: Add. 2008, Act 75, Eff. May 4, 2008.

Popular name: Strategic Fund

125.2029c Michigan film office advisory council; creation; membership; chairperson, vice-chairperson, and officers; terms; vacancy; compensation; duties; public meeting; quorum; writings; confidentiality; use of information for personal gain prohibited; adoption of code of ethics.

Sec. 29c. (1) The Michigan film office advisory council is created in the office. The council shall consist of the following members:

(a) Fourteen individuals appointed by the governor as follows:

(*i*) Five members associated with broad areas of film, digital media, and motion picture making, production of television programs and commercials, and related industries in Michigan.

(*ii*) Two members from film, television, digital media, or related industry unions.

(*iii*) One member representing theater owners based in this state.

(*iv*) One member representing local film offices or local units of government.

(*v*) One individual selected from a list of 3 or more nominees submitted by the speaker of the house of representatives.

(*vi*) One individual selected from a list of 3 or more nominees submitted by the senate majority leader.

(*vii*) Three other residents of this state, including at least 2 residents not active in the film, television,

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digital media, and related industries.

(b) The commissioner, who shall serve as an ex officio nonvoting member of the council.

(c) The president of the fund.

(2) The governor shall designate 1 member of the council to serve as chairperson of the council at the pleasure of the governor. The members of the council may elect a member of the council to serve as vice-chairperson of the council and may elect other members of the council as officers of the council as the council considers appropriate.

(3) Except as provided in subsection (4), the term of office of each member of the council appointed by the governor under subsection (1)(a) shall be 4 years.

(4) Of the members of the council initially appointed by the governor under subsection (1)(a), 4 shall be appointed for terms expiring on September 30, 2008, 4 shall be appointed for terms expiring on September 30, 2009, 3 shall be appointed for terms expiring on September 30, 2010, and 3 shall be appointed for terms expiring on September 30, 2011.

(5) If a vacancy occurs on the council other than by expiration of a term, the vacancy shall be filled in the same manner as the original appointment for the remainder of the term.

(6) Members of the council shall serve without compensation but, subject to available appropriations, may receive reimbursement for their actual and necessary expenses while attending meetings or performing other authorized official business of the council.

(7) The council may do 1 or more of the following:

(a) Advise the office, the fund, the governor, and the legislature on how to promote and market this state's locations, crews, facilities, and technical production facilities and other services used by film, television, digital media, and related industries.

(b) Encourage community and Michigan film, digital media, and television production industry participation in, and coordination with, state efforts to attract film, digital media, television, and related production to this state.

(c) Assist the office and the fund in promoting, encouraging, and facilitating film, digital media, television, and related production in this state.

(d) Develop strategies and methods to attract film, digital media, television, and related business to this state.

(e) Under direction of the office, provide assistance to film, digital media, television, and related service personnel who use this state as a business location.

(f) Sponsor and support official functions for film, digital media, television, and related industries.

(g) Assist in the establishment of film, digital media, and television ventures and such related matters as the office considers appropriate.

(h) Make inquiries, studies, and investigations, hold hearings, and receive comments from the public. The council may also consult with outside experts in order to perform its duties, including, but not limited to, experts in the private sector, organized labor, government agencies, and at institutions of higher education.

(i) Provide other assistance or advice relating to the duties of the council under this chapter as requested by the commissioner.

(8) The council shall meet not less than 3 times per year and at the call of its chairperson.

(9) A meeting of the council shall be conducted as a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Notice of the date, time, and place of a public meeting of the council shall be given as prescribed in the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A majority of the members of the council serving constitute a quorum for the transaction of the council's business. The council shall act by a majority vote of its serving members.

(10) A writing prepared, owned, used, in the possession of, or retained by the council when performing business of the council is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except that such a writing may be kept confidential for up to 6 months after the date a request to inspect, obtain, or copy the writing is received, if, in the judgment of the chairperson of the council, disclosure of the record would compromise or otherwise undermine the ability of Michigan industry to compete in the promotion and marketing of Michigan's locations, crews, facilities, and technical production and other services.

(11) A member of the council shall not use for personal gain information obtained by the member while performing business of the council, nor shall a member of the council disclose confidential information obtained by the member while conducting council business, except as necessary to perform council business. The council shall adopt a code of ethics for its members and establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of interest. The council shall require that any member of the council with a direct or indirect interest in any matter before the council disclose the member's

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interest to the council before the council takes any action on the matter.

History: Add. 2008, Act 75, Eff. May 4, 2008.

Popular name: Strategic Fund

125.2029d Michigan film promotion fund; creation within state treasury; receipt of money or other assets; investment; money remaining in fund at close of fiscal year; expenditure.

Sec. 29d. (1) The Michigan film promotion fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the promotion fund, including federal funds, other state revenues, gifts, bequests, and other donations, including, but not limited to, all of the following:

(a) Fees deposited in the promotion fund under sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459.

(b) Fees deposited in the promotion fund under section 367 of the income tax act of 1967, 1967 PA 281, MCL 206.367.

(c) Proceeds deposited in the promotion fund under section 88d.

(3) The state treasurer shall direct the investment of the promotion fund and shall credit to the promotion fund interest and earnings from promotion fund investments.

(4) Money in the promotion fund at the close of a fiscal year shall remain in the promotion fund and shall not lapse to the general fund.

(5) Money in the promotion fund may be expended, upon appropriation, to support the functions of the office under this chapter and other applicable law and for purposes authorized under this chapter.

History: Add. 2008, Act 75, Eff. May 4, 2008.

Popular name: Strategic Fund

125.2029e Michigan economic development corporation; joint exercise of power.

Sec. 29e. The powers and duties of the fund under this chapter may be exercised and performed by the Michigan economic development corporation as a joint exercise of power authorized under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, pursuant to the contractual interlocal agreement effective April 5, 1999, as amended, between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the fund, or under an intergovernmental agreement with local film offices or other governmental entities. This section does not authorize the office to exercise the powers and duties of the fund.

History: Add. 2008, Act 75, Eff. May 4, 2008.

Popular name: Strategic Fund

125.2029f Representation as employee or agent of office, commissioner, or council; authorization required; violation as misdemeanor; penalty.

Sec. 29f. (1) A person who is not an agent or employee of the office, commissioner, or council shall not represent that the person is an employee or agent of the office, commissioner, or council without the express authorization of the commissioner.

(2) A person who violates this section is guilty of a misdemeanor and may be imprisoned for not more than 93 days and shall be fined not more than $5,000.00.

History: Add. 2008, Act 75, Eff. May 4, 2008.

Popular name: Strategic Fund

125.2029g Transfer of records, personnel, property, grants, and unexpended balances.

Sec. 29g. (1) All records, personnel, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to any entity for the activities, powers, duties, functions, and responsibilities vested in the office under this chapter are transferred to the office. The state budget director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of the fiscal year ending September 30, 2008.

(2) The unexpended balances of appropriations transferred to the office under subsection (1) include, but are not limited to, any funds appropriated to the office under section 88j(3)(e) remaining in a work project on the effective date of the amendatory act that added this subsection.

History: Add. 2008, Act 75, Eff. May 4, 2008.

Popular name: Strategic Fund

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125.2031 Center for assistance to private enterprise; establishment and operation.

Sec. 31. The fund shall establish and operate a center for assistance to private enterprise.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2032 Private enterprise assistance account; payments into account; transfer of money.

Sec. 32. (1) The center for assistance to private enterprise shall be funded by an account, which shall be established and managed by the fund, to be known as the private enterprise assistance account.

(2) The fund shall pay into the account any money appropriated or otherwise provided by this state for the purposes of the center; any money determined by the fund to be paid into the account from the economic development fund to which the fund succeeded in ownership pursuant to section 22; any money which the fund receives in repayment of loans made through the center for assistance to private enterprise; and any other money made available to the fund for the purposes of the center from any other source, public or private.

(3) Money in the private enterprise assistance account may be transferred into any other account established by the fund, unless the fund is otherwise obligated to retain the money in the private enterprise assistance account or except if the money was appropriated by this state for the purposes of the center.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2033 Loans, limitations.

Sec. 33. Subject to the limitations provided by this chapter, the fund may utilize the money held in the private enterprise assistance account to make loans to private enterprise to finance economic development projects within this state which have the potential of creating new jobs or retaining current jobs within this state.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2034 Loans, grants, or investments; limitations; condition.

Sec. 34. (1) Subject to the limitations provided by this chapter, the fund may utilize the money held in the private enterprise assistance account to make loans or grants to, or invest in, a certified development company under sections 501 to 503 of the small business investment act of 1958, 15 U.S.C. 695 to 697, and the regulations promulgated under those sections; a small business lending company under the small business act, 15 U.S.C. 631, 632 to 634, 636, 637 to 639, 640 to 649, and the regulations promulgated under that act; a minority enterprise small business investment corporation or equivalent venture capital corporation; the Michigan business development corporation created under former Act No. 117 of the Public Acts of 1963; or a similar entity that will provide financing assistance to business firms.

(2) Loans made pursuant to this section shall be made on the condition that the recipient of the loan will utilize the money to assist economic development projects within this state which have the potential for creating new jobs or retaining current jobs within this state.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988.

Popular name: Strategic Fund

125.2035 Loans; use; recipients; terms and conditions.

Sec. 35. (1) Loans made from the private enterprise assistance account may be used for any purpose consistent with the purposes and objectives of the fund and this chapter including, but not limited to, the acquisition, improvement, or rehabilitation of land and buildings; the acquisition of machinery, equipment, or services; working capital; or for any other purpose reasonably related to an economic development project.

(2) Loans made from the private enterprise assistance account may be made to any person or entity, public or private, organized for profit or not for profit, consistent with the provisions of sections 33 and 34 and other applicable provisions of law.

(3) Loans from the private enterprise assistance account may be made on such terms and conditions as the fund shall, in its sole discretion, determine to be reasonable, appropriate, and consistent with the purposes and objectives of the fund and this act, which may include, but not be limited to, the pledging of adequate security.

History: 1984, Act 270, Eff. Mar. 29, 1985.

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Popular name: Strategic Fund

125.2036 Loan for economic development project; legal assurance as to use of money.

Sec. 36. (1) A loan shall not be made from the private enterprise assistance account for an economic development project pursuant to section 33 unless significant private sector financial support is associated with the economic development project.

(2) A loan shall not be made from the private enterprise assistance account pursuant to section 34 unless the fund is legally assured that the money will be used to assist economic development projects which also will have significant private sector financial support.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2037 Paramount priority in making loans.

Sec. 37. The fund shall give paramount priority in making loans from the private enterprise assistance account to economic development projects which have the greatest potential for creating new jobs or retaining current jobs within this state.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

CHAPTER 4

125.2041 "Public work" defined.

Sec. 41. As used in this chapter, "public work" means the acquisition, construction, or improvement of public works; the acquisition of easements necessary for the public works; the acquisition of real and personal property and interests in real and personal property which are necessary for the public works; and the demolition of structures, site preparation, relocation costs, building rehabilitation and administrative costs, including, but not limited to, the cost of technical and economic feasibility studies or architectural, engineering, legal, and accounting fees, which are necessary for the public works.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2042 Center for assistance to local government; establishment and operation.

Sec. 42. The fund shall establish and operate a center for assistance to local government.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2043 Local government assistance account; payments into account; transfer of money.

Sec. 43. (1) The center for assistance to local government shall be funded by an account, which shall be established and managed by the fund, to be known as the local government assistance account.

(2) The fund shall pay into the account any money appropriated or otherwise provided by this state for the purposes of the center; any money determined by the fund to be paid into the account from the economic development fund to which the fund succeeded in ownership pursuant to section 22; any money which the fund receives in repayment of loans made through the center for assistance to local government; and any other money made available to the fund for the purposes of the center from any other source, public or private.

(3) Money in the local government assistance account may be transferred into any other account established by the fund, unless the fund is otherwise obligated to retain the money in the local government assistance account or except if the money was appropriated by this state for the purposes of the center.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2044 Utilization of money; purposes.

Sec. 44. Subject to the limitations provided by this chapter, the fund may utilize money held in the local government assistance account for 1 or more of the following purposes:

(a) To make loans to a municipality.

(b) To establish a reserve fund to insure or guarantee borrowings of a municipality.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2045 Loans, loan insurance, or guarantees; requirements.

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Sec. 45. Loans, loan insurance, or guarantees provided pursuant to section 44 shall be made only for public works which will assist an economic development project, including those portions of an endeavor devoted to the sale of goods at retail or housing if these portions are inseparable from the economic development project and the public work also assists those portions of the endeavor qualified as an economic development project, which has the potential of creating new jobs or retaining current jobs within this state and which is consistent with the purposes and objectives of the fund.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2046 Loans, loan insurance, or guarantees; limitation; lawful public improvement; prohibition; application.

Sec. 46. (1) A loan, loan insurance, or a loan guarantee shall be provided pursuant to section 44 only for public works.

(2) A public work financed in whole or in part pursuant to section 44 shall be a public improvement which the municipality is empowered to provide for the public under law or its charter. However, a public work shall not include public systems of mass transportation that involve solely the transportation of individuals.

(3) A municipality shall apply for a loan, loan insurance, or loan guarantee pursuant to section 44 either in conjunction with any application the economic development project may make to the fund or with an affidavit of the economic development project attesting to the manner in which the public work will assist the economic development project.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2047 Borrowing or contracting for loan insurance and loan guarantees; debt limitation; approval; certain acts inapplicable.

Sec. 47. A municipality is hereby authorized to borrow or contract for loan insurance and loan guarantees from the fund pursuant to this act, notwithstanding any charter provision to the contrary, or other provision of law. Any amount borrowed by a municipality pursuant to this act shall not be included in, or charged against, any statutory or charter debt limitation of the municipality. A municipality shall not be required to seek or obtain the approval of the electors to borrow money pursuant to this act. The borrowing shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, nor to section 5(g) of the home rule city act, 1909 PA 279, MCL 117.5.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 2002, Act 556, Imd. Eff. July 26, 2002.

Popular name: Strategic Fund

125.2048 Loans, loan insurance, or loan guarantees; terms and conditions.

Sec. 48. Loans, loan insurance, or loan guarantees provided from the local government assistance account may be on such terms and conditions as the fund, in its sole discretion, determines to be reasonable, appropriate, and consistent with the purposes and objectives of the fund and this chapter.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2049 Loans, loan insurance, or loan guarantees; conditions.

Sec. 49. A loan, loan insurance, or loan guarantee shall not be provided from the local government assistance account unless it is for a public work which will assist an economic development project and unless the fund finds that there is significant private sector financial support associated with the economic development project.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2049a Paramount priority.

Sec. 49a. The fund shall give paramount priority in providing loans, loan insurance, and loan guarantees from the local government assistance account to municipalities whose past borrowing practices evidence the ability and commitment to make timely payment of principal and interest installments for its obligations and for public works which assist economic development projects which have the greatest potential for creating new jobs or retaining current jobs within this state.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

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125.2051 Center for loan insurance; establishment and operation.

Sec. 51. The fund shall establish and operate a center for loan insurance.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2052 Loan insurance account; payments into accounts; transfer of money.

Sec. 52. (1) The center for loan insurance shall be funded by an account, which shall be established and managed by the fund, to be known as the loan insurance account.

(2) The fund shall pay into the account any money appropriated or otherwise provided by this state for the purposes of the center; any money determined by the fund to be paid into the account from the economic development fund to which the fund succeeded in ownership pursuant to section 22; any money which the fund receives as fees or premiums for its provision of loan, lease, or debenture insurance; loan, lease, or debenture guarantees; or letters of credit; and any other money made available to the fund for the purposes of the center from any other source, public or private.

(3) Money in the loan insurance account may be transferred into any other account established by the fund, unless the fund is otherwise obligated to retain the money in the loan insurance account or except if the money was appropriated by this state for the purposes of the center.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2053 Powers of fund through center for loan insurance.

Sec. 53. (1) The fund, through the center for loan insurance, may insure, guarantee, or issue letters of credit for all or a part of a loan or debenture of others, public or private.

(2) The fund, through the center for loan insurance, may insure, guarantee, or issue letters of credit for all or a part of a lease entered into by others, public or private.

(3) The fund, through the center for loan insurance, may procure insurance, a guarantee, or a letter of credit from any source for all or a part of a loan, debenture, or lease of others, public or private. The fund may procure insurance, a guarantee, or a letter of credit for either a single loan, debenture, or lease or for any combination of loans, debentures, or leases.

(4) The fund, through the center for loan insurance, may insure, guarantee, or issue letters of credit for all or a part of a revenue bond issued by the fund, another creature of the state, or by another entity or authority authorized by law to issue revenue bonds.

(5) The fund may procure insurance, a guarantee, or a letter of credit for all or a part of a revenue bond issue of the fund, another creature of the state, or by another entity or authority authorized by law to issue revenue bonds. The fund may procure insurance, a guarantee, or a letter of credit for either all or part of a single revenue bond issue or for all or a part of any combination of revenue bond issues.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2054 Contract of insurance.

Sec. 54. To provide loan insurance pursuant to section 53, the fund may enter into a contract of insurance. The insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.100 to 500.8302 of the Michigan Compiled Laws, shall not apply to such an insurance contract and the fund shall not be considered an insurer subject to the insurance code of 1956, Act No. 218 of the Public Acts of 1956, by virtue of entering into such a contract.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2055 Insurance, guarantees, or letters of credit; limitation; paramount priority.

Sec. 55. (1) Insurance, guarantees, or letters of credit provided or procured pursuant to section 53 shall be provided or procured only for economic development projects within this state which otherwise are consistent with the purposes and objectives of the fund and this chapter, including the requirements of section 12.

(2) The fund shall give paramount priority in providing or procuring insurance, guarantees, and letters of credit to economic development projects which have the greatest potential for creating new jobs or retaining current jobs within this state.

History: 1984, Act 270, Eff. Mar. 29, 1985.

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Popular name: Strategic Fund

125.2056 Insurance, guarantees, or letters of credit; legal assurance of use; terms and conditions; premiums or fees; guidelines.

Sec. 56. (1) Insurance, guarantees, or letters of credit shall not be provided or procured pursuant to section 53 unless the fund is legally assured that the loans, debentures, or leases insured, or guaranteed, or for which letters of credit are issued, will be used to assist economic development projects which also have significant private sector financial support.

(2) Insurance, guarantees, or letters of credit may be provided or procured on such terms and conditions as the fund, in its sole discretion, shall determine to be reasonable, appropriate, and consistent with the purposes and objectives of the fund and this act.

(3) The fund may charge the lender or the borrower, or both, a fee or premium for loan, debenture, or lease insurance, guarantee, or a letter of credit. Guidelines for premiums or fees charged by the fund for loan, debenture, or lease insurance guarantees, or letters of credit shall be established by the fund.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2057 Agreements with lenders.

Sec. 57. The fund may enter into agreements with lenders for participation in the center for loan insurance. The agreements may include, but need not be limited to:

(a) Authorization for the lender to determine, collect, and transmit to the fund a fee or premium charge within a specified range established consistent with the purposes and objectives of the fund.

(b) Specification of whether the premium charge shall be paid by the lender, the borrower, the fund, or by a combination thereof in specified proportions.

(c) The procedure by which a lender may make a claim upon the fund upon default by the borrower and the conditions under which a claim may be made.

(d) The maximum amount of claims a lender may make upon the fund, which amount may be equal to, greater than, or less than the proportion of the total premiums collected by the fund which is accounted for by premiums collected by the lender.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2058 Special fund; purpose.

Sec. 58. The fund may establish a special fund or funds solely to secure some or all of its obligations within the center for loan insurance into which fees or premiums collected by the fund for loan, debenture, or lease insurance, guarantees, or letters of credit may be deposited.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

CHAPTER 6

125.2061 Definitions.

Sec. 61. As used in this chapter:

(a) "MESBIC" means a small business investment company licensed under section 301(d) of the small business investment act of 1958, 15 U.S.C. 681(d).

(b) "Minority" means a person who is black, hispanic, oriental, eskimo, or an American Indian.

(c) "Minority owned business" means a business which is at least 50% owned, controlled, and managed by minorities.

(d) "Minority venture capital company" means a business which makes investments solely in minority owned businesses.

(e) "Venture capital investment" means any of the following investments in a business:

(*i*) Common or preferred stock and equity securities without a repurchase requirement for at least 5 years.

(*ii*) A right to purchase stock or equity securities.

(*iii*) Any debenture or loan, whether or not convertible or having stock purchase rights, which are subordinated, together with security interests against the assets of the borrower, by their terms to all borrowings of the borrower from other institutional lenders, and that is for a term of not less than 3 years, and that has no part amortized during the first 3 years.

(*iv*) General or limited partnership interests.

History: 1984, Act 270, Eff. Mar. 29, 1985.

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Popular name: Strategic Fund

125.2062 Center for minority venture capital; establishment and operation.

Sec. 62. The fund shall establish and operate a center for minority venture capital.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2063 Certification of minority venture capital company and MESBIC; purpose; construction of certification; statement in documents; forwarding certification applications; qualifications for initial certification; compliance.

Sec. 63. (1) The fund is empowered to certify a minority venture capital company and a MESBIC for the purpose of verifying that the business satisfies the qualifications provided by law for being an eligible recipient of investments that qualify for a credit under the single business tax act, Act No. 228 of the Public Acts of 1975, being sections 208.1 to 208.145 of the Michigan Compiled Laws, for an investment in a minority venture capital company or MESBIC certified under this chapter. The certification shall not be construed to impose liability on this state or to authorize the giving or lending of the credit of this state to any business enterprise. All documents promulgated by the department of commerce, the fund, or business enterprises in conjunction with this program shall include a statement reflecting the limited purpose of the certification and disclaiming the involvement of this state.

(2) Certification applications by a minority venture capital company or a MESBIC shall be forwarded to the fund. To qualify for its initial certification and to retain its certification, a minority venture capital company or a MESBIC shall comply with all of the following applicable requirements:

(a) Qualify as a minority venture capital company or as a MESBIC.

(b) If a minority venture capital company, has raised or has commitments for at least $1,000,000.00 to capitalize the minority venture capital company. Amounts which the minority venture capital company is or may be obligated to repay shall not be included as money which has been raised or committed to capitalize the minority venture capital company.

(c) Demonstrate that the professional staff which will manage the minority venture capital company or MESBIC possesses relevant experience in the administration and operation of a venture capital company.

(d) Either have invested at time of application or, if the minority venture capital company or MESBIC has not yet made investments, agree to invest and to retain an investment of 100% of its portfolio in businesses operating within this state.

(e) Either have invested at time of application or, if the minority venture capital company or MESBIC has not yet made investments or has not yet reached the applicable year of operation, agree to invest and to retain an investment of 50% of its paid-in capital by the end of the third year of operation and 70% of its paid-in capital by the end of the fifth year of operation.

(f) Agree to comply with the terms of this act and with its investment plan and management plan submitted pursuant to subdivision (g).

(g) Provide the information the fund determines to be necessary or appropriate for the fund to review in considering the application including, but not necessarily limited to, the following:

(*i*) A detailed investment plan describing the current and proposed activities of the minority venture capital company or MESBIC.

(*ii*) A management plan, including a description of the business experience and reputation of the professional staff that has been or is to be assembled, and a description of the current and proposed management structure.

(*iii*) A listing of the present or committed investors in the minority venture capital company or MESBIC and background information on the investors.

(h) If a minority venture capital company, agree to disclose to the fund and to allow the fund to approve or disapprove a contract entered into between the minority venture capital company and a minority owned business in which an officer or director of the minority venture capital company owns 10% or more.

(i) Agree to comply with the condition that, of the investments for which a request for certification is or will be filed under section 69a, not less than 50% shall be invested by persons who, if they receive a credit under section 36b of the single business tax act, Act No. 228 of the Public Acts of 1975, being section 208.36b of the Michigan Compiled Laws, would have that credit revoked if the minority venture capital company or MESBIC has its certification revoked within 6 years after the tax year for which the person received the credit.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988.

Popular name: Strategic Fund

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125.2064 Considerations prior to certification.

Sec. 64. The fund shall also consider, prior to certifying a minority venture capital company or a MESBIC, all of the following:

(a) The current and proposed composition of the board of directors of the minority venture capital company or MESBIC and the relevant experience of the members of the board.

(b) Whether the minority venture capital company or MESBIC has a reasonable likelihood of being financially sound in the long run and capable of earning for its investors a reasonable rate of return.

(c) The current availability of minority venture capital in the geographic area in which the minority venture capital company or MESBIC will conduct business and the current availability of minority venture capital in the area for products or processes similar to those funded or to be funded by the minority venture capital company or MESBIC.

(d) The percentage of the minority venture capital company or MESBIC owned by minorities.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2065 Percentage of venture capital investments; encouraging certified MESBIC to meet investment requirements; "investment" defined.

Sec. 65. (1) Sixty-five percent of investments of a certified minority venture capital company shall be venture capital investments.

(2) A certified MESBIC shall be encouraged to use its best efforts to meet the investment requirements imposed by subsection (1) on certified minority venture capital companies.

(3) For purposes of this section, section 61(d), and section 63(2)(d), (e), and (i), "investment" means financial assistance provided by a MESBIC or minority venture capital company, whether through loans, guarantees, venture capital investments, or commitments.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2066 Minority venture capital company as certified MESBIC.

Sec. 66. A minority venture capital company certified under this chapter that thereafter becomes a MESBIC shall be considered a certified MESBIC under this chapter without separate application.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2067 Independent program audit.

Sec. 67. A certified minority venture capital company and a certified MESBIC shall have an independent program audit annually performed by a certified public accountant. The fund may visit and examine a certified minority venture capital company or a certified MESBIC and may delegate the authority to visit and examine to the commissioner of the financial institutions bureau.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2068 Effective date and duration of certification; eligibility as recipient of investments; approval and effect of tax credit disqualification.

Sec. 68. (1) Unless revoked, a certification provided under this chapter shall be effective and subject the minority venture capital company or MESBIC to the requirements of this chapter from the date of its certification until 6 years following the date of its tax credit disqualification pursuant to subsection (3).

(2) Unless the certification is revoked, from the date of its certification until the date the fund approves a tax credit disqualification for the minority venture capital company or MESBIC pursuant to subsection (3) a certified minority venture capital company and a certified MESBIC shall be an eligible recipient of investments that qualify for a credit under the single business tax act, Act No. 228 of the Public Acts of 1975, being sections 208.1 to 208.145 of the Michigan Compiled Laws, for an investment in a minority venture capital company or MESBIC certified under this chapter.

(3) Upon request of a certified minority venture capital company or a certified MESBIC the fund shall approve a tax credit disqualification for the minority venture capital company or MESBIC and thereafter the minority venture capital company or MESBIC shall not be an eligible recipient of investments that qualify under, and the fund shall not provide a tax credit certification pursuant to section 69a for credits under, Act No. 228 of the Public Acts of 1975.

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History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2069 Revocation of certification; notice; remedying deficiencies and complying with requirements; determination.

Sec. 69. If the fund finds that a certified minority venture capital company or a certified MESBIC has failed to comply with the provisions of this chapter or has substantially deviated from the management plan or investment plan submitted in connection with its certification, the fund shall notify the board of directors and officers of the minority venture capital company or MESBIC that the certification will be revoked 120 days after the date of mailing of the notice. The minority venture capital company or MESBIC may notify the fund before the expiration of the 120-day period of all efforts taken to remedy the deficiencies and comply with the requirements of this chapter. The fund shall be responsible for determining whether the minority venture capital company or MESBIC is once again in compliance and, if it determines that the compliance has not been achieved, then the certification shall stand revoked on the date established by the fund.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2069a Tax credit certification; information; report.

Sec. 69a. (1) Upon written request to the fund not later than 90 days following an investment, the fund shall certify the following for a person subject to the tax imposed under the single business tax act, Act No. 228 of the Public Acts of 1975, being sections 208.1 to 208.145 of the Michigan Compiled Laws, who seeks to claim the credit provided under Act No. 228 of the Public Acts of 1975 for an investment in a minority venture capital company or MESBIC certified under this chapter:

(a) The date which the person made the investment.

(b) That the investment is in a certified minority venture capital company or MESBIC which has not been disqualified pursuant to section 68(3) as of the date of the investment.

(c) The amount of the investment in the certified minority venture capital company or MESBIC that was made after the effective date of the amendatory act providing for a tax credit under Act No. 228 of the Public Acts of 1975 for an investment in a minority venture capital company or MESBIC certified under this chapter.

(d) The amount of the credit to which the person is entitled under Act No. 228 of the Public Acts of 1975 for an investment in a minority venture capital company or MESBIC certified under this chapter.

(2) A minority venture capital company or MESBIC certified under this chapter and a person requesting a tax credit certification of an investment pursuant to subsection (1) shall provide the fund with all information it requires to make the certification under subsection (1).

(3) A tax credit certification report for an investment certified under subsection (1) shall be sent by the fund to the requester and the department of treasury.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

CHAPTER 7

125.2071 Definitions.

Sec. 71. As used in this chapter:

(a) “Economic development fund” means that fund to which the fund succeeded in ownership pursuant to section 22.

(b) “Research and development enterprise” means any person found by the fund to be engaged in a business which has as its principal function the discovery of new substances and the refinement of known substances, processes, products, theories, and ideas, except for those persons whose businesses are directed primarily to the accumulation or analysis of commercial, financial, or mercantile data.

(c) “Research center fund” means that fund created by section 27 of Act No. 70 of the Public Acts of 1982, being section 125.1927 of the Michigan Compiled Laws, to which the fund succeeds in ownership pursuant to section 76.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2072 Center for research and development; establishment and operation.

Sec. 72. The fund shall establish and operate a center for research and development.

History: 1984, Act 270, Eff. Mar. 29, 1985.

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Popular name: Strategic Fund

125.2073 Research center fund; payments into fund; transfer of money.

Sec. 73. (1) The center for research and development shall be funded by the research center fund.

(2) The fund shall pay into the research center fund any money appropriated or otherwise provided by this state for the purposes of the center for research and development; any money determined by the fund to be paid into the research center fund from the economic development fund; any money paid into the research center fund pursuant to the heritage trust act of 1982, Act No. 327 of the Public Acts of 1982, being sections 318.421 to 318.434 of the Michigan Compiled Laws; any money which the fund receives in return for investments made through the center for research and development; and any other money made available to the fund for the purposes of the center from any other source, public or private.

(3) Money in the research center fund may be transferred into any other account or fund established or operated by the fund, unless the fund is otherwise obligated to retain the money in the research center fund or except if the money was appropriated by this state for the purposes of the center.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2074 Research center fund; use of money; purpose; obligations of present or emerging technologies; purposes of financial aid; terms and conditions of financial aid; minimum financial aid grant; payment; tax exemption.

Sec. 74. (1) The fund may utilize the money held in the research center fund to provide financial aid to nonprofit research and development enterprises that perform or cause to be performed, or both, research and development in present and emerging technology and in the application of that technology to business and industry.

(2) The present or emerging technologies that are provided financial aid should serve as a foundation for future job growth or retention in this state, encourage economic stability or diversification in this state, and establish this state as a center of excellence in high technology.

(3) Financial aid under this act may be provided for the purposes of designing and constructing new facilities, designing and rehabilitating existing facilities, acquiring an interest in real or personal property, providing working capital, which may include salaries, rent, supplies, inventory, accounts receivable, mortgage payments, legal costs, utility costs, telephone, travel, and other incidental costs normally classified as working capital according to standard accounting principles. Working capital financing grants provided by the fund to a particular research and development enterprise shall not be granted for a period exceeding 10 years calculated from the effective date of the first grant to the expiration date of the last grant.

(4) Financial aid provided by the fund may be on those terms and conditions as the fund, in its sole discretion, shall determine to be reasonable, appropriate, and consistent with the purposes and objectives of the fund and this act.

(5) The minimum financial aid grant under this act shall be $2,500,000.00 to be paid over the period of time as the fund shall specify in the grant unless this restriction is waived by a 2/3 vote of the members of the board.

(6) Personal property that is leased or owned, and used, or that portion of real property that is leased, subleased, or owned, and occupied by a nonprofit research and development enterprise that receives or has received financial benefit or support under this act, former 1982 PA 70, or section 117 of 2000 PA 291 in the amount of $1,000,000.00 or more or that has received financial benefit or support in the amount of $1,000,000.00 or more from an organization with tax-exempt status under section 501(c)(3) of the internal revenue code, 26 USC 501, that received financial benefit or support directly or indirectly under this act or section 117 of 2000 PA 291 is exempt from taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, while the property is leased, subleased, owned, used, or occupied by that nonprofit research and development enterprise solely for the purpose of performing or coordinating research and development in present and emerging technology and of the application of that technology to business and industry and provided that the research and development enterprise retains its tax-exempt status under section 501(c)(3) of the internal revenue code, 26 USC 501.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 207, Imd. Eff. Dec. 22, 1987;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988;—Am. 2006, Act 616, Imd. Eff. Jan. 3, 2007.

Popular name: Strategic Fund

125.2075 Business plan.

Sec. 75. In providing financial aid under this chapter, the fund shall require the preparation of a business

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plan following guidelines previously adopted by the fund and shall consider the amount of other capital funding and income sources available to assure the continued operation of the nonprofit research and development enterprise.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2076 Scope of succession to rights, properties, obligations, and duties of Michigan economic development authority; payments in research center fund.

Sec. 76. The succession of the fund to all rights, properties, obligations, and duties of the Michigan economic development authority pursuant to section 21 shall include succession to the ownership and operation of the research center fund, of all distributions pursuant to the heritage trust act of 1982, Act No. 327 of the Public Acts of 1982, being sections 318.421 to 318.434 of the Michigan Compiled Laws, to the Michigan economic development authority for deposit in the research center fund, and of all obligations, promises, covenants, commitments, and other requirements relating to the research center fund that were made by the Michigan economic development authority. Payments into the research center fund pursuant to Act No. 327 of the Public Acts of 1982 shall continue to be made as provided by that act upon and after the fund succeeds to ownership and operation of the research center fund.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2077 Higher education coordination council; membership.

Sec. 77. The fund shall appoint a higher education coordination council containing individuals representative of higher education institutions and having the necessary credentials to provide an inventory and advise the fund on the available research and development enterprises that are or will be established by higher education institutions and the application of that technology to business and industry.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 2006, Act 230, Imd. Eff. June 26, 2006.

Popular name: Strategic Fund

125.2078 Service station matching grant program.

Sec. 78. (1) The fund shall create and administer a service station matching grant program to provide incentives to owners and operators of service stations to convert existing fuel delivery systems and to create new fuel delivery systems designed to provide E85 fuel and biodiesel blends.

(2) The service station matching grant program shall provide for all the following:

(a) That a grant shall not exceed 75% of the costs to convert an existing fuel delivery system to provide E85 fuel or biodiesel blend, not to exceed $3,000.00 per facility.

(b) That a grant shall not exceed 50% of the new construction costs to create a fuel delivery system to provide E85 fuel or biodiesel blend, not to exceed $12,000.00 per facility for E85 fuel and $4,000.00 per facility for biodiesel blend.

(c) A contractual provision requiring the grant recipient to repay a portion of the grant if the grant recipient stops using the fuel delivery system to provide E85 fuel or biodiesel blend within 3 years of receiving the grant, as determined by the fund. The portion of the grant to be repaid shall be calculated by multiplying the amount of the grant by a fraction, the numerator of which is the number of days that the fuel delivery system was not used to provide E85 fuel or biodiesel blend during that 3-year period and the denominator of which is 1,095.

(d) A single business entity is not eligible for more than 15% of the total amount of grants awarded each year under this subsection.

(e) The total amount of grants awarded each year under this subsection to facilities located in the same county shall not exceed 15% of the total amount of grants awarded each year under this subsection.

(3) The fund shall create and administer a bulk plant matching grant program to provide incentives to owners and operators of bulk plants to convert existing fuel delivery systems and to create new fuel delivery systems designed to provide biodiesel blends.

(4) The bulk plant matching grant program shall provide for all the following:

(a) That a grant shall not exceed 50% of the costs to convert an existing fuel delivery system to provide biodiesel blend, not to exceed $2,000.00 per bulk plant.

(b) That a grant shall not exceed 50% of the new construction costs to create a fuel delivery system to provide biodiesel blend, not to exceed $15,000.00 per bulk plant.

(c) A contractual provision requiring the grant recipient to repay a portion of the grant if the grant recipient stops using the fuel delivery system to provide biodiesel blend within 3 years of receiving the grant, as

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determined by the fund. The portion of the grant to be repaid shall be calculated by multiplying the amount of the grant by a fraction, the numerator of which is the number of days that the fuel delivery system was not used to provide biodiesel blend during that 3-year period and the denominator of which is 1,095.

(5) The fund shall initially fund the service station matching grant program and the bulk plant matching grant program with a combined amount of $500,000.00, which may include federal sources, to be distributed on or before September 30, 2007.

(6) As used in this section:

(a) "Biodiesel" means a fuel composed of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, and, in accordance with standards specified by the American society for testing and materials, designated B100, and meeting the requirements of D-6751, as approved by the department of agriculture.

(b) "Biodiesel blend" means a fuel comprised of a blend of biodiesel fuel with petroleum-based diesel fuel, suitable for use as a fuel in a compression-ignition internal combustion diesel engine.

(c) "Bulk plant" means that term as defined in section 2 of the motor fuel tax act, 2000 PA 403, MCL 207.1002.

(d) "E85 fuel" means a fuel blend containing between 70% and 85% denatured fuel ethanol and gasoline suitable for use in a spark-ignition engine and that meets American society for testing and materials D-5798 specifications.

(e) "Facility" means an establishment at which gasoline is sold or offered for sale to the public.

History: Add. 2006, Act 274, Imd. Eff. July 7, 2006.

Popular name: Strategic Fund

125.2079 Location of renewable fuel plants; inventory of prime sites; availability on internet; assistance.

Sec. 79. (1) The fund shall identify, publish, and market an inventory of prime sites for the location of renewable fuel plants with existing industrial facilities that have by-products that renewable fuel plants could use to produce energy in this state.

(2) The fund shall make the inventory available to the public on the internet not later than January 1, 2009.

(3) Local units of government and their economic development agencies may assist the fund in its duties under this section.

History: Add. 2008, Act 320, Imd. Eff. Dec. 18, 2008.

Popular name: Strategic Fund

CHAPTER 8

125.2081 “Economic development fund” defined.

Sec. 81. As used in this chapter, “economic development fund” means that fund to which the fund succeeded in ownership pursuant to section 22.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2082 Center for product development; establishment and operation.

Sec. 82. The fund shall establish and operate a center for product development.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2083 Product development program account; payments into account; transfer or deposit of money.

Sec. 83. (1) The center for product development shall be funded by an account, which shall be established and managed by the fund, to be known as the product development program account.

(2) The fund shall pay into the account any money appropriated or otherwise provided by this state for the purposes of the center for product development; any money determined by the fund to be paid into the account from the economic development fund; any money which the fund receives in return for investments made through the center for product development; and any other money made available to the fund for the purposes of the center from any other source, public or private.

(3) Money in the product development program account may be transferred into any other account established by the fund unless the fund is otherwise obligated to retain the money in the product development program account or except if the money was appropriated by this state for the purposes of the center or

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represents interest earned from these appropriations while on deposit in the account. The fund may deposit money earned by the fund from royalties, rights, or other benefits pursuant to section 84 or 86a in any account established by the fund.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988.

Popular name: Strategic Fund

125.2084 Product development program account; utilization of money; purpose; terms and conditions of financial aid; condition to financial aid.

Sec. 84. (1) The fund may utilize the money held in the product development program account to provide financial aid to applicants when financial aid would not otherwise be available on reasonable terms from other sources and shall enter into venture agreements whereby the fund will obtain royalties, rights, or other benefits from or in a targeted invention, product, device, or technique; a related or derivative invention, product, device, or technique; or other applicant revenues, which royalties, rights, and other benefits are obtained in exchange for the granting of financial aid to the applicant.

(2) Financial aid provided from the product development program account shall be for the purpose of financing any new process, technique, product, or device which is or may be exploitable commercially, which has advanced beyond the theoretical state, and which is capable of being or has been reduced to practice without regard to whether a patent has or could be granted.

(3) Financial aid provided and venture agreements made by the fund may be on the terms and conditions the fund, in its sole discretion, determines to be reasonable, appropriate, and consistent with the purposes and objectives of the fund and this chapter, including the requirements of section 12.

(4) Financial aid provided and venture agreements made pursuant to this section shall be made on the condition that the benefits of increasing employment and tax revenues remain in the state.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988.

Popular name: Strategic Fund

125.2085 Recipients of financial aid.

Sec. 85. Financial aid provided from the product development program account may be made to any individual, partnership, profit or nonprofit corporation, college or university, or joint venture carrying on business or proposing to carry on business within this state.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2086 Amount of financial aid and terms of venture agreement; evaluation and examination.

Sec. 86. In determining the amount of financial aid to be awarded and the terms of the venture agreement, the fund shall evaluate, among other things, the necessity of fund participation in the enterprise, the diversity of products and types of business concerns for which the fund has provided financial aid under this chapter, the availability of funding sources on reasonable terms in the traditional capital markets, the management structure and expertise of the enterprise, the state of development of the proposed product, process, technique, or device and the likelihood of its commercial feasibility, and the report and recommendations of the advisory panel created pursuant to section 87. The fund shall also examine, in determining the manner and extent of its participation, the extent to which the enterprise has a cooperative arrangement with a college or university in this state.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2086a Financial aid to nonprofit corporation; powers and duties of corporation; fund as party to venture agreement; provisions of venture agreement.

Sec. 86a. (1) The fund may provide financial aid to a nonprofit corporation which has as its only purposes the same purposes as this chapter. Except as provided in subsection (2), a corporation receiving financial aid under this section has the same powers and duties provided in this chapter.

(2) The fund shall be made a party to a venture agreement made by a corporation receiving financial aid under this section. The venture agreement shall provide that the fund obtain royalties, rights, or other benefits from or in a targeted invention, product, device, or technique; a related or derivative invention, product, device, or technique; or other applicant revenues, which royalties, rights, or other benefits are obtained by the corporation in exchange for the granting of financial aid to an applicant.

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History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988.

Popular name: Strategic Fund

125.2087 Advisory panel; purpose; membership; report; recommendation.

Sec. 87. An advisory panel shall be convened by the fund to consider proposals for venture agreements and financial aid from the product development program account. The panel shall be composed of 5 members appointed by the fund having skills and experience in providing capital to innovative business, in starting and operating such businesses, or in providing professional and technical services to or otherwise working with such businesses. The advisory panel shall report to the fund its analysis and recommendations on the proposal for financial aid and a venture agreement.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

CHAPTER 8A

125.2088 Legislative findings; intent; scope of activities.

Sec. 88. (1) The legislature finds and declares that the activities authorized under this chapter to encourage diversification of the economy and the creation of jobs in this state are a public purpose and of paramount concern in the interest of the health, safety, and general welfare of the citizens of this state. It is the intent of the legislature that the economic benefits and the creation of jobs resulting from this chapter shall accrue substantially within this state.

(2) Activities authorized under this chapter shall not be considered a project, economic development project, or a product assisted by the fund for purposes of chapter 1 or 2.

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund

125.2088a Definitions.

Sec. 88a. As used in this chapter:

(a) "Advanced automotive, manufacturing, and materials technology" means any technology that involves 1 or more of the following:

(*i*) Materials with engineered properties created through the development of specialized process and synthesis technology.

(*ii*) Nanotechnology, including materials, devices, or systems at the atomic, molecular, or macromolecular level, with a scale measured in nanometers.

(*iii*) Microelectromechanical systems, including devices or systems integrating microelectronics with mechanical parts and a scale measured in micrometers.

(*iv*) Improvements to vehicle safety, vehicle performance, vehicle production, or environmental impact, including, but not limited to, vehicle equipment and component parts.

(*v*) A new technology, device, or system that enhances or improves the manufacturing process of wood, timber, or agricultural-based products.

(*vi*) Any technology that involves an alternative energy vehicle or its components, as alternative energy vehicle is defined under section 2 of the Michigan next energy authority act, 2002 PA 593, MCL 207.822.

(*vii*) Advanced computing or electronic device technology related to technology described under this subdivision.

(*viii*) Design, engineering, testing, or diagnostics related to technology described under this subdivision.

(*ix*) Product research and development related to technology described under this subdivision.

(b) "Advanced computing" means any technology used in the design and development of 1 or more of the following:

(*i*) Computer hardware and software.

(*ii*) Data communications.

(*iii*) Information technologies.

(c) "Alternative energy technology" means applied research or commercialization of new or next generation technology in 1 or more of the following:

(*i*) Alternative energy technology as that term is defined in section 2 of the Michigan next energy authority act, 2002 PA 593, MCL 207.822.

(*ii*) Devices or systems designed and used solely for the purpose of generating energy from agricultural crops, residue and waste generated from the production and processing of agricultural products, animal wastes, or food processing wastes, not including a conventional gasoline or diesel fuel engine or retrofitted

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conventional gasoline or diesel fuel engine.

(*iii*) A new technology, product, or system that permits the utilization of biomass for the production of specialty, commodity, or foundational chemicals or of novel or economical commodity materials through the application of biotechnology that minimizes, complements, or replaces reliance on petroleum for the production. Alternative energy technology also includes a new technology, product, or system that utilizes wind energy.

(*iv*) Advanced computing or electronic device technology related to technology described under this subdivision.

(*v*) Design, engineering, testing, or diagnostics related to technology described under this subdivision.

(*vi*) Product research and development related to a technology described under this subdivision.

(d) "Applied research" means translational research conducted with the objective of attaining a specific benefit or to solve a practical problem, or other research activity that seeks to utilize, synthesize, or apply existing knowledge, information, or resources to the resolution of a specified problem, question, or issue, with high potential for commercial application to create jobs in this state.

(e) "Basic research" means any original investigation for the advancement of scientific or technological knowledge that will enhance the research capacity of this state in a way that increases the ability to attract to or develop companies, jobs, researchers, or students in this state.

(f) "Commercialization" means the transition from research to the actions necessary to achieve market entry and general market competitiveness of new innovative technologies, processes, and products and the services that support, assist, equip, finance, or promote a person or an entity with that transition.

(g) "Competitive edge technology" means 1 or more of the following:

(*i*) Life sciences technology.

(*ii*) Advanced automotive, manufacturing, and materials technology.

(*iii*) Homeland security and defense technology.

(*iv*) Alternative energy technology.

(h) "Electronic device technology" means any technology that involves microelectronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics; optical and optic-electrical devices; or data and digital communications and imaging devices.

(i) "Fund board" means the board of the Michigan strategic fund described in section 5.

(j) "Homeland security and defense technology" means technology that assists in the assessment of threats or damage to the general population and critical infrastructure, protection of, defense against, or mitigation of the effects of foreign or domestic threats, disasters, or attacks, or support for crisis or response management, including, but not limited to, 1 or more of the following:

(*i*) Sensors, systems, processes, or equipment for communications, identification and authentication, screening, surveillance, tracking, and data analysis.

(*ii*) Advanced computing or electronic device technology related to technology described under this subdivision.

(*iii*) Aviation technology, including, but not limited to, avionics, airframe design, sensors, early warning systems, and services related to technology described under this subdivision.

(*iv*) Design, engineering, testing, or diagnostics related to technology described under this subdivision.

(*v*) Product research and development related to technology described under this subdivision.

(k) "Independent peer review expert" means a person or persons selected by the commercialization board with appropriate expertise to conduct an independent, unbiased, objective, and competitive evaluation of activities funded under section 88k. The person or persons shall demonstrate the capability and experience, as appropriate or necessary for the particular activity funded, to do all of the following:

(*i*) Conduct a highly competitive and intensive, independent, multiphased, peer-review-based evaluation process.

(*ii*) Employ personnel with appropriate business, scientific, technical, commercial, or other specialized expertise to carry out each aspect of the evaluation process.

(*iii*) Provide recommendations to or assist the commercialization board in identifying high-quality activities for funding that are likely to result in the development and commercialization of competitive edge technology and job creation in this state. The recommendations shall include all materials used by the independent peer review expert in making the recommendation.

(*iv*) Assure that any peer review process developed maintains a high level of integrity.

(*l*) "Institution of higher education" means an institution of higher education or a community or junior college described in section 4, 5, 6, or 7 of article VIII of the state constitution of 1963 or an independent nonprofit degree-granting institution of postsecondary education in this state that is approved by the state board of education.

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(m) "Jobs for Michigan investment fund" or "investment fund" means the jobs for Michigan investment fund created in section 88h.

(n) "Life sciences" means science for the examination or understanding of life or life processes, including, but not limited to, all of the following:

(*i*) Bioengineering.

(*ii*) Biomedical engineering.

(*iii*) Genomics.

(*iv*) Proteomics.

(*v*) Molecular and chemical ecology.

(*vi*) Biotechnology, including any technology that uses living organisms, cells, macromolecules, microorganisms, umbilical cord blood, or substances from living organisms to make or modify a product for useful purposes. Biotechnology or life sciences does not include any of the following:

(A) Activities prohibited under section 2685 of the public health code, 1978 PA 368, MCL 333.2685.

(B) Activities prohibited under section 2688 of the public health code, 1978 PA 368, MCL 333.2688.

(C) Activities prohibited under section 2690 of the public health code, 1978 PA 368, MCL 333.2690.

(D) Activities prohibited under section 16274 of the public health code, 1978 PA 368, MCL 333.16274.

(E) Stem cell research with human embryonic tissue.

(o) "Life sciences technology" means any technology derived from life sciences intended to improve human health or the overall quality of human life, including, but not limited to, systems, processes, or equipment for drug or gene therapies, biosensors, testing, medical devices or instrumentation with a therapeutic or diagnostic value, a pharmaceutical or other product that requires United States food and drug administration approval or registration prior to its introduction in the marketplace and is a drug or medical device as defined by the federal food, drug, and cosmetic act, 21 USC 301 to 399, or 1 or more of the following:

(*i*) Advanced computing or electronic device technology related to technology described under this subdivision.

(*ii*) Design, engineering, testing, or diagnostics related to technology or the commercial manufacturing of technology described under this subdivision.

(*iii*) Product research and development related to technology described under this subdivision.

(p) "Qualified business" means a business entity located in this state.

(q) "Qualified mezzanine fund" means a person or entity primarily engaged in making loans or investments ranging in size from $250,000.00 to $6,000,000.00 that is managed by 2 or more individuals with no less than 5 years' direct experience in mezzanine lending or capital investments and that holds investment capital or has commitments from investors other than the fund and at least 2 financial institutions.

(r) "Qualified private equity fund" means a firm principally or primarily engaged in investing in or acquiring businesses that is managed by 2 or more individuals with no less than 5 years of direct experience in private equity investments, and that holds investment capital from investors other than the fund.

(s) "Qualified venture capital fund" means a firm principally or primarily engaged in investing in or acquiring early stage businesses with growth potential that have not yet demonstrated consistent profitability or a proven business model, that is managed by 2 or more individuals with not less than 5 years of direct experience in venture capital, and that holds capital from investors other than the fund.

(t) "Small business" means a business entity formed or doing business in this state, including the affiliates of the business concern, which business entity is independently owned and operated and employs fewer than 250 full-time employees or has gross annual sales of less than $6,000,000.00.

(u) "21st century investments" means investments in 1 or more of the following:

(*i*) Commercial loan guarantees under a loan enhancement program operated by the fund.

(*ii*) Private equity investments under a private equity investment program operated by the fund.

(*iii*) Venture capital investments under a venture capital investment program operated by the fund.

(*iv*) Mezzanine investments under a mezzanine investment program operated by the fund.

(v) "Strategic economic investment and commercialization board" or "commercialization board" means the strategic economic investment and commercialization board created in section 88k.

(w) "University technology transfer" means innovative methods to accelerate the creation of start-up companies affiliated with institutions of higher education or the transfer of competitive edge technology research from an institution of higher education to a qualified business in Michigan.

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005;—Am. 2006, Act 639, Imd. Eff. Jan. 4, 2007.

Popular name: Strategic Fund

125.2088b Programs created and operated by fund board; expenditures; use of appropriated

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or transferred money.

Sec. 88b. (1) The fund shall create and operate programs authorized under this chapter. The fund board shall determine the annual allocation of money for programs authorized under this chapter and make authorized expenditures or investments from the investment fund of the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, as authorized under this chapter for programs and activities authorized under this chapter.

(2) Money transferred or appropriated by law to the fund for the purposes of carrying out this chapter shall be expended or invested by the fund as authorized by law for the following purposes:

(a) 21st century investments.

(b) Grants and loans approved by the commercialization board under section 88k.

(c) Other programs or activities authorized under this chapter.

(3) Except for the appropriations described in section 88j(3) and as otherwise provided in section 88q, for fiscal years other than the 2008-2009 and 2009-2010 fiscal years the fund board shall not expend more than the following amounts each year from the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, for the following purposes:

(a) 25% for the loan enhancement program.

(b) 40% for the private equity investment program, the venture capital investment program, and the mezzanine investment program combined.

(c) 70% for competitive edge technology grants and loans under section 88k. The commercialization board shall not authorize the expenditure of more than $100,000,000.00 of the amount described in this subdivision for basic research over the life of the program.

(4) Not more than 4% of the annual appropriation as provided by law from the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may be used for the purposes of administering the programs and activities authorized under this chapter. However, the fund and the fund board shall not use more than 3% of the annual appropriation for administering the programs and activities authorized under this chapter unless the fund board by a 2/3 vote authorizes the additional 1% for administration.

(5) Not more than 5% of the annual appropriation as provided by law from the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may be used for business development and business marketing costs. Not less than 80% of the funds committed for business development and business marketing costs shall be targeted to persons or entities outside of this state. No funds may be used for any business development and business marketing effort that includes a reference to or the image or voice of an elected state officer or a candidate for elective state office and that is targeted to a media market in Michigan. The fund board shall select all vendors for all marketing expenditures under this chapter by issuing a request for proposal. At a minimum, the request for proposal shall require the responding entities to disclose any conflict of interest, disclose any criminal convictions, disclose any investigations by the internal revenue service or any other federal or state taxing body or court, disclose any pertinent litigation regarding the conduct of the entity, and maintain records and evidence pertaining to work performed. The fund board shall establish a standard process to evaluate proposals submitted as a result of a request for proposal and appoint a committee to review the proposals. The fund or the fund board shall not appoint or designate any person paid or unpaid to a committee to review proposals if that person has a conflict of interest with any potential vendors as determined by the office of the chief compliance officer established in section 88i.

(6) The fund shall not use any money appropriated or transferred for purposes authorized under this chapter to acquire interests in or improve real property. The restriction under this subsection applies only to the fund and not to recipients of expenditures or investments under this chapter.

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005;—Am. 2008, Act 175, Imd. Eff. July 8, 2008;—Am. 2009, Act 218, Imd. Eff. Jan. 5, 2010.

Popular name: Strategic Fund

125.2088c Duties of fund board.

Sec. 88c. (1) The fund board shall exercise the duties of a fiduciary with respect to 21st century investments consistent with the purposes of this chapter. The prudent investor rule shall be applied by the fund board and any agent of the fund board in the management of 21st century investments. The prudent investor rule as applied to 21st century investments means that in making 21st century investments, the fund board shall exercise the judgment and care under the circumstances then prevailing that an institutional investor of ordinary prudence, discretion, and intelligence would exercise in similar circumstances in a like position. The fund board shall maintain a reasonable diversification among 21st century investments

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consistent with the requirements of this chapter.

(2) The fund board shall select qualified private equity funds, qualified venture capital funds, and qualified mezzanine funds by issuing a request for proposal. At a minimum, the request for proposal shall require a responding entity to disclose any conflict of interest, disclose any criminal convictions, disclose any investigations by the internal revenue service, the securities and exchange commission, or any other federal or state taxing or securities regulatory body, or court, or pertinent litigation regarding the conduct of the person or entity. The fund board shall establish a standard process to evaluate proposals submitted as a result of a request for proposal and appoint a committee to review the proposals.

(3) The fund board shall ensure that a recipient of money under sections 88d, 88e, 88f, and 88g agrees as a condition of receiving the money not to use the money for any of the following:

(a) The development of a stadium or arena for use by a professional sports team.

(b) The development of a casino regulated by this state under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, a casino at which gaming is conducted under the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467, or property associated or affiliated with the operation of either type of casino described in this subdivision, including, but not limited to, a parking lot, hotel, motel, or retail store.

(4) The fund board shall establish requirements to ensure that money expended under sections 88d, 88e, 88f, and 88g shall not be used for any of the following:

(a) Provision of money to a person who has been convicted of a criminal offense incident to the application for or performance of a state contract or subcontract. As used in this subdivision, if a person is a business entity, person includes affiliates, subsidiaries, officers, directors, managerial employees, and any person who, directly or indirectly, holds a pecuniary interest in that business entity of 20% or more.

(b) Provision of money to a person who has been convicted of a criminal offense, or held liable in a civil proceeding, that negatively reflects on the person's business integrity, based on a finding of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or violation of state or federal antitrust statutes. As used in this subdivision, if a person is a business entity, person includes affiliates, subsidiaries, officers, directors, managerial employees, and any person who, directly or indirectly, holds a pecuniary interest in that business entity of 20% or more.

(c) Provision of money to a business enterprise to induce qualified businesses or small businesses to leave this state.

(d) Provision of money that would contribute to the violation of internationally recognized workers rights, as defined in section 507(4) of the trade act of 1974, 19 USC 2467(4), of workers in a country other than the United States, including any designated zone or area in that country.

(e) Provision of money to a corporation or an affiliate of the corporation who is incorporated in a tax haven country after September 11, 2001, while maintaining the United States as the principal market for the public trading of the corporation's stock. As used in this section, "tax haven country" includes a country with tax laws that facilitate avoidance by a corporation or an affiliate of the corporation of United States tax obligations, including Barbados, Bermuda, British Virgin Islands, Cayman Islands, Commonwealth of the Bahamas, Cyprus, Gibraltar, Isle of Man, the principality of Liechtenstein, the principality of Monaco, and the Republic of the Seychelles.

(5) Before adopting a resolution that establishes or substantially changes a 21st century investment program, including any fees, charges, or penalties attached to that program, the fund board shall give notice of the proposed resolution to the governor, to the clerk of the house of representatives, to the secretary of the senate, to members of the senate and house of representatives appropriation committees, and to each person who requested from the fund in writing or electronically to be notified regarding proposed resolutions. The notice and proposed resolution and all attachments shall be published on the fund's internet website. The fund board shall hold a public hearing not sooner than 14 days and not longer than 30 days from the date notice of a proposed resolution is given and offer a person an opportunity to present data, views, questions, and arguments. Members of the fund board or 1 or more persons designated by the fund board who have knowledge of the subject matter of the proposed resolution shall be present at the public hearing and shall participate in the discussion of the proposed resolution. The fund board may act on the proposed resolution no sooner than 14 days after the public hearing. The fund board shall produce a final decision document that describes the basis for its decision. The final resolution and all attachments and the decision document shall be provided to the governor, to the clerk of the house of representatives, to the secretary of the senate, and to members of the senate and house of representatives appropriation committees and shall be published on the fund's internet website.

(6) The notice described in subsection (5) shall include all of the following:

(a) A copy of the proposed resolution and all attachments.

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(b) A statement that the addressee may express any data, views, or arguments regarding the proposed resolution.

(c) The address to which written comments may be sent and the date by which comments must be mailed or electronically transmitted, which date shall not be before the date of the public hearing.

(d) The date, time, and place of the public hearing.

(7) The fund board shall employ or contract with a fund manager or other persons it considers necessary to implement this section. The person employed or contracted under this subsection shall have not less than 10 years' experience in commercial lending, private equity, mezzanine funding, or venture capital. The person employed or contracted under this section shall exercise the duties of a fiduciary toward investments from the investment fund under this section. Management fees payable by the fund and other investors in a qualified private equity fund, a qualified mezzanine fund, or a qualified venture capital fund shall be considered an investment expense and not an administrative cost incurred by the fund.

(8) Subject to subsection (9), a record received, prepared, used, or retained by an investment fiduciary in connection with an investment or potential investment of the investment fund that relates to investment information pertaining to a portfolio company in which the investment fiduciary has invested or has considered an investment that is considered by the portfolio company and acknowledged by the investment fiduciary as confidential, or that relates to investment information whether prepared by or for the investment fiduciary regarding loans and assets directly owned by the investment fiduciary and acknowledged by the investment fiduciary as confidential, is exempt from the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, if at least annually the fund provides to the fund board, and makes available to the public, a report of fund investments during the prior state fiscal year that includes all of the following:

(a) The name of each portfolio company in which the investment fund invested during the reporting period.

(b) The aggregate amount of money invested by the investment fund in portfolio companies during the reporting period.

(c) The rate of return realized during the reporting period on the investments of the investment fund in portfolio companies.

(d) The source of any public funds invested by the investment fund in portfolio companies during the reporting period.

(9) If a record described in subsection (8) is an agreement or instrument to which an investment fiduciary is a party, only those parts of the record that contain investment information are exempt from the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) As used in subsections (8) and (9):

(a) "Investment fiduciary" means a person who exercises any discretionary authority or control over an investment of the investment fund or renders investment advice for the fund for a fee or other direct or indirect compensation.

(b) "Investment information" means information that has not been publicly disseminated or that is unavailable from other sources, the release of which might cause a portfolio company or an investment fiduciary significant competitive harm. Investment information includes, but is not limited to, financial performance data and projections, financial statements, list of coinvestors and their level of investment, product and market data, rent rolls, and leases.

(c) "Portfolio company" means an entity in which an investment fiduciary has made or considered an investment on behalf of the investment fund.

(d) "Record" means all or part of a writing, as that term is defined in section 2 of the freedom of information act, 1976 PA 442, MCL 15.232.

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund

125.2088d Loan enhancement program; loan guarantee program; small business capital access program; Michigan film and digital media investment loan program; choose Michigan film and digital media loan fund; choose Michigan fund program; definitions.

Sec. 88d. (1) The fund shall create and operate a loan enhancement program.

(2) As a separate and distinct part of the loan enhancement program, the fund may create a loan guarantee program that does all of the following:

(a) Provide a loan guarantee mechanism to financial institutions located in this state that provide commercial loans to qualified businesses, public authorities, and local units of government.

(b) Ensures that participating financial institutions do not refinance prior debt.

(c) Provide that a qualified business is only eligible for a loan guarantee under this section if it has a

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documented growth opportunity. As used in this subdivision, "documented growth opportunity" means a plant expansion, capital equipment investment, acquisition of intellectual property or technology, or the hiring of new employees to meet or satisfy a new business opportunity.

(d) Provide that a qualified business that engages primarily in retail sales is not eligible for a loan guarantee under this chapter unless the fund board makes a specific finding that the loan guarantee supports a new concept that has significant growth potential.

(e) Provide repayment provisions for a loan or a guarantee given to a qualified business that leaves Michigan within 3 years of the provision of the loan or guarantee or otherwise breaches the terms of an agreement with the fund.

(3) As a separate and distinct part of the loan enhancement program, the fund shall reestablish the small business capital access program that was previously operated by the fund for small businesses in a manner similar to how that program was operated before January 1, 2002. The small business capital access program shall operate on a market-driven basis and provide for premium payments by borrowers into a special reserve fund. The small business capital access program established by the board shall prohibit an officer, director, principal shareholder of a participating financial institution, or his or her immediate family members from receiving a small business capital access program loan from the financial institution. A loan under the small business capital access program may be issued to an eligible production company or film and digital media private equity fund even if the eligible production company or film and digital media private equity fund is not a small business. A loan under the small business capital access program shall provide that the proceeds of a loan may only be used for a business purpose within this state and may not be used for any of the following:

(a) The construction or purchase of residential housing.

(b) To finance passive real estate ownership.

(c) To refinance prior debt from the participating financial institution that is not part of the small business capital access program.

(4) As a separate and distinct part of the loan enhancement program, the fund shall establish a Michigan film and digital media investment loan program to invest in loans from the investment fund to eligible production companies or film and digital media private equity funds. The fund board shall make investments under this subsection only upon approval of the chief compliance officer and the Michigan film office after a review by the investment advisory committee. If an investment is made under this section, not more than $15,000,000.00 may be loaned to any 1 eligible production company or film and digital media private equity fund for any 1 qualified production. The fund board may make an investment in a qualified production if all of the following are satisfied:

(a) The production is filmed wholly or substantially in this state.

(b) The eligible production company or the film and digital media private equity fund has shown to the satisfaction of the Michigan film office that a distribution contract or plan is in place with a reputable distribution company.

(c) The eligible production company or film and digital media private equity fund agrees that, while filming in this state, a majority of the below the line crew for the qualified production will be residents of this state.

(d) The eligible production company or film and digital media private equity fund posts a completion bond approved by the Michigan film office and has obtained no less than 1/3 of the estimated total production costs from other sources as approved by the chief compliance officer and the Michigan film office or has obtained a full, unconditional, and irrevocable guarantee of the repayment of the amount invested by the fund in favor of the investment fund that satisfies 1 or more of the following:

(*i*) The guarantee is from an entity that has a credit rating of not less than BAA or BBB from a national rating agency.

(*ii*) The guarantee is from a substantial subsidiary of an entity that has a credit rating of not less than BAA or BBB from a national rating agency.

(*iii*) The eligible production company or the film and digital media private equity fund provides a full, unconditional letter of credit from a bank with a credit rating of not less than A from a national rating agency.

(*iv*) The guarantee is from a substantial and solvent entity as determined by the investment advisory committee.

(e) The fund board may make a loan under this subsection at a market rate of interest for a qualified production of up to 80% of expected and estimated tax credits available to the eligible production company or film and digital media private equity fund under sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459, if the eligible production company or the film and digital media private equity fund agrees to name the fund as its agent for the purpose of filing for the tax credits should the eligible production company not apply for the tax credits. The Michigan film office and the state treasurer shall

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determine the estimated amount of tax credits for purposes of this subsection. The fund board shall approve guidelines for the initiation of a loan and the terms of the loan under this subsection.

(f) A loan under this subsection may be converted to an equity investment by the fund board with the approval of the chief compliance officer and the Michigan film office.

(g) An eligible production company or film and digital media production company that receives a loan under this subsection is not also eligible for a loan for the same qualified production under subsection (5).

(h) Fifty percent of any earnings on a loan or investment under this subsection shall be deposited in the investment fund and the remainder of the earnings shall be deposited in the Michigan film promotion fund created under chapter 2A. One hundred percent of principal repaid under this subsection shall be deposited in the investment fund upon repayment.

(5) As a separate and distinct part of the loan enhancement program, the fund shall establish and operate the choose Michigan film and digital media loan fund to invest in loans from the investment fund to eligible production companies or film and digital media private equity funds eligible for a tax credit under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, or sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459. The fund board shall make investments under this subsection only upon approval of the chief compliance officer and the Michigan film office. A loan issued under this subsection is subject to all of the following requirements:

(a) A loan shall be provided at an interest rate of not less than 1%.

(b) The minimum amount of a loan under this subsection is $500,000.00.

(c) The maximum term of a loan under this subsection is 10 years, including up to 3 years of deferred principal payments to align principal payments with receipt of primary incentives, as determined by the fund board.

(d) The value of the loan may not exceed the value of the primary incentive that the eligible production company or film and digital media private equity fund is eligible to receive over 7 years, as discounted by the fund board. A loan authorized by the fund board may provide for a loan amount equal to a portion or all of the discounted value of the primary incentives, as discounted by the fund board.

(e) The eligible production company or film and digital media private equity fund is responsible for repayment of the loan regardless of actual primary incentive amounts received.

(f) The eligible production company or film and digital media private equity fund is responsible for loan preparation and closing costs.

(g) An eligible production company or film and digital media private equity fund that receives a loan under this subsection is not also eligible for a loan for the same qualified production under subsection (4).

(h) The eligible production company or film and digital media private equity fund also obtains an additional loan from an accredited financial institution or other approved lending market.

(i) The loan shall be issued consistent with guidelines for the initiation of a loan and the terms of the loan under this subsection approved by the fund board.

(j) Fifty percent of any earnings on a loan under this subsection shall be deposited in the investment fund and the remainder of the earnings shall be deposited in the Michigan film promotion fund created under chapter 2A. One hundred percent of principal repaid under this subsection shall be deposited in the investment fund upon repayment.

(6) As a separate and distinct part of the loan enhancement program, the fund shall operate the choose Michigan fund program to invest in loans from the investment fund to a qualified business. The choose Michigan fund program shall operate on an incentive basis and shall provide loans to qualified businesses to promote and enhance significant job creation or retention within this state. The choose Michigan fund shall not make a loan under this subsection after September 30, 2009. Notwithstanding any requirement imposed by the fund before April 1, 2008, to receive a loan under this subsection, the fund board may or may not require a qualified business to obtain an additional loan from an accredited financial institution or other approved lending market to obtain a loan under this subsection. At the discretion of the fund board, not more than 3 loans provided through the choose Michigan fund may be forgivable. A loan issued under this subsection is subject to all of the following requirements:

(a) A loan shall be provided at an interest rate of not less than 1%.

(b) The minimum amount of a loan under this subsection is $500,000.00.

(c) The maximum term of a loan under this subsection is 10 years, including up to 3 years of deferred principal payments to align principal payments with receipt of any primary incentives, as determined by the fund board.

(d) Except as provided in subdivision (g), the qualified business is responsible for repayment of the loan regardless of any primary incentives received.

(e) The qualified business is responsible for loan preparation and closing costs.

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(f) The loan shall be issued consistent with guidelines for the initiation of a loan and the terms of the loan under this subsection approved by the fund board.

(g) A loan under this subsection may be converted to an equity investment by the fund board.

(h) The loan shall be subject to repayment provisions. If the loan is with a qualified business that closes down or relocates outside of Michigan anytime within 3 years after the term of the loan, then the provisions of the loan shall also include, at a minimum, immediate repayment of any outstanding principal, payment of a default interest rate, and repayment of any amounts forgiven.

(i) In determining whether to forgive all or a portion of a loan to a qualified business, the fund shall consider the net economic impact of the project on the state's economy. The loan agreement between the fund and the qualified business shall clearly enumerate the terms, conditions and requirements under which all or a portion of the loan may be forgiven, including, but not limited to, job creation and investment in this state.

(7) As used in this section:

(a) "Below the line crew" means that term as defined under section 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1459.

(b) "Eligible production company" means that term as defined under section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455.

(c) "Film and digital media private equity fund" means any limited partnership, limited liability company, or corporation organized and operating in the United States that satisfies all of the following:

(*i*) Has as its primary business activity the investment of funds in return for equity in qualified productions.

(*ii*) Holds out the prospect for capital appreciation from the investments.

(*iii*) Accepts investments only from accredited investors as that term is defined in section 2 of the federal securities act of 1963 and rules promulgated under that act.

(d) "Investment advisory committee" means the committee created within the department under section 91 of the executive organization act of 1965, 1965 PA 380, MCL 16.191.

(e) "Michigan film office" means the office created under chapter 2A.

(f) "Primary incentive" means a tax credit an eligible production company is eligible to receive under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, or under sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459.

(g) "Qualified production" means that term as defined under section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455.

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005;—Am. 2008, Act 80, Imd. Eff. Apr. 8, 2008;—Am. 2008, Act 223, Imd. Eff. July 16, 2008;—Am. 2008, Act 571, Imd. Eff. Jan. 16, 2009.

Popular name: Strategic Fund

125.2088e Private equity investment program.

Sec. 88e. When creating programs for 21st century investments under this chapter, the fund shall create and operate a private equity investment program. The fund board shall authorize investments only in or alongside a qualified private equity fund. The private equity investment program shall do all of the following:

(a) Provide that the return on investment that is sought is greater than the return on investment under the commercial loan portion of the loan enhancement program to reflect the greater risk.

(b) Provide that the qualified private equity fund will have an amount at risk greater than the fund's investment.

(c) Provide that a qualified private equity fund is not eligible to participate in a private equity investment program unless it operates a business development office in this state staffed with at least 1 full-time equivalent employee who is actively seeking opportunities for investments in businesses located in this state unless the investment opportunity requested by the qualified private equity fund is targeted to a specific transaction that will save jobs and will not occur without the fund's investment as determined by the fund board.

(d) Provide that a qualified private equity fund is not eligible to participate in a private equity investment program unless it agrees to make investments in this state at a percentage rate that is not less than the percentage rate that the fund's investment in the qualified private equity fund bears to the total amount in the qualified private equity fund.

(e) Provide that a qualified private equity fund is not eligible to participate in a private equity investment program if its investment strategy provides for the breakup and liquidation of businesses. The fund board shall make sure that the agreements with a private equity fund have the appropriate provisions to prohibit the actions described in this subdivision.

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005.

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Popular name: Strategic Fund

125.2088f Venture capital investment program.

Sec. 88f. When creating programs for 21st century investments under this chapter, the fund shall create and operate the venture capital investment program. The fund board shall authorize investments that shall invest only in or alongside a qualified venture capital fund that invests primarily in early stage businesses. The venture capital investment program shall do all of the following:

(a) Provide that the return on investment that is sought is greater than the return on investment under the commercial loan portion of the loan enhancement program to reflect the greater risk.

(b) Provide that the qualified venture capital fund will have an amount at risk greater than the fund's investment.

(c) Provide that a qualified venture capital fund is not eligible to participate in a venture capital investment program unless it operates a business development office in this state staffed with at least 1 full-time equivalent employee who is actively seeking opportunities for venture capital investments in businesses located in this state unless the investment opportunity requested by the qualified venture capital fund is targeted to a specific transaction involving a competitive edge technology that will not occur without the fund's investment as determined by the fund board.

(d) Provide that a qualified venture capital fund is not eligible to participate in a venture capital investment program unless it agrees to make venture capital investments in this state at a percentage rate that is not less than the percentage rate that the fund's investment in the qualified venture capital fund bears to the total amount in the qualified venture capital fund.

(e) Provide that a qualified venture capital fund is not eligible to participate in a venture capital investment program if its investment strategy provides for the breakup and liquidation of businesses. The fund board shall make sure that the agreements with a venture capital fund have the appropriate provisions to prohibit the actions described in this subdivision.

(f) Coordinate with the Michigan early stage venture investment fund as defined in section 3 of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2233, to ensure that a continuum of venture capital is available in this state.

(g) Provide that 80% of the funds allocated to a venture capital investment program shall focus on competitive edge technologies.

(h) Provide that a qualified venture capital fund may make follow-up investments that were eligible for investment at the time of initial investment but that subsequently may not be characterized as an investment in an early stage business.

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund

125.2088g Mezzanine investment program.

Sec. 88g. When creating programs for 21st century investments under this chapter, the fund shall create and operate a mezzanine investment program. The fund board shall authorize investments in or alongside a qualified mezzanine fund under a mezzanine investment program providing for all of the following:

(a) That the return on investment that is sought is greater than the return on investment under the commercial loan portion of the loan enhancement program to reflect the greater risk.

(b) That the qualified mezzanine fund will have an amount at risk greater than the fund's investment.

(c) That a qualified mezzanine fund is not eligible to participate in a mezzanine investment program unless it operates a business development office in this state staffed with at least 1 full-time equivalent employee who is actively seeking opportunities for mezzanine investments in businesses located in this state.

(d) That a qualified mezzanine fund is not eligible to participate in a mezzanine investment program unless it agrees to make mezzanine investments in this state at a percentage rate that is not less than the percentage rate that the fund's investment in the qualified mezzanine fund bears to the total amount in the qualified mezzanine fund.

(e) That a qualified mezzanine fund is not eligible to participate in a mezzanine investment program if its investment strategy provides for the breakup and liquidation of businesses. The fund board shall make sure that the agreements with a qualified mezzanine fund have the appropriate provisions to prohibit the actions described in this subdivision.

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund

125.2088h Investment fund; creation; duties.

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Sec. 88h. (1) The jobs for Michigan investment fund is created within the fund as a permanent fund authorized by section 19 of article IX of the state constitution of 1963. Money in the investment fund at the close of the fiscal year shall remain in the investment fund and shall not lapse to the general fund. Money in the investment fund shall not be transferred to another governmental entity or a separate legal entity and public body corporate established under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, except as authorized in this chapter.

(2) Money or other assets deposited in the investment fund shall be held as permanent funds as provided under section 19 of article IX of the state constitution of 1963 and invested only as authorized under this chapter, including, but not limited to, investments in the stock of a company, association, or corporation.

(3) The investment fund shall be invested as authorized under this chapter for the benefit of the people of the state of Michigan and for the purpose of creating incentives for the following in this state:

(a) Diversifying the economy.

(b) Retaining or creating jobs.

(c) Increasing capital investment activity.

(d) Increasing commercial lending activity.

(e) Encouraging the development and commercialization of competitive edge technologies.

(4) Funds or other assets of the investment fund also may be invested in debt instruments or debt obligations for loans or guarantees authorized under this chapter.

(5) The investment fund shall consist of all of the following:

(a) Any funds appropriated to, transferred to, or deposited in the investment fund from the 21st century jobs trust fund under the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.256.

(b) Earnings, royalties, return on investments, return of principal, payments made, or other money received by or payable to the fund under agreements related to grants, loans, investments, or expenditures by the fund under this chapter.

(c) Assets, property, money, earnings, royalties, return on investments, return of principal, payments made, or other money owed, received by, or payable to the fund or the Michigan economic development corporation under agreements related to grants, loans, investments, or other payments funded by appropriations from the state general fund or tobacco settlement revenue under 1 or more of the following:

(*i*) Section 418 of 1999 PA 120, commonly known as the health and aging research and development initiative or the Michigan life sciences corridor initiative, or any successor program.

(*ii*) Section 410 of 2000 PA 292, commonly known as the health and aging research and development initiative or the Michigan life sciences corridor initiative, or any successor program.

(*iii*) Section 410 of 2001 PA 80, commonly known as the health and aging research and development initiative or the Michigan life sciences corridor initiative, or any successor program.

(*iv*) Section 410 of 2002 PA 517, commonly known as the Michigan life sciences corridor initiative, or any successor program.

(*v*) Section 410 of 2003 PA 169, commonly known as the Michigan life sciences and technology tri-corridor initiative, or any successor program.

(*vi*) Section 510 of 2004 PA 354, commonly known as the Michigan technology tri-corridor and life sciences initiative, or any successor program.

(*vii*) Section 801 of 2005 PA 11, commonly known as the technology tri-corridor and life sciences initiative, or any successor program.

(*viii*) Section 381(1)(c) of 2003 PA 173, providing for payments to the life sciences commercial development fund.

(d) Money or assets received by the state treasurer or the fund from any source for deposit in the investment fund.

(e) Interest and earnings on any funds or other assets deposited in the investment fund or other net income of the investment fund.

(6) The net income of the investment fund may be expended by the fund only for purposes authorized under this chapter pursuant to an appropriation authorized by law. As used in this section, the net income of the investment fund shall be computed annually as of the last day of the state fiscal year in accordance with generally accepted accounting principles, excluding any unrealized gains or losses.

(7) The fund board shall be the trustees of the investment fund and shall direct the investment and reinvestment of the funds and assets of the investment fund as provided under, and consistent with the objectives of, this chapter.

(8) The fund board may establish restricted subaccounts within the investment fund as necessary to administer the investment fund. The fund board may contract with the state treasurer to assist the fund board in administering the investment fund. The fund board may authorize money in the investment fund not

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invested as authorized under sections 88d, 88e, 88f, and 88g to be managed by the state treasurer as part of the common cash fund of this state under 1967 PA 55, MCL 12.51 to 12.53. Money managed by the state treasurer under this subsection shall be separately accounted for by the state treasurer. When authorized under this subsection, the state treasurer may invest the funds or assets of the investment fund in any investment authorized under 1855 PA 105, MCL 21.141 to 21.147, for surplus funds of this state, in obligations issued by any state or political subdivision or instrumentality of the United States, or in any obligation issued, assumed, or guaranteed by a solvent entity created or existing under the laws of the United States or of any state, district, or territory of the United States, which are not in default as to principal or interest.

(9) A member of the fund board or officer of the fund shall not gain from any investment of funds or assets of the investment fund. A member of the fund board or officer of the fund shall not have any direct or indirect interest in an investment of funds or assets of the investment fund. A member of the fund board or person connected with the investment fund directly or indirectly, for himself or herself, or as an agent or partner of others, shall not borrow any of the funds or assets of the investment fund or in any manner use funds or assets of the investment fund except as authorized under this chapter. A member of the fund board or officer of the fund shall not become an endorser or surety or become in any manner an obligor for money loaned by or borrowed from the investment fund. Failure to comply with this subsection constitutes misconduct in office subject to removal under section 94.

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund

125.2088i Office of chief compliance officer.

Sec. 88i. (1) The office of the chief compliance officer is created within the fund. The office shall exercise its powers and duties under this section independently of the fund.

(2) The office shall assist the fund board with the creation, implementation, monitoring, and enforcement of policies and procedures to prevent illegal, unethical, or improper conduct on the part of fund board members, commercialization board members and employees, or agents of the fund board and commercialization board in carrying out their duties under this chapter.

(3) The principal executive officer of the office is the chief compliance officer. The state administrative board shall be the appointing authority of the chief compliance officer.

(4) A person may not interfere with, prevent, or prohibit the chief compliance officer from carrying out his or her duties as established in this section and set by the state administrative board. The chief compliance officer is an employee for purposes of the whistleblowers' protection act, 1980 PA 469, MCL 15.361 to 15.369.

(5) All departments, state agencies, committees, commissioners, or officers of this state, the MEDC, and any political subdivision of this state, so far as is compatible with their duties, shall give the chief compliance officer any necessary assistance required by the chief compliance officer in the performance of the duties of the chief compliance officer. All departments, state agencies, committees, commissioners, or officers of this state, the MEDC, and any political subdivision of this state shall provide the chief compliance officer free access to any book, record, or document in their custody, relating to the matters within the scope of the chief compliance officer in the performance of his or her duties.

(6) The chief compliance officer shall do all of the following:

(a) Recommend policies and procedures, including, but not limited to, a conflict of interest policy, an investment policy, and an ethics policy to the fund board and the commercialization board that shall protect the state's assets consistent with the requirements of this chapter and applicable state and federal law. The chief compliance officer shall also assist in the design of the policies and procedures that will prevent violations from occurring, detect violations that have occurred, and correct such violations promptly.

(b) Assist employees and agents of the board and the commercialization board to ensure that they are in compliance with internal policies and procedures and with applicable state and federal law.

(c) Provide guidance to the board, the commercialization board, and employees of the board and the commercialization board on matters related to compliance with internal policies and procedures and with applicable state and federal law.

(d) Make recommendations to the board, the commercialization board, and employees of the board and the commercialization board regarding the appropriate evaluation, investigation, and resolution of issues and concerns regarding compliance with internal policies and procedures and with applicable state and federal law.

(e) Review and evaluate compliance with internal policies and procedures and with applicable state and federal law.

(f) Cooperate with the office of the auditor general as the auditor general carries out his or her duties.

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(g) Report quarterly to the fund board and the state administrative board regarding compliance with internal policies and procedures and with applicable state and federal law.

(h) Contact persons receiving awards, investments, grants, and loans under this chapter to the extent necessary to carry out responsibilities under this chapter.

(i) Prepare a written annual report that evaluates compliance with internal policies and procedures and with applicable state and federal law, explains any compliance matters that arose during the previous year, and suggests revisions to agency policies and procedures. Copies of the report shall be provided to the governor, the clerk of the house of representatives, the secretary of the senate, the chairpersons of the senate and house of representatives committees on commerce, and the chairpersons of the senate and house of representatives committees on appropriations. The annual report shall also be published on the fund's internet website.

(j) Do all other things necessary to carry out the chief compliance officer's responsibilities under this section.

(7) As used in this section, "office" means the office of the chief compliance officer.

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund

125.2088j Disbursements.

Sec. 88j. (1) Upon request from the fund board, the state treasurer shall transfer appropriated funds from the 21st century jobs trust fund to the fund in the amounts designated by the fund board at the time and as necessary to fund disbursements or reserves required for programs or activities authorized under this chapter or to fund investments authorized by the fund board from the investment fund. Funds appropriated or transferred to the fund shall not be transferred to another governmental entity or a separate legal entity and public body corporate established under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, except as authorized under this chapter.

(2) For the fiscal year ending September 30, 2006, there is appropriated and transferred from the 21st century jobs trust fund to the fund $400,000,000.00 for the purposes of carrying out the purposes of this chapter.

(3) From the funds appropriated and transferred in subsection (2), the fund shall make the following commitments, dispersible as provided in subsection (1):

(a) $26,000,000.00 as a grant to the Michigan forest finance authority for purposes under part 505 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.50501 to 324.50522. The money shall be spent only as provided by the Michigan forest finance authority.

(b) $10,000,000.00, up to 1/2 in loans, to support the development and creation of a defense contract coordination center program to assist Michigan companies in securing more federal defense and homeland security procurement contracts. This program shall include, but is not limited to, providing low-interest rate loans to support the expansion of manufacturing operations in order to fulfill federal procurement contracts. The loan repayments shall return to the investment fund.

(c) $4,000,000.00 as follows:

(*i*) $3,000,000.00 for a private research institute that has received a specific federal appropriation prior to 2005 for the creation of a good manufacturing facility. The facility shall be used for the production of drugs approved for use in clinical trials, as approved by the United States food and drug administration, and shall work to market the core technology alliance for the purposes of commercialization and providing access to advanced technologies to researchers affiliated with universities, private research institutes, and biotech and pharmaceutical firms.

(d) $6,000,000.00 for an automotive technology business accelerator to provide for the research, development, and commercialization of innovative technologies and products. The funds shall be used to support international business development, encourage development of competitive edge technologies through the creation of early stage seed funds, and support the outreach and growth of technology based businesses and professionals.

(e) $2,000,000.00 for the Michigan film office to promote the filming of motion pictures in this state. No funds may be used to promote the filming of a motion picture that depicts obscene matter or an obscene performance. As used in this subdivision, "obscene matter or an obscene performance" means obscene material, the dissemination of which is a violation of 1984 PA 343, MCL 752.361 to 752.374. The Michigan film office created under section 21 of the history, arts, and libraries act, 2001 PA 63, MCL 399.721, shall use the funds in the following manner:

(*i*) To hire an independent firm to conduct a baseline study that will accurately demonstrate Michigan's status within the film industry and include recommendations of necessary improvements for Michigan to attract motion pictures.

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(*ii*) To market and promote Michigan as a premiere location for filming motion pictures, commercials, and documentaries. Marketing and promoting include, but are not limited to, website development, promotional and research expenses, event and festival sponsorship, and advertising.

(*iii*) Assist in workforce development within the film industry by supporting on-the-job training of qualified crew members. Job training of film and media technicians includes, but is not limited to, technical training, practical training, and internship opportunities.

(f) $2,000,000.00 to implement the transfer of competitive edge technology research from institutions of higher education to the private sector as provided in this chapter.

(g) $15,000,000.00 for a Michigan promotion program to enhance funding beyond that included in the annual appropriation for travel Michigan to attract additional tourism expenditures in this state. No funds may be used for any tourism marketing effort that includes the image of an elected state officer or a candidate for elective state office that is targeted to a media market in Michigan.

(h) $10,000,000.00 to the agricultural development fund created in section 2 of the Julian-Stille value-added act, 2000 PA 322, MCL 285.302, for grants and loans. The money shall not be spent until after April 1, 2006. As used in this subdivision, "specialty crop" means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

(i) $3,500,000.00 to implement the capital access program.

(j) $90,000,000.00 for life sciences technology as provided in this chapter.

(4) $16,000,000.00 of the appropriation made in subsection (2) may be expended for administrative costs related to the administration of programs or activities authorized under this chapter. However, the fund and the fund board shall not expend more than $12,000,000.00 for administration of programs or activities authorized under this chapter unless the fund board by a 2/3 vote authorizes the additional $4,000,000.00 for administration.

(5) $20,000,000.00 of the appropriation made in subsection (2) may be expended for business development and business marketing costs. Not less than 80% of the funds committed for business development and business marketing costs shall be targeted to persons or entities outside of this state. No funds shall be used for any business development and business marketing effort that includes a reference to or the image or voice of an elected state officer or a candidate for elective state office and that is targeted to a media market in this state. The fund board shall select all vendors for all marketing expenditures under this chapter by issuing a request for proposal. At a minimum, the request for proposal shall require the responding entities to disclose any conflict of interest, disclose any criminal convictions, disclose any investigations by the internal revenue service or any other federal or state taxing body or court, disclose any pertinent litigation regarding the conduct of the entity, and maintain records and evidence pertaining to work performed. The fund board shall establish a standard process to evaluate proposals submitted as a result of a request for proposal and appoint a committee to review the proposals.

(6) Following the disbursements described in subsections (3), (4), and (5), the remaining money shall be allocated pursuant to section 88b(1).

(7) The appropriation authorized in subsection (2) is a work project appropriation and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to provide substantial economic benefits and job creation within this state and to create incentives for the diversification of the economy of this state through 21st century investments, grants and loans approved by the commercialization board under section 88k, and other programs or activities authorized under this chapter.

(b) The work project will be accomplished through the use of interagency agreements, grants, loans, investments, state employees, and contracts.

(c) The total estimated completion cost of the work project is $400,000,000.00.

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005.

Compiler's note: Subparagraph (3)(c)(*ii*), as added by 2005 PA 225, and which read "$1,000,000.00 to the core technology alliance to implement and fund a grant program for early drug discoveries." was vetoed by the governor November 21, 2005.

The second sentence of subdivision (3)(h), as added by 2005 PA 225, and which read "Not less than $5,000,000.00 shall be awarded as specialty crop grants and loans.", was vetoed by the governor November 21, 2005.

Popular name: Strategic Fund

125.2088k Strategic economic investment and commercialization board; creation; powers, duties, and authority; award of grants and loans; duties of fund; standards for expenditures of money; prohibited expenditures; reasons for selection of grant recipient; resolution establishing or changing program; notice.

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Sec. 88k. (1) The strategic economic investment and commercialization board is created within the fund. The commercialization board shall exercise its powers, duties, and decision-making authority under this chapter independently of the fund, the fund board, and the department of treasury.

(2) The commercialization board shall award grants and loans from the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.256, and the investment fund only for basic research, applied research, university technology transfer, and commercialization of products, processes, and services to encourage the development of competitive edge technologies to create jobs in this state.

(3) Subject to subsection (2), the fund as determined by the commercialization board shall do all of the following:

(a) Establish a competitive process to award grants and make loans for competitive edge technologies. The competitive process shall include, but is not limited to, the following:

(*i*) A provision that the applications must be peer-reviewed by independent peer review experts based on the scientific and technical merit, personnel expertise, commercial merit, and the ability to leverage additional funding of the application. Scientific and technical merit, personnel expertise, commercial merit, and the ability to leverage additional funding shall be given equal weight in the review and scoring process.

(*ii*) A preference for proposals that can contribute to the development of economic diversification or the creation of employment opportunities in this state.

(*iii*) A provision that out-of-state business must have a significant existing or proposed business presence in this state.

(*iv*) A provision that the program will utilize contracts with measurable milestones, clear objectives, provisions to revoke awards for breach of contract, and repayment provisions for loans given to qualified businesses that leave Michigan within 3 years of the execution of the contract or otherwise breach the terms of the contract.

(*v*) A provision that the applicant leverage other resources as a condition of the grant or loan. If an applicant is seeking a grant or a loan under this chapter to match federal funds for small business innovation research or small business technology transfer programs, the grant or loan under this chapter shall not exceed 25% of the federal funds and must leverage third-party commercialization funding at both the phase I and phase II levels.

(*vi*) Limit overhead rates for recipients of grants and loans to reflect actual overhead but not greater than 15% of the grant or loan.

(*vii*) Except as provided in subparagraph (*v*), a provision that grants can only be awarded to Michigan institutions of higher education, Michigan nonprofit research institutions, and Michigan nonprofit corporations.

(*viii*) A preference for collaborations between institutions of higher education, Michigan nonprofit research institutions, Michigan nonprofit corporations, and qualified businesses.

(*ix*) A provision authorizing the award of grants to institutions of higher education to serve as match to promote or secure the award and receipt of competitively awarded federal research grants related to competitive edge technologies. A matching grant shall not exceed 10% of the amount of the competitively awarded federal research grants received.

(*x*) A provision encouraging the redevelopment of existing scientific wet lab space for the commercialization of life science technology.

(*xi*) A preference for proposals that meet 1 or more of the following:

(A) Forecast revenues within 2 years.

(B) Have outside investments from investors with experience and management teams with experience in the industry targeted by the proposal.

(C) Have outside directors with expertise in the industry targeted by the proposal.

(b) The fund shall contract with independent peer review experts selected by the commercialization board to assist the commercialization board with its responsibilities under this chapter.

(4) The commercialization board shall establish standards to ensure that money expended under this chapter will result in economic benefit to this state and ensure that a major share of the business activity resulting from the expenditures occurs in this state.

(5) The commercialization board shall ensure that a recipient of money expended under this chapter agrees as a condition of receiving the money not to use the money for any of the following:

(a) The development of a stadium or arena for use by a professional sports team.

(b) The development of a casino regulated by this state under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, a casino at which gaming is conducted under the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467, or property associated or affiliated with the operation of either type of casino described in this subdivision, including, but not limited to, a parking lot,

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hotel, motel, or retail store.

(6) The commercialization board shall establish requirements to ensure that money expended under this section shall not be used for any of the following:

(a) Grants or loans to a person who has been convicted of a criminal offense incident to the application for or performance of a state contract or subcontract. As used in this subdivision, if a person is a business entity, then person includes affiliates, subsidiaries, officers, directors, managerial employees, and any person who, directly or indirectly, holds a pecuniary interest in that business entity of 20% or more.

(b) Grants or loans to a person who has been convicted of a criminal offense, or held liable in a civil proceeding, that negatively reflects on the person's business integrity, based on a finding of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or violation of state or federal antitrust statutes. As used in this subdivision, if a person is a business entity, then person includes affiliates, subsidiaries, officers, directors, managerial employees, and any person who, directly or indirectly, holds a pecuniary interest in that business entity of 20% or more.

(c) Grants or loans to induce a qualified business or a small business to leave this state.

(d) Grants or loans that would contribute to the violation of internationally recognized workers rights, as defined in section 507(4) of the trade act of 1974, 19 USC 2467(4), of workers in a country other than the United States, including any designated zone or area in that country.

(e) Grants or loans to a corporation or an affiliate of the corporation incorporated in a tax haven country after September 11, 2001, but with the United States as the principal market for the public trading of the corporation's stock. As used in this section, "tax haven country" includes a country with tax laws that facilitate avoidance by a corporation or an affiliate of the corporation of United States tax obligations, including Barbados, Bermuda, British Virgin Islands, Cayman Islands, Commonwealth of the Bahamas, Cyprus, Gibraltar, Isle of Man, the Principality of Liechtenstein, the Principality of Monaco, and the Republic of the Seychelles.

(7) When the commercialization board approves a grant or a loan under this chapter, the commercialization board shall state the specific objective reasons the applicant was selected over other applicants for a grant or loan under this chapter.

(8) After March 31, 2006, before adopting a resolution that establishes or substantially changes a program operated by the commercialization board, including any fees, charges, or penalties attached to that program, the commercialization board shall give notice of the proposed resolution to the governor, to the secretary of the senate, to the clerk of the house of representatives, to members of the senate and house of representatives standing committees on appropriations, and to each person who requested from the fund in writing or electronically to be notified regarding proposed resolutions. The notice and proposed resolution and all attachments shall be published on the fund's internet website. The commercialization board shall hold a public hearing not sooner than 14 days and not longer than 30 days from the date notice of a proposed resolution is given and offer a person an opportunity to present data, views, questions, and arguments. Commercialization board members or 1 or more persons designated by the commercialization board who have knowledge of the subject matter of the proposed resolution shall be present at the public hearing and shall participate in the discussion of the proposed resolution. The commercialization board may act on the proposed resolution no sooner than 14 days after the public hearing. The commercialization board shall produce a final decision document that describes the basis for its decision. The final resolution and all attachments and the decision document shall be provided to the governor, to the secretary of the senate, to the clerk of the house of representatives, and to members of the senate and house of representatives standing committees on appropriations and shall be published on the fund's internet website.

(9) The notice described in subsection (8) shall include all of the following:

(a) A copy of the proposed resolution and all attachments.

(b) A statement that the addressee may express any data, views, or arguments regarding the proposed resolution.

(c) The address to which written comments may be sent and the date by which comments must be mailed or electronically transmitted, which date shall not be before the date of the public hearing.

(d) The date, time, and place of the public hearing.

History: Add. 2005, Act 215, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund

125.2088/ Commercialization board; membership; appointment; terms; vacancy; chairperson, vice-chairperson, and secretary; oath of office; compensation; reimbursement for expenses; organization; quorum; business conducted at public

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meetings.

Sec. 88*l*. (1) The commercialization board shall consist of 19 members, as provided under subsections (2) and (3).

(2) The commercialization board shall include each of the 2 following voting ex officio members:

(a) The director of the department of labor and economic growth or his or her designee from within the department of labor and economic growth.

(b) The state treasurer or his or her designee from within the department of treasury.

(3) The commercialization board shall include the following 17 members appointed by the governor with, except for the individuals described in subdivisions (c) and (d), the advice and consent of the senate:

(a) Seven members representing business with expertise, knowledge, skill, or experience in venture capital investments, business finance, bringing competitive edge technology products to market, or representing a qualified business.

(b) A member representing the Van Andel institute, a Michigan charitable trust, MICS 13607, or a successor organization.

(c) One member appointed from a list of 2 or more individuals selected by the majority leader of the senate representing qualified businesses or persons with business, technological, or financial experience related to competitive edge technology.

(d) One member appointed from a list of 2 or more individuals selected by the speaker of the house of representatives representing qualified businesses or persons with business, technological, or financial experience related to competitive edge technology.

(e) A member representing Michigan state university.

(f) A member representing the university of Michigan.

(g) A member representing Wayne state university.

(h) A member representing western Michigan university.

(i) A member representing Michigan technological university.

(j) A member representing a public university in Michigan other than Michigan state university, the university of Michigan, Wayne state university, western Michigan university, or Michigan technological university.

(k) A member representing automation alley, a Michigan nonprofit corporation incorporated on May 21, 1998, or a successor organization.

(4) Of the members of the commercialization board initially appointed under subsection (3), 5 members shall be appointed for terms expiring on December 31, 2006, 5 members shall be appointed for terms expiring on December 31, 2007, 5 members shall be appointed for terms expiring on December 31, 2008, and 2 members shall be appointed for terms expiring on December 31, 2009. After the expiration of the initial appointment terms provided for by this subsection, members of the commercialization board shall be appointed for terms of 4 years.

(5) For members of the commercialization board appointed under subsection (3), a vacancy on the commercialization board occurring other than by expiration of a term shall be filled in the same manner as the original appointment for the balance of the unexpired term. A member of the commercialization board shall hold office until a successor has been appointed and qualified. A member of the commercialization board is eligible for reappointment. State employees are not eligible to serve as members appointed under subsection (3). As used in this subsection, "state employees" does not include an officer or employee of a state institution of higher education.

(6) The governor shall designate 1 of the members of the commercialization board to serve as its chairperson at the pleasure of the governor. The commercialization board shall select from among its members a member to serve as vice-chairperson and a member to serve as secretary.

(7) Upon appointment to the commercialization board under this section and upon the taking and filing of the constitutional oath of office prescribed in section 1 of article XI of the state constitution of 1963, a member shall enter the office and exercise the duties of the office.

(8) Members of the commercialization board shall serve without compensation, but may be reimbursed for actual and necessary expenses.

(9) Upon the initial appointment of members under this section, the commercialization board shall organize and adopt its own policies, procedures, schedule of regular meetings, and a regular meeting date, place, and time.

(10) The commercialization board may act only by resolution approved by a majority of commercialization board members appointed and serving. A majority of the members of the commercialization board appointed and serving shall constitute a quorum for the transaction of business. The commercialization board shall meet

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in person or by means of electronic communication devices that enable all participants in the meeting to communicate with each other.

(11) The commercialization board shall conduct all business at public meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of each meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and shall be published on the fund's internet website.

History: Add. 2005, Act 215, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund

125.2088m Member, employee, or agent of commercialization board; conduct.

Sec. 88m. (1) Notwithstanding section 3(1) of 1968 PA 317, MCL 15.323, members of the commercialization board are considered public servants subject to 1968 PA 317, MCL 15.321 to 15.330, and public officers subject to 1973 PA 196, MCL 15.341 to 15.348. An officer or an employee of a state institution of higher education may at the same time also hold the public office of member of the commercialization board as authorized under section 88*l*(3)(d) and the officer or employee shall not be deemed to hold 2 or more incompatible offices at the same time. A member of the commercialization board shall discharge the duties of the position in a nonpartisan manner, in good faith, in the best interests of this state, and with the degree of diligence, care, and skill that a fiduciary would exercise under similar circumstances in a like position. In discharging duties of the office, a member of the commercialization board when acting in good faith may rely upon the report of an independent expert or independent peer review expert or upon financial statements of the commercialization board represented to the member of the commercialization board by the officer of the commercialization board having charge of its books or accounts or stated in a written report by the auditor general.

(2) A member of the commercialization board shall not make or participate in making, or in any way attempt to use his or her position as a member of the commercialization board to influence, a matter before the fund board or the commercialization board regarding a loan, grant, or other expenditure under this chapter to his or her employer.

(3) An independent peer review expert shall not have any financial interest in a recipient of investment fund proceeds under this chapter.

(4) A member, employee, or agent of the commercialization board shall not engage in any conduct that constitutes a conflict of interest and shall immediately advise the commercialization board in writing of the details of any incident or circumstances that may present the existence of a conflict of interest with respect to the performance of the commercialization board-related work or duty of the member, employee, or agent of the commercialization board.

(5) A member of the commercialization board who has a conflict of interest related to any matter before the commercialization board shall disclose the conflict of interest before the commercialization board takes any action with respect to the matter, which disclosure shall become a part of the record of the commercialization board's official proceedings. The member with the conflict of interest shall refrain from doing all of the following with respect to the matter that is the basis of the conflict of interest:

(a) Voting in the commercialization board's proceedings related to the matter.

(b) Participating in the commercialization board's discussion of and deliberation on the matter.

(c) Being present at the meeting when the discussion, deliberation, and voting on the matter take place.

(d) Discussing the matter with any other commercialization board member.

(6) Failure of a member to comply with subsection (5) constitutes misconduct in office subject to removal under section 94.

(7) When authorizing expenditures and investments under this act, the commercialization board shall not consider whether a recipient has made a contribution or expenditure under the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

History: Add. 2005, Act 215, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund

125.2088n Audits; reports.

Sec. 88n. (1) In addition to any audit requirements under section 9, not later than May 1, 2007 and each subsequent May 1, the auditor general shall conduct and report a financial postaudit of the commercialization board, the fund, and the investment fund for the immediately preceding fiscal year. Not less than once every 3 years beginning not later than October 1, 2007, the auditor general shall conduct and report a performance postaudit of the commercialization board, the fund, and the investment fund. The results of the performance postaudit and the postaudit of financial transactions and accounts shall be published on the internet and

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disseminated by other means in a manner determined by the fund to advise the citizens of this state of the result of the audits. Copies of the audits shall be provided to the governor, the clerk of the house of representatives, the secretary of the senate, and the chairpersons of the senate and house of representatives standing committees on appropriations.

(2) The auditor general may employ an independent public accounting firm to conduct the audits described in this section. The costs of the auditor general or of the independent public accounting firm in conducting the audits described in this chapter shall be funded by money in the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.256, as provided in an appropriation. Prior to employing the services of an independent public accounting firm under this section, the auditor general shall require the entity to disclose any conflict of interest, criminal convictions, investigations by the internal revenue service or other federal or state taxing body or court, and any pertinent litigation regarding the conduct of the entity.

(3) All contracts approved by the fund for 21st century investments and all contracts approved by the commercialization board for grants or loans under this chapter shall contain a provision that the auditor general has access to the books and records, including financial records and all other information and data relevant to the terms of the contract related to the use of the grant, loan, or 21st century investment.

(4) If the fund board or the commercialization board has a reasonable belief that a breach of contract has occurred, the fund has the right to have the recipient's annual financial statements separately audited by an independent certified public accountant at its sole cost and expense. If the audit reveals that a breach of contract has occurred, the recipient shall reimburse the fund for the fees and expenses incurred to perform the audit.

(5) In addition to any reporting requirements under section 9, not later than March 31, 2007 and each subsequent March 31, the commercialization board and the fund shall report to the governor, the clerk of the house of representatives, the secretary of the senate, and the chairpersons of the senate and house of representatives standing committees on appropriations. The report shall contain all of the following for the immediately preceding fiscal year that are related to a grant or loan made by the fund as determined by the commercialization board:

(a) A list of entities that received funding, the amount received, and the type of funding.

(b) The number of new patents, copyrights, or trademarks applied for and issued.

(c) The number of new start-up businesses.

(d) The number of new jobs and projected new job growth.

(e) Amounts of other funds leveraged.

(f) Money or other revenue or property returned to the investment fund.

(g) The total number of new licensing agreements by institution and the number of new licensing agreements entered into with Michigan based firms.

(h) Products commercialized.

(6) Not later than March 31, 2007 and each subsequent March 31, the fund shall report to the governor, the clerk of the house of representatives, the secretary of the senate, and the chairpersons of the senate and house of representatives standing committees on appropriations. The report shall contain all of the following for the immediately preceding fiscal year that are related to a 21st century investment made by the fund board:

(a) A list of entities that received funding, the amount received, and the type of funding.

(b) The amount of qualified venture capital fund investments, qualified mezzanine fund investments, and qualified private equity fund investments under management in this state, including year-to-year growth.

(c) The value of loan enhancement program investments, qualified private equity fund investments, qualified mezzanine fund investments, and qualified venture capital investments in qualified businesses, including year-to-year growth.

(d) A statement of the amount of money received by or returned to the investment fund under this chapter.

(e) A statement of the loan enhancement activity of the fund board under this chapter.

(f) A statement of the amount of money in each loan reserve fund established under the small business capital access program required under this chapter.

(g) Any recommendations for needed changes and any other information the board believes would be of interest to the governor, the legislature, and the public.

(7) As a condition of receiving funding under this chapter, the fund shall require a recipient to agree to provide to the fund the information necessary for the fund to produce the reports required under this section.

History: Add. 2005, Act 215, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund

125.2088o Technology transfer acceleration program.

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Sec. 88o. The fund shall create and operate a program to accelerate technology transfer from Michigan's institutions of higher education to the private sector for commercialization of competitive edge technologies and bioeconomy technologies. The technology transfer acceleration program shall include all of the following:

(a) Encourage and work with the state's public universities to identify the commercial potential in advanced technologies from individual institutions of higher education.

(b) Facilitate the bundling of inventions from individual institutions of higher education into packages that could be of interest to private sector firms looking for commercialization opportunities.

(c) Encourage business formation efforts in institution of higher education technology transfer offices to increase the number of institution of higher education related start-up companies.

(d) Work with institutions of higher education in encouraging the institutions to provide their faculty with incentives for participating in technology transfer and commercialization activities.

(e) Facilitate the use of the applied research expertise within institutions of higher education by qualified businesses.

History: Add. 2005, Act 215, Imd. Eff. Nov. 21, 2005;—Am. 2008, Act 367, Imd. Eff. Dec. 23, 2008.

Popular name: Strategic Fund

125.2088p Michigan life sciences pipeline; establishment; purpose; commencement of operations; awards; selection of pipeline operator; request for proposals; contract; duration; report; "pipeline" defined.

Sec. 88p. (1) The fund shall establish a Michigan life sciences pipeline to promote the development of businesses in this state engaged in providing goods and services related to the development and commercialization of life sciences. The pipeline shall begin operations not later than June 1, 2006. The pipeline shall do all of the following:

(a) Recruit Michigan-based businesses involved in life sciences research and commercialization and related goods and services to affiliate themselves with the pipeline as members.

(b) Market the services of the pipeline, its members, and life sciences research and commercialization in Michigan to develop and increase the amount of business activity for members of the pipeline.

(c) Otherwise assist members of the pipeline in developing life sciences research and commercialization activities in this state.

(d) Maintain and make available a list of members of the pipeline and services provided by members of the pipeline.

(e) At the discretion of the pipeline, charge members of the pipeline a reasonable fee based on the services provided by the pipeline.

(2) The fund shall encourage a recipient of expenditures under this chapter engaged in the development or commercialization of life sciences in this state to utilize goods or services provided by a member or members of the pipeline.

(3) When making awards under the commercialization, research, and development program established by the commercialization board under section 88k to recipients engaged in the development or commercialization of life sciences in this state, the commercialization board shall provide additional weighting to an applicant that demonstrates a commitment to utilize or collaborate with a member or members of the pipeline when procuring goods or services, if the goods or services are reasonably available from a member or members of the pipeline.

(4) The fund shall select a person or entity to operate the pipeline by issuing a request for proposals. The person or entity selected to operate the pipeline shall demonstrate to the fund the proven ability to do all the following:

(a) Coordinate commercialization of life sciences research initiatives.

(b) Assist life sciences start-up companies.

(c) Market life sciences related activities and capabilities.

(d) Coordinate or operate programs that have a history of ongoing independent peer review.

(e) Have regulatory experience necessary for commercial approval of pharmaceutical and medical devices.

(f) Develop and implement a plan for operating the pipeline.

(5) The fund shall enter into a contract with a duration of not less than 4 years with the person or entity selected to operate the pipeline.

(6) Not later than 5 years after the effective date of the amendatory act that added this section, the person or entity selected to operate the pipeline shall report to the governor, the clerk of the house of representatives, the secretary of the senate, and the chairpersons of the house of representatives and senate standing

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committees on appropriations on the effectiveness of the pipeline in developing life sciences research and commercialization activities in this state.

(7) As used in this section, "pipeline" means the Michigan life sciences pipeline established in this section.

History: Add. 2005, Act 213, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund

125.2088q Centers of energy excellence program; creation; purpose; agreements; application; expenditures; limitation; use of funds; evaluation of applications; establishment of standard process; provisions to be included in agreement; selection of centers manager; duties; definitions.

Sec. 88q. (1) The fund may create and operate a centers of energy excellence program to promote the development, acceleration, and sustainability of energy excellence sectors in this state. The fund may enter into agreements with 1 or more qualified entities for the designation and operation of a center of energy excellence as provided in subsection (5). Prior to entering into an agreement under this section, 1 or more qualified entities may apply to the fund for an agreement for designation and operation of a center of energy excellence. The application shall be in a form determined by the fund and shall include information the fund determines necessary and appropriate.

(2) The fund board shall not expend more than $45,000,000.00 through fiscal year 2008-2009 and not more than $30,000,000.00 for fiscal year 2009-2010 through fiscal year 2010-2011 of the money appropriated for programs authorized under this chapter from the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, for the centers of energy excellence program. Grants given for the centers of energy excellence program shall only be awarded to for-profit companies for all of the following purposes:

(a) Providing up to a 1-for-1 match for federal funding of up to 50% of the total project costs.

(b) Supplementing in-kind contributions provided by a person or entity other than this state.

(c) Accelerating the commercialization of an innovative energy technology or process that will be ready to market within 3 years of the effective date of the agreement.

(d) Activities of the center, including, but not limited to, workforce development and technology demonstration.

(3) All of the funds allocated to the centers for energy excellence program shall be used to match federal funding. The fund board may authorize investment terms in qualified entities as part of any agreement as provided in subsection (5). Not more than 15% of any grant awarded can be used for administrative costs or overhead by the grantee or any subcontractor hired to implement any portion of the centers for energy excellence agreement. Grants authorized by this section shall be disbursed pursuant to a timeline and progress disbursement schedule included as part of an agreement under this section.

(4) The fund board shall establish a standard process to evaluate applications for an agreement under this section and shall appoint a committee of members of the fund board to assist in the review of applications. The fund or the fund board shall not appoint or designate any person paid or unpaid to a committee to review applications if that person has a conflict of interest with any potential applicants as determined by the office of the chief compliance officer established in section 88i. When determining whether to enter into an agreement under this section, the fund board shall consider all of the following:

(a) The potential that in the absence of an agreement the development, acceleration, and sustainability of energy excellence sectors addressed by the proposed center of energy excellence will occur in a location other than this state.

(b) The extent to which the proposed center of energy excellence will promote the development of energy excellence sectors in this state.

(c) The extent to which the proposed center of energy excellence will promote economic development or job creation in this state.

(d) The extent to which the proposed center of energy excellence could attract private investment or encourage commercialization in energy excellence sectors in this state.

(e) The extent to which the proposed center of energy excellence may leverage skills or resources in which this state possesses a competitive advantage, including, but not limited to, skills of workers, intellectual property, and natural resources.

(f) The extent to which the proposed center of energy excellence may encourage collaboration on commercialization and technology transfer among qualified entities in this state.

(g) The extent to which the proposed center of energy excellence may attract additional federal funding to this state or persons or entities within this state.

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(h) The financial viability of the proposed center of energy excellence and the proposed business plan for the center of energy excellence, including, but not limited to, commitments of financial and other support for the proposed center and the potential availability of federal funding for the proposed center.

(i) The financial resources available to the fund board for operation of the centers of energy excellence program under this section.

(j) Any recommendations from the centers manager selected under subsection (6).

(5) If the fund board enters into an agreement with 1 or more qualified entities for the operation of a center of energy excellence, the agreement shall include participation by at least 1 qualified business and at least 1 institution of higher education or a national laboratory. An agreement shall include, but is not limited to, all of the following:

(a) The roles and responsibilities of the fund and the qualified entities participating in the agreement.

(b) A governance structure for the center of energy excellence. The agreement may provide for representation of the fund in the governance of the center.

(c) The responsibilities of the fund and the qualified entities participating in the agreement, including, but not limited to, financial resources, technology, real property, personal property, or other resources contributed by the parties to the agreement.

(d) A commitment by the qualified entities participating in the agreement to collaborate on commercialization and technology transfer opportunities in energy excellence sectors in this state.

(e) A commitment by qualified entities that are institutions of higher education to provide incentives for faculty who participate in technology transfer and commercialization activities in energy excellence sectors and expansion of business formation efforts related to energy excellence sectors to increase the number of institution of higher education related start-up companies.

(f) A commitment to locate and retain commercialization opportunities resulting from the agreement or center of energy excellence within this state.

(g) A business plan for the center of energy excellence that identifies clear and measurable objectives, timelines, and deliverables for the center.

(h) The duration of the agreement and a mechanism for the dissolution of the center of energy excellence and the disposition of any assets. The fund board may revoke an agreement for the designation and operation of a center of energy excellence if a qualified entity that is a party to the agreement does not comply with the agreement.

(i) Provision for repayment of grants from the fund in the event a qualified entity fails to comply with the agreement.

(6) The fund board may select a person or entity as a centers manager to assist the fund in the administration of the centers of energy excellence program authorized by this section. Costs associated with the administration of the centers of energy excellence program are subject to section 88b(5). The centers manager shall do all of the following as determined by the fund board:

(a) Provide administrative services related to the centers of energy excellence program.

(b) Act as contract manager on behalf of the fund for any agreement establishing a center of energy excellence under this section.

(c) Recommend to the fund board a plan for managing the centers of energy excellence program and implement any plan authorized by the fund board.

(d) Assist centers of energy excellence in developing a supply chain for energy excellence sectors.

(e) Evaluate and report to the fund board on the centers of energy excellence program and progress made toward commercialization of technology in energy excellence sectors in this state.

(f) Review applications submitted under subsection (1) and make recommendations to the fund board on the applications for approval of applications.

(g) Perform other functions related to the centers for energy excellence program authorized by this section as deemed necessary and appropriate by the fund board.

(7) As used in this section:

(a) "Centers manager" means a centers manager selected under subsection (6).

(b) "Energy excellence sectors" means new and developing industry sectors in the energy field in this state where the fund has determined the state has a competitive advantage and there are barriers to the commercialization of technology within the new and developing industry sector.

(c) "Energy field" means alternative energy technology, energy efficiency technology, technologies that contribute to energy security and independence, other advanced energy technologies, or water technology related to the development of energy excellence sectors.

(d) "Qualified entity" means a qualified business, an institution of higher education, a Michigan nonprofit corporation, a national laboratory, or a political subdivision of this state.

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History: Add. 2008, Act 175, Imd. Eff. July 8, 2008;—Am. 2009, Act 144, Imd. Eff. Nov. 13, 2009.

Popular name: Strategic Fund

CHAPTER 8B

125.2089 Legislative findings; intent; scope of activities.

Sec. 89. (1) The legislature finds and declares that the activities authorized under this chapter to promote this state and the creation of jobs in this state are a public purpose and of paramount concern in the interest of the health, safety, and general welfare of the citizens of this state. It is the intent of the legislature that the economic benefits and the creation of jobs resulting from this chapter shall accrue substantially within this state.

(2) Activities authorized under this chapter shall not be considered a project, economic development project, or a product assisted by the fund for purposes of chapter 1 or 2.

History: Add. 2008, Act 100, Imd. Eff. Apr. 18, 2008.

Popular name: Strategic Fund

125.2089a Michigan promotion program; establishment; tourism promotion explained; funding; use of appropriation provided from 21st century jobs trust fund.

Sec. 89a. (1) The board shall establish a Michigan promotion program to promote tourism in Michigan and pay business development and marketing costs to promote business development in Michigan. Tourism promotion shall include, but is not limited to, cultural, vacation, recreational, leisure, hunting-related, motor sports entertainment-related, and agriculture-related travel across this state that includes activities that promote tourism in all 4 seasons.

(2) The funding provided under this chapter for tourism promotion is intended to enhance funding beyond that included in the annual appropriation for travel Michigan to attract additional tourism expenditures and development of the tourism industry in this state.

(3) Not more than 4% of the annual appropriation as provided by law from the 21st century jobs trust fund established in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may be used for the purpose of administering the program authorized under this chapter.

History: Add. 2008, Act 100, Imd. Eff. Apr. 18, 2008.

Popular name: Strategic Fund

125.2089b Michigan promotion program; appropriation and transfer of funds; appropriation as work project; carrying forward unencumbered or unallotted funds; compliance with MCL 18.1451a.

Sec. 89b. (1) For the fiscal year ending September 30, 2008, there is appropriated and transferred from the general fund to the 21st century jobs trust fund $60,000,000.00 and there is appropriated from the 21st century jobs trust fund to the fund $50,000,000.00 for carrying out the purposes of this chapter. Not more than 1/4 of the total amount appropriated from the net proceeds described in section 8(2) of the Michigan tobacco settlement finance authority act, 2005 PA 226, MCL 129.268, shall be used to promote business development in this state.

(2) Upon request from the board, the state treasurer shall transfer appropriated funds from the 21st century jobs trust fund established under section 7(1)(b) of the Michigan trust fund act, 2000 PA 489, MCL 12.257, in the amounts designated by the board at the time and as necessary to fund disbursements required for the Michigan promotion program.

(3) The appropriation authorized in subsection (1) is a work project appropriation and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to provide economic benefits and job creation within this state through the promotion of tourism.

(b) The work project will be accomplished through the use of interagency agreements, grants, state employees, and contracts.

(c) The total estimated completion cost of the project is $50,000,000.00.

(d) The expected completion date is December 31, 2010.

History: Add. 2008, Act 98, Imd. Eff. Apr. 18, 2008.

Popular name: Strategic Fund

125.2089c Selection of vendors; request for proposal; evaluation of proposals;

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establishment of standard process; appointment of committee to review proposals; use of funds; limitation.

Sec. 89c. (1) The fund board shall select vendors for Michigan promotion program expenditures under this chapter exceeding $250,000.00 by issuing a request for proposal. At a minimum, the request for proposal shall require the responding entities to disclose any conflict of interest, disclose any criminal convictions, disclose any investigations by the internal revenue service or any other federal or state taxing body or court, disclose any pertinent litigation regarding the conduct of the entity, and maintain records and evidence pertaining to work performed for at least 5 years. The fund board shall establish a standard process to evaluate proposals submitted as a result of a request for proposal and appoint a committee to review the proposals. Members of any committee or individuals working on behalf of the Michigan strategic fund, paid or unpaid, shall have no conflict of interest as determined by the office of the chief compliance officer established in section 88i. This subsection does not apply to a contract that was in existence on March 25, 2008 or to the extension of a contract in which the right to extend was in existence on or before March 25, 2008.

(2) Not less than 75% of the funds appropriated under this chapter shall be targeted to persons or entities outside of this state. No funds may be used for any Michigan promotion program effort that includes a reference to or the image or voice of an elected official, appointed state employee, state employee governed by a senior executive service limited term employment agreement, or a candidate for elective office, and that is targeted to a media market in this state.

History: Add. 2008, Act 98, Imd. Eff. Apr. 18, 2008.

Popular name: Strategic Fund

125.2089d Reports; mechanism to report return on investment for agriculture-related tourism; use of data to establish baseline.

Sec. 89d. (1) In addition to any reporting requirements under section 9, on or before April 15, 2009, and each succeeding April 15, the fund shall report to the senate and house appropriations subcommittees that have jurisdiction over economic development issues, the senate and house standing committees that have jurisdiction over economic development issues, and the senate and house fiscal agencies on the programs established in this chapter. The report shall include, but is not limited to, the following information:

(a) For tourism promotion efforts, all of the following:

(*i*) The amount spent for promotion outside of this state.

(*ii*) An itemized list by market of how much was spent, when the promotion occurred, the types of media purchased, and the type of tourism promoted, specifically cultural, vacation, recreational, leisure, hunting-related, or agriculture-related.

(*iii*) The return on investment analysis that utilizes existing baseline data and compares results with prior outcome evaluations funded by travel Michigan.

(b) For business development efforts, all of the following:

(*i*) The amount spent for business development outside of this state.

(*ii*) An itemized list by market of how much was spent, when the promotion occurred, and the types of media purchased.

(*iii*) A performance analysis that compares the program or campaign objectives and outcome of the campaign or program. Outcome measures may include, but are not limited to, businesses relocated to this state, impact on the business community's perception of the quality of life in this state, jobs created, increases in export sales, impact on the number of retailers carrying Michigan commodities, both within and outside of this state, and increased sales of Michigan products at chain grocers.

(2) The fund shall work with the department of agriculture to develop a mechanism to report the return on investment for agriculture-related tourism and compare results with prior outcome evaluations conducted by the department of agriculture if applicable.

(3) The fund shall ensure data reported on or before April 15, 2009 can be used to establish a baseline for future comparison.

History: Add. 2008, Act 98, Imd. Eff. Apr. 18, 2008.

Popular name: Strategic Fund

CHAPTER 9

125.2091 Liberal construction; broad interpretation.

Sec. 91. This act shall be construed liberally to effectuate the legislative intent and the purpose of the act as complete and independent authority for the performance of each and every act and thing authorized in the act and all powers granted in the act shall be broadly interpreted to effectuate such intent and purposes and not as

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to limitation of powers.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2092 Repeal of MCL 125.1701 to 125.1770 and MCL 125.1901 to 125.1934.

Sec. 92. The following acts and parts of acts are repealed:

(a) Effective upon the expiration of 180 days after the effective date of this act, Act No. 301 of the Public Acts of 1975, being sections 125.1701 to 125.1770 of the Michigan Compiled Laws.

(b) Effective upon the expiration of 180 days after the effective date of this act, Act No. 70 of the Public Acts of 1982, being sections 125.1901 to 125.1934 of the Michigan Compiled Laws.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2093 Severability.

Sec. 93. If any section, subsection, paragraph, clause, or provision of this act shall be adjudged unconstitutional or ineffective, no other section, subsection, paragraph, clause, or provision of this act shall on account thereof be deemed invalid or ineffective and the inapplicability or invalidity of any section, subsection, paragraph, clause, or provision of this act in any 1 or more instances or under any 1 or more circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance or under any other circumstance.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2094 Duties of governor.

Sec. 94. (1) The governor shall inquire into the administration of this act.

(2) The governor may remove or suspend any appointive public officer for violations of this act. The governor may request the MEDC to remove or suspend any MEDC corporate employee for violations of this act.

(3) The governor may remove or suspend any elective public officer for violation of this act that constitutes gross neglect of duty, corrupt conduct in office, misfeasance, or malfeasance.

(4) This section does not apply to any public officer of the legislative branch or the judicial branch of state government.

(5) The governor shall report the reasons for any removal or suspension under this section to the clerk of the house of representatives and the secretary of the senate.

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund

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ENTERPRISE ZONE ACT
Act 224 of 1985

AN ACT to promote economic growth within economically distressed local governmental units; to provide for the creation of enterprise zones; to provide for the creation of an enterprise zone authority; to prescribe the powers and duties of officials and agencies of the state and certain local governmental units; to provide for the establishment of citizens' councils and to prescribe their powers and duties; to authorize the levy and collection of specific taxes; and to provide qualifications for certification of and incentives for certain businesses located in enterprise zones.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986.

The People of the State of Michigan enact:

125.2101 Short title.

Sec. 1. This act shall be known and may be cited as the “enterprise zone act”.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986.

Compiler's note: For transfer of powers and duties of Michigan enterprise authority to the chief executive officer of Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

125.2102 Legislative findings.

Sec. 2. (1) The legislature finds that it is in the public interest to promote economic growth and to encourage private investment, job creation, and job upgrading for residents in local governmental units that are economically distressed.

(2) The legislature further finds that the present and future health, safety, right to gainful employment, business opportunities, and general welfare of the people of this state require, as a public purpose, that enterprise zones be created to encourage businesses to locate and expand in areas characterized by high unemployment, low income, high property tax rates, and blighted, obsolete, and underutilized residential, commercial, and industrial property.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986.

Compiler's note: For transfer of powers and duties of Michigan enterprise authority to the chief executive officer of Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

125.2103 Definitions.

Sec. 3. As used in this act:

(a) “Authority” means the Michigan enterprise zone authority created pursuant to section 4.

(b) “Citizens' council” means a council created pursuant to section 9 .

(c) “Comprehensive development plan” or “plan” means a physical improvement plan for an enterprise zone.

(d) “Enterprise zone” or “zone” means an area approved as an enterprise zone by the authority as provided in this act.

(e) “Facility” means real or personal industrial or commercial property located in an enterprise zone, excluding property used to provide rental housing.

(f) “General property tax act” means Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws.

(g) “Increased SEV” means the amount determined by subtracting the initial state equalized valuation of the property from the state equalized valuation of the property excluding the exemptions granted under this act.

(h) “Initial SEV” means the state equalized valuation of the property in the year immediately preceding the year in which the exemption granted under section 16 takes effect. For property exempted under section 20b, the initial SEV is 0.

(i) “Local governmental unit” means a city, village, or township.

(j) “New facility” means real or personal industrial or commercial property located in an enterprise zone, the construction, restoration, alteration, or renovation of which begins after the date on which the business applies with the local governmental unit for certification as a qualified business. Restoration, alteration, or renovation of existing property constitutes a new facility only if the increase in the combined true cash value of the restored, altered, or renovated real and personal property is equal to or greater than 50% of the combined true cash value of the real and personal property before restoration, alteration, or renovation as defined in the general property tax act, notwithstanding the exemptions granted by this act.

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(k) “Qualified business” means either of the following, as applicable:

(*i*) A qualified new business or a qualified existing business located in an enterprise zone created before 1994.

(*ii*) A business located in an enterprise zone created after 1993.

(*l*) “Qualified business activity” means business activity in an enterprise zone established before 1994 of a qualified existing business attributable to a new facility or the business activity in an enterprise zone established before 1994 of a qualified new business.

(m) “Qualified existing business” means a business that is located in the area comprising an enterprise zone at the time the area is approved as an enterprise zone, that constructs a new facility, and that is certified by the authority as meeting the requirements of this act.

(n) “Qualified new business” means a business located within an enterprise zone that is not located in the area comprising the enterprise zone on the date on which the authority approves the enterprise zone, and that is certified by the authority as meeting the requirements of this act.

(o) “Tax increment finance authority” means an authority established under Act No. 197 of the Public Acts of 1975, being sections 125.1651 to 125.1681 of the Michigan Compiled Laws; the tax increment finance authority act, Act No. 450 of the Public Acts of 1980, being sections 125.1801 to 125.1830 of the Michigan Compiled Laws; or the local development financing act, Act No. 281 of the Public Acts of 1986, being sections 125.2151 to 125.2174 of the Michigan Compiled Laws.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1990, Act 80, Imd. Eff. May 24, 1990;—Am. 1991, Act 185, Imd. Eff. Dec. 27, 1991;—Am. 1994, Act 311, Imd. Eff. July 20, 1994;—Am. 1996, Act 444, Imd. Eff. Dec. 19, 1996.

Compiler's note: Section 2 of Act 80 of 1990 provides: “This amendatory act applies to the 1990 tax year and tax years after the 1990 tax year.”

For transfer of powers and duties of Michigan enterprise authority to the chief executive officer of Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

125.2104 Michigan enterprise zone authority; creation; powers, duties, and functions; staff; appointment, qualifications, and terms of members; vacancy; designees; reimbursement of expenses.

Sec. 4. (1) The Michigan enterprise zone authority is created within the department of commerce. The authority shall exercise its powers, duties, and functions independently of the director of commerce as head of department of commerce. However, the department of commerce shall provide staff for the authority and shall carry out the administrative duties and functions as directed by the authority. The budgeting, procurement, and related functions of the authority shall be under the supervision of the director of commerce.

(2) The authority consists of the following 7 members:

(a) The director of the department of commerce, or the director's designee, as chairperson of the authority.

(b) The state treasurer or the treasurer's designee.

(c) Five other members appointed by the governor who have knowledge, skill, and experience in the academic, business, local government, labor, or financial fields.

(3) A member shall be appointed for a term of 4 years, except that of the members first appointed by the governor, 2 shall be appointed for a term of 2 years and 3 for a term of 4 years from the dates of their appointments. A vacancy shall be filled for the balance of the unexpired term in the same manner as an original appointment.

(4) The director of the department of commerce and the state treasurer each may appoint a designee to serve as a member of the authority in his or her absence. Except as otherwise provided by law, a member of the authority shall not receive compensation for services, but the authority may reimburse each member for expenses necessarily incurred in the performance of his or her duties.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1994, Act 311, Imd. Eff. July 20, 1994.

Compiler's note: For transfer of powers and duties of Michigan enterprise authority to the chief executive officer of Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

125.2105 Powers of authority vested in members; quorum; action by authority; meetings.

Sec. 5. (1) The powers of the authority shall be vested in the members in office. Regardless of the existence of a vacancy, a majority of the members of the authority constitutes a quorum necessary for the transaction of business at a meeting or the exercise of a power or function of the authority. Action may be taken by the authority at a meeting upon a vote of the majority of the members present.

(2) The authority shall meet at the call of the chairperson or as may be provided in the bylaws of the authority. Meetings of the authority may be held anywhere within the state.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986.

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Compiler's note: For transfer of powers and duties of Michigan enterprise authority to the chief executive officer of Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

125.2106 Powers and duties of authority generally.

Sec. 6. In addition to other powers and duties provided in this act, the authority shall administer this act and has all of the following powers and duties:

(a) To conduct a continuing evaluation program on enterprise zones.

(b) To promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, necessary to carry out the purposes of this act.

(c) To assist a qualified business in obtaining the benefits of an incentive or inducement program provided by law and the benefits of this act.

(d) To assist the citizens' council of an enterprise zone in obtaining assistance from any other agency of state government, including assistance in providing training and technical assistance to qualified businesses within an enterprise zone.

(e) To modify the boundaries of an enterprise zone if both of the following requirements are met:

(*i*) The property is within the corporate limits of the local governmental unit in which the enterprise zone is located. If the property is transferred to the local governmental unit in which the enterprise zone is located pursuant to a contract under Act No. 425 of the Public Acts of 1984, being sections 124.21 to 124.30 of the Michigan Compiled Laws, the transfer shall be from a local governmental unit for a period of 30 years or more, and the revenue received by the transferring local governmental unit under the contract shall be not more than that local governmental unit would have received based upon its millage rate.

(*ii*) The procedures described in sections 11 through 13 are followed.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1987, Act 15, Imd. Eff. Apr. 14, 1987;—Am. 1994, Act 311, Imd. Eff. July 20, 1994.

Compiler's note: For transfer of powers and duties of Michigan enterprise authority to the chief executive officer of Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

125.2107 Analysis of economic impacts of enterprise zones; presentation to legislative committees; development and implementation of recommendations.

Sec. 7. (1) Beginning October 1, 1996 and every 3 years after that date, the authority shall present an analysis of the economic impacts of each enterprise zone. This analysis shall be presented to the standing committees of the legislature concerned with economic development, local governmental units, and taxation for their consideration of enterprise zone feasibility.

(2) The department of treasury and a local governmental unit in which an enterprise zone was approved before 1994 shall jointly develop recommendations for the fiscal management of the local governmental unit, and the local governmental unit shall implement those recommendations.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1994, Act 311, Imd. Eff. July 20, 1994.

125.2108 Qualifying local governmental units.

Sec. 8. The authority shall determine which local governmental units qualify to apply to have enterprise zones approved within their boundaries. For an enterprise zone approved after 1993, a qualifying local governmental unit shall be a local governmental unit that has been designated an empowerment zone, rural enterprise community, or enterprise community by the United States department of housing and urban development or the United States department of agriculture.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1994, Act 311, Imd. Eff. July 20, 1994.

125.2109 Citizens' council for potential enterprise zone; establishment; appointment, qualifications, and terms of members; staff; administrative duties and functions.

Sec. 9. (1) If a local governmental unit qualifies under the criteria of section 8 and wishes to apply for approval of an enterprise zone within its boundaries, the local governmental unit shall establish a citizens' council for the potential enterprise zone. A local governmental unit shall have only 1 citizens' council regardless of the number of enterprise zones within its boundaries. The citizens' council shall consist of 11 individuals nominated by the chief elected official of the local governmental unit and approved by the governing body of the local governmental unit. In the selection of the citizens' council members, preference shall be given to persons who reside, are located, or are doing business in that local governmental unit.

(2) A member shall serve for a term of 3 years, except that of the members first appointed, 3 shall serve for 1 year, 4 for 2 years, and 4 for 3 years. A vacancy on the citizens' council shall be filled for the remainder of the unexpired term in the same manner as the original appointment. For a local governmental unit establishing

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an enterprise zone after 1993, the citizens' council shall consist of persons who live, work, own property, or own a business that owns property in the local governmental unit. For a local governmental unit that established an enterprise zone before 1994, the citizens' council shall consist of all of the following:

(a) A representative of financial institutions.

(b) A representative of business.

(c) A person with expertise in land use.

(d) A person with expertise in economic development.

(e) An educator.

(f) A representative of labor organizations.

(g) A representative of neighborhood associations.

(h) An attorney.

(i) A homeowner.

(j) Two elected officials representing the residents of the enterprise zone.

(3) The governing body of the local governmental unit shall provide staff for the citizens' council and shall carry out the administrative duties and functions as directed by that governing body.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1994, Act 311, Imd. Eff. July 20, 1994.

125.2110 Duties of citizens' council.

Sec. 10. A citizens' council shall perform all of the following duties:

(a) Advise the local governmental unit on all matters relating to enterprise zone activities.

(b) Advocate the promotion and development of business in the enterprise zone.

(c) Coordinate employer needs with available training programs and other services.

(d) Upon the request of a qualified business, assist in the recruitment of employees for existing or future jobs.

(e) Review each employer annually to ensure the employer's continuing status as a qualified business.

(f) Provide information, as requested, to the authority.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1994, Act 311, Imd. Eff. July 20, 1994.

125.2111 Adoption of ordinance establishing proposed enterprise zone; public hearing; notice; vote; boundaries.

Sec. 11. (1) Beginning in 1994, the governing body of the local governmental unit shall hold a public hearing on the adoption of an ordinance establishing the proposed enterprise zone. Notice of the public hearing shall be published twice in a newspaper of general circulation in the local governmental unit, not less than 20 or more than 40 days before the date of the hearing. Notice shall also be mailed to the property owners of record in the proposed enterprise zone not less than 20 days before the hearing. Failure to receive the notice does not invalidate the hearing. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed enterprise zone. A citizen, taxpayer, or property owner of the local governmental unit has the right to be heard in regard to the establishment of the enterprise zone and the proposed boundaries.

(2) After the public hearing required by subsection (2), if the governing body of the local governmental unit intends to proceed with the establishment of the enterprise zone, it shall adopt, by majority vote of its members elected and serving, an ordinance establishing the enterprise zone. The ordinance shall include the boundaries of the zone and a finding that the zone meets the requirements of this act.

(3) For an enterprise zone established after 1993, the boundaries of an enterprise zone established under this act shall be the same as the boundaries of the empowerment zone, rural enterprise community, or enterprise community.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1994, Act 311, Imd. Eff. July 20, 1994.

125.2112 Application to have area approved as enterprise zone; filing; form; contents.

Sec. 12. If a local governmental unit qualifies under section 8 and its governing body approves the boundaries of a proposed enterprise zone, the local governmental unit may file with the authority an application, in a form provided by the authority, to have the area approved as an enterprise zone. The application shall contain all of the following:

(a) A description of the commitment by the local governmental unit to improve the efficiency of the local services provided, such as transportation, road improvement or maintenance, police protection, and other similar services and a description of the additional services that will be provided as a result of the area being designated an enterprise zone.

(b) A statement of commitment to apply local ordinances relative to zoning, construction, and safety in a

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manner that preserves and protects the health, safety, and welfare of residents of the local governmental unit.

(c) A commitment that the local governmental unit's economic development and land use planning resources will be provided to private entities involved with the area proposed as an enterprise zone.

(d) Sufficient evidence for a determination of eligibility by the authority pursuant to section 13.

(e) A map showing the proposed enterprise zone boundaries and the present land use of the area, and information concerning the present physical condition of buildings within the area.

(f) A general description of how approval of the enterprise zone will improve physical conditions in the area, will induce private investment in the area by businesses and industries, and will create jobs in the proposed enterprise zone.

(g) Evidence of support for approval of the enterprise zone by residents and businesses located within the local governmental unit and within the proposed enterprise zone.

(h) The identification of an individual from the local governmental unit who will serve as an enterprise zone contact with the authority.

(i) A general description of the structure, application process, responsibilities, and authority that will be used to manage all zone-related activities, including, but not limited to, how the zone will be promoted and any governing organizations that will be employed to manage the operation of the zone.

(j) Other relevant information from the local governmental unit as required by the authority.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1994, Act 311, Imd. Eff. July 20, 1994.

125.2113 Review of application; approval or rejection; comprehensive development plan; contents; public hearing; notice; action by authority; spending tax revenue on physical improvements; revocation.

Sec. 13. (1) Upon receipt of an application from a local governmental unit, the authority shall review the application and, by resolution, shall approve or reject the application based upon criteria set forth in this act.

(2) If the authority rejects an application, the authority shall return the application to the local governmental unit along with the resolution of rejection that includes a statement of the reason for rejection. A local governmental unit may resubmit a rejected application.

(3) If the authority approves the application, the local governmental unit has 2 years from date of approval to prepare a comprehensive development plan for the enterprise zone. The comprehensive development plan shall address the needs of the zone and include a strategy for achieving the goals of the zone. The comprehensive development plan shall contain all of the following:

(a) A legal description of the enterprise zone, a description of the location and extent of existing streets and other public facilities within the zone, and a description of the location, character, and extent of the categories of public and private land uses existing and proposed for the enterprise zone, including residential, recreational, commercial, industrial, educational, and other uses.

(b) A description of desired zoning changes and changes in streets, street levels, intersections, and utilities to be made in the enterprise zone.

(c) A description of public improvements to be made in the enterprise zone, a description of any repairs and alterations necessary to make those improvements, and an estimate of the time by construction stage required for completion of the improvements.

(d) An estimate of the cost of the proposed physical improvements, a statement of the proposed method of financing, and the ability of the local governmental unit to arrange the financing.

(e) A description of any parts of the enterprise zone to be left as open space and the use contemplated for the space.

(f) An environmental evaluation of each proposed enterprise zone.

(g) A description of any real property in the enterprise zone that the local governmental unit desires to sell, donate, exchange, or lease to or from another entity and the proposed terms.

(h) Estimates of the number of persons residing in the enterprise zone and the number of families and individuals to be displaced, if any, as a result of improvements.

(i) Provision for the costs of relocating persons displaced by the zone improvements, and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646, 84 Stat. 1894, as well as a plan for compliance with Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

(j) A strategy for addressing the pre-employment training needs and employment of residents in the zone.

(k) Other material that the local governmental unit or authority considers pertinent.

(4) The governing body of the local governmental unit, before adoption of a resolution approving a comprehensive development plan, shall hold a public hearing on the development plan. Notice of the time and

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place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the local governmental unit, the first of which shall not be less than 20 days before the date set for the hearing. Notice shall also be mailed to all property owners of record in the development area not less than 20 days before the hearing.

(5) After a public hearing on the comprehensive development plan, the governing body of the local governmental unit shall approve or reject the plan, or approve it with modification, by resolution. The local governmental unit shall then send the comprehensive development plan to the authority with a request for its approval.

(6) After receipt of the comprehensive development plan, the authority shall approve or reject the plan. However, the authority shall reject the plan if it includes a project for which the expenditure of the local unit's funds has been prohibited by initiative ordinance. The authority shall reject the plan if it includes any funding for the construction of or infrastructure related to a sports facility seating 30,000 or more in maximum capacity which can be sold, leased, rented, donated, or otherwise provided to an organization with a direct financial interest in a professional sports team. If the authority rejects the plan, the authority shall return it to the governing body of the local governmental unit with a written explanation of its rejection. A rejected plan may be resubmitted. If the authority approves the plan, the authority shall send a formal notification of its approval to the governing body of the local governmental unit.

(7) Upon plan approval by the authority, the local governmental unit may spend zone-related tax revenue on physical improvements within the zone.

(8) The authority may revoke the approval of an enterprise zone if the local governmental unit fails to comply with this act.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1994, Act 311, Imd. Eff. July 20, 1994.

125.2114 Application for certification as qualified business; procedure.

Sec. 14. (1) This section applies only to a business that applies for certification as a qualified business in an enterprise zone that was created before 1994.

(2) A business that plans to meet the construction, restoration, alteration, or renovation requirements for, and that does meet the other conditions for, a qualified business prescribed in this act may apply to the local governmental unit in which the business will be located as a qualified business for certification as a qualified business.

(3) If a business applying under subsection (2) meets the conditions for a qualified business prescribed by this act, other than the construction, restoration, alteration, and renovation requirements, that local governmental unit shall certify the business as a qualified business, subject to final approval of the certification by the authority.

(4) If a local governmental unit approves a certification, the local governmental unit shall forward the application and certification to the authority. If a local governmental unit rejects an application, the local governmental unit shall return the application to the business with a written statement of the reasons for rejection.

(5) A business whose application for certification as a qualified business is rejected by a local governmental unit may submit another application to the local governmental unit or may appeal the rejection to the authority.

(6) If a business that is certified to or appeals to the authority meets the conditions for a qualified business prescribed by this act, other than the construction, restoration, alteration, and renovation requirements, the authority shall approve the certification of that business as a qualified business. If the authority rejects the application or appeal, the authority shall return the application or appeal to the business with a written statement of the reasons for rejection. A business whose application is rejected by the authority may resubmit the application to the authority.

(7) A local governmental unit or the authority shall not certify a business as a qualified business after 10 years after the date on which the authority approves the first area as an enterprise zone.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1988, Act 129, Imd. Eff. May 24, 1988;—Am. 1990, Act 80, Imd. Eff. May 24, 1990;—Am. 1994, Act 230, Imd. Eff. June 30, 1994;—Am. 1994, Act 311, Imd. Eff. July 20, 1994.

Compiler's note: Section 2 of Act 80 of 1990 provides: “This amendatory act applies to the 1990 tax year and tax years after the 1990 tax year.”

125.2114a Certification as qualified business; application; eligibility; time period; revocation; limitation.

Sec. 14a. (1) This section applies only to a business that applies for certification as a qualified business in an enterprise zone that was created after 1993.

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(2) The owner or lessee of a facility may file an application for certification as a qualified business within the enterprise zone with the clerk of the local governmental unit that established the zone. The application shall be filed in the manner and form prescribed by the authority. The application shall contain or be accompanied by a general description of the facility, a general description of the proposed use of the facility, and a time schedule for undertaking and completing renovation of the facility.

(3) Upon receipt of an application for certification as a qualified business, the clerk of the local governmental unit shall notify in writing the citizens' council and the assessor of the assessing unit in which the zone is located of the application.

(4) If the citizens' council does not take action to disapprove the application within 30 days after receipt of the application, the application is automatically approved. A copy of the approved application shall be filed with the authority.

(5) If the citizens' council rejects the application for certification of a business as a qualified business, the citizens' council shall notify that business and the authority of its rejection. A business whose application is rejected may submit another application to the clerk of the local governmental unit or may appeal the rejection to the authority.

(6) If a business appeals to the authority and meets the conditions for a qualified business prescribed by this act, the authority shall approve the certification of that business as a qualified business. If the authority rejects the application or appeal, the authority shall return the application or appeal to the business with a written explanation of the reasons for rejection. A business whose application is rejected by the authority may resubmit the application to the authority.

(7) A facility is not eligible for certification as a qualified business if the facility is to be built solely on property that has never had a structure on it.

(8) A local governmental unit or the authority shall not certify a business as a qualified business after 6 years after the date on which the authority approves the first area in that local governmental unit as an enterprise zone.

(9) A local governmental unit or the authority may revoke the certification of a qualified business for noncompliance with the act, including the failure to pay the tax levied under section 21a. Revocation by a local governmental unit may be appealed to the authority which shall then approve or disapprove the revocation.

(10) A local governmental unit shall not certify a business as a qualified business if that business employs more than 5 employees at an individual average annual base salary, excluding stock options, greater than $2,000,000.00.

History: Add. 1994, Act 311, Imd. Eff. July 20, 1994.

125.2115 Condition to certification as qualified business.

Sec. 15. Before being entitled to certification as a qualified business, a business shall certify to the local governmental unit in writing at least all of the following:

(a) An estimate of the minimum number of new jobs that will be created by the business as a qualified business and the duration of those jobs.

(b) An estimate of the amount of investment that will be made in the enterprise zone on land, equipment, and building acquisition or construction.

(c) Each exemption, credit, or deduction to which the business will be entitled as a qualified business and the duration of each exemption, credit, or deduction.

(d) That the business is aware that violation of the terms of this act or the certification under this section may result in revocation of its certification as a qualified business.

(e) That, except as provided in section 16, location of the new facility or qualified new business in the enterprise zone will not have the effect of transferring employment from another local governmental unit or from an area in the local governmental unit to the enterprise zone located within that local governmental unit.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1994, Act 311, Imd. Eff. July 20, 1994.

125.2116 Effect of transferring employment from 1 or more local governmental units.

Sec. 16. If the location of a new facility or qualified new business in an enterprise zone will have the effect of transferring employment from 1 or more other local governmental units, a business may be certified as a qualified business if the governing body of each local governmental unit from which employment will be transferred consents by resolution to the certification. The governing body of each local governmental unit from which employment is to be transferred or, if a business is moving within a local governmental unit to an enterprise zone, the governing body of that local governmental unit, shall by resolution either approve or deny the transfer. If denied, the reasons for denial shall be included in the resolution. A copy of the resolution shall

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be filed with the authority within 20 days after adoption.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1994, Act 311, Imd. Eff. July 20, 1994.

125.2117 Allegations of noncompliance; procedure.

Sec. 17. (1) Except as provided in subsection (6), a resident of an enterprise zone, a business located within an enterprise zone, or the authority may allege to the local governmental unit noncompliance with this act, including, but not limited to, noncompliance by a qualified business with a certification made by the business under section 15 or noncompliance by the local governmental unit.

(2) A local governmental unit shall attempt to resolve allegations of noncompliance without formal proceedings. If an allegation is not resolved by the local governmental unit within 120 days, the alleging party may request a hearing or may file the allegation with the authority.

(3) Within 30 days after holding a hearing concerning an allegation of noncompliance and subject to appeal to the authority, the local governmental unit shall take the action it considers necessary to remedy the noncompliance. This action may include, but is not limited to, the revocation of the certification of a qualified business. Unless the authority orders otherwise upon an appeal, revocation of certification by the local governmental unit is revocation by the authority.

(4) The authority shall attempt to resolve an allegation of noncompliance without formal proceedings. If the allegation is not resolved within 60 days after it is filed with the authority, the authority shall hold a hearing regarding the alleged noncompliance.

(5) Within 30 days after a hearing on an allegation, the authority shall render a decision regarding the allegation and may issue any order the authority considers necessary to remedy the noncompliance. The order may include, but is not limited to, revocation of the certification of a qualified business or, if a local governmental unit is in substantial noncompliance, revocation of approval of the enterprise zone.

(6) This section applies only to allegations of noncompliance by a qualified business located in an enterprise zone that was created before 1994.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1994, Act 311, Imd. Eff. July 20, 1994.

125.2118 Eligibility for exemption, credit, or deduction.

Sec. 18. The qualified business activity of a qualified business is eligible for an exemption, credit, or deduction as provided by this act, another law of this state, or a law of the United States.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986.

125.2119 Duration of exemption or credit.

Sec. 19. An exemption or credit granted to a qualified business shall continue until the certification of the qualified business is revoked, as provided in this act, or for 10 years from the date that the business is certified as a qualified business. Even if approval of an enterprise zone is revoked by the authority as provided in this act, an exemption or credit granted to a qualified business located in that enterprise zone shall continue until revoked or until the 10-year or other specified period elapses.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1994, Act 311, Imd. Eff. July 20, 1994.

125.2120 Exemption from ad valorem real and personal property taxes.

Sec. 20. (1) For a qualified business located in an enterprise zone that was created before 1994, unless the certification of the qualified business is revoked as provided in this act, for 10 years from the date on which construction, restoration, alteration, or renovation begins, or through December 31, 2004, whichever occurs first, a new facility owned by the qualified existing business or industrial or commercial property located in an enterprise zone owned by the qualified new business is exempt from ad valorem real and personal property taxes imposed under the general property tax act. For a qualified existing business certified after June 1, 1990 and for purposes of this subsection only, a new facility includes only the portion of the existing property attributable to the restoration, alteration, or renovation.

(2) Except as otherwise provided in this subsection, for a qualified business located in an enterprise zone that was created after 1993, unless the certification of the qualified business is revoked as provided in this act, and except as provided in section 21a(8), for 5 years from the date of certification, a facility owned by the qualified business is exempt from ad valorem real and personal property taxes.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1991, Act 185, Imd. Eff. Dec. 27, 1991;—Am. 1994, Act 230, Imd. Eff. June 30, 1994;—Am. 1994, Act 311, Imd. Eff. July 20, 1994.

125.2120a Exemption of commercial, industrial, or utility property from ad valorem real and personal property taxes; compliance required.

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Sec. 20a. (1) Commercial, industrial, or utility property that is located in the area comprising an enterprise zone at the time the area is approved as an enterprise zone and that is not exempt under section 20 or 20b is exempt from ad valorem real and personal property taxes imposed through the year 2004 under the general property tax act.

(2) The exemption allowed by this section applies only to commercial, industrial, or utility property located in an enterprise zone that was created before 1994 and that is located in a local governmental unit that complies with all of the following:

(a) The governing body of the local governmental unit in cooperation with the local governmental unit's chief executive officer develops a comprehensive development plan that addresses the needs of the local governmental unit, that includes a strategy for achieving the goals of the local governmental unit and its residents and businesses, and that meets the requirements of section 13. The development plan shall contain a spending plan, approved by a resolution of the authority, for the additional money received as a result of the amendments to this act made by the amendatory act that added this section. Money included in the spending plan is also subject to the annual appropriation process of the local governmental unit as required by law.

(b) The local governmental unit creates and compensates the position of an enterprise zone assistant to oversee development of the spending plan required in subdivision (a) and to aid in other economic development efforts.

History: Add. 1990, Act 80, Imd. Eff. May 24, 1990;—Am. 1991, Act 185, Imd. Eff. Dec. 27, 1991;—Am. 1994, Act 230, Imd. Eff. June 30, 1994;—Am. 1994, Act 311, Imd. Eff. July 20, 1994.

Compiler's note: Section 2 of Act 80 of 1990 provides: “This amendatory act applies to the 1990 tax year and tax years after the 1990 tax year.”

125.2120b Additional exemption from ad valorem real and personal property taxes.

Sec. 20b. Property that is located in the area comprising an enterprise zone at the time the area is approved as an enterprise zone and for which an exemption certificate under Act No. 198 of the Public Acts of 1974, being sections 207.551 to 207.571 of the Michigan Compiled Laws, is approved before January 1, 1992, and revoked after April 1, 1990, if the property is located in an enterprise zone that was created before 1994, or for which an exemption certificate is approved before January 1, 1995, and revoked after July 1, 1994, if the property is located in an enterprise zone that was created after 1993, at the request of the owner is exempt from ad valorem real and personal property taxes imposed under the general property tax act either for the balance of the period for which the exemption certificate under Act No. 198 of the Public Acts of 1974 had been issued or for a period of 10 years after the date of revocation, whichever is less.

History: Add. 1990, Act 80, Imd. Eff. May 24, 1990;—Am. 1991, Act 185, Imd. Eff. Dec. 27, 1991;—Am. 1994, Act 311, Imd. Eff. July 20, 1994.

Compiler's note: Section 2 of Act 80 of 1990 provides: “This amendatory act applies to the 1990 tax year and tax years after the 1990 tax year.”

125.2121 Enterprise zone created before 1994; levy of specific tax; amount; payment; disbursement; agreement; credit; lien; eligibility for credit; funding emergency dispatch services, senior citizen centers, and substance abuse rehabilitation services.

Sec. 21. (1) This section applies only to an owner of property located in an enterprise zone that was created before 1994.

(2) Except as provided in section 21c, a specific tax is levied in each year upon an owner of property exempted under section 20(1) or 20b, the amount of which is determined by multiplying 50% of the average rate of taxation levied upon other commercial, industrial, and utility property upon which ad valorem taxes are assessed as determined each year by the state board of assessors under section 13 of Act No. 282 of the Public Acts of 1905, being section 207.13 of the Michigan Compiled Laws, by the state equalized valuation of that property excluding the exemptions granted by this act.

(3) Except as provided in section 21c, a specific tax is levied in each year upon an owner of property exempted under section 20a, the amount of which is determined by multiplying the total millage levied as ad valorem real and personal property taxes for that year upon other commercial, industrial, and utility property by all taxing units within which the property is located by the state equalized valuation of that property excluding the exemptions granted by this act.

(4) The tax levied under subsection (2) is an annual tax payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the general property tax act are payable. The officer or officers shall disburse the tax payments received each year under subsection (2), at the same times as taxes imposed under the general property tax act are disbursed, to the local governmental unit in which the property is located.

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(5) The tax levied under subsection (3) is an annual tax payable to the same officer or officers as taxes imposed under the general property tax act with 1/2 of the tax levied on July 1 and 1/2 levied on December 1. The officer or officers shall disburse the tax payments received each year under subsection (3) to the same local governmental unit, school districts, county, and authorities at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act, except for the following:

(a) The amount that would otherwise be disbursed to a local school district for school operating purposes or to this state under the state education act, Act No. 331 of the Public Acts of 1993, being sections 211.901 to 211.906 of the Michigan Compiled Laws, shall be paid instead to the local governmental unit in which the property is located.

(b) There shall be paid to the local governmental unit in which the property is located a portion of the tax that would otherwise not be paid to the local governmental unit equal to the proportion of ad valorem property taxes levied on commercial and industrial property in the year before the exemption under section 20a first applies which proportion was captured under a tax increment financing plan.

(6) A local governmental unit that receives money under subsection (5) may enter into an agreement with any of the following:

(a) A downtown development authority or tax increment finance authority to share a portion of the money received by the local governmental unit under subsection (5) in not more than the same proportion that the authority would have received if the tax levied under subsection (3) could be captured under a tax increment financing plan.

(b) A taxing unit that receives revenue under subsection (5) to share a portion of the money received by the local governmental unit under subsection (5) not to exceed the taxing unit's net reduction in revenue pursuant to the exemption under section 20a.

(7) The owner of property subject to the tax under subsection (3) may claim a credit against the tax levied on December 1 under subsection (3) for the sum of all the following, but not more than the amount by which the tax levied for the year under subsection (3) exceeds the amount determined by multiplying the average rate of taxation levied upon other commercial, industrial, and utility property upon which ad valorem taxes are assessed as determined each year by the state board of assessors under section 13 of Act No. 282 of the Public Acts of 1905 by the state equalized valuation of that property excluding the exemptions granted by this act:

(a) The amount spent in the year to restore, alter, renovate, or improve real property located in the enterprise zone.

(b) Fifteen percent of wages paid during the year to residents of the enterprise zone who were hired by the owner after May 24, 1990 and who were employed at some time during the 6 months before being hired.

(c) Twenty-five percent of wages paid during the year to residents of the enterprise zone who were hired by the owner after May 24, 1990 and who were not employed at any time during the 6 months before being hired.

(d) Cash and in-kind contributions made by that owner during the year to and accepted by a local taxing unit located in the enterprise zone.

(8) The amount of the tax levied upon real property under subsection (2) or (3), until paid, is a lien upon the real property upon which the tax is levied. Only after the officer files a certificate of nonpayment of the tax, together with an affidavit of proof of service of the certificate of nonpayment upon the owner of the property by certified mail, with the register of deeds of the county in which the property is situated, may proceedings be had upon the lien in the same manner as provided by law for the foreclosure in the circuit court of mortgage liens upon real property.

(9) The owner of property who has failed to pay a tax levied under this section is not eligible to claim the credit under subsection (7).

(10) From the amount disbursed to the local governmental unit pursuant to subsection (5)(a) and (b), the local governmental unit shall disburse to the county in which that local governmental unit is located an amount equal to the product of the state equalized value of all property exempted under sections 20 and 20a(1) and the voter approved special millage rate levied by the county for emergency dispatch services, senior citizen centers, and substance abuse rehabilitation services. The county shall use the amount disbursed under this subsection only to fund emergency dispatch services, senior citizen centers, and substance abuse rehabilitation services.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1990, Act 80, Imd. Eff. May 24, 1990;—Am. 1991, Act 185, Imd. Eff. Dec. 27, 1991;—Am. 1994, Act 230, Imd. Eff. June 30, 1994;—Am. 1994, Act 311, Imd. Eff. July 20, 1994;—Am. 1996, Act 444, Imd. Eff. Dec. 19, 1996.

Compiler's note: Section 2 of Act 80 of 1990 provides: "This amendatory act applies to the 1990 tax year and tax years after the

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1990 tax year."

125.2121a Use of disbursement pursuant to MCL 125.2121 (4)(a) and (b).

Sec. 21a. (1) Except as otherwise provided in subsection (2) and section 21(9), the local governmental unit shall use the amount disbursed to the local governmental unit pursuant to section 21(4)(a) and (b) only to fund capital improvements identified in the spending plan that the local governmental unit submitted to the authority.

(2) Upon approval of the authority, the local governmental unit may utilize the funds described in subsection (1) for any purpose authorized under this act.

History: Add. 1994, Act 230, Imd. Eff. June 30, 1994.

125.2121b Enterprise zone created after 1993; levy of specific tax; amount; payment; disbursement; lien; qualification as replacement facility; failure to pay tax; allocation to school district.

Sec. 21b. (1) This section applies only to an owner of property located in an enterprise zone that was created after 1993.

(2) Except as provided in section 21c, a specific tax is levied in each year upon an owner of property exempted under section 20(2) or 20b, the amount of which is the sum of the following:

(a) The product of 50% of the average rate of taxation levied upon other commercial, industrial, and utility property upon which ad valorem taxes are assessed in that local governmental unit, excluding ad valorem taxes levied under the state education tax act, Act No. 331 of the Public Acts of 1993, being sections 211.901 to 211.906 of the Michigan Compiled Laws, multiplied by the increased state equalized valuation of that property excluding the exemptions granted by this act.

(b) The product of the millage levied under Act No. 331 of the Public Acts of 1993, multiplied by the increased state equalized valuation of that property, excluding the exemptions granted by this act.

(c) The product of the total millage levied as ad valorem real and personal property taxes for that year by all local taxing units within which the property is located multiplied by the initial state equalized valuation of that property excluding the exemptions granted by this act.

(3) The tax levied under subsection (2) is an annual tax payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the general property tax act are payable.

(4) The officer or officers shall disburse the portion of the tax payments received each year calculated under subsection (2)(a), at the same times as taxes imposed under the general property tax act are disbursed, to the local governmental unit in which the property is located to be used solely to make public improvements within the enterprise zone or to repay obligations of which the proceeds are used to make public improvements within the enterprise zone.

(5) The officer or officers shall disburse the portion of the tax payments received each year calculated under subsection (2)(b) and (c) to the same governmental unit, school districts, county, and authorities at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act. However, if the property is located in a tax increment financing district, the officer or officers shall pay to the tax increment financing authority a portion of the taxes paid equal to the proportion of ad valorem property taxes levied on commercial and industrial property in the enterprise zone in the year before the exemption under section 20(2) first applies which proportion was captured under a tax increment financing plan.

(6) The amount of the tax levied upon real property under subsection (2), until paid, is a lien upon the real property upon which the tax is levied. Only after the officer files a certificate of nonpayment of the tax, together with an affidavit of proof of service of the certificate of nonpayment upon the owner of the property by certified mail, with the register of deeds of the county in which the property is situated, may proceedings be had upon the lien in the same manner as provided by law for the foreclosure in the circuit court of mortgage liens upon real property.

(7) A local governmental unit, in its action establishing the boundaries of its enterprise zones, may waive the portion of the tax calculated under subsection (2)(a) and (b) on the real property that would qualify as a replacement facility under section 2(3) of Act No. 198 of the Public Acts of 1974, being section 207.552 of the Michigan Compiled Laws.

(8) The owner of property who has failed to pay a tax levied under this section is not eligible for the exemption under section 20(2) for the succeeding tax years.

(9) If a local or intermediate school district receives state aid under section 20, 56, 62, or 81 of the state school aid act of 1979, Act No. 94 of the Public Acts of 1979, being sections 388.1620, 388.1656, 388.1662, and 388.1681 of the Michigan Compiled Laws, of the amount that would otherwise be disbursed under

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subsection (5) to a local or intermediate school district, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of state aid, shall be paid to the state treasury to the credit of the state school aid fund established by section 11 of article IX of the state constitution of 1963. If and for the period that the state school aid act of 1979, Act No. 94 of the Public Acts of 1979, being sections 388.1601 to 388.1772 of the Michigan Compiled Laws, is amended or its successor act is enacted or amended to include a provision that provides for adjustments in state school aid to account for the receipt of revenues provided under this act in place of exempted ad valorem property tax, revenues required to be remitted or returned to the state treasury to the credit of the state school aid fund shall be distributed instead to the local school districts. If the sum of any industrial facility tax levied under Act No. 198 of the Public Acts of 1974, being sections 207.551 to 207.572 of the Michigan Compiled Laws, the commercial facilities tax levied under the commercial redevelopment act, Act No. 255 of the Public Acts of 1978, being sections 207.651 to 207.668 of the Michigan Compiled Laws, the neighborhood enterprise zone tax levied under the neighborhood enterprise zone act, Act No. 147 of the Public Acts of 1992, being sections 207.771 to 207.787 of the Michigan Compiled Laws, and the tax levied under this act paid to the state treasury to the credit of the state school aid fund that would otherwise be disbursed to the local or intermediate school district exceeds the amount received by the local or intermediate school district under section 20, 56, 62, or 81 of Act No. 94 of the Public Acts of 1979, the department of treasury shall allocate to each eligible local or intermediate school district an amount equal to the difference between the sum of the industrial facility tax, the commercial facilities tax, the neighborhood enterprise zone tax, and the tax levied under this act paid to the state treasury to the credit of the state school aid fund and the amount the local or intermediate school district received under section 20, 56, 62, or 81 of Act No. 94 of the Public Acts of 1979.

History: Add. 1994, Act 311, Imd. Eff. July 20, 1994;—Am. 1996, Act 444, Imd. Eff. Dec. 19, 1996.

125.2121c Property located in renaissance zone.

Sec. 21c. Property, except a casino, exempted under sections 20(1) and (2), 20a, and 20b that is located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is exempt from the specific taxes levied under this act to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except for that portion of the specific tax levied under this act attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. The specific tax calculated under this section shall be disbursed proportionately to the local taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. As used in this section, "casino" means a casino or a parking lot, hotel, motel, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.216.

History: Add. 1996, Act 444, Imd. Eff. Dec. 19, 1996;—Am. 1998, Act 242, Imd. Eff. July 3, 1998.

125.2122 Neglecting or failing to pay tax; seizure and sale of property; civil action; jeopardy assessment; collection of delinquent tax; remedies; disbursement of amount of tax and interest on tax.

Sec. 22. (1) If the tax applicable to personal or real property levied under section 21 or 21b, as applicable, is not paid within the time permitted by law for payment without penalty of taxes imposed under the general property tax act, the officer to whom the tax is first payable may in his or her own name, or in the name of the city, village, township, or county of which he or she is an officer, seize and sell personal property of the owner who has neglected or refused to pay the tax, to an amount sufficient to pay the tax, the expenses of sale, and interest on the tax at the rate of 9% per annum from the date the tax was first payable; or the officer, in his or her own name or in the name of the city, village, township, or county of which he or she is an officer, may institute a civil action against the owner in the circuit court for the county in which the facility is located or in the circuit court for the county in which the owner resides or has a principal place of business, and in that civil action recover the amount of the tax and interest on the tax at the rate of 9% per annum from the date the tax was first payable plus the costs of collecting the tax and interest, including reasonable attorney fees.

(2) The officer may proceed to make a jeopardy assessment, in the manner and under the circumstances provided by Act No. 55 of the Public Acts of 1956, being sections 211.691 to 211.697 of the Michigan Compiled Laws, as an additional means of collecting the amount of the tax.

(3) If a specific tax levied under this act is not paid within the time permitted by law for payment, without penalty, of taxes imposed under the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, the specific tax may be collected in the same

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manner as delinquent taxes are collected under the general property tax act.

(4) The officer may pursue 1 or more of the remedies provided in this section until the officer receives the amount of the tax, interest on the tax, and costs allowed by this act or by law governing the proceedings of civil actions in the circuit court. The amount of the tax and interest on the tax shall be disbursed by the officer in the same manner as the tax levied under section 21 or 21b, as applicable, is disbursed when first payable.

History: 1985, Act 224, Imd. Eff. Jan. 13, 1986;—Am. 1994, Act 311, Imd. Eff. July 20, 1994;—Am. 1996, Act 444, Imd. Eff. Dec. 19, 1996.

125.2123 Revenue lost as result of reduced taxes; appropriation and distribution to local government; amount.

Sec. 23. (1) If the amount of specific tax revenue under this act lost as a result of the reduction of taxes levied by a local school district for school operating purposes required by millage limitations under section 1211 of the school code of 1976, Act No. 451 of the Public Acts of 1976, being section 380.1211 of the Michigan Compiled Laws, results in collections of the specific tax revenue under this act disbursed to the local governmental unit in 1994 that are less than the collections that would have been disbursed in 1994 if the mills levied for school operating purposes had been levied at the 1993 rate, the legislature shall appropriate and distribute to the local governmental unit administering the specific tax under this act an amount equal to the difference attributable to that reduction.

(2) For fiscal years 1995 through 2003, the legislature shall appropriate and distribute to the local governmental unit described in subsection (1) the amount determined in subsection (1), reduced each year by 10% of the amount determined in subsection (1).

History: Add. 1994, Act 230, Imd. Eff. June 30, 1994.

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THE LOCAL DEVELOPMENT FINANCING ACT
Act 281 of 1986

AN ACT to encourage local development to prevent conditions of unemployment and promote economic growth; to provide for the establishment of local development finance authorities and to prescribe their powers and duties; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to provide for the creation and implementation of development plans; to authorize the acquisition and disposal of interests in real and personal property; to permit the issuance of bonds and other evidences of indebtedness by an authority; to prescribe powers and duties of certain public entities and state officers and agencies; to reimburse authorities for certain losses of tax increment revenues; and to authorize and permit the use of tax increment financing.

History: 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1993, Act 333, Eff. Mar. 15, 1994;—Am. 2000, Act 248, Imd. Eff. June 29, 2000.

The People of the State of Michigan enact:

125.2151 Legislative findings; short title.

Sec. 1. (1) The legislature finds all of the following:

(a) That there exists in this state conditions of unemployment, underemployment, and joblessness detrimental to the state economy and the economic growth of the state economy.

(b) That government programs are desirable and necessary to eliminate the causes of unemployment, underemployment, and joblessness therefore benefiting the economic growth of the state.

(c) That it is appropriate to finance these government programs by means available to the state and local units of government, including tax increment financing.

(d) That tax increment financing is a government financing program which contributes to economic growth and development by dedicating a portion of the tax base resulting from the economic growth and development to certain public facilities and structures or improvements of the type designed and dedicated to public use and thereby facilitate certain projects which create economic growth and development.

(e) That it is necessary for the legislature to exercise the sovereign power to legislate tax increment financing as authorized in this act and in the exercise of this sovereign power to mandate the transfer of tax increment revenues by city, village, township, school district, and county treasurers to authorities created under this act in order to effectuate the legislated government programs to eliminate the conditions of unemployment, underemployment, and joblessness and to promote state economic growth.

(f) That the creation of jobs and the promotion of economic growth in the state are essential governmental functions and constitute essential public purposes.

(g) That the creation of jobs and the promotion of economic growth stabilize and strengthen the tax bases upon which local units of government rely and that government programs to eliminate causes of unemployment, underemployment, and joblessness benefit local units of government and are for the use of those local units of government.

(h) That the provisions of this act are enacted to provide a means for local units of government to eliminate the conditions of unemployment, underemployment, and joblessness and to promote economic growth in the communities served by these local units of government.

(2) This act shall be known and may be cited as “the local development financing act”.

History: 1986, Act 281, Eff. Feb. 1, 1987.

Constitutionality: The capture of tax increment revenue by a local development finance authority and the use of the revenues by the authority for purposes authorized by the Local Development Financing Act are not unconstitutional diversions of tax revenues from the taxing entity or unconstitutional lendings of credit by the state or a municipality. Advisory Opinion on 1986 PA 281, 430 Mich 93; 422 NW2d 186 (1988).

125.2152 Definitions.

Sec. 2. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

(b) "Alternative energy technology" means equipment, component parts, materials, electronic devices, testing equipment, and related systems that are specifically designed, specifically fabricated, and used primarily for 1 or more of the following:

(*i*) The storage, generation, reformation, or distribution of clean fuels integrated within an alternative

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energy system or alternative energy vehicle, not including an anaerobic digester energy system or a hydroelectric energy system, for use within the alternative energy system or alternative energy vehicle.

(*ii*) The process of generating and putting into a usable form the energy generated by an alternative energy system. Alternative energy technology does not include those component parts of an alternative energy system that are required regardless of the energy source.

(*iii*) Research and development of an alternative energy vehicle.

(*iv*) Research, development, and manufacturing of an alternative energy system.

(*v*) Research, development, and manufacturing of an anaerobic digester energy system.

(*vi*) Research, development, and manufacturing of a hydroelectric energy system.

(c) "Alternative energy technology business" means a business engaged in the research, development, or manufacturing of alternative energy technology.

(d) "Assessed value" means 1 of the following:

(*i*) For valuations made before January 1, 1995, the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(*ii*) For valuations made after December 31, 1994, the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(e) "Authority" means a local development finance authority created pursuant to this act.

(f) "Authority district" means an area or areas within which an authority exercises its powers.

(g) "Board" means the governing body of an authority.

(h) "Business development area" means an area designated as a certified industrial park under this act prior to the effective date of the amendatory act that added this subdivision, or an area designated in the tax increment financing plan that meets all of the following requirements:

(*i*) The area is zoned to allow its use for eligible property.

(*ii*) The area has a site plan or plat approved by the city, village, or township in which the area is located.

(i) "Business incubator" means real and personal property that meets all of the following requirements:

(*i*) Is located in a certified technology park or a certified alternative energy park.

(*ii*) Is subject to an agreement under section 12a or 12c.

(*iii*) Is developed for the primary purpose of attracting 1 or more owners or tenants who will engage in activities that would each separately qualify the property as eligible property under subdivision (s)(*iii*).

(j) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the eligible property identified in the tax increment financing plan or, for a certified technology park, the real and personal property included in the tax increment financing plan, including the current assessed value of property for which specific local taxes are paid in lieu of property taxes as determined pursuant to subdivision (ff), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(k) "Certified alternative energy park" means that portion of an authority district designated by a written agreement entered into pursuant to section 12c between the authority, the municipality or municipalities, and the Michigan economic development corporation.

(*l*) "Certified business park" means a business development area that has been designated by the Michigan economic development corporation as meeting criteria established by the Michigan economic development corporation. The criteria shall establish standards for business development areas including, but not limited to, use, types of building materials, landscaping, setbacks, parking, storage areas, and management.

(m) "Certified technology park" means that portion of the authority district designated by a written agreement entered into pursuant to section 12a between the authority, the municipality, and the Michigan economic development corporation.

(n) "Chief executive officer" means the mayor or city manager of a city, the president of a village, or, for other local units of government or school districts, the person charged by law with the supervision of the functions of the local unit of government or school district.

(o) "Development plan" means that information and those requirements for a development set forth in section 15.

(p) "Development program" means the implementation of a development plan.

(q) "Eligible advance" means an advance made before August 19, 1993.

(r) "Eligible obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority before August 19, 1993 and its subsequent refunding by a qualified refunding obligation. Eligible obligation includes an authority's written agreement entered into before August 19, 1993 to pay an obligation issued after August 18, 1993 and before December 31, 1996 by another entity on behalf of the authority.

(s) "Eligible property" means land improvements, buildings, structures, and other real property, and

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machinery, equipment, furniture, and fixtures, or any part or accessory thereof whether completed or in the process of construction comprising an integrated whole, located within an authority district, of which the primary purpose and use is or will be 1 of the following:

(*i*) The manufacture of goods or materials or the processing of goods or materials by physical or chemical change.

(*ii*) Agricultural processing.

(*iii*) A high technology activity.

(*iv*) The production of energy by the processing of goods or materials by physical or chemical change by a small power production facility as defined by the federal energy regulatory commission pursuant to the public utility regulatory policies act of 1978, Public Law 95-617, which facility is fueled primarily by biomass or wood waste. This act does not affect a person's rights or liabilities under law with respect to groundwater contamination described in this subparagraph. This subparagraph applies only if all of the following requirements are met:

(A) Tax increment revenues captured from the eligible property will be used to finance, or will be pledged for debt service on tax increment bonds used to finance, a public facility in or near the authority district designed to reduce, eliminate, or prevent the spread of identified soil and groundwater contamination, pursuant to law.

(B) The board of the authority exercising powers within the authority district where the eligible property is located adopted an initial tax increment financing plan between January 1, 1991 and May 1, 1991.

(C) The municipality that created the authority establishes a special assessment district whereby not less than 50% of the operating expenses of the public facility described in this subparagraph will be paid for by special assessments. Not less than 50% of the amount specially assessed against all parcels in the special assessment district shall be assessed against parcels owned by parties potentially responsible for the identified groundwater contamination pursuant to law.

(*v*) A business incubator.

(*vi*) An alternative energy technology business.

(t) "Fiscal year" means the fiscal year of the authority.

(u) "Governing body" means the elected body having legislative powers of a municipality creating an authority under this act.

(v) "High technology activity" means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(w) "Initial assessed value" means the assessed value of the eligible property identified in the tax increment financing plan or, for a certified technology park, the assessed value of any real and personal property included in the tax increment financing plan, at the time the resolution establishing the tax increment financing plan is approved as shown by the most recent assessment roll for which equalization has been completed at the time the resolution is adopted or, for property that becomes eligible property in other than a certified technology park after the date the plan is approved, at the time the property becomes eligible property. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. Property for which a specific local tax is paid in lieu of property tax shall not be considered exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of property tax shall be determined as provided in subdivision (ff).

(x) "Michigan economic development corporation" means the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999 between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund. If the Michigan economic development corporation is unable for any reason to perform its duties under this act, those duties may be exercised by the Michigan strategic fund.

(y) "Michigan strategic fund" means the Michigan strategic fund as described in the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

(z) "Municipality" means a city, village, or urban township. However, for purposes of creating and operating a certified alternative energy park, municipality includes townships that are not urban townships.

(aa) "Obligation" means a written promise to pay, whether evidenced by a contract, agreement, lease, sublease, bond, or note, or a requirement to pay imposed by law. An obligation does not include a payment required solely because of default upon an obligation, employee salaries, or consideration paid for the use of municipal offices. An obligation does not include those bonds that have been economically defeased by refunding bonds issued under this act. Obligation includes, but is not limited to, the following:

(*i*) A requirement to pay proceeds derived from ad valorem property taxes or taxes levied in lieu of ad

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valorem property taxes.

(*ii*) A management contract or a contract for professional services.

(*iii*) A payment required on a contract, agreement, bond, or note if the requirement to make or assume the payment arose before August 19, 1993.

(*iv*) A requirement to pay or reimburse a person for the cost of insurance for, or to maintain, property subject to a lease, land contract, purchase agreement, or other agreement.

(*v*) A letter of credit, paying agent, transfer agent, bond registrar, or trustee fee associated with a contract, agreement, bond, or note.

(bb) "On behalf of an authority", in relation to an eligible advance made by a municipality or an eligible obligation or other protected obligation issued or incurred by a municipality, means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible advance made by a municipality, or eligible obligation or other protected obligation issued or incurred by the municipality, if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following:

(*i*) A reimbursement agreement between the municipality and an authority it established.

(*ii*) A requirement imposed by law that the authority transfer tax increment revenues to the municipality.

(*iii*) A resolution of the authority agreeing to make payments to the incorporating unit.

(*iv*) Provisions in a tax increment financing plan describing the project for which the obligation was incurred.

(cc) "Other protected obligation" means:

(*i*) A qualified refunding obligation issued to refund an obligation described in subparagraph (*ii*) or (*iii*), an obligation that is not a qualified refunding obligation that is issued to refund an eligible obligation, or a qualified refunding obligation issued to refund an obligation described in this subparagraph.

(*ii*) An obligation issued or incurred by an authority or by a municipality on behalf of an authority after August 19, 1993, but before December 31, 1994, to finance a project described in a tax increment finance plan approved by the municipality in accordance with this act before August 19, 1993, for which a contract for final design is entered into by the municipality or authority before March 1, 1994.

(*iii*) An obligation incurred by an authority or municipality after August 19, 1993, to reimburse a party to a development agreement entered into by a municipality or authority before August 19, 1993, for a project described in a tax increment financing plan approved in accordance with this act before August 19, 1993, and undertaken and installed by that party in accordance with the development agreement.

(*iv*) An ongoing management or professional services contract with the governing body of a county that was entered into before March 1, 1994 and that was preceded by a series of limited term management or professional services contracts with the governing body of the county, the last of which was entered into before August 19, 1993.

(dd) "Public facility" means 1 or more of the following:

(*i*) A street, road, bridge, storm water or sanitary sewer, sewage treatment facility, facility designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, drainage system, retention basin, pretreatment facility, waterway, waterline, water storage facility, rail line, electric, gas, telephone or other communications, or any other type of utility line or pipeline, or other similar or related structure or improvement, together with necessary easements for the structure or improvement. Except for rail lines, utility lines, or pipelines, the structures or improvements described in this subparagraph shall be either owned or used by a public agency, functionally connected to similar or supporting facilities owned or used by a public agency, or designed and dedicated to use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity. Any road, street, or bridge shall be continuously open to public access. A public facility shall be located on public property or in a public, utility, or transportation easement or right-of-way.

(*ii*) The acquisition and disposal of land that is proposed or intended to be used in the development of eligible property or an interest in that land, demolition of structures, site preparation, and relocation costs.

(*iii*) All administrative and real and personal property acquisition and disposal costs related to a public facility described in subparagraphs (*i*) and (*iv*), including, but not limited to, architect's, engineer's, legal, and accounting fees as permitted by the district's development plan.

(*iv*) An improvement to a facility used by the public or a public facility as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351, which improvement is made to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(*v*) All of the following costs approved by the Michigan economic development corporation:

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(A) Operational costs and the costs related to the acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of land and other assets that are or may become eligible for depreciation under the internal revenue code of 1986 for a business incubator located in a certified technology park or certified alternative energy park.

(B) Costs related to the acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of land and other assets that, if privately owned, would be eligible for depreciation under the internal revenue code of 1986 for laboratory facilities, research and development facilities, conference facilities, teleconference facilities, testing, training facilities, and quality control facilities that are or that support eligible property under subdivision (s)(*iii*), that are owned by a public entity, and that are located within a certified technology park.

(C) Costs related to the acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of land and other assets that, if privately owned, would be eligible for depreciation under the internal revenue code of 1986 for facilities that are or that will support eligible property under subdivision (s)(*vi*), that have been or will be owned by a public entity at the time such costs are incurred, that are located within a certified alternative energy park, and that have been or will be conveyed, by gift or sale, by such public entity to an alternative energy technology business.

(*vi*) Operating and planning costs included in a plan pursuant to section 12(1)(f), including costs of marketing property within the district and attracting development of eligible property within the district.

(ee) "Qualified refunding obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority to refund an obligation if the refunding obligation meets both of the following:

(*i*) The net present value of the principal and interest to be paid on the refunding obligation, including the cost of issuance, will be less than the net present value of the principal and interest to be paid on the obligation being refunded, as calculated using a method approved by the department of treasury.

(*ii*) The net present value of the sum of the tax increment revenues described in subdivision (hh)(*ii*) and the distributions under section 11a to repay the refunding obligation will not be greater than the net present value of the sum of the tax increment revenues described in subdivision (hh)(*ii*) and the distributions under section 11a to repay the obligation being refunded, as calculated using a method approved by the department of treasury.

(ff) "Specific local taxes" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123, 1953 PA 189, MCL 211.181 to 211.182, and the technology park development act, 1984 PA 385, MCL 207.701 to 207.718. The initial assessed value or current assessed value of property subject to a specific local tax is the quotient of the specific local tax paid divided by the ad valorem millage rate. However, after 1993, the state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

(gg) "State fiscal year" means the annual period commencing October 1 of each year.

(hh) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of eligible property within the district or, for purposes of a certified technology park or a certified alternative energy park, real or personal property that is located within the certified technology park and included within the tax increment financing plan, subject to the following requirements:

(*i*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions, other than the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts, upon the captured assessed value of real and personal property in the development area for any purpose authorized by this act.

(*ii*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area in an amount equal to the amount necessary, without regard to subparagraph (*i*), for the following purposes:

(A) To repay eligible advances, eligible obligations, and other protected obligations.

(B) To fund or to repay an advance or obligation issued by or on behalf of an authority to fund the cost of public facilities related to or for the benefit of eligible property located within a certified technology park or a

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certified alternative energy park to the extent the public facilities have been included in an agreement under section 12a(3), not to exceed 50%, as determined by the state treasurer, of the amounts levied by the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local and intermediate school districts for a period not to exceed 15 years, as determined by the state treasurer, if the state treasurer determines that the capture under this subparagraph is necessary to reduce unemployment, promote economic growth, and increase capital investment in the municipality.

(*iii*) Tax increment revenues do not include any of the following:

(A) Ad valorem property taxes or specific local taxes that are excluded from and not made part of the tax increment financing plan.

(B) Ad valorem property taxes and specific local taxes attributable to ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority.

(C) Ad valorem property taxes exempted from capture under section 4(3) or specific local taxes attributable to such ad valorem property taxes.

(D) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit or specific local taxes attributable to such ad valorem property taxes.

(E) The amount of ad valorem property taxes or specific taxes captured by a downtown development authority under 1975 PA 197, MCL 125.1651 to 125.1681, tax increment financing authority under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or brownfield redevelopment authority under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, if those taxes were captured by these other authorities on the date that the initial assessed value of a parcel of property was established under this act.

(*iv*) The amount of tax increment revenues authorized to be included under subparagraph (*ii*), and required to be transmitted to the authority under section 13(1), from ad valorem property taxes and specific local taxes attributable to the application of the levy of the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, or a local school district or an intermediate school district upon the captured assessed value of real and personal property in a development area shall be determined separately for the levy by the state, each school district, and each intermediate school district as the product of sub-subparagraphs (A) and (B):

(A) The percentage that the total ad valorem taxes and specific local taxes available for distribution by law to the state, local school district, or intermediate school district, respectively, bears to the aggregate amount of ad valorem millage taxes and specific taxes available for distribution by law to the state, each local school district, and each intermediate school district.

(B) The maximum amount of ad valorem property taxes and specific local taxes considered tax increment revenues under subparagraph (*ii*).

(ii) "Urban township" means a township that meets 1 or more of the following:

(*i*) Meets all of the following requirements:

(A) Has a population of 20,000 or more, or has a population of 10,000 or more but is located in a county with a population of 400,000 or more.

(B) Adopted a master zoning plan before February 1, 1987.

(C) Provides sewer, water, and other public services to all or a part of the township.

(*ii*) Meets all of the following requirements:

(A) Has a population of less than 20,000.

(B) Is located in a county with a population of 250,000 or more but less than 400,000, and that county is located in a metropolitan statistical area.

(C) Has within its boundaries a parcel of property under common ownership that is 800 acres or larger and is capable of being served by a railroad, and located within 3 miles of a limited access highway.

(D) Establishes an authority before December 31, 1998.

(*iii*) Meets all of the following requirements:

(A) Has a population of less than 20,000.

(B) Has a state equalized valuation for all real and personal property located in the township of more than $200,000,000.00.

(C) Adopted a master zoning plan before February 1, 1987.

(D) Is a charter township under the charter township act, 1947 PA 359, MCL 42.1 to 42.34.

(E) Has within its boundaries a combination of parcels under common ownership that is 800 acres or larger, is immediately adjacent to a limited access highway, is capable of being served by a railroad, and is immediately adjacent to an existing sewer line.

(F) Establishes an authority before March 1, 1999.

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(*iv*) Meets all of the following requirements:

(A) Has a population of 13,000 or more.

(B) Is located in a county with a population of 150,000 or more.

(C) Adopted a master zoning plan before February 1, 1987.

(*v*) Meets all of the following requirements:

(A) Is located in a county with a population of 1,000,000 or more.

(B) Has a written agreement with an adjoining township to develop 1 or more public facilities on contiguous property located in both townships.

(C) Has a master plan in effect.

(*vi*) Meets all of the following requirements:

(A) Has a population of less than 10,000.

(B) Has a state equalized valuation for all real and personal property located in the township of more than $280,000,000.00.

(C) Adopted a master zoning plan before February 1, 1987.

(D) Has within its boundaries a combination of parcels under common ownership that is 199 acres or larger, is located within 1 mile of a limited access highway, and is located within 1 mile of an existing sewer line.

(E) Has rail service.

(F) Establishes an authority before May 7, 2009.

(*vii*) Has joined an authority under section 3(2) which is seeking or has entered into an agreement for a certified alternative energy park.

History: 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1991, Act 101, Imd. Eff. Aug. 21, 1991;—Am. 1992, Act 287, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 333, Eff. Mar. 15, 1994;—Am. 1994, Act 282, Imd. Eff. July 11, 1994;—Am. 1994, Act 331, Imd. Eff. Oct. 14, 1994;—Am. 1996, Act 270, Imd. Eff. June 12, 1996;—Am. 1998, Act 1, Imd. Eff. Jan. 30, 1998;—Am. 1998, Act 92, Imd. Eff. May 14, 1998;—Am. 2000, Act 248, Imd. Eff. June 29, 2000;—Am. 2003, Act 20, Imd. Eff. June 20, 2003;—Am. 2004, Act 17, Imd. Eff. Mar. 4, 2004;—Am. 2007, Act 200, Imd. Eff. Dec. 27, 2007;—Am. 2009, Act 162, Imd. Eff. Dec. 14, 2009.

125.2153 Authority; establishment; powers.

Sec. 3. (1) Except as otherwise provided by subsection (2), a municipality may establish not more than 1 authority under the provisions of this act. An authority established under this subsection shall exercise its powers in all authority districts.

(2) In addition to an authority established under subsection (1), a municipality may join with 1 or more other municipality located within the same county to establish an authority under this act. An authority created under this subsection may only exercise its powers in a certified technology park designated in an agreement made under section 12a or a certified alternative energy park under section 12c. A municipality shall not establish more than 1 authority under this subsection for a certified technology park and not more than 1 authority under this subsection for a certified alternative energy park.

(3) The authority shall be a public body corporate which may sue and be sued in any court of this state. The authority possesses all the powers necessary to carry out the purpose of its incorporation. The enumeration of a power in this act shall not be construed as a limitation upon the general powers of the authority. The powers granted in this act to an authority may be exercised notwithstanding that bonds are not issued by the authority.

History: 1986, Act 281, Eff. Feb. 1, 1987;—Am. 2000, Act 248, Imd. Eff. June 29, 2000;—Am. 2009, Act 162, Imd. Eff. Dec. 14, 2009.

125.2154 Resolution of intent; notice of public hearing; hearing; resolution exempting taxes from capture; resolution establishing authority and designating boundaries; filing and publication; alteration or amendment of boundaries; validity of proceedings; establishment of authority by 2 or more municipalities.

Sec. 4. (1) The governing body of a municipality may declare by resolution adopted by a majority of its members elected and serving its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body proposing to create the authority shall set a date for holding a public hearing on the adoption of a proposed resolution creating the authority and designating the boundaries of the authority district or districts. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 nor more than 40 days before the date of the hearing. Not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in a proposed authority district and, for a public hearing to be held after February 15, 1994, to the governing body of each taxing jurisdiction

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levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure of a property taxpayer to receive the notice shall not invalidate these proceedings. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed authority district or districts. At that hearing, a resident, taxpayer, or property owner from a taxing jurisdiction in which the proposed district is located or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of that proposed authority district. The governing body of the municipality in which a proposed district is to be located shall not incorporate land into an authority district not included in the description contained in the notice of public hearing, but it may eliminate lands described in the notice of public hearing from an authority district in the final determination of the boundaries.

(3) Not more than 60 days after a public hearing held after February 15, 1994, the governing body of a taxing jurisdiction with millage that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to create the authority. However, a resolution by a governing body of a taxing jurisdiction to exempt its taxes from capture is not effective for the capture of taxes that are used for a certified technology park. The resolution takes effect when filed with that clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

(4) Not less than 60 days after the public hearing, if the governing body creating the authority intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members elected and serving, a resolution establishing the authority and designating the boundaries of the authority district or districts within which the authority shall exercise its powers. The adoption of the resolution is subject to any applicable statutory or charter provisions with respect to the approval or disapproval of resolutions by the chief executive officer of the municipality and the adoption of a resolution over his or her veto. This resolution shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(5) The governing body may alter or amend the boundaries of an authority district to include or exclude lands from that authority district or create new authority districts pursuant to the same requirements prescribed for adopting the resolution creating the authority.

(6) The validity of the proceedings establishing an authority shall be conclusive unless contested in a court of competent jurisdiction within 60 days after the last of the following takes place:

(a) Publication of the resolution creating the authority as adopted.

(b) Filing of the resolution creating the authority with the secretary of state.

(7) Except as otherwise provided by this subsection, if 2 or more municipalities desire to establish an authority under section 3(2), each municipality in which the authority district will be located shall comply with the procedures prescribed by this act. The notice required by subsection (2) may be published jointly by the municipalities establishing the authority. The resolutions establishing the authority shall include, or shall approve an agreement including, provisions governing the number of members on the board, the method of appointment, the members to be represented by governmental units or agencies, the terms of initial and subsequent appointments to the board, the manner in which a member of the board may be removed for cause before the expiration of his or her term, the manner in which the authority may be dissolved, and the disposition of assets upon dissolution. An authority described in this subsection shall not be considered established unless all of the following conditions are satisfied:

(a) A resolution is approved and filed with the secretary of state by each municipality in which the authority district will be located.

(b) The same boundaries have been approved for the authority district by the governing body of each municipality in which the authority district will be located.

(c) The governing body of the county in which a majority of the authority district will be located has approved by resolution the creation of the authority.

History: 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1993, Act 333, Eff. Mar. 15, 1994;—Am. 2000, Act 248, Imd. Eff. June 29, 2000;—Am. 2005, Act 15, Imd. Eff. May 4, 2005.

125.2155 Board; appointment, qualification, and terms of members; vancancy; reimbursement for expenses; chairperson; oath of office; rules; procedure; meetings; removal of member; publicizing expense items; financial records open to public.

Sec. 5. (1) The authority shall be under the supervision and control of a board of 7 members appointed by

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the chief executive officer of the city, village, or urban township creating the authority subject to the approval of the governing body creating the authority. The board shall include 1 member appointed by the county board of commissioners of the county in which the authority is located. The board shall include 1 member representing a community or junior college in whose district the authority is located appointed by the chief executive officer of that community or junior college. The board shall also include 2 members appointed by the chief executive officer of each local governmental unit, other than the city, village, or urban township creating the authority, which levied 20% or more of the ad valorem property taxes levied against all property located in an authority district in the year before the year in which the authority district is established. However, those additional members shall only vote on matters relating to authority districts located within their respective local unit of government. Of the members first appointed, an equal number, as near as possible, shall have terms designated by the governing body creating the authority of 1 year, 2 years, 3 years, and 4 years. However, a member shall hold office until the member's successor is appointed. After the first appointment, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made in the same manner as the original appointment. An appointment to fill an unexpired term shall be for the unexpired portion of the term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses.

(2) The chairperson of the board shall be elected by the board.

(3) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(4) The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held when called in the manner provided in the rules of the board. Meetings of the board shall be open to the public, in accordance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(5) Subject to notice and an opportunity to be heard, a member of the board may be removed before the expiration of his or her term for cause by the governing body. Removal of a member is subject to review by the circuit court.

(6) All expense items of the authority shall be publicized annually and the financial records shall be open to the public pursuant to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2156 Director, employment; compensation; term; oath of office; bond; chief executive officer; duties; acting director; appointment or employment, compensation, and duties of treasurer; appointment or employment, compensation, and duties of secretary; legal counsel; employment of other personnel; municipal retirement and insurance programs.

Sec. 6. (1) The board may employ and fix the compensation of a director, subject to the approval of the governing body creating the authority. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before entering upon the duties of the office, the director shall take and subscribe to the constitutional oath of office and shall furnish bond by posting a bond in the penal sum determined in the resolution establishing the authority. The bond shall be payable to the authority for the use and benefit of the authority, approved by the board, and filed with the clerk of the municipality. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive officer of the authority. Subject to the approval of the board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board and shall render to the board and to the governing body a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before entering upon the duties of the office, the acting director shall take and subscribe to the constitutional oath of office and furnish bond as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

(2) The board may appoint or employ and fix the compensation of a treasurer who shall keep the financial records of the authority and who, together with the director, if a director is appointed, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform other duties as may be delegated by the board and shall furnish bond in an amount as prescribed by the board.

(3) The board may appoint or employ and fix the compensation of a secretary who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall

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perform other duties as may be delegated by the board.

(4) The board may retain legal counsel to advise the board in the proper performance of its duties. The legal counsel may represent the authority in actions brought by or against the authority.

(5) The board may employ other personnel considered necessary by the board.

(6) The employees of an authority may be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees on the same basis as civil service employees.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2157 Powers of board generally.

Sec. 7. The board may:

(a) Study and analyze unemployment, underemployment, and joblessness and the impact of growth upon the authority district or districts.

(b) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility.

(c) Develop long-range plans, in cooperation with the agency which is chiefly responsible for planning in the municipality, to promote the growth of the authority district or districts, and take the steps that are necessary to implement the plans to the fullest extent possible to create jobs, and promote economic growth.

(d) Implement any plan of development necessary to achieve the purposes of this act in accordance with the powers of the authority as granted by this act.

(e) Make and enter into contracts necessary or incidental to the exercise of the board's powers and the performance of its duties.

(f) Acquire by purchase or otherwise on terms and conditions and in a manner the authority considers proper, own or lease as lessor or lessee, convey, demolish, relocate, rehabilitate, or otherwise dispose of real or personal property, or rights or interests in that property, which the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect to the property.

(g) Improve land, prepare sites for buildings, including the demolition of existing structures, and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, or operate a building, and any necessary or desirable appurtenances to a building, as provided in section 12(2) for the use, in whole or in part, of a public or private person or corporation, or a combination thereof.

(h) Fix, charge, and collect fees, rents, and charges for the use of a building or property or a part of a building or property under the board's control, or a facility in the building or on the property, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(i) Lease a building or property or part of a building or property under the board's control.

(j) Accept grants and donations of property, labor, or other things of value from a public or private source.

(k) Acquire and construct public facilities.

(*l*) Incur costs in connection with the performance of the board's authorized functions including, but not limited to, administrative costs, and architects, engineers, legal, and accounting fees.

(m) Plan, propose, and implement an improvement to a public facility on eligible property to comply with the barrier free design requirements of the state construction code promulgated under the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being sections 125.1501 to 125.1531 of the Michigan Compiled Laws.

History: 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1993, Act 333, Eff. Mar. 15, 1994.

Administrative rules: R 408.30401 et seq. of the Michigan Administrative Code.

125.2158 Authority as instrumentality of political subdivision.

Sec. 8. The authority shall be considered an instrumentality of a political subdivision for purposes of Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2159 Taking, transfer, and use of private property.

Sec. 9. A municipality may take private property under the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws, for the purpose of transfer to the authority, and may transfer the property to the authority for use as authorized in the development plan, on terms and conditions it considers appropriate. The taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

History: 1986, Act 281, Eff. Feb. 1, 1987.

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125.2160 Financing activities of authority.

Sec. 10. The activities of the authority shall be financed from 1 or more of the following sources:

(a) Contributions to the authority for the performance of its functions.

(b) Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(c) Tax increment revenues received pursuant to a tax increment financing plan established under sections 12 to 14.

(d) Proceeds of tax increment bonds issued pursuant to section 14.

(e) Proceeds of revenue bonds issued pursuant to section 11.

(f) Money obtained from any other legal source approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance a development program.

(g) Money obtained pursuant to section 11a.

(h) Loans from the Michigan strategic fund or the Michigan economic development corporation.

History: 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1993, Act 333, Eff. Mar. 15, 1994;—Am. 2000, Act 248, Imd. Eff. June 29, 2000.

125.2161 Revenue bonds.

Sec. 11. (1) The authority may borrow money and issue its negotiable revenue bonds pursuant to the revenue bond act of 1933, Act No. 94 of the Public Acts of 1933, being sections 141.101 to 141.139 of the Michigan Compiled Laws. Except as provided in subsection (2), revenue bonds issued by the authority shall not be considered a debt of the municipality or of the state.

(2) The municipality by a majority vote of the members of its governing body may make a limited tax pledge to support the authority's revenue bonds or, if authorized by the voters of the municipality, may pledge its full faith and credit to support the authority's revenue bonds.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2161a Insufficient tax increment revenues for repayment of advance or payment of obligation; appropriation; filing claim; information required in claim; distributions; determination of amounts; limitations; distribution subject to lien; indebtedness, liability, or obligation; certification of distribution amount; basis for calculation of distributions and claims reports; use of 12-month debt payment period.

Sec. 11a. (1) If the amount of tax increment revenues lost as a result of the reduction of taxes levied by local school districts for school operating purposes required by the millage limitations under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, reduced by the amount of tax increment revenues received from the capture of taxes levied under or attributable to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, will cause the tax increment revenues received in a fiscal year by an authority under section 13 to be insufficient to repay an eligible advance or to pay an eligible obligation, the legislature shall appropriate and distribute to the authority the amount described in subsection (5).

(2) Not less than 30 days before the first day of a fiscal year, an authority eligible to retain tax increment revenues from taxes levied by a local or intermediate school district or this state or to receive a distribution under this section for that fiscal year shall file a claim with the department of treasury. The claim shall include the following information:

(a) The property tax millage rates levied in 1993 by local school districts within the jurisdictional area of the authority for school operating purposes.

(b) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(c) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority plus any tax increment revenues the authority would have received for the fiscal year from property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated.

(d) The tax increment revenues the authority estimates it would have received for that fiscal year if property taxes were levied by local school districts within the jurisdictional area of the authority for school operating purposes at the millage rates described in subdivision (a) and if no property taxes were levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(e) A list and documentation of eligible obligations and eligible advances and the payments due on each of those eligible obligations or eligible advances in that fiscal year, and the total amount of all the payments due on those eligible obligations and eligible advances in that fiscal year.

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(f) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation or the repayment of an eligible advance. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development project.

(g) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(h) A list and documentation of other protected obligations and the payments due on each of those other protected obligations in that fiscal year, and the total amount of all the payments due on those other protected obligations in that fiscal year.

(3) For the fiscal year that commences after September 30, 1993 and before October 1, 1994, an authority may make a claim with all information required by subsection (2) at any time after March 15, 1994.

(4) After review and verification of claims submitted pursuant to this section, amounts appropriated by the state in compliance with this act shall be distributed as 2 equal payments on March 1 and September 1 after receipt of a claim. An authority shall allocate a distribution it receives for an eligible obligation issued on behalf of a municipality to the municipality.

(5) Subject to subsections (6) and (7), the aggregate amount to be appropriated and distributed pursuant to this section to an authority shall be the sum of the amounts determined pursuant to subdivisions (a) and (b) minus the amount determined pursuant to subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received for the fiscal year, if property taxes were levied by local school districts on property, including property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated, for school operating purposes at the millage rates described in subsection (2)(a) and if no property taxes were levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, exceed the sum of tax increment revenues the authority actually received for the fiscal year plus any tax increment revenues the authority would have received for the fiscal year from property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated.

(b) A shortfall required to be reported pursuant to subsection (2)(g) that had not previously increased a distribution.

(c) An excess amount required to be reported pursuant to subsection (2)(g) that had not previously decreased a distribution.

(6) The amount distributed under subsection (5) shall not exceed the difference between the amount described in subsection (2)(e) and the sum of the amounts described in subsection (2)(c) and (f).

(7) If, based upon the tax increment financing plan in effect on August 19, 1993, the payment due on eligible obligations or eligible advances anticipates the use of excess prior year tax increment revenues permitted by law to be retained by the authority, and if the sum of the amounts described in subsection (2)(c) and (f) plus the amount to be distributed under subsections (5) and (6) is less than the amount described in subsection (2)(e), the amount to be distributed under subsections (5) and (6) shall be increased by the amount of the shortfall. However, the amount authorized to be distributed pursuant to this section shall not exceed that portion of the cumulative difference, for each preceding fiscal year, between the amount that could have been distributed pursuant to subsection (5) and the amount actually distributed pursuant to subsections (5) and (6) and this subsection.

(8) A distribution under this section replacing tax increment revenues pledged by an authority or a municipality is subject to the lien of the pledge, whether or not there has been physical delivery of the distribution.

(9) Obligations for which distributions are made pursuant to this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(10) Not later than July 1 of each year, the authority shall certify to the local tax collecting treasurer the amount of the distribution required under subsection (5), calculated without regard to the receipt of tax increment revenues attributable to local or intermediate school district operating taxes or attributable to taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(11) Calculations of distributions under this section and claims reports required to be made under subsection (2) shall be made on the basis of each development area of the authority.

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(12) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

History: Add. 1993, Act 333, Eff. Mar. 15, 1994;—Am. 1994, Act 282, Imd. Eff. July 11, 1994;—Am. 1996, Act 270, Imd. Eff. June 12, 1996;—Am. 1996, Act 452, Imd. Eff. Dec. 19, 1996;—Am. 1998, Act 1, Imd. Eff. Jan. 30, 1998.

125.2161b Retention and payment of taxes levied under state education tax act; conditions; application by authority for approval; information to be included; approval, modification, or denial of application by department of treasury; appropriation and distribution of amount; calculation of aggregate amount; lien; reimbursement calculations; legislative intent.

Sec. 11b. (1) If the amount of tax increment revenues lost as a result of the personal property tax exemptions provided by section 1211(4) of the revised school code, 1976 PA 451, MCL 380.1211, section 3 of the state education tax act, 1993 PA 331, MCL 211.903, section 14(4) of 1974 PA 198, MCL 207.564, and section 9k of the general property tax act, 1893 PA 206, MCL 211.9k, will reduce the allowable school tax capture received in a fiscal year, then, notwithstanding any other provision of this act, the authority, with approval of the department of treasury under subsection (3), may request the local tax collecting treasurer to retain and pay to the authority taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, to be used for the following:

(a) To repay an eligible advance.

(b) To repay an eligible obligation.

(c) To repay an other protected obligation.

(d) To pay an advance or an obligation identified in a development plan, or an amendment to that plan for property located in a certified technology park approved by board of the authority not later than 90 days after the effective date of the amendatory act that added this section if the plan contains all of the following and the plan for the capture of school taxes has been approved within 1 year after the effective date of the amendatory act that added this section:

(*i*) A detailed description of the project.

(*ii*) A statement of the estimated cost of the project.

(*iii*) The specific location of the project.

(*iv*) The name of any developer of the project.

(2) Not later than June 15 of 2008 and not later than June 1 of each subsequent year, an authority eligible under subsection (1) to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section, shall apply for approval with the department of treasury. The application for approval shall include the following information:

(a) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(b) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.

(c) The tax increment revenues the authority estimates it would have received for that fiscal year if the personal property tax exemptions described in subsection (1) were not in effect.

(d) A list of eligible obligations, eligible advances, other protected obligations, and advances and obligations described in subsection (1)(d) for expenditures authorized in a certified technology park; the payments due on each of those in that fiscal year; and the total amount of payments due on all of those in that fiscal year.

(e) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation, the repayment of an eligible advance, the payment of another protected obligation, or the payment of obligations or advances described in subsection (1)(d) for expenditures authorized in a certified technology park. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development plan.

(f) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(3) Not later than August 15, based on the calculations under subsection (5), the department of treasury

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shall approve, modify, or deny the application for approval to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section. If the application for approval contains the information required under subsection (2)(a) through (f) and appears to be in substantial compliance with the provisions of this section, then the department of treasury shall approve the application. If the application is denied by the department of treasury, then the department of treasury shall provide the opportunity for a representative of the authority to discuss the denial within 21 days after the denial occurs and shall sustain or modify its decision within 30 days after receiving information from the authority. If the application for approval is approved or modified by the department of treasury, the local tax collecting treasurer shall retain and pay to the authority the amount described in subsection (5) as approved by the department. If the department of treasury denies the authority's application for approval, the local tax collecting treasurer shall not retain or pay to the authority the taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the department does not prohibit a subsequent audit of taxes retained in accordance with the procedures currently authorized by law.

(4) Each year, the legislature shall appropriate and distribute an amount sufficient to pay each authority the following:

(a) If the amount to be retained and paid under subsection (3) is less than the amount calculated under subsection (5), the difference between those amounts.

(b) If the application for approval is denied by the department of treasury, an amount verified by the department equal to the amount calculated under subsection (5).

(5) Subject to subsection (6), the aggregate amount under this section shall be the sum of the amounts determined under subdivisions (a) and (b) minus the amount determined under subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received and retained for the fiscal year, excluding taxes exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax exemptions described in subsection (1) were not in effect, exceed the tax increment revenues the authority actually received for the fiscal year.

(b) A shortfall required to be reported under subsection (2)(f) that had not previously increased a distribution.

(c) An excess amount required to be reported under subsection (2)(f) that had not previously decreased a distribution.

(6) A distribution or taxes retained under this section replacing tax increment revenues pledged by an authority or a municipality are subject to any lien of the pledge described in subsection (1), whether or not there has been physical delivery of the distribution.

(7) Obligations for which distributions are made under this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(8) Not later than September 15 of each year, the authority shall provide a copy of the application for approval approved by the department of treasury to the local tax collecting treasurer and provide the amount of the taxes retained and paid to the authority under subsection (5).

(9) Calculations of amounts retained and paid and appropriations to be distributed under this section shall be made on the basis of each development area of the authority.

(10) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

(11) It is the intent of the legislature that, to the extent that the total amount of taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be retained under this section and section 15a of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2665a, section 12b of the tax increment financing act, 1980 PA 450, MCL 125.1812b, and section 13c of 1975 PA 197, MCL 125.1663c, exceeds the difference of the total school aid fund revenue for the tax year minus the estimated amount of revenue the school aid fund would have received for the tax year had the tax exemptions described in subsection (1) and the earmark created by section 515 of the Michigan business tax act, 2007 PA 36, MCL 208.1515, not taken effect, the general fund shall reimburse the school aid fund the difference.

History: Add. 2008, Act 155, Imd. Eff. June 5, 2008.

125.2162 Tax increment financing plan generally.

Sec. 12. (1) If the board determines that it is necessary for the achievement of the purposes of this act, the board shall prepare and submit a tax increment financing plan to the governing body. The plan shall be in compliance with section 13 and shall include a development plan as provided in section 15. The plan shall also contain the following:

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(a) A statement of the reasons that the plan will result in the development of captured assessed value that could not otherwise be expected. The reasons may include, but are not limited to, activities of the municipality, authority, or others undertaken before formulation or adoption of the plan in reasonable anticipation that the objectives of the plan would be achieved by some means.

(b) An estimate of the captured assessed value for each year of the plan. The plan may provide for the use of part or all of the captured assessed value or, subject to subsection (3), of the tax increment revenues attributable to the levy of any taxing jurisdiction, but the portion intended to be used shall be clearly stated in the plan. The board or the municipality creating the authority may exclude from captured assessed value a percentage of captured assessed value as specified in the plan or growth in property value resulting solely from inflation. If excluded, the plan shall set forth the method for excluding growth in property value resulting solely from inflation.

(c) The estimated tax increment revenues for each year of the plan.

(d) A detailed explanation of the tax increment procedure.

(e) The maximum amount of note or bonded indebtedness to be incurred, if any.

(f) The amount of operating and planning expenditures of the authority and municipality, the amount of advances extended by or indebtedness incurred by the municipality, and the amount of advances by others to be repaid from tax increment revenues.

(g) The costs of the plan anticipated to be paid from tax increment revenues as received.

(h) The duration of the development plan and the tax increment plan.

(i) An estimate of the impact of tax increment financing on the revenues of all taxing jurisdictions in which the eligible property is or is anticipated to be located.

(j) A legal description of the eligible property to which the tax increment financing plan applies or shall apply upon qualification as eligible property.

(k) An estimate of the number of jobs to be created as a result of implementation of the tax increment financing plan.

(*l*) The proposed boundaries of a certified technology park to be created under an agreement proposed to be entered into pursuant to section 12a, an identification of the real property within the certified technology park to be included in the tax increment financing plan for purposes of determining tax increment revenues, and whether personal property located in the certified technology park is exempt from determining tax increment revenues.

(m) The proposed boundaries of a certified alternative energy park to be created under an agreement proposed to be entered into pursuant to section 12c, an identification of the real property with the certified alternative energy park to be included in the tax increment financing plan for purposes of determining tax increment revenues, and whether personal property located in the certified alternative energy park is exempt from determining tax increment revenues.

(2) Except as provided in subsection (7), a tax increment financing plan shall provide for the use of tax increment revenues for public facilities for eligible property whose captured assessed value produces the tax increment revenues or, to the extent the eligible property is located within a business development area, for other eligible property located in the business development area. Public facilities for eligible property include the development or improvement of access to and around, or within the eligible property, of road facilities reasonably required by traffic flow to be generated by the eligible property, and the development or improvement of public facilities that are necessary to service the eligible property, whether or not located on that eligible property. If the eligible property identified in the tax increment financing plan is property to which section 2(s)(*iv*) applies, the tax increment financing plan shall not provide for the use of tax increment revenues for public facilities other than those described in the development plan as of April 1, 1991. Whether or not provided in the tax increment financing plan, if the eligible property identified in the tax increment financing plan is property to which section 2(s)(*iv*) applies, then to the extent that captured tax increment revenues are utilized for the costs of cleanup of identified soil and groundwater contamination, the captured tax increment revenues shall be first credited against the shares of responsibility for the total costs of cleanup of uncollectible parties who are responsible for the identified soil and groundwater contamination pursuant to law, and then shall be credited on a pro rata basis against the shares of responsibility for the total costs of cleanup of other parties who are responsible for the identified soil and groundwater contamination pursuant to law.

(3) The percentage of taxes levied for school operating purposes that is captured and used by the tax increment financing plan and the tax increment financing plans under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, and the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, shall not be greater than the percentage capture and use of taxes levied by a municipality or county for operating purposes under the

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tax increment financing plan and tax increment financing plans under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, and the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672. For purposes of the previous sentence, taxes levied by a county for operating purposes include only millage allocated for county or charter county purposes under the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a.

(4) Except as otherwise provided by this subsection, approval of the tax increment financing plan shall be in accordance with the notice, hearing, disclosure, and approval provisions of sections 16 and 17. If the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together. For a plan submitted by an authority established by 2 or more municipalities under sections 3(2) and 4(7), the notice required by section 16 may be published jointly by the municipalities in which the authority district is located. The plan shall not be considered approved unless each governing body in which the authority district is located makes the determinations required by section 17 and approves the same plan, including the same modifications, if any, made to the plan by any other governing body.

(5) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to express their views and recommendations regarding the tax increment financing plan. The authority shall fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed tax increment financing plan. The taxing jurisdictions may present their recommendations at the public hearing on the tax increment financing plan. The authority may enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the authority district is located to share a portion of the captured assessed value of the district or to distribute tax increment revenues among taxing jurisdictions. Upon adoption of the plan, the collection and transmission of the amount of tax increment revenues, as specified in this act, shall be binding on all taxing units levying ad valorem property taxes or specific local taxes against property located in the authority district.

(6) Property qualified as a public facility under section 2(dd)(*ii*) that is acquired by an authority may be sold, conveyed, or otherwise disposed to any person, public or private, for fair market value or reasonable monetary consideration established by the authority with the concurrence of the Michigan economic development corporation and the municipality in which the eligible property is located based on a fair market value appraisal from a fee appraiser only if the property is sold for fair market value. Unless the property acquired by an authority was located within a certified business park, a certified technology park, or a certified alternative energy park at the time of disposition, an authority shall remit all monetary proceeds received from the sale or disposition of property that qualified as a public facility under section 2(dd)(*ii*) and was purchased with tax increment revenues to the taxing jurisdictions. Proceeds distributed to taxing jurisdictions shall be remitted in proportion to the amount of tax increment revenues attributable to each taxing jurisdiction in the year the property was acquired. If the property was acquired in part with funds other than tax increment revenues, only that portion of the monetary proceeds received upon disposition that represent the proportion of the cost of acquisition paid with tax increment revenues is required to be remitted to taxing jurisdictions. If the property is located within a certified business park, a certified technology park, or a certified alternative energy park at the time of disposition, the monetary proceeds received from the sale or disposition of that property may be retained by the authority for any purpose necessary to further the development program for the certified business park or certified technology park in accordance with the tax increment financing plan.

(7) The tax increment financing plan may provide for the use of tax increment revenues from a certified technology park or a certified alternative energy park for public facilities for any eligible property located in the certified technology park or a certified alternative energy park.

(8) If title to property qualified as a public facility under section 2(dd)(*ii*) and acquired by an authority with tax increment revenues is sold, conveyed, or otherwise disposed of pursuant to subsection (6) for less than fair market value, the authority shall enter into an agreement relating to the use of the property with the person to whom the property is sold, conveyed, or disposed of, which agreement shall include a penalty provision addressing repayment to the authority if any interest in the property is sold, conveyed, or otherwise disposed of by the person within 12 years after the person received title to the property from the authority. This subsection shall not require enforcement of a penalty provision for a conveyance incident to a merger, acquisition, reorganization, sale-lease back transaction, employee stock ownership plan, or other change in corporate or business form or structure.

(9) The penalty provision described in subsection (8) shall not be less than an amount equal to the difference between the fair market value of the property when originally sold, conveyed, or otherwise disposed of and the actual consideration paid by the person to whom the property was originally sold, conveyed, or otherwise disposed of.

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History: 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1991, Act 101, Imd. Eff. Aug. 21, 1991;—Am. 1993, Act 333, Eff. Mar. 15, 1994;—Am. 2000, Act 248, Imd. Eff. June 29, 2000;—Am. 2009, Act 162, Imd. Eff. Dec. 14, 2009.

125.2162a Designation as certified technology park; application to Michigan economic development corporation; agreement; determination of sale price or rental value for public facilities; inclusion of legal and equitable remedies and rights; marketing services; additional certified technology parks; priority to certain applications; duties of state.

Sec. 12a. (1) A municipality that has created an authority may apply to the Michigan economic development corporation for designation of all or a portion of the authority district as a certified technology park and to enter into an agreement governing the terms and conditions of the designation. The form of the application shall be in a form specified by the Michigan economic development corporation and shall include information the Michigan economic development corporation determines necessary to make the determinations required under this section.

(2) After receipt of an application, the Michigan economic development corporation may designate, pursuant to an agreement entered into under subsection (3), a certified technology park that is determined by the Michigan economic development corporation to satisfy 1 or more of the following criteria based on the application:

(a) A demonstration of significant support from an institution of higher education or a private research-based institute located within the proximity of the proposed certified technology park, as evidenced by, but not limited to, the following types of support:

(*i*) Grants of preferences for access to and commercialization of intellectual property.

(*ii*) Access to laboratory and other facilities owned by or under control of the institution of higher education or private research-based institute.

(*iii*) Donations of services.

(*iv*) Access to telecommunication facilities and other infrastructure.

(*v*) Financial commitments.

(*vi*) Access to faculty, staff, and students.

(*vii*) Opportunities for adjunct faculty and other types of staff arrangements or affiliations.

(b) A demonstration of a significant commitment on behalf of the institution of higher education or private research-based institute to the commercialization of research produced at the certified technology park, as evidenced by the intellectual property and, if applicable, tenure policies that reward faculty and staff for commercialization and collaboration with private businesses.

(c) A demonstration that the proposed certified technology park will be developed to take advantage of the unique characteristics and specialties offered by the public and private resources available in the area in which the proposed certified technology park will be located.

(d) The existence of or proposed development of a business incubator within the proposed certified technology park that exhibits the following types of resources and organization:

(*i*) Significant financial and other types of support from the public or private resources in the area in which the proposed certified technology park will be located.

(*ii*) A business plan exhibiting the economic utilization and availability of resources and a likelihood of successful development of technologies and research into viable business enterprises.

(*iii*) A commitment to the employment of a qualified full-time manager to supervise the development and operation of the business incubator.

(e) The existence of a business plan for the proposed certified technology park that identifies its objectives in a clearly focused and measurable fashion and that addresses the following matters:

(*i*) A commitment to new business formation.

(*ii*) The clustering of businesses, technology, and research.

(*iii*) The opportunity for and costs of development of properties under common ownership or control.

(*iv*) The availability of and method proposed for development of infrastructure and other improvements, including telecommunications technology, necessary for the development of the proposed certified technology park.

(*v*) Assumptions of costs and revenues related to the development of the proposed certified technology park.

(f) A demonstrable and satisfactory assurance that the proposed certified technology park can be developed to principally contain eligible property as defined by section 2(s)(*iii*) and (*v*).

(3) An authority and a municipality that incorporated the authority may enter into an agreement with the Michigan economic development corporation establishing the terms and conditions governing the certified technology park. Upon designation of the certified technology park pursuant to the terms of the agreement,

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the subsequent failure of any party to comply with the terms of the agreement shall not result in the termination or rescission of the designation of the area as a certified technology park. The agreement shall include, but is not limited to, the following provisions:

(a) A description of the area to be included within the certified technology park.

(b) Covenants and restrictions, if any, upon all or a portion of the properties contained within the certified technology park and terms of enforcement of any covenants or restrictions.

(c) The financial commitments of any party to the agreement and of any owner or developer of property within the certified technology park.

(d) The terms of any commitment required from an institution of higher education or private research-based institute for support of the operations and activities at eligible properties within the certified technology park.

(e) The terms of enforcement of the agreement, which may include the definition of events of default, cure periods, legal and equitable remedies and rights, and penalties and damages, actual or liquidated, upon the occurrence of an event of default.

(f) The public facilities to be developed for the certified technology park.

(g) The costs approved for public facilities under section 2(dd).

(4) If the Michigan economic development corporation has determined that a sale price or rental value at below market rate will assist in increasing employment or private investment in the certified technology park, the authority and municipality have authority to determine the sale price or rental value for public facilities owned or developed by the authority and municipality in the certified technology park at below market rate.

(5) If public facilities developed pursuant to an agreement entered into under this section are conveyed or leased at less than fair market value or at below market rates, the terms of the conveyance or lease shall include legal and equitable remedies and rights to assure the public facilities are used as eligible property. Legal and equitable remedies and rights may include penalties and actual or liquidated damages.

(6) Except as otherwise provided in this section, an agreement designating a certified technology park may not be made after December 31, 2002, but any agreement made on or before December 31, 2002 may be amended after that date. However, the Michigan economic development corporation may enter into an agreement with a municipality after December 31, 2002 and on or before December 31, 2005 if that municipality has adopted a resolution of interest to create a certified technology park before December 31, 2002.

(7) The Michigan economic development corporation shall market the certified technology parks and the certified business parks. The Michigan economic development corporation and an authority may contract with each other or any third party for these marketing services.

(8) Except as otherwise provided in subsections (9) and (10), the Michigan economic development corporation shall not designate more than 10 certified technology parks. For purposes of this subsection only, 2 certified technology parks located in a county that contains a city with a population of more than 750,000, shall be counted as 1 certified technology park. Not more than 7 of the certified technology parks designated under this section may not include a firm commitment from at least 1 business engaged in a high technology activity creating a significant number of jobs.

(9) The Michigan economic development corporation may designate an additional 5 certified technology parks after November 1, 2002 and before December 31, 2007. The Michigan economic development corporation shall not accept applications for the additional certified technology parks under this subsection until after November 1, 2002.

(10) The Michigan economic development corporation may designate an additional 3 certified technology parks after February 1, 2008 and before December 31, 2008. The Michigan economic development corporation shall not accept applications for the additional certified technology parks under this subsection until after February 1, 2008.

(11) The Michigan economic development corporation shall give priority to applications that include new business activity.

(12) For an authority established by 2 or more municipalities under sections 3(2) and 4(7), each municipality in which the authority district is located by a majority vote of the members of its governing body may make a limited tax pledge to support the authority's tax increment bonds issued under section 14 or, if authorized by the voters of the municipality, may pledge its full faith and credit for the payment of the principal of and interest on the bonds. The municipalities that have made a pledge to support the authority's tax increment bonds may approve by resolution an agreement among themselves establishing obligations each may have to the other party or parties to the agreement for reimbursement of all or any portion of a payment made by a municipality related to its pledge to support the authority's tax increment bonds.

(13) Not including certified technology parks designated under subsection (8), but for certified technology

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parks designated under subsections (9) and (10) only, this state shall do all of the following:

(a) Reimburse intermediate school districts each year for all tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation after October 3, 2002.

(b) Reimburse local school districts each year for all tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation after October 3, 2002.

(c) Reimburse the school aid fund from funds other than those appropriated in section 11 of the state school aid act of 1979, 1979 PA 94, MCL 388.1611, for an amount equal to the reimbursement calculations under subdivisions (a) and (b) and for all revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation after October 3, 2002. Foundation allowances calculated under section 20 of the state school aid act of 1979, 1979 PA 94, MCL 388.1620, shall not be reduced as a result of tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation under subsection (9) or (10) after October 3, 2002.

History: Add. 2000, Act 248, Imd. Eff. June 29, 2000;—Am. 2002, Act 575, Imd. Eff. Oct. 3, 2002;—Am. 2004, Act 365, Imd. Eff. Oct. 7, 2004;—Am. 2008, Act 105, Imd. Eff. Apr. 23, 2008;—Am. 2009, Act 161, Imd. Eff. Dec. 14, 2009;—Am. 2009, Act 162, Imd. Eff. Dec. 14, 2009.

125.2162b Creation of authority in which certified technology park designated; agreement with another authority; designation of distinct geographic area; consideration of advantages and benefits.

Sec. 12b. A municipality that has created an authority in which a certified technology park has been designated under this act may enter into an agreement with another authority that does not contain a certified technology park to designate a distinct geographic area within the authority district as a certified technology park. The authority shall consider the advantages of the unique characteristics and specialties offered by the public and private resources available in the distinct geographic area, shall consider the benefits to regional cooperation and collaboration, and shall consider whether designating the additional distinct geographic area adds value to the mission of the designated certified technology park. The distinct geographic area is subject to the provisions of section 12a(3), (4), and (5). The state treasurer shall not approve the capture of amounts levied by the state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and by local and intermediate school districts as permitted in section 2(ee)(*ii*)(B) for more than 3 distinct geographic areas designated under this section. A copy of the designation shall be filed with the Michigan economic development corporation.

History: Add. 2008, Act 104, Imd. Eff. Apr. 23, 2008.

125.2162c Designation as certified alternative energy park; application; criteria; agreement; determination of sale price or rental value for public facilities; inclusion of legal and equitable remedies and rights; limitations; pledge to support authority's tax increment bonds; ownership and operation by economic development corporation.

Sec. 12c. (1) A municipality that has created an authority may apply to the Michigan economic development corporation for designation of all or a portion of the authority district as a certified alternative energy park and to enter into an agreement governing the terms and conditions of the designation. The form of the application shall be in a form specified by the Michigan economic development corporation and shall include information the Michigan economic development corporation determines necessary to make the determinations required under this section.

(2) After receipt of an application, the Michigan economic development corporation may designate, pursuant to an agreement entered into under subsection (3), a certified alternative energy park that is determined by the Michigan economic development corporation to satisfy 1 or more of the following criteria based on the application:

(a) A demonstration that the proposed alternative energy park will be developed to take advantage of the unique characteristics and specialties offered by public and private resources available in the area in which the proposed certified alternative energy park will be located.

(b) The existence of or strong likelihood of attracting alternative energy technology businesses to the proposed alternative energy park by exhibiting the following types of resources and organization:

(*i*) Significant financial and other types of support from the public or private resources in the area.

(*ii*) Proposed or actual ownership of land in sufficient quantity as to attract 1 or more major alternative energy technology businesses.

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(c) The existence of a business plan for the proposed certified alternative energy park that identifies its objectives in a clearly focused and measurable fashion and that addresses the following matters:

(*i*) A commitment to new business formation or major business attraction.

(*ii*) The clustering of businesses, technology, and research within the region.

(*iii*) The opportunity for and costs of development of properties under common ownership or control.

(*iv*) The availability of and method proposed for development and sale or conveyance of shovel-ready sites to include infrastructure and other improvements, including telecommunications technology, necessary for the successful development of the proposed certified alternative energy park.

(*v*) Assumptions of costs and revenues related to the development of the proposed certified alternative energy park.

(f) A demonstrable and satisfactory assurance that the proposed certified alternative energy park can be developed to principally contain eligible property as defined by section 2(s)(*v*) and (*vi*).

(3) An authority and a municipality that incorporated the authority may enter into an agreement with the Michigan economic development corporation establishing the terms and conditions governing the certified alternative energy park. Upon designation of the certified alternative energy park pursuant to the terms of the agreement, the subsequent failure of any party to comply with the terms of the agreement shall not result in the termination or rescission of the designation of the area as a certified alternative energy park. The agreement shall include, but is not limited to, the following provisions:

(a) A description of the area to be included within the certified alternative energy park.

(b) Covenants and restrictions, if any, upon all or a portion of the properties contained within the certified alternative energy park and terms of enforcement of any covenants or restrictions.

(c) The financial commitments of any party to the agreement and of any owner or developer of property, including sale or transfer of ownership or options thereto upon designation of a certified alternative energy park for property within the certified alternative energy park.

(d) The terms of enforcement of the agreement, which may include the definition of events of default, cure periods, legal and equitable remedies and rights, and penalties and damages, actual or liquidated, upon the occurrence of an event of default.

(e) Proposed method of ownership of the land within the certified alternative energy park.

(f) The costs approved for public facilities under section 2(dd).

(g) Proposed method of operating the certified alternative energy park.

(4) If the Michigan economic development corporation has determined that a sale price or rental value at below market rate will assist in increasing employment or private investment in the certified alternative energy park, the authority and municipality have authority to determine the sale price or rental value for public facilities owned or developed by the authority and municipality in the certified alternative energy park at below market rate.

(5) If public facilities developed pursuant to an agreement entered into under this section are conveyed or leased at less than fair market value or at below market rates, the terms of the conveyance or lease shall include legal and equitable remedies and rights to assure that the public facilities are used as eligible property. Legal and equitable remedies and rights may include penalties and actual or liquidated damages.

(6) Except as otherwise provided in this section, an agreement designating a certified alternative energy park may not be made after December 31, 2011, but any agreement made on or before December 31, 2011 may be amended after that date.

(7) The Michigan economic development corporation shall not designate more than 10 certified alternative energy parks. For purposes of this subsection only, certified alternative energy parks located in the same county shall be counted as 1 certified alternative energy park.

(8) For an authority established by 2 or more municipalities under sections 3(2) and 4(7), each municipality in which the authority district is located by a majority vote of the members of its governing body may make a limited tax pledge to support the authority's tax increment bonds issued under section 14 or, if authorized by the voters of the municipality, may pledge its full faith and credit for the payment of the principal of and interest on the bonds. The municipalities that have made a pledge to support the authority's tax increment bonds may approve by resolution an agreement among themselves establishing obligations each may have to the other party or parties to the agreement for reimbursement of all or any portion of a payment made by a municipality related to its pledge to support the authority's tax increment bonds.

(9) Upon approval of the Michigan economic development corporation, the certified alternative energy park may be owned and operated by an economic development corporation created under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, or other public body agreeable to all members.

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History: Add. 2009, Act 162, Imd. Eff. Dec. 14, 2009.

125.2163 Tax increment revenues transmitted to authority; expenditure of tax increment revenues; retention or reversion of excess revenue; prohibition; abolition of tax increment financing plan; annual financial report.

Sec. 13. (1) The city, village, township, school district, and county treasurers shall transmit to the authority tax increment revenues.

(2) The authority shall expend the tax increment revenues received for the development program only in accordance with the tax increment financing plan. Tax increment revenues in excess of the estimated tax increment revenues or of the actual costs of the plan to be paid by the tax increment revenues may be retained by the authority only for purposes, that by resolution of the board, are determined to further the development program in accordance with the tax increment financing plan. The excess tax increment revenues not so used shall revert proportionately to the respective taxing jurisdictions. These revenues shall not be used to circumvent existing property tax laws or a local charter that provides a maximum authorized rate for the levy of property taxes. The governing body may abolish the tax increment financing plan if it finds that the purposes for which the plan was established are accomplished. However, the tax increment financing plan may not be abolished until the principal of and interest on bonds issued pursuant to section 14 have been paid or funds sufficient to make that payment have been segregated and placed in an irrevocable trust for the benefit of the holders of the bonds.

(3) The authority shall submit annually to the governing body and the state tax commission a financial report on the status of the tax increment financing plan. The report shall include the following:

(a) The amount and source of tax increment revenues received.

(b) The amount in any bond reserve account.

(c) The amount and purpose of expenditures of tax increment revenues.

(d) The amount of principal and interest on any outstanding bonded indebtedness of the authority.

(e) The initial assessed value of the eligible property.

(f) The captured assessed value of the eligible property retained by the authority.

(g) The number of jobs created as a result of the implementation of the tax increment financing plan.

(h) Any additional information the governing body or the state tax commission considers necessary.

History: 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1993, Act 333, Eff. Mar. 15, 1994.

125.2164 Tax increment bonds; qualified refunding obligation.

Sec. 14. (1) By resolution of its board and subject to the limitations set forth in this section, the authority may authorize, issue, and sell its tax increment bonds to finance a development program. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The authority may pledge for debt service requirements the tax increment revenues to be received from an eligible property. The bonds issued under this section shall be considered a single series for the purposes of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The municipality by majority vote of the members of its governing body may make a limited tax pledge to support the authority's tax increment bonds or, if authorized by the voters of the municipality, pledge its full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds. The municipality may pledge as additional security for the bonds any money received by the authority or the municipality pursuant to section 10.

(3) Bonds and notes issued by the authority and the interest on and income from those bonds and notes are exempt from taxation by the state or a political subdivision of this state.

(4) Notwithstanding any other provision of this act, if the state treasurer determines that an authority or municipality can issue a qualified refunding obligation and the authority or municipality does not make a good faith effort to issue the qualified refunding obligation as determined by the state treasurer, the state treasurer may reduce the amount claimed by the authority or municipality under section 11a by an amount equal to the net present value saving that would have been realized had the authority or municipality refunded the obligation or the state treasurer may require a reduction in the capture of tax increment revenues from taxes levied by a local or intermediate school district or this state by an amount equal to the net present value savings that would have been realized had the authority or municipality refunded the obligation. This subsection does not authorize the state treasurer to require the authority or municipality to pledge security greater than the security pledged for the obligation being refunded.

History: 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1993, Act 333, Eff. Mar. 15, 1994;—Am. 1996, Act 270, Imd. Eff. June 12, 1996;—Am. 2002, Act 235, Imd. Eff. Apr. 29, 2002.

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125.2165 Development plan generally.

Sec. 15. (1) If a board decides to finance a project under this act, it shall prepare a development plan.

(2) To the extent necessary to accomplish the proposed development program the development plan shall contain:

(a) A description of the property to which the plan applies in relation to the boundaries of the authority district and a legal description of the property.

(b) The designation of boundaries of the property to which the plan applies in relation to highways, streets, or otherwise.

(c) The location and extent of existing streets and other public facilities in the vicinity of the property to which the plan applies; the location, character, and extent of the categories of public and private land uses then existing and proposed for the property to which the plan applies, including residential, recreational, commercial, industrial, educational, and other uses.

(d) A description of public facilities to be acquired for the property to which the plan applies, a description of any repairs and alterations necessary to make those improvements, and an estimate of the time required for completion of the improvements.

(e) The location, extent, character, and estimated cost of the public facilities for the property to which the plan applies, and an estimate of the time required for completion.

(f) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(g) A description of any portions of the property to which the plan applies, which the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.

(h) A description of desired zoning changes and changes in streets, street levels, intersections, and utilities.

(i) An estimate of the cost of the public facility or facilities, a statement of the proposed method of financing the public facility or facilities, and the ability of the authority to arrange the financing.

(j) Designation of the person or persons, natural or corporate, to whom all or a portion of the public facility or facilities is to be leased, sold, or conveyed and for whose benefit the project is being undertaken, if that information is available to the authority.

(k) The procedures for bidding for the leasing, purchasing, or conveying of all or a portion of the public facility or facilities upon its completion, if there is no express or implied agreement between the authority and persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed to those persons.

(*l*) Estimates of the number of persons residing on the property to which the plan applies and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, a development plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(m) A plan for establishing priority for the relocation of persons displaced by the development.

(n) Provision for the costs of relocating persons displaced by the development, and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the federal uniform relocation assistance and real property acquisition policies act of 1970, 42 U.S.C. 4601 to 4655.

(o) A plan for compliance with Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

(p) Other material which the authority or governing body considers pertinent.

(3) It shall not be necessary for the board to prepare a development plan pursuant to this section if a development plan that adequately provides for accomplishing the proposed development program has already been prepared and where the development plan has been approved by the board and governing body pursuant to sections 16 and 17.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2166 Adoption of resolution approving development plan or tax increment financing plan; public hearing; notice; record.

Sec. 16. (1) Before adoption of a resolution approving or amending a development plan or approving or amending a tax increment financing plan, the governing body shall hold a public hearing on the development

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plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall not be less than 20 days before the date set for the hearing. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the development plan or the tax increment financing plan is approved or amended.

(2) Notice of the time and place of hearing on a development plan shall contain the following:

(a) A description of the property to which the plan applies in relation to highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice, and that all aspects of the development plan will be open for discussion at the public hearing.

(c) Other information that the governing body considers appropriate.

(3) At the time set for hearing, the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference to the matter. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented at that time.

History: 1986, Act 281, Eff. Feb. 1, 1987;—2005, Act 15, Imd. Eff. May 4, 2005.

125.2167 Development plan or tax increment financing plan as constituting public purpose; approval or rejection; considerations; amendments; procedure, notice, findings, and amendment as conclusive; contest.

Sec. 17. (1) After a public hearing on the development plan or the tax increment financing plan, or both, with notice of the hearing given pursuant to section 16, the governing body shall determine whether the development plan or tax increment financing plan, or both, constitutes a public purpose. If the governing body determines that the development plan or tax increment financing plan, or both, constitutes a public purpose, the governing body may then approve or reject the plan, or approve it with modification, by resolution, based on the following considerations:

(a) Whether the development plan meets the requirements set forth in section 15(2) and the tax increment financing plan meets the requirements set forth in section 12(1), (2), and (3).

(b) Whether the proposed method of financing the public facility or facilities is feasible and the authority has the ability to arrange the financing.

(c) Whether the development is reasonable and necessary to carry out the purposes of this act.

(d) Whether the amount of captured assessed value estimated to result from adoption of the plan is reasonable.

(e) Whether the land to be acquired under the development plan is reasonably necessary to carry out the purposes of the plan and the purposes of this act.

(f) Whether the development plan is in reasonable accord with the approved master plan of the municipality, if an approved master plan exists.

(g) Whether public services, such as fire and police protection and utilities, are or will be adequate to service the property.

(h) Whether changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

(2) Except as provided in this subsection, amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection following the same notice and public hearing provisions that are necessary for approval or rejection of the original plan. Notice and hearing shall not be necessary for revisions in the estimates of captured assessed value and tax increment revenues.

(3) The procedure, adequacy of notice, and findings with respect to purpose and captured assessed value shall be conclusive unless contested in a court of competent jurisdiction within 60 days after adoption of the resolution adopting the plan. An amendment, adopted by resolution, to a conclusive plan shall likewise be conclusive unless contested within 60 days after adoption of the resolution adopting the amendment. If a resolution adopting an amendment to the plan is contested, the resolution adopting the plan is not open to contest.

History: 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1993, Act 333, Eff. Mar. 15, 1994.

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125.2168 Relocation of person; notice to vacate.

Sec. 18. A person to be relocated under this act shall be given not less than 90 days' written notice to vacate unless modified by court order for good cause.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2169 Preparation and submission of budget; manner; approval; cost of handling and auditing funds.

Sec. 19. (1) The director of the authority shall prepare and submit for the approval of the board a budget for the operation of the authority for the ensuing fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. Before the budget may be adopted by the board, it shall be approved by the governing body. Funds of the municipality shall not be included in the budget of the authority except those funds authorized in this act or by the governing body.

(2) The governing body may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed for designated purposes, which cost shall be paid annually by the board pursuant to an appropriate item in its budget.

History: 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1991, Act 101, Imd. Eff. Aug. 21, 1991;—Am. 1993, Act 333, Eff. Mar. 15, 1994;—Am. 2008, Act 522, Imd. Eff. Jan. 13, 2009.

125.2170 Dissolution of authority; resolution; disposition of property and assets.

Sec. 20. An authority that completes the purposes for which it was organized shall be dissolved by resolution of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority shall belong to the municipality or to an agency or instrumentality designated by resolution of the municipality.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2171 Proceedings to enforce act.

Sec. 21. The state tax commission may institute proceedings to compel enforcement of this act.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2172 Effective date.

Sec. 22. This act shall take effect on February 1, 1987.

History: 1986, Act 281, Eff. Feb. 1, 1987.

125.2173 Conditional effective date.

Sec. 23. This act shall not take effect unless House Bill No. 5729 of the 83rd Legislature is enacted into law.

History: 1986, Act 281, Eff. Feb. 1, 1987.

Compiler's note: House Bill No. 5729, referred to in MCL 125.2173, was filed with the Secretary of State December 22, 1986, and became P.A. 1986, No. 280, Imd. Eff. Dec. 22, 1986.

125.2174 Constitutionality of act.

Sec. 24. Pursuant to section 8 of article III of the state constitution of 1963, it is the intent of the legislature, by concurrent resolution, to request the opinion of the supreme court as to the constitutionality of this 1986 act if the governor has not already requested an opinion.

History: 1986, Act 281, Eff. Feb. 1, 1987.

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RESORT DISTRICT REHABILITATION ACT
Act 59 of 1986

AN ACT to authorize the establishment of a resort district authority; to prescribe its powers and duties; to correct and prevent deterioration in resort districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of rehabilitation plans in the districts; to create a board and to prescribe its powers and duties; to authorize the levy and collection of taxes; and to authorize the issuance of bonds and other evidences of indebtedness.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

The People of the State of Michigan enact:

125.2201 Short title.

Sec. 1. This act shall be known and may be cited as the "resort district rehabilitation act".

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

125.2202 Definitions.

Sec. 2. As used in this act:

(a) "Authority" means a resort district authority created pursuant to this act.

(b) "Board" means the governing body of an authority.

(c) "Operation" means office maintenance, including salaries and expenses of employees, office supplies, consultation fees, design costs, and other expenses incurred in the daily management of the authority and planning of its activities.

(d) "Rehabilitation" means construction, reconstruction, repair, or maintenance of a road, street lighting, a sanitary sewer, a storm sewer, storm water drainage, or a flood control project within a resort district, or establishment and operation of a system of garbage collection within the resort district.

(e) "Rehabilitation plan" means the information and requirements set forth in section 15.

(f) "Resort district" means an area which encompasses a natural geographic feature used for recreation, such as an inland lake or the Great Lakes shoreline, which is specifically designated by resolution and approved as provided in this act, and a portion of which area is land that is or was a part of a resort association incorporated under 1 of the following:

(*i*) Act No. 230 of the Public Acts of 1897, being sections 455.1 to 455.24 of the Michigan Compiled Laws.

(*ii*) Act No. 39 of the Public Acts of 1889, being sections 455.51 to 455.72 of the Michigan Compiled Laws.

(*iii*) Act No. 69 of the Public Acts of 1887, being sections 455.101 to 455.113 of the Michigan Compiled Laws.

(*iv*) Act No. 137 of the Public Acts of 1929, being sections 455.201 to 455.220 of the Michigan Compiled Laws.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

125.2203 Resort district authority; establishment; inclusion of parcel of property; approval by resolution; nature and powers of authority; tax limitations.

Sec. 3. (1) A township may establish a resort district authority. A parcel of property shall not be included in more than 1 authority created under this act. A parcel of property that is in a village shall not be included in a resort district established by a township except upon approval by resolution of the governing body of the village and subject to such conditions as may be set forth in the resolution.

(2) The authority shall be a public body corporate which may sue and be sued in any court of this state. The authority possesses all the powers necessary to carry out the purposes of its incorporation. The enumeration of a power in this act shall not be construed as a limitation upon the general powers of the authority.

(3) An authority is intended and shall be considered to be an authority the tax limitations of which are provided by charter or general law within the meaning of section 6 of article IX of the state constitution of 1963.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

125.2204 Resolution of intent to create and provide for operation of authority; public

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hearing; notice; right to be heard.

Sec. 4. (1) If a township board determines that it is in the best interests of the public to halt or prevent property deterioration or increase property valuation where possible in a resort district, or to eliminate the causes of that deterioration, the township board may declare by resolution the intention to create and provide for the operation of an authority. In the resolution of intent, the township board shall set a date for holding a public hearing on adopting an ordinance or resolution creating the authority and establishing the board.

(2) Notice of the public hearing shall be published twice in a newspaper of general circulation in the township, not less than 20 nor more than 40 days before the date of the hearing.

(3) A resident, taxpayer, or property owner of the township has the right to be heard in regard to the establishment of the authority.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

125.2205 Ordinance or resolution establishing authority; filing; publication.

Sec. 5. After the public hearing, if the township board intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members, an ordinance or resolution establishing the authority. The ordinance or resolution shall promptly be filed with the secretary of state after its adoption and shall be published at least once in a newspaper of general circulation in the township.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

125.2206 Board; appointment, qualifications, and terms of members; vacancy; compensation; election of chairperson; oath of office.

Sec. 6. (1) The authority shall be under the supervision and control of a board consisting of 2 elected officials of the township, 2 residents of an area that is or was a resort association as described in section 2(f), and 1 individual designated by the industrial or commercial facility located within the township which has the highest state equalized valuation as of December 31 of the year preceding the year of the designation. The board members shall be appointed or designated within 30 days after adoption of the ordinance or resolution under section 5.

(2) A member shall be appointed by the township supervisor subject to approval by the township board. Of the 2 resident members first appointed, 1 shall be appointed for a term expiring December 31 of the year after the year of appointment and 1 for a term expiring December 31 of the third year after the year of appointment. Thereafter, each resident member shall serve for a term of 4 years. A member shall hold office until the member's successor is appointed. An appointment to fill a vacancy shall be made by the township supervisor for the unexpired term.

(3) If approved by the township board, a board member shall receive compensation limited to a reasonable per diem which shall include actual and necessary expenses.

(4) The chairperson of the board shall be elected by the board from among its members. Before assuming the duties of office, a board member shall qualify by taking and subscribing to the constitutional oath of office provided in section 1 of article XI of the state constitution of 1963.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

125.2207 Determination and submission of proposed boundaries and millage to township board; approval by resolution; election; notice; approval of proposition.

Sec. 7. (1) The board shall determine the boundaries of the proposed resort district. Subject to the limitations of section 8, the board shall determine the millage necessary for rehabilitation of the resort district. The board shall submit the proposed boundaries and millage to the township board. If the township board approves the boundaries and millage by resolution, ordinance, or otherwise, the boundaries and millage shall be submitted to a vote of the electors who reside in the proposed resort district. An election shall not be held under this section after December 31, 1987.

(2) Notice of the election shall be published twice in a newspaper of general circulation in the township, not less than 5 and not more than 10 days before the date of the election. Notice of the election shall be posted in not less than 20 conspicuous and public places in the proposed resort district not less than 20 days before the election. The notice shall state the date of the election and shall describe the boundaries of the proposed resort district.

(3) If a majority of the electors voting on the question approve the proposition, then the resort district is established and the authority is authorized to levy the millage up to the amount and duration specified in the proposition.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

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125.2208 Ad valorem tax on property located in resort district; mills; limitation; collection; disposition; borrowing money and issuing notes; extension of tax.

Sec. 8. (1) Subject to the provisions of section 7, an authority may levy an ad valorem tax on the taxable value of the real and tangible personal property located in the resort district and not exempt by law. The tax shall not be more than 3 mills for a period of not more than 5 years. The tax shall be collected by the township creating the authority levying the tax. The township shall collect the tax at the same time and in the same manner as it collects its other ad valorem taxes. The tax shall be paid to the treasurer of the authority and credited to the general fund of the authority for purposes of the authority.

(2) An authority may borrow money and issue its notes for that money pursuant to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of the ad valorem tax authorized in this section.

(3) Except as provided in subsection (4), the authority may extend the tax levied under this section for periods of not more than 5 years. An extension of the tax shall not be more than 3 mills. An extension shall not be levied unless, before September 15 of the year following the year in which a previously approved tax levy expires, the extension is approved by a majority of the electors who reside in the resort district and who vote on the proposition.

(4) If a tax levy has been previously levied and approved by a majority of electors who reside within the resort district on 2 previous occasions, the authority may extend the tax levied under this section for a period of not more than 10 years. An extension of the tax shall not be more than 3 mills. An extension under this subsection shall not be levied unless, before September 15 following the year in which a previously approved tax levy expires, the extension is approved by a majority of the electors who reside in the resort district and who vote on the proposition.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986;—Am. 1996, Act 209, Imd. Eff. May 22, 1996;—Am. 2002, Act 236, Imd. Eff. Apr. 29, 2002.

125.2209 Conducting business at public meeting; notice; procedural rules; meetings; removal of member; review; expense items; financial records; writings available to public.

Sec. 9. (1) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. The board shall adopt rules consistent with Act No. 267 of the Public Acts of 1976 governing its procedure and the holding of regular meetings, subject to the approval of the township board. Special board meetings may be held if called in the manner provided in the rules of the board.

(2) Pursuant to notice and after having been given an opportunity to be heard, a board member may be removed for cause by the township board. Removal of a member is subject to review by the circuit court.

(3) All expense items of the authority shall be publicized monthly and the financial records shall always be open to the public.

(4) In addition to the items and records prescribed in subsection (3), a writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

125.2210 Director.

Sec. 10. (1) Subject to the approval of the township board, the board may employ and fix the compensation of a director or may enter into a contract with an individual, the township, a corporation, or other legal entity to perform the functions of the director. The director shall serve at the pleasure of the board. A board member shall not be eligible to hold the position of director or acting director. Before entering upon the duties of office, the director shall take and subscribe to the constitutional oath of office, and shall furnish bond by posting a bond in the penal sum determined in the ordinance establishing the authority, which bond is payable to the authority for use and benefit of the authority, approved by the board, and filed with the municipal clerk. The premium on the bond shall be considered to be an operating expense of the authority, payable from funds available to the authority for operating expenses.

(2) The director shall be the chief executive officer of the authority. Subject to the board's approval, the director shall supervise, and be responsible for, preparing plans and performing the functions of the authority in the manner authorized by this act. The director shall attend board meetings and shall provide the board and township board with a regular report covering the activities and financial condition of the authority.

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(3) If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before entering upon the duties of office, the acting director shall take and subscribe to the oath of office and furnish bond as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

125.2211 Employment of personnel; contracts.

Sec. 11. The board may employ other personnel considered necessary by the board including, but not limited to, a treasurer and secretary. The board may enter into a contract with an individual, the township, a corporation, or other legal entity to perform the duties of a treasurer, secretary, or other functions the board considers necessary.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

125.2212 Powers of board.

Sec. 12. The board may do any of the following:

(a) Prepare an analysis of infrastructure changes taking place in the resort district.

(b) Plan and propose rehabilitation within the resort district.

(c) Implement any plan of rehabilitation in the resort district necessary to achieve the purposes of this act, in accordance with the powers of the authority as granted by this act.

(d) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.

(e) Acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper, or own, convey, or otherwise dispose of, or lease as lessor or lessee, land or other property, real or personal, or rights or interests in land or other property, which the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect to the property.

(f) Fix, charge, and collect fees, rents, and charges for the use of a building or property under its control or a part of such a building or property, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(g) Lease a building or property under its control, or a part of such a building or property.

(h) Accept grants and donations of property, labor, or other things of value from a public or private source.

(i) Acquire and construct public facilities.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

125.2213 Revenue bonds.

Sec. 13. The authority may borrow money and issue its negotiable revenue bonds for that money pursuant to the revenue bond act of 1933, Act No. 94 of the Public Acts of 1933, being sections 141.101 to 141.139 of the Michigan Compiled Laws. Except as otherwise provided in this act, a revenue bond issued by the authority shall not be considered a debt of the township or the state. By majority vote of the members of the township board, the township may make a limited tax pledge of its full faith and credit to support the authority's revenue bonds.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

125.2214 Bonds to finance rehabilitation plan.

Sec. 14. (1) If authorized in the ordinance or resolution of the township creating the authority, by resolution of its board, and subject to the limitations set forth in this section, the authority may authorize, issue, and sell its bonds to finance a rehabilitation plan. The bonds shall mature not later than the last year for which the authority is entitled to levy an ad valorem tax pursuant to section 8 and shall be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) If electors have approved the millage pursuant to section 7, the township board may, by a majority vote of its members make a limited tax pledge of its full faith and credit for the payment of principal and interest on the authority's bonds issued pursuant to this section.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986;—Am. 2002, Act 236, Imd. Eff. Apr. 29, 2002.

125.2215 Rehabilitation plan; preparation; contents.

Sec. 15. (1) If a board decides to finance the rehabilitation of the resort district by the use of revenue bonds as authorized in section 13 or 14, the board shall prepare a rehabilitation plan.

(2) The rehabilitation plan shall contain all of the following:

(a) The designation of boundaries of the resort district in relation to highways, streets, streams, or

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otherwise.

(b) The location and extent of existing roads, sewers, and drains within the resort district.

(c) A description of existing improvements in the resort district to be demolished, repaired, or altered, a description of any repairs and alterations, and an estimate of the time required for completion.

(d) The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the resort district and an estimate of the time required for completion.

(e) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(f) A description of desired changes in streets, street levels, intersections, and utilities.

(g) An estimate of the cost of the rehabilitation with a statement of the proposed method of financing the rehabilitation and the ability of the authority to arrange the financing.

(h) Other material which the authority, local public agency, or township board considers pertinent.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

125.2216 Rehabilitation plan; public hearing; notice; opportunity for interested persons to be heard; receipt and consideration of written communications; opinions; arguments; documentary evidence; record of hearing.

Sec. 16. (1) Before adopting a resolution approving a rehabilitation plan, the township board shall hold a public hearing on the rehabilitation plan. In addition to the notice requirements of the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws, notice of the time and place of the hearing shall be given by publication 3 times in a newspaper of general circulation designated by the township, the first of which shall be not less than 20 days before the date set for the hearing. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the resort district not less than 20 days before the hearing.

(2) Notice of the time and place of hearing on a rehabilitation plan shall contain a description of the resort district in relation to highways, streets, streams, or otherwise; a statement that maps, plats, and a description of the rehabilitation plan are available for public inspection at a place designated in the notice; and a statement that all aspects of the rehabilitation plan are open for discussion at the public hearing. The notice may include other information that the township board considers appropriate.

(3) At the time set for the hearing, the township board shall provide an opportunity for interested persons to be heard and shall receive and consider written communications with reference to the testimony. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the rehabilitation plan. The township board shall make and preserve a record of the public hearing, including all data presented at the hearing.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

125.2217 Rehabilitation plan as constituting public purpose; approval or rejection of plan; consideration; amendments to plan.

Sec. 17. (1) After a public hearing on the rehabilitation plan as provided in section 16, the township board shall determine whether the rehabilitation plan constitutes a public purpose. If it determines that the rehabilitation plan constitutes a public purpose, the township board, by resolution, shall approve or reject the plan, or approve it with modification, based on all of the following considerations:

(a) The plan meets the requirements set forth in section 15.

(b) The proposed method of financing the rehabilitation is feasible and the authority has the ability to arrange the financing.

(c) The rehabilitation is reasonable and necessary to carry out the purposes of this act.

(d) The rehabilitation plan is in reasonable accord with the master plan of the township.

(2) Amendments to an approved rehabilitation plan shall be submitted by the authority to the township board for approval or rejection.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

125.2218 Budget; assessment.

Sec. 18. (1) The director of the authority shall prepare and submit for the approval of the board a budget for the operation of the authority for the ensuing fiscal year. Before the budget may be adopted by the board, the budget shall be approved by the township board. Funds of the township shall not be included in the budget of the authority except those funds authorized in this act or by the township board.

(2) If the township does not impose a property tax administration fee as provided in the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled

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Laws, the township board may assess against the funds of the authority an amount equal to the actual cost of collecting those funds, which amount shall not exceed 1% of the amount collected under the ad valorem tax levied under this act.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

125.2219 Dissolution of authority; resolution; disposition of property and assets.

Sec. 19. An authority which has completed the purposes for which it was organized shall be dissolved by resolution of the township board. The property and assets of the authority remaining after the satisfaction of the obligations of the authority shall belong to the township.

History: 1986, Act 59, Imd. Eff. Mar. 26, 1986.

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MICHIGAN EARLY STAGE VENTURE INVESTMENT ACT OF 2003
Act 296 of 2003

AN ACT to promote investment in certain businesses; to promote economic development in this state; to provide for a Michigan early stage venture investment corporation; to prescribe the powers and duties of a Michigan early stage venture investment corporation; to prescribe the powers and duties of certain public officers and departments; to establish the Michigan early stage venture investment fund and other funds; to provide for tax credits and incentives; to authorize certain investments; to provide for the expiration of the fund; to provide or allow for appropriations; and to provide penalties and remedies.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004.

The People of the State of Michigan enact:

125.2231 Short title.

Sec. 1. This act shall be known and may be cited as the “Michigan early stage venture investment act of 2003”.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004.

125.2232 Legislative findings; declaration.

Sec. 2. (1) The legislature finds all of the following:

(a) There exists a need to promote the economic health of this state by assisting in the creation of new jobs, new businesses, and new industries within this state and through the investment in certain businesses that focus on areas including, but not limited to, alternative energy technology, high-technology, and health care.

(b) Investing in businesses that are early stage growth companies and promoting economic growth in the state to assist the state in carrying out its essential governmental functions and as such are essential public purposes.

(c) Investments in certain businesses promote the retention of businesses and jobs that would be likely to leave the state absent the investment, revitalize and diversify the economic base of this state, generate and retain jobs and investment in this state, and help to effectuate legislative and governmental programs to promote economic growth in this state.

(d) Agreements with private corporations such as Michigan early stage venture investment corporations can assist the state by raising capital and investing that capital in venture capital firms with the intent to benefit this state's early stage growth companies thus facilitating economic growth and development and other government programs and supporting essential public purposes.

(2) It is hereby declared that the purposes of this act are as follows:

(a) To promote a healthy economic climate in this state by fostering job creation, retention, and expansion through the promotion of investment in certain businesses.

(b) To allow the state to enter into agreements with Michigan early stage venture investment corporations to promote a healthy economic climate in this state.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004.

125.2233 Definitions.

Sec. 3. As used in this act:

(a) "Alternative energy technology" means that term as defined in section 2(d) of the Michigan next energy authority act, 2002 PA 593, MCL 207.822.

(b) "Board" means the Michigan early stage venture investment corporation board of directors.

(c) "Conflict of interest" means a situation in which the private interest of a director, employee, or agent of the board may influence the judgment of the director, employee, or agent in the performance of his or her duties or responsibilities under this act. A conflict of interest includes, but is not limited to, the following:

(*i*) Any conduct that would lead a reasonable person, knowing all of the circumstances, to conclude that the director, employee, or agent of the board has an interest related to an action that the board is taking under this act.

(*ii*) Acceptance of compensation other than from the board for services rendered as part of the official duties as a director, employee, or agent of the board.

(*iii*) Participation in any business being transacted with or before the board in which the director, employee, or agent of the board or his or her spouse, child, parent, stepparent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, nephew, niece, first cousin, or second cousin or the spouse of any of the persons described in this subparagraph has a financial interest.

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(d) "Equity capital" means capital invested in common or preferred stock, royalty rights, limited partnership interests, limited liability company interests, or any other security or rights that evidence ownership in a private business.

(e) "Fund" or "Michigan early stage venture investment fund" means the fund created in section 19.

(f) "High-technology activity" means that term as defined in section 3(g) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(g) "Holder" means a person that has a tax voucher certificate or the right to be issued a tax voucher certificate from the Michigan early stage venture investment corporation.

(h) "Investor" means an individual, firm, bank, financial institution, limited partnership, co-partnership, partnership, joint venture, association, corporation, receiver, estate, trust, or any other entity that invests in the fund.

(i) "Michigan economic development corporation" means the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999 between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund. If it is determined that the Michigan economic development corporation is unable to perform its duties under this act, those duties shall be exercised by the Michigan strategic fund.

(j) "Michigan strategic fund" means the Michigan strategic fund as described in the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2093.

(k) "Near-equity capital" means capital invested in unsecured, undersecured, or debt securities or subordinated or convertible loans.

(*l*) "Negotiated return on qualified investment" means the rate of return agreed upon for investments made by investors in the fund.

(m) "Qualified business" means a seed or early stage business that is domiciled in this state, that has its corporate headquarters in this state, or the majority of whose employees work a majority of their time at a site located in this state.

(n) "Qualified investment" means the amount of capital invested by an investor in the fund.

(o) "Seed or early stage business" means a business that is either of the following:

(*i*) A business that has not fully established commercial operations and may also be engaged in continued research and product development.

(*ii*) A business engaged in product, service, or technology development and initial manufacturing, marketing, or sales activities.

(p) "Venture capital company" means a corporation, partnership, limited liability company, or other legal entity the primary business activity of which is the investment of equity capital in businesses that focus on areas, including, but not limited to, alternative energy technology, high-technology activity, or health care.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004;—Am. 2005, Act 102, Imd. Eff. July 22, 2005.

125.2235 Incorporation as nonprofit corporation.

Sec. 5. (1) A Michigan early stage venture investment corporation is a nonprofit corporation incorporated under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, that meets the registration requirements of this act.

(2) A Michigan early stage venture investment corporation shall be incorporated as a nonprofit corporation that has received, on or before August 1, 2005, a favorable determination from the internal revenue service that the corporation is exempt from taxation under section 501(c)(3) or 501(c)(4) of the internal revenue code. The department of treasury may allow up to 3, 30-day extensions of the date under this section for purposes of reviewing and approving an application for registration under section 11.

(3) Except as otherwise provided in this act to the contrary, a Michigan early stage venture investment corporation is subject to the laws of this state that are applicable to nonprofit corporations.

(4) A Michigan early stage venture investment corporation is a charitable and benevolent institution, and its funds, income, and property are exempt from taxation by this state or any political subdivision of this state.

(5) A corporation shall not act as a Michigan early stage venture investment corporation except as authorized under this act.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004;—Am. 2005, Act 102, Imd. Eff. July 22, 2005.

125.2237 Articles of incorporation; contents.

Sec. 7. The articles of incorporation of a Michigan early stage venture investment corporation shall contain all of the following:

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(a) The purposes of the corporation, which shall include, but are not limited to, all of the following:

(*i*) To operate and act exclusively for charitable purposes with the intent to lessen the financial burdens of the government of this state.

(*ii*) To receive and administer funds for the charitable purposes under subparagraph (*i*).

(*iii*) To raise capital and invest that capital in venture capital firms with the intent of benefiting Michigan's seed or early stage businesses.

(*iv*) To promote the economic health of this state by assisting in the creation of new jobs, new businesses, and new industries within this state and through the investment in certain businesses.

(*v*) To enter into an agreement with this state to promote the economic health of this state.

(b) A provision that the Michigan early stage venture investment corporation shall be governed by a board of directors that complies with the requirements in section 13.

(c) A provision that provides that, upon dissolution of the Michigan early stage venture investment corporation, the property remaining after providing for debts and obligations of the Michigan early stage venture investment corporation shall be distributed to an organization that qualifies either as a governmental unit under section 170(c) of the internal revenue code or is exempt from tax under section 501(c)(3) or 501(c)(4) of the internal revenue code, as designated by the board. If the board fails to designate an organization as provided in this subdivision, the property remaining shall pass to the state of Michigan. For purposes of this subdivision, property remaining after providing for debts and obligations does not include grants, appropriations, or other restricted funds that must be distributed as required by the source of those funds.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004.

125.2239 Articles of incorporation; review by attorney general.

Sec. 9. (1) Prior to applying for registration as a Michigan early stage venture investment corporation under section 11, a nonprofit corporation shall submit its articles of incorporation and any amendments to those articles of incorporation to the attorney general for review and certification.

(2) The attorney general shall review the information submitted pursuant to subsection (1) and, if that information complies with the requirements of this act, and upon payment of a fee of $100.00, the attorney general shall issue a certificate of compliance to the Michigan early stage venture investment corporation not later than 60 days after the initial receipt of the information.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004.

125.2241 Filing with state treasurer.

Sec. 11. (1) To apply for registration as a Michigan early stage venture investment corporation, a nonprofit corporation shall file all of the following with the state treasurer:

(a) A copy of the articles of incorporation of the nonprofit corporation and any amendments to those articles of incorporation.

(b) The certificate of compliance issued under section 9. This subdivision does not apply if the attorney general does not issue the certificate within the time provided in section 9(2).

(c) A general plan of the proposed activities of the nonprofit corporation, including, but not limited to, evidence of the establishment by the nonprofit corporation of a restricted fund that shall be known as a Michigan early stage venture investment fund.

(d) A copy of the financial statements of the nonprofit corporation for the first fiscal year of the nonprofit corporation.

(e) A copy of the bylaws of the nonprofit corporation.

(f) Payment of a fee to the state treasurer of $500.00.

(2) The state treasurer shall examine the documents filed under subsection (1), may conduct any investigation he or she considers necessary, may request additional oral and written information from the nonprofit corporation, and may examine under oath any persons interested in or connected with the nonprofit corporation seeking to be registered as a Michigan early stage venture investment corporation.

(3) The state treasurer shall register a nonprofit corporation as a Michigan early stage venture investment corporation if all of the following conditions are met:

(a) The documents filed under subsection (1) are in proper form.

(b) The articles of incorporation of the nonprofit corporation or any amendments to those articles of incorporation meet the requirements of section 7.

(c) The plan and proposed activities of the nonprofit corporation meet the purposes and requirements of this act.

(d) The internal revenue service has determined that the nonprofit corporation is exempt from taxation

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under section 501(c)(3) or 501(c)(4) of the internal revenue code.

(4) If the state treasurer registers the nonprofit corporation as a Michigan early stage venture investment corporation under this section, the state treasurer shall return to the nonprofit corporation 1 copy of its articles of incorporation and any amendments to those articles of incorporation, with a notation indicating that the nonprofit corporation is registered as a Michigan early stage venture investment corporation.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004.

125.2243 Board of directors.

Sec. 13. (1) A Michigan early stage venture investment corporation shall be governed by a board of directors consisting of 7 directors. The directors of the board shall be appointed by the governor and, except for the state treasurer or the chief executive officer of the Michigan economic development corporation, with the advice and consent of the senate as follows:

(a) The state treasurer or his or her designee from within the department of treasury.

(b) The chief executive officer of the Michigan economic development corporation or his or her designee from within the Michigan economic development corporation.

(c) One individual appointed from a list of not fewer than 3 names recommended by the speaker of the house of representatives.

(d) One individual appointed from a list of not fewer than 3 names recommended by the majority leader of the senate.

(e) One individual appointed from a list of 1 or more names recommended by a statewide organization exempt from taxation under section 501(c)(3) or 501(c)(4) of the internal revenue code, the members of which represent more than 50% of the venture capital companies in this state and that has a common interest in stimulating an entrepreneurial environment in this state, encouraging investments in new and emerging companies in this state, and promoting venture capital investing.

(f) Two people representing the general public with the requisite knowledge and experience in finance and business investment.

(2) Each director appointed under subsection (1)(c) through (f) shall serve for a term of 3 years, except that of those directors first appointed, the director first appointed under subsection (1)(c) and 1 of the directors first appointed under subsection (1)(f) shall each be appointed for a term of 1 year, the director first appointed under subsection (1)(d) and 1 of the directors first appointed under subsection (1)(f) shall each be appointed for a term of 2 years, and the director first appointed under subsection (1)(e) shall be appointed for a term of 3 years. A vacancy on the board at the end of or during a director's term shall be filled in the same manner as the original appointment for the remainder of the unexpired term or for the new term and until a successor is appointed.

(3) A majority of all 7 directors constitute a quorum for the transaction of business at a meeting of the board. A majority vote of a quorum of the directors is required for official action of the board.

(4) Each director shall prepare and file with the board annually on or before October 1 a disclosure form in which the director discloses any potential conflict of interest under this act.

(5) A director, employee, or agent of the board shall not engage in any conduct that constitutes a conflict of interest and shall immediately advise the board in writing of the details of any incident or circumstances that may present the existence of a conflict of interest with respect to the performance of the board-related work or duty of the director, employee, or agent of the board.

(6) A director who has a conflict of interest related to any matter before the board shall disclose the conflict of interest before the board takes any action with respect to the matter, which disclosure shall become a part of the record of the board's official proceedings. The director with the conflict of interest shall refrain from doing all of the following with respect to the matter that is the basis of the conflict of interest:

(a) Voting in the board's proceedings related to the matter.

(b) Participating in the board's discussion of and deliberation on the matter.

(c) Being present at the meeting when the discussion, deliberation, and voting on the matter take place.

(d) Discussing the matter with any other board member.

(7) Failure of a director to comply with subsection (6) constitutes misconduct in office. A director may be removed from the board for misconduct by a vote of a majority of the directors not subject to the vote under this subsection appointed and serving on the board.

(8) With respect to management of the affairs and property of the corporation, each director shall exercise the duties of a fiduciary toward the corporation and shall discharge his or her duties with the degree of diligence, care, and skill that an ordinarily prudent person would exercise under the same or similar circumstances in a like position. In discharging his or her duties, a director, when acting in good faith, may rely upon the opinion of counsel and the advice of the fund manager. A director may be removed from the

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board for a breach of fiduciary duty by a vote of a majority of the directors not subject to the vote under this subsection appointed and serving on the board.

(9) A director of the board or an officer or employee of the board or Michigan early stage venture investment corporation is not subject to personal liability when acting in good faith within the scope of his or her authority or on account of liability of the Michigan early stage venture investment corporation, and the board may defend and indemnify a director of the board or an officer or employee of the board or Michigan early stage venture investment corporation against liability arising out of the discharge of his or her official duties. The Michigan early stage venture investment corporation may indemnify and procure insurance indemnifying directors of the board and other officers and employees of the board or Michigan early stage venture investment corporation from personal loss or accountability for liability asserted by a person with regard to actions of the board or the failure to act by the board or Michigan early stage venture investment corporation. The Michigan early stage venture investment corporation may also purchase and maintain insurance on behalf of any person against any liability asserted against the person and incurred by the person in any capacity or arising out of the status of the person as a director of the board or an officer or employee of the board or Michigan early stage venture investment corporation, whether or not the Michigan early stage venture investment corporation would have the power to indemnify the person against that liability under this subsection. The board or the Michigan early stage venture investment corporation may by a majority vote of the board obligate itself in advance to defend and indemnify persons.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004.

125.2245 Delegation of certain acts; fund manager as fiduciary; evaluation of business and industry for investment purposes.

Sec. 15. (1) Except as otherwise provided in this act, in the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, by law, or in its articles of incorporation, a Michigan early stage venture investment corporation may do or delegate any act consistent with this act and the purposes of the nonprofit corporation, including, but not limited to, the following:

(a) Enter into contracts and all necessary activities in the regular course of business of the Michigan early stage venture investment corporation.

(b) Charge reasonable fees for the implementation of this act and the ongoing operation of the Michigan early stage venture investment corporation.

(c) Perform acts or enter into financial or other transactions necessary to carry out its powers and duties under this act.

(d) Invest in venture capital funds through equity securities.

(e) Employ fund managers and other persons it considers necessary to implement this act.

(2) The fund manager shall exercise the duties of a fiduciary toward the corporation and shall discharge his or her duties with the degree of diligence, care, and skill that an ordinarily prudent person would exercise under the same or similar circumstances in a like position.

(3) The fund manager shall solicit investors pursuant to section 17.

(4) The Michigan early stage venture investment corporation shall require the fund manager to develop procedures to evaluate types of business and industry for investment purposes and to set priorities as to which businesses are most likely to meet the desired outcomes of the investment plan established under section 19 and which businesses conduct activities that are consistent with the purposes of this act and of the fund. This evaluation shall include, but not be limited to, the location of the firm and the direct and indirect impact of the business on the economic development of this state.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004;—Am. 2005, Act 102, Imd. Eff. July 22, 2005.

125.2247 Agreements with investors.

Sec. 17. (1) To secure investment in the fund, the Michigan early stage venture investment corporation shall enter into agreements with investors.

(2) Each agreement shall contain all of the following:

(a) An established and agreed-upon investment amount and repayment schedule.

(b) A negotiated amount or negotiated return on qualified investment by the investor over the term of the agreement.

(c) A maximum amount of tax vouchers that the investor may use to pay a liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, and the first year in which that tax voucher may be used to pay a liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, or the

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income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, including any withholding tax imposed on the investor under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(3) The Michigan early stage venture investment corporation shall notify the department of treasury when agreements are entered into under this section and send a copy of each agreement to the department of treasury. After making the determination required under section 23(2), the department of treasury shall issue an approval letter to the investor that states that the investor is entitled to a tax voucher that is equal to the difference between the amount actually repaid and the amount set as the repayment due in the agreement entered into by the investor and the Michigan early stage venture investment corporation.

(4) The fund shall repay any amounts due from proceeds from the funds raised based on the agreements made under this section and from the proceeds of investments made by the fund.

(5) For tax years that begin after December 31, 2008, investors that have tax voucher certificates issued pursuant to section 23 may use the tax voucher to pay a liability owed by the investor under the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, as provided in this act, up to an amount equal to the difference between the amount actually repaid and the amount set as the repayment due in the agreement entered into by the taxpayer and the Michigan early stage venture investment corporation. The Michigan early stage venture investment corporation shall notify the department of treasury when tax voucher certificates are issued under section 23(5).

(6) Repayment of a debt under this section may be restricted to specific funds or assets of the Michigan early stage venture investment corporation.

(7) The Michigan early stage venture investment corporation may purchase securities and may manage, transfer, or dispose of those securities.

(8) The Michigan early stage venture investment corporation and its directors are not broker-dealers, agents, investment advisors, or investment advisor representatives when carrying out their duties and responsibilities under this act.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004;—Am. 2005, Act 102, Imd. Eff. July 22, 2005;—Am. 2007, Act 173, Imd. Eff. Dec. 21, 2007.

125.2249 Michigan early stage venture investment fund; investment plan; criteria.

Sec. 19. (1) A Michigan early stage venture investment corporation shall create a Michigan early stage venture investment fund, which shall be a restricted fund.

(2) The fund manager shall establish an investment plan approved by the board for the investment of the money in the fund using the following criteria:

(a) Not more than 15% of the total capital and outstanding commitments of the fund shall be invested in any single venture capital company.

(b) The fund manager with the approval of the board shall undertake to invest the fund in such a way as to promote that at least $2.00 will be invested in qualified businesses for every $1.00 of principal for which tax vouchers may be used to pay a liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(c) That investments facilitate the transfer of technologies from the state's various universities and research institutions.

(d) Any other professional portfolio management criteria that the fund manager and board consider appropriate.

(e) Priorities for investment in venture capital may be based on an evaluation, which shall consider the following criteria:

(*i*) The retention of those businesses that would be likely to leave this state absent the investment.

(*ii*) The revitalization and diversification of the economic base of this state.

(*iii*) Generating and retaining jobs and investment in this state.

(3) Consistent with the plan established under subsection (2), the fund manager shall select venture capital companies from among those venture capital companies that apply for money from the fund considering the following criteria:

(a) The venture capital company's probability of success in generating above-average returns through investing in qualified businesses.

(b) The venture capital company's probability of success in soliciting investments. The level of investment from the fund committed to each venture capital company shall not be more than 25% of the venture capital company's total capital under management.

(c) The venture capital company's probability of success as it relates to the investment plan criteria under

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subsection (2)(b).

(d) The venture capital company has a significant presence in this state as determined by the Michigan early stage venture investment corporation.

(e) The venture capital company will undertake to invest in qualified businesses, as determined at the point of initial investment, a percentage of invested capital equal to or greater than the percentage of invested capital that the venture capital company received from the fund.

(f) The venture capital company's consideration of minority owned businesses in its investment activities.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004;—Am. 2005, Act 102, Imd. Eff. July 22, 2005;—Am. 2007, Act 173, Imd. Eff. Dec. 21, 2007.

125.2251 Annual financial audit.

Sec. 21. The fund manager shall file a report with the Michigan early stage venture investment corporation that includes an annual financial audit conducted by an independent auditor and any other financial information and documentation required by the Michigan early stage venture investment corporation to ensure the proper administration and investment of the fund.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004.

125.2253 Tax voucher certificates.

Sec. 23. (1) The Michigan early stage venture investment corporation shall determine which investors are eligible for tax vouchers under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, and the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, and the amount of the tax voucher or vouchers allowed to each investor.

(2) The Michigan early stage venture investment corporation shall determine which investors are eligible for tax vouchers under this section and submit proposed tax voucher certificates that meet the criteria under subsection (3) to the department of treasury for approval. The department of treasury shall approve or deny proposed tax voucher certificates within 30 days after receipt of the proposed tax voucher certificates. If the department of treasury denies a proposed tax voucher certificate, the department of treasury shall notify the Michigan early stage venture investment corporation and the investor of the denial and the reason for the denial. If a proposed tax voucher certificate is denied under this subsection, the Michigan early stage venture investment corporation is not prohibited from subsequently submitting a proposed tax voucher certificate on behalf of that same investor. If the department of treasury does not approve or deny the proposed tax voucher certificates within 30 days, the proposed tax voucher certificates are considered approved as submitted. The approval by the department of treasury under this section may be a condition to the effectiveness of the agreement between the investor and the Michigan early stage investment corporation required under section 17(1).

(3) At the time permitted under subsection (5), the Michigan early stage venture investment corporation shall issue a tax voucher certificate approved under subsection (2) to each investor in the name of the investor that states all of the following:

(a) The taxpayer is an investor.

(b) The taxpayer's federal employer identification number or the number assigned to the taxpayer by the department of treasury for filing purposes under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(c) The amount of the tax voucher that any taxpayer that uses the tax voucher may use to pay its tax liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(d) The tax years for which the tax voucher under subdivision (c) may be used and the maximum annual amount that may be used each tax year.

(e) The amount of the tax vouchers that may be used shall not exceed the tax liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, of the taxpayer that uses the tax voucher.

(f) The tax voucher may be transferred in whole or in part.

(g) If the amount of any tax voucher certificate exceeds the investor's tax liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, the amount that exceeds the investor's tax liability may be retained and used to pay a future liability of the investor under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL

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208.1101 to 208.1601, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(4) The fund manager shall invest, budget, and plan scheduled payments and repayments so that no tax voucher is used in any tax year before tax years that begin after December 31, 2008.

(5) The Michigan early stage investment corporation shall issue tax voucher certificates under this section to an investor at the time that the Michigan early stage venture investment corporation determines that, for that investor, it is unable to pay the negotiated amount or the negotiated return on qualified investment of that investor on or before the date on which payment is due. The total of all tax voucher certificates issued under this section shall not exceed the maximum amount allowed under section 37e(2) of the single business tax act, 1975 PA 228, MCL 208.37e, or, after December 31, 2007, the maximum amount allowed under section 419(2) of the Michigan business tax act, 2007 PA 36, MCL 208.1419.

(6) Tax voucher certificates under this section shall not be issued until December 31, 2008.

(7) A tax voucher certificate issued under subsection (5), or the right to be issued and receive a tax voucher certificate from the Michigan early stage venture investment corporation, may be transferred in whole or in part by a holder to another person if the holder notifies the department of treasury and the Michigan early stage venture investment corporation in writing of the transfer, the amount of the tax voucher certificate to be transferred, and the name and tax identification information provided for under subsection (3) of the proposed transferee. The tax voucher certificate transferred under this subsection shall be made on a form prescribed by the department of treasury. The holder shall send a copy of the completed transfer form to the department of treasury within 60 days after the date of the transfer.

(8) A transfer under this section is irrevocable. If the holder is transferring less than all of the tax voucher certificate to a transferee, the department of treasury may issue new tax voucher certificates to the holder and transferee representing the allocated values of the tax voucher certificates held by the holder and the transferee after the transfer.

(9) A holder of a tax voucher certificate shall attach a copy of the tax voucher certificate and, if applicable, a completed transfer form to its annual return for the tax toward which the tax voucher certificate is used by the holder. If the amount of any tax voucher certificate eligible to be used by a holder is in excess of the holder's tax liability under either the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, the excess may be retained and used to pay any future business tax or income tax liability of the holder.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004;—Am. 2005, Act 102, Imd. Eff. July 22, 2005;—Am. 2007, Act 173, Imd. Eff. Dec. 21, 2007.

125.2255 Construction of act.

Sec. 25. This act shall be construed liberally to effectuate the legislative intent and its purposes. All powers granted shall be cumulative and not exclusive and shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004.

125.2257 Annual report.

Sec. 27. The Michigan early stage venture investment corporation shall publish an annual report not more than 3 months after the close of the Michigan early stage venture investment corporation's fiscal year that includes all of the following:

(a) An enumeration of all investment and related activities for the fiscal year.

(b) Documentation and analysis of the implementation and status of the Michigan early stage venture investment corporation's investment plan and the economic impact of the plan on this state, including, but not limited to, the following:

(*i*) The number of jobs represented by the investments made in qualified businesses in this state.

(*ii*) Return on investment generated by investment, the types of activities in which investment was made, and the impact of that investment on the economic base of this state.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004.

125.2259 Actions required.

Sec. 29. Not later than 1 year after the effective date of this act or 10 months after the Michigan early stage venture investment corporation receives a determination from the internal revenue service that it is exempt from taxation under section 501(c)(3) or 501(c)(4) of the internal revenue code, whichever occurs later, all of the following shall occur:

(a) The Michigan early stage venture investment corporation shall be established and the board appointed.

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(b) A fund manager shall be hired by the Michigan early stage venture investment corporation.
(c) An investment plan shall be established.
(d) Funds shall have been solicited and available for investment consistent with the investment plan.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004.

125.2261 Expiration of fund.

Sec. 31. The fund created in section 19 shall expire on January 1, 2054. Any money in the fund, subject to all outstanding debts and obligation of the Michigan early stage venture investment corporation being defeased and satisfied, shall be distributed as provided in the Michigan early stage venture investment corporation's articles of incorporation or amendments to those articles of incorporation transferred to the general fund of this state on that date.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004.

125.2263 Conditional effective date.

Sec. 33. This act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:
(a) Senate Bill No. 835.
(b) House Bill No. 5322.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004.

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THE MOBILE HOME COMMISSION ACT
Act 96 of 1987

AN ACT to create a mobile home commission; to prescribe its powers and duties and those of local governments; to provide for a mobile home code and the licensure, regulation, construction, operation, and management of mobile home parks, the licensure and regulation of retail sales dealers, warranties of mobile homes, and service practices of dealers; to provide for the titling of mobile homes; to prescribe the powers and duties of certain agencies and departments; to provide remedies and penalties; to declare the act to be remedial; to repeal this act on a specific date; and to repeal certain acts and parts of acts.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

The People of the State of Michigan enact:

125.2301 Short title.

Sec. 1. This act shall be known and may be cited as "the mobile home commission act".

History: 1987, Act 96, Imd. Eff. July 6, 1987.

Compiler's note: For transfer of powers and duties of the mobile home commission from the department of commerce to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

125.2302 Definitions.

Sec. 2. As used in this act:

(a) "Campground" means a campground as defined in section 12501 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.12501 of the Michigan Compiled Laws.

(b) "Code" means all or a part of the mobile home code promulgated pursuant to section 5.

(c) "Commission" means the mobile home code commission.

(d) "Department" means the department of commerce.

(e) "Installer and repairer" means a person, including a mobile home dealer, who for compensation installs or repairs mobile homes.

(f) "Local government" means a county or municipality.

(g) "Mobile home" means a structure, transportable in 1 or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

(h) "Mobile home dealer" means a person other than a manufacturer engaged in the business of buying mobile homes for resale, exchange, lease, or rent or offering mobile homes for sale, lease, rent, or exchange to customers.

(i) "Mobile home park" means a parcel or tract of land under the control of a person upon which 3 or more mobile homes are located on a continual, nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

(j) "Municipality" means a city, village, or township.

(k) "Person" means an individual, partnership, association, trust, or corporation, or any other legal entity or combination of legal entities.

(*l*) "Recreational vehicle" means a vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

(m) "Seasonal mobile home park" means a parcel or tract of land under the control of a person upon which 3 or more mobile homes are located on a continual or temporary basis but occupied on a temporary basis only, and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home. Seasonal mobile home park does not include a campground licensed pursuant to sections 12501 to 12516 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.12501 to 333.12516 of the Michigan Compiled Laws.

(n) "Security interest", "security agreement", "secured party", and "termination statement" have the same meanings as in the uniform commercial code, Act No. 174 of the Public Acts of 1962, being sections 440.1101 to 440.11102 of the Michigan Compiled Laws.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

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125.2303 Mobile home commission; creation; appointment, qualifications, and terms of members; vacancy; compensation and expenses; quorum; action by commission; meetings; chairperson and vice-chairperson; removal of member; disclosure of pecuniary interest.

Sec. 3. (1) The mobile home commission is created within the department of commerce.

(2) The commission consists of 11 members appointed by the governor with the advice and consent of the senate, each of whom shall be a citizen of this state.

(3) The members of the commission shall include each of the following:

(a) A representative of an organization whose membership consists of mobile home residents.

(b) A representative of financial institutions.

(c) Two operators of a licensed mobile home park having 100 or more sites and 1 operator of a licensed mobile home park having less than 100 sites.

(d) A representative of organized labor.

(e) An elected official of a local government.

(f) A licensed mobile home dealer.

(g) One resident of a licensed mobile home park having 100 or more sites and 1 resident of a licensed mobile home park having less than 100 sites.

(h) A manufacturer of mobile homes.

(4) A person appointed to be a member under subsection (3)(a), (d), (e), (g), or a member of that person's immediate family shall not have more than a 1% ownership interest in or income benefit from a manufacturer of mobile homes, a retail seller of mobile homes, a licensed mobile home park, or a supplier of ancillary products or services to the mobile home industry.

(5) The term of each member shall be for 3 years. A vacancy in the office of a member shall be filled by the governor for the remainder of the unexpired term, not more than 1 month after the vacancy is created, in the same manner as the original appointment.

(6) The per diem compensation of the commission and the schedule for reimbursement of expenses shall be established annually by the legislature.

(7) Six members of the commission constitute a quorum for all purposes, notwithstanding the existence of a vacancy in the commission's membership. Action may be taken by the commission by a vote of a majority of the members appointed and serving. Meetings of the commission may be called by the chairperson or by 3 members on 3 business days' actual notice. At least 1 meeting shall be held each calendar quarter. The commission may hold meetings anywhere in this state.

(8) The commission shall elect a member of the commission as its chairperson and another member as its vice-chairperson. The duties and powers of the chairperson and vice-chairperson shall be as prescribed in the commission's rules.

(9) A member of the commission may be removed from office by the governor for inefficiency, neglect of duty, or misconduct or malfeasance in office. A member of the commission who has a direct pecuniary interest in a matter before the commission shall disclose that interest before the commission taking action with respect to the matter, which disclosure shall become a part of the record of the commission's official proceedings.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2304 Powers of commission; duties of director; prohibition; exception.

Sec. 4. (1) The commission may do all of the following:

(a) After consultation with and considering comments from representatives of the manufactured housing industry and other interested parties, recommend rules to the department to implement and administer this act.

(b) Act for the purpose of establishing a uniform policy relating to all phases of mobile home businesses, mobile home parks, and seasonal mobile home parks.

(c) Determine the sufficiency of local mobile home ordinances which are designed to provide local governments with superintending control over mobile home businesses, mobile home parks, or seasonal mobile homes parks.

(d) Conduct public hearings relating to the powers prescribed in this subsection.

(2) The director or an authorized representative of the director shall do all of the following:

(a) After consultation with and considering comments from representatives of the manufactured housing industry and other interested parties, promulgate rules to implement and administer this act.

(b) Conduct hearings relating to violations of this act or rules promulgated under this act.

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(c) Make investigations to determine compliance with this act and rules promulgated under this act.

(d) Provide assistance to the commission as the commission requires.

(e) On not less than a quarterly basis, the director or an authorized representative of the director shall report to the commission on the expenditure of all fees collected under this act and the relation of such expenditures to the enforcement and administration of this act.

(3) The commission shall not act for the purpose of regulating mobile homes that are not located within a mobile home park or a seasonal mobile home park, except as relates to the business, sales, and service practices of mobile home dealers and the business practices of mobile home installers and repairers.

History: 1987, Act 96, Imd. Eff. July 6, 1987;—Am. 2006, Act 328, Imd. Eff. Aug. 10, 2006.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2305 Mobile home code; promulgation; rules.

Sec. 5. (1) After consultation with and considering comments from representatives of the manufactured housing industry and other interested parties, the department shall promulgate the mobile home code subject to section 4. The code shall consist of rules governing all of the following:

(a) The licensure, density, layout, permits for construction, construction of mobile home parks including standards for roads, utilities, open space, or proposed recreational facilities, and safety measures sufficient to protect health, safety, and welfare of mobile home park residents, except water supply, sewage collection and treatment, and drainage facilities which are regulated by the department of environmental quality.

(b) The business, sales, and service practices of mobile home dealers.

(c) The business practices of mobile home installers and repairers.

(d) The licensure and regulations of mobile home installers and repairers.

(e) The setup and installation of mobile homes inside mobile home parks or seasonal mobile home parks.

(f) The regulation of the responsibilities, under the mobile home warranty, of the mobile home components manufacturer, the mobile home assembler or manufacturer, and the mobile home dealer, including the time period and relationships of each under the warranty, and the remedies available, if any, if the responsible parties cease to operate as a business.

(g) Abuses relating to all of the following:

(*i*) Consumer deposits, except utility deposits from consumers who are direct customers of utilities regulated by the Michigan public service commission.

(*ii*) Detailed listing of furnishings and fixtures by a manufacturer of a new mobile home or a mobile home dealer for a used mobile home.

(*iii*) Disclosure and delivery of manufacturer's warranties.

(*iv*) Used mobile homes. A mobile home dealer shall provide detailed listing of its service records for used mobile homes which are being sold by the dealer and of which the dealer has knowledge.

(h) Applications for and issuance of certificates of title for mobile homes.

(2) As part of the code, the department shall also promulgate rules governing the licensure, density, layout, permits for construction, and construction of seasonal mobile home parks, including standards for roads, utilities, open space, proposed recreational facilities, and safety measures sufficient to protect the health, safety, and welfare of seasonal mobile home park residents, except water supply, sewage collection and treatment, and drainage facilities, which shall be regulated by the department of environmental quality.

(3) The rules promulgated for seasonal mobile home parks may impose a less stringent standard than the rules promulgated for mobile home parks.

History: 1987, Act 96, Imd. Eff. July 6, 1987;—Am. 2006, Act 328, Imd. Eff. Aug. 10, 2006.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2306 Promulgation of rules by department of environmental quality; representatives of local government to act in advisory capacity; procedures for effective coordination.

Sec. 6. (1) After consultation with and considering comments from representatives of the manufactured housing industry and other interested parties, the department of environmental quality shall promulgate rules for mobile home parks and seasonal mobile home parks setting forth minimum standards regulating:

(a) Water supply system.

(b) Sewage collection and disposal system.

(c) Drainage.

(d) Garbage and rubbish storage and disposal.

(e) Insect and rodent control.

(f) General operation, maintenance, and safety.

(g) Certification of compliance under section 17.

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(2) Representatives of local government shall act in an advisory capacity in the promulgation of the code.

(3) The commission shall consult with appropriate state and local governments in developing the procedures for effective coordination of efforts. The commission shall recommend procedures to the governor and the legislature for coordinating state agency decisions and activities pertaining to this act.

History: 1987, Act 96, Imd. Eff. July 6, 1987;—Am. 2006, Act 328, Imd. Eff. Aug. 10, 2006.

Administrative rules: R 325.3311 et seq. of the Michigan Administrative Code.

125.2307 Higher standard proposed by local government; filing; rules; implementation; review; approval; adoption by ordinance; relation of ordinance to specific section of code; standard not subject to filing requirement; design of ordinance; standard for setup or installation of mobile homes; prohibited standards; aesthetic standards; inspections; "inspection for safety" defined.

Sec. 7. (1) Except as provided in subsection (7), a local government that proposes a standard related to mobile home parks or seasonal mobile home parks, or related to mobile homes located within a mobile home park or a seasonal mobile home park, that is higher than the standard provided in this act or the code, or that proposes a standard related to the business, sales, and service practices of mobile home dealers, or the business of mobile home installers and repairers, that is higher than the standard provided in this act or the code, shall file the proposed standard with the commission. Except as provided in subsection (7), the commission may promulgate rules to establish the criteria and procedure for implementation of higher standards by a local government. The commission shall review and approve the proposed standard unless the standard is unreasonable, arbitrary, or not in the public interest. If the commission does not approve or disapprove the proposed standard within 60 days after it is filed with the commission, the standard shall be considered approved unless the local government grants the commission additional time to consider the standard. After the proposed standard is approved, the local government may adopt the standard by ordinance. The ordinance shall relate to a specific section of the code.

(2) A local government standard related to mobile homes not located within a mobile home park or seasonal mobile home park need not be filed with the mobile home commission, unless the standard relates to the business, sales, and service practices of mobile home dealers, or the business of mobile home installers and repairers.

(3) A local government ordinance shall not be designed as exclusionary to mobile homes generally whether the mobile homes are located inside or outside of mobile home parks or seasonal mobile home parks.

(4) A local government ordinance shall not contain a standard for the setup or installation of mobile homes that is incompatible with, or is more stringent than, either of the following:

(a) The manufacturer's recommended setup and installation specifications.

(b) The mobile home setup and installation standards promulgated by the federal department of housing and urban development pursuant to the national manufactured housing construction and safety standards act of 1974, 42 USC 5401 to 5426.

(5) In the absence of any setup or installation specifications or standards for foundations as set forth in subsection (4)(a) or (b), the local government standards for site-built housing shall apply.

(6) A local government ordinance shall not contain roof configuration standards or special use zoning requirements that apply only to, or excludes, mobile homes. A local government ordinance shall not contain a manufacturing or construction standard that is incompatible with, or is more stringent than, a standard promulgated by the federal department of housing and urban development pursuant to the national manufactured housing construction and safety standards act of 1974, 42 USC 5401 to 5426. A local government ordinance may include reasonable standards relating to mobile homes located outside of mobile home parks or seasonal mobile home parks which ensure that mobile homes compare aesthetically to site-built housing located or allowed in the same residential zone.

(7) Notwithstanding anything in section 17 that may be to the contrary, a local government may adopt an ordinance to inspect mobile homes for safety within a mobile home park, a seasonal mobile home park, or mobile homes located outside a mobile home park or a seasonal mobile home park if the mobile home being inspected is being rented to a tenant by the owner of the mobile home. The local government may propose a means to determine which mobile homes located within its jurisdiction are being rented to tenants by the owner, including, but not limited to, imposition of a registration or a licensing requirement for renting mobile homes to tenants. A local government may inspect mobile homes rented to tenants by the owner for safety if the safety inspection ordinance applies to all other rental housing within the local governmental unit. If a local government inspects mobile homes rented to tenants by the owner for safety, the period between inspections shall not be less than 3 years unless the local government is responding to a complaint from a tenant. An

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inspection shall not be conducted on a mobile home for which an occupancy permit has been issued by the local government in the preceding 3 years unless the local government is responding to a complaint from a tenant. Inspections for safety shall not require enforcement of any mobile home construction standards that are greater than those applicable to the mobile home under the national manufactured housing construction and safety standards act of 1974, 42 USC 5401 to 5426, or standards or codes to which the mobile home was constructed if it was constructed before application of the national manufactured housing construction and safety standards act of 1974, 42 USC 5401 to 5426. As used in this section, "inspection for safety" means an inspection of a rental mobile home that is limited to ensuring the proper functioning, or protection, of the following:

(a) Furnace.
(b) Water heater.
(c) Electrical wiring.
(d) Proper sanitation and plumbing.
(e) Ventilation.
(f) Heating equipment.
(g) Structural integrity.
(h) Smoke alarms.

History: 1987, Act 96, Imd. Eff. July 6, 1987;—Am. 2009, Act 215, Imd. Eff. Jan. 4, 2010.

125.2308 Exemptions.

Sec. 8. This act shall not apply to property used for housing agricultural labor forces or campgrounds.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

125.2309 Rules establishing fees and charges for licenses or permits; application of fees and charges; funding for commission; rules to adjust fees; mobile home code fund; creation; administration; disposition of fees and money; unexpended funds.

Sec. 9. (1) After consultation with and considering comments from representatives of the manufactured housing industry and other interested parties, the department shall promulgate rules to establish fees and charges for the issuance of licenses or permits under section 5.

(2) The fees and charges under this act shall be applied solely to the implementation of the act and shall constitute the total funding for the commission except as provided in 1959 PA 243, MCL 125.1035 to 125.1043.

(3) A fee shall not be charged for an investigation conducted pursuant to section 36.

(4) A fee shall not be charged or collected by the commission in excess of that necessary to administer and enforce this act.

(5) The department may promulgate rules to adjust the fees established in subsection (1) and in sections 16, 21, 30a, and 30c such that revenues obtained under this act equal appropriations by the legislature for the purpose of administering this act. However, the adjusted fees shall not exceed the fees stated in sections 16, 21, 30a, and 30c.

(6) To accomplish the objectives of this act, a mobile home code fund is created. Fees established by the act for the issuance of licenses, plans approval, permits, certificates of title, and affidavits of affixture are intended to bear a reasonable relation to the cost, including overhead, of the service. The state treasurer is the custodian of the fund and may invest the surplus of the fund in investments that in the state treasurer's judgment are in the best interest of the fund. Earnings from those investments shall be credited to the fund. The state treasurer shall report to the director and the legislature the amount of interest credited and the balance of the fund as of September 30 of each year. The director shall supervise and administer the fund. Fees received by the department and money collected under the act shall be deposited in the fund and shall be appropriated by the legislature for the operation of the bureau of construction codes and fire safety and indirect overhead expenses in the department. Funds that are unexpended at the end of each fiscal year shall be returned to the mobile home code fund.

History: 1987, Act 96, Imd. Eff. July 6, 1987;—Am. 2006, Act 328, Imd. Eff. Aug. 10, 2006.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2310 Reproducing documents requested as public record.

Sec. 10. Upon request and at reasonable charges as the commission prescribes, the department shall furnish to a person a reproduction pursuant to the records media act, certified under the seal of office if requested, of a document that is retained as a matter of public record, except that the department shall not charge or collect a fee for a reproduction of a document furnished to a public official for use in his or her official capacity.

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History: 1987, Act 96, Imd. Eff. July 6, 1987;—Am. 1992, Act 203, Imd. Eff. Oct. 5, 1992.

125.2311 Preliminary plan for development of mobile home park or seasonal mobile home park; submission; contents; review; preliminary approval.

Sec. 11. (1) A person who desires to develop a mobile home park or a seasonal mobile home park shall submit a preliminary plan to the appropriate municipality, local health department, county road commission, and county drain commissioner for preliminary approval. The preliminary plan shall include the location, layout, general design, and a general description of the project. The preliminary plan shall not include detailed construction plans.

(2) The municipality may grant preliminary approval if the proposed mobile home park or seasonal mobile home park conforms to applicable laws and local ordinances not in conflict with this act and laws and ordinances relative to:

(a) Land use and zoning.

(b) Municipal water supply, sewage service, and drainage.

(c) Compliance with local fire ordinances and state fire laws.

(3) The county drain commissioner shall review and may approve outlet drainage. The county road commission shall review and may approve ingress and egress roads. The county road commission and the county drain commissioner shall adopt and publish standards to implement this subsection. The county road commission and the county drain commissioner shall not have authority as to interior streets and drainage in the mobile home park or seasonal mobile home park, unless the streets or drains are dedicated to the public.

(4) The local health department shall grant preliminary approval, under the guidance of the department of public health, for on-site water and sewage service and general site suitability.

(5) If a reviewing agency as provided in this section has not returned the preliminary plan to the developer, either approved, modified, or disapproved within 60 days after it receives the preliminary plan, the preliminary plan shall be considered approved.

(6) Coordination of approvals by state and local governments shall be provided by the director of public health before it may grant construction approval.

(7) The developer shall submit the preliminary approval with the final plans to the department of public health for review before the department of commerce may issue a construction permit.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

125.2312 Submission of legal documents and final plans draft; application fee; review; approval; issuance of construction permit.

Sec. 12. (1) When all preliminary approvals are made, the developer shall submit the legal documents and the final plans draft to the department.

(2) The nonrefundable fee for an application for plans approval and a permit for new mobile home park construction or for the expansion of an existing licensed mobile home park is $185.00 plus an additional $4.00 for each home site over 25 home sites, to a maximum of $1,000.00. The nonrefundable fee for an application for an extension of a permit to construct is $185.00.

(3) The nonrefundable fee for the construction of a new home condominium or the expansion of an existing home condominium is $505.00, plus an additional $4.00 for each home condominium home site over 25 home sites that is to be constructed.

(4) The nonrefundable fee for an existing licensed mobile home park that converts to a home condominium with an increase in the number of home sites is $505.00, plus an additional $4.00 for each home condominium home site over 25 home sites, to a maximum of $1,480.00.

(5) The nonrefundable fee for an application for a permit to construct for an alteration to an existing mobile home park is $50.00.

(6) The department shall review the filing and within 90 days after filing issue its approval or disapproval. Upon the approval of all the reviewing agencies, the department shall issue a permit to construct the mobile home park or seasonal mobile home park.

History: 1987, Act 96, Imd. Eff. July 6, 1987;—Am. 2006, Act 328, Imd. Eff. Aug. 10, 2006.

125.2313 Construction permit required.

Sec. 13. (1) A person shall not construct a mobile home park or seasonal mobile home park without obtaining a permit issued by the department.

(2) Construction may begin upon the granting of a permit to construct by the department.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

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125.2314 Affidavit.

Sec. 14. Upon completion of the construction of the mobile home park or seasonal mobile home park, the owner or operator of the park and a registered professional engineer or architect shall file with the department an affidavit certifying that the mobile home park or seasonal mobile home park, lot, and work were completed in accordance with the approved specifications and plans.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

125.2316 License to operate mobile home park or seasonal mobile home park required; grant and renewal; fees; licensure of campground as seasonal mobile home park.

Sec. 16. (1) A person shall not operate a mobile home park or seasonal mobile home park without a license.

(2) Upon completion, review, and approval of certifications, the department shall grant a license to operate a mobile home park or seasonal mobile home park.

(3) A 3-year license shall be granted and renewed by the department based upon the certifications and recommendations of the appropriate agencies and local governments. The fee for the 3-year license to operate a mobile home park is $225.00, plus an additional $3.00 for each home site in excess of 25 home sites in the mobile home park, or any lesser amount established pursuant to section 9(5). The fee for a 3-year license to operate a seasonal mobile home park is $120.00, plus an additional $1.50 for each home site in excess of 25 home sites in the seasonal mobile home park, or any lesser amount established pursuant to section 9(5).

(4) If a person submits a timely application for renewal of a license and pays the appropriate fee, the person may continue to operate a mobile home park or seasonal mobile home park unless notified that the application for renewal is not approved.

(5) A campground which is currently licensed under sections 12501 to 12516 of the public health code, 1978 PA 368, MCL 333.12501 to 333.12516, was previously licensed under the licensing provisions of 1959 PA 243, MCL 125.1035 to 125.1043 as a seasonal trailer park and which currently meets the seasonal trailer park construction standards under 1959 PA 243, MCL 125.1035 to 125.1043, may apply for and shall be licensed as a seasonal mobile home park under this act if the campground meets all other requirements for licensure under this act as a seasonal mobile home park.

History: 1987, Act 96, Imd. Eff. July 6, 1987;—Am. 2006, Act 328, Imd. Eff. Aug. 10, 2006.

125.2316a Occupancy of mobile home in seasonal mobile home park.

Sec. 16a. Mobile homes located in a seasonal mobile home park may be occupied on a full-time basis from April 1 to October 31, but shall not be occupied for more than 15 consecutive days in any 30-day period from November 1 to March 31.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

125.2317 Inspection of mobile home parks and seasonal mobile home parks; issuance of license.

Sec. 17. (1) The department of environmental quality or its authorized representative shall conduct a physical inspection of mobile home parks and seasonal mobile home parks in accordance with standards established by the department of environmental quality. If the mobile home park or seasonal mobile home park is approved, the department shall issue a license pursuant to section 16.

(2) Except for purposes of issuing a license or renewing a license pursuant to this act, a local government may not make an inspection unless it has reason to believe that this act, the code, or rules promulgated pursuant to this act were violated.

History: 1987, Act 96, Imd. Eff. July 6, 1987;—Am. 2006, Act 328, Imd. Eff. Aug. 10, 2006.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2318 Variances.

Sec. 18. (1) A variance in the design and construction of a mobile home park or seasonal mobile home park may be granted upon notice of the request to the local government and the department of public health at the time of filing with the department of commerce. If the local government grants a variance which would permit activities violative of the minimum standards of the code, the local government shall file with the department a copy of the variance order and an explanation of the reason for the granting of the order. The department may approve or disapprove the variance or revoke the variance upon notice and hearing.

(2) After a public hearing the department may grant a specific variance to a substantive requirement of the code if the literal application of the substantive requirement would result in an exceptional, practical difficulty to the applicant, and if the specific condition justifying the variance is neither so general nor recurrent in

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nature as to make an amendment of the code with respect to the condition reasonably practical or desirable.

(3) The department may attach in writing a condition in connection with the granting of a variance that in its judgment is necessary to protect the health, safety, and welfare of the people of this state. The variance shall not exceed the minimum necessary to alleviate the exceptional, practical difficulty.

(4) A variance to a local ordinance, zoning requirement, or local rule may be granted only by a local government.

(5) A variance to a rule promulgated under this act may be granted only by the commission.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2321 Licensing mobile home dealers, installers, or repairers; initial or renewal license; application; consent to service of process; duration and expiration of license; license fee; license of successor; continuation of sales.

Sec. 21. (1) A mobile home dealer shall not engage in the retail sale of a mobile home without a license.

(2) A mobile home dealer, mobile home installer, or repairer may obtain an initial or renewal license by filing with the commission an application together with consent to service of process in a form prescribed by the commission pursuant to section 35.

(3) An initial or renewal license under this act shall be issued for 3 years. Licenses shall expire on October 1.

(4) The license fee for a mobile home dealer is $450.00 or any other lesser amount established pursuant to section 9(5).

(5) The license fee for a mobile home installer or repairer is $150.00 or any other lesser amount established pursuant to section 9(5).

(6) A licensed mobile home dealer, mobile home installer, or repairer may file an application for the license of a successor, whether or not the successor is then in existence, for the unexpired portion of the year. The commission may grant or deny the application.

(7) A licensee who submits a timely application for renewal of a license and pays the appropriate fee may continue sales of mobile homes unless notified that the application for renewal is not approved.

History: 1987, Act 96, Imd. Eff. July 6, 1987;—Am. 2006, Act 328, Imd. Eff. Aug. 10, 2006.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2322 Mobile home dealer; surety bond; deposit; rules.

Sec. 22. The commission may promulgate rules to require a licensed mobile home dealer to post a surety bond in an amount up to $10,000.00 for each sales location and may determine conditions of the bond. An appropriate deposit of cash or securities shall be accepted in lieu of a bond which is required.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2323 Mobile home dealer; accounts and other records.

Sec. 23. A licensed mobile home dealer shall make and keep accounts, and other records as the commission prescribes by rule. The records required shall be preserved for 3 years unless the commission otherwise prescribes by rule for particular types of records. If the information contained in a record filed with the commission is or becomes inaccurate or incomplete in any material respect, the licensee promptly shall file a correcting amendment.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2324 Mobile home dealer; prohibited conduct.

Sec. 24. A mobile home dealer shall not:

(a) Advertise or represent a mobile home as other than calendar or model year.

(b) Misapply consumer deposits on a mobile home or a mobile home park.

(c) Fail to place deposits, down payments, or similar payments for the purchase or right to purchase a mobile home in a separate escrow account subject to return upon cancellation of the purchase order by the prospective purchaser under the rules or orders as the commission promulgates or issues unless the dealer shall post a bond or a deposit of cash or securities for protection of these payments in an amount acceptable to the commission.

(d) Fail to disclose to the department any direct or indirect business relationships with financial and loan institutions, banks, and insurance companies.

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History: 1987, Act 96, Imd. Eff. July 6, 1987.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2325 Installation and setup of mobile home; rules; licensing requirements.

Sec. 25. (1) The commission shall promulgate rules relating to the responsibility of the mobile home dealer, mobile home installer, and the mobile home park or seasonal mobile home park owner for installation and setup of a mobile home.

(2) A person licensed under any of the following acts shall not be required to be licensed as a mobile home installer and repairer in order to perform work on mobile homes for which the person is licensed, unless the work performed also includes the setup, installation, or general repair of mobile homes:

(a) The electrical administrative act, Act No. 217 of the Public Acts of 1956, being sections 338.881 to 338.892 of the Michigan Compiled Laws.

(b) Act No. 266 of the Public Acts of 1929, being sections 338.901 to 338.917 of the Michigan Compiled Laws.

(c) The Forbes mechanical contractors act, Act No. 192 of the Public Acts of 1984, being sections 338.971 to 338.988 of the Michigan Compiled Laws.

(3) The electrical administrative act, Act No. 217 of the Public Acts of 1956, being sections 338.881 to 338.892 of the Michigan Compiled Laws, Act No. 266 of the Public Acts of 1929, being sections 338.901 to 338.917 of the Michigan Compiled Laws, and the Forbes mechanical contractors act, Act No. 192 of the Public Acts of 1984, being sections 338.971 to 338.988 of the Michigan Compiled Laws, shall not apply to the setup or installation of a mobile home and the following connections or replacement or repair of the following connections, by a licensed mobile home installer and repairer:

(a) Factory-installed electrical wiring, devices, appliances, or appurtenances to available electrical meters or pedestals.

(b) Factory-installed piping, fixtures, plumbing appliances, and plumbing appurtenances to sanitary drainage or storm drainage facilities, venting systems, or public or private water supply systems.

(c) Factory-installed process piping, heating and cooling equipment, and systems or supply lines to available service meters or mains.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2327 Mobile home, mobile home site, or equipment; fraudulent practices.

Sec. 27. (1) A person shall not, in connection with the offer, sale, purchase, or rental of a mobile home, mobile home site, or equipment, relating thereto:

(a) Employ a devise, scheme, or artifice to defraud.

(b) Make an untrue statement of material fact or omit to state a material fact necessary to make the statement not misleading, in the light of the circumstances under which it is made.

(2) A person shall not willfully authorize, direct, or aid in publication, advertisement, distribution, or circulation of a statement or representation concerning a mobile home, mobile home site, or equipment relating thereto, which misrepresents the facts concerning the mobile home, mobile home site, or equipment relating thereto.

(3) A person with knowledge that an advertisement, pamphlet, prospectus, or letter concerning a mobile home, mobile home site, or equipment relating thereto contains a written statement that is false or fraudulent, shall not issue, circulate, publish, or distribute the advertisement, pamphlet, prospectus, or letter concerning a mobile home, mobile home site, or equipment relating thereto.

(4) A person shall not willfully make any material misrepresentation in the sale of a mobile home, mobile home site, or equipment relating thereto.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2328 Owner or operator of mobile home park or seasonal mobile home park; unfair or deceptive practices; action by tenant; violation of water utility tariffs; qualification of owner for regulation as water utility; report.

Sec. 28. (1) An owner or operator of a mobile home park or seasonal mobile home park shall not engage, or permit an employee or agent to engage, in any of the following unfair or deceptive methods, acts, or practices:

(a) Directly or indirectly charging or collecting from a person an entrance fee.

(b) Requiring a person to directly or indirectly purchase a mobile home from another person as a condition

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of entrance to, or lease or rental of, a mobile home park or seasonal mobile home park space.

(c) Directly or indirectly charging or collecting from a person a refundable or nonrefundable exit fee.

(d) Requiring or coercing a person to purchase, rent, or lease goods or services from another person as a condition of any of the following:

(*i*) Entering into a park or lease.

(*ii*) Selling a mobile home through the park owner or operator, or his or her agent or designee upon leaving a mobile home park or seasonal mobile home park.

(*iii*) Renting space in a mobile home park or seasonal mobile home park.

(e) Directly or indirectly charging or collecting from a person money or other thing of value for electric, fuel, or water service without the use of that service by a resident or tenant being first accurately and consistently measured, unless that service is included in the rental charge as an incident of tenancy.

(f) Conspiring, combining, agreeing, aiding, or abetting in the employment of a method, act, or practice that violates this act.

(g) Renting or leasing a mobile home or site in a mobile home park or seasonal mobile home park without offering a written lease.

(h) Subject to section 28a, prohibiting a resident from selling his or her mobile home on-site for a price determined by that resident, if the purchaser qualifies for tenancy and the mobile home meets the conditions of written park rules or regulations. This subdivision does not apply to seasonal mobile home parks.

(i) Subject to reasonable mobile home park or seasonal mobile home park rules governing the location, size, and style of exterior television antenna, prohibiting a person from installing or maintaining an exterior television antenna on a mobile home within the park unless the mobile home park or seasonal mobile home park provides park residents, without charge, a central television antenna for UHF-VHF reception.

(2) A tenant of a mobile home park or seasonal mobile home park may bring an action on his or her own behalf for a violation of this section.

(3) If the commission has reason to suspect that the owner of a mobile home park or seasonal mobile home park is engaged in conduct that violates existing water utility tariffs or qualifies the owner of a mobile home park or seasonal mobile home park for regulation as a water utility, the commission shall promptly send a written report of the alleged violation to the Michigan public service commission.

History: 1987, Act 96, Imd. Eff. July 6, 1987;—Am. 1988, Act 337, Eff. May 1, 1989;—Am. 1993, Act 241, Imd. Eff. Nov. 15, 1993
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125.2328a Rules or regulations governing physical condition and aesthetic characteristics of mobile homes; applicability of subsection (1)(f); expense of moving mobile home to comparable site; termination of tenancy for just cause; appraisal and sale of mobile home; burden of showing compliance with subsection (1).

Sec. 28a. (1) Mobile home park rules or regulations may include provisions governing the physical condition of mobile homes and the aesthetic characteristics of mobile homes in relation to the mobile home park in which they are located, subject to all of the following:

(a) The age or size of a mobile home shall not be used as the sole basis for refusing to allow an on-site, in-park sale or for refusing to allow the mobile home to remain on-site. The burden of going forward in a suit against the mobile home park owner or operator for violation of this subdivision is on the resident.

(b) The standards incorporated in the written park rules or regulations governing the physical condition and aesthetic characteristics of mobile homes in the mobile home park shall apply equally to all residents.

(c) A mobile home sold on-site shall conform with Act No. 133 of the Public Acts of 1974, being sections 125.771 to 125.774 of the Michigan Compiled Laws.

(d) Any charge connected to the on-site, in-park sale of a mobile home, other than the inspection fee permitted under subdivision (e) and the commission or fee charged by a mobile home dealer licensed under this act who is engaged by the seller to transact the sale, is an entrance or exit fee in violation of section 28.

(e) A park owner or operator may charge a reasonable fee to inspect the mobile home before sale. The charge shall not be more than $30.00, or the amount charged for building permit inspections by the municipality in which the mobile home is located, whichever is higher.

(f) The standards governing the physical condition of mobile homes and the aesthetic characteristics of mobile homes in the mobile home park, as incorporated in the written park rules, shall not be designed to defeat the intent of this section.

(2) Subsection (1)(f) shall not apply if the mobile home park is changing its method of doing business and provides not less than 1 year's notice, unless a different notice period is otherwise provided by law, of the proposed change to all affected mobile home park residents. A change in a mobile home park's method of doing business includes, but is not limited to, any of the following:

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(a) Conversion to a mobile home park condominium pursuant to the condominium act, Act No. 59 of the Public Acts of 1978, being sections 559.101 to 559.275 of the Michigan Compiled Laws.

(b) Conversion to total rental of both mobile home site and park-owned mobile homes.

(c) Changes in use of the land on which the mobile home park is located.

(3) Notwithstanding subsection (1) or (2), a mobile home park may require a mobile home to be moved to a comparable site within the mobile home park, at the expense of the mobile home park.

(4) If, after termination of a resident's tenancy for just cause as provided in chapter 57a of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.5771 to 600.5785 of the Michigan Compiled Laws, the resident of a mobile home park sells his or her mobile home to the owner or operator of the mobile home park, or to any entity in which the owner or operator has any interest, the resident shall have the right to have the mobile home's value appraised and, if so appraised, the sale price of the mobile home shall not be less than the appraised value.

(5) Except as provided in subsection (1)(a), a mobile home park owner or operator, or both, has the burden of going forward to show compliance with subsection (1).

History: Add. 1988, Act 337, Eff. May 1, 1989.

125.2328b Children and pets; enforcement of rules.

Sec. 28b. A mobile home park rule that does either of the following shall not be enforced against a resident, unless the rule was proposed and in force before the resident was approved for tenancy in the mobile home park:

(a) Prohibits those children who were previously approved under prior park rules from residing in the mobile home park. A rule prohibiting children, or additional children, shall not be enforced against persons who were residents of the mobile home park at the time the rule was adopted until after 1 year's notice to those persons.

(b) Prohibits a resident from keeping those pets which were previously approved under prior park rules, except dangerous animals.

History: Add. 1988, Act 337, Eff. May 1, 1989.

125.2328c Action to terminate tenancy; liquidated damages.

Sec. 28c. (1) A lease or rental agreement or rules or regulations that are adopted pursuant to a lease or rental agreement may include a provision that requires liquidated damages to be awarded to the prevailing party in a contested action to terminate a tenancy in a mobile home park for just cause under section 5775 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.5775 of the Michigan Compiled Laws.

(2) A provision allowed under subsection (1) may require liquidated damages of not more than $500.00 for an action in the district court and not more than $300.00 for each appellate level. Liquidated damages shall not be construed to be a penalty.

History: Add. 1988, Act 337, Eff. May 1, 1989.

125.2329 Shutoff of utility service for nonpayment; notice.

Sec. 29. A utility company shall notify the department 10 days before shutoff of service for nonpayment, including sewer, water, gas, or electric service, when the service is being supplied to the licensed owner or operator of a mobile home park or seasonal mobile home park for the use and benefit of the park's tenants.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

125.2330 Mobile home subject to certificate of title provisions.

Sec. 30. (1) After December 31, 1978, every mobile home located in this state shall be subject to the certificate of title provisions of this act, except for any new mobile home owned by a manufacturer or licensed mobile home dealer and held for sale.

(2) After December 31, 1978, a certificate of title for a mobile home issued by the secretary of state before January 1, 1979, pursuant to Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, shall be considered to be a certificate of title issued by the department under this act and shall be subject to all of the provisions of this act respecting certificates of title.

(3) After December 31, 1978, a mobile home shall not be sold or transferred except by transfer of the certificate of title for the mobile home pursuant to this act.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

125.2330a Certificate of title; application; form; fee; signature; acknowledgment; contents; bond; examination of application; determination; investigation; additional information;

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rejection of application; duplicate, replacement, or corrected title; placing or terminating lien on title; placing name on title; fee.

Sec. 30a. (1) An owner of a mobile home which is subject to the certificate of title provisions of this act shall make application to the department for the issuance of a certificate of title for the mobile home upon the appropriate form furnished by the department, accompanied by a fee of $90.00 or any lesser amount established pursuant to section 9(5). The application shall bear the signature of the owner written in ink, shall be acknowledged by the owner before a person authorized to take acknowledgments, and shall contain:

(a) The name and address of the owner.

(b) A description of the mobile home, including the name of the manufacturer, the year and model, and the manufacturer's serial number or, in the absence of a serial number, a number assigned by the department. A number assigned by the department shall be permanently placed on the mobile home in the manner and place designated by the department.

(c) A statement of the names and addresses of the holders of any security interests in the mobile home, in the order of their priority.

(d) Further information as may reasonably be required by the department to enable it to determine whether the owner of the mobile home is entitled to a certificate of title for the mobile home.

(2) If the department is not satisfied as to the ownership of the mobile home, before issuing a certificate of title for it, the department may require the applicant to file a properly executed surety bond in a form prescribed by the department, executed by the applicant and a company authorized to conduct a surety business in this state. The bond shall be in an amount equal to twice the value of the mobile home as determined by the department and shall be conditioned to indemnify or reimburse the department, any prior owner, any holder of a security interest in the mobile home, and any subsequent purchaser of the mobile home, and their successors in interest, against any expense, loss, or damage, including reasonable attorney's fees, by reason of the issuance of a certificate of title to the mobile home or on account of any defect in the right, title, or interest of the applicant in and to the mobile home. Each interested person has a right of action to recover on the bond for a breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be returned at the end of 5 years, or before 5 years if the currently valid certificate of title is surrendered to the department, unless the department has received notification of the pendency of an action to recover on the bond.

(3) The department shall examine and determine the genuineness, regularity, and legality of an application for a certificate of title for a mobile home and of any other application lawfully made to the department, and may in all cases make investigation or require additional information as may be considered necessary, and shall reject any application if not satisfied of the genuineness, regularity, or legality of it or the truth of any statement contained in it, or for any other reason, when authorized by law.

(4) The fee for obtaining a duplicate, replacement, or corrected title, for placing or terminating a lien on the title, or for placing a name on the title is $15.00 or any other lesser amount established pursuant to section 9(5).

History: 1987, Act 96, Imd. Eff. July 6, 1987;—Am. 2006, Act 328, Imd. Eff. Aug. 10, 2006.

125.2330b Certificate of title; issuance; contents; mailing or delivering to owner or other person.

Sec. 30b. (1) The department upon receipt of the required application and fees shall issue a certificate of title except as otherwise provided.

(2) The certificate of title shall contain upon its face the date issued, the name and address of the owner, a description of the mobile home as determined by the department, a statement of all security interests in the mobile home as set forth in the application, the date on which the application was filed, and other information as the department may require.

(3) The certificate of title shall contain forms for assignment of title or interest and warranty of title by the owner with space for notation of security interests in the mobile home at the time of a transfer to be signed in ink, and other forms as the department may consider necessary to facilitate the effective administration of this section. The certificate shall bear the seal of the department.

(4) The certificate of title shall be mailed or delivered to the owner or other person as the owner may direct in a separate instrument, in the form as the department shall prescribe.

History: 1987, Act 96, Imd. Eff. July 6, 1987;—Am. 2006, Act 142, Imd. Eff. May 22, 2006.

125.2330c Transfer or assignment of title or interest; indorsement; mailing or delivering certificate; effective date of transfer; issuance of new certificate; fee; reservation or

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creation of security interest; mobile home dealer as transferee; transfer of dealer's title or interest.

Sec. 30c. (1) If the owner of a mobile home transfers or assigns the owner's title or interest to the mobile home, the owner shall indorse an assignment of the mobile home with warranty of title with a statement of all security interests in the mobile home, and shall cause the certificate to be mailed or delivered to the department or to the purchaser or transferee at the time of the delivery to the purchaser or transferee of the mobile home.

(2) Upon the delivery of a mobile home and the transfer, sale, or assignment of the title or interest in a mobile home, the effective date of the transfer of title or interest shall be the date of execution of either the application for title or the certificate of title.

(3) The purchaser or transferee, unless the purchaser or transferee is a licensed dealer, shall cause to be presented to the department the certificate of title accompanied by the applicable fee, as follows:

(a) Except as provided in subdivision (b) or (c), $90.00.

(b) Except as provided in subdivision (c), $15.00, if the sale, assignment, or other transfer will require the addition or deletion from the certificate of title of any of the following:

(*i*) The owner's spouse.

(*ii*) A person related to the owner within the fourth degree of consanguinity as computed by the civil law method.

(*iii*) A person related to the owner's spouse within the fourth degree of consanguinity as computed by the civil law method.

(c) Any other lesser amount established pursuant to section 9(5).

(4) Upon presentation of the certificate of title accompanied by the applicable fee, a new certificate of title shall be issued. A certificate of title issued under subsection (3) and this subsection shall be mailed or delivered to the owner or any other person the owner may direct in a separate instrument in a form as prescribed by the department.

(5) If a security interest is reserved or created at the time of the transfer, the parties shall comply with section 30d.

(6) If the transferee of a mobile home is a mobile home dealer who holds the mobile home for resale, the dealer shall not be required to forward the certificate of title to the department, but the dealer shall retain possession of the assigned certificate of title. Upon transfer of the dealer's title or interest to another person, the dealer shall execute and acknowledge an assignment and warranty of title upon the certificate of title and deliver it to the person to whom the transfer is made if the person is a licensed dealer; otherwise application for a new title shall be made by the transferor as provided in section 30a(1).

History: 1987, Act 96, Imd. Eff. July 6, 1987;—Am. 2006, Act 142, Imd. Eff. May 22, 2006;—Am. 2006, Act 328, Imd. Eff. Aug. 10, 2006.

125.2330d Creation of security interest in mobile home; assignment of security interest; assignee named as holder of security interest; perfection of security interest; termination statement; issuance of new certificate.

Sec. 30d. (1) All of the following apply if an owner named in a certificate of title creates a security interest in the mobile home described in the certificate:

(a) The owner shall immediately execute an application in the form prescribed by the department showing the name and address of the holder of the security interest and deliver the certificate of title, the application, and a copy of the application which need not be signed, to the holder of the security interest.

(b) The holder of the security interest shall cause the certificate of title, the application, the required fee, and the copy of the application to be mailed or delivered to the department.

(c) The department shall indicate on the copy of the application the date and place of filing of the application and return the copy to the person presenting it.

(d) Upon receipt of the certificate of title, application, and the required fee, the department shall issue a new certificate in the form provided in section 30b, setting forth the name and address of each holder of a security interest in the mobile home for which a termination statement has not been filed and the date on which the application first stating the security interest was filed, and mail the certificate to the owner.

(2) A holder of a security interest may assign, absolutely or otherwise, the security interest to a person other than the owner without affecting the interest of the owner or the validity of the security interest, but a person without notice of the assignment is protected in dealing with the holder of the security interest as the holder of the security interest. The assignee may have its interest as the holder of the security interest shown on the certificate of title by providing the department with a copy of the assignment instrument but the failure of the assignee to do so does not affect the validity of the security interest or the assignment of the security

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interest.

(3) Receipt by the department of a properly tendered application for a certificate of title on which a security interest in a mobile home is to be indicated, whether the application is tendered under this act, is a condition of perfection of a security interest in the mobile home and is equivalent to filing a financing statement under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, with respect to the mobile home. When a security interest in a mobile home is perfected, it has priority over the rights of a lien creditor, as defined in section 9102 of the uniform commercial code, 1962 PA 174, MCL 440.9102.

(4) If there is not an outstanding obligation or commitment to make advances, incur obligations, or otherwise give value, secured or to be secured by a security interest in a mobile home, the secured party shall, within 30 days after satisfaction of the obligation, execute a termination statement in the form prescribed by the department and mail or deliver the termination statement to the owner or other person as the owner may direct. An owner who is not a dealer holding the mobile home for resale shall promptly cause the certificate, all termination statements, and an application for certificate of title to be mailed or delivered to the department. The department shall issue a new certificate.

History: 1987, Act 96, Imd. Eff. July 6, 1987;—Am. 2005, Act 38, Imd. Eff. June 7, 2005.

125.2330e Termination of owner's interest by enforcement of security agreement; duty of transferee; duty of holder of security interest; mailing or delivering certificate; application for new certificate; affidavit; issuance of new certificate; demand for outstanding certificate.

Sec. 30e. (1) If the interest of the owner in a mobile home is terminated by the enforcement of a security agreement, the transferee of the owner's interest shall promptly mail or deliver to the department the last certificate of title, if the transferee has possession of it, an application for a new certificate in the form prescribed by the department, and an affidavit made by or on behalf of the holder of the security interest so enforced that the mobile home was repossessed, that the interest of the owner was lawfully terminated by enforcement of the security agreement, and whether the holder has delivered the last certificate of title to the transferee of the owner's interest, naming the transferee, or if not, the reason delivery was not made and the then location of the certificate of title so far as known to the holder. If the holder of the security interest succeeds to the interest of the owner and holds the mobile home for resale, the holder shall not be required to secure a new certificate of title but, upon transfer to another person, shall promptly mail or deliver to the transferee or to the department the certificate, if in the holder's possession, the affidavit, and other documents required to be sent to the department by the transferee.

(2) If the interest of the owner in a mobile home is terminated by sale pursuant to a levy of execution, attachment, or other process of a court, the transferee of the owner's interest shall promptly mail or deliver to the department the last certificate of title, if the transferee has possession of it, an application for a new certificate of title in the form prescribed by the department and an affidavit, upon a form prescribed by the department, made by the officer of the court who conducted the sale, setting forth the date of the sale, and the name of the purchaser and whether the officer has delivered the certificate of title to the purchaser and if not, the reason delivery was not made and the then location of the certificate of title so far as known to the officer.

(3) A person holding a certificate of title where the interest of the owner named in the certificate has been terminated in the manner provided by subsection (1) or (2) shall mail or deliver the certificate to the department upon its request. The delivery of the certificate pursuant to the request of the department does not affect the rights of the person surrendering the certificate, and the action of the department in issuing a new certificate of title is not conclusive upon any rights of an owner or holder of a security interest named in the old certificate.

(4) The department, upon receipt of an application for a new certificate of title by a transferee in the manner provided by subsection (1) or (2), with proof of the transfer, the required fee, and any other documents required by law, shall issue a new certificate of title in the name of the transferee as owner, setting forth all security interests noted on the last certificate of title as having priority over the security agreement so enforced and shall mail or deliver the new certificate to the owner. If the outstanding certificate of title is not delivered, the department shall make demand for the outstanding certificate of title from the holder.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

125.2330f Filing surrendered certificate of title; maintaining file for period of 10 years.

Sec. 30f. The department shall retain and appropriately file every surrendered certificate of title. The file shall be maintained so as to permit the tracing of title of the mobile home designated in a surrendered certificate for a period of 10 years.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

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125.2330g Cancellation of or refusal to issue certificate of title; grounds; notice; hearing.

Sec. 30g. (1) The department may cancel or refuse to issue a certificate of title:

(a) If the department is satisfied that the certificate of title was fraudulently or erroneously issued.

(b) If the department determines that the holder of the certificate has made or is making an unlawful use of the certificate.

(c) If the department determines that the required fee has not been paid and the fee is not paid upon reasonable notice or demand.

(d) If the department is authorized under any other provision of this act.

(e) Upon receipt of notification from another state or foreign country that a certificate of title issued by the department has been surrendered by the owner in conformity with the laws of the other state or foreign country.

(f) If it is shown by satisfactory evidence that delivery of a mobile home in the possession of a dealer was not made to the applicant to whom the certificate was issued.

(2) Before a cancellation under subsection (1)(a), (b), or (d) is made, the person affected shall be given notice and an opportunity to be heard.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

125.2330h Rules.

Sec. 30h. The commission in consultation with the secretary of state shall promulgate rules, which shall further define and distinguish between the term mobile home as used in this act and the term trailer coach as used in the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

125.2330i Affixation of mobile home to real property; ownership interest.

Sec. 30i. (1) If a mobile home is affixed to real property in which the owner of the mobile home has the ownership interest, the owner may deliver all of the following to the department:

(a) An affidavit of affixture on a form provided by the department that contains all of the following:

(*i*) The name and address of the owner.

(*ii*) A description of the mobile home that includes the name of the manufacturer of the mobile home, the year of manufacture, the model, the manufacturer's serial number and, if applicable, the number assigned by the department.

(*iii*) A statement that the mobile home is affixed to the real property.

(*iv*) The legal description of the real property to which the mobile home is affixed.

(*v*) The name of each holder of a security interest in the mobile home, together with the written consent of each holder to the termination of the security interest and the cancellation of the certificate of title under subsection (2), if applicable.

(b) The certificate of title for the mobile home, the manufacturer's certificate of origin if a certificate of title has not been issued by the department, or sufficient proof of ownership as provided in section 30a or 30e.

(c) A fee in an amount prescribed in section 30a for a certificate of title.

(2) When the department receives an affidavit and certificate of title under subsection (1), the department shall cancel the certificate of title for the mobile home. The department shall not issue a certificate of title for a mobile home described in subsection (1) except as provided in subsection (8).

(3) The owner of the mobile home shall deliver a duplicate original of the executed affidavit under subsection (1) to the register of deeds for the county in which the real property is located. The register of deeds shall record the affidavit.

(4) The department shall maintain the affidavit under subsection (1) for a period of 10 years from the date of filing.

(5) When the department receives an affidavit under subsection (1), the mobile home is considered to be part of the real property, sections 30 to 30h do not apply to that mobile home, any security interest in the mobile home is terminated, a lienholder shall perfect and enforce a new security interest or lien on the mobile home only in the manner provided by law for perfecting and enforcing a lien on real property, and the owner may convey the mobile home only as part of the real property to which it is affixed.

(6) If a mobile home is affixed to real property before July 14, 2003, a person who is the holder of a lien or security interest in both the mobile home and the real property to which it is affixed on July 14, 2003 may enforce its liens or security interests by accepting a deed in lieu of foreclosure or in the manner provided by law for enforcing liens on the real property. The lien or security interest on a mobile home described in this

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subsection is perfected against the mobile home if the holder of the lien or security interest in both the mobile home and the real property to which it is affixed on July 14, 2003 has perfected a lien on the real property as provided under law for perfecting a lien on real property. The date of perfection of the lien or security interest of the mobile home is the date of perfection of the lien on the real property to which the mobile home is affixed on July 14, 2003.

(7) If the holder of a lien or security interest becomes the owner of a mobile home affixed to real property through the process of real property foreclosure or through a deed in lieu of foreclosure under subsection (6), the holder shall submit an affidavit described in subsection (1) to the department after the redemption period for the foreclosure expires or the deed in lieu of foreclosure is recorded and the department shall cancel the certificate of title for the mobile home.

(8) If an owner of both the mobile home and the real property described in subsection (1) intends to detach the mobile home from the real property, the owner shall do both of the following:

(a) Before detaching the mobile home, record an affidavit of detachment in the office of the register of deeds in the county in which the affidavit is recorded under subsection (3).

(b) Apply for a certificate of title for the mobile home on a form prescribed by the department. The application shall include a duplicate original executed affidavit of detachment and proof that there are no security interests or liens on the mobile home or the written consent of each lienholder of record to the detachment and a fee in the amount prescribed in section 30a for a certificate of title.

(9) An owner of an affixed mobile home shall not detach it from the real property before a certificate of title for the mobile home is issued by the department. If a certificate of title is issued by the department, the mobile home is no longer considered part of the real property and sections 30 to 30h apply.

(10) This section applies to all transactions, liens, and mortgages within its scope even if the transaction, lien, or mortgage was entered into or created before July 14, 2003.

(11) As used in this section:

(a) A mobile home is "affixed" to real property if it meets all of the following:

(*i*) The wheels, towing hitches, and running gear are removed.

(*ii*) It is attached to a foundation or other support system.

(b) "Ownership interest" means the fee simple interest in real property or an interest as the lessee under a ground lease for the real property that has a term that continues for at least 20 years after the recording of the affidavit under subsection (3).

History: Add. 2003, Act 44, Imd. Eff. July 14, 2003;—Am. 2005, Act 162, Imd. Eff. Oct. 4, 2005.

Compiler's note: Enacting section 1 of Act 44 of 2003 provides:

"Enacting section 1. It is the intent of this legislature that a security interest or lien on a mobile home affixed to real property may be perfected in the manner provided under law for perfecting a lien on real property, and not exclusively by a notation of the security interest or lien on the certificate of title."

125.2331 Action to rescind transaction and recover damages.

Sec. 31. A person who offers, sells, or purchases a mobile home or equipment or a mobile home site in violation of this act or the code may have an action brought against him or her to rescind the transaction and recover damages.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

125.2332 Certain conditions, stipulations, or provisions voided.

Sec. 32. A condition, stipulation, or provision binding a person to waive compliance with this act or a rule promulgated or order issued under this act is void.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2333 Statute of limitations; rejection of valid rescission as bar to action.

Sec. 33. A person may not bring an action under this act more than 3 years after the contract of sale, except that a person suing because of a violation of section 27 may not bring an action more than 6 years after the date of sale. A person may not bring an action if he or she previously rejected a valid rescission offer made at least 30 days after the transaction, except that a person suing under section 24 shall bring an action for rescission within 1 year.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

125.2335 Service of process.

Sec. 35. (1) A person who applies for a license or permit under this act which is for other than a domestic corporation shall file with the commission, in a form the commission prescribes, an irrevocable consent

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appointing the commission to be its attorney to receive service of lawful process in any noncriminal action or proceeding against it or its successor, executor, or administrator, which arises under this act or a rule promulgated or order issued under this act after the consent is filed, with the same force and validity as if served personally on the person filing the consent.

(2) When a person, including a nonresident of this state, engages in conduct prohibited or made actionable by this act or a rule promulgated or order issued under this act, whether or not consent to service of process was filed and personal jurisdiction over him or her cannot otherwise be obtained in this state, that conduct shall be considered equivalent to his or her appointment of the commission to be his or her attorney to receive service of lawful process in a noncriminal action or proceeding against him or her or his or her successor, executor, or administrator which grows out of that conduct and which is brought under this act or a rule promulgated or order issued under this act, with the same force and validity as if served on the person personally.

(3) Service under subsection (1) or (2) may be made by filing a copy of the process in the office of the commission together with a $25.00 fee. The service is not effective unless the plaintiff, which may be the commission in an action or proceeding instituted by it, immediately sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at his or her last known address or takes other steps which are reasonably calculated to give actual notice, and the plaintiff's affidavit or compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

125.2336 Powers of department, prosecuting attorney, or law enforcement officer; evidence; copies of pleadings; assistance to local government or state agency.

Sec. 36. (1) The department, a prosecuting attorney, or a law enforcement officer of a municipality may:

(a) Make public or private investigations within or without this state he or she considers necessary to determine if a person violated or is about to violate this act or a rule promulgated or order issued under this act. The department may inspect any premises licensed under this act for violation of this act, the code, or rules promulgated pursuant to this act.

(b) Require a licensee to file a written statement in response to a complaint of an alleged violation of this act or the rules promulgated under this act received by a local government and forwarded to the licensee. The statement shall state the facts and circumstances concerning the matter raised in the complaint. If the licensee does not make the required statement within 15 days after the licensee receives the letter requiring the written statement, the department, upon its own action or upon petition by the prosecuting attorney or law enforcement officer of the municipality issuing the letter, may issue an order directing a response by the licensee.

(2) A prosecuting attorney or a law enforcement officer of a municipality shall present any evidence of an alleged violation of this act or rule promulgated under this act to the department. The department may refer the evidence as is available concerning violations of this act to the attorney general or the proper prosecuting attorney who, with or without a reference, may institute appropriate criminal proceedings under this act.

(3) Before, or simultaneous with, the commencement of a criminal proceeding or a proceeding in which injunctive relief is sought by the local government, that local government shall serve copies of all pleadings in the matter upon the department.

(4) The department shall render assistance to a local government or state agency. The department may use all investigative powers conferred upon it to assist a local government.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2337 Administrative proceedings; notice; response; assurance of discontinuance.

Sec. 37. (1) Before commencement of administrative proceedings, the department may issue a statement of intent to commence proceedings to persons who are subjects of an investigation relating to possible violations of this act. The notice shall provide that the subjects of the investigation shall have opportunity to show why proceedings should not be commenced against them. If a response satisfactory to the department is received, then further proceedings under this act shall not be required.

(2) In connection with an investigation or proceeding held pursuant to this act, the department may accept an assurance from the person who is alleged to have violated the act, that the method, act, or practice which is allegedly in violation of the act will be discontinued. An assurance of discontinuance shall be in writing and filed with the department.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

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125.2338 Order to show cause; grounds; notice to show cause; stopping construction after notice and opportunity for hearing.

Sec. 38. (1) The department may issue an order to show cause why an order imposing sanctions or penalties allowed under this act should not be issued by the commission if the department finds that the order is in the public interest, and any of the following:

(a) An application filed pertaining to a license, a disclosure statement, or a related document filed with the department in connection with a mobile home license, is incomplete in any material respect or contains a statement which is false or misleading, in the light of the circumstances under which it is made.

(b) A provision of this act, or a rule, order, or condition lawfully imposed under this act, was not complied with or was violated in connection with the offering by the person filing the document; the developer, dealer, or operator; a partner, officer, director, proprietor, or manager of the developer, dealer, or operator; or a person directly or indirectly controlling, or directly controlled by, the developer, dealer, or operator.

(c) The project worked or tended to work a fraud or deception or would so operate, or the project would create an unreasonable risk to prospective tenants, as defined by rules promulgated by the commission.

(d) The developer, dealer, or operator; a partner, officer, director, proprietor, or manager of the developer, dealer, or operator; a person directly or indirectly controlling or directly controlled by the developer, dealer, or operator; or a person identified in the application for a license, or a disclosure statement, was within the past 10 years convicted of an offense under this act, or is the subject of an administrative order issued under this act, or had a civil judgment entered against him or her as a result of a violation of this act or a rule promulgated or order issued pursuant to this act, and the department determines that the involvement of the person in the sale or development of the project creates an unreasonable risk to prospective tenants or mobile home purchasers.

(e) The developer, dealer, or operator; a partner, officer, director, proprietor, or manager of the developer; a person directly or indirectly controlling or directly controlled by the developer, dealer, or operator; or a person identified in the application for a license, or a disclosure statement, was convicted of a violation or the subject of an administrative order or civil judgment as a result of a violation of a statute regulating the offering of securities or franchises or licensing or regulating builders, real estate brokers, or real estate salespersons, or of violation of the land sales act, Act No. 286 of the Public Acts of 1972, being sections 565.801 to 565.835 of the Michigan Compiled Laws, or a rule promulgated or an order issued under that act.

(f) The applicant's method of business, construction, development, or sales includes or would include activities which are illegal.

(g) The applicant failed to pay the proper fee.

(h) The applicant failed to comply with the state warranty laws.

(2) When it appears to the department that a person engaged in an act or practice constituting a violation of this act or a rule promulgated or order issued under this act, the department may issue a notice to show cause why a cease and desist order should not be issued.

(3) After 10 days' notice and opportunity for hearing, the department may stop construction as to part or all of a project if continuing the building will cause irreparable harm to residents and prospective residents of the project.

History: 1987, Act 96, Imd. Eff. July 6, 1987;—Am. 1988, Act 337, Eff. May 1, 1989.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2339 Entry and notice of order to show cause; hearing; powers of department for purpose of investigation or proceeding; order of circuit court for information; issuance of subpoenas or orders.

Sec. 39. (1) Upon the entry of an order to show cause under this act, the department shall promptly notify the applicant that the order was entered and of the reasons for the order and that upon receipt of written request the matter shall be set down for a hearing to commence within 45 days after the receipt of the order unless the applicant and the department consent to a later date. If a hearing is not requested within 15 days and none is ordered by the department, an appropriate order shall be entered and remain in effect until it is modified or vacated by the department. If a hearing is requested or ordered, the department may enter an appropriate order of its determination, after notice and hearing.

(2) For the purpose of an investigation or proceeding under this act, the department may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of records or other documents which the department deems relevant or material to the inquiry. Before any of the requirements of this subsection become operative, the department shall obtain an order of the circuit court for the information by a showing that there is good cause that a violation has taken place or is about to take place,

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and all of the subpoenas or orders shall issue from the circuit court.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

125.2340 Effect of appeal.

Sec. 40. An appeal to a court of competent jurisdiction pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, shall not automatically stay a cease and desist order issued by the department or prevent the department from seeking an order in a court of competent jurisdiction enjoining the violation of a cease and desist order. In other cases, an appeal to the department pursuant to this act, or to a court of competent jurisdiction pursuant to Act No. 306 of the Public Acts of 1969, shall act as a stay upon any other order, determination, decision, or action appealed from, unless the department establishes that immediate enforcement of the order, determination, decision, or action is necessary to avoid substantial peril to life or property.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

125.2341 Injunction.

Sec. 41. The department, a prosecuting attorney, or municipal attorney may bring an action in a court of competent jurisdiction against a person to enjoin that person from engaging or continuing in a violation of this act, a rule promulgated under this act.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2342 Violation as misdemeanor; penalty.

Sec. 42. A person who violates this act or the code promulgated under this act is guilty of a misdemeanor punishable by a fine of not more than $500.00 per day for each separate violation or imprisonment for not more than 1 year, or both.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2343 Violation of act; penalties; disposition of fine; actions under other provisions not prohibited; pursuit of lawful rights.

Sec. 43. (1) If, after notice and a hearing as provided in the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, a person is determined to have violated this act, the commission may impose 1 or more of the following penalties:

(a) Censure.

(b) Probation.

(c) Placement of a limitation on a license.

(d) Suspension of a license. The commission may request the appointment of a receiver when taking action under this subdivision.

(e) Revocation of a license. The commission may request the appointment of a receiver when taking action under this subdivision.

(f) Denial of a license.

(g) A civil fine of not more than $10,000.00.

(h) A requirement that restitution be made.

(2) A fine collected under this section shall be deposited with the state treasurer and credited to the mobile home commission fund.

(3) This section does not prohibit actions being taken under other sections of this act.

(4) The pursuit in court of the lawful rights of a licensee does not constitute a violation of this act, regardless of the outcome of the court action.

History: Add. 1988, Act 337, Eff. May 1, 1989.

125.2343a Summary suspension of license.

Sec. 43a. If the department finds that the health, safety, or welfare requires emergency action, and incorporates that finding in its order, summary suspension of a license may be ordered effective on the date specified in the order or on service of a certified copy of the order on the licensee, whichever is later, and effective during the proceedings. The proceedings shall be promptly commenced and determined.

History: Add. 1988, Act 337, Eff. May 1, 1989.

125.2344 Remedies not mutually exclusive.

Sec. 44. The remedies provided for in this act are not mutually exclusive and the department may use as

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many remedies as it considers necessary.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

125.2345 Other prosecution and enforcement not prohibited.

Sec. 45. (1) This act shall not be construed to prohibit the prosecution or punishment of a person for conduct which constitutes a crime by statute or at common law.

(2) This act shall not be construed to prohibit a municipality from enforcing its local ordinances or from taking any other appropriate action to protect the public health, safety, or welfare as authorized by law or its charter.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

125.2348 Repeal of MCL 125.1101 to 125.1147.

Sec. 48. Subject to section 49, Act No. 419 of the Public Acts of 1976, being sections 125.1101 to 125.1147 of the Michigan Compiled Laws, is repealed.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

125.2349 Legislative intent and declarations.

Sec. 49. This act is intended to eliminate the confusion with respect to the legal status of Act No. 419 of the Public Acts of 1976 as a result of attorney general opinion no. 6438 of 1987. The legislature hereby makes the following declarations:

(a) The legislature, through the enactment of Act No. 299 of the Public Acts of 1986, intended to repeal section 47 of Act No. 419 of the Public Acts of 1976 and thereby maintain Act No. 419 of the Public Acts of 1976 in effect.

(b) This act is intended to remedy and cure any defect, actual or illusory, in the passage of Act No. 299 of the Public Acts of 1986.

(c) This act does not dissolve and recreate the mobile home commission created pursuant to Act No. 419 of the Public Acts of 1976 and the mobile home commission is intended to be the same mobile home commission created and operating pursuant to Act No. 419 of the Public Acts of 1976, without interruption.

(d) This act validates all action taken by the department and the mobile home commission on and after January 10, 1987, if such action is otherwise valid under this act. All applications, complaints, and other proceedings commenced or continued on and after January 10, 1987 are deemed to be valid and commenced or continued under this act, if such applications, complaints, and other proceedings are otherwise valid under this act.

(e) Any administrative rules promulgated under Act No. 419 of the Public Acts of 1976 shall be considered to have remained in effect and without interruption pursuant to this act regardless of the repeal of Act No. 419 of the Public Acts of 1976.

(f) All rights, powers, duties, and liabilities of any person or entity under Act No. 419 of the Public Acts of 1976 shall continue, without interruption, under this act.

(g) This act is remedial and curative and shall apply from January 10, 1987 and is intended to be a continuation without interruption of Act No. 419 of the Public Acts of 1976.

History: 1987, Act 96, Imd. Eff. July 6, 1987.

Administrative rules: R 125.1101 et seq. of the Michigan Administrative Code.

125.2350 Repealed. 1988, Act 337, Imd. Eff. Oct. 18, 1988.

Compiler's note: The repealed section contained a prospective repeal provision.

ECONOMIC DEVELOPMENT ORGANIZATION ACT
Act 409 of 1988

125.2401-125.2411 Repealed. 1988, Act 409, Eff. Oct. 1, 1990.

Compiler's note: This act was repealed by MCL 125.2411, Eff. Oct. 1, 1990. Act 351 of 1990, Imd. Eff. Dec. 26, 1990, amended MCL 125.2411 to read as follows: “Sec. 11. This act is repealed effective October 1, 1992.”

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LAND RECLAMATION AND IMPROVEMENT AUTHORITY ACT
Act 173 of 1992

AN ACT to authorize the establishment of land reclamation and improvement authorities; to provide for land reclamation and improvement authority boards and for their powers and duties; to authorize the exercise of the power of eminent domain; to provide for the making of certain improvements; to provide for the issuance of bonds and notes; to provide for assessing the cost of improvements and services against property benefited; to authorize certain rents, fees, and charges; and to provide for the powers and duties of certain state and local governmental officers and entities.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

The People of the State of Michigan enact:

125.2451 Short title; meaning of words and phrases.

Sec. 1. (1) This act shall be known and may be cited as the "land reclamation and improvement authority act".

(2) For the purposes of this act, the words and phrases defined in sections 2 and 3 have the meanings ascribed to them in those sections.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2452 Definitions; A, B.

Sec. 2. (1) "Authority", unless the context clearly implies a different meaning, means a land reclamation and improvement authority established pursuant to sections 4 to 7.

(2) "Authority board" means the governing body of an authority provided for in section 8.

(3) "Authority district" means the territory within which an authority exercises its jurisdiction.

(4) "Blighted area" means land that satisfies all of the following requirements:

(a) The land was used for mining, commercial, or industrial purposes.

(b) The mining, commercial, or industrial use significantly disturbed the natural qualities of the land.

(c) The land is not currently useful for residential, recreational, or commercial purposes.

(d) The land can be reclaimed and made useful for residential, recreational, or commercial purposes.

(e) The land is not a site listed under section 20105 of part 201 (environmental remediation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.20105 of the Michigan Compiled Laws, or on the national priorities list established pursuant to section 105 of title I of the comprehensive environmental response, compensation and liability act of 1980, Public Law 96-510, 42 U.S.C. 9605.

History: 1992, Act 173, Imd. Eff. July 21, 1992;—Am. 1996, Act 49, Imd. Eff. Feb. 26, 1996.

125.2453 Definitions; D to S.

Sec. 3. (1) "Department" means the department of treasury, unless a different department is explicitly identified.

(2) "Improvement" means 1 or more of the following:

(a) The construction, improvement, maintenance, and repair of storm or sanitary sewers or combined storm and sanitary sewer systems.

(b) The construction, improvement, maintenance, and repair of potable and nonpotable water systems.

(c) The construction, improvement, maintenance, and repair of public roads.

(d) The acquisition or construction, improvement, and maintenance of public parks, public bicycle paths, and other public recreational facilities, excluding golf courses.

(e) The construction, improvement, maintenance, and repair of elevated structures for foot travel over roads in the authority district.

(f) The collection and disposal of garbage and rubbish.

(g) The construction, improvement, maintenance, and repair of erosion control structures or dikes.

(h) The planting, maintenance, and removal of trees.

(i) The installation, improvement, maintenance, and repair of lighting systems.

(j) The construction, improvement, maintenance, and repair of sidewalks.

(k) The eradication or control of aquatic plants.

(*l*) The construction, improvement, maintenance, and repair of private roads.

(m) The construction, improvement, maintenance, and repair of waterways, harbors, marinas, seawalls, and channels.

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(n) The construction, installation, improvement, maintenance, and repair of fences, gates, intercommunication systems, and other structures and devices related to security.

(o) The construction, improvement, maintenance, and repair of structures to control or direct surface water runoff.

(p) The improvement of land and the construction, improvement, maintenance, equipping, or operation of a building to be used by the authority or for other public purposes, and any necessary or desirable appurtenances to a building to be used by the authority or for other public purposes.

(q) The reclamation of blighted areas, including the replanting, grading, and restoration of land; the removal of minerals; and the removal of waste that is not hazardous waste as defined in part 111 (hazardous waste management) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.11101 to 324.11152 of the Michigan Compiled Laws.

(r) Easements necessary for an improvement under this subsection.

(s) Demolition of structures and site preparation related to an improvement under this subsection.

(t) The payment of any operational and administrative costs of the authority including, but not limited to, architectural, engineering, legal, and accounting fees as determined by the authority board and costs under section 37, not otherwise considered to be part of the costs of an improvement under section 18(1).

(3) “Person” means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(4) “Record owner” means a person possessed of the most recent fee title or a land contract vendee's interest in real property as shown by the records of the county register of deeds.

(5) “Statement of approval” means a statement of approval of the establishment of an authority issued by the department pursuant to section 6.

History: 1992, Act 173, Imd. Eff. July 21, 1992;—Am. 1996, Act 49, Imd. Eff. Feb. 26, 1996.

125.2454 Land reclamation and improvement authority; establishment; petition requirements.

Sec. 4. A person seeking to establish a land reclamation and improvement authority shall file a petition with the department. The petition shall meet all of the following requirements:

(a) Include all of the following:

(*i*) The name and address of the person filing the petition.

(*ii*) The name of the proposed authority, which shall not be similar to the name of the county within which the proposed authority district is located or to the name of a local unit of government all or part of which is located within that county.

(*iii*) The boundaries of the proposed authority district.

(*iv*) A description of a blighted area within the proposed authority district.

(*v*) A general description of anticipated improvements, including a preliminary estimate of costs and schedule of completion.

(*vi*) A request that the department approve the establishment of the authority.

(b) Be signed by the record owners of all of the land within the proposed authority district.

(c) Be accompanied by a written nomination of 1 individual for appointment to a 4-year term and 1 individual for appointment to a 6-year term on the authority board.

(d) A copy of the petition, with copies of all items listed in subdivision (a), shall be filed with the director of the department of natural resources at the same time as the petition is filed with the department.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2455 Petition; determination of compliance with requirements; public hearing; notice; determination and certification of record owners.

Sec. 5. (1) Not more than 15 days after a petition is filed, the department shall determine whether the petition meets the requirements of section 4 and, if the petition does not meet those requirements, return the petition to the person who filed the petition. If the department returns a petition, the department shall include with the petition a statement of the reasons that the petition does not meet the requirements of section 4.

(2) Not less than 30 days and not more than 45 days after a petition meeting the requirements of section 4 is filed with the department, the department shall hold a public hearing in the county where the proposed authority district is located. The department shall publish notice of the hearing twice in a newspaper of general circulation in the township or townships in which the proposed authority district is located. The first publication shall be not less than 10 days before the hearing. In addition, the department shall give notice of the hearing in the manner required by the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws, and by first-class mail addressed to each record

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owner in the proposed authority district, to the county clerk of the county within which the proposed authority district is located, and to the township clerk of each township within which all or part of the proposed authority district is located. At the hearing, persons may comment on whether the proposed authority meets the requirements of section 6.

(3) For purposes of this section, record owners shall be determined by the records in the register of deeds' office as of the day of filing the petition. At the request of the department, a register of deeds shall certify whether the persons joining in the petition are record owners.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2456 Authority; establishment; requirements for approval; mailing, form, and contents of statement of approval or disapproval.

Sec. 6. (1) Not more than 30 days after the hearing provided for in section 5, the department shall approve or disapprove the establishment of the proposed authority. The department shall approve the establishment of the authority if all of the following requirements are met:

(a) The proposed authority district contains 1 or more blighted areas that in the aggregate are not less than 20% of the total area of the authority district or 100 acres, whichever is less.

(b) The proposed authority district contains not less than 300 acres.

(c) The proposed authority district had not more than 100 residents when the petition to establish the authority was filed with the department.

(d) The entire proposed authority district is located within 1 or 2 townships and within 1 county.

(e) The blighted area can be reclaimed and made useful for recreational, residential, or commercial purposes. In making this determination, the department shall not consider the costs of or availability of financing for reclamation.

(2) Immediately upon approval or disapproval of the establishment of the proposed authority, the department shall mail a statement of approval or a statement of disapproval by certified mail to the township board of each township within which all or part of the proposed authority district is located, the county board of commissioners of the county within which the proposed authority district is located, and the person that filed the petition. A statement of approval shall be dated and shall set forth the name of the person who filed the petition under section 4, the name of the proposed authority, and the boundaries of the proposed authority district as set forth in the petition. A statement of disapproval shall be dated and shall set forth the reasons for disapproval.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2457 Documents; filing; recording; issuance of certificate; filing date.

Sec. 7. (1) After the appointment to the authority board of the proposed authority of each of the individuals required to be appointed pursuant to section 8, the person who filed the petition under section 4 shall file all of the following with the secretary of state, the township clerk of each township within which all or part of the proposed authority district is located, and the county clerk and register of deeds of the county within which the proposed authority district is located:

(a) A certified copy of the petition.

(b) A certified copy of the statement of approval.

(c) The certificates under section 10 certifying the individuals appointed to the first authority board.

(2) The secretary of state shall record in an appropriate book of record the documents filed with the secretary of state under subsection (1) and shall issue to the person who filed the petition under section 4 a certificate certifying the establishment of the authority and the boundaries of the authority district.

(3) The authority is established on the date of filing with the secretary of state the documents required to be filed under subsection (1).

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2458 Authority board; supervision and control; duties of county board of commissioners and township board; appointment of members; terms of office.

Sec. 8. (1) The authority shall be under the supervision and control of an authority board of 5 or 7 members.

(2) Not more than 30 days after the date of issuance of the statement of approval, the county board of commissioners of the county within which the authority district is located shall do 1 of the following:

(a) File a statement with the department that the county elects not to nominate any members to the authority board.

(b) File a statement with the department nominating 1 individual for a 4-year term and 1 individual for a

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6-year term on the authority board.

(3) Not more than 30 days after the date of issuance of the statement of approval, the township board of the township within which the authority district is located or, if the authority district is located in more than 1 township, the township board of the township within which the greater portion of the authority district is located shall do 1 of the following:

(a) File a statement with the department that the township elects not to nominate any members to the authority board.

(b) File a statement with the department nominating 1 individual for a 4-year term and 1 individual for a 6-year term on the authority board.

(4) Not more than 45 days after the date of issuance of the statement of approval of the department, the state treasurer shall appoint members of the authority board as follows:

(a) If neither the township nor the county has nominated individuals to the authority board pursuant to this section, the state treasurer shall appoint all of the following to the authority board:

(*i*) The 2 individuals nominated pursuant to section 4(c).

(*ii*) One employee of the department for a 2-year term.

(*iii*) One individual for a 4-year term and 1 individual for a 6-year term. The individuals appointed pursuant to this subparagraph shall not be employees of the department.

(b) If the township has not nominated individuals to the authority board pursuant to this section, but the county has nominated individuals to the authority board pursuant to this section, the state treasurer shall appoint all of the following to the authority board:

(*i*) The 2 individuals nominated pursuant to section 4(c).

(*ii*) One employee of the department for a 2-year term.

(*iii*) One individual for a 2-year term and 1 individual for a 4-year term. The individuals appointed pursuant to this subparagraph shall not be employees of the department.

(*iv*) The 2 individuals nominated by the county.

(c) If the township has nominated individuals to the authority board pursuant to this section, but the county has not nominated individuals to the authority board pursuant to this section the state treasurer shall appoint all of the following to the authority board:

(*i*) The 2 individuals nominated pursuant to section 4(c).

(*ii*) One employee of the department for a 2-year term.

(*iii*) One individual for a 2-year term and 1 individual for a 4-year term. The individuals appointed pursuant to this subparagraph shall not be employees of the department.

(*iv*) The 2 individuals nominated by the township.

(d) If both the township and the county have nominated individuals to the authority board pursuant to this section, the state treasurer shall appoint all of the following to the authority board:

(*i*) The 2 individuals nominated pursuant to section 4(c).

(*ii*) One employee of the department for a 2-year term.

(*iii*) One individual for a 2-year term and 1 individual for a 4-year term. The individuals appointed pursuant to this subparagraph shall not be employees of the department.

(*iv*) The individual nominated by the county for a 4-year term.

(*v*) The individual nominated by the township for a 6-year term.

(5) The term of office of a member of the first authority board appointed pursuant to subsection (4)(a)(*i*), (b)(*i*), (b)(*iv*), (c)(*i*), (c)(*iv*), (d)(*i*), (d)(*iv*), or (d)(*v*) is the term for which the member was nominated. The term of office of a member of the first authority board appointed pursuant to subsection (4)(a)(*ii*), (a)(*iii*), (b)(*ii*), (b)(*iii*), (c)(*ii*), (c)(*iii*), (d)(*ii*), or (d)(*iii*) is the term for which the member was appointed. The term of office of a member of the first authority board commences on the date on which the authority is established.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2459 Authority board; term of office; appointment or election of successors; conduct of election; list of record owners; votes cast by record owners.

Sec. 9. (1) Except as provided in section 8 for the first authority board and as may be provided in a contract entered into pursuant to section 38, the term of office of a member of the authority board is 6 years.

(2) Except as may be provided in a contract entered into pursuant to section 38, the county board of commissioners or the township board, as the case may be, that nominated a member of the first authority board appointed under section 8(4)(b)(*iv*), (c)(*iv*), (d)(*iv*), or (d)(*v*) shall appoint that member's successors. The state treasurer shall appoint the successors of a member of the first authority board appointed under section 8(4)(a)(*ii*), (a)(*iii*), (b)(*ii*), (b)(*iii*), (c)(*ii*), (c)(*iii*), (d)(*ii*), or (d)(*iii*). However, on or after the later of the date on which no indebtedness of the authority issued pursuant to this act is outstanding or 6 years after

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the date on which the authority was established, successors of a member of the first authority board appointed under section 8(4)(a)(*ii*), (a)(*iii*), (b)(*ii*), (b)(*iii*), (c)(*ii*), (c)(*iii*), (d)(*ii*), or (d)(*iii*) shall be elected by the record owners of real property located within the authority district as provided in subsections (4) and (5)(b).

(3) The successors to a member of the authority board appointed pursuant to section 8(4)(a)(*i*), (b)(*i*), (c)(*i*), or (d)(*i*) shall be elected by the record owners of real property located within the authority district as provided in subsections (4) and (5).

(4) An election under subsection (2) or (3) shall be conducted at the annual meeting of the authority board under section 12 immediately preceding the expiration of the term of the member of the authority board whose successor is to be elected. The authority board may provide by resolution for the manner of conducting an election of a member of the authority board.

(5) At the request of the authority board for the purpose of conducting an election, the county register of deeds shall prepare and submit to the authority board a certified list of the names and mailing addresses of the record owners of real property located within the authority district. For each record owner of 1 or more acres, the list shall specify the number of acres owned. In an election, each record owner of real property located within the authority district may cast the following number of votes:

(a) At an election other than an election described in subdivision (b), 1 vote. However, a record owner of 1 or more acres may instead cast 1 vote for each acre, or portion of an acre, owned by the record owner.

(b) At an election conducted on or after the later of the date on which no indebtedness of the authority issued pursuant to this act is outstanding or 6 years after the date on which the authority was established, 1 vote.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2460 Authority board; qualifications of members; certificate; oath of office.

Sec. 10. (1) An individual appointed by, or from nominations made by, the county or township to the authority board shall be qualified by training or experience to perform the functions that are required of a member of the authority board by this act.

(2) Each individual appointed by, or from nominations made by, the county or township and each individual elected to the authority board shall be and remain during his or her term of office either a record owner of real property within the authority district or a resident of this state, but need not be a resident of the authority district or of the county or a township where the authority district is located. Each individual appointed by the state treasurer to the first authority board under section 8(4)(a)(*ii*), (b)(*ii*), (c)(*ii*), or (d)(*ii*) or to a subsequent authority board shall be and remain during his or her term of office an employee of the department. Each individual appointed to the first authority board under section 8(4)(a)(*i*), (a)(*iii*), (b)(*i*), (b)(*iii*), (c)(*i*), (c)(*iii*), (d)(*i*), or (d)(*iii*) and each successor to the member appointed under section 8(4)(a)(*iii*), (b)(*iii*), (c)(*iii*), or (d)(*iii*) shall reside within the county within which the authority district is located, and at least 1 such individual shall reside within a township within which the authority district is located.

(3) Upon appointing an individual to the authority board, the person making the appointment shall file a dated certificate certifying the name, address, and term of office of the individual appointed with the secretary of state and shall provide a copy to the individual appointed and, in the case of an appointment to the first authority board, to the person who filed the petition under section 4. Upon election of an individual to the authority board, the secretary of the authority shall file a dated certificate certifying the name, address, and term of office of the individual elected with the secretary of state and shall provide a copy to the individual elected.

(4) An individual elected or appointed to the authority board shall qualify by taking, subscribing, and filing the constitutional oath of office not more than 14 days after the date of the certificate certifying his or her election or appointment. The oath shall be filed with the secretary of state.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2461 Authority board; removal of member.

Sec. 11. (1) The governor shall remove an elected or appointed member of the authority board if the governor is satisfied from the evidence submitted that the member is guilty of official misconduct, willful neglect of duty, extortion, or habitual intoxication, or has been convicted of a misdemeanor of which intoxication is an element. The governor shall not act upon the charges made against the member of the authority board until the charges are made in writing, verified by the affidavit of the party making the charges that the party believes the charges to be true. In addition, a member of the authority board shall not be removed for official misconduct or willful neglect of duty unless a copy of the charges is served on the member of the authority board, and the member of the authority board is given an opportunity to be heard in his or her defense. The service of the charges upon the member of the authority board shall be made by

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handing to the member of the authority board a copy of the charges, together with any affidavits or exhibits that accompanied the charges, if the member of the authority board can be found. If the member of the authority board cannot be found, a copy shall be left at the last place of residence of the member of the authority board with a person of suitable age, if a person of suitable age can be found. If a person of suitable age cannot be found, a copy shall be posted in a conspicuous place upon the last known place of residence of the member of the authority board. A member of the authority board who is removed pursuant to this subsection is not eligible for election or appointment to an authority board office for a period of 3 years after the date of removal from office.

(2) In addition to removal under subsection (1), a member of the first authority board appointed under section 8(4)(a)(*i*), (b)(*i*), (c)(*i*), or (d)(*i*) may be removed from office by filing with the state treasurer a petition signed by 2/3 of the record owners of real property located within the district. Not more than 14 days after the receipt of the petition, the state treasurer shall determine the sufficiency of the petition. If the petition is sufficient, the state treasurer shall immediately send notice of the removal by certified mail to the authority board, the person filing the petition for removal, and the member of the authority board being removed. The removal is effective upon the date of receipt of the notice by the authority board.

(3) In addition to removal as provided in subsection (1), a member of the first authority board appointed by the state treasurer pursuant to section 8(4)(a)(*ii*), (a)(*iii*), (b)(*ii*), (b)(*iii*), (c)(*ii*), (c)(*iii*), (d)(*ii*), or (d)(*iii*) or any of that member's successors appointed by the state treasurer may be removed at the pleasure of the state treasurer, with or without cause. In addition to removal as provided in subsection (1), a member of the authority board nominated or appointed by a township board or county board of commissioners may be removed at the pleasure of the township board or county board of commissioners, respectively, with or without cause.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2462 Authority board; vacancy.

Sec. 12. (1) If any of the following occur, a vacancy is created on the authority board:

(a) The death of an incumbent.

(b) The resignation of an incumbent.

(c) The removal of an incumbent pursuant to section 11.

(d) An incumbent's conviction of a felony or a crime involving the violation of his or her oath of office.

(e) The decision of a competent tribunal declaring void an individual's election or appointment to the authority board.

(f) The failure of an individual to satisfy a requirement of section 10(2).

(g) The failure of an individual to qualify for office as provided by section 10(4).

(2) If an individual appointed to the first authority board under section 8(4)(b)(*iv*), (c)(*iv*), (d)(*iv*), or (d)(*v*) vacates office, an individual shall be appointed to fill the vacancy for the remainder of the term by the county board of commissioners, or the township board, as the case may be, that nominated the individual vacating office. If an individual appointed to the first authority board under section 8(4)(a)(*ii*), (a)(*iii*), (b)(*ii*), (b)(*iii*), (c)(*ii*), (c)(*iii*), (d)(*ii*), or (d)(*iii*), an individual shall be appointed to fill the vacancy for the remainder of the term by the state treasurer. If an individual appointed to the authority board, other than an individual appointed to the first authority board under section 8, vacates office, an individual shall be appointed to fill the vacancy for the remainder of the term by the same person by which the individual vacating office was appointed. An individual shall be appointed to fill a vacancy under this subsection not more than 30 days after the vacancy is created.

(3) If an individual appointed to the first authority board under section 8(4)(a)(*i*), (b)(*i*), (c)(*i*), or (d)(*i*) or elected pursuant to section 9(2) or (3) vacates office, a successor shall be elected to serve for the remainder of the term. The successor shall be elected at the next regular authority election, if a regular election is scheduled to be held not more than 90 days after the vacancy is created, or at a special election to be held not more than 60 days after the vacancy is created. Except with respect to the date of the election, sections 9(4) and (5) and 10(3) govern an election under this subsection.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2463 Authority board; quorum; annual meeting; special meeting; compliance with open meetings act; writings.

Sec. 13. (1) A quorum of the authority board consists of a majority of the members of the authority board elected or appointed and serving.

(2) The authority board shall hold an annual meeting within 30 days after the close of a fiscal year of the authority. The fiscal year of the authority shall be the same as the fiscal year of the township in which the

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authority district is located or, if the authority district is located in 2 townships with different fiscal years, the fiscal year of the township in which the greater portion of the authority district is located.

(3) The director of the authority, if a director is appointed under section 15, or a member of the authority board may call a special meeting of the authority board by giving written notice of the time, date, place, and purpose of the special meeting to each member of the authority board not less than 14 or more than 28 days before the date of the meeting either personally or by certified mail. Two members of the authority board may reschedule a special meeting by jointly giving notice of a later time and date that is not more than 7 days after the date for which the original meeting is scheduled to every other member of the authority board. The notice of the rescheduling shall be given before the time for which the original meeting is scheduled by certified mail, return receipt requested, telephone, facsimile communication, or personal delivery.

(4) By attending a special meeting, a member of the authority board waives objections to both of the following:

(a) Lack of notice or defective notice of the special meeting, unless, at the beginning of the meeting, the member of the authority board objects to holding the meeting or transacting business at the meeting.

(b) Consideration of a matter at a meeting that is not within the purpose described in the meeting notice, unless, when the matter is presented, the member of the authority board objects to considering the matter.

(5) The business which the authority board may perform shall be conducted at a public meeting of the authority board held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(6) A writing prepared, owned, used, in possession of, or retained by the authority in the performance of an official function is subject to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2464 Authority board; election of chairperson, treasurer, secretary, and other officers; duties; compensation; expenses; personal liability.

Sec. 14. (1) The authority board shall elect from among its members a chairperson, a treasurer, a secretary, and other officers that it considers necessary or convenient for carrying out the purposes of this act. The treasurer shall receive and invest funds of the authority and pay over and account for the funds. The treasurer shall also keep the financial records of the authority and, together with the director, if a director is appointed under section 15, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform other duties delegated by the authority board. The secretary shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the authority board, keep a record of its proceedings, and perform other duties delegated by the authority board.

(2) A member of the authority board shall not receive compensation for services rendered to the authority in any capacity, but is entitled to reimbursement or payment of expenses, including traveling expenses, necessarily incurred in the discharge of duties performed as a member of the board.

(3) A member of the authority board is not subject to personal liability for, or because of the issuance of, bonds or notes of the authority. The authority board may provide for the purchase of insurance indemnifying the members of the authority board from personal liability for the acts or omissions of the board.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2465 Authority board; appointment of director, assistant director, assistant treasurer, and assistant secretary; duties; bond; legal counsel; employees; compensation.

Sec. 15. (1) The authority board may appoint a director of the authority, who shall serve at the pleasure of the authority board. Before entering upon the duties of the office, the director shall take and subscribe to the constitutional oath of office and shall furnish a bond in an amount determined by the authority board.

(2) The director shall be the chief executive officer of the authority. Subject to the approval of the authority board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the authority board and shall regularly report to the authority board the activities and financial condition of the authority. The director shall furnish the authority board with additional information or reports governing the operation of the authority as the authority board requires.

(3) If the director is absent or disabled, the authority board may designate an acting director to perform the duties of the director. Before performing the duties of the director, the acting director shall take and subscribe to the constitutional oath of office and furnish a bond as required of the director.

(4) The authority board may appoint an assistant treasurer of the authority. The assistant treasurer shall

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perform duties of the treasurer delegated to the assistant treasurer by the authority board and shall furnish a bond.

(5) The premium on a bond required under this section is payable from funds available to the authority from operating expenses. The bond shall meet all of the following requirements:

(a) Be payable to the authority for the use and benefit of the authority.

(b) Be approved by the authority board.

(c) Be filed with the secretary of the authority.

(6) The authority board may appoint an assistant secretary of the authority. The assistant secretary shall perform duties of the secretary delegated to the assistant secretary.

(7) The authority board may retain legal counsel to advise the board in the proper exercise of its powers and performance of its duties. The legal counsel may represent the authority in actions brought by or against the authority.

(8) The authority board may employ other personnel considered necessary by the authority board.

(9) The authority board may authorize and fix the compensation of an individual appointed or employed under this section. A member of the authority board is not eligible to be appointed or employed under this section.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2466 Authority board; powers; establishment and maintenance of office.

Sec. 16. (1) The authority board may do 1 or more of the following:

(a) Carry out an improvement.

(b) Implement a plan of development necessary or desirable to improve blighted areas and promote residential, recreational, or commercial development in the authority district in accordance with the powers of the authority as granted by this act.

(c) Make and enter into a contract necessary or incidental to the exercise of the authority board's powers and the performance of its duties.

(d) Acquire by purchase, condemnation, or otherwise on terms and conditions and in a manner the authority board considers proper, own, lease as lessor or lessee, convey, demolish, relocate, rehabilitate, or otherwise dispose of real or personal property, or rights or interests in the property, and grant or acquire a license, easement, or option with respect to the property as the authority board determines is reasonably necessary to achieve the purposes of this act. The state treasurer shall exercise the power of condemnation on behalf of the authority board pursuant to the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws. The state treasurer shall not condemn property located outside the authority district.

(e) Fix, charge, and collect rents, fees, and charges including, but not limited to, tap-in fees and use charges, for the use of property under the authority board's control or for a service, and pledge the rents, fees, and charges for the payment of revenue bonds issued by the authority pursuant to the revenue bond act, Act No. 94 of the Public Acts of 1933, being sections 141.101 to 141.140 of the Michigan Compiled Laws.

(f) Lease a building or property or part of a building or property under the authority board's control.

(g) Incur costs in connection with the performance of the authority board's authorized functions including, but not limited to, administrative costs and architectural, engineering, legal, and accounting fees.

(2) The authority board shall maintain an office in the county where the authority district is located. The authority board shall establish the office at its first meeting.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2467 Financing activities of authority.

Sec. 17. The activities of the authority may be financed from 1 or more of the following:

(a) Contributions of property, labor, or other things of value from a public or private source.

(b) Revenues from property, buildings, or facilities owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(c) Special assessments imposed by the authority board pursuant to this act and Act No. 162 of the Public Acts of 1962, being sections 211.741 to 211.746 of the Michigan Compiled Laws.

(d) Proceeds of bonds and notes issued pursuant to section 16 or 32.

(e) Money obtained from any other legal source approved by the authority board.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2468 Authority board; making and financing improvements; conditions for improving roads; petition objecting to improvement; filing; petition supporting improvement;

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additional copies; validity of signatures.

Sec. 18. (1) An authority board may carry out an improvement, provide for the payment of an improvement by the issuance of bonds as provided in section 32, and determine that the whole or any part of the cost of an improvement shall be defrayed by special assessments against property located within the authority district and especially benefited by the improvement. The cost of architectural, engineering, legal, and accounting services and all expenses, including expenses under section 37, incident to the proceedings for the making and financing of the improvement shall be considered to be a part of the cost of the improvement.

(2) A road under the jurisdiction of either the state transportation department or the board of county road commissioners shall not be improved under this act without the written approval of the state transportation department or the board of county road commissioners. As a condition to the granting of the approval, the state transportation department or the board of county road commissioners may require 1 or more of the following:

(a) That all engineering with respect to the improvement be performed by the state transportation department or the board of county road commissioners.

(b) That all construction, including the awarding of contracts for construction, in connection with the improvement be in accordance with the specifications of the state transportation department or the board of county road commissioners.

(c) That the cost of the engineering and supervision be paid to the state transportation department or the board of county road commissioners from the funds of the special assessment district.

(3) The authority board may proceed to carry out an improvement unless a petition objecting to the improvement is filed with the authority board at or before the hearing provided in section 19 signed by record owners representing 1/5 of the votes that could be cast in an election under section 9(5)(a).

(4) An authority board may require the filing of a petition supporting an improvement meeting the requirements of subsection (5) before proceeding with an improvement under this act.

(5) If a petition objecting to an improvement is filed as provided in subsection (3), or if the authority board requires a petition supporting an improvement before proceeding, the authority board shall not proceed with the improvement until a petition supporting the improvement signed by record owners representing 2/3 of the votes that could be cast in an election under section 9(5)(a) is filed with the authority board.

(6) A petition filed under this section may be supplemented as to signatures by the filing of an additional signed copy or copies of the petition, and the validity of the signatures on a supplemental petition shall be determined by the records as of the day of filing the supplemental petition.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2469 Authority board; plans and estimate for improvement; filing; availability for public examination; resolution of intent to make improvement; designating special assessment district; notice; hearing; supplemental petition; actual incremental cost increase exceeding estimated incremental cost increase by 10%; notice; hearing; service of notice of proceedings.

Sec. 19. (1) Upon receipt of a petition supporting an improvement or upon determination of the authority board if a petition is not required under section 18, the authority board, if it desires to proceed with an improvement, shall cause to be prepared plans describing the improvement and the location of the improvement with an estimate of the cost of the improvement on a fixed or periodic basis, as appropriate. Upon receipt of the plans and estimate for an improvement, the authority board shall file a copy of the plans and estimate with the township clerk of each township where the authority district is located. Each such township clerk and the authority board shall keep the plans and estimates on file and available for public examination in their respective offices.

(2) If, after the receipt of the plans and estimate, the authority board desires to proceed with the improvement, the authority board by resolution shall tentatively declare its intention to make the improvement and tentatively designate the special assessment district against which the cost of the improvement is to be assessed. For each improvement carried out by the authority board, there may be a separate procedure under the special assessment provisions of this act, resulting in separate special assessment districts. Special assessment districts that are separate may be coterminous.

(3) The authority board shall fix a time and place to meet and hear any objections to the petition supporting the improvement, if such a petition was required, to the improvement, and to the special assessment district. The authority board shall cause notice of the hearing to be given as provided in section 20. The notice shall set forth all of the following:

(a) That the plans and estimates are on file in the offices of the township clerk of each township where the

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authority district is located and of the authority board for public examination. The notice shall set forth the address and hours of those offices.

(b) A description of the special assessment district.

(c) If periodic redeterminations of cost will be necessary without a change in the special assessment district, that those redeterminations may be made without further notice to record owners or parties in interest in the property.

(4) At the hearing or any adjournment of the hearing, which may be without further notice, the authority board shall hear any objections to the petition supporting the improvement, if such a petition was required, to the improvement, and to the special assessment district. The authority board may then revise the plans, estimate of cost, or special assessment district.

(5) Property shall not be added to the special assessment district unless notice is given as provided in section 20 to the record owners of the property in the entire special assessment district, and a hearing is afforded to the record owners. If a petition supporting the improvement is required because property is added to the special assessment district that makes the original petition supporting the improvement insufficient, then a supplemental petition shall be filed containing sufficient additional signatures of record owners.

(6) If, due to the nature of the improvement to be made, a periodic redetermination of costs will be necessary without a change in the special assessment district boundaries, the authority board shall include in its estimate of costs any projected incremental increases. If at any time during the term of the special assessment district an actual incremental cost increase exceeds the estimated incremental cost increase by 10% or more, notice shall be given as provided in section 20 and a hearing afforded to the record owners of property to be assessed.

(7) Railroad companies shall file in writing with the secretary of state the name and post office address of the person upon whom may be served notice of any proceedings under this act. After the name and address has been filed, notice in addition to the notice by publication shall be given to the person by registered mail, or personally, not more than 5 days after the first publication of the notice. An affidavit of the service shall be filed by the authority board with the proof of publication of the notice.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2470 Notice of hearings in special assessment proceedings; effect of failure to give notice.

Sec. 20. (1) If an authority specially assesses property, notice of hearings in the special assessment proceedings shall be given as provided in this section.

(2) Notice of hearings in special assessment proceedings shall be given to the township clerk of each township where the authority district is located by first-class mail, not less than 10 days before the date of the hearing. Notice of hearings in special assessment proceedings shall also be given to each record owner of, or party in interest in, property to be assessed whose name appears upon the last township tax assessment records by first-class mail addressed to the record owner or party in interest at the address shown on the tax records, not less than 10 days before the date of the hearing. The last township tax assessment records means the last assessment roll for ad valorem tax purposes that was reviewed by the township board of review, as supplemented by any subsequent changes in the names or the addresses of the record owners or parties in interest listed on that roll. If a record owner's name does not appear on the township tax assessment records, notice shall be given by first-class mail addressed to the record owner at the address shown by the records of the county register of deeds not less than 10 days before the date of the hearing. Notice shall also be published twice before the hearing in a newspaper circulating in the township. The first publication shall be not less than 10 days before the date of the hearing.

(3) If a person claims an interest in real property and his or her name and correct address do not appear upon the last township tax assessment records, that person shall file immediately his or her name and address with the township supervisor of the township where the property is located. This filing is effective only for the purpose of establishing a record of the names and addresses of those persons entitled to notice of hearings in the special assessment proceedings. The supervisor shall immediately enter on the tax assessment records any changes in the names and addresses of record owners or parties in interest filed with the supervisor and at all times shall keep the tax assessment records current, complete, and available for public inspection.

(4) An authority officer whose duty is to give notice of hearings in special assessment proceedings may rely upon the last township tax assessment records and any filings under subsection (3) in giving notice of the hearing by mail. The method of giving notice by mail as provided in this section is the method that is reasonably certain to inform those to be assessed of the special assessment proceedings.

(5) Failure to give notice as required in this section does not invalidate an entire assessment roll but only the assessment on property affected by the lack of notice. A special assessment is not invalid as to any

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property if the record owner or the party in interest of that property actually received notice, waived notice, or paid any part of the assessment. If an assessment is declared void by court judgment, a reassessment against the property may be made.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2471 Authority board; proceeding with improvement; approval or determination; special assessment roll; limitations on total amount assessed.

Sec. 21. (1) If, after the hearing provided for in section 19, the authority board desires to proceed with an improvement, the authority board shall approve or determine by resolution all of the following:

(a) The carrying out of the improvement.

(b) The plans and estimate of cost as originally presented or as revised.

(c) The sufficiency of the petition supporting the improvement, if such a petition was required. After this determination, the sufficiency of the petition is not subject to attack except in an action brought in a court of competent jurisdiction not more than 30 days after the adoption of the resolution determining the sufficiency.

(d) The boundaries of the special assessment district and the term of the special assessment district's existence.

(e) If the nature of an improvement is such that a periodic redetermination of cost will be necessary without a change in the special assessment district boundaries, the dates upon which the redeterminations shall be made. A redetermination of cost is subject to subsection (3).

(2) After satisfying the requirements of subsection (1), the authority board shall prepare a special assessment roll in which are entered and described all the parcels of land to be assessed in that township, with the names of the respective record owners of each parcel, if known, and, subject to subsection (3), the total amount to be assessed against each parcel of land.

(3) The total amount assessed against a parcel of land for an improvement shall not exceed the benefit to that parcel of land from the improvement and shall be the relative portion of the whole sum to be levied against all parcels of land in the special assessment district as the benefit to the parcel of land bears to the total benefit to all parcels of land in the special assessment district, pursuant to the direction of the authority board.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2472 Special assessment roll; filing; notice; hearing; objections; confirmation or annulment; endorsement; notice of special assessment; contents; filing petition to contest assessment with state tax tribunal; full disclosure of information.

Sec. 22. (1) After a special assessment roll is prepared by the authority board, the assessment roll shall be filed in the office of the authority board and the office of the township clerk of each township where the authority district is located. Before confirming the assessment roll, the authority board shall appoint a time and place when it will meet, review, and hear any objections to the assessment roll. The authority board shall give notice of the hearing and the filing of the assessment roll as required by section 20.

(2) A hearing under this section may be adjourned from time to time without further notice. A person objecting to the assessment roll of the authority shall file the objection in writing with the secretary of the authority before the close of the hearing or within such further time as the authority board may grant. After the hearing, the authority board, at the same or at a subsequent meeting, may confirm the special assessment roll as prepared by the authority board or as revised by the authority board or may annul the special assessment roll and provide for the preparation of a new roll.

(3) If a special assessment roll is confirmed, the secretary of the authority shall endorse on the assessment roll the date of the confirmation. Not more than 20 days after confirmation of the special assessment roll, the secretary of the authority shall send notice of the special assessment by first-class mail to each record owner of, or party of interest in, property to be assessed. If the nature of an improvement is such that a periodic redetermination of cost will be necessary without a change in the special assessment district boundaries, the notice shall state those changes may be made without further notice to record owners or parties in interest in the property. After the confirmation of the special assessment roll, all assessments on that assessment roll are final and conclusive unless a petition contesting an assessment is filed with the state tax tribunal pursuant to the tax tribunal act, Act No. 186 of the Public Acts of 1973, being sections 205.701 to 205.779 of the Michigan Compiled Laws.

(4) The authority shall take affirmative steps to provide for the full disclosure of information relating to the financing of improvements and to special assessments relating to real property within the authority district. The disclosure shall state that the amount assessed may not exceed the value of the benefits received from an improvement. The information shall be made available to all prospective residents of the authority district.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

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125.2473 Special assessment; payment; installments; amount; due date; interest; future due installments; delinquent payments; penalty.

Sec. 23. (1) The authority board may provide that special assessments are payable in 1 or more installments, but the amount of an installment shall not be less than 1/2 of any subsequent installment. The amount of each installment, if there is more than 1 installment, need not be extended upon the special assessment roll until after confirmation of that assessment roll. Except as otherwise provided in section 19(5) or (6), the amount of installments for improvements subject to periodic cost revision may be extended upon the special assessment roll by the authority board without additional public hearings or public notice.

(2) The first installment of a special assessment shall be due on or before the time after confirmation as fixed by the authority board. Subsequent installments are due at intervals of 12 months from the due date of the first installment or from a date fixed by the authority board.

(3) All unpaid installments, before their transfer to the tax roll as provided by this act, bear interest. The interest shall commence on a date fixed by the authority board, be payable annually on each installment due date, and be at a rate to be set by the authority board, not exceeding 1 of the following:

(a) One percent above the average rate of interest borne by special assessment bonds issued by the authority in anticipation of all or part of the unpaid installments.

(b) If the unpaid installments are to be applied to the payment of a contract obligation of an authority established pursuant to this act, to an authority established pursuant to any other law of this state, or to a county or are to be applied to the payment of an assessment obligation of an authority established pursuant to this act to a drainage district, 1 of the following:

(*i*) One percent above the average rate of interest borne by bonds issued by the authority established pursuant to any other law of this state, the county, or the drainage district.

(*ii*) If bonds are not issued by the authority established pursuant to any other law of this state, the county, or the drainage district, 8% annually.

(4) Future due installments of an assessment against any parcel of land may be paid to the township treasurer at any time in full, with interest accrued through the month in which the final installment is paid.

(5) If an installment of a special assessment is not paid when due, then the installment shall be considered to be delinquent and there shall be collected, in addition to interest as provided by this section, a penalty at the rate of not more than 1% for each month, or fraction of a month, that the installment remains unpaid before being reported to the authority board for reassessment upon the township tax roll pursuant to section 25.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2474 Special assessment as lien.

Sec. 24. From the date of confirmation of the roll, special assessments contained in a special assessment roll, including any part of a special assessment deferred as to payment, are a lien upon the respective parcels of land assessed. The lien shall be of the same character and effect as the lien created for township taxes and shall include accrued interest and penalties. A judgment or any act of the authority board vacating a special assessment does not destroy or impair the lien of the authority upon the premises assessed for the amount of the assessment as may be equitably charged against the premises, or as by a regular mode of proceeding might be lawfully assessed on the premises.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2475 Special assessment; collection; warrant; entering on tax roll.

Sec. 25. When a special assessment roll is confirmed, the authority board shall direct the assessments made on the roll to be collected. The secretary of the authority shall then deliver to the township treasurer the special assessment roll, to which he or she shall attach his or her warrant commanding the township treasurer to collect the assessments in accordance with the directions of the authority board. The warrant shall further require the township treasurer on the September 1 following the date when the assessments or any part of the assessments have become due to submit to the authority board a sworn statement setting forth the names of the persons delinquent, if known, a description of the parcels of land upon which there are delinquent assessments, and the amount of the delinquency, including accrued interest and penalties computed to September 1 of that year. Upon receiving the special assessment roll and warrant, the township treasurer shall enter the special assessments directly in a separate column on the next tax roll. The township treasurer shall proceed to collect the several amounts assessed on the roll as those amounts become due.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2476 Special assessment; certification of delinquency; reassessment on annual

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township tax roll.

Sec. 26. If, pursuant to section 25, the township treasurer reports as delinquent any assessment or part of an assessment, the authority board shall certify the delinquent sum to the supervisor of the township where the parcel is located. The supervisor shall reassess on the annual township tax roll for the year in a column headed "special assessments" the delinquent sum, with interest and penalties to September 1 of that year, and an additional penalty of 6% of the total amount. The statutes relating to township taxes are applicable to the reassessments.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2477 Special assessment; payment by township or county to authority board.

Sec. 27. The township treasurer or county treasurer shall promptly pay to the authority board treasurer any special assessment payments for an improvement under this act collected by the township treasurer or county treasurer.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2478 Special assessment; apportionment of uncollected amounts on divisions of land; notice of hearing.

Sec. 28. If a parcel of land is divided after a special assessment on the land is confirmed, and before the special assessment is collected, the authority board may apportion the uncollected amounts between the several divisions of the parcel. Upon confirmation by the authority board, the apportionment is conclusive upon all parties. However, if the interested parties do not agree in writing to the apportionment, then before the confirmation, notice of hearing shall be given to the interested parties, by personal service as provided in section 20 for an original assessment roll.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2479 Special assessment; insufficient or surplus amount collected.

Sec. 29. (1) If the assessments in a special assessment roll are insufficient for any reason, including the noncollection of the assessments, to pay for the improvement for which they were made or to pay the principal and interest on the bonds issued in anticipation of the collection of the special assessments, then the authority board shall make additional pro rata assessments to supply the deficiency, but the total amount assessed against any parcel of land shall not exceed the value of the benefits received from the improvement.

(2) If the total amount collected on assessments is larger than necessary by more than 5% of the original roll, the surplus shall be prorated among the properties assessed in accordance with the amount assessed against each and refunded to the persons who are the respective record owners of the properties on the date of the passage of the resolution ordering the refund. A surplus of 5% or less may be retained by the authority and used for authority purposes or may be prorated and refunded as provided in this section.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2480 Invalid special assessment; effect; proceeding for reassessment and collection.

Sec. 30. If, in the opinion of the authority board, a special assessment is invalid by reason of irregularities or informalities in the proceedings, or if any court or other tribunal of competent jurisdiction adjudges the assessment to be illegal, the authority board, whether the improvement has been made or not and whether any part of the assessment has been paid or not, may proceed from the last step at which the proceedings were legal and cause a new assessment to be made for the same purpose for which the former assessment was made. Proceedings on the reassessment and for the collection of the reassessment shall be conducted in the same manner as provided for the original assessment. If an assessment or any part of the assessment levied upon any premises is so set aside and has been paid and not refunded, the payment so made shall be applied upon the reassessment.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2481 Resolution of public or private corporation to pay special assessments.

Sec. 31. The governing body of a public or private corporation whose property is exempt by law from the special assessments may adopt a resolution to pay the special assessments against the property. If such a resolution is adopted, the special assessments are a valid claim against the corporation.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2482 Authority board; bonds and notes; issuance; amount.

Sec. 32. (1) After the special assessment roll for an improvement is confirmed, the authority board may borrow money and issue the bonds and notes of the authority in anticipation of the collection of special

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assessments to defray all or any part of the cost of the improvement. The bonds and notes shall not exceed the amount of the special assessments in anticipation of the collection of which they are issued. Bonds or notes may be issued in anticipation of the collection of special assessments levied in respect to 1 or more improvements.

(2) The issuance of bonds and notes under this section is subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1992, Act 173, Imd. Eff. July 21, 1992;—Am. 2002, Act 242, Imd. Eff. Apr. 29, 2002.

125.2483 Obligations assessed or contracted for pursuant to MCL 123.731 to 123.786 and MCL 280.1 to 280.630.

Sec. 33. The authority board may determine that the whole or any part of an obligation of the authority assessed or contracted for pursuant to Act No. 185 of the Public Acts of 1957, being sections 123.731 to 123.786 of the Michigan Compiled Laws, or the drain code of 1956, Act No. 40 of the Public Acts of 1956, being sections 280.1 to 280.630 of the Michigan Compiled Laws, shall be defrayed by special assessments against the property specially benefited. The special assessments may be levied and collected in accordance with this act except as provided in this section. The requirements of section 18 with respect to a petition and section 19 with respect to a hearing do not apply to any special assessments levied and collected pursuant to this section and Act No. 185 of the Public Acts of 1957 or Act No. 40 of the Public Acts of 1956.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2484 Use of money earned, received, or charged under certain conditions.

Sec. 34. Interest earned from the investment of money collected under a special assessment under this act, of money received as bond proceeds from a bond issued under section 32, or of money from interest or penalties charged and collected on an unpaid special assessment under this act shall only be used for the following:

(a) To pay for the improvement for which the special assessment is assessed.

(b) To pay the principal and interest of bonds that are issued for the improvement for which the special assessment is assessed.

(c) To pay the principal and interest of an advance from the authority that is used for the improvement for which the special assessment is assessed.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2485 Authority; bonds and notes; issuance; sale; exemption from certain taxes; investment.

Sec. 35. (1) Bonds and notes issued by the authority shall be issued in the name of the authority and not in the name of the county in which the authority district is located or a township in which all or part of the authority district is located. The county in which the authority district is located or a township in which all or part of the authority district is located is not liable on bonds or notes of the authority and the bonds and notes are not a debt of the county or township.

(2) Except to the extent that the revenue bond act, Act No. 94 of the Public Acts of 1933, being sections 141.101 to 141.140 of the Michigan Compiled Laws, provides otherwise with respect to revenue bonds issued pursuant to Act No. 94 of the Public Acts of 1933, bonds and notes issued by the authority may be sold at public or private sale.

(3) Bonds and notes issued by the authority are exempt from all taxation except inheritance and transfer taxes, and the interest on the bonds and notes is exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax. The bonds and notes of the authority may be invested in by all public offices, state agencies, political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by all public officers and the agencies and political subdivisions of this state for any purpose for which the deposit of bonds is authorized.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2486 Authority; powers and limitations.

Sec. 36. (1) The authority is a body politic and corporate.

(2) The authority is not a taxing unit or local taxing unit for purposes of sections 87b to 87g of the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.87b to 211.87g of the Michigan Compiled Laws.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

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125.2487 Reimbursement of expenses to county or township.

Sec. 37. The county within which the authority district is located or a township in which all or part of the authority district is located may charge the authority, and the authority shall reimburse the county or township, for expenses reasonably incurred by the county or township in satisfying the requirements of this act. If requested by the county or township, the authority shall enter into a contract with the county or township for and limited to the reimbursement of such expenses.

History: 1992, Act 173, Imd. Eff. July 21, 1992.

125.2488 Transfer of property within authority district.

Sec. 38. (1) A township in which all or a portion of an authority district is located may transfer all or a portion of the property in that township that is within the authority district to a local unit pursuant to Act No. 425 of the Public Acts of 1984, being sections 124.21 to 124.30 of the Michigan Compiled Laws. A transfer of property within an authority district by a township under Act No. 425 of the Public Acts of 1984 does not affect the validity or continued existence of the authority.

(2) The contract for the conditional transfer of property may provide that appointments to the authority board authorized to be made by a township or county shall be made as provided in the contract for conditional transfer of property.

(3) The contract for the conditional transfer of property may provide for the transfer of a function or duty otherwise assigned by this act to the township from which the property is transferred, as provided by Act No. 425 of the Public Acts of 1984.

(4) Notwithstanding any other provision of this act, a local unit to which property within an authority district is transferred, and its public officials, officers, employees, agents, and appointees, have the same authority, rights, immunities, and duties under this act as a township, its public officials, officers, employees, agents, and appointees in carrying out a function or duty assumed by the local unit under subsection (3).

(5) If the local unit to which property is transferred has jurisdiction over roads, then it shall have the same power over roads as granted to the board of county road commissioners under section 18(2).

History: 1992, Act 173, Imd. Eff. July 21, 1992.

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HEATING CABLE SAFETY ACT
Act 129 of 1994

AN ACT to regulate the sale of heating cables in this state; to prescribe the powers and duties of certain persons and state departments; and to prescribe remedies and penalties.

History: 1994, Act 129, Imd. Eff. May 17, 1994.

The People of the State of Michigan enact:

125.2501 Short title.

Sec. 1. This act shall be known and may be cited as the "heating cable safety act".

History: 1994, Act 129, Imd. Eff. May 17, 1994.

125.2502 Definitions.

Sec. 2. As used in this act:

(a) "Department" means the department of labor.

(b) "Director" means the director of labor or his or her designee.

(c) "Heating cable" means cable designed to be secured to pipes and vessels to reduce their likelihood of freezing or to facilitate the flow of viscous liquids. Heating cable also includes products used for deicing on roofs and in gutters and downspouts. Heating cable intended for industrial and commercial use is connected to the supply system by a permanent wiring method or by an attachment plug for connection to a receptacle outlet. Heating cable intended for residential and mobile home use has an attachment plug for connection to a receptacle outlet. Heating cable is commonly known as heat tape.

(d) "Person" means an individual, partnership, corporation, association, or other legal entity.

History: 1994, Act 129, Imd. Eff. May 17, 1994.

125.2503 Sale of heating cable; approval by state construction code commission; list.

Sec. 3. (1) Beginning 1 year after the effective date of this act, a person shall not sell in this state a heating cable that has not been approved by the state construction code commission pursuant to section 21 of the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being section 125.1521 of the Michigan Compiled Laws.

(2) The department shall compile and revise as necessary a list of heating cables that have been approved by the state construction code commission and that may be sold in this state.

History: 1994, Act 129, Imd. Eff. May 17, 1994.

125.2504 Complaints; investigation; duties of director; restraining order or injunction.

Sec. 4. (1) The director shall investigate complaints made to him or her concerning violations of this act and, upon his or her own initiative, shall conduct any investigation that he or she considers advisable to determine possible violations of this act.

(2) If the director finds or has probable cause to believe that a heating cable is being sold in violation of this act, he or she shall do both of the following:

(a) Order the person to cease the sale of that heating cable.

(b) Affix to the heating cable a tag or other appropriate marking, giving notice that the heating cable is or is suspected of being sold in violation of this act and warning all persons that the heating cable is not to be sold or otherwise distributed in this state.

(3) The director may apply to any court of competent jurisdiction for a temporary restraining order or a preliminary or permanent injunction restraining any person from selling a heating cable in violation of this act.

(4) A person shall not obstruct or hinder the director in the performance of his or her duties under this section.

History: 1994, Act 129, Imd. Eff. May 17, 1994.

125.2505 Rules.

Sec. 5. The department shall promulgate, as necessary, rules to implement this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: 1994, Act 129, Imd. Eff. May 17, 1994.

125.2506 Violation; fine; sale as separate offense.

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Sec. 6. (1) A person who violates this act or an order issued or a rule promulgated under this act is liable for a civil fine of not more than $500.00, plus costs. A fine due under this act shall be assessed by the electrical administrative board and shall be paid into the state construction code fund created by section 22 of the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being section 125.1522 of the Michigan Compiled Laws.

(2) Each sale of each heating cable in violation of this act constitutes a separate offense.

History: 1994, Act 129, Imd. Eff. May 17, 1994.

125.2507 Construction of act.

Sec. 7. This act shall not be construed to limit the powers and duties granted by any other law to a state agency or official.

History: 1994, Act 129, Imd. Eff. May 17, 1994.

125.2508 Conditional effective date.

Sec. 8. This act shall not take effect unless Senate Bill No. 364 of the 87th Legislature is enacted into law.

History: 1994, Act 129, Imd. Eff. May 17, 1994.

THE INTERNATIONAL TRADEPORT DEVELOPMENT AUTHORITY ACT
Act 325 of 1994

125.2521-125.2546 Repealed. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

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EMPOWERMENT ZONE DEVELOPMENT CORPORATION ACT
Act 75 of 1995

AN ACT to provide for the authorization of municipalities of this state to create an empowerment zone development corporation; to facilitate the implementation of strategic plans relating to the designation and treatment of empowerment zones; to stimulate the creation of new jobs for the disadvantaged and long-term unemployed; to promote revitalization of economically distressed areas; to prescribe the powers and duties of empowerment zone development corporations; to provide for the creation of neighborhood review panels; and to provide for the condemnation and transfer of public and private property to carry out the purposes of this act.

History: 1995, Act 75, Imd. Eff. June 13, 1995.

The People of the State of Michigan enact:

125.2561 Short title.

Sec. 1. This act shall be known and may be cited as the "empowerment zone development corporation act".

History: 1995, Act 75, Imd. Eff. June 13, 1995.

125.2563 Legislative findings.

Sec. 3. There exists in this state the continuing need for programs to alleviate and prevent conditions of long-term unemployment, economic distress, and accompanying social ills. Accordingly, the legislature finds that in order to stimulate the creation of new jobs and to promote the revitalization of distressed areas, it is necessary to empower municipalities to create empowerment zone development corporations to facilitate the implementation of municipalities' strategic plans aimed toward those ends, and to ensure local oversight of strategic plan implementation.

History: 1995, Act 75, Imd. Eff. June 13, 1995.

125.2565 Definitions.

Sec. 5. As used in this act:

(a) "Board" means the board of directors of an empowerment zone development corporation.

(b) "Chief executive officer" means the mayor or city manager of a city, the president of a village, the supervisor of a township, or the county executive of a county or, if a county does not have a county executive, the chairperson of the county board of commissioners.

(c) "Corporation" means an empowerment zone development corporation organized under this act.

(d) "Empowerment zone" means an area designated as an empowerment zone by the United States department of housing and urban development.

(e) "Empowerment zone coordinating council" means a community-based partnership initiated by the chief executive officer of a municipality with a population of 900,000 or more to do all of the following:

(*i*) Develop a strategic plan in accordance with 24 C.F.R. 597.3.

(*ii*) Incorporate an empowerment zone development corporation under this act on behalf of the municipality.

(*iii*) Recommend initial candidates for appointment to the corporation's board of directors.

(f) "Governing body" means the body in which the legislative powers of a municipality are vested.

(g) "Municipality" means a county, city, village, or township.

(h) "Strategic plan" means a plan agreed to by this state and a municipality concerning an empowerment zone that includes both of the following:

(*i*) Certification of the authority to adopt a strategic plan in an application for nomination as an empowerment zone under applicable federal regulations.

(*ii*) A written commitment of this state and the municipality to adhere to the plan.

(i) "Substantial interest" means 1 or more of the following:

(*i*) Owning real property or a business located in the empowerment zone.

(*ii*) Having a substantial demonstrable interest in real property or in a business located in the empowerment zone.

(*iii*) Engaging in activities to improve the social and economic conditions of the empowerment zone.

(*iv*) Making a significant commitment to the empowerment zone by providing financial or in-kind resources.

History: 1995, Act 75, Imd. Eff. June 13, 1995.

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125.2567 Empowerment zone development corporation; application for incorporation; notice; public hearing; process for approving articles of incorporation and bylaws.

Sec. 7. (1) A written application may be made by not less than 3 persons to the governing body of a municipality with a population of less than 900,000 for permission to incorporate an empowerment zone development corporation on behalf of the municipality. In a municipality with a population of 900,000 or more, a majority of an empowerment zone coordinating council shall designate not less than 3 persons to apply. The application shall include proposed articles of incorporation and proposed bylaws. The name of the corporation shall be "the empowerment zone development corporation of _____" (the name of the incorporating municipality).

(2) The governing body of the municipality shall notify the public of receipt of the application as provided in subsection (3). The application may be approved after a public hearing by adoption of a resolution by the governing body.

(3) Notice of the time and place of the hearing shall be given by publication once in a newspaper of general circulation designated by the municipality not less than 10 days before the date set for the hearing. In addition, notice of the hearing shall be posted not less than 10 days before the hearing in at least 10 conspicuous and public places within the designated empowerment zone.

(4) The process for approving the articles of incorporation and the bylaws and for amending the articles or bylaws shall be prescribed by an ordinance of the municipality.

History: 1995, Act 75, Imd. Eff. June 13, 1995.

125.2569 Articles of incorporation; filing; validity.

Sec. 9. (1) If the governing body approves both the application to incorporate the corporation and the articles of incorporation, the clerk of the municipality shall file the original of the articles of incorporation with the department of commerce and 1 copy in his or her office after certifying that the copy is a true and accurate copy of the original articles of incorporation.

(2) The corporation is incorporated at the time the articles of incorporation are filed with the department of commerce. The validity of the incorporation shall be conclusively presumed unless challenged in a court of competent jurisdiction not more than 60 days after the incorporation.

History: 1995, Act 75, Imd. Eff. June 13, 1995.

125.2571 Incorporation of more than 1 corporation prohibited.

Sec. 11. A municipality shall not approve incorporation of more than 1 corporation under this act.

History: 1995, Act 75, Imd. Eff. June 13, 1995.

125.2573 Board of directors; determination of size and composition by ordinance; appointment; removal; qualifications, selection, vacancy, number, and demographic diversity of members; executive committee; neighborhood review panel; employment of executive director and staff.

Sec. 13. (1) The size and composition of the board shall be determined by an ordinance of the municipality. In a municipality with a population of 900,000 or more, 60% of the board members shall live or work in the empowerment zone as prescribed in an ordinance of the municipality, and 40% of the board members need not be residents of, but shall have a significant interest in or shall be representatives of organizations with a substantial interest in, the empowerment zone as prescribed in an ordinance of the municipality. An elected official or candidate for elective office shall not serve as a board member.

(2) The chief executive officer, with the approval of the municipality's governing body, shall appoint the members of the board of directors. A director may be removed for cause by the chief executive officer as prescribed by an ordinance of the municipality.

(3) The qualifications and mechanisms for the selection of the members of the board of directors, the filling of vacancies, and the number of members shall be prescribed by an ordinance of the municipality. The board of directors and all committees shall reflect the demographic diversity of the empowerment zone.

(4) The board of directors shall establish an executive committee to manage the corporation. The size and manner of selection of the members of the executive committee and the number of members shall be prescribed by ordinance of the municipality. In a municipality with a population of 900,000 or more, 60% of the executive committee shall live or work in the empowerment zone as prescribed in an ordinance of the municipality, and 40% of the executive committee need not be residents of, but shall have a substantial interest in or shall be representatives of organizations with a substantial interest in, the empowerment zone as prescribed in an ordinance of the municipality. The executive committee shall reflect the demographic diversity of the empowerment zone.

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(5) The board of directors may establish neighborhood review panels and necessary subcommittees to monitor the implementation of programs detailed in the strategic plan. The size and manner of selection of the members of the neighborhood review panels and the number of members shall be prescribed by an ordinance of the municipality. In addition, the neighborhood review panel shall demographically reflect the empowerment zone.

(6) The corporation shall employ an executive director and other necessary staff.

History: 1995, Act 75, Imd. Eff. June 13, 1995.

125.2575 Board of directors; appointment; terms; expiration of term; compensation and expenses.

Sec. 15. (1) The board of directors shall be appointed for staggered terms as prescribed by an ordinance of the municipality.

(2) A director whose term of office has expired shall continue to hold office until the chief executive officer appoints the director's successor, with the approval of the municipality's governing body.

(3) A director shall serve without compensation, but may be reimbursed for the actual expenses incurred in the performance of his or her official duties.

History: 1995, Act 75, Imd. Eff. June 13, 1995.

125.2577 Disclosure of interest in matter before corporation.

Sec. 17. A director who has either a direct or indirect interest in a matter before the corporation shall disclose that interest before the corporation takes action on the matter. This disclosure shall be made a part of the record of the corporation's official proceedings and the interested director shall refrain from participation in the corporation relating to the matter.

History: 1995, Act 75, Imd. Eff. June 13, 1995.

125.2579 Board of directors; quorum.

Sec. 19. The number of board members required to make a quorum for the transaction of corporation business shall be prescribed by an ordinance of the municipality.

History: 1995, Act 75, Imd. Eff. June 13, 1995.

125.2581 Corporation; powers and duties.

Sec. 21. (1) The corporation has the powers and duties to do all of the following:

(a) Coordinate, review, recommend prioritization of, monitor, and evaluate the programs of the agencies implementing the strategic plan to ensure the achievement of benchmarks and timetables as detailed in that strategic plan.

(b) Solicit and accept gifts, donations, in-kind services, grants, loans, appropriations, or other money from a federal, state, local, or private source for operating expenses.

(c) Acquire, hold, lease, or dispose of real or personal property necessary or convenient to accomplish the purposes of this act.

(d) Procure the director's bond and liability insurance that are prescribed by an ordinance of the municipality.

(e) Submit to the chief executive officer and the governing body of the municipality periodic progress, financial, and performance reviews, and other reports considered necessary by the chief executive officer and the governing body of the municipality. These reports shall be made available to the public by the municipality upon request.

(f) With the concurrence of the municipality by its governing body and chief executive officer, modify the strategic plan, except as precluded by federal, state, or local law.

(g) Possess all other powers necessary and appropriate that are not inconsistent with federal, state, or local law to coordinate, review, recommend prioritization of, monitor, and evaluate the programs of the agencies implementing the strategic plan as detailed in that strategic plan.

(2) The municipality may assign by ordinance to the corporation additional powers and duties to the extent not prohibited by state law.

History: 1995, Act 75, Imd. Eff. June 13, 1995.

125.2583 Corporation; dissolution.

Sec. 23. (1) A corporation that completes the duties enumerated in section 21(1)(a) shall be dissolved by the adoption of a resolution by a majority of 2/3 of the members of the board of directors. The resolution shall be approved by a majority of the members of the governing body of the municipality. After approval of the resolution, the clerk of the municipality shall file a copy of the resolution with the department of commerce.

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(2) Net assets of the corporation that are in excess of that amount necessary to retire indebtedness or to complete the duties enumerated in section 21(1)(a) shall inure to the benefit of the municipality, and not to another person or entity. Upon dissolution of the corporation, title to all corporate real and personal property vests in the municipality, and possession of all corporate money transfers to the municipality to be used exclusively for charitable or public purposes.

History: 1995, Act 75, Imd. Eff. June 13, 1995.

125.2585 Imposition of sanctions; basis; approval.

Sec. 25. The chief executive officer of the municipality may impose sanctions upon the corporation based on periodic performance reviews as prescribed by an ordinance of the municipality and with the approval of the governing body of the municipality.

History: 1995, Act 75, Imd. Eff. June 13, 1995.

125.2587 Proceedings under powers of eminent domain; taking and transfer of property; terms and conditions.

Sec. 27. In order to accomplish the purposes of this act, a municipality may institute and prosecute proceedings under its powers of eminent domain in accordance with state law or local charter. The taking and transfer of public and private property by the municipality for use in a project set forth in a strategic plan may be on terms and conditions that the municipality considers appropriate and shall be considered necessary for the benefit of the public.

History: 1995, Act 75, Imd. Eff. June 13, 1995.

125.2589 Construction of act.

Sec. 29. This act shall be liberally construed to effectuate its purposes.

History: 1995, Act 75, Imd. Eff. June 13, 1995.

125.2591 Authority of act in addition to power of municipality.

Sec. 31. The authority given by this act shall be in addition to and not in derogation of the power of a municipality existing under statutory or charter provisions.

History: 1995, Act 75, Imd. Eff. June 13, 1995.

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ENTERPRISE COMMUNITY DEVELOPMENT CORPORATION ACT
Act 123 of 1995

AN ACT to provide for the authorization of municipalities of this state to create an enterprise community development corporation; to facilitate the implementation of strategic plans relating to the designation and treatment of enterprise communities; to stimulate the creation of new jobs for the disadvantaged and long-term unemployed; to promote revitalization of economically distressed areas; to prescribe the powers and duties of enterprise community development corporations; to provide for the creation of neighborhood review panels; and to provide for the condemnation and transfer of public and private property to carry out the purposes of this act.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2601 Short title.

Sec. 1. This act shall be known and may be cited as the "enterprise community development corporation act".

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2603 Legislative findings.

Sec. 3. There exists in this state the continuing need for programs to alleviate and prevent conditions of long-term unemployment, economic distress, and accompanying social ills. Accordingly, the legislature finds that in order to stimulate the creation of new jobs and to promote the revitalization of distressed areas, it is necessary to empower municipalities to create enterprise community development corporations to facilitate the implementation of municipalities' strategic plans aimed toward those ends, and to ensure local oversight of strategic plan implementation.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2605 Definitions.

Sec. 5. As used in this act:

(a) "Board" means the board of directors of an enterprise community development corporation.

(b) "Chief executive officer" means the mayor or city manager of a city, the president of a village, the supervisor of a township, or the county executive of a county or, if a county does not have a county executive, the chairperson of the county board of commissioners.

(c) "Corporation" means an enterprise community development corporation organized under this act.

(d) "Enterprise community" means an area designated as an enterprise community by the United States department of housing and urban development or the United States department of agriculture.

(e) "Governing body" means the body in which the legislative powers of a municipality are vested.

(f) "Municipality" means a county, city, village, or township.

(g) "Strategic plan" means a plan agreed to by this state and a municipality concerning an enterprise community that includes both of the following:

(*i*) Certification of the authority to adopt a strategic plan in an application for nomination as an enterprise community under applicable federal regulations.

(*ii*) A written commitment of this state and the municipality to adhere to the plan.

(h) "Substantial interest" means 1 or more of the following:

(*i*) Owning real property or a business located in the enterprise community.

(*ii*) Having a substantial demonstrable interest in real property or in a business located in the enterprise community.

(*iii*) Engaging in activities to improve the social and economic conditions of the enterprise community.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2607 Enterprise community development corporation; application for incorporation; notice; public hearing; process for approving articles of incorporation and bylaws.

Sec. 7. (1) A written application may be made by not less than 3 persons to the governing body of a municipality with a population of less than 900,000 for permission to incorporate an enterprise community development corporation on behalf of the municipality. The application shall include proposed articles of incorporation and proposed bylaws. The name of the corporation shall be "the enterprise community development corporation of _____" (the name of the incorporating municipality).

(2) The governing body of the municipality shall notify the public of receipt of the application as provided in subsection 3. The application may be approved after a public hearing by adoption of a resolution by the

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governing body.

(3) Notice of the time and place of the hearing shall be given by publication once in a newspaper of general circulation designated by the municipality not less than 10 days before the date set for the hearing. In addition, notice of the hearing shall be posted not less than 10 days before the hearing in at least 10 conspicuous and public places within the designated enterprise community.

(4) The process for approving the articles of incorporation and the bylaws and for amending the articles or bylaws shall be prescribed by an ordinance of the municipality.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2609 Articles of incorporation; filing; validity.

Sec. 9. (1) If the governing body approves both the application to incorporate the corporation and the articles of incorporation, the clerk of the municipality shall file the original of the articles of incorporation with the department of commerce and 1 copy in his or her office after certifying that the copy is a true and accurate copy of the original articles of incorporation.

(2) The corporation is incorporated at the time the articles of incorporation are filed with the department of commerce. The validity of the incorporation shall be conclusively presumed unless challenged in a court of competent jurisdiction not more than 60 days after the incorporation.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2611 Incorporation of more than 1 corporation prohibited.

Sec. 11. A municipality shall not approve incorporation of more than 1 corporation under this act.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2613 Board of directors; determination of size and composition by ordinance; appointment; removal; qualifications, selection, vacancy, number, and demographic diversity of members; executive committee; neighborhood review panel; employment of executive director and staff.

Sec. 13. (1) The size and composition of the board shall be determined by an ordinance of the municipality. In a municipality with a population of 900,000 or more, 60% of the board members shall live or work in the enterprise community as prescribed in an ordinance of the municipality, and 40% of the board members need not be residents of, but shall have a significant interest in or shall be representatives of organizations with a substantial interest in, the enterprise community as prescribed in an ordinance of the municipality. An elected official or candidate for elective office shall not serve as a board member.

(2) The chief executive officer, with the approval of the municipality's governing body, shall appoint the members of the board of directors. A director may be removed for cause by the chief executive officer as prescribed by an ordinance of the municipality.

(3) The qualifications and mechanisms for the selection of the members of the board of directors, the filling of vacancies, and the number of members shall be prescribed by an ordinance of the municipality. The board of directors and all committees shall reflect the demographic diversity of the enterprise community.

(4) The board of directors shall establish an executive committee to manage the corporation. The size and manner of selection of the members of the executive committee and the number of members shall be prescribed by ordinance of the municipality. In a municipality with a population of 900,000 or more, 60% of the executive committee shall live or work in the enterprise community as prescribed in an ordinance of the municipality, and 40% of the executive committee need not be residents of, but shall have a substantial interest in or shall be representatives of organizations with a substantial interest in, the enterprise community as prescribed in an ordinance of the municipality. The executive committee shall reflect the demographic diversity of the enterprise community.

(5) The board of directors may establish neighborhood review panels and necessary subcommittees to monitor the implementation of programs detailed in the strategic plan. The size and manner of selection of the members of the neighborhood review panels and the number of members shall be prescribed by an ordinance of the municipality. In addition, the neighborhood review panel shall demographically reflect the enterprise community.

(6) The corporation shall employ an executive director and other necessary staff.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2615 Board of directors; appointment; terms; expiration of term; compensation and expenses.

Sec. 15. (1) The board of directors shall be appointed for staggered terms as prescribed by an ordinance of

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the municipality.

(2) A director whose term of office has expired shall continue to hold office until the chief executive officer appoints the director's successor, with the approval of the municipality's governing body.

(3) A director shall serve without compensation, but may be reimbursed for the actual expenses incurred in the performance of his or her official duties.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2617 Disclosure of interest in matter before corporation.

Sec. 17. A director who has either a direct or indirect interest in a matter before the corporation shall disclose that interest before the corporation takes action on the matter. This disclosure shall be made a part of the record of the corporation's official proceedings and the interested director shall refrain from participation in the corporation relating to the matter.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2619 Board of directors; quorum.

Sec. 19. The number of board members required to make a quorum for the transaction of corporation business shall be prescribed by an ordinance of the municipality.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2621 Corporation; powers and duties.

Sec. 21. (1) The corporation has the powers and duties to do all of the following:

(a) Coordinate, review, recommend prioritization of, monitor, and evaluate the programs of the agencies implementing the strategic plan to ensure the achievement of benchmarks and timetables as detailed in that strategic plan.

(b) Solicit and accept gifts, donations, in-kind services, grants, loans, appropriations, or other money from a federal, state, local, or private source for operating expenses.

(c) Acquire, hold, lease, or dispose of real or personal property necessary or convenient to accomplish the purposes of this act.

(d) Procure the director's bond and liability insurance that are prescribed by an ordinance of the municipality.

(e) Submit to the chief executive officer and the governing body of the municipality periodic progress, financial, and performance reviews, and other reports considered necessary by the chief executive officer and the governing body of the municipality. These reports shall be made available to the public by the municipality upon request.

(f) With the concurrence of the municipality by its governing body and chief executive officer, modify the strategic plan, except as precluded by federal, state, or local law.

(g) Possess all other powers necessary and appropriate that are not inconsistent with federal, state, or local law to coordinate, review, recommend prioritization of, monitor, and evaluate the programs of the agencies implementing the strategic plan as detailed in that strategic plan.

(2) The municipality may assign by ordinance to the corporation additional powers and duties to the extent not prohibited by state law.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2623 Corporation; dissolution.

Sec. 23. (1) A corporation that completes the duties enumerated in section 21(1)(a) shall be dissolved by the adoption of a resolution by a majority of 2/3 of the members of the board of directors. The resolution shall be approved by a majority of the members of the governing body of the municipality. After approval of the resolution, the clerk of the municipality shall file a copy of the resolution with the department of commerce.

(2) Net assets of the corporation that are in excess of that amount necessary to retire indebtedness or to complete the duties enumerated in section 21(1)(a) shall inure to the benefit of the municipality, and not to another person or entity. Upon dissolution of the corporation, title to all corporate real and personal property vests in the municipality, and possession of all corporate money transfers to the municipality to be used exclusively for charitable or public purposes.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2625 Imposition of sanctions; basis; approval.

Sec. 25. The chief executive officer of the municipality may impose sanctions upon the corporation based on periodic performance reviews as prescribed by an ordinance of the municipality and with the approval of the governing body of the municipality.

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History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2627 Proceedings under powers of eminent domain; taking and transfer of property; terms and conditions.

Sec. 27. In order to accomplish the purposes of this act, a municipality may institute and prosecute proceedings under its powers of eminent domain in accordance with state law or local charter. The taking and transfer of public and private property by the municipality for use in a project set forth in a strategic plan may be on terms and conditions that the municipality considers appropriate and shall be considered necessary for the benefit of the public.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2629 Construction of act.

Sec. 29. This act shall be liberally construed to effectuate its purposes.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2631 Authority of act in addition to power of municipality.

Sec. 31. The authority given by this act shall be in addition to and not in derogation of the power of a municipality existing under statutory or charter provisions.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

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BROWNFIELD REDEVELOPMENT FINANCING ACT
Act 381 of 1996

AN ACT to authorize municipalities to create a brownfield redevelopment authority to facilitate the implementation of brownfield plans; to create brownfield redevelopment zones; to promote the revitalization, redevelopment, and reuse of certain property, including, but not limited to, tax reverted, blighted, or functionally obsolete property; to prescribe the powers and duties of brownfield redevelopment authorities; to permit the issuance of bonds and other evidences of indebtedness by an authority; to authorize the acquisition and disposal of certain property; to authorize certain funds; to prescribe certain powers and duties of certain state officers and agencies; and to authorize and permit the use of certain tax increment financing.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2003, Act 259, Imd. Eff. Jan. 5, 2004.

The People of the State of Michigan enact:

125.2651 Short title.

Sec. 1. This act shall be known and may be cited as the “brownfield redevelopment financing act”.

History: 1996, Act 381, Eff. Sept. 16, 1996.

125.2652 Definitions.

Sec. 2. As used in this act:

(a) "Additional response activities" means response activities identified as part of a brownfield plan that are in addition to baseline environmental assessment activities and due care activities for an eligible property.

(b) "Authority" means a brownfield redevelopment authority created under this act.

(c) "Baseline environmental assessment" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(d) "Baseline environmental assessment activities" means those response activities identified as part of a brownfield plan that are necessary to complete a baseline environmental assessment for an eligible property in the brownfield plan.

(e) "Blighted" means property that meets any of the following criteria as determined by the governing body:

(*i*) Has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.

(*ii*) Is an attractive nuisance to children because of physical condition, use, or occupancy.

(*iii*) Is a fire hazard or is otherwise dangerous to the safety of persons or property.

(*iv*) Has had the utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.

(*v*) Is tax reverted property owned by a qualified local governmental unit, by a county, or by this state. The sale, lease, or transfer of tax reverted property by a qualified local governmental unit, county, or this state after the property's inclusion in a brownfield plan shall not result in the loss to the property of the status as blighted property for purposes of this act.

(*vi*) Is property owned or under the control of a land bank fast track authority under the land bank fast track act, whether or not located within a qualified local governmental unit. Property included within a brownfield plan prior to the date it meets the requirements of this subdivision to be eligible property shall be considered to become eligible property as of the date the property is determined to have been or becomes qualified as, or is combined with, other eligible property. The sale, lease, or transfer of the property by a land bank fast track authority after the property's inclusion in a brownfield plan shall not result in the loss to the property of the status as blighted property for purposes of this act.

(*vii*) Has substantial subsurface demolition debris buried on site so that the property is unfit for its intended use.

(f) "Board" means the governing body of an authority.

(g) "Brownfield plan" means a plan that meets the requirements of section 13 and is adopted under section 14.

(h) "Captured taxable value" means the amount in 1 year by which the current taxable value of an eligible property subject to a brownfield plan, including the taxable value or assessed value, as appropriate, of the property for which specific taxes are paid in lieu of property taxes, exceeds the initial taxable value of that eligible property. The state tax commission shall prescribe the method for calculating captured taxable value.

(i) "Chief executive officer" means the mayor of a city, the village manager of a village, the township supervisor of a township, or the county executive of a county or, if the county does not have an elected county

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executive, the chairperson of the county board of commissioners.

(j) "Department" means the department of environmental quality.

(k) "Due care activities" means those response activities identified as part of a brownfield plan that are necessary to allow the owner or operator of an eligible property in the plan to comply with the requirements of section 20107a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a.

(*l*) "Economic opportunity zone" means 1 or more parcels of property that meet all of the following:

(*i*) That together are 40 or more acres in size.

(*ii*) That contain a manufacturing facility that consists of 500,000 or more square feet.

(*iii*) That are located in a municipality that has a population of 30,000 or less and that is contiguous to a qualified local governmental unit.

(m) "Eligible activities" or "eligible activity" means 1 or more of the following:

(*i*) Baseline environmental assessment activities.

(*ii*) Due care activities.

(*iii*) Additional response activities.

(*iv*) For eligible activities on eligible property that was used or is currently used for commercial, industrial, or residential purposes that is in a qualified local governmental unit, that is owned or under the control of a land bank fast track authority, or that is located in an economic opportunity zone, and is a facility, functionally obsolete, or blighted, and except for purposes of former section 38d of the single business tax act, 1975 PA 228, the following additional activities:

(A) Infrastructure improvements that directly benefit eligible property.

(B) Demolition of structures that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(C) Lead or asbestos abatement.

(D) Site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(E) Assistance to a land bank fast track authority in clearing or quieting title to, or selling or otherwise conveying, property owned or under the control of a land bank fast track authority or the acquisition of property by the land bank fast track authority if the acquisition of the property is for economic development purposes.

(*v*) Relocation of public buildings or operations for economic development purposes.

(*vi*) For eligible activities on eligible property that is a qualified facility that is not located in a qualified local governmental unit and that is a facility, functionally obsolete, or blighted, the following additional activities:

(A) Infrastructure improvements that directly benefit eligible property.

(B) Demolition of structures that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(C) Lead or asbestos abatement.

(D) Site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(*vii*) For eligible activities on eligible property that is not located in a qualified local governmental unit and that is a facility, functionally obsolete, or blighted, the following additional activities:

(A) Demolition of structures that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(B) Lead or asbestos abatement.

(*viii*) Reasonable costs of developing and preparing brownfield plans and work plans.

(*ix*) For property that is not located in a qualified local governmental unit and that is a facility, functionally obsolete, or blighted, that is a former mill that has not been used for industrial purposes for the immediately preceding 2 years, that is located along a river that is a federal superfund site listed under the comprehensive environmental response, compensation, and liability act of 1980, 42 USC 9601 to 9675, and that is located in a city with a population of less than 10,000 persons, the following additional activities:

(A) Infrastructure improvements that directly benefit the property.

(B) Demolition of structures that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(C) Lead or asbestos abatement.

(D) Site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(*x*) For eligible activities on eligible property that is located north of the 45th parallel, that is a facility, functionally obsolete, or blighted, and the owner or operator of which makes new capital investment of

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$250,000,000.00 or more in this state, the following additional activities:

(A) Demolition of structures that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(B) Lead or asbestos abatement.

(*xi*) Reasonable costs of environmental insurance.

(n) Except as otherwise provided in this subdivision, "eligible property" means property for which eligible activities are identified under a brownfield plan that was used or is currently used for commercial, industrial, public, or residential purposes, including personal property located on the property, to the extent included in the brownfield plan, and that is 1 or more of the following:

(*i*) Is in a qualified local governmental unit and is a facility, functionally obsolete, or blighted and includes parcels that are adjacent or contiguous to that property if the development of the adjacent and contiguous parcels is estimated to increase the captured taxable value of that property.

(*ii*) Is not in a qualified local governmental unit and is a facility, and includes parcels that are adjacent or contiguous to that property if the development of the adjacent and contiguous parcels is estimated to increase the captured taxable value of that property.

(*iii*) Is tax reverted property owned or under the control of a land bank fast track authority.

(*iv*) Is not in a qualified local governmental unit, is a qualified facility, and is a facility, functionally obsolete, or blighted, if the eligible activities on the property are limited to the eligible activities identified in subdivision (m)(*vi*).

(*v*) Is not in a qualified local governmental unit and is a facility, functionally obsolete, or blighted, if the eligible activities on the property are limited to the eligible activities identified in subdivision (m)(*vii*).

(*vi*) Is not in a qualified local governmental unit and is a facility, functionally obsolete, or blighted, if the eligible activities on the property are limited to the eligible activities identified in subdivision (m)(*ix*).

(*vii*) Is located north of the 45th parallel, is a facility, functionally obsolete, or blighted, and the owner or operator makes new capital investment of $250,000,000.00 or more in this state. Eligible property does not include qualified agricultural property exempt under section 7ee of the general property tax act, 1893 PA 206, MCL 211.7ee, from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

(o) "Environmental insurance" means liability insurance for environmental contamination and cleanup that is not otherwise required by state or federal law.

(p) "Facility" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(q) "Fiscal year" means the fiscal year of the authority.

(r) "Functionally obsolete" means that the property is unable to be used to adequately perform the function for which it was intended due to a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or superadequacies in design, or other similar factors that affect the property itself or the property's relationship with other surrounding property.

(s) "Governing body" means the elected body having legislative powers of a municipality creating an authority under this act.

(t) "Infrastructure improvements" means a street, road, sidewalk, parking facility, pedestrian mall, alley, bridge, sewer, sewage treatment plant, property designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, drainage system, waterway, waterline, water storage facility, rail line, utility line or pipeline, or other similar or related structure or improvement, together with necessary easements for the structure or improvement, owned or used by a public agency or functionally connected to similar or supporting property owned or used by a public agency, or designed and dedicated to use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity, provided that any road, street, or bridge shall be continuously open to public access and that other property shall be located in public easements or rights-of-way and sized to accommodate reasonably foreseeable development of eligible property in adjoining areas.

(u) "Initial taxable value" means the taxable value of an eligible property identified in and subject to a brownfield plan at the time the resolution adding that eligible property in the brownfield plan is adopted, as shown either by the most recent assessment roll for which equalization has been completed at the time the resolution is adopted or, if provided by the brownfield plan, by the next assessment roll for which equalization will be completed following the date the resolution adding that eligible property in the brownfield plan is adopted. Property exempt from taxation at the time the initial taxable value is determined shall be included with the initial taxable value of zero. Property for which a specific tax is paid in lieu of property tax shall not be considered exempt from taxation. The state tax commission shall prescribe the method for calculating the initial taxable value of property for which a specific tax was paid in lieu of property tax.

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(v) "Land bank fast track authority" means an authority created under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774.

(w) "Local taxes" means all taxes levied other than taxes levied for school operating purposes.

(x) "Municipality" means all of the following:

(*i*) A city.

(*ii*) A village.

(*iii*) A township in those areas of the township that are outside of a village.

(*iv*) A township in those areas of the township that are in a village upon the concurrence by resolution of the village in which the zone would be located.

(*v*) A county.

(y) "Owned or under the control of" means that a land bank fast track authority has 1 or more of the following:

(*i*) An ownership interest in the property.

(*ii*) A tax lien on the property.

(*iii*) A tax deed to the property.

(*iv*) A contract with this state or a political subdivision of this state to enforce a lien on the property.

(*v*) A right to collect delinquent taxes, penalties, or interest on the property.

(*vi*) The ability to exercise its authority over the property.

(z) "Qualified facility" means a landfill facility area of 140 or more contiguous acres that is located in a city and that contains a landfill, a material recycling facility, and an asphalt plant that are no longer in operation.

(aa) "Qualified local governmental unit" means that term as defined in the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

(bb) "Qualified taxpayer" means that term as defined in former sections 38d and 38g of the single business tax act, 1975 PA 228, or section 437 of the Michigan business tax act, 2007 PA 36, MCL 208.1437.

(cc) "Response activity" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(dd) "Specific taxes" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the technology park development act, 1984 PA 385, MCL 207.701 to 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786; the commercial rehabilitation act, 2005 PA 210, MCL 207.841 to 207.856; or that portion of the tax levied under the tax reverted clean title act, 2003 PA 260, MCL 211.1021 to 211.1026, that is not required to be distributed to a land bank fast track authority.

(ee) "Tax increment revenues" means the amount of ad valorem property taxes and specific taxes attributable to the application of the levy of all taxing jurisdictions upon the captured taxable value of each parcel of eligible property subject to a brownfield plan and personal property located on that property. Tax increment revenues exclude ad valorem property taxes specifically levied for the payment of principal of and interest on either obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit, and specific taxes attributable to those ad valorem property taxes. Tax increment revenues attributable to eligible property also exclude the amount of ad valorem property taxes or specific taxes captured by a downtown development authority, tax increment finance authority, or local development finance authority if those taxes were captured by these other authorities on the date that eligible property became subject to a brownfield plan under this act.

(ff) "Taxable value" means the value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(gg) "Taxes levied for school operating purposes" means all of the following:

(*i*) The taxes levied by a local school district for operating purposes.

(*ii*) The taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(*iii*) That portion of specific taxes attributable to taxes described under subparagraphs (*i*) and (*ii*).

(hh) "Work plan" means a plan that describes each individual activity to be conducted to complete eligible activities and the associated costs of each individual activity.

(ii) "Zone" means, for an authority established before June 6, 2000, a brownfield redevelopment zone designated under this act.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2002, Act 254, Imd. Eff. May 1, 2002;—Am. 2003, Act 259, Imd. Eff. Jan. 5, 2004;—Am. 2003, Act 277, Imd. Eff. Jan. 8, 2004;—Am. 2005, Act 101, Imd. Eff. July 22,

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2005;—Am. 2006, Act 32, Imd. Eff. Feb. 23, 2006;—Am. 2007, Act 204, Imd. Eff. Dec. 27, 2007.

125.2653 Brownfield redevelopment authority; establishment; exercise of powers; alteration or amendment of boundaries; authority as public body corporate; written agreement with county.

Sec. 3. (1) A municipality may establish 1 or more authorities. Except as provided in subsection (4), an authority with zones established before the effective date of the amendatory act that added subsection (2) shall exercise its powers within its designated zones. Except as provided in subsection (4), an authority established after the effective date of the amendatory act that added subsection (2) shall exercise its powers over any eligible property located in the municipality.

(2) An authority with zones established before the effective date of the amendatory act that added this subsection may alter or amend the boundaries of those zones if the authority holds a public hearing on the alteration or amendment using the procedures under section 4(2), (3), and (4).

(3) The authority shall be a public body corporate that may sue and be sued in a court of competent jurisdiction. The authority possesses all the powers necessary to carry out the purpose of its incorporation. The enumeration of a power in this act is not a limitation upon the general powers of the authority. The powers granted in this act to an authority may be exercised whether or not bonds are issued by the authority.

(4) An authority established by a county shall exercise its powers with respect to eligible property within a city, village, or township within the county only if that city, village, or township has concurred with the provisions of a brownfield plan that apply to that eligible property within the city, village, or township.

(5) A city, village, or township including a city, village, or township that is a qualified local governmental unit may enter into a written agreement with the county in which that city, village, or township is located to exercise the powers granted to that specific city, village, or township under this act.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000.

125.2654 Resolution by governing body; adoption; notice; public hearing; proceedings establishing authority; presumption of validity; exercise as essential governmental function; implementation or modification of plan.

Sec. 4. (1) A governing body may declare by resolution adopted by a majority of its members elected and serving its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body shall set a date for holding a public hearing on the adoption of a proposed resolution creating the authority. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 nor more than 40 days before the date of the hearing. The notice shall state the date, time, and place of the hearing. At that hearing, a citizen, taxpayer, official from a taxing jurisdiction whose millage may be subject to capture under a brownfield plan, or property owner of the municipality has the right to be heard in regard to the establishment of the authority.

(3) Not more than 30 days after the public hearing, if the governing body intends to proceed with the establishment of the authority, the governing body shall adopt, by majority vote of its members elected and serving, a resolution establishing the authority. The adoption of the resolution is subject to all applicable statutory or charter provisions with respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of a resolution over his or her veto. This resolution shall be filed with the secretary of state promptly after its adoption.

(4) The proceedings establishing an authority shall be presumptively valid unless contested in a court of competent jurisdiction within 60 days after the filing of the resolution with the secretary of state.

(5) The exercise by an authority of the powers conferred by this act shall be considered to be an essential governmental function and benefit to, and a legitimate public purpose of, the state, the authority, and the municipality or units.

(6) If the board implements or modifies a brownfield plan that contains a qualified facility, the governing body shall mail notice of that implementation or modification to each taxing jurisdiction that levies ad valorem property taxes in the municipality. Not more than 60 days after receipt of that notice, the governing body of a taxing jurisdiction levying ad valorem property taxes that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality in which the qualified facility is located. The resolution takes effect when filed with that clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2005, Act 101, Imd. Eff. July 22, 2005.

125.2655 Designation of board by governing body; membership; trustees; applicability of

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subsection (2); election of chairperson, vice-chairperson, and other officers; oath; procedural rules; meetings; special meetings; removal of member; records open to public; quorum.

Sec. 5. (1) Each authority shall be under the supervision and control of a board chosen by the governing body. Subject to subsection (2), the governing body may by majority vote designate 1 of the following to constitute the board:

(a) The board of directors of the economic development corporation of the municipality established under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636.

(b) The trustees of the board of a downtown development authority established under 1975 PA 197, MCL 125.1651 to 125.1681.

(c) The trustees of the board of a tax increment financing authority established under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.

(d) The trustees of the board of a local development financing authority established under the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.

(e) Not less than 5 nor more than 9 persons appointed by the chief executive officer of the municipality subject to the approval of the governing body. Of the initial members appointed, an equal number, as near as practicable, shall be appointed for 1 year, 2 years, and 3 years. A member shall hold office until the member's successor is appointed and qualified. Thereafter, each member shall serve for a term of 3 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for reasonable actual and necessary expenses.

(2) The governing body of a municipality in which a board described in subsection (1)(b), (c), or (d) has been established shall designate the trustees of 1 of those boards to constitute the board. This subsection shall only apply in the event a board described in subsection (1)(b), (c), or (d) is authorized under subsection (1) to serve as the board of the authority.

(3) The members shall elect 1 of their membership as chairperson and another as vice-chairperson. The members may designate and elect other officers of the board as they consider necessary.

(4) Before assuming the duties of office, a member shall qualify by taking and subscribing to the oath of office provided in section 1 of article XI of the state constitution of 1963.

(5) The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held when called in the manner provided in the rules of the board. Meetings of the board shall be open to the public, in accordance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) After notice and an opportunity to be heard, a member of the board appointed under subsection (1)(e) may be removed before the expiration of his or her term for cause by the governing body. Removal of a member is subject to review by the circuit court.

(7) All financial records of an authority shall be open to the public under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(8) A majority of the members of the board appointed and serving shall constitute a quorum. Action may be taken by the board at a meeting upon a vote of the majority of the members present.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000.

125.2656 Appointment or employment of director, treasurer, secretary, personnel, and consultants; assistance provided by municipality; retirement and insurance programs.

Sec. 6. (1) The board may employ and fix the compensation of a director of the authority, subject to the approval of the governing body creating the authority. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before entering upon the duties of the office, the director shall take and subscribe to the oath of office provided in section 1 of article XI of the state constitution of 1963 and shall furnish bond by posting a bond in the sum specified in the resolution establishing the authority. The bond shall be payable to the authority for the use and benefit of the authority, approved by the board, and filed with the clerk of the municipality. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief officer of the authority. Subject to the approval of the board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board and shall render to the board and to the governing body a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting

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director to perform the duties of the office. Before entering upon the duties of the office, the acting director shall take and subscribe to the oath of office referenced in this subsection and furnish bond as required of the director. The director shall furnish the board with information or reports governing the operation of the authority, as the board requires.

(2) The board may appoint or employ and fix the compensation of a treasurer who shall keep the financial records of the authority and who, together with the director, if a director is appointed, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform other duties as may be delegated by the board and shall furnish bond in an amount as prescribed by the board.

(3) The board may appoint or employ and fix the compensation of a secretary who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform other duties as may be delegated by the board.

(4) The board may employ and retain personnel and consultants as considered necessary by the board, including legal counsel to advise the board in the proper performance of its duties and to represent the authority in actions brought by or against the authority.

(5) Upon request of the authority, the municipality may provide assistance to the authority in the performance of its powers and duties.

(6) The employees of an authority may be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees on the same basis as civil service employees.

History: 1996, Act 381, Eff. Sept. 16, 1996.

125.2657 Powers of authority; determining captured taxable value; transfer of municipality funds to authority.

Sec. 7. (1) An authority may do 1 or more of the following:

(a) Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.

(b) Incur and expend funds to pay or reimburse a public or private person for costs of eligible activities attributable to an eligible property.

(c) As approved by the municipality, incur costs and expend funds from the local site remediation revolving fund created under section 8 for purposes authorized in that section.

(d) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties, including, but not limited to, lease purchase agreements, land contracts, installment sales agreements, and loan agreements.

(e) On terms and conditions and in a manner and for consideration the authority considers proper or for no monetary consideration, own, mortgage, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in the property, that the authority determines are reasonably necessary to achieve the purposes of this act, and grant or acquire licenses, easements, and options with respect to the property.

(f) Acquire, maintain, repair, or operate all devices necessary to ensure continued eligible activities on eligible property.

(g) Accept grants and donations of property, labor, or other things of value from a public or private source.

(h) Incur costs in connection with the performance of its authorized functions, including, but not limited to, administrative costs and architect, engineer, legal, or accounting fees.

(i) Study, develop, and prepare the reports or plans the authority considers necessary to assist it in the exercise of its powers under this act and to monitor and evaluate the progress under this act.

(j) Procure insurance against loss in connection with the authority's property, assets, or activities.

(k) Invest the money of the authority at the authority's discretion in obligations determined proper by the authority, and name and use depositories for its money.

(*l*) Make loans, participate in the making of loans, undertake commitments to make loans and mortgages, buy and sell loans and mortgages at public or private sale, rewrite loans and mortgages, discharge loans and mortgages, foreclose on a mortgage, commence an action to protect or enforce a right conferred upon the authority by a law, mortgage, loan, contract, or other agreement, bid for and purchase property that was the subject of the mortgage at a foreclosure or other sale, acquire and take possession of the property and in that event compute, administer, pay the principal and interest on obligations incurred in connection with that property, and dispose of and otherwise deal with the property, in a manner necessary or desirable to protect the interests of the authority.

(m) Borrow money and issue its bonds and notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of tax increment revenues.

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(n) Do all other things necessary or convenient to achieve the objectives and purposes of the authority, this act, or other laws that relate to the purposes and responsibilities of the authority.

(2) The authority shall determine the captured taxable value of each parcel of eligible property. The captured taxable value of a parcel shall not be less than zero.

(3) A municipality may transfer the funds of the municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2002, Act 413, Imd. Eff. June 3, 2002.

125.2658 Local site remediation revolving fund.

Sec. 8. (1) An authority may establish a local site remediation revolving fund. A local site remediation revolving fund shall consist of money available under section 13(5) and may also consist of money appropriated or otherwise made available from public or private sources. An authority shall separately account for money deposited to the fund that is directly derived from tax increment revenues levied for school operating purposes.

(2) The local site remediation revolving fund may be used only to pay the costs of eligible activities on eligible property that is located within the municipality.

(3) An authority or a municipality on behalf of an authority may incur an obligation for the purpose of funding a local site remediation revolving fund.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000.

125.2659 Authority as instrumentality of political subdivision.

Sec. 9. The authority shall be considered an instrumentality of a political subdivision for purposes of Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

History: 1996, Act 381, Eff. Sept. 16, 1996.

125.2660 Taking, transfer, and use of private property.

Sec. 10. A municipality may transfer private property taken under the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws, to the authority for use as authorized in the brownfield plan, on terms and conditions it considers appropriate. The taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

History: 1996, Act 381, Eff. Sept. 16, 1996.

125.2661 Financing sources of authority activities.

Sec. 11. The activities of the authority shall be financed from 1 or more of the following sources:

(a) Contributions, contractual payments, or appropriations to the authority for the performance of its functions or to pay the costs of a brownfield plan of the authority.

(b) Revenues from a property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(c) Subject to the limitations imposed under sections 8, 13, and 15, 1 or both of the following:

(*i*) Tax increment revenues received under a brownfield plan established under sections 13 and 14.

(*ii*) Proceeds of tax increment bonds and notes issued under section 17.

(d) Proceeds of revenue bonds and notes issued under section 12.

(e) Revenue available in the local site remediation revolving fund for the costs described in section 8.

(f) Money obtained from all other sources approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance activities authorized under this act.

History: 1996, Act 381, Eff. Sept. 16, 1996.

125.2662 Bonds and notes of authority.

Sec. 12. (1) The authority may borrow money and issue its negotiable revenue bonds or notes to finance all or part of the costs of eligible activities or of another activity of the authority under this act. Revenue bonds and notes issued under this section are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. The costs that may be financed by the issuance of revenue bonds or notes may include the costs of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing property in connection with an activity authorized under this act; engineering, architectural, legal, accounting, or financial expenses; the costs necessary or incidental to the borrowing of money; interest on the bonds or notes during the period of construction; a reserve for payment of principal and interest on the bonds or notes; and a reserve for operation

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and maintenance until sufficient revenues have developed. The authority may secure the bonds and notes by mortgage, assignment, or pledge of the property and all money, revenues, or income received in connection with the property.

(2) A pledge made by the authority shall be valid and binding from the time the pledge is made. The money or property pledged by the authority immediately shall be subject to the lien of the pledge without a physical delivery, filing, or further act. The lien of a pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice of the lien. Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.

(3) Bonds or notes issued under this section shall be exempt from all taxation in this state except estate and transfer taxes, and the interest on the bonds or notes shall be exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(4) Unless otherwise provided by a majority vote of the members of its governing body, the municipality shall not be liable on bonds or notes of the authority issued under this section and the bonds or notes shall not be a debt of the municipality.

(5) The bonds and notes of the authority may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is supplemental and in addition to all other authority granted by law.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2002, Act 413, Imd. Eff. June 3, 2002.

125.2663 Brownfield plan; provisions.

Sec. 13. (1) Subject to section 15, the board may implement a brownfield plan. The brownfield plan may apply to 1 or more parcels of eligible property whether or not those parcels of eligible property are contiguous and may be amended to apply to additional parcels of eligible property. Except as otherwise authorized by this act, if more than 1 eligible property is included within the plan, the tax increment revenues under the plan shall be determined individually for each eligible property. Each plan or an amendment to a plan shall be approved by the governing body of the municipality and shall contain all of the following:

(a) A description of the costs of the plan intended to be paid for with the tax increment revenues or, for a plan for eligible properties qualified on the basis that the property is owned or under the control of a land bank fast track authority, a listing of all eligible activities that may be conducted for 1 or more of the eligible properties subject to the plan.

(b) A brief summary of the eligible activities that are proposed for each eligible property or, for a plan for eligible properties qualified on the basis that the property is owned or under the control of a land bank fast track authority, a brief summary of eligible activities conducted for 1 or more of the eligible properties subject to the plan.

(c) An estimate of the captured taxable value and tax increment revenues for each year of the plan from the eligible property. The plan may provide for the use of part or all of the captured taxable value, including deposits in the local site remediation revolving fund, but the portion intended to be used shall be clearly stated in the plan. The plan shall not provide either for an exclusion from captured taxable value of a portion of the captured taxable value or for an exclusion of the tax levy of 1 or more taxing jurisdictions unless the tax levy is excluded from tax increment revenues in section 2(dd), or unless the tax levy is excluded from capture under section 15.

(d) The method by which the costs of the plan will be financed, including a description of any advances made or anticipated to be made for the costs of the plan from the municipality.

(e) The maximum amount of note or bonded indebtedness to be incurred, if any.

(f) The duration of the brownfield plan for eligible activities on eligible property which shall not exceed 35 years following the date of the resolution approving the plan amendment related to a particular eligible property. Each plan amendment shall also contain the duration of capture of tax increment revenues including the beginning date of the capture of tax increment revenues, which beginning date shall be identified in the brownfield plan and which beginning date shall not be later than 5 years following the date of the resolution approving the plan amendment related to a particular eligible property and which duration shall not exceed the lesser of the period authorized under subsections (4) and (5) or 30 years from the beginning date of the capture of tax increment revenues. The date for the beginning of capture of tax increment revenues may be amended by the authority but not to a date later than 5 years after the date of the resolution adopting the plan. The authority may not amend the date for the beginning of capture of tax increment revenues if the authority

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has begun to reimburse eligible activities from the capture of tax increment revenues. The authority may not amend the date for the beginning of capture if that amendment would lead to the duration of capture of tax increment revenues being longer than 30 years or the period authorized under subsections (4) and (5). If the date for the beginning of capture of tax increment revenues is amended by the authority and that plan includes the capture of tax increment revenues for school operating purposes, then the authority that amended that plan shall notify the department and the Michigan economic growth authority within 30 days of the approval of the amendment.

(g) An estimate of the impact of tax increment financing on the revenues of all taxing jurisdictions in which the eligible property is located.

(h) A legal description of the eligible property to which the plan applies, a map showing the location and dimensions of each eligible property, a statement of the characteristics that qualify the property as eligible property, and a statement of whether personal property is included as part of the eligible property. If the project is on property that is functionally obsolete, the taxpayer shall include, with the application, an affidavit signed by a level 3 or level 4 assessor, that states that it is the assessor's expert opinion that the property is functionally obsolete and the underlying basis for that opinion.

(i) Estimates of the number of persons residing on each eligible property to which the plan applies and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, the plan shall include a demographic survey of the persons to be displaced, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(j) A plan for establishing priority for the relocation of persons displaced by implementation of the plan.

(k) Provision for the costs of relocating persons displaced by implementation of the plan, and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646.

(*l*) A strategy for compliance with 1972 PA 227, MCL 213.321 to 213.332.

(m) A description of proposed use of the local site remediation revolving fund.

(n) Other material that the authority or governing body considers pertinent.

(2) The percentage of all taxes levied on a parcel of eligible property for school operating expenses that is captured and used under a brownfield plan and all tax increment finance plans under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, shall not be greater than the combination of the plans' percentage capture and use of all local taxes levied for purposes other than for the payment of principal of and interest on either obligations approved by the electors or obligations pledging the unlimited taxing power of the local unit of government. This subsection shall apply only when taxes levied for school operating purposes are subject to capture under section 15.

(3) Except as provided in this subsection and subsections (5), (15), and (16), tax increment revenues related to a brownfield plan shall be used only for costs of eligible activities attributable to the eligible property, the captured taxable value of which produces the tax increment revenues, including the cost of principal of and interest on any obligation issued by the authority to pay the costs of eligible activities attributable to the eligible property, and the reasonable costs of preparing a brownfield plan or a work plan for the eligible property, including the actual cost of the review of the work plan under section 15. For property owned or under the control of a land bank fast track authority, tax increment revenues related to a brownfield plan may be used for eligible activities attributable to any eligible property owned or under the control of the land bank fast track authority, the cost of principal of and interest on any obligation issued by the authority to pay the costs of eligible activities, the reasonable costs of preparing a work plan, and the actual cost of the review of the work plan under section 15. Except as provided in subsection (18), tax increment revenues captured from taxes levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, or taxes levied by a local school district shall not be used for eligible activities described in section 2(m)(*iv*)(E).

(4) Except as provided in subsection (5), a brownfield plan shall not authorize the capture of tax increment revenue from eligible property after the year in which the total amount of tax increment revenues captured is equal to the sum of the costs permitted to be funded with tax increment revenues under this act.

(5) A brownfield plan may authorize the capture of additional tax increment revenue from an eligible property in excess of the amount authorized under subsection (4) during the time of capture for the purpose of

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paying the costs permitted under subsection (3), or for not more than 5 years after the time that capture is required for the purpose of paying the costs permitted under subsection (3), or both. Excess revenues captured under this subsection shall be deposited in the local site remediation revolving fund created under section 8 and used for the purposes authorized in section 8. If tax increment revenues attributable to taxes levied for school operating purposes from eligible property are captured by the authority for purposes authorized under subsection (3), the tax increment revenues captured for deposit in the local site remediation revolving fund also may include tax increment revenues attributable to taxes levied for school operating purposes in an amount not greater than the tax increment revenues levied for school operating purposes captured from the eligible property by the authority for the purposes authorized under subsection (3). Excess tax increment revenues from taxes levied for school operating purposes for eligible activities authorized under subsection (15) by the Michigan economic growth authority shall not be captured for deposit in the local site remediation revolving fund.

(6) An authority shall not expend tax increment revenues to acquire or prepare eligible property, unless the acquisition or preparation is an eligible activity.

(7) Costs of eligible activities attributable to eligible property include all costs that are necessary or related to a release from the eligible property, including eligible activities on properties affected by a release from the eligible property. For purposes of this subsection, "release" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(8) Costs of a response activity paid with tax increment revenues that are captured pursuant to subsection (3) may be recovered from a person who is liable for the costs of eligible activities at an eligible property. This state or an authority may undertake cost recovery for tax increment revenue captured. Before an authority or this state may institute a cost recovery action, it must provide the other with 120 days' notice. This state or an authority that recovers costs under this subsection shall apply those recovered costs to the following, in the following order of priority:

(a) The reasonable attorney fees and costs incurred by this state or an authority in obtaining the cost recovery.

(b) One of the following:

(*i*) If an authority undertakes the cost recovery action, the authority shall deposit the remaining recovered funds into the local site remediation fund created pursuant to section 8, if such a fund has been established by the authority. If a local site remediation fund has not been established, the authority shall disburse the remaining recovered funds to the local taxing jurisdictions in the proportion that the local taxing jurisdictions' taxes were captured.

(*ii*) If this state undertakes a cost recovery action, this state shall deposit the remaining recovered funds into the revitalization revolving loan fund established under section 20108a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20108a.

(*iii*) If this state and an authority each undertake a cost recovery action, undertake a cost recovery action jointly, or 1 on behalf of the other, the amount of any remaining recovered funds shall be deposited pursuant to subparagraphs (*i*) and (*ii*) in the proportion that the tax increment revenues being recovered represent local taxes and taxes levied for school operating purposes, respectively.

(9) Approval of the brownfield plan or an amendment to a brownfield plan shall be in accordance with the notice and approval provisions of this section and section 14.

(10) Before approving a brownfield plan for an eligible property, the governing body shall hold a public hearing on the brownfield plan. By resolution, the governing body may delegate the public hearing process to the authority or to a subcommittee of the governing body subject to final approval by the governing body. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, not less than 10 or more than 40 days before the date set for the hearing.

(11) Notice of the time and place of the hearing on a brownfield plan shall contain all of the following:

(a) A description of the property to which the plan applies in relation to existing or proposed highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the brownfield plan are available for public inspection at a place designated in the notice and that all aspects of the brownfield plan are open for discussion at the public hearing required by this section.

(c) Any other information that the governing body considers appropriate.

(12) At the time set for the hearing on the brownfield plan required under subsection (10), the governing body shall ensure that interested persons have an opportunity to be heard and that written communications with reference to the brownfield plan are received and considered. The governing body shall ensure that a record of the public hearing is made and preserved, including all data presented at the hearing.

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(13) Not less than 10 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the taxing jurisdictions that levy taxes subject to capture under this act. The authority shall fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed brownfield plan. At that hearing, an official from a taxing jurisdiction with millage that would be subject to capture under this act has the right to be heard in regard to the adoption of the brownfield plan. Not less than 10 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the department if the brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities that require the approval of a work plan by the department under section 15(1)(a) and the Michigan economic growth authority, or its designee, if the brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities subject to subsection (15) or (18).

(14) The authority shall not enter into agreements with the taxing jurisdictions and the governing body of the municipality to share a portion of the captured taxable value of an eligible property. Upon adoption of the plan, the collection and transmission of the amount of tax increment revenues as specified in this act shall be binding on all taxing units levying ad valorem property taxes or specific taxes against property located in the zone.

(15) Except as provided by subsection (18), if a brownfield plan includes the capture of taxes levied for school operating purposes approval of a work plan by the Michigan economic growth authority before January 1, 2013 to use taxes levied for school operating purposes and a development agreement or reimbursement agreement between the municipality or authority and an owner or developer of eligible property are required if the taxes levied for school operating purposes will be used for infrastructure improvements that directly benefit eligible property, demolition of structures that is not response activity under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, lead or asbestos abatement, site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101, relocation of public buildings or operations for economic development purposes, or acquisition of property by a land bank fast track authority if acquisition of the property is for economic development purposes. The eligible activities to be conducted described in this subsection shall be consistent with the work plan submitted by the authority to the Michigan economic growth authority. The department's approval is not required for the capture of taxes levied for school operating purposes for eligible activities described in this subsection.

(16) The limitations of section 15(1) upon use of tax increment revenues by an authority shall not apply to the following costs and expenses:

(a) In each fiscal year of the authority, the amount described in subsection (19) for the following purposes for tax increment revenues attributable to local taxes:

(*i*) Reasonable and actual administrative and operating expenses of the authority.

(*ii*) Baseline environmental assessments, due care activities, and additional response activities conducted by or on behalf of the authority related directly to work conducted on prospective eligible properties prior to approval of the brownfield plan.

(b) Reasonable costs of preparing a work plan or the cost of the review of a work plan for which tax increment revenues may be used under section 13(3).

(c) For tax increment revenues attributable to local taxes, reasonable costs of site investigations described in section 15(1)(a)(*i*), baseline environmental assessments, and due care activities incurred by a person other than the authority related directly to work conducted on eligible property or prospective eligible properties prior to approval of the brownfield plan, if those costs and the eligible property are included in a brownfield plan approved by the authority.

(17) A brownfield authority may reimburse advances, with or without interest, made by a municipality under section 7(3), a land bank fast track authority, or any other person or entity for costs of eligible activities with any source of revenue available for use of the brownfield authority under this act. If an authority reimburses a person or entity under this section for an advance for the payment or reimbursement of the cost of eligible activities and interest thereon, the authority may capture local taxes for the payment of that interest. If an authority reimburses a person or entity under this section for an advance for the payment or reimbursement of the cost of baseline environmental assessments, due care, and additional response activities and interest thereon included in a work plan approved by the department, the authority may capture taxes levied for school operating purposes and local taxes for the payment of that interest. If an authority reimburses a person or entity under this section for an advance for the payment or reimbursement of the cost of eligible activities that are not baseline environmental assessments, due care, and additional response activities and interest thereon included in a work plan approved by the Michigan economic growth authority, the authority may capture taxes levied for school operating purposes and local taxes for the payment of that interest provided that the Michigan economic growth authority grants an approval for the capture of taxes

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levied for school operating purposes to pay such interest. An authority may enter into agreements related to these reimbursements and payments. A reimbursement agreement for these purposes and the obligations under that reimbursement agreement shall not be subject to section 12 or the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(18) If a brownfield plan includes the capture of taxes levied for school operating purposes, approval of a work plan by the Michigan economic growth authority in the manner required under section 15(14) to (16) is required in order to use tax increment revenues attributable to taxes levied for school operating purposes for purposes of eligible activities described in section 2(m)(*iv*)(E) for 1 or more parcels of eligible property. The work plan to be submitted to the Michigan economic growth authority under this subsection shall be in a form prescribed by the Michigan economic growth authority. The eligible activities to be conducted and described in this subsection shall be consistent with the work plan submitted by the authority to the Michigan economic growth authority. The department's approval is not required for the capture of taxes levied for school operating purposes for eligible activities described in this section.

(19) In each fiscal year of the authority, the amount of tax increment revenues attributable to local taxes that an authority can use for the purposes described in subsection (16)(a) shall be determined as follows:

(a) For authorities that have 5 or fewer active projects, $100,000.00.

(b) For authorities that have 6 or more but fewer than 11 active projects, $125,000.00.

(c) For authorities that have 11 or more but fewer than 16 active projects, $150,000.00.

(d) For authorities that have 16 or more but fewer than 21 active projects, $175,000.00.

(e) For authorities that have 21 or more but fewer than 26 active projects, $200,000.00.

(f) For authorities that have 26 or more active projects, $300,000.00.

(20) As used in subsection (19), "active project" means a project in which the authority is currently capturing taxes under this act.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2002, Act 727, Imd. Eff. Dec. 30, 2002;—Am. 2003, Act 259, Imd. Eff. Jan. 5, 2004;—Am. 2005, Act 101, Imd. Eff. July 22, 2005;—Am. 2006, Act 32, Imd. Eff. Feb. 23, 2006;—Am. 2006, Act 467, Imd. Eff. Dec. 20, 2006;—Am. 2007, Act 202, Imd. Eff. Dec. 27, 2007.

125.2664 Brownfield plan as public purpose; determination; amendments to plan; validity of procedure, notice, and findings; presumption.

Sec. 14. (1) Not less than 10 days after notice of the proposed brownfield plan is provided to the taxing jurisdictions, the governing body shall determine whether the plan constitutes a public purpose. If the governing body determines that the plan does not constitute a public purpose, the governing body shall reject the plan. If the governing body determines that the plan constitutes a public purpose, the governing body may then approve or reject the plan, or approve it with modification, by resolution, based on the following considerations:

(a) Whether the plan meets the requirements of section 13.

(b) Whether the proposed method of financing the costs of eligible activities is feasible and the authority has the ability to arrange the financing.

(c) Whether the costs of eligible activities proposed are reasonable and necessary to carry out the purposes of this act.

(d) Whether the amount of captured taxable value estimated to result from adoption of the plan is reasonable.

(2) Except as provided in this subsection, amendments to an approved brownfield plan must be submitted by the authority to the governing body for approval or rejection following the same notice necessary for approval or rejection of the original plan. Notice is not required for revisions in the estimates of captured taxable value or tax increment revenues.

(3) The procedure, adequacy of notice, and findings with respect to purpose and captured taxable value shall be presumptively valid unless contested in a court of competent jurisdiction within 60 days after adoption of the resolution adopting the brownfield plan. An amendment, adopted by resolution, to a conclusive plan shall likewise be conclusive unless contested within 60 days after adoption of the resolution adopting the amendment. If a resolution adopting an amendment to the plan is contested, the original resolution adopting the plan is not therefore open to contest.

History: 1996, Act 381, Eff. Sept. 16, 1996.

125.2665 Prohibited conduct; work plan; documents to be submitted for approval; written request pertaining to baseline environmental assessment activities or due care activities; additional response activities; denial of work plan as final decision; appeal; reimbursement of costs to review work plan; report; distribution of remaining funds; use

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of school operating taxes; extension of review period.

Sec. 15. (1) An authority shall not do any of the following:

(a) For eligible activities not described in section 13(15), use taxes levied for school operating purposes captured from eligible property unless the eligible activities to be conducted on the eligible property are eligible activities under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, consistent with a work plan approved by the department after July 24, 1996 and before January 1, 2013. However, except as provided in subdivision (e), an authority may use taxes levied for school operating purposes captured from eligible property without the approval of a work plan by the department for the reasonable costs of 1 or more of the following:

(*i*) Site investigation activities required to conduct a baseline environmental assessment and to evaluate compliance with section 20107a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a.

(*ii*) Completing a baseline environmental assessment report.

(*iii*) Preparing a plan for compliance with section 20107a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a.

(b) For eligible activities not described in section 13(15), other than activities that are exempt from the work plan approval process under subsection (1)(a), use funds from a local site remediation revolving fund that are derived from taxes levied for school operating purposes unless the eligible activities to be conducted are eligible activities under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, consistent with a work plan that has been approved by the department after July 24, 1996.

(c) Use funds from a local site remediation revolving fund created pursuant to section 8 that are derived from taxes levied for school operating purposes for the eligible activities described in section 13(15) unless the eligible activities to be conducted are consistent with a work plan approved by the Michigan economic growth authority.

(d) Use taxes captured from eligible property to pay for eligible activities conducted before approval of the brownfield plan except for costs described in section 13(16).

(e) Use taxes levied for school operating purposes captured from eligible property for response activities that benefit a party liable under section 20126 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20126, except that a municipality that established the authority may use taxes levied for school operating purposes captured from eligible property for response activities associated with a landfill.

(f) Use taxes captured from eligible property to pay for administrative and operating activities of the authority or the municipality on behalf of the authority except for costs described in section 13(16) and for the reasonable costs for preparing a work plan for the eligible property, including the actual cost of the review of the work plan under this section.

(2) To seek department approval of a work plan under subsection (1)(a) or (b), the authority shall submit all of the following for each eligible property:

(a) A copy of the brownfield plan.

(b) Current ownership information for each eligible property and a summary of available information on proposed future ownership, including the amount of any delinquent taxes, interest, and penalties that may be due.

(c) A summary of available information on the historical and current use of each eligible property, including a brief summary of site conditions and what is known about environmental contamination as that term is defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(d) Existing and proposed future zoning for each eligible property.

(e) A brief summary of the proposed redevelopment and future use for each eligible property.

(f) A separate work plan, or part of a work plan, for each eligible activity to be undertaken.

(3) Upon receipt of a request for approval of a work plan under subsection (2) or a portion of a work plan that pertains to only baseline environmental assessment activities or due care activities, or both, the department shall review the work plan according to subsection (4) and provide 1 of the following written responses to the requesting authority within 60 days:

(a) An unconditional approval.

(b) A conditional approval that delineates specific necessary modifications to the work plan to meet the criteria of subsection (4), including, but not limited to, individual activities to be added or deleted from the work plan and revision of costs.

(c) If the work plan lacks sufficient information for the department to respond under subdivision (a), (b), or

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(d) for any specific activity, a letter stating with specificity the necessary additions or changes to the work plan to be submitted before that activity will be considered by the department. The department shall respond under subdivision (a), (b), or (d) according to this section for the other activities in the work plan.

(d) A denial if the property is not an eligible property under this act, if the work plan contemplates the use of taxes levied for school operating purposes prohibited by subsection (1)(e), or for any specific activity if the activity is prohibited by subsection (1)(d). The department may also deny any activity in a work plan that does not meet the conditions in subsection (4) only if the department cannot respond under subdivision (b) or (c). The department shall accompany the denial with a letter that states with specificity the reason for the denial. The department shall respond under subdivision (a), (b), or (c) according to this section for any activities in the work plan that are not denied under this subdivision. If the department denies all or a portion of a work plan under this subdivision, the authority may subsequently resubmit the work plan.

(4) The department may approve a work plan if the following conditions have been met:

(a) Whether some or all of the activities constitute due care activities or additional response activities other than activities that are exempt from the work plan approval process under subsection (1)(a).

(b) The due care activities and response activities, other than the activities that are exempt from the work plan approval process under subsection (1)(a), are protective of the public health, safety, and welfare and the environment. The department may approve additional response activities that are more protective of the public health, safety, and welfare and the environment than required by section 20107a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a, if those activities provide public health or environmental benefit. In review of a work plan that includes activities that are more protective of the public health, safety, and welfare and the environment, the department's considerations may include, but are not limited to, all of the following:

(*i*) Proposed new land use and reliability of restrictions to prevent exposure to contamination.

(*ii*) Cost of implementation activities minimally necessary to achieve due care compliance, the incremental cost of all additional response activities relative to the cost of all response activities, and the total cost of all response activities.

(*iii*) Long-term obligations associated with leaving contamination in place and the value of reducing or eliminating these obligations.

(c) The estimated costs for the activities as a whole are reasonable for the stated purpose. Except as provided in subdivision (b), the department shall make the determination in this subdivision only after the department determines that the conditions in subdivisions (a) and (b) have been met.

(5) If the department fails to provide a written response under subsection (3) within 60 days after receipt of a request for approval of a work plan, the authority may proceed with the activities as outlined in the work plan as submitted for approval. Except as provided in subsection (6), activities conducted pursuant to a work plan that was submitted to the department for approval but for which the department failed to provide a written response under subsection (3) shall be considered approved for the purposes of subsection (1). Within 45 days after receiving additional information requested from the authority under subsection (3)(c), the department shall review the additional information according to subsection (4) and provide 1 of the responses described in subsection (3) to the requesting authority for the specific activity. If the department does not provide a response to the requesting authority within 45 days after receiving the additional information requested under subsection (3)(c), the activity is approved under subsection (1).

(6) The department may issue a written response to a work plan more than 60 days but less than 6 months after receipt of a request for approval. If the department issues a written response under this subsection, the authority is not required to conduct individual activities that are in addition to the individual activities included in the work plan as it was submitted for approval and failure to conduct these additional activities shall not affect the authority's ability to capture taxes under subsection (1) for the eligible activities described in the work plan initially submitted under subsection (5). In addition, at the option of the authority, these additional individual activities shall be considered part of the work plan of the authority and approved for purposes of subsection (1). However, any response by the department under this subsection that identifies additional individual activities that must be carried out to satisfy part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, must be satisfactorily completed for the activities to be considered acceptable for the purposes of compliance with part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142.

(7) If the department issues a written response under subsection (6) to a work plan and if the department's written response modifies an individual activity proposed by the work plan of the authority in a manner that reduces or eliminates a proposed response activity, the authority must complete those individual activities in accordance with the department's response in order for that portion of the work plan to be considered approved for purposes of subsection (1), unless 1 or more of the following conditions apply:

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(a) Obligations for the individual activity have been issued by the authority, or by a municipality on behalf of the authority, to fund the individual activity prior to issuance of the department's response.

(b) The individual activity has commenced or payment for the work has been irrevocably obligated prior to issuance of the department's response.

(8) It shall be in the sole discretion of an authority to propose to undertake additional response activities at an eligible property under a brownfield plan. The department shall not require a work plan to include additional response activities.

(9) The department shall review the portion of a work plan that includes additional response activities in accordance with subsection (4).

(10) The department's approval or denial of a work plan submitted under this section constitutes a final decision in regard to the use of taxes levied for school operating purposes but does not restrict an authority's use of tax increment revenues attributable to local taxes to pay for eligible activities under a brownfield plan. If a person is aggrieved by the final decision, the person may appeal under section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631.

(11) The authority shall reimburse the department for the actual cost incurred by the department or a contractor of the department to review a work plan under subsection (1)(a) or (b) under this section. Funds paid to the department under this subsection shall be deposited in the cost recovery subaccount of the cleanup and redevelopment fund created under section 20108 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20108.

(12) The department shall submit a report each year on or before March 1 to each member of the legislature that contains all of the following:

(a) A compilation and summary of all the information submitted under subsection (2).

(b) The amount of tax increment revenues approved by the department in the immediately preceding calendar year, including taxes levied for school operating purposes, to conduct eligible activities.

(13) To seek Michigan economic growth authority approval of a work plan under subsection (1)(c) or section 13(15), the authority shall submit all of the following for each eligible property:

(a) A copy of the brownfield plan.

(b) Current ownership information for each eligible property and a summary of available information on proposed future ownership, including the amount of any delinquent taxes, interest, and penalties that may be due.

(c) A summary of available information on the historical and current use of each eligible property.

(d) Existing and proposed future zoning for each eligible property.

(e) A brief summary of the proposed redevelopment and future use for each eligible property.

(f) A separate work plan, or part of a work plan, for each eligible activity described in section 13(15) to be undertaken.

(g) A copy of the development agreement or reimbursement agreement required under section 13(15), which shall include, but is not limited to, a detailed summary of any and all ownership interests, monetary considerations, fees, revenue and cost sharing, charges, or other financial arrangements or other consideration between the parties.

(14) Upon receipt of a request for approval of a work plan, the Michigan economic growth authority shall provide 1 of the following written responses to the requesting authority within 65 days:

(a) An unconditional approval that includes an enumeration of eligible activities and a maximum allowable capture amount.

(b) A conditional approval that delineates specific necessary modifications to the work plan, including, but not limited to, individual activities to be added or deleted from the work plan and revision of costs.

(c) A denial and a letter stating with specificity the reason for the denial. If a work plan is denied under this subsection, the work plan may be subsequently resubmitted.

(15) In its review of a work plan under subsection (1)(c) or section 13(15), the Michigan economic growth authority shall consider the following criteria to the extent reasonably applicable to the type of activities proposed as part of that work plan when approving or denying a work plan:

(a) Whether the individual activities included in the work plan are sufficient to complete the eligible activity.

(b) Whether each individual activity included in the work plan is required to complete the eligible activity.

(c) Whether the cost for each individual activity is reasonable.

(d) The overall benefit to the public.

(e) The extent of reuse of vacant buildings and redevelopment of blighted property.

(f) Creation of jobs.

(g) Whether the eligible property is in an area of high unemployment.

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(h) The level and extent of contamination alleviated by or in connection with the eligible activities.

(i) The level of private sector contribution.

(j) The cost gap that exists between the site and a similar greenfield site as determined by the Michigan economic growth authority.

(k) If the developer or projected occupant of the new development is moving from another location in this state, whether the move will create a brownfield.

(*l*) Whether the project of the developer, landowner, or corporate entity that is included in the work plan is financially and economically sound.

(m) Other state and local incentives available to the developer, landowner, or corporate entity for the project of the developer, landowner, or corporate entity that is included in the work plan.

(n) Any other criteria that the Michigan economic growth authority considers appropriate for the determination of eligibility or for approval of the work plan.

(16) If the Michigan economic growth authority fails to provide a written response under subsection (14) within 65 days after receipt of a request for approval of a work plan, the eligible activities shall be considered approved and the authority may proceed with the eligible activities described in section 13(15) as outlined in the work plan as submitted for approval.

(17) The Michigan economic growth authority's approval of a work plan under section 13(15) is final.

(18) The authority shall reimburse the Michigan economic growth authority for the actual cost incurred by the Michigan economic growth authority or a contractor of the Michigan economic growth authority to review a work plan under this section.

(19) The Michigan economic growth authority shall submit a report each year on or before March 1 to each member of the legislature that contains all of the following:

(a) A compilation and summary of all the information submitted under subsection (13).

(b) The amount of tax increment revenues approved by the Michigan economic growth authority in the immediately preceding calendar year, including taxes levied for school operating purposes, to conduct eligible activities.

(20) All taxes levied for school operating purposes that are not used for eligible activities consistent with a work plan approved by the department or the Michigan economic growth authority or for the payment of interest under section 13 and that are not deposited in a local site remediation revolving fund shall be distributed proportionately between the local school district and the school aid fund.

(21) An authority shall not use taxes levied for school operating purposes captured from eligible property for eligible activities for a qualified facility or for eligible activities for property located in an economic opportunity zone.

(22) The department's approval of a work plan under subsection (3)(a) or (b) does not imply an entitlement to reimbursement of the costs of the eligible activities if the work plan is not implemented as approved.

(23) The applicant and the department can, by mutual agreement, extend the time period for any review described in this section. An agreement described in this subsection shall be documented in writing.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2002, Act 727, Imd. Eff. Dec. 30, 2002;—Am. 2003, Act 283, Imd. Eff. Jan. 8, 2004;—Am. 2005, Act 101, Imd. Eff. July 22, 2005;—Am. 2006, Act 32, Imd. Eff. Feb. 23, 2006;—Am. 2007, Act 201, Imd. Eff. Dec. 27, 2007.

125.2665a Retention and payment of taxes levied under state education tax act; conditions; application for approval by authority; information to be included; approval, modification, or denial of application by department of treasury; appropriation and distribution of amount; calculation of aggregate amount; lien; reimbursement calculations; legislative intent; definitions.

Sec. 15a. (1) If the amount of tax increment revenues lost as a result of the personal property tax exemptions provided by section 1211(4) of the revised school code, 1976 PA 451, MCL 380.1211, section 3 of the state education tax act, 1993 PA 331, MCL 211.903, section 14(4) of 1974 PA 198, MCL 207.564, and section 9k of the general property tax act, 1893 PA 206, MCL 211.9k, will reduce the allowable school tax capture received in a fiscal year, then, notwithstanding any other provision of this act, the authority, with approval of the department of treasury under subsection (3), may request the local tax collecting treasurer to retain and pay to the authority taxes levied within the municipality under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, to be used for the following:

(a) To repay an advance made not later than 1 year after the effective date of the amendatory act that added this section.

(b) To repay an obligation issued or incurred not later than 1 year after the effective date of the amendatory act that added this section.

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(c) To pay or reimburse a developer or owner of eligible property or a municipality that created the authority for eligible activities pursuant to a development and reimbursement agreement entered into not later than 1 year after the effective date of the amendatory act that added this section.

(d) To pay for eligible activities identified in a brownfield plan, or an amendment to that plan approved by board of the authority not later than 90 days after the effective date of the amendatory act that added this section if the plan contains all of the following and the work plan for the capture of school taxes has been approved within 1 year after the effective date of the amendatory act that added this section:

(*i*) A detailed description of the project.

(*ii*) A statement of the estimated cost of the project.

(*iii*) The specific location of the project.

(*iv*) The name of any developer of the project.

(2) Not later than June 15 of 2008 and not later than June 1 of each subsequent year, an authority eligible under subsection (1) to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section, shall apply for approval with the department of treasury. The application for approval shall include the following information:

(a) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(b) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.

(c) The tax increment revenues the authority estimates it would have received for that fiscal year if the personal property tax exemptions described in subsection (1) were not in effect.

(d) A list of advances, obligations, development and reimbursement agreements, and projects included in brownfield plans described in subsection (1), and shall separately identify the payments due on each of those advances, obligations, development agreements, and eligible activities in that fiscal year, and the total amount of all the payments due on all of those in that fiscal year.

(e) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, or would be used for, the repayment of an advance, the payment of an obligation, the payment of eligible activities pursuant to a development and reimbursement agreement, or the payment of eligible activities identified in a brownfield plan described in subsection (1). That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development plan.

(f) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(3) Not later than August 15, based on the calculations under subsection (5), the department of treasury shall approve, modify, or deny the application for approval to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section. If the application for approval contains the information required under subsection (2)(a) through (f) and appears to be in substantial compliance with the provisions of this section, then the department of treasury shall approve the application. If the application is denied by the department of treasury, then the department of treasury shall provide the opportunity for a representative of the authority to discuss the denial within 21 days after the denial occurs and shall sustain or modify its decision within 30 days after receiving information from the authority. If the application for approval is approved or modified by the department of treasury, the local tax collecting treasurer shall retain and pay to the authority the amount described in subsection (5) as approved by the department of treasury. If the department of treasury denies the authority's application for approval, the local tax collecting treasurer shall not retain or pay to the authority the taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the department does not prohibit a subsequent audit of taxes retained in accordance with the procedures currently authorized by law.

(4) Each year the legislature shall appropriate and distribute an amount sufficient to pay each authority the following:

(a) If the amount to be retained and paid under subsection (3) is less than the amount calculated under subsection (5), the difference between those amounts.

(b) If the application for approval is denied by the department of treasury, an amount verified by the department equal to the amount calculated under subsection (5).

(5) Subject to subsection (6), the aggregate amount under this section shall be the sum of the amounts determined under subdivisions (a) and (b) minus the amount determined under subdivision (c), as follows:

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(a) The amount by which the tax increment revenues the authority would have received and retained for the fiscal year, excluding taxes exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax exemptions described in subsection (1) were not in effect, exceed the tax increment revenues the authority actually received for the fiscal year.

(b) A shortfall required to be reported under subsection (2)(f) that had not previously increased a distribution.

(c) An excess amount required to be reported under subsection (2)(f) that had not previously decreased a distribution.

(6) A distribution or taxes retained under this section replacing tax increment revenues pledged by an authority or a municipality are subject to any lien of the pledge described in subsection (1), whether or not there has been physical delivery of the distribution.

(7) Obligations for which distributions are made under this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(8) Not later than September 15 of each year, the authority shall provide a copy of the application for approval approved by the department of treasury to the local tax collecting treasurer and provide the amount of the taxes retained and paid to the authority under subsection (5).

(9) Calculations of amounts retained and paid and appropriations to be distributed under this section shall be made on the basis of each development area of the authority.

(10) The state tax commission may provide that the calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

(11) It is the intent of the legislature that, to the extent that the total amount of taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be retained under this section and section 11b of the local development financing act, 1986 PA 281, MCL 125.2161b, section 12b of the tax increment financing act, 1980 PA 450, MCL 125.1812b, and section 13c of 1975 PA 197, MCL 125.1663c, exceeds the difference of the total school aid fund revenue for the tax year minus the estimated amount of revenue the school aid fund would have received for the tax year had the tax exemptions described in subsection (1) and the earmark created by section 515 of the Michigan business tax act, 2007 PA 36, MCL 208.1515, not taken effect, the general fund shall reimburse the school aid fund the difference.

(12) As used in this section:

(a) "Advance" means that term as defined in section 1 of 1975 PA 197, MCL 125.1651.

(b) "Obligation" means that term as defined in section 1 of 1975 PA 197, MCL 125.1651.

History: Add. 2008, Act 154, Imd. Eff. June 5, 2008.

125.2666 Tax increment revenues; transmission to authority; expenditure; reversion of surplus funds; abolishment of plan; financial status report; collection of financial reports by state tax commission; performance postaudit report by auditor general.

Sec. 16. (1) The municipal and county treasurers shall transmit tax increment revenues to the authority not more than 30 days after tax increment revenues are collected.

(2) The authority shall expend the tax increment revenues received only in accordance with the brownfield plan. All surplus funds not deposited in the local site remediation revolving fund of the authority under section 13(5) shall revert proportionately to the respective taxing bodies, except as provided in section 15(20). The governing body may abolish the plan when it finds that the purposes for which the plan was established are accomplished. However, the plan shall not be abolished until the principal and interest on bonds issued under section 17 and all other obligations to which the tax increment revenues are pledged have been paid or funds sufficient to make the payment have been segregated.

(3) The authority shall submit annually to the governing body and the state tax commission a financial report on the status of the activities of the authority. The report shall include all of the following:

(a) The amount and source of tax increment revenues received.

(b) The amount and purpose of expenditures of tax increment revenues.

(c) The amount of principal and interest on all outstanding indebtedness.

(d) The initial taxable value of all eligible property subject to the brownfield plan.

(e) The captured taxable value realized by the authority.

(f) Information concerning any transfer of ownership of or interest in each eligible property.

(g) The amount of tax increment revenues attributable to taxes levied for school operating purposes used for activities described in section 15(1)(a) and section 2(m)(*vii*).

(h) All additional information that the governing body or the state tax commission considers necessary.

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(4) The state tax commission shall collect the financial reports submitted under subsection (3), compile and analyze the information contained in those reports, and submit annually a report based on that information to all of the following standing committees of the legislature:

(a) In the house of representatives, the committees responsible for natural resource management, conservation, environmental protection, commerce, economic development, and taxation.

(b) In the senate, the committees responsible for natural resource management, conservation, environmental protection, economic development, and taxation.

(5) In addition to any other requirements under this act, not less than once every 3 years beginning not later than June 30, 2008, the auditor general shall conduct and report a performance postaudit on the effectiveness, efficiency, and economy of the program established under this act. As part of the performance postaudit, the auditor general shall assess the extent to which the implementation of the program by the department and the Michigan economic growth authority facilitate and affect the redevelopment or reuse of eligible property and identify any factors that inhibit the program's effectiveness. The performance postaudit shall also assess the extent to which the interpretation of statutory language, the development of guidance or administrative rules, and the implementation of the program by the department and the Michigan economic growth authority is consistent with the fundamental objective of facilitating and supporting timely and efficient brownfield redevelopment of eligible properties. Copies of the performance postaudits shall be provided to the governor, the clerk of the house of representatives, the secretary of the senate, and the chairpersons of the senate and house of representatives standing committees on commerce and economic development.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2007, Act 203, Imd. Eff. Dec. 27, 2007.

125.2667 Authorization, issuance, and sale of tax increment bonds and notes.

Sec. 17. (1) By resolution of its board, the authority may authorize, issue, and sell its tax increment bonds and notes, subject to the limitations set forth in this section, to finance the purposes of a brownfield plan. The bonds or notes shall be payable in the manner and upon the terms and conditions determined, or within the parameters specified, by the authority in the resolution authorizing issuance of the bonds or notes. The resolution authorizing the bonds shall create a lien on the tax increment revenues and other revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds or notes may be issued of equal standing and parity of lien as to the tax increment revenues and other revenues pledged under the resolution.

(2) The municipality, by majority vote of the members of its governing body, may make a limited tax pledge to support the authority's tax increment bonds or notes or, if authorized by the voters of the municipality, may pledge its unlimited tax full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds or notes.

(3) The bonds or notes issued under this section shall be secured by 1 or more sources of revenue identified in section 7 as sources of financing of activities of the authority, as provided by resolution of the authority.

(4) The bonds and notes of the authority may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for 1 or more of the purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is supplemental and in addition to all other authority granted by law.

(5) The bonds and notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except section 503 of the revised municipal finance act, 2001 PA 34, MCL 141.2503.

(6) For bonds issued under this act, the first principal amount maturity date or mandatory redemption date shall be not later than 5 years after the date of issuance and some principal amount shall mature or be subject to mandatory redemption in each subsequent year of the term of the bond.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2002, Act 413, Imd. Eff. June 3, 2002.

Compiler's note: The following communication was received:
"September 12, 1999
The Honorable John Engler
Capitol Building
Lansing, Michigan
Subject: PA 381 of 1996
Dear Governor Engler:

A review of the Senate and House Journals has revealed an error in Enrolled Senate Bill 923, which was filed with the Secretary of State on July 24, 1996, and assigned Public Act No. 381 of 1996. The bill presented to the Governor on July 17, 1996, did not accurately

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reflect what was agreed to by both houses of the Legislature. Specifically, Section 17, subsection (1), the third sentence incorrectly stated:

'The terms of the municipal finance act, Act No. 202 of the Public Acts of 1943, apply to bonds issued under this section.'

The sentence agreed to by both houses is:

'Except for the requirement of the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3 of the Michigan Compiled Laws, that the authority receive the approval or an exception from approval from the department of treasury prior to the issuance of bonds under this subsection, the terms of Act No. 202 of the Public Acts of 1943 shall not apply to bonds issued under this section.'

Therefore, we are presenting a correct Enrolled Senate Bill 923 for your signature and filing with the Secretary of State. Upon filing, the defective Enrolled Senate Bill 923 will be replaced with the correct Enrolled Senate Bill 923 and assigned the same public act number. The effective date of the Public Act No. 381 of 1996 will be the date the correct bill is filed.

This procedure ensures the integrity of the process while providing notification to the public. We apologize for any inconvenience this may have caused you or the citizens of the state of Michigan. If you have any questions, please feel free to contact us.

Sincerely,

Carol Morey Viventi Melvin J. DeStigter

Secretary of the Senate Clerk of the House of Representatives

cc: Candice S. Miller, Secretary of State"

125.2668 Operating budget.

Sec. 18. (1) The authority shall prepare and approve a budget for the operation of the authority for the ensuing fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. Funds of a municipality shall not be included in the budget of the authority except those funds authorized in this act or by the governing body of the municipality.

(2) The governing body of a municipality may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds of the authority, other than those committed for designated purposes, which cost shall be paid annually by the authority under an appropriate item in its budget.

History: 1996, Act 381, Eff. Sept. 16, 1996.

125.2669 Dissolution of authority; distribution of tax revenues and interest.

Sec. 19. (1) An authority that completes the purposes for which it was organized shall be dissolved by resolution of the governing body. Except as provided in subsection (2), the property and assets of the authority remaining after the satisfaction of the obligations of the authority shall belong to the municipality or to an agency or instrumentality designated by resolution of the municipality.

(2) Tax increment revenues and the interest earned on tax increment revenues shall be distributed as provided under section 16(2).

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000.

125.2670 Enforcement proceedings.

Sec. 20. The state tax commission may institute proceedings to compel enforcement of the requirements of this act.

History: 1996, Act 381, Eff. Sept. 16, 1996.

125.2671 Taxes levied before December 31, 1996.

Sec. 21. An authority shall not capture tax increment revenues from taxes levied before December 31, 1996.

History: 1996, Act 381, Eff. Sept. 16, 1996.

125.2672 Conditional effective date.

Sec. 22. This act shall not take effect unless Senate Bill No. 919 of the 88th Legislature is enacted into law.

History: 1996, Act 381, Eff. Sept. 16, 1996.

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MICHIGAN RENAISSANCE ZONE ACT
Act 376 of 1996

AN ACT to create and expand certain renaissance zones; to foster economic opportunities in this state; to facilitate economic development; to stimulate industrial, commercial, and residential improvements; to prevent physical and infrastructure deterioration of geographic areas in this state; to authorize expenditures; to provide exemptions and credits from certain taxes; to create certain obligations of this state and local governmental units; to require disclosure of certain transactions and gifts; to provide for appropriations; and to prescribe the powers and duties of certain state and local departments, agencies, and officials.

History: 1996, Act 376, Imd. Eff. July 17, 1996;—Am. 1999, Act 98, Eff. Oct. 11, 1999.

The People of the State of Michigan enact:

125.2681 Short title.

Sec. 1. This act shall be known and may be cited as the “Michigan renaissance zone act”.

History: 1996, Act 376, Imd. Eff. July 17, 1996.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2682 Legislative findings and declarations.

Sec. 2. The legislature of this state finds and declares that there exists in this state continuing need for programs to assist certain local governmental units in encouraging economic development, the consequent job creation and retention, and ancillary economic growth in this state. To achieve these purposes, it is necessary to assist and encourage the creation of renaissance zones and provide temporary relief from certain taxes within the renaissance zones.

History: 1996, Act 376, Imd. Eff. July 17, 1996.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2683 Definitions.

Sec. 3. As used in this act:

(a) "Agricultural processing facility" means 1 or more facilities or operations that transform, package, sort, or grade livestock or livestock products, agricultural commodities, or plants or plant products, excluding forest products, into goods that are used for intermediate or final consumption including goods for nonfood use, and surrounding property.

(b) "Board" means the state administrative board created in 1921 PA 2, MCL 17.1 to 17.3.

(c) "Development plan" means a written plan that addresses the criteria in section 7 and includes all of the following:

(*i*) A map of the proposed renaissance zone that indicates the geographic boundaries, the total area, and the present use and conditions generally of the land and structures within those boundaries.

(*ii*) Evidence of community support and commitment from residential and business interests.

(*iii*) A description of the methods proposed to increase economic opportunity and expansion, facilitate infrastructure improvement, and identify job training opportunities.

(*iv*) Current social, economic, and demographic characteristics of the proposed renaissance zone and anticipated improvements in education, health, human services, public safety, and employment if the renaissance zone is created.

(*v*) Any other information required by the board.

(d) "Elected county executive" means the elected county executive in a county organized under 1966 PA 293, MCL 45.501 to 45.521, or 1973 PA 139, MCL 45.551 to 45.573.

(e) "Forest products processing facility" means 1 or more facilities or operations that transform, package, sort, recycle, or grade forest or paper products into goods that are used for intermediate or final use or consumption or for the creation of biomass or alternative fuels through the utilization of forest products or forest residue, and surrounding property. Forest products processing facility does not include an existing facility or operation that is located in this state that relocates to a renaissance zone for a forest products processing facility. Forest products processing facility does not include a facility or operation that engages primarily in retail sales.

(f) "Local governmental unit" means a county, city, village, or township.

(g) "Person" means an individual, partnership, corporation, association, limited liability company,

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governmental entity, or other legal entity.

(h) "Qualified local governmental unit" means either of the following:

(*i*) A county.

(*ii*) A city, village, or township that contains an eligible distressed area as defined in section 11 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.

(i) "Recovery zone" means a tool and die renaissance recovery zone created in section 8d.

(j) "Renaissance zone" means a geographic area designated under this act.

(k) "Renewable energy facility" means a facility that creates energy directly or fuel from the wind, the sun, trees, grasses, biosolids, algae, agricultural commodities, processed products from agricultural commodities, or residues from agricultural processes, wood or forest processes, food production and processing, or the paper products industry. Renewable energy facility also includes a facility that creates energy or fuels from solid biomass, animal wastes, or landfill gases. Renewable energy facility also includes a facility that focuses on research, development, or manufacturing of systems or components of systems used to create energy or fuel from the items described in this subdivision.

(*l*) "Residential rental property" means that term as defined in section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff.

(m) "Review board" means the renaissance zone review board created in section 5.

(n) "Rural area" means an area that lies outside of the boundaries of an urban area.

(o) "Urban area" means an urbanized area as determined by the economics and statistics administration, United States bureau of the census according to the 1990 census.

History: 1996, Act 376, Imd. Eff. July 17, 1996;—Am. 1999, Act 98, Eff. Oct. 11, 1999;—Am. 2000, Act 259, Imd. Eff. June 29, 2000;—Am. 2005, Act 275, Imd. Eff. Dec. 19, 2005;—Am. 2006, Act 273, Imd. Eff. July 7, 2006;—Am. 2006, Act 304, Imd. Eff. July 20, 2006;—Am. 2008, Act 117, Imd. Eff. Apr. 29, 2008;—Am. 2008, Act 217, Imd. Eff. July 16, 2008.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2684 Designation of local governmental unit as renaissance zone; application; criteria; additional distinct geographic areas; extension of status.

Sec. 4. (1) One or more qualified local governmental units may apply to the review board to designate the qualified local governmental unit or units as a renaissance zone if all of the following criteria are met:

(a) The geographic area of the proposed renaissance zone is located within the boundaries of the qualified local governmental unit or units that apply.

(b) The application includes a development plan.

(c) The proposed renaissance zone is not more than 5,000 acres in size.

(d) The renaissance zone does not contain more than 10 distinct geographic areas. Except as otherwise provided in this subdivision, the minimum size of a distinct geographic area is not less than 5 acres. A qualified local governmental unit or units may designate not more than 8 distinct geographic areas in each renaissance zone to have no minimum size requirement.

(e) The application includes the proposed duration of renaissance zone status, not to exceed 15 years, except as otherwise provided in this section.

(f) If the qualified local governmental unit has an elected county executive, the county executive's written approval of the application.

(g) If the qualified local governmental unit is a city, that city's mayor's written approval of the application.

(2) A qualified local governmental unit may submit not more than 1 application to the review board for designation as a renaissance zone. A resolution provided by a city, village, or township under section 7(2) does not constitute an application of a city, village, or township for a renaissance zone under this act.

(3) For a distinct geographic area described in subsection (1)(d), a village may include publicly owned land within the boundaries of any distinct geographic area.

(4) Beginning December 1, 2006 through December 31, 2011, a qualified local governmental unit or units in which a renaissance zone was designated under section 8 or 8a(1) or (3) may designate additional distinct geographic areas not to exceed a total of 10 distinct geographic areas upon application to and approval by the board of the Michigan strategic fund if the distinct geographic area is located in an eligible distressed area as defined in section 11 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411, or is contiguous to an eligible distressed area, and if the additional distinct geographic area will increase capital investment or job creation. The duration of renaissance zone status for the additional distinct geographic areas shall not exceed 15 years.

(5) Through December 31, 2002, if a qualified local governmental unit or units designate additional distinct geographic areas in a renaissance zone under subsection (4), the qualified local governmental unit or

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units may extend the duration of the renaissance zone status of 1 or more distinct geographic areas in that renaissance zone until 2017 upon application to and approval by the board.

(6) Through December 31, 2002, a qualified local governmental unit or units in which a renaissance zone was designated under section 8 or 8a may, upon application to and approval by the board, seek to extend the duration of renaissance zone status until 2017. Upon application, the board may extend the duration of renaissance zone status.

(7) Through December 31, 2011, a qualified local governmental unit or units in which a renaissance zone was designated under section 8 or 8a(1) or (3) may, upon application to and approval by the board of the Michigan strategic fund, seek to extend the duration of renaissance zone status for 1 or more portions of the renaissance zone if that zone or portion of a zone is in existence as of March 15, 2008, if the extension will increase capital investment or job creation, and the county in which the portion or portions of the renaissance zone are located consents to extend the duration of renaissance zone status. The board of the Michigan strategic fund may extend renaissance zone status for 1 or more portions of the renaissance zone under this subsection for a period of time not to exceed 15 years from the date of the application to the board of the Michigan strategic fund under this subsection. However, beginning on the effective date of the amendatory act that added this sentence, if the board of the Michigan strategic fund extends the duration of 1 or more portions of a renaissance zone under this subsection, the board of the Michigan strategic fund may revoke that extension if the board determines that increased capital investment or job creation will not begin within 1 year of the granting of the extension or otherwise violates the terms of the written development agreement between the owner of the real property and the board of the Michigan strategic fund. Only the qualified local governmental unit that is requesting the extension of time may submit the application. If the board of the Michigan strategic fund extends the duration of 1 or more portions of a renaissance zone, the board of the Michigan strategic fund shall enter into a written development agreement with the owner of all real property located within the boundaries of the portions of the renaissance zone whose duration has been extended. The written development agreement shall include, but is not limited to, all of the following:

(a) The duration of the extension.

(b) The conditions under which the extension is granted.

(c) The amount of capital investment.

(d) The number of jobs to be created.

(e) Any other conditions or requirements reasonably required by the board of the Michigan strategic fund.

History: 1996, Act 376, Imd. Eff. July 17, 1996;—Am. 1999, Act 139, Imd. Eff. Oct. 11, 1999;—Am. 2000, Act 259, Imd. Eff. June 29, 2000;—Am. 2002, Act 477, Imd. Eff. June 27, 2002;—Am. 2006, Act 440, Imd. Eff. Oct. 5, 2006;—Am. 2008, Act 116, Imd. Eff. Apr. 29, 2008.

Compiler's note: Enacting section 1 of Act 477 of 2002 provides:

"Enacting section 1. This amendatory act is retroactive and is effective for 1 or more distinct geographic areas whose duration of renaissance zone status has been extended on and after April 1, 2002. Any action by a qualified local governmental unit on and after April 1, 2002 and until the effective date of this amendatory act to extend the duration of renaissance zone status on additional distinct geographic areas without approval by the board is null and void."

For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2685 Renaissance zone review board; creation; membership; review of applications; recommendations; submission date; compensation; reimbursement for travel and expenses.

Sec. 5. (1) The renaissance zone review board is created. The review board shall consist of the board of the Michigan strategic fund described in section 4 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004.

(2) The review board shall review all applications submitted by qualified local governmental units and make recommendations to the board for approval based on the criteria contained in section 7.

(3) The review board and the board shall not consider an application if the application was submitted after September 30, 1996 for designations under section 8.

(4) Members of the board and the review board shall serve without compensation for their membership on the board and the review board, but members of the board and the review board may receive reasonable reimbursement for necessary travel and expenses.

History: 1996, Act 376, Imd. Eff. July 17, 1996;—Am. 1999, Act 98, Eff. Oct. 11, 1999.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2686 State administrative board; duties; prohibitions; modification of renaissance zone

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boundaries.

Sec. 6. (1) The board shall review all recommendations submitted by the review board and determine which applications meet the criteria contained in section 7.

(2) The board shall do all of the following:

(a) Designate renaissance zones.

(b) Subject to subsection (3), approve or reject the duration of renaissance zone status.

(c) Subject to subsection (3), approve or reject the geographic boundaries and the total area of the renaissance zone as submitted in the application.

(3) The board shall not alter the geographic boundaries of the renaissance zone or the duration of renaissance zone status described in the application unless the qualified local governmental unit or units and the local governmental unit or units in which the renaissance zone is to be located consent by resolution to the alteration.

(4) The board shall not designate a renaissance zone under section 8 before November 1, 1996 or after December 31, 1996.

(5) Except as otherwise provided in this subsection, the designation of a renaissance zone under this act shall take effect on January 1 in the year following designation. However, for purposes of the taxes exempted under section 9(2), the designation of a renaissance zone under this act shall take effect on December 31 in the year of designation. For designations made pursuant to section 8a(2), the board of the Michigan strategic fund may choose a beginning date, provided that the date must be January 1 of a year and must not be more than 5 years after the date of designation. The board of the Michigan strategic fund may provide that the January 1 beginning date be determined under a written agreement between the board of the Michigan strategic fund and the qualified local governmental unit in which the renaissance zone is to be located. However, for purposes of the taxes exempted under section 9(2), the designation of a renaissance zone under section 8a(2) shall take effect on December 31 in the year immediately preceding the year in which the designation under section 8a(2) takes effect.

(6) The board shall not designate a renaissance zone under section 8a after December 31, 2002.

(7) Through December 31, 2002, a qualified local governmental unit in which a renaissance zone was designated under section 8 or 8a may modify the boundaries of that renaissance zone to include contiguous parcels of property as determined by the qualified local governmental unit and approval by the review board. The additional contiguous parcels of property included in a renaissance zone under this subsection do not constitute an additional distinct geographic area under section 4(1)(d). If the boundaries of the renaissance zone are modified as provided in this subsection, the additional contiguous parcels of property shall become part of the original renaissance zone on the same terms and conditions as the original designation of that renaissance zone.

(8) Notwithstanding any other provisions of this act, before July 1, 2004, a qualified local governmental unit in which a renaissance zone was designated under section 8a(1) as a renaissance zone located in a rural area may modify the boundaries of that renaissance zone to include a contiguous parcel of property as determined by the qualified local governmental unit. The contiguous parcel of property shall only include property that is less than .5 acres in size and that the qualified local governmental unit previously sought to have included in the zone by submitting an application in February 2002 that was not acted upon by the review board. The additional contiguous parcel of property included in a renaissance zone under this subsection does not constitute an additional distinct geographic area under section 4(1)(d). If the boundaries of the renaissance zone are modified as provided in this subsection, the additional contiguous parcel of property shall become part of the original renaissance zone on the same terms and conditions as the rest of the property in that renaissance zone.

(9) A business that is located and conducts business activity within a renaissance zone designated under this act, except as designated under section 8a(2), shall not make a payment in lieu of taxes to any taxing jurisdiction within the qualified local governmental unit in which the renaissance zone is located.

(10) Notwithstanding any other provisions of this act, before July 1, 2006, a qualified local governmental unit in which a renaissance zone of less than 50 contiguous acres but more than 20 contiguous acres was designated under section 8 or 8a as a renaissance zone in a city located in a county with a population of more than 160,000 and less than 170,000 may modify the boundaries of that renaissance zone to include a contiguous parcel of property as determined by the qualified local governmental unit. The contiguous parcel of property shall only include property that is less than 12 acres in size. The additional contiguous parcel of property included in a renaissance zone under this subsection does not constitute an additional distinct geographic area under section 4(1)(d). If the boundaries of the renaissance zone are modified as provided in this subsection, the additional contiguous parcel of property shall become part of the original renaissance zone

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on the same terms and conditions as the rest of the property in that renaissance zone.

(11) Notwithstanding any other provisions of this act, before July 1, 2006, a qualified local governmental unit in which a renaissance zone of more than 500 acres was designated under section 8 or 8a as a renaissance zone in a county with a population of more than 61,000 and less than 64,000 may modify the boundaries of that renaissance zone to include a contiguous parcel of property as determined by the qualified local governmental unit. The contiguous parcel of property shall only include property that is less than 12 acres in size. The additional contiguous parcel of property included in a renaissance zone under this subsection does not constitute an additional distinct geographic area under section 4(1)(d). If the boundaries of the renaissance zone are modified as provided in this subsection, the additional contiguous parcel of property shall become part of the original renaissance zone on the same terms and conditions as the rest of the property in that renaissance zone.

(12) Notwithstanding any other provisions of this act, before July 1, 2006, a qualified local governmental unit in which a renaissance zone of more than 137 acres was designated under section 8 or 8a as a renaissance zone in a county with a population of more than 61,000 and less than 63,000 may modify the boundaries of that renaissance zone to include a parcel of property that is separated from the existing renaissance zone by a roadway as determined by the qualified local governmental unit. The parcel of property shall only include property that is less than 67 acres in size. The additional contiguous parcel of property included in a renaissance zone under this subsection does not constitute an additional distinct geographic area under section 4(1)(d). If the boundaries of the renaissance zone are modified as provided in this subsection, the additional contiguous parcel of property shall become part of the original renaissance zone on the same terms and conditions as the rest of the property in that renaissance zone.

History: 1996, Act 376, Imd. Eff. July 17, 1996;—Am. 1999, Act 139, Imd. Eff. Oct. 11, 1999;—Am. 2000, Act 259, Imd. Eff. June 29, 2000;—Am. 2002, Act 478, Imd. Eff. June 27, 2002;—Am. 2003, Act 93, Imd. Eff. July 24, 2003;—Am. 2004, Act 16, Imd. Eff. Mar. 4, 2004;—Am. 2004, Act 430, Imd. Eff. Dec. 20, 2004;—Am. 2006, Act 116, Imd. Eff. Apr. 11, 2006;—Am. 2006, Act 304, Imd. Eff. July 20, 2006;—Am. 2008, Act 242, Imd. Eff. July 17, 2008.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2687 Renaissance zone; designation; criteria; resolution; report of transaction with or gift to official or employee of local governmental unit.

Sec. 7. (1) The board shall consider the following criteria in designating a renaissance zone:

(a) Shall give priority to applications that include new business activity.

(b) Evidence of adverse economic and socioeconomic conditions within the proposed renaissance zone.

(c) The viability of the development plan.

(d) Whether the development plan is creative and innovative.

(e) Public and private commitment to and other resources available for the proposed renaissance zone.

(f) How renaissance zone designation would relate to a broader plan for the community as a whole.

(g) The level of demonstrated cooperation from surrounding communities.

(h) How the local regulatory burden will be eased for businesses operating in the proposed renaissance zone.

(i) Public and private commitment to improving abandoned real property.

(j) Any other information required by the board.

(2) The board shall not designate an area as a renaissance zone unless each city, village, or township, within which the proposed renaissance zone is to be located, provides a resolution from its governing body that states if the renaissance zone designation is granted, persons and property within the renaissance zone are exempt from taxes levied by that city, village, or township as provided in this act.

(3) Within a 12-month period immediately preceding and immediately following designation of a renaissance zone or submission of an application for consideration as a renaissance zone, an individual who is a resident of a renaissance zone or an area being considered for designation as a renaissance zone, a business that is located and conducts business activity within a renaissance zone or an area being considered for designation as a renaissance zone, or an officer of a business that is located and conducts business activity within a renaissance zone or an area being considered for designation as a renaissance zone shall report to the chief executive officer of the local governmental unit in which the renaissance zone is designated or the local governmental unit that has applied for renaissance zone designation any transaction with or gift to any official or employee of that local governmental unit. As used in this subsection, “gift” means that term as defined in section 4 of 1978 PA 472, MCL 4.414.

History: 1996, Act 376, Imd. Eff. July 17, 1996;—Am. 2000, Act 259, Imd. Eff. June 29, 2000.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and

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economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2688 Designation of renaissance zones; limitation; additional zones; submission of designations to legislature; rejection of designations by concurrent resolution.

Sec. 8. (1) Except as otherwise provided in this act, the board shall not designate more than 9 renaissance zones within this state. Not more than 6 of the renaissance zones shall be located in urban areas and not more than 4 of the renaissance zones shall be located in rural areas. For purposes of determining whether a renaissance zone is located in an urban area or rural area under this section, if any part of a renaissance zone is located within an urban area, the entire renaissance zone shall be considered to be located in an urban area.

(2) The board may designate additional renaissance zones within this state in 1 or more qualified local governmental units if that qualified local governmental unit or units contain a military installation that was operated by the United States department of defense and has closed after 1990.

(3) Each renaissance zone designated by the board under section 8a shall be submitted to the legislature, which, by concurrent resolution adopted by a majority vote of those elected to and serving in each house, on a record roll call vote, may reject that designation no later than the earlier of 45 days following the date of the designation by the board or December 31 of the year of designation.

History: 1996, Act 376, Imd. Eff. July 17, 1996;—Am. 1999, Act 139, Imd. Eff. Oct. 11, 1999;—Am. 2003, Act 93, Imd. Eff. July 24, 2003;—Am. 2003, Act 266, Imd. Eff. Jan. 5, 2004;—Am. 2006, Act 304, Imd. Eff. July 20, 2006.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2688a Additional renaissance zones; designation; property located in alternative energy zone; definitions.

Sec. 8a. (1) Except as provided in subsections (2), (3), and (4), the board shall not designate more than 9 additional renaissance zones within this state under this section. Not more than 6 of the renaissance zones shall be located in urban areas and not more than 5 of the renaissance zones shall be located in rural areas. For purposes of determining whether a renaissance zone is located in an urban area or rural area under this section, if any part of a renaissance zone is located within an urban area, the entire renaissance zone shall be considered to be located in an urban area.

(2) The board of the Michigan strategic fund described in section 4 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004, may designate not more than 17 additional renaissance zones within this state in 1 or more cities, villages, or townships if that city, village, or township or combination of cities, villages, or townships consents to the creation of a renaissance zone within their boundaries. The board of the Michigan strategic fund may designate not more than 1 of the 17 additional renaissance zones described in this subsection as an alternative energy zone. An alternative energy zone shall promote and increase the research, development, testing, and manufacturing of alternative energy technology, alternative energy systems, and alternative energy vehicles, as those terms are defined in the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827. An alternative energy zone shall have a duration of renaissance zone status for a period not to exceed 20 years as determined by the board of the Michigan strategic fund. The board of the Michigan strategic fund may designate not more than 8 of the additional 17 renaissance zones described in this subsection as a redevelopment renaissance zone. A redevelopment renaissance zone shall promote the redevelopment of existing industrial facilities or the development of property for industrial purposes. The board of the Michigan strategic fund may designate not more than 1 of the 17 additional renaissance zones described in this subsection as a pharmaceutical recovery renaissance zone. A pharmaceutical recovery renaissance zone shall promote the development or redevelopment of existing underutilized facilities currently occupied or formerly occupied by a pharmaceutical company. Before designating a renaissance zone under this subsection, the board of the Michigan strategic fund may enter into a development agreement with the city, township, or village in which the renaissance zone will be located and the owner or developer of the facility or property located in the renaissance zone. The development agreement for a redevelopment renaissance zone described only in subsection (6)(b)(*vi*) or (*vii*) may provide for the payment of 1 or more of the taxes described in section 9.

(3) In addition to the not more than 9 additional renaissance zones described in subsection (1), the board may designate additional renaissance zones within this state in 1 or more qualified local governmental units if that qualified local governmental unit or units contain a military installation that was operated by the United States department of defense and was closed in 1977 or after 1990.

(4) Land owned by a county or the qualified local governmental unit or units adjacent to a zone as described in subsection (3) may be included in this zone.

(5) Notwithstanding any other provision of this act, property located in the alternative energy zone that is

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classified as commercial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, and that the authority, with the concurrence of the assessor of the local tax collecting unit, determines is not used to directly promote and increase the research, development, testing, and manufacturing of alternative energy technology, alternative energy systems, and alternative energy vehicles as those terms are defined in the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827, is not eligible for any exemption, deduction, or credit under section 9.

(6) As used in this section:

(a) "Pharmaceutical recovery renaissance zone" means a renaissance zone that includes a geographic area that is located in 1 or both of the following:

(*i*) In a city with a population of more than 70,000 and less than 85,000 and in a county with a population of more than 235,000 and less than 250,000.

(*ii*) In a city with a population of more than 42,000 and less than 55,000 and in a county with a population of more than 235,000 and less than 250,000.

(b) "Redevelopment renaissance zone" means a renaissance zone that meets 1 of the following:

(*i*) All of the following:

(A) Is located in a city with a population of more than 7,500 and less than 8,500 and is located in a county with a population of more than 60,000 and less than 70,000.

(B) Contains only all or a portion of an industrial site of 200 or more acres.

(*ii*) All of the following:

(A) Is located in a city with a population of more than 13,000 and less than 14,000 and is located in a county with a population of more than 1,000,000 and less than 1,300,000.

(B) Contains only all or a portion of an industrial site of 300 or more contiguous acres.

(*iii*) All of the following:

(A) Is located in a township with a population of more than 5,500 and is located in a county with a population of less than 24,000.

(B) Contains only all or a portion of an industrial site of more than 850 acres and has railroad access.

(*iv*) All of the following:

(A) Is located in a city with a population of more than 40,000 and less than 44,000 and is located in a county with a population of more than 81,000 and less than 87,000.

(B) Contains only all or a portion of an industrial site of more than 475 acres.

(*v*) All of the following:

(A) Is located in a city with a population of more than 21,000 and less than 26,000 and is located in a county with a population of more than 573,000 and less than 625,000.

(B) Contains only all or a portion of an industrial site of less than 45 acres in size.

(*vi*) All of the following:

(A) Is located in a city with a population of more than 190,000 and less than 250,000 and is located in a county with a population of more than 573,000 and less than 625,000.

(B) Contains only all or a portion of an industrial site of more than 14 acres and less than 16 acres in size.

(C) Is approved by the board of the Michigan strategic fund on or before April 1, 2007.

(*vii*) All of the following:

(A) Is located in a city with a population of more than 35,500 and less than 36,800 and is located in a county with a population of more than 157,000 and less than 162,000.

(B) Contains only all or a portion of an industrial site comprised of 1 or more adjacent parcels totaling 5 or more acres.

(C) Is approved by the board of the Michigan strategic fund on or before April 1, 2007.

(*viii*) All of the following:

(A) Is located in a city with a population of more than 40,000 and less than 44,000 and is located in a county with a population of more than 81,000 and less than 87,000.

(B) Contains only all or a portion of an industrial site composed of 1 or more adjacent parcels totaling 100 or more acres.

(C) Is approved by the board of the Michigan strategic fund on or before April 1, 2008.

History: Add. 1999, Act 98, Eff. Oct. 11, 1999;—Am. 2000, Act 259, Imd. Eff. June 29, 2000;—Am. 2002, Act 512, Imd. Eff. July 23, 2002;—Am. 2002, Act 587, Imd. Eff. Oct. 16, 2002;—Am. 2004, Act 430, Imd. Eff. Dec. 20, 2004;—Am. 2006, Act 116, Imd. Eff. Apr. 11, 2006;—Am. 2006, Act 440, Imd. Eff. Oct. 5, 2006;—Am. 2006, Act 475, Imd. Eff. Dec. 21, 2006;—Am. 2006, Act 476, Imd. Eff. Dec. 21, 2006;—Am. 2008, Act 116, Imd. Eff. Apr. 29, 2008.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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125.2688b Applicability of MCL 15.261 to 15.275 to local governmental units.

Sec. 8b. It is the intent of the legislature that local governmental units subject to this act shall follow all state statutes that relate to condemnation of property and the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

History: Add. 1999, Act 98, Eff. Oct. 11, 1999.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2688c Additional renaissance zones for agricultural processing facilities.

Sec. 8c. (1) The board, upon recommendation of the board of the Michigan strategic fund defined in section 4 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004, and upon recommendation of the commission of agriculture, may designate not more than 30 additional renaissance zones for agricultural processing facilities within this state in 1 or more cities, villages, or townships if that city, village, or township or combination of cities, villages, or townships consents to the creation of a renaissance zone for an agricultural processing facility within their boundaries.

(2) Each renaissance zone designated for an agricultural processing facility under this section shall be 1 continuous distinct geographic area.

(3) The board may revoke the designation of all or a portion of a renaissance zone for an agricultural processing facility if the board determines that the agricultural processing facility does 1 or more of the following in a renaissance zone designated under this section:

(a) Fails to commence operation.

(b) Ceases operation.

(c) Fails to commence construction or renovation within 1 year from the date the renaissance zone for the agricultural processing facility is designated.

(4) Beginning on the date of the amendatory act that added this subsection, the board shall consider all of the following when designating a renaissance zone for an agricultural processing facility:

(a) The economic impact on local suppliers who supply raw materials, goods, and services to the agricultural processing facility.

(b) The creation of jobs relative to the employment base of the community rather than the static number of jobs created.

(c) The viability of the project.

(d) The economic impact on the community in which the agricultural processing facility is located.

(e) All other things being equal, giving preference to a business entity already located in this state.

(5) Beginning on the date of the amendatory act that added this subsection, the board shall do all of the following:

(a) Require a development agreement between the Michigan strategic fund and the agricultural processing facility.

(b) Designate not less than 3 of the renaissance zones for agricultural processing facilities that have an initial capital investment of less than $7,000,000.00.

(c) Designate not less than 5 of the renaissance zones for agricultural processing facilities in rural areas.

(6) As used in this section, "development agreement" means a written agreement between the Michigan strategic fund and the agricultural processing facility that includes, but is not limited to, all of the following:

(a) A requirement that the agricultural processing facility comply with all state and local laws.

(b) A requirement that the agricultural processing facility report annually to the Michigan strategic fund on all of the following:

(*i*) The amount of capital investment made at the facility.

(*ii*) The number of individuals employed at the facility at the beginning and end of the reporting period as well as the number of individuals transferred to the facility from another facility owned by the agricultural processing facility.

(*iii*) The percentage of raw materials purchased in this state.

(c) Any other conditions or requirements reasonably required by the Michigan strategic fund.

History: Add. 2000, Act 259, Imd. Eff. June 29, 2000;—Am. 2003, Act 93, Imd. Eff. July 24, 2003;—Am. 2006, Act 284, Imd. Eff. July 10, 2006.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2688d Tool and die renaissance recovery zones; definitions.

Sec. 8d. (1) The board of the Michigan strategic fund described in section 4 of the Michigan strategic fund

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act, 1984 PA 270, MCL 125.2004, may designate not more than 35 tool and die renaissance recovery zones within this state in 1 or more cities, villages, or townships if that city, village, or township or combination of cities, villages, or townships consents to the creation of a recovery zone within their boundaries. A recovery zone shall have a duration of renaissance zone status for a period of not less than 5 years and not more than 15 years as determined by the board of the Michigan strategic fund. If the Michigan strategic fund determines that the duration of renaissance zone status for a recovery zone is less than 15 years, then the Michigan strategic fund, with the consent of the city, village, or township or combination of cities, villages, or townships in which the qualified tool and die business is located, may extend the duration of renaissance zone status for the recovery zone for 1 or more periods that when combined do not exceed 15 years. Not less than 1 of the recovery zones shall consist of 1 or more qualified tool and die businesses that have a North American industrial classification system (NAICS) of 332997.

(2) The board of the Michigan strategic fund may designate a recovery zone within this state if the recovery zone consists of not less than 4 and not more than 20 qualified tool and die businesses at the time of designation. If the board of the Michigan strategic fund designated 1 or more recovery zones that contain less than 20 qualified tool and die businesses before December 19, 2005, the board of the Michigan strategic fund may add additional qualified tool and die businesses to that recovery zone subject to the limitations contained in this subsection. A recovery zone shall consist of only qualified tool and die business property. The board of the Michigan strategic fund may combine existing recovery zones that are comprised solely of tool and die businesses that are parties to the same qualified collaborative agreement. Where 2 or more recovery zones have been combined, the board of the Michigan strategic fund may continue to designate additional recovery zones, provided that no more than 25 tool and die recovery zones exist at 1 time.

(3) The board of the Michigan strategic fund may revoke the designation of all or a portion of a recovery zone with respect to 1 or more qualified tool and die businesses if those qualified tool and die businesses fail or cease to participate in or comply with a qualified collaborative agreement. A qualified tool and die business may enter into another qualified collaborative agreement once it is designated part of a recovery zone.

(4) One or more qualified tool and die businesses subject to a qualified collaborative agreement may merge into another group of qualified tool and die businesses subject to a different qualified collaborative agreement upon application to and approval by the Michigan strategic fund.

(5) A qualified tool and die business in a recovery zone may have a different period of renaissance zone status than other qualified tool and die businesses in the same recovery zone.

(6) The board of the Michigan strategic fund may modify an existing recovery zone to add 1 or more qualified tool and die businesses with the consent of all other qualified tool and die businesses that are participating in the recovery zone.

(7) The board of the Michigan strategic fund may modify an existing recovery zone to add additional property under the same terms and conditions as the existing recovery zone if all of the following are met:

(a) The additional real property is contiguous to existing qualified tool and die business property and will become qualified tool and die business property once it is brought into operation as determined by the board of the Michigan strategic fund.

(b) The city, village, or township in which the qualified tool and die business is located consents to the modification.

(8) Beginning on the effective date of the amendatory act that added this subsection, a recovery zone may include a qualified tool and die business that has 75 or more full-time employees if that qualified tool and die business has entered into a written agreement with the board of the Michigan strategic fund and the city, village, or township, or a combination of cities, villages, or townships, in which the qualified tool and die business is located.

(9) As used in this section:

(a) "Qualified collaborative agreement" means an agreement that demonstrates synergistic opportunities, including, but not limited to, all of the following:

(*i*) Sales and marketing efforts.

(*ii*) Development of standardized processes.

(*iii*) Development of tooling standards.

(*iv*) Standardized project management methods.

(*v*) Improved ability for specialized or small niche shops to develop expertise and compete successfully on larger programs.

(b) "Qualified tool and die business" means a business entity that meets all of the following:

(*i*) Has a North American industrial classification system (NAICS) of 332997, 333511, 333512, 333513, 333514, or 333515; or has a North American industrial classification system (NAICS) of 337215 and operates a facility within an existing renaissance zone, which facility is adjacent to real property not located in a

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renaissance zone and is located within 1/4 mile of a Michigan technical education center.

(*ii*) Has entered into a qualified collaboration agreement as approved by the Michigan strategic fund consisting of not fewer than 4 or more than 20 other business entities at the time of designation that have a North American industrial classification system (NAICS) of 332997, 333511, 333512, 333513, 333514, or 333515.

(*iii*) Except as otherwise provided by the board of the Michigan strategic fund, has fewer than 75 full-time employees.

(c) "Qualified tool and die business property" means 1 or more of the following:

(*i*) Property owned by 1 or more qualified tool and die businesses and used by those qualified tool and die businesses primarily for tool and die business operations. Qualified tool and die business property is used primarily for tool and die business operations if the qualified tool and die businesses that own the qualified tool and die business property generate 75% or more of the qualified tool and die businesses' gross revenue from tool and die operations that take place on the qualified tool and die business property at the time of designation.

(*ii*) Property leased by 1 or more qualified tool and die business for which the qualified tool and die business is liable for ad valorem property taxes and which is used by those qualified tool and die businesses primarily for tool and die business operations. Qualified tool and die business property is used primarily for tool and die business operations if the qualified tool and die businesses that lease the qualified tool and die business property generate 75% or more of the qualified tool and die businesses' gross revenue from tool and die operations that take place on the qualified tool and die business property at the time of designation. The qualified tool and die business shall furnish proof of its ad valorem property tax liability to the department of treasury.

History: Add. 2003, Act 266, Imd. Eff. Jan. 5, 2004;—Am. 2004, Act 202, Imd. Eff. July 13, 2004;—Am. 2005, Act 276, Imd. Eff. Dec. 19, 2005;—Am. 2006, Act 93, Imd. Eff. Apr. 4, 2006;—Am. 2008, Act 117, Imd. Eff. Apr. 29, 2008;—Am. 2008, Act 495, Imd. Eff. Jan. 13, 2009.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2688e Designation of additional renaissance zones for renewable energy facilities.

Sec. 8e. (1) The board, upon recommendation of the board of the Michigan strategic fund defined in section 4 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004, and upon recommendation of the commission of agriculture if the renewable energy facility uses agricultural crops or residues, or processed products from agricultural crops as its primary raw material source, may designate not more than 15 additional renaissance zones for renewable energy facilities within this state in 1 or more cities, villages, or townships if that city, village, or township or combination of cities, villages, or townships consents to the creation of a renaissance zone for a renewable energy facility within their boundaries. Not fewer than 5 of the renaissance zones for renewable energy facilities shall be designated for renewable energy facilities that focus primarily on the production of cellulosic biofuels.

(2) Each renaissance zone designated for a renewable energy facility under this section shall be 1 continuous distinct geographic area.

(3) The board may revoke the designation of all or a portion of a renaissance zone for a renewable energy facility if the board determines that the renewable energy facility does 1 or more of the following in a renaissance zone designated under this section:

(a) Fails to commence operation.

(b) Ceases operation.

(c) Fails to commence construction or renovation within 1 year from the date the renaissance zone for the renewable energy facility is designated.

(4) When designating a renaissance zone for a renewable energy facility, the board shall consider all of the following:

(a) The economic impact on local suppliers who supply raw materials, goods, and services to the renewable energy facility.

(b) The creation of jobs relative to the employment base of the community rather than the static number of jobs created.

(c) The viability of the project.

(d) The economic impact on the community in which the renewable energy facility is located.

(e) All other things being equal, giving preference to a business entity already located in this state.

(f) Whether the renewable energy facility can be located in an existing renaissance zone designated under section 8 or 8a.

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(5) Beginning on July 7, 2006, the board shall require a development agreement between the Michigan strategic fund and the renewable energy facility.

(6) Until the maximum number of additional renaissance zones for renewable energy facilities described in subsection (1) is met, if the board designates a renaissance zone under this section, section 8c, or section 8f for a facility that is a forest products processing facility or an agricultural processing facility and that also meets the definition of a renewable energy facility, then the board shall only designate that renaissance zone as a renaissance zone for a renewable energy facility under this section.

(7) As used in this section, "development agreement" means a written agreement between the Michigan strategic fund and the renewable energy facility that includes, but is not limited to, all of the following:

(a) A requirement that the renewable energy facility comply with all state and local laws.

(b) A requirement that the renewable energy facility report annually to the Michigan strategic fund on all of the following:

(*i*) The amount of capital investment made at the facility.

(*ii*) The number of individuals employed at the facility at the beginning and end of the reporting period as well as the number of individuals transferred to the facility from another facility owned by the renewable energy facility.

(*iii*) The percentage of raw materials purchased in this state.

(c) Any other conditions or requirements reasonably required by the Michigan strategic fund.

History: Add. 2006, Act 270, Imd. Eff. July 7, 2006;—Am. 2008, Act 117, Imd. Eff. Apr. 29, 2008;—Am. 2008, Act 329, Imd. Eff. Dec. 18, 2008.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2688f Forest products processing facility; designation of additional renaissance zones.

Sec. 8f. (1) The board, upon recommendation of the board of the Michigan strategic fund defined in section 4 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004, may designate not more than 10 additional renaissance zones for forest products processing facilities within this state in 1 or more cities, villages, or townships if that city, village, or township or combination of cities, villages, or townships consents to the creation of a renaissance zone for a forest products processing facility within their boundaries. The board shall designate not more than 5 renaissance zones for a forest products processing facility each year until the maximum number of renaissance zones for a forest products processing facility is met.

(2) Each renaissance zone designated for a forest products processing facility under this section shall be 1 continuous distinct geographic area.

(3) The board may revoke the designation of all or a portion of a renaissance zone for a forest products processing facility if the board determines that the forest products processing facility does 1 or more of the following in a renaissance zone designated under this section:

(a) Fails to commence operation.

(b) Ceases operation.

(c) Fails to commence construction or renovation within 1 year from the date the renaissance zone for the forest products processing facility is designated.

(4) Beginning on the effective date of the amendatory act that added this subsection, the board shall consider all of the following when designating a renaissance zone for a forest products processing facility:

(a) The economic impact on local suppliers who supply raw materials, goods, and services to the forest products processing facility.

(b) The creation of jobs relative to the employment base of the community rather than the static number of jobs created.

(c) The viability of the project.

(d) The economic impact on the community in which the forest products processing facility is located.

(e) Whether the forest products processing facility can be located in an existing renaissance zone designated under section 8 or 8a.

(5) Beginning on the effective date of the amendatory act that added this subsection, the board shall require a development agreement between the Michigan strategic fund and the forest products processing facility.

(6) As used in this section, "development agreement" means a written agreement between the Michigan strategic fund and the forest products processing facility that includes, but is not limited to, all of the following:

(a) A requirement that the forest products processing facility comply with all state and local laws.

(b) A requirement that the forest products processing facility report annually to the Michigan strategic fund on all of the following:

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(*i*) The amount of capital investment made at the facility.

(*ii*) The number of individuals employed at the facility at the beginning and end of the reporting period as well as the number of individuals transferred to the facility from another facility owned by the forest products processing facility.

(*iii*) The percentage of raw materials purchased in this state.

(c) Any other conditions or requirements reasonably required by the Michigan strategic fund.

History: Add. 2006, Act 305, Imd. Eff. July 20, 2006.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2689 Exemption, deduction, or credit.

Sec. 9. (1) Except as otherwise provided in section 10, an individual who is a resident of a renaissance zone or a business that is located and conducts business activity within a renaissance zone shall receive the exemption, deduction, or credit as provided in the following for the period provided under section 6(2)(b):

(a) Section 39b of former 1975 PA 228 or section 433 of the Michigan business tax act, 2007 PA 36, MCL 208.1433.

(b) Section 31 of the income tax act of 1967, 1967 PA 281, MCL 206.31.

(c) Section 35 of chapter 2 of the city income tax act, 1964 PA 284, MCL 141.635.

(d) Section 5 of the city utility users tax act, 1990 PA 100, MCL 141.1155.

(2) Except as otherwise provided in section 10, property located in a renaissance zone is exempt from the collection of taxes under all of the following:

(a) Section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff.

(b) Section 11 of 1974 PA 198, MCL 207.561.

(c) Section 12 of the commercial redevelopment act, 1978 PA 255, MCL 207.662.

(d) Section 21c of the enterprise zone act, 1985 PA 224, MCL 125.2121c.

(e) Section 1 of 1953 PA 189, MCL 211.181.

(f) Section 12 of the technology park development act, 1984 PA 385, MCL 207.712.

(g) Section 51105 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.51105.

(h) Section 9 of the neighborhood enterprise zone act, 1992 PA 147, MCL 207.779.

(3) During the last 3 years that the taxpayer is eligible for an exemption, deduction, or credit described in subsections (1) and (2), the exemption, deduction, or credit shall be reduced by the following percentages:

(a) For the tax year that is 2 years before the final year of designation as a renaissance zone, the percentage shall be 25%.

(b) For the tax year immediately preceding the final year of designation as a renaissance zone, the percentage shall be 50%.

(c) For the tax year that is the final year of designation as a renaissance zone, the percentage shall be 75%.

History: 1996, Act 376, Imd. Eff. July 17, 1996;—Am. 2007, Act 186, Imd. Eff. Dec. 21, 2007;—Am. 2008, Act 495, Imd. Eff. Jan. 13, 2009.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2690 Individuals or businesses ineligible for exemption, deduction, or credit; limitations; eligibility; effect of failure to file return.

Sec. 10. (1) An individual who is a resident of a renaissance zone or a business that is located and conducts business activity within a renaissance zone or a person that owns property located in a renaissance zone is not eligible for the exemption, deduction, or credit listed in section 9(1) or (2) for that taxable year if 1 or more of the following apply:

(a) The resident, business, or property owner is delinquent on December 31 of the prior tax year under 1 or more of the following:

(*i*) Former 1975 PA 228 or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(*ii*) The income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(*iii*) 1974 PA 198, MCL 207.551 to 207.572.

(*iv*) The commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668.

(*v*) The enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123.

(*vi*) 1953 PA 189, MCL 211.181 to 211.182.

(*vii*) The technology park development act, 1984 PA 385, MCL 207.701 to 207.718.

(*viii*) Part 511 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.51101 to

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324.51120.

(*ix*) The neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786.

(*x*) The city utility users tax act, 1990 PA 100, MCL 141.1151 to 141.1177.

(b) The resident, business, or property owner is substantially delinquent as defined in a written policy by the qualified local governmental unit in which the renaissance zone is located on December 31 of the prior tax year under 1 or both of the following:

(*i*) The city income tax act, 1964 PA 284, MCL 141.501 to 141.787.

(*ii*) Taxes, fees, and special assessments collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(c) For residential rental property in a renaissance zone, the residential rental property is not in substantial compliance with all applicable state and local zoning, building, and housing laws, ordinances, or codes and, except as otherwise provided in this subdivision, the residential rental property owner has not filed an affidavit before December 31 in the immediately preceding tax year with the local tax collecting unit in which the residential rental property is located as required under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff. Beginning December 31, 2004, a residential rental property owner is not required to file an affidavit if the qualified local governmental unit in which the residential rental property is located determines that the residential rental property is in substantial compliance with all applicable state and local zoning, building, and housing laws, ordinances, and codes on December 31 of the immediately preceding tax year.

(2) An individual who is a resident of a renaissance zone is eligible for an exemption, deduction, or credit under section 9(1) and (2) until the department of treasury determines that the aggregate state and local tax revenue forgone as a result of all exemptions, deductions, or credits granted under this act to that individual reaches $10,000,000.00.

(3) A casino located and conducting business activity within a renaissance zone is not eligible for the exemption, deduction, or credit listed in section 9(1) or (2). Real property in a renaissance zone on which a casino is operated, personal property of a casino located in a renaissance zone, and all property associated or affiliated with the operation of a casino is not eligible for the exemption, deduction, or credit listed in section 9(1) or (2). As used in this subsection, "casino" means a casino or a parking lot, hotel, motel, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

(4) For tax years beginning on or after January 1, 1997, an individual who is a resident of a renaissance zone shall not be denied the exemption under subsection (1) if the individual failed to file a return on or before December 31 of the prior tax year under subsection (1)(a)(*ii*) and that individual was entitled to a refund under that act.

(5) A business that is located and conducts business activity within a renaissance zone shall not be denied the exemption under subsection (1) if the business failed to file a return on or before December 31 of the prior tax year under subsection (1)(a)(*i*) and that business had no tax liability under that act for the tax year for which the return was not filed.

History: 1996, Act 376, Imd. Eff. July 17, 1996;—Am. 1998, Act 239, Imd. Eff. July 3, 1998;—Am. 1999, Act 36, Imd. Eff. June 3, 1999;—Am. 1999, Act 139, Imd. Eff. Oct. 11, 1999;—Am. 2000, Act 259, Imd. Eff. June 29, 2000;—Am. 2005, Act 164, Imd. Eff. Oct. 6, 2005;—Am. 2007, Act 186, Imd. Eff. Dec. 21, 2007;—Am. 2008, Act 117, Imd. Eff. Apr. 29, 2008;—Am. 2008, Act 242, Imd. Eff. July 17, 2008.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2691 Application form.

Sec. 11. The form of the application for a renaissance zone designation shall be as specified by the Michigan strategic fund. After the form of the application is specified by the Michigan strategic fund, the Michigan strategic fund shall file a copy of the application with each house of the legislature. The board may request any information from an applicant, in addition to that contained in an application, as may be needed to permit the board to discharge its responsibilities under this act.

History: 1996, Act 376, Imd. Eff. July 17, 1996;—Am. 2006, Act 440, Imd. Eff. Oct. 5, 2006.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2692 Reimbursement to intermediate school districts, local school districts, community college districts, public libraries, and school aid fund.

Sec. 12. (1) This state shall reimburse intermediate school districts each year for all tax revenue lost as the

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result of the exemption of property under this act, based on the property's taxable value in that year, from taxes levied under section 625a of the revised school code, 1976 PA 451, MCL 380.625a; from taxes levied for area vocational-technical program operating purposes under section 681 of the revised school code, 1976 PA 451, MCL 380.681; and from taxes levied for special education operating purposes under section 1724a of the revised school code, 1976 PA 451, MCL 380.1724a.

(2) This state shall reimburse local school districts each year for all tax revenue lost as the result of the exemption of property under this act from taxes levied under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, based on the property's taxable value in that year.

(3) This state shall reimburse a community college district and a public library each year for all tax revenue lost as a result of the exemption of property under this act, based on the property's taxable value in that year, from taxes levied or collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(4) Intermediate school districts, community college districts, and public libraries eligible for reimbursement under subsections (1) and (3) shall report to and on a date determined by the department of treasury all revenue lost for which reimbursement under subsections (1) and (3) is claimed. A local school district eligible for reimbursement under subsection (2) shall report each year on a date determined by the department of treasury all revenue lost for which reimbursement under subsection (2) is claimed.

(5) This state shall reimburse the school aid fund for all revenues lost as the result of the establishment of renaissance zones. Foundation allowances calculated under section 20 of the state school aid act of 1979, 1979 PA 94, MCL 388.1620, shall not be reduced as a result of lost revenues arising from this act.

History: 1996, Act 376, Imd. Eff. July 17, 1996;—Am. 2002, Act 745, Imd. Eff. Dec. 30, 2002.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2693 Business conducted at public meeting.

Sec. 13. (1) The board and the review board shall conduct all business at public meetings held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of each meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(2) A record or a portion of a record, material, application, or other data received, prepared, used, or retained by the board or review board is subject to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1996, Act 376, Imd. Eff. July 17, 1996.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2694 Construction of act.

Sec. 14. This act shall be construed liberally to effectuate the legislative intent and the purposes of this act and as complete and independent authority for the performance of each and every act and thing authorized by this act, and all powers granted by this act shall be broadly interpreted to effectuate the intent and purposes of this act and not as a limitation of powers.

History: 1996, Act 376, Imd. Eff. July 17, 1996.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2695 Report to legislature.

Sec. 15. The department of Michigan jobs commission shall annually report to the legislature on the economic effects of this act in each renaissance zone. The report shall include, but is not limited to, all of the following for each renaissance zone:

(a) Number of new jobs created.

(b) Percentage change in aggregate taxable value and state equalized value.

(c) Average wage of new jobs created.

(d) Percentage change of adjusted gross income of residents.

History: 1996, Act 376, Imd. Eff. July 17, 1996.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

125.2696 Report by state research university.

Sec. 16. A state research university shall annually report to the legislature on the economic effects of this act in each renaissance zone. The report shall include, but is not limited to, all of the following for each

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renaissance zone:

(a) Number of new jobs created.

(b) Percentage change in aggregate taxable value and state equalized value.

(c) Average wage of new jobs created.

(d) Percentage change of adjusted gross income of residents.

History: 1996, Act 376, Imd. Eff. July 17, 1996.

Compiler's note: For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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URBAN HOMESTEAD ACT
Act 127 of 1999

AN ACT to create an urban homestead program; to permit certain local governmental units or nonprofit community organizations to create and administer urban homestead programs; to prescribe the powers and duties of certain state entities and local governmental units; and to provide for the disposition of personal and real property.

History: 1999, Act 127, Imd. Eff. July 23, 1999.

Popular name: Homesteading

The People of the State of Michigan enact:

125.2701 Short title.

Sec. 1. This act shall be known and may be cited as the "urban homestead act".

History: 1999, Act 127, Imd. Eff. July 23, 1999.

Popular name: Homesteading

125.2702 Definitions.

Sec. 2. As used in this act:

(a) "Administrator" means a local governmental unit, or a nonprofit community organization under contract with a local governmental unit.

(b) "Applicant" means an individual and the spouse of that individual if that spouse intends to occupy the property with the individual.

(c) "Local governmental unit" means a county, city, village, or township.

(d) "Nonprofit community organization" means an organization exempt from taxation under section 501(c)(3) of the internal revenue code of 1986 with experience in housing issues and that contracts with a local governmental unit to administer an urban homestead program under this act.

(e) "Qualified buyer" means an applicant who meets the criteria in section 4.

(f) "Qualified loan rate" means an interest rate not to exceed the adjusted prime rate determined in section 23 of 1941 PA 122, MCL 205.23, minus 1 percentage point as determined by the department of treasury.

History: 1999, Act 127, Imd. Eff. July 23, 1999.

Popular name: Homesteading

125.2703 Urban homestead program; availability of property to qualified buyers; resolution; designation of administrator by local government; appeals process to applicants and buyers.

Sec. 3. By resolution, a local governmental unit may operate, or may contract with a nonprofit community organization to operate and administer, an urban homestead program that makes property available to qualified buyers to rent and purchase under this act. In the resolution, the local governmental unit shall designate whether the local governmental unit or the nonprofit community organization shall be the administrator under this act. In the resolution, the local governmental unit shall also provide an appeals process to applicants and qualified buyers who are adversely affected by a decision of the administrator.

History: 1999, Act 127, Imd. Eff. July 23, 1999.

Popular name: Homesteading

125.2704 Eligibility of applicant to rent and purchase property; criteria; substance abuse testing; verification of school attendance.

Sec. 4. (1) An applicant that meets all the following criteria is eligible to rent and purchase property as a qualified buyer under this act:

(a) The applicant is employed and has been employed for the immediately preceding 1-year period or is otherwise able to meet the financial commitments under this act as determined by the administrator.

(b) The applicant does not meet any of the following criteria:

(*i*) The applicant has been sentenced or imprisoned within the immediately preceding 1-year period for a felony conviction.

(*ii*) The applicant is currently on probation or parole for a felony conviction.

(*iii*) The applicant has been sentenced, imprisoned, on probation, or on parole in the immediately preceding 5-year period for a felony violation of section 7401, 7401a, 7402, 7410, or 7410a of the public health code, 1978 PA 368, MCL 333.7401, 333.7401a, 333.7402, 333.7410, and 333.7410a.

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(*iv*) The applicant has been convicted of a violation or attempted violation of section 520b, 520c, 520d, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, and 750.520g.

(c) All school age children of the applicant who will reside in the property attend school regularly. A child who has more than 10 unexcused absences per semester as determined by the local school or appropriate governing body is not considered to be attending school regularly.

(d) The applicant has income below the median for the state of Michigan, as determined by the United States department of housing and urban development for families with the same number of family members of the applicant.

(e) The applicant is drug free as determined by the administrator.

(f) That the applicant agrees to file an affidavit each year certifying that they meet the criteria described in this act, excluding subdivision (d).

(g) The applicant meets all other criteria as determined by the administrator.

(2) The administrator may require substance abuse testing of an applicant as a condition of entering into a lease agreement. If the applicant tests positive for substance abuse, then that individual shall enter into a substance abuse treatment program, as determined by the administrator. The continuing substance abuse treatment and successful completion shall be part of the lease agreement. The administrator may contract with and seek assistance from the local governmental unit, this state, the department of community health, or any other entity to implement this subsection.

(3) An applicant who has 1 or more school age children described in subsection (1)(c), shall provide verification of school attendance each semester.

History: 1999, Act 127, Imd. Eff. July 23, 1999.

Popular name: Homesteading

125.2705 Application to rent property; lease agreement; provisions; conditions for deeding property.

Sec. 5. (1) A qualified buyer may apply to the administrator to rent certain property in that local governmental unit. The application shall be in a form and in a manner provided by the administrator. If the application is approved, the qualified buyer and administrator shall enter into a lease agreement for the premises. Except as provided in subsection (2), the administrator shall determine the terms and conditions of the lease agreement.

(2) The lease agreement shall provide that if the applicant is convicted of a felony during the term of the lease agreement, then the lease agreement is automatically terminated 60 days after the conviction.

(3) The administrator shall charge not more than 100% or less than 80% of the fair market rental value for the premises. The administrator has the authority to determine rent based on factors such as income, number of dependents, and condition of the property.

(4) The qualified buyer who is renting the property is responsible for all utilities and costs of improvements to the premises.

(5) If the qualified buyer is in substantial compliance with the terms of the lease for not less than 5 years and continues to meet the criteria in section 4(1)(a), (b), (c), (e), (f), and (g), and the premises substantially comply with all building and housing codes, the administrator shall deed or cause to be deeded that property to the qualified buyer for $1.00.

(6) As a condition of receiving ownership of the property under this section, the qualified buyer shall maintain and regularly fund an escrow account with the administrator for the payment of property taxes and insurance on the property.

History: 1999, Act 127, Imd. Eff. July 23, 1999.

Popular name: Homesteading

125.2706 Disposition of rent receipts.

Sec. 6. (1) If the local governmental unit acts as the administrator under this act, the rental receipts shall be deposited in a separate fund within the general fund of the local governmental unit. If the local governmental unit contracts with a nonprofit community organization to act as the administrator under this act, the rental receipts shall be deposited in a segregated escrow account in a financial institution located in this state.

(2) Rental receipts deposited under subsection (1) shall be used to make loans to qualified buyers in that local governmental unit for the improvement, repair, or rehabilitation of property in the urban homestead program, pay the costs of the audit under section 8, and, as long as the yearly costs do not exceed 40% of the yearly rental receipts, may pay the costs associated with administrating the provisions of section 4. Loans shall be made for a term not to exceed 10 years and at a rate of interest not to exceed the qualified loan rate. The administrator shall determine the terms and conditions of the loan agreement.

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(3) The administrator may solicit funds from any and all sources, both public and private, for deposit into the accounts and funds described in subsection (1).

History: 1999, Act 127, Imd. Eff. July 23, 1999.

Popular name: Homesteading

125.2707 Additional powers.

Sec. 7. The powers of a local governmental unit prescribed in this act are in addition to any other powers provided by law or charter.

History: 1999, Act 127, Imd. Eff. July 23, 1999.

Popular name: Homesteading

125.2708 Audit.

Sec. 8. Not less than every 2 years, the administrator shall hire an independent auditor to audit the books and accounts of the urban homestead program operated by the administrator. Upon completion, the audit report shall be made available to the public.

History: 1999, Act 127, Imd. Eff. July 23, 1999.

Popular name: Homesteading

125.2709 Late or delinquent rent.

Sec. 9. A qualified buyer eligible for and participating in the urban homestead program shall be allowed the opportunity to make up any late or delinquent rent due. The administrator shall notify the individual of the arrearage and determine a payment schedule to make up past due rent.

History: 1999, Act 127, Imd. Eff. July 23, 1999.

Popular name: Homesteading

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URBAN HOMESTEADING IN MULTIFAMILY PUBLIC HOUSING ACT
Act 84 of 1999

AN ACT to create an urban homestead program for multifamily public housing; to provide that certain local governmental units and public housing entities create and administer urban homestead programs for multifamily public housing; to prescribe the powers and duties of certain state and local governmental units and public housing entities; and to provide for the disposition of personal and real property.

History: 1999, Act 84, Imd. Eff. June 28, 1999.

The People of the State of Michigan enact:

125.2721 Short title.

Sec. 1. This act shall be known and may be cited as the "urban homesteading in multifamily public housing act".

History: 1999, Act 84, Imd. Eff. June 28, 1999.

125.2722 Definitions.

Sec. 2. As used in this act:

(a) "Applicant" means an individual and the spouse of that individual if that spouse intends to occupy the property with the individual.

(b) "Homestead agreement" means a written contract between a resident organization or successor entity and a qualified buyer that contains the terms under which the qualified buyer may acquire the public housing property.

(c) "Housing commission" means a housing commission or housing authority as defined under section 3 of the housing cooperation law, 1937 PA 293, MCL 125.603.

(d) "Housing project" means that term as defined under section 3 of the housing cooperation law, 1937 PA 293, MCL 125.603, that is not specifically designed for the elderly or handicapped or more than 50% occupied by the elderly or handicapped.

(e) "Local governmental unit" means a county, city, village, or township.

(f) "Michigan state housing development authority" means the Michigan state housing development authority created under section 21 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1421.

(g) "Multifamily housing" means housing accommodations designed as a residence for more than 1 family.

(h) "Nonprofit community organization" means an organization exempt from taxation under section 501(c)(3) of the internal revenue code of 1986 with experience in housing issues.

(i) "Qualified buyer" means an applicant who meets the criteria in section 6.

(j) "Qualified loan rate" means an interest rate not to exceed the adjusted prime rate determined in section 23 of 1941 PA 122, MCL 205.23, minus 1 percentage point as determined by the department of treasury.

(k) "Resident organization" means a group of residents made up of not less than 50% of total residents of the specific housing project who contract with a housing commission to manage that housing project for not less than 5 years with the intent to acquire legal ownership of the housing project under this act.

History: 1999, Act 84, Imd. Eff. June 28, 1999.

125.2723 Urban homestead program in multifamily public housing; availability of property to qualified buyers; resolution; appeals process to applicants and buyers.

Sec. 3. By resolution, and subject to federal and state law, a local governmental unit may authorize a housing commission within that local governmental unit to operate an urban homestead program in multifamily public housing to administer a homesteading program that makes multifamily public housing properties available to resident organizations and qualified buyers to purchase under this act. In the resolution, the local governmental unit shall also provide an appeals process to applicants and qualified buyers who are adversely affected by a decision of the housing commission or resident organization.

History: 1999, Act 84, Imd. Eff. June 28, 1999.

125.2724 Acquisition of housing project by resident organization; conditions; payment of fees and operation subsidies; management training and counseling; application for grant funds.

Sec. 4. (1) A resident organization in a housing project that contracts with a housing commission to manage the housing project shall acquire the housing project after not less than 5 years if the resident

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organization successfully manages the housing project and each member of the resident organization meets the criteria in section 6.

(2) If a resident organization contracts with a housing commission under subsection (1), the housing commission shall pay all management fees and operation subsidies that the housing commission receives for the housing project to the resident organization to manage the property.

(3) A resident organization that manages a housing project under contract with a housing commission may apply to the Michigan state housing development authority for grant funds for management training and counseling. Nonprofit community organizations and similar organizations are eligible to provide the management training and counseling.

History: 1999, Act 84, Imd. Eff. June 28, 1999.

125.2725 Transfer of legal ownership.

Sec. 5. (1) If the resident organization has successfully managed the housing project under this act and each member of the resident organization meets the criteria in section 6, the housing commission shall transfer legal ownership to the resident organization for $1.00. However, if the housing commission received federal funds for which bonds or notes were issued and those bonds or notes are outstanding for that housing project, the housing commission shall transfer legal ownership to the resident organization within 60 days of payment of the bonded debt by the resident organization. The housing commission shall obtain the appropriate releases from the holders of the bonds or notes. The resident organization shall hold legal ownership of the housing project in the form of a cooperative housing corporation or a condominium association.

(2) The Michigan state housing development authority may make mortgage loans to resident organizations that qualify under this act to acquire multifamily public housing of up to 95% of the bonded indebtedness of the housing project. The remaining portion of the bonded indebtedness shall be provided by the resident organization from any legal source.

History: 1999, Act 84, Imd. Eff. June 28, 1999.

125.2726 Acquisition of public housing property; eligibility to enter homestead agreement; substance abuse testing; verification of school attendance.

Sec. 6. (1) An applicant who meets all the following criteria is eligible to enter into a homestead agreement to acquire public housing property as a qualified buyer under this act:

(a) The applicant is employed and has been employed for the immediately preceding 1-year period or is otherwise able to meet the financial commitments under this act as determined by the resident organization.

(b) The applicant does not meet any of the following criteria:

(*i*) The applicant has been sentenced or imprisoned within the immediately preceding 1-year period for a felony conviction.

(*ii*) The applicant is currently on probation or parole for a felony conviction.

(*iii*) The applicant has been sentenced, imprisoned, on probation, or on parole in the immediately preceding 5-year period for a felony violation of section 7401, 7401a, 7402, 7410, or 7410a of the public health code, 1978 PA 368, MCL 333.7401, 333.7401a, 333.7402, 333.7410, and 333.7410a.

(*iv*) The applicant has been convicted of a violation or attempted violation of section 520b, 520c, 520d, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, and 750.520g.

(c) All school age children of the applicant who will reside in the multifamily public housing property attend school regularly. A child who has more than 10 unexcused absences per semester as determined by the local school or appropriate governing body is not considered to be attending school regularly.

(d) The applicant has income below the median for the state of Michigan as determined by the United States department of housing and urban development, for families with the same number of family members of the applicant.

(e) The applicant is drug free as determined by the resident organization.

(f) The applicant agrees to file an affidavit each year certifying that they meet the criteria described in this act, excluding subdivision (d).

(g) The applicant meets all other criteria as determined by the housing commission operating the program.

(2) The housing commission may require substance abuse testing of an applicant as a condition of entering into a homestead agreement. If the applicant tests positive for substance abuse, then that individual shall enter into a substance abuse treatment program, as determined by the housing commission. The continuing substance abuse treatment and successful completion shall be part of the homestead agreement. The housing commission may contract with and seek assistance from the local governmental unit, this state, the department of community health, or any other entity to implement this subsection.

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(3) An applicant who has 1 or more school age children described in subsection (1)(c), shall provide verification of school attendance each semester.

History: 1999, Act 84, Imd. Eff. June 28, 1999.

125.2727 Acquisition of public housing unit in which qualified buyer resides; application; felony as automatic termination; conditions for transfer of legal ownership; escrow account.

Sec. 7. (1) A qualified buyer may apply to the resident organization or successor entity to acquire the public housing unit in which the qualified buyer resides. The application shall be in a form and in a manner provided by the resident organization or successor entity. If the application is approved, the qualified buyer and the resident organization or successor entity shall enter into a homestead agreement for the public housing property. Except as provided in subsection (2), the resident organization or successor entity shall determine the terms and conditions of the homestead agreement.

(2) The lease agreement shall provide that if the qualified buyer is convicted of a felony during the term of the homestead agreement, then the homestead agreement is automatically terminated 60 days after the conviction.

(3) If the qualified buyer is in substantial compliance with the terms of the homestead agreement and has lived in the property for not less than 5 years, or if the qualified buyer has resided in the multifamily public housing property before the resident organization or successor entity takes ownership under this act, resides in that property for not less than 5 years, meets the criteria in the homestead agreement, continues to meet the criteria in section 6(1)(a), (b), (c), (e), (f), and (g), and has otherwise substantially met its financial obligations with the resident organization or successor entity, the resident organization or successor entity shall transfer legal ownership to that public housing unit occupied by the qualified buyer to the qualified buyer for $1.00. However, if the housing commission received federal funds for which bonds or notes were issued and those bonds or notes were paid off by the resident organization when it acquired legal ownership, the resident organization shall transfer legal ownership to the qualified buyer within 60 days of payment of the pro rata share of the bonded debt on that specific property by the qualified buyer.

(4) As a condition of receiving ownership of the property under this section, the qualified buyer shall maintain and regularly fund an escrow account with the resident organization for the payment of property taxes and insurance on the property.

History: 1999, Act 84, Imd. Eff. June 28, 1999.

125.2728 Mortgage loans.

Sec. 8. The Michigan state housing development authority may provide mortgage loans to qualified buyers who are required to pay for their unit in the multifamily public housing. Loans provided under this section shall be made at a rate of interest not to exceed the qualified rate. The Michigan state housing development authority shall determine the terms and conditions of the loan agreement. Loans made by the Michigan state housing development authority may be prepaid or paid off at any time without penalty.

History: 1999, Act 84, Imd. Eff. June 28, 1999.

125.2729 Right of first refusal.

Sec. 9. For 5 years after a qualified buyer takes ownership of a unit under this act, the resident organization or successor entity has a right of first refusal if the qualified buyer desires to sell his or her unit acquired under this act. During the 5-year period, the resident organization or successor entity may repurchase the unit at the fair market price if the qualified buyer sells the unit. During the 5-year period, the qualified buyer shall not rent out or lease his or her unit or allow any other nonfamily member to reside in the unit.

History: 1999, Act 84, Imd. Eff. June 28, 1999.

125.2730 Legal ownership by resident organization or successor entity; effect on residents who do not become owners.

Sec. 10. (1) Residents of the housing project who resided in the housing project before the resident organization or successor entity took legal ownership may continue to reside in the premises under the same terms and conditions as when the property was owned by the housing commission.

(2) The Michigan state housing development authority may request the federal government to provide housing vouchers for residents who do not become owners.

History: 1999, Act 84, Imd. Eff. June 28, 1999.

125.2731 Federal waivers.

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Sec. 11. If a waiver of federal law, rule, or policy is needed to implement this act, the housing commission, the Michigan state housing development authority, and the resident organization may work together to obtain the appropriate waivers from the appropriate federal authorities.

History: 1999, Act 84, Imd. Eff. June 28, 1999.

125.2732 Additional powers.

Sec. 12. The powers of a local governmental unit prescribed in this act are in addition to any other powers provided by law or charter.

History: 1999, Act 84, Imd. Eff. June 28, 1999.

125.2733 Audit.

Sec. 13. (1) Not less than every 2 years, the housing commission shall hire an independent auditor to audit the books and accounts of a resident organization under a management contract to a housing commission.

(2) Not less than every 2 years, a resident organization that has taken legal ownership of a housing project or property that previously was a housing project shall hire an independent auditor to audit the books and accounts of the resident organization.

(3) Upon completion, the audit reports described in this section shall be made available to the public.

History: 1999, Act 84, Imd. Eff. June 28, 1999.

125.2734 Late or delinquent rent.

Sec. 14. A qualified buyer eligible for and participating in the urban homestead program shall be allowed the opportunity to make up any late or delinquent rent due. The administrator shall notify the individual of the arrearage and determine a payment schedule to make up past due rent.

History: 1999, Act 84, Imd. Eff. June 28, 1999.

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URBAN HOMESTEADING ON VACANT LAND ACT
Act 129 of 1999

AN ACT to create an urban homestead program for certain vacant land; to empower certain local governmental units to create and administer urban homestead programs for vacant land; to prescribe the powers and duties of certain state and local governmental units; and to provide for the disposition of personal and real property.

History: 1999, Act 129, Imd. Eff. July 23, 1999.

The People of the State of Michigan enact:

125.2741 Short title.

Sec. 1. This act shall be known and may be cited as the "urban homesteading on vacant land act".

History: 1999, Act 129, Imd. Eff. July 23, 1999.

125.2742 Definitions.

Sec. 2. As used in this act:

(a) "Applicant" means an individual and the spouse of that individual if that spouse intends to occupy the property with the individual.

(b) "Local governmental unit" means a county, city, village, or township.

(c) "Program" means the urban homesteading program for vacant land described in this act.

(d) "Vacant property" means surplus vacant residential property owned by the local governmental unit.

History: 1999, Act 129, Imd. Eff. July 23, 1999.

125.2743 Urban homesteading program for vacant land; availability to individuals to purchase; resolution; appeals process to applicants, purchasers, and lessees.

Sec. 3. By resolution, a local governmental unit may operate an urban homesteading program for vacant land that makes parcels of vacant property available to individuals to purchase under this act. In the resolution, the local governmental unit shall provide an appeals process to applicants, purchasers, and lessees who are adversely affected by a decision of the local governmental unit.

History: 1999, Act 129, Imd. Eff. July 23, 1999.

125.2744 Eligibility of applicant to purchase vacant property; criteria; substance abuse testing.

Sec. 4. (1) An applicant who meets all the following criteria is eligible to purchase vacant property under this act:

(a) The applicant intends to occupy the vacant property by constructing a home on the premises.

(b) The applicant is employed and has been employed for the immediately preceding 1-year period or is otherwise able to meet the financial commitments under this act as determined by the local governmental unit.

(c) The applicant does not meet any of the following criteria:

(*i*) The applicant has been sentenced or imprisoned within the immediately preceding 1-year period for a felony conviction.

(*ii*) The applicant is currently on probation or parole for a felony conviction.

(*iii*) The applicant has been sentenced, imprisoned, on probation, or on parole in the immediately preceding 5-year period for a felony violation of section 7401, 7401a, 7402, 7410, or 7410a of the public health code, 1978 PA 368, MCL 333.7401, 333.7401a, 333.7402, 333.7410, and 333.7410a.

(*iv*) The applicant has been convicted of a violation or attempted violation of section 520b, 520c, 520d, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, and 750.520g.

(2) The local governmental unit may require substance abuse testing of an applicant as a condition of purchasing the property. If the applicant tests positive for substance abuse, then that individual shall enter into a substance abuse treatment program, as determined by the local governmental unit. The local governmental unit may contract with and seek assistance from this state, the department of community health, or any other entity to implement this subsection.

History: 1999, Act 129, Imd. Eff. July 23, 1999.

125.2745 Deeding property to applicant; conditions to receiving ownership.

Sec. 5. (1) If the applicant substantially meets the criteria in section 4 and receives a commitment to finance construction on the property, the local governmental unit shall deed that property to the applicant for

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$1.00.

(2) As a condition of receiving ownership of the property under this section, the applicant shall do both of the following:

(a) Except as otherwise provided in a mortgage agreement with an entity that takes a mortgage on the property, maintain and regularly fund an escrow account with the local governmental unit for the payment of property taxes and insurance on the property.

(b) Agree to deed the property back to the local governmental unit if the home is not constructed or not in the process of being constructed within 1 year from the date of the transfer. The local governmental unit may enforce this provision with the use of a deed restriction or other restriction in the chain of title.

History: 1999, Act 129, Imd. Eff. July 23, 1999.

125.2746 Offer to owners of adjacent and contiguous property; offer by local governmental unit to neighborhood resident organizations, other community groups, and general public.

Sec. 6. Before placing vacant property into the program, the local governmental unit shall first offer the vacant property to owners of adjacent and contiguous property who occupy the adjacent and contiguous property. If adjacent and contiguous landowners do not purchase the property, the local governmental unit shall offer the vacant property to neighborhood resident organizations, other community groups, and the general public. The local governmental unit shall determine the sale price for any sale under this section.

History: 1999, Act 129, Imd. Eff. July 23, 1999.

125.2747 Additional powers.

Sec. 7. The powers of a local governmental unit prescribed in this act are in addition to any other powers provided by law or charter.

History: 1999, Act 129, Imd. Eff. July 23, 1999.

125.2748 Audit.

Sec. 8. Not less than every 2 years, the local governmental unit shall hire an independent auditor to audit the books and accounts of the urban homestead program operated by the local governmental unit. Upon completion, the audit report shall be made available to the public.

History: 1999, Act 129, Imd. Eff. July 23, 1999.

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URBAN HOMESTEADING IN SINGLE-FAMILY PUBLIC HOUSING ACT
Act 128 of 1999

AN ACT to create an urban homestead program for single-family public housing; to provide that certain local governmental units, public housing entities, nonprofit community organizations, and certain state entities create and administer urban homestead programs for single-family public housing; to prescribe the powers and duties of certain state and local governmental units, public housing entities, and nonprofit community organizations; and to provide for the disposition of personal and real property.

History: 1999, Act 128, Imd. Eff. July 23, 1999.

The People of the State of Michigan enact:

125.2761 Short title.

Sec. 1. This act shall be known and may be cited as the "urban homesteading in single-family public housing act".

History: 1999, Act 128, Imd. Eff. July 23, 1999.

125.2762 Definitions.

Sec. 2. As used in this act:

(a) "Administrator" means a local governmental unit or a nonprofit community organization under contract with a local governmental unit to administer a homestead program under this act.

(b) "Applicant" means an individual and the spouse of that individual if that spouse intends to occupy the property with the individual.

(c) "Homestead agreement" means a written contract between a housing commission and a qualified buyer that contains the terms under which the qualified buyer may acquire the single-family public housing property.

(d) "Housing commission" means a housing commission or housing authority as defined under section 3 of the housing cooperation law, 1937 PA 293, MCL 125.603.

(e) "Housing project" means that term as defined under section 3 of the housing cooperation law, 1937 PA 293, MCL 125.603.

(f) "Local governmental unit" means a county, city, village, or township.

(g) "Michigan state housing development authority" means the Michigan state housing development authority created under section 21 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1421.

(h) "Nonprofit community organization" means an organization exempt from taxation under section 501(c)(3) of the internal revenue code of 1986 with experience in housing issues and that contracts with a housing commission to administer an urban homesteading program for single-family public housing under this act.

(i) "Qualified buyer" means an applicant who meets the criteria in section 4.

(j) "Qualified loan rate" means an interest rate not to exceed the adjusted prime rate determined in section 23 of 1941 PA 122, MCL 205.23, minus 1 percentage point as determined by the department of treasury.

(k) "Single-family housing" means housing accommodations designed as a residence for not more than 1 family.

History: 1999, Act 128, Imd. Eff. July 23, 1999.

125.2763 Urban homestead program; operation; availability of single-family public housing properties.

Sec. 3. By resolution, and subject to federal and state law, a local governmental unit may authorize a housing commission within that local governmental unit or a nonprofit community organization under contract with the housing commission to operate an urban homestead program in single-family public housing to administer a homesteading program that makes single-family public housing properties available to eligible buyers to purchase under this act. In the resolution, the local governmental unit shall designate whether the housing commission or the nonprofit community organization shall be the administrator under this act. In the resolution, the local governmental unit shall also provide an appeals process to applicants and qualified buyers who are adversely affected by a decision of the administrator.

History: 1999, Act 128, Imd. Eff. July 23, 1999.

125.2764 Acquisition of single-family public housing property; homestead agreement;

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criteria; substance abuse testing; verification of school attendance.

Sec. 4. (1) An applicant who meets all the following criteria is eligible to enter into a homestead agreement to acquire single-family public housing property as a qualified buyer under this act:

(a) The applicant is employed and has been employed for the immediately preceding 1-year period or is otherwise able to meet the financial commitments under this act as determined by the administrator.

(b) The applicant does not meet any of the following criteria:

(*i*) The applicant has been sentenced or imprisoned within the immediately preceding 1-year period for a felony conviction.

(*ii*) The applicant is currently on probation or parole for a felony conviction.

(*iii*) The applicant has been sentenced, imprisoned, on probation, or on parole in the immediately preceding 5-year period for a felony violation of section 7401, 7401a, 7402, 7410, or 7410a of the public health code, 1978 PA 368, MCL 333.7401, 333.7401a, 333.7402, 333.7410, and 333.7410a.

(*iv*) The applicant has been convicted of a violation or attempted violation of section 520b, 520c, 520d, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, and 750.520g.

(c) All school age children of the applicant who will reside in the single-family public housing property attend school regularly. A child who has more than 10 unexcused absences per semester as determined by the local school or appropriate governing body is not considered to be attending school regularly.

(d) The applicant has income below the median for the state of Michigan as determined by the United States department of housing and urban development, for families with the same number of family members of the applicant.

(e) The applicant is drug free as determined by the administrator.

(f) The applicant agrees to file an affidavit each year certifying that they meet the criteria described in this act, excluding subdivision (d).

(g) The applicant meets all other criteria as determined by the housing commission operating the program.

(2) The administrator may require substance abuse testing of an applicant as a condition of entering into a homestead agreement. If the applicant tests positive for substance abuse, then that individual shall enter into a substance abuse treatment program, as determined by the administrator. The continuing substance abuse treatment and successful completion shall be part of the homestead agreement. The administrator may contract with and seek assistance from the local governmental unit, this state, the department of community health, or any other entity to implement this subsection.

(3) An applicant who has 1 or more school age children described in subsection (1)(c), shall provide verification of school attendance each semester.

History: 1999, Act 128, Imd. Eff. July 23, 1999.

125.2765 Acquisition of single-family public housing; application; conviction of felony as automatic termination; transfer of legal ownership; maintenance of escrow account.

Sec. 5. (1) A qualified buyer may apply to the administrator to acquire the single-family public housing property. The application shall be in a form and in a manner provided by the administrator. If the application is approved, the qualified buyer and the administrator shall enter into a homestead agreement for the single-family public housing property. Except as provided in subsection (2), the administrator shall determine the terms and conditions to the homestead agreement.

(2) The homestead agreement shall provide that if the qualified buyer is convicted of a felony during the term of the homestead agreement, then the homestead agreement is automatically terminated 60 days after the conviction.

(3) If the qualified buyer is in substantial compliance with the terms of the homestead agreement for not less than 5 years or if the qualified buyer has resided in the single-family public housing property before the administrator adopts the urban homesteading program under this act, resides in that property for not less than 5 years, meets the criteria in the homestead agreement, continues to meet the criteria in section 4(1)(a), (b), (c), (e), (f), and (g), and has otherwise substantially met his or her financial obligations with the housing commission, the administrator shall transfer legal ownership of that single-family public housing property to the qualified buyer for $1.00. However, if the housing commission received federal funds for which bonds or notes were issued and those bonds or notes are outstanding for that housing project, the housing commission shall transfer legal ownership to the qualified buyer within 60 days of payment of the pro rata share of the bonded debt on that specific property by the qualified buyer. The housing commission shall obtain the appropriate releases from the holders of the bonds or notes.

(4) As a condition of receiving ownership of the property under this section, the qualified buyer shall maintain and regularly fund an escrow account with the administrator for the payment of property taxes and insurance on the property.

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History: 1999, Act 128, Imd. Eff. July 23, 1999.

125.2766 Loans to qualified buyers.

Sec. 6. The Michigan state housing development authority may provide loans to qualified buyers who are required to pay the pro rata portion of the bonded debt on the single-family public housing. Loans provided under this section shall be made at a rate of interest not to exceed the qualified rate. The Michigan state housing development authority shall determine the terms and conditions of the loan agreement. Loans made by the Michigan state housing development authority may be prepaid or paid off at any time without penalty.

History: 1999, Act 128, Imd. Eff. July 23, 1999.

125.2767 Implementation of act; waiver.

Sec. 7. If a waiver of federal law, rule, or policy is needed to implement this act, the housing commission and the Michigan state housing development authority may work together to obtain the appropriate waivers from the appropriate federal authorities.

History: 1999, Act 128, Imd. Eff. July 23, 1999.

125.2768 Additional powers.

Sec. 8. The powers of a local governmental unit prescribed in this act are in addition to any other powers provided by law or charter.

History: 1999, Act 128, Imd. Eff. July 23, 1999.

125.2769 Audit.

Sec. 9. Not less than every 2 years, the housing commission or the nonprofit community organization appointed by the housing commission shall hire an independent auditor to audit the books and accounts of the urban homesteading program for single-family public housing operated by the housing commission or nonprofit community organization. Upon completion, the audit report shall be made available to the public.

History: 1999, Act 128, Imd. Eff. July 23, 1999.

125.2770 Late or delinquent rent.

Sec. 10. A qualified buyer eligible for and participating in the urban homestead program shall be allowed the opportunity to make up any late or delinquent rent due. The administrator shall notify the individual of the arrearage and determine a payment schedule to make up past due rent.

History: 1999, Act 128, Imd. Eff. July 23, 1999.

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OBSOLETE PROPERTY REHABILITATION ACT
Act 146 of 2000

AN ACT to provide for the establishment of obsolete property rehabilitation districts in certain local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of certain local government officials; and to provide penalties.

History: 2000, Act 146, Imd. Eff. June 6, 2000.

The People of the State of Michigan enact:

125.2781 Short title.

Sec. 1. This act shall be known and may be cited as the “obsolete property rehabilitation act”.

History: 2000, Act 146, Imd. Eff. June 6, 2000.

125.2782 Definitions.

Sec. 2. As used in this act:

(a) "Commercial housing property" means that portion of real property not occupied by an owner of that real property that is classified as residential real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, is a multiple-unit dwelling, or is a dwelling unit in a multiple-purpose structure, used for residential purposes. Commercial housing property also includes a building or group of contiguous buildings previously used for industrial purposes that will be converted to a multiple-unit dwelling or dwelling unit in a multiple-purpose structure, used for residential purposes.

(b) "Commercial property" means land improvements classified by law for general ad valorem tax purposes as real property including buildings and improvements assessable as real property pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, the primary purpose and use of which is the operation of a commercial business enterprise. Commercial property shall also include facilities related to a commercial business enterprise under the same ownership at that location, including, but not limited to, office, engineering, research and development, warehousing, parts distribution, retail sales, and other commercial activities. Commercial property also includes a building or group of contiguous buildings previously used for industrial purposes that will be converted to the operation of a commercial business enterprise or a multiple-unit dwelling or a dwelling unit in a multiple-purpose structure, used for residential purposes. Commercial property does not include any of the following:

(*i*) Land.

(*ii*) Property of a public utility.

(c) "Commission" means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.

(d) "Department" means the department of treasury.

(e) "Facility", except as otherwise provided in this act, means a building or group of contiguous buildings.

(f) "Functionally obsolete" means that term as defined in section 2 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2652.

(g) "Obsolete properties tax" means the specific tax levied under this act.

(h) "Obsolete property" means commercial property or commercial housing property, that is 1 or more of the following:

(*i*) Blighted, as that term is defined in section 2 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2652.

(*ii*) A facility as that term is defined under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(*iii*) Functionally obsolete.

(i) "Obsolete property rehabilitation district" means an area of a qualified local governmental unit established as provided in section 3. Only those properties within the district meeting the definition of "obsolete property" are eligible for an exemption certificate issued pursuant to section 6.

(j) "Obsolete property rehabilitation exemption certificate" or "certificate" means the certificate issued pursuant to section 6.

(k) "Qualified local governmental unit" means 1 or more of the following:

(*i*) A city with a median family income of 150% or less of the statewide median family income as reported in the 1990 federal decennial census that meets 1 or more of the following criteria:

(A) Contains or has within its borders an eligible distressed area as that term is defined in section 11(u)(*ii*)

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and (*iii*) of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.

(B) Is contiguous to a city with a population of 500,000 or more.

(C) Has a population of 10,000 or more that is located outside of an urbanized area as delineated by the United States bureau of the census.

(D) Is the central city of a metropolitan area designated by the United States office of management and budget.

(E) Has a population of 100,000 or more that is located in a county with a population of 2,000,000 or more according to the 1990 federal decennial census.

(*ii*) A township with a median family income of 150% or less of the statewide median family income as reported in the 1990 federal decennial census that meets 1 or more of the following criteria:

(A) Is contiguous to a city with a population of 500,000 or more.

(B) All of the following:

(I) Contains or has within its borders an eligible distressed area as that term is defined in section 11(u)(*ii*) of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.

(II) Has a population of 10,000 or more.

(*iii*) A village with a population of 500 or more as reported in the 1990 federal decennial census located in an area designated as a rural enterprise community before 1998 under title XIII of the omnibus budget reconciliation act of 1993, Public Law 103-66, 107 Stat. 416.

(*iv*) A city that meets all of the following criteria:

(A) Has a population of more than 20,000 or less than 5,000 and is located in a county with a population of 2,000,000 or more according to the 1990 federal decennial census.

(B) As of January 1, 2000, has an overall increase in the state equalized valuation of real and personal property of less than 65% of the statewide average increase since 1972 as determined for the designation of eligible distressed areas under section 11(u)(*ii*)(B) of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.

(*l*) "Rehabilitation" means changes to obsolete property other than replacement that are required to restore or modify the property, together with all appurtenances, to an economically efficient condition. Rehabilitation includes major renovation and modification including, but not necessarily limited to, the improvement of floor loads, correction of deficient or excessive height, new or improved fixed building equipment, including heating, ventilation, and lighting, reducing multistory facilities to 1 or 2 stories, adding additional stories to a facility or adding additional space on the same floor level not to exceed 100% of the existing floor space on that floor level, improved structural support including foundations, improved roof structure and cover, floor replacement, improved wall placement, improved exterior and interior appearance of buildings, and other physical changes required to restore or change the obsolete property to an economically efficient condition. Rehabilitation shall not include improvements aggregating less than 10% of the true cash value of the property at commencement of the rehabilitation of the obsolete property.

(m) "Rehabilitated facility" means a commercial property or commercial housing property that has undergone rehabilitation or is in the process of being rehabilitated, including rehabilitation that changes the intended use of the building. A rehabilitated facility does not include property that is to be used as a professional sports stadium. A rehabilitated facility does not include property that is to be used as a casino. As used in this subdivision, "casino" means a casino or a parking lot, hotel, motel, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(n) "Taxable value" means the value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

History: 2000, Act 146, Imd. Eff. June 6, 2000;—Am. 2006, Act 70, Imd. Eff. Mar. 20, 2006.

125.2783 Obsolete property rehabilitation districts; creation; conditions; filing written request; notice and hearing; finding and determination.

Sec. 3. (1) A qualified local governmental unit, by resolution of its legislative body, may establish 1 or more obsolete property rehabilitation districts that may consist of 1 or more parcels or tracts of land or a portion of a parcel or tract of land, if at the time the resolution is adopted, the parcel or tract of land or portion of a parcel or tract of land within the district is either of the following:

(a) Obsolete property in an area characterized by obsolete commercial property or commercial housing property.

(b) Commercial property that is obsolete property that was owned by a qualified local governmental unit on the effective date of this act, and subsequently conveyed to a private owner.

(2) The legislative body of a qualified local governmental unit may establish an obsolete property

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rehabilitation district on its own initiative or upon a written request filed by the owner or owners of property comprising at least 50% of all taxable value of the property located within a proposed obsolete property rehabilitation district. The written request must be filed with the clerk of the qualified local governmental unit.

(3) Before adopting a resolution establishing an obsolete property rehabilitation district, the legislative body shall give written notice by certified mail to the owners of all real property within the proposed obsolete property rehabilitation district and shall afford an opportunity for a hearing on the establishment of the obsolete property rehabilitation district at which any of those owners and any other resident or taxpayer of the qualified local governmental unit may appear and be heard. The legislative body shall give public notice of the hearing not less than 10 days or more than 30 days before the date of the hearing.

(4) The legislative body of the qualified local governmental unit, in its resolution establishing an obsolete property rehabilitation district, shall set forth a finding and determination that the district meets the requirements set forth in subsection (1).

History: 2000, Act 146, Imd. Eff. June 6, 2000.

125.2784 Obsolete property rehabilitation exemption certificate; application; filing; contents; hearing; determination of taxable value.

Sec. 4. (1) If an obsolete property rehabilitation district is established under section 3, the owner of obsolete property may file an application for an obsolete property rehabilitation exemption certificate with the clerk of the qualified local governmental unit that established the obsolete property rehabilitation district. The application shall be filed in the manner and form prescribed by the commission. The application shall contain or be accompanied by a general description of the obsolete facility and a general description of the proposed use of the rehabilitated facility, the general nature and extent of the rehabilitation to be undertaken, a descriptive list of the fixed building equipment that will be a part of the rehabilitated facility, a time schedule for undertaking and completing the rehabilitation of the facility, a statement of the economic advantages expected from the exemption, including the number of jobs to be retained or created as a result of rehabilitating the facility, including expected construction employment, and information relating to the requirements in section 8.

(2) Upon receipt of an application for an obsolete property rehabilitation exemption certificate, the clerk of the qualified local governmental unit shall notify in writing the assessor of the local tax collecting unit in which the obsolete facility is located, and the legislative body of each taxing unit that levies ad valorem property taxes in the qualified local governmental unit in which the obsolete facility is located. Before acting upon the application, the legislative body of the qualified local governmental unit shall hold a public hearing on the application and give public notice to the applicant, the assessor, a representative of the affected taxing units, and the general public. The hearing on each application shall be held separately from the hearing on the establishment of the obsolete property rehabilitation district.

(3) Upon receipt of an application for an obsolete property rehabilitation exemption certificate for a facility located on property that was owned by a qualified local governmental unit on the effective date of this act, and subsequently conveyed to a private owner, the clerk of the qualified local governmental unit, in addition to the other requirements of this section, shall request the assessor of the local tax collecting unit in which the facility is located to determine the taxable value of the property. This determination shall be made prior to the hearing on the application for an obsolete property rehabilitation exemption certificate held pursuant to subsection (2).

History: 2000, Act 146, Imd. Eff. June 6, 2000.

125.2785 Approval or disapproval of resolution; forward copies.

Sec. 5. The legislative body of the qualified local governmental unit, not more than 60 days after receipt of the application by the clerk, shall by resolution either approve or disapprove the application for an obsolete property rehabilitation exemption certificate in accordance with section 8 and the other provisions of this act. The clerk shall retain the original of the application and resolution. If approved, the clerk shall forward a copy of the application and resolution to the commission. If disapproved, the reasons shall be set forth in writing in the resolution, and the clerk shall send, by certified mail, a copy of the resolution to the applicant and to the assessor. A resolution is not effective unless approved by the commission as provided in section 6.

History: 2000, Act 146, Imd. Eff. June 6, 2000.

125.2786 Certificate; issuance; form; contents; effective date; filing; maintenance of record; copy.

Sec. 6. (1) Not more than 60 days after receipt of a copy of the application and resolution adopted under

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section 5, the commission shall approve or disapprove the resolution.

(2) Following approval of the application by the legislative body of the qualified local governmental unit and the commission, the commission shall issue to the applicant an obsolete property rehabilitation exemption certificate in the form the commission determines, which shall contain all of the following:

(a) A legal description of the real property on which the obsolete facility is located.

(b) A statement that unless revoked as provided in this act the certificate shall remain in force for the period stated in the certificate.

(c) A statement of the taxable value of the obsolete property, separately stated for real and personal property, for the tax year immediately preceding the effective date of the certificate after deducting the taxable value of the land and personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14.

(d) A statement of the period of time authorized by the legislative body of the qualified local governmental unit within which the rehabilitation shall be completed.

(e) If the period of time authorized by the legislative body of the qualified local governmental unit pursuant to subdivision (d) is less than 12 years, the exemption certificate shall contain the factors, criteria, and objectives, as determined by the resolution of the qualified local governmental unit, necessary for extending the period of time, if any.

(3) The effective date of the certificate is the December 31 immediately following the date of issuance of the certificate.

(4) The commission shall file with the clerk of the qualified local governmental unit a copy of the obsolete property rehabilitation exemption certificate, and the commission shall maintain a record of all certificates filed. The commission shall also send, by certified mail, a copy of the obsolete property rehabilitation exemption certificate to the applicant and the assessor of the local tax collecting unit in which the obsolete property is located.

History: 2000, Act 146, Imd. Eff. June 6, 2000.

125.2787 Issuance of certificate; tax exemption; time period; limitation; commencement; extension; review.

Sec. 7. (1) A rehabilitated facility for which an obsolete property rehabilitation exemption certificate is in effect, but not the land on which the rehabilitated facility is located, or personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, for the period on and after the effective date of the certificate and continuing so long as the obsolete property rehabilitation exemption certificate is in force, is exempt from ad valorem property taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(2) Unless earlier revoked as provided in section 12, an obsolete property rehabilitation exemption certificate shall remain in force and effect for a period to be determined by the legislative body of the qualified local governmental unit. The certificate may be issued for a period of at least 1 year, but not to exceed 12 years. If the number of years determined is less than 12, the certificate may be subject to review by the legislative body of the qualified local governmental unit and the certificate may be extended. The total amount of time determined for the certificate including any extensions shall not exceed 12 years after the completion of the rehabilitated facility. The certificate shall commence with its effective date and end on the December 31 immediately following the last day of the number of years determined. The date of issuance of a certificate of occupancy, if required by appropriate authority, shall be the date of completion of the rehabilitated facility.

(3) If the number of years determined by the legislative body of the qualified local governmental unit for the period a certificate remains in force is less than 12 years, the review of the certificate for the purpose of determining an extension shall be based upon factors, criteria, and objectives that shall be placed in writing, determined and approved at the time the certificate is approved by resolution of the legislative body of the qualified local governmental unit and sent, by certified mail, to the applicant, the assessor of the local tax collecting unit in which the obsolete property is located, and the commission.

History: 2000, Act 146, Imd. Eff. June 6, 2000.

125.2788 Taxable value of property proposed to be exempt; application; limitation; separate finding by legislative body of qualified local governmental unit; statement; requirements for approval of application; effective date of certificate.

Sec. 8. (1) If the taxable value of the property proposed to be exempt pursuant to an application under consideration, considered together with the aggregate taxable value of property exempt under certificates previously granted and currently in force under this act or under 1974 PA 198, MCL 207.551 to 207.572,

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exceeds 5% of the taxable value of the qualified local governmental unit, the legislative body of the qualified local governmental unit shall make a separate finding and shall include a statement in its resolution approving the application that exceeding that amount shall not have the effect of substantially impeding the operation of the qualified local governmental unit or impairing the financial soundness of an affected taxing unit.

(2) The legislative body of the qualified local governmental unit shall not approve an application for an obsolete property exemption certificate unless the applicant complies with all of the following requirements:

(a) Except as otherwise provided in subsection (3), the commencement of the rehabilitation of the facility does not occur before the establishment of the obsolete property rehabilitation district.

(b) The application relates to a rehabilitation program that when completed constitutes a rehabilitated facility within the meaning of this act and that shall be situated within an obsolete property rehabilitation district established in a qualified local governmental unit eligible under this act to establish such a district.

(c) Completion of the rehabilitated facility is calculated to, and will at the time of issuance of the certificate have the reasonable likelihood to, increase commercial activity, create employment, retain employment, prevent a loss of employment, revitalize urban areas, or increase the number of residents in the community in which the facility is situated.

(d) The applicant states, in writing, that the rehabilitation of the facility would not be undertaken without the applicant's receipt of the exemption certificate.

(e) The applicant is not delinquent in the payment of any taxes related to the facility.

(3) The legislative body of a qualified local governmental unit may approve an application for an obsolete property exemption certificate if the commencement of the rehabilitation of the facility occurs before the establishment of the obsolete property rehabilitation district and if 1 or more of the following are met:

(a) All of the following are met:

(*i*) The building permit for the rehabilitation of the facility was obtained in October 2002.

(*ii*) The obsolete property rehabilitation district was created in April 2002.

(*iii*) The rehabilitation of the facility included adding additional stories to the facility.

(b) All of the following are met:

(*i*) Emergency or temporary repairs or improvements were made before the establishment of the obsolete property rehabilitation district.

(*ii*) The obsolete property rehabilitation district was created in January 2006.

(*iii*) The facility is located in a city with a population of more than 20,500 and less than 27,000 and is located in a county with a population of more than 95,000 and less than 105,000.

(c) All of the following are met:

(*i*) Roof repairs or improvements were completed in March 2006 before the establishment of the obsolete property rehabilitation district.

(*ii*) The obsolete property rehabilitation district was created in April 2006.

(*iii*) The application was submitted to the qualified local governmental unit in April 2006.

(*iv*) The facility is located in a city with a population of more than 10,800 and less than 11,100 and is located in a county with a population of more than 39,000 and less than 42,000.

(4) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (3)(a) and (b), the effective date of the certificate shall be December 31, 2006.

(5) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (3)(c), the effective date of the certificate shall be December 31, 2006.

History: 2000, Act 146, Imd. Eff. June 6, 2000;—Am. 2006, Act 667, Imd. Eff. Jan. 10, 2007;—Am. 2008, Act 504, Imd. Eff. Jan. 13, 2009.

125.2789 Value and taxable value of property; annual determination.

Sec. 9. The assessor of each qualified local governmental unit in which there is a rehabilitated facility with respect to which 1 or more obsolete property rehabilitation exemption certificates have been issued and are in force shall determine annually as of December 31 the value and taxable value, both for real and personal property, of each rehabilitated facility separately, having the benefit of a certificate and upon receipt of notice of the filing of an application for the issuance of a certificate, shall determine and furnish to the local legislative body the value and the taxable value of the property to which the application pertains and other information as may be necessary to permit the local legislative body to make the determinations required by section 8(2).

History: 2000, Act 146, Imd. Eff. June 6, 2000.

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125.2790 Obsolete properties tax; amount; collection, disbursement, and assessment; payment; copy of disbursement amount; form; property located in renaissance zone; exemption of rehabilitated facility of qualified start-up business from tax collection; resolution; "qualified start-up business" defined.

Sec. 10. (1) There is levied upon every owner of a rehabilitated facility to which an obsolete property rehabilitation exemption certificate is issued a specific tax to be known as the obsolete properties tax.

(2) The amount of the obsolete properties tax, in each year, shall be determined by adding the results of both of the following calculations:

(a) Multiplying the total mills levied as ad valorem taxes for that year by all taxing units within which the rehabilitated facility is located by the taxable value of the real and personal property of the obsolete property on the December 31 immediately preceding the effective date of the obsolete property rehabilitation exemption certificate after deducting the taxable valuation of the land and of personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, for the tax year immediately preceding the effective date of the obsolete property rehabilitation exemption certificate.

(b) Multiplying the mills levied for school operating purposes for that year under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, by the taxable value of the real and personal property of the rehabilitated facility, after deducting all of the following:

(*i*) The taxable value of the land and of the personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14.

(*ii*) The taxable value used to calculate the tax under subdivision (a).

(3) The obsolete properties tax shall be collected, disbursed, and assessed in accordance with this act.

(4) The obsolete properties tax is an annual tax, payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, are payable. Except as otherwise provided in this section, the officer or officers shall disburse the obsolete properties tax payments received by the officer or officers each year to and among this state, cities, school districts, counties, and authorities, at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(5) For intermediate school districts receiving state aid under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, of the amount of obsolete property tax that would otherwise be disbursed to an intermediate school district, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of state aid, shall be paid to the state treasury to the credit of the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(6) The amount of obsolete property tax described in subsection (2)(a) that would otherwise be disbursed to a local school district for school operating purposes, and all of the amount described in subsection (2)(b), shall be paid instead to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(7) The officer or officers shall send a copy of the amount of disbursement made to each unit under this section to the commission on a form provided by the commission.

(8) A rehabilitated facility located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is exempt from the obsolete properties tax levied under this act to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except for that portion of the obsolete properties tax attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. The obsolete properties tax calculated under this subsection shall be disbursed proportionately to the taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff.

(9) Upon application for an exemption under this subsection by a qualified start-up business, the governing body of a local tax collecting unit may adopt a resolution to exempt a rehabilitated facility of a qualified start-up business from the collection of the obsolete properties tax levied under this act in the same manner and under the same terms and conditions as provided for the exemption in section 7hh of the general property tax act, 1893 PA 206, MCL 211.7hh. The clerk of the local tax collecting unit shall notify in writing the assessor of the local tax collecting unit and the legislative body of each taxing unit that levies ad valorem property taxes in the local tax collecting unit. Before acting on the resolution, the governing body of the local tax collecting unit shall afford the assessor and a representative of the affected taxing units an opportunity for a hearing. If a resolution authorizing the exemption is adopted in the same manner as provided in section 7hh

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of the general property tax act, 1893 PA 206, MCL 211.7hh, the rehabilitated facility owned or operated by a qualified start-up business is exempt from the obsolete properties tax levied under this act, except for that portion of the obsolete properties tax attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff, for the year in which the resolution is adopted. A qualified start-up business is not eligible for an exemption under this subsection for more than 5 years. A qualified start-up business may receive the exemption under this subsection in nonconsecutive years. The obsolete properties tax calculated under this subsection shall be disbursed proportionately to the taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. As used in this subsection, "qualified start-up business" means that term as defined in section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or in section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415.

History: 2000, Act 146, Imd. Eff. June 6, 2000;—Am. 2004, Act 251, Imd. Eff. July 23, 2004;—Am. 2007, Act 193, Imd. Eff. Dec. 21, 2007.

125.2791 Lien; proceedings.

Sec. 11. The amount of the tax applicable to real property, until paid, is a lien upon the real property to which the certificate is applicable. Proceedings upon the lien as provided by law for the foreclosure in the circuit court of mortgage liens upon real property may commence only upon the filing by the appropriate collecting officer of a certificate of nonpayment of the obsolete properties tax applicable to real property, together with an affidavit of proof of service of the certificate of nonpayment upon the owner of the facility by certified mail, with the register of deeds of the county in which the property is situated.

History: 2000, Act 146, Imd. Eff. June 6, 2000.

125.2792 Revocation of certificate; findings.

Sec. 12. The legislative body of the qualified local governmental unit may, by resolution, revoke the obsolete property rehabilitation exemption certificate of a facility if it finds that the completion of rehabilitation of the facility has not occurred within the time authorized by the legislative body in the exemption certificate or a duly authorized extension of that time, or that the holder of the obsolete property exemption certificate has not proceeded in good faith with the operation of the rehabilitated facility in a manner consistent with the purposes of this act and in the absence of circumstances that are beyond the control of the holder of the exemption certificate.

History: 2000, Act 146, Imd. Eff. June 6, 2000.

125.2793 Transfer and assignment of certificate.

Sec. 13. An obsolete property rehabilitation exemption certificate may be transferred and assigned by the holder of the certificate to a new owner of the rehabilitated facility if the qualified local governmental unit approves the transfer after application by the new owner.

History: 2000, Act 146, Imd. Eff. June 6, 2000.

125.2794 Report to commission.

Sec. 14. Not later than October 15 each year, each qualified local governmental unit granting an obsolete property rehabilitation exemption shall report to the commission on the status of each exemption. The report must include the current value of the property to which the exemption pertains, the value on which the obsolete property rehabilitation tax is based, a current estimate of the number of jobs retained or created by the exemption, and a current estimate of the number of new residents occupying commercial housing property units covered by the exemption.

History: 2000, Act 146, Imd. Eff. June 6, 2000.

125.2795 Report to legislative committees.

Sec. 15. (1) The department annually shall prepare and submit to the committees of the house of representatives and senate responsible for tax policy and economic development issues a report on the utilization of obsolete property rehabilitation districts, based on the information filed with the commission.

(2) After this act has been in effect for 3 years, the department shall prepare and submit to the committees of the house of representatives and senate responsible for tax policy and economic development issues an economic analysis of the costs and benefits of this act in the 3 qualified local governmental units in which it has been most heavily utilized.

History: 2000, Act 146, Imd. Eff. June 6, 2000.

125.2796 Exemption after December 31, 2010.

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Sec. 16. A new exemption shall not be granted under this act after December 31, 2010, but an exemption then in effect shall continue until the expiration of the exemption certificate.

History: 2000, Act 146, Imd. Eff. June 6, 2000.

125.2797 Exclusions; limitation.

Sec. 17. (1) Within 60 days after the granting of an obsolete property rehabilitation exemption certificate under section 6 for a rehabilitated facility, the state treasurer may, for a period not to exceed 6 years, exclude up to 1/2 of the number of mills levied for school operating purposes under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, from the specific tax calculation on the facility under section 10(2)(b) if the state treasurer determines that reducing the number of mills used to calculate the specific tax under section 10(2)(b) is necessary to reduce unemployment, promote economic growth, and increase capital investment in qualified local governmental units.

(2) The state treasurer shall not grant more than 25 exclusions under this section each year.

History: 2000, Act 146, Imd. Eff. June 6, 2000.

DEVELOPMENT OF BLIGHTING PROPERTY
Act 27 of 2002

125.2801-125.2810 Repealed. 2002, Act 27, Eff. Mar. 6, 2007.

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INCLUSIVE HOME DESIGN ACT
Act 182 of 2006

AN ACT to provide for standards of accessibility for certain publicly funded housing; and to provide for certain powers and duties of certain state authorities.

History: 2006, Act 182, Imd. Eff. June 9, 2006.

The People of the State of Michigan enact:

125.2811 Short title.

Sec. 1. This act shall be known and may be cited as the "inclusive home design act".

History: 2006, Act 182, Imd. Eff. June 9, 2006.

125.2812 Definitions.

Sec. 2. As used in this act:

(a) "Applicant" means 1 or more individuals, corporations, nonprofit corporations, partnerships, associations, limited liability companies, labor organizations, mutual corporations, joint stock companies, trusts, unincorporated associations, trustees, and entities formed under the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

(b) "Authority" means the Michigan state housing development authority created in the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

(c) "Family residential real estate" means real property located in this state, to be newly constructed for residential purposes and intended for occupancy by a single family, 2 families, or 3 families and that is constructed using funds provided as a construction period loan, a bridge loan, or other temporary financing with a term of not more than 24 months and that are provided under the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c. Family residential real estate does not include upper units in duplexes that are designed in an over-and-under fashion.

History: 2006, Act 182, Imd. Eff. June 9, 2006.

125.2813 New construction; compliance of family residential real estate with accessibility provisions.

Sec. 3. Beginning January 1, 2007, at least 50% of family residential real estate that is to be newly constructed after December 31, 2006 and that is receiving funding under the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c, shall be constructed so that the family residential real estate complies with the accessibility provisions of the Michigan building code adopted under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, for type "B" dwelling or sleeping units as defined in section 1102.1 of the Michigan building code.

History: 2006, Act 182, Imd. Eff. June 9, 2006.

125.2814 Forms; assurance of compliance.

Sec. 4. Each applicant for assistance from the authority shall submit an assurance on forms developed and provided by the authority that family residential real estate to be newly constructed after December 31, 2006 with funding provided by the authority shall comply with this act.

History: 2006, Act 182, Imd. Eff. June 9, 2006.

MICHIGAN HOUSING AND COMMUNITY DEVELOPMENT FUND ACT
Act 479 of 2004

125.2821-125.2829 Repealed. 2008, Act 244, Imd. Eff. July 17, 2008.

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HISTORICAL NEIGHBORHOOD TAX INCREMENT FINANCE AUTHORITY ACT
Act 530 of 2004

AN ACT to provide for the establishment of a historical neighborhood tax increment finance authority; to prescribe the powers and duties of the authority; to correct and prevent deterioration in neighborhoods and certain other areas; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans and development areas; to promote residential and economic growth; to create a board; to prescribe the powers and duties of the board; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to prescribe powers and duties of certain state officials; to provide for rule promulgation; and to provide for enforcement of the act.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

The People of the State of Michigan enact:

125.2841 Short title.

Sec. 1. This act shall be known and may be cited as the "historical neighborhood tax increment finance authority act".

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2842 Definitions.

Sec. 2. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

(b) "Assessed value" means the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) "Authority" means a historical neighborhood tax increment finance authority created under this act.

(d) "Board" means the governing body of an authority.

(e) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the development area, including the assessed value of property for which specific local taxes are paid in lieu of property taxes as determined in section 3(d), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(f) "Chief executive officer" means the mayor or city manager of a city or the supervisor of a township.

(g) "Development area" means that area described in section 5 to which a development plan is applicable that is located inside a historic district.

(h) "Development plan" means that information and those requirements for a development area set forth in section 22.

(i) "Development program" means the implementation of the development plan.

(j) "Fiscal year" means the fiscal year of the authority.

(k) "Governing body" or "governing body of a municipality" means the elected body of a municipality having legislative powers.

(*l*) "Historic district" means that term as defined in section 1a of the local historic districts act, 1970 PA 169, MCL 399.201a.

(m) "Housing" means privately owned housing or publicly owned housing, individual or multifamily.

(n) "Initial assessed value" means the assessed value of all the taxable property within the boundaries of the development area at the time the ordinance establishing the tax increment financing plan is approved, as shown by the most recent assessment roll of the municipality at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax is paid in lieu of a property tax shall not be considered to be property that is exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of a property tax shall be determined as provided in section 3(d).

(o) "Land use plan" means a plan prepared under section 1 of the city and village zoning act, 1921 PA 207, MCL 125.581.

(p) "Municipality" means a city or township in which a historic district is located.

(q) "Residential district" means an area of a municipality zoned and used principally for residential

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housing.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2843 Additional definitions.

Sec. 3. As used in this act:

(a) "Operations" means office maintenance, including salaries and expenses of employees, office supplies, consultation fees, design costs, and other expenses incurred in the daily management of the authority and planning of its activities.

(b) "Parcel" means an identifiable unit of land that is treated as separate for valuation or zoning purposes.

(c) "Public facility" means housing, a street, plaza, pedestrian mall, and any improvements to a street, plaza, or pedestrian mall including street furniture and beautification, park, parking facility, recreational facility, right of way, structure, waterway, bridge, lake, pond, canal, utility line or pipe, or building, including access routes designed and dedicated to use by the public generally, or used by a public agency. Public facility includes an improvement to a facility used by the public or a public facility as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351, if the improvement complies with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(d) "Specific local tax" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the technology park development act, 1984 PA 385, MCL 207.701 to 207.718, or 1953 PA 189, MCL 211.181 to 211.182. The initial assessed value or current assessed value of property subject to a specific local tax shall be the quotient of the specific local tax paid divided by the ad valorem millage rate. The state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

(e) "State fiscal year" means the annual period commencing October 1 of each year.

(f) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area. Tax increment revenues do not include any of the following:

(*i*) Taxes under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(*ii*) Taxes levied by local or intermediate school districts.

(*iii*) Ad valorem property taxes attributable either to a portion of the captured assessed value shared with taxing jurisdictions within the jurisdictional area of the authority or to a portion of value of property that may be excluded from captured assessed value or specific local taxes attributable to the ad valorem property taxes.

(*iv*) Ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority or specific local taxes attributable to the ad valorem property taxes.

(*v*) Ad valorem property taxes exempted from capture under section 17(5) or specific local taxes attributable to the ad valorem property taxes.

(*vi*) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit or specific taxes attributable to those ad valorem property taxes.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2844 Authority; establishment of multiple authority; powers of authority as body corporate.

Sec. 4. (1) Except as otherwise provided in this subsection, a municipality may establish multiple authorities inside a historic district. A parcel of property shall not be included in more than 1 authority created under this act.

(2) An authority is a public body corporate that may sue and be sued in any court of this state. An authority possesses all the powers necessary to carry out its purpose. The enumeration of a power in this act shall not be construed as a limitation upon the general powers of an authority.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2845 Intent to create and provide for operation of authority; resolution; notice of public hearing; adoption of ordinance; alteration or amendment of boundaries.

Sec. 5. (1) If the governing body of a municipality determines that it is necessary for the best interests of the public to halt property value deterioration and increase property tax valuation where possible in a residential district, to eliminate the causes of that deterioration, to promote residential growth and to promote

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economic growth, the governing body may, by resolution, declare its intention to create and provide for the operation of an authority within the boundaries of a historic district.

(2) In the resolution of intent, the governing body shall set a date for a public hearing on the adoption of a proposed ordinance creating the authority and designating the boundaries of the development area. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 or more than 40 days before the date of the hearing. Not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in the proposed development area and to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure of a property taxpayer to receive the notice does not invalidate these proceedings. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the proposed development area not less than 20 days before the hearing. The notice shall state the date, time, and place of the hearing and shall describe the boundaries of the proposed development area. A citizen, taxpayer, or property owner of the municipality or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of the proposed development area. The governing body of the municipality shall not incorporate land into the development area not included in the description contained in the notice of public hearing, but it may eliminate described lands from the development area in the final determination of the boundaries.

(3) Not less than 60 days after the public hearing, if the governing body of the municipality intends to proceed with the establishment of the authority it shall adopt, by majority vote of its members, an ordinance establishing the authority and designating the boundaries of the development area within which the authority shall exercise its powers. The adoption of the ordinance is subject to any applicable statutory or charter provisions in respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of an ordinance over his or her veto. This ordinance shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(4) The governing body of the municipality may alter or amend the boundaries of the development area to include or exclude lands from the development area in the same manner as adopting the ordinance creating the authority.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2846 Annexed or consolidated authority; effect on obligations, agreements, and bonds.

Sec. 6. If a development area is part of an area annexed to or consolidated with another municipality, the authority managing that development area shall become an authority of the annexing or consolidated municipality. Obligations of that authority incurred under a development or tax increment plan, agreements related to a development or tax increment plan, and bonds issued under this act shall remain in effect following the annexation or consolidation.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2847 Board; supervision and control; membership; appointment; vacancy; compensation; oath; meetings; removal of member; expense items, financial records, and writings open to public.

Sec. 7. (1) An authority shall be under the supervision and control of a board consisting of the chief executive officer of the municipality or his or her designee and not less than 5 or more than 9 members as determined by the governing body of the municipality. Members shall be appointed by the chief executive officer of the municipality, subject to approval by the governing body of the municipality. Not less than a majority of the members shall be persons having an ownership or business interest in property located in the development area. At least 1 of the members shall be a resident of the development area or of an area within 1/2 mile of any part of the development area. Of the members first appointed, an equal number of the members, as near as is practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years. A member shall hold office until the member's successor is appointed. After the initial appointment, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board.

(2) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(3) The proceedings and rules of the board are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall adopt rules governing its procedure and the holding of regular meetings, subject to

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the approval of the governing body. Special meetings may be held if called in the manner provided in the rules of the board.

(4) After having been given notice and an opportunity to be heard, a member of the board may be removed for cause by the governing body.

(5) All expense items of the authority shall be publicized monthly and the financial records shall always be open to the public.

(6) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2848 Director; compensation; eligibility; service; oath; bond; duties; employment of treasurer, secretary, legal counsel, and other personnel.

Sec. 8. (1) The board may employ and fix the compensation of a director, subject to the approval of the governing body of the municipality. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before beginning his or her duties, the director shall take and subscribe to the constitutional oath, and furnish bond, by posting a bond in the sum determined in the ordinance establishing the authority payable to the authority for use and benefit of the authority, approved by the board, and filed with the municipal clerk. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive officer of the authority. Subject to the approval of the board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board and shall provide to the board and to the governing body of the municipality a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before beginning his or her duties, the acting director shall take and subscribe to the oath, and furnish bond, as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

(2) The board may employ and fix the compensation of a treasurer, who shall keep the financial records of the authority and who, together with the director, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform all duties delegated to him or her by the board and shall furnish bond in an amount prescribed by the board.

(3) The board may employ and fix the compensation of a secretary, who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform other duties delegated by the board.

(4) The board may retain legal counsel to advise the board in the proper performance of its duties. The legal counsel shall represent the authority in actions brought by or against the authority.

(5) The board may employ other personnel considered necessary by the board.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2849 Employees; participation in retirement and insurance programs.

Sec. 9. The employees of an authority shall be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees except that the employees of an authority are not civil service employees.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2850 Board; authority and powers.

Sec. 10. The board may do any of the following:

(a) Prepare an analysis of economic changes taking place in the development area.

(b) Study and analyze the impact of metropolitan growth upon the development area.

(c) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility, an existing building, or a multiple-family dwelling unit which may be necessary or appropriate to the execution of a plan which, in the opinion of the board, aids in the residential growth and economic growth of the development area.

(d) Plan, propose, and implement an improvement to a public facility within the development area to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(e) Develop long-range plans, in cooperation with the historic district commission for the historic district

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and the agency that is chiefly responsible for planning in the municipality, designed to halt the deterioration of property values in the development area and to promote the residential growth and economic growth of the development area, and take steps as may be necessary to persuade property owners to implement the plans to the fullest extent possible.

(f) Implement any plan of development, including housing for low-income individuals, in the development area necessary to achieve the purposes of this act in accordance with the powers of the authority granted by this act.

(g) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.

(h) Acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in the property, that the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options.

(i) Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, clear, improve, maintain, repair, and operate any public facility, building, including multiple-family dwellings, and any necessary or desirable appurtenances to those buildings, within the development area for the use, in whole or in part, of any public or private person or corporation, or a combination thereof.

(j) Fix, charge, and collect fees, rents, and charges for the use of any facility, building, or property under its control or any part of the facility, building, or property, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(k) Lease, in whole or in part, any facility, building, or property under its control.

(*l*) Accept grants and donations of property, labor, or other things of value from a public or private source.

(m) Acquire and construct public facilities.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2851 Authority as instrumentality of political subdivision.

Sec. 11. The authority is an instrumentality of a political subdivision for purposes of 1972 PA 227, MCL 213.321 to 213.332.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2852 Acquisition of private property; transfer.

Sec. 12. A municipality may acquire private property under 1911 PA 149, MCL 213.21 to 213.25, or the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, for the purposes of transfer to the authority, and may transfer the property to the authority for use in an approved development, on terms and conditions it considers appropriate, and the taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2853 Funding sources; disposition of money received.

Sec. 13. (1) The activities of the authority shall be financed from 1 or more of the following sources:

(a) Donations to the authority for the performance of its functions.

(b) Money borrowed and to be repaid as authorized by sections 15 and 16.

(c) Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(d) Proceeds of a tax increment financing plan established under sections 17 to 19.

(e) Proceeds from a special assessment district created as provided by law.

(f) Money obtained from other sources approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance a development program.

(2) Money received by the authority and not covered under subsection (1) shall immediately be deposited to the credit of the authority, subject to disbursement under this act. Except as provided in this act, the municipality shall not obligate itself, and shall not be obligated, to pay any sums from public funds, other than money received by the municipality under this section, for or on account of the activities of the authority.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2854 Borrowing money and issuing bonds.

Sec. 14. The municipality may at the request of the authority borrow money and issue its notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of the ad valorem tax authorized in this section.

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History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2855 Revenue bonds; issuance.

Sec. 15. The authority may borrow money and issue its negotiable revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. Revenue bonds issued by the authority are not a debt of the municipality unless the municipality by majority vote of the members of its governing body pledges its full faith and credit to support the authority's revenue bonds. Revenue bonds issued by the authority are never a debt of the state.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2856 Bonds and notes; pledge; lien; enforcement; exemption from taxation; liability; investment.

Sec. 16. (1) The authority may with approval of the local governing body borrow money and issue its revenue bonds or notes to finance all or part of the costs of acquiring or constructing property in connection with either of the following:

(a) The implementation of a development plan in the development area.

(b) The refund, or refund in advance, of bonds or notes issued under this section.

(2) Any of the following may be financed by the issuance of revenue bonds or notes:

(a) The cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing property in connection with the implementation of a development plan in the development area.

(b) Any engineering, architectural, legal, accounting, or financial expenses.

(c) The costs necessary or incidental to the borrowing of money.

(d) Interest on the bonds or notes during the period of construction.

(e) A reserve for payment of principal and interest on the bonds or notes.

(f) A reserve for operation and maintenance until sufficient revenues have developed.

(3) The authority may secure the bonds and notes by mortgage, assignment, or pledge of the property and any money, revenues, or income received in connection with the property.

(4) A pledge made by the authority is valid and binding from the time the pledge is made. The money or property pledged by the authority immediately is subject to the lien of the pledge without a physical delivery, filing, or further act. The lien of a pledge is valid and binding against parties having claims of any kind in tort, contract, or otherwise, against the authority, whether or not the parties have notice of the lien. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created must be filed or recorded to be enforceable.

(5) Bonds or notes issued under this section are exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(6) The municipality is not liable on bonds or notes of the authority issued under this section, and the bonds or notes are not a debt of the municipality. The bonds or notes shall contain on their face a statement to that effect.

(7) The bonds and notes of the authority may be invested in by all public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by all public officers and the agencies and political subdivisions of this state for any purpose for which the deposit of bonds is authorized.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2857 Tax increment financing plan.

Sec. 17. (1) If the authority determines that it is necessary for the achievement of the purposes of this act, the authority shall prepare and submit a tax increment financing plan to the governing body of the municipality. The plan shall include a development plan as provided in section 19, a detailed explanation of the tax increment procedure, the maximum amount of bonded indebtedness to be incurred, and the duration of the program, and shall be in compliance with section 18. The plan shall contain a statement of the estimated impact of tax increment financing on the assessed values of all taxing jurisdictions in which the development area is located. The plan may provide for the use of part or all of the captured assessed value, but the portion intended to be used by the authority shall be clearly stated in the tax increment financing plan. The authority or municipality may exclude from captured assessed value growth in property value resulting solely from inflation. The plan shall set forth the method for excluding growth in property value resulting solely from inflation.

(2) Approval of the tax increment financing plan shall comply with the notice, hearing, and disclosure

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provisions of section 21. If the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together.

(3) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to meet with the governing body. The authority shall fully inform the taxing jurisdictions of the fiscal and economic implications of the proposed development area. The taxing jurisdictions may present their recommendations at the public hearing on the tax increment financing plan. The authority may enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the development area is located to share a portion of the captured assessed value of the development area.

(4) A tax increment financing plan may be modified if the modification is approved by the governing body upon notice and after public hearings and agreements as are required for approval of the original plan.

(5) Not more than 60 days after the public hearing, the governing body in a taxing jurisdiction levying ad valorem property taxes that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to create the authority. In the event that the governing body levies a separate millage for public library purposes, at the request of the public library board, that separate millage shall be exempt from the capture. The resolution shall take effect when filed with the clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2858 Tax increment revenues; transmission from municipal and county treasurers to authority; expenditures; report.

Sec. 18. (1) The municipal and county treasurers shall transmit tax increment revenues to the authority.

(2) The authority shall expend the tax increment revenues received for the development program only under the terms of the tax increment financing plan. Unused funds shall revert proportionately to the respective taxing bodies. Tax increment revenues shall not be used to circumvent existing property tax limitations. The governing body of the municipality may abolish the tax increment financing plan if it finds that the purposes for which it was established are accomplished. However, the tax increment financing plan shall not be abolished until the principal of, and interest on, bonds issued under section 19 have been paid or funds sufficient to make the payment have been segregated.

(3) Annually the authority shall submit to the governing body of the municipality and the state tax commission a report on the status of the tax increment financing account. The report shall include the following:

(a) The amount and source of revenue in the account.

(b) The amount in any bond reserve account.

(c) The amount and purpose of expenditures from the account.

(d) The amount of principal and interest on any outstanding bonded indebtedness.

(e) The initial assessed value of the project area.

(f) The captured assessed value retained by the authority.

(g) The tax increment revenues received.

(h) The number of public facilities developed.

(i) The amount of public housing created or improved.

(j) The number of jobs created as a result of the implementation of the tax increment financing plan.

(k) Any additional information the governing body considers necessary.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2859 General obligation bonds; tax increment revenue bonds; issuance; limitations; additional security; resolution; lien.

Sec. 19. (1) The municipality may by resolution of its governing body and subject to voter approval authorize, issue, and sell general obligation bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan and shall pledge its full faith and credit for the payment of the bonds. The municipality may pledge as additional security for the bonds any money received by the authority or the municipality under section 13. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Before the municipality may authorize the borrowing, the authority shall submit an estimate of the anticipated tax increment revenues and other revenue available under section 13 to be available for payment of principal and interest on the bonds, to the governing body of the municipality. This estimate shall be approved by the governing body of the municipality by resolution adopted by majority vote of the members of the governing body in the resolution authorizing the bonds. If the

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governing body of the municipality adopts the resolution authorizing the bonds, the estimate of the anticipated tax increment revenues and other revenue available under section 13 to be available for payment of principal and interest on the bonds shall be conclusive for purposes of this section. The bonds issued under this subsection shall be considered a single series for the purposes of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) By resolution of its governing body, the authority may authorize, issue, and sell tax increment bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan. The tax increment bonds issued by the authority under this subsection shall pledge solely the tax increment revenues of a development area in which the project is located or a development area from which tax increment revenues may be used for this project, or both. In addition or in the alternative, the bonds issued by the authority under this subsection may be secured by any other revenues identified in section 13 as sources of financing for activities of the authority that the authority shall specifically pledge in the resolution. However, the full faith and credit of the municipality shall not be pledged to secure bonds issued under this subsection. The bond issue may include a sum sufficient to pay interest on the tax increment bonds until full development of tax increment revenues from the project and also a sum to provide a reasonable reserve for payment of principal and interest on the bonds. The resolution authorizing the bonds shall create a lien on the tax increment revenues and other revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds may be issued of equal standing and parity of lien as to the tax increment revenues and other revenues pledged under the resolution. Bonds issued under this subsection that pledge revenue received under section 14 for repayment of the bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2860 Development plan; contents.

Sec. 20. (1) If a board decides to finance a project in a development area by the use of revenue bonds as authorized in section 15 or tax increment financing as authorized in sections 17, 18, and 19, it shall prepare a development plan.

(2) The development plan shall contain all of the following:

(a) The designation of boundaries of the development area in relation to highways, streets, streams, or otherwise.

(b) The location and extent of existing streets and other public facilities within the development area, designating the location, character, and extent of the categories of public and private land uses then existing and proposed for the development area, including residential, recreational, commercial, industrial, educational, and other uses, and including a legal description of the development area.

(c) A description of existing improvements in the development area to be demolished, repaired, or altered, a description of any repairs and alterations, and an estimate of the time required for completion.

(d) The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the development area and an estimate of the time required for completion.

(e) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(f) A description of any parts of the development area to be left as open space and the use contemplated for the space.

(g) A description of any portions of the development area that the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.

(h) A description of desired zoning changes and changes in streets, street levels, intersections, or utilities.

(i) An estimate of the cost of the development, a statement of the proposed method of financing the development, and the ability of the authority to arrange the financing.

(j) Designation of the person or persons, natural or corporate, to whom all or a portion of the development is to be leased, sold, or conveyed in any manner and for whose benefit the project is being undertaken if that information is available to the authority.

(k) The procedures for bidding for the leasing, purchasing, or conveying in any manner of all or a portion of the development upon its completion, if there is no express or implied agreement between the authority and persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed in any manner to those persons.

(*l*) Estimates of the number of persons residing in the development area and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, a development plan shall include a survey of the families and individuals to be displaced, including

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their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those units in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(m) A plan for establishing priority for the relocation of persons displaced by the development in any residential housing in the development area.

(n) Provision for the costs of relocating persons displaced by the development and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646, 84 Stat. 1894.

(o) A plan for compliance with 1972 PA 227, MCL 213.321 to 213.332.

(p) The requirement that amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection.

(q) Other material that the authority, local public agency, or governing body considers pertinent.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2861 Development plan; public hearing; notice; record.

Sec. 21. (1) The governing body, before adoption of an ordinance approving a development plan or tax increment financing plan, shall hold a public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall be not less than 20 days before the date set for the hearing. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the development area not less than 20 days before the hearing. Notice shall also be mailed to all property taxpayers of record in the development area and to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the tax increment financing plan is approved not less than 20 days before the hearing.

(2) Notice of the time and place of hearing on a development plan shall contain all of the following:

(a) A description of the proposed development area in relation to highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice.

(c) A statement that all aspects of the development plan will be open for discussion at the public hearing.

(d) Other information that the governing body considers appropriate.

(3) At the time set for the hearing, the governing body shall provide an opportunity for interested persons to speak and shall receive and consider communications in writing. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for consideration of documentary evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented at the hearing.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2862 Approval or rejection of plan based on public purpose; considerations.

Sec. 22. The governing body after a public hearing on the development plan or the tax increment financing plan, or both, with notice given under section 21, shall determine whether the development plan or tax increment financing plan constitutes a public purpose. If it determines that the development plan or tax increment financing plan constitutes a public purpose, it shall by ordinance approve or reject the plan, or approve it with modification, based on the following considerations:

(a) The findings and recommendations of a development area citizens council, if a development area citizens council was formed.

(b) The plan meets the requirements under section 20(2).

(c) The proposed method of financing the development is feasible and the authority has the ability to arrange the financing.

(d) The development is reasonable and necessary to carry out the purposes of this act.

(e) The land included within the development area to be acquired is reasonably necessary to carry out the purposes of the plan and of this act in an efficient and economically satisfactory manner.

(f) The development plan is in reasonable accord with the land use plan of the municipality.

(g) Public services, such as fire and police protection and utilities, are or will be adequate to service the project area.

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(h) Changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2863 Notice to vacate; issuance; hearing.

Sec. 23. A person to be relocated under this act shall be given not less than 90 days' written notice to vacate unless modified by court order issued for good cause and after a hearing.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2864 Budget.

Sec. 24. (1) The director of the authority shall submit a budget to the board for the operation of the authority for each fiscal year before the beginning of the fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. After review by the board, the budget shall be submitted to the governing body. The governing body must approve the budget before the board may adopt the budget. Unless authorized by the governing body or this act, funds of the municipality shall not be included in the budget of the authority.

(2) The governing body of the municipality may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed, which shall be paid annually by the board pursuant to an appropriate item in its budget.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2865 Dissolution.

Sec. 25. An authority that has completed the purposes for which it was organized shall be dissolved by ordinance of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority belong to the municipality.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

125.2866 Enforcement of act; rules.

Sec. 26. (1) The state tax commission may institute proceedings to compel enforcement of this act.

(2) The state tax commission may promulgate rules necessary for the administration of this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2004, Act 530, Imd. Eff. Jan. 3, 2005.

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CORRIDOR IMPROVEMENT AUTHORITY ACT
Act 280 of 2005

AN ACT to provide for the establishment of a corridor improvement authority; to prescribe the powers and duties of the authority; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans and development areas in the districts; to promote the economic growth of the districts; to create a board; to prescribe the powers and duties of the board; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to prescribe powers and duties of certain state officials; to provide for rule promulgation; and to provide for enforcement of the act.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005.

The People of the State of Michigan enact:

125.2871 Short title.

Sec. 1. This act shall be known and may be cited as the "corridor improvement authority act".

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005.

125.2872 Definitions; A to M.

Sec. 2. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

(b) "Assessed value" means the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) "Authority" means a corridor improvement authority created under this act.

(d) "Board" means the governing body of an authority.

(e) "Business district" means an area of a municipality zoned and used principally for business.

(f) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the development area, including the assessed value of property for which specific local taxes are paid in lieu of property taxes as determined in section 3(d), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(g) "Chief executive officer" means the mayor of a city, the president of a village, or the supervisor of a township.

(h) "Development area" means that area described in section 5 to which a development plan is applicable.

(i) "Development plan" means that information and those requirements for a development area set forth in section 21.

(j) "Development program" means the implementation of the development plan.

(k) "Fiscal year" means the fiscal year of the authority.

(*l*) "Governing body" or "governing body of a municipality" means the elected body of a municipality having legislative powers.

(m) "Initial assessed value" means the assessed value, as equalized, of all the taxable property within the boundaries of the development area at the time the resolution establishing the tax increment financing plan is approved, as shown by the most recent assessment roll of the municipality for which equalization has been completed at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax is paid in lieu of a property tax shall not be considered to be property that is exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of a property tax shall be determined as provided in section 3(d).

(n) "Land use plan" means a plan prepared under former 1921 PA 207, former 1943 PA 184, or a site plan under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702.

(o) "Municipality" means 1 of the following:

(*i*) A city.

(*ii*) A village.

(*iii*) A township.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005;—Am. 2008, Act 44, Imd. Eff. Mar. 27, 2008.

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125.2873 Definitions.

Sec. 3. As used in this act:

(a) "Operations" means office maintenance, including salaries and expenses of employees, office supplies, consultation fees, design costs, and other expenses incurred in the daily management of the authority and planning of its activities.

(b) "Parcel" means an identifiable unit of land that is treated as separate for valuation or zoning purposes.

(c) "Public facility" means a street, plaza, pedestrian mall, and any improvements to a street, plaza, or pedestrian mall including street furniture and beautification, sidewalk, trail, lighting, traffic flow modification, park, parking facility, recreational facility, right-of-way, structure, waterway, bridge, lake, pond, canal, utility line or pipe, or building, including access routes, that are either designed and dedicated to use by the public generally or used by a public agency, or that are located in a qualified development area and are for the benefit of or for the protection of the health, welfare, or safety of the public generally, whether or not used by 1 or more business entities, provided that any road, street, or bridge shall be continuously open to public access and that other property shall be located in public easements or rights-of-way and designed to accommodate foreseeable development of public facilities in adjoining areas. Public facility includes an improvement to a facility used by the public or a public facility as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351, if the improvement complies with the barrier-free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(d) "Qualified development area" means a development area that meets all of the following:

(*i*) Is located within a city with a population of 700,000 or more.

(*ii*) Contains at least 30 contiguous acres.

(*iii*) Was owned by this state on December 31, 2003 and was conveyed to a private owner before June 30, 2004.

(*iv*) Is zoned to allow for mixed use that includes commercial use and that may include residential use.

(*v*) Otherwise complies with the requirements of section 5(a), (d), (e), and (g).

(*vi*) Construction within the qualified development area begins on or before the date 2 years after the effective date of the amendatory act that added this subdivision.

(*vii*) Is located in a distressed area.

(e) "Specific local tax" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the technology park development act, 1984 PA 385, MCL 207.701 to 207.718, or 1953 PA 189, MCL 211.181 to 211.182. The initial assessed value or current assessed value of property subject to a specific local tax shall be the quotient of the specific local tax paid divided by the ad valorem millage rate. The state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

(f) "State fiscal year" means the annual period commencing October 1 of each year.

(g) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area. Except as otherwise provided in section 29, tax increment revenues do not include any of the following:

(*i*) Taxes under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(*ii*) Taxes levied by local or intermediate school districts.

(*iii*) Ad valorem property taxes attributable either to a portion of the captured assessed value shared with taxing jurisdictions within the jurisdictional area of the authority or to a portion of value of property that may be excluded from captured assessed value or specific local taxes attributable to the ad valorem property taxes.

(*iv*) Ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority or specific local taxes attributable to the ad valorem property taxes.

(*v*) Ad valorem property taxes exempted from capture under section 18(5) or specific local taxes attributable to the ad valorem property taxes.

(*vi*) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit or specific taxes attributable to those ad valorem property taxes.

(h) "Distressed area" means a local governmental unit that meets all of the following:

(*i*) Has a population of 700,000 or more.

(*ii*) Shows a negative population change from 1970 to the date of the most recent federal decennial census.

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(*iii*) Shows an overall increase in the state equalized value of real and personal property of less than the statewide average increase since 1972.

(*iv*) Has a poverty rate, as defined by the most recent federal decennial census, greater than the statewide average.

(*v*) Has had an unemployment rate higher than the statewide average.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005;—Am. 2007, Act 44, Imd. Eff. July 17, 2007.

125.2874 Authority; establishment; public body corporate; powers.

Sec. 4. (1) Except as otherwise provided in this subsection, a municipality may establish multiple authorities. A parcel of property shall not be included in more than 1 authority created under this act.

(2) An authority is a public body corporate which may sue and be sued in any court of this state. An authority possesses all the powers necessary to carry out its purpose. The enumeration of a power in this act shall not be construed as a limitation upon the general powers of an authority.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005.

125.2875 Development area; establishment in municipality; exception; criteria; compliance.

Sec. 5. A development area shall only be established in a municipality and, except for a development area located in a qualified development area, shall comply with all of the following criteria:

(a) Is adjacent to or is within 500 feet of a road classified as an arterial or collector according to the federal highway administration manual "Highway Functional Classification - Concepts, Criteria and Procedures".

(b) Contains at least 10 contiguous parcels or at least 5 contiguous acres.

(c) More than 1/2 of the existing ground floor square footage in the development area is classified as commercial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(d) Residential use, commercial use, or industrial use has been allowed and conducted under the zoning ordinance or conducted in the entire development area, for the immediately preceding 30 years.

(e) Is presently served by municipal water or sewer.

(f) Is zoned to allow for mixed use that includes high-density residential use.

(g) The municipality agrees to all of the following:

(*i*) To expedite the local permitting and inspection process in the development area.

(*ii*) To modify its master plan to provide for walkable nonmotorized interconnections, including sidewalks and streetscapes throughout the development area.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005;—Am. 2007, Act 44, Imd. Eff. July 17, 2007;—Am. 2008, Act 44, Imd. Eff. Mar. 27, 2008.

125.2876 Creation of authority; resolution by governing body; notice of public hearing; adoption of resolution designating boundaries; alteration or amendment; interlocal agreement.

Sec. 6. (1) If the governing body of a municipality determines that it is necessary for the best interests of the public to redevelop its commercial corridors and to promote economic growth, the governing body may, by resolution, declare its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body shall state that the proposed development area meets the criteria in section 5, set a date for a public hearing on the adoption of a proposed resolution creating the authority, and designate the boundaries of the development area. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 or more than 40 days before the date of the hearing. Not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in the proposed development area, to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved, and to the state tax commission. Failure of a property taxpayer to receive the notice does not invalidate these proceedings. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the proposed development area not less than 20 days before the hearing. The notice shall state the date, time, and place of the hearing and shall describe the boundaries of the proposed development area. A citizen, taxpayer, or property owner of the municipality or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of the proposed development area. The governing body of the municipality shall not incorporate land into the development area not included in the description contained in the notice of public hearing, but it may eliminate described lands from the development area in the final determination of the boundaries.

(3) Not less than 60 days after the public hearing, if the governing body of the municipality intends to

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proceed with the establishment of the authority it shall adopt, by majority vote of its members, a resolution establishing the authority and designating the boundaries of the development area within which the authority shall exercise its powers. The adoption of the resolution is subject to any applicable statutory or charter provisions in respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of a resolution over his or her veto. This resolution shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(4) The governing body of the municipality may alter or amend the boundaries of the development area to include or exclude lands from the development area in the same manner as adopting the resolution creating the authority.

(5) A municipality that has created an authority may enter into an agreement with an adjoining municipality that has created an authority to jointly operate and administer those authorities under an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512. The interlocal agreement shall include, but is not limited to, a plan to coordinate and expedite local inspections and permit approvals, a plan to address contradictory zoning requirements, and a date certain to implement all provisions of these plans. If a municipality enters into an interlocal agreement under this subsection, the municipality shall provide a copy of that interlocal agreement to the state tax commission within 60 days of entering into the interlocal agreement.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005;—Am. 2008, Act 44, Imd. Eff. Mar. 27, 2008.

125.2877 Annexation or consolidation; effect.

Sec. 7. If a development area is part of an area annexed to or consolidated with another municipality, the authority managing that development area shall become an authority of the annexing or consolidated municipality. Obligations of that authority incurred under a development or tax increment plan, agreements related to a development or tax increment plan, and bonds issued under this act shall remain in effect following the annexation or consolidation.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005.

125.2878 Authority under supervision and control of board; membership; appointment; terms; vacancy; expenses; chairperson; oath; proceedings and rules subject to open meetings act; removal of board member; financial records; writings subject to freedom of information act; members as members of business improvement district.

Sec. 8. (1) Except as provided in subsection (7), an authority shall be under the supervision and control of a board consisting of the chief executive officer of the municipality or his or her assignee and not less than 5 or more than 9 members as determined by the governing body of the municipality. Members shall be appointed by the chief executive officer of the municipality, subject to approval by the governing body of the municipality. Not less than a majority of the members shall be persons having an ownership or business interest in property located in the development area. At least 1 of the members shall be a resident of the development area or of an area within 1/2 mile of any part of the development area. Of the members first appointed, an equal number of the members, as near as is practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years. A member shall hold office until the member's successor is appointed. After the initial appointment, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board.

(2) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(3) The proceedings and rules of the board are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held if called in the manner provided in the rules of the board.

(4) After having been given notice and an opportunity to be heard, a member of the board may be removed for cause by the governing body.

(5) All expense items of the authority shall be publicized monthly and the financial records shall always be open to the public.

(6) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) If the boundaries of the development area are the same as those of a business improvement district

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established under 1961 PA 120, MCL 125.981 to 125.990m, the governing body of the municipality may provide that the members of the board of the authority shall be the members of the board of the business improvement district and 1 person shall be a resident of the development area or of an area within 1/2 mile of any part of the development area.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005.

125.2879 Director, treasurer, secretary, legal counsel, other personnel; compensation; duties.

Sec. 9. (1) The board may employ and fix the compensation of a director, subject to the approval of the governing body of the municipality. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before beginning his or her duties, the director shall take and subscribe to the constitutional oath, and furnish bond, by posting a bond in the sum determined in the resolution establishing the authority payable to the authority for use and benefit of the authority, approved by the board, and filed with the municipal clerk. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive officer of the authority. Subject to the approval of the board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board and shall provide to the board and to the governing body of the municipality a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before beginning his or her duties, the acting director shall take and subscribe to the oath, and furnish bond, as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

(2) The board may employ and fix the compensation of a treasurer, who shall keep the financial records of the authority and who, together with the director, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform all duties delegated to him or her by the board and shall furnish bond in an amount prescribed by the board.

(3) The board may employ and fix the compensation of a secretary, who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform other duties delegated by the board.

(4) The board may retain legal counsel to advise the board in the proper performance of its duties. The legal counsel shall represent the authority in actions brought by or against the authority.

(5) The board may employ other personnel considered necessary by the board.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005;—Am. 2008, Act 44, Imd. Eff. Mar. 27, 2008.

125.2880 Retirement and insurance programs.

Sec. 10. The employees of an authority shall be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees except that the employees of an authority are not civil service employees.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005.

125.2881 Board; powers.

Sec. 11. (1) The board may do any of the following:

(a) Prepare an analysis of economic changes taking place in the development area.

(b) Study and analyze the impact of metropolitan growth upon the development area.

(c) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility, an existing building, or a multiple-family dwelling unit which may be necessary or appropriate to the execution of a plan which, in the opinion of the board, aids in the economic growth of the development area.

(d) Plan, propose, and implement an improvement to a public facility within the development area to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(e) Develop long-range plans, in cooperation with the agency that is chiefly responsible for planning in the municipality, designed to halt the deterioration of property values in the development area and to promote the economic growth of the development area, and take steps as may be necessary to persuade property owners to implement the plans to the fullest extent possible.

(f) Implement any plan of development in the development area necessary to achieve the purposes of this

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act in accordance with the powers of the authority granted by this act.

(g) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.

(h) On terms and conditions and in a manner and for consideration the authority considers proper or for no consideration, acquire by purchase or otherwise, or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in the property, that the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options.

(i) Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, and operate any building, including multiple-family dwellings, and any necessary or desirable appurtenances to those buildings, within the development area for the use, in whole or in part, of any public or private person or corporation, or a combination thereof.

(j) Fix, charge, and collect fees, rents, and charges for the use of any facility, building, or property under its control or any part of the facility, building, or property, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(k) Lease, in whole or in part, any facility, building, or property under its control.

(*l*) Accept grants and donations of property, labor, or other things of value from a public or private source.

(m) Acquire and construct public facilities.

(n) Conduct market research and public relations campaigns, develop, coordinate, and conduct retail and institutional promotions, and sponsor special events and related activities.

(o) Contract for broadband service and wireless technology service in a development area.

(2) Notwithstanding any other provision of this act, in a qualified development area the board may, in addition to the powers enumerated in subsection (1), do 1 or more of the following:

(a) Perform any necessary or desirable site improvements to the land, including, but not limited to, installation of temporary or permanent utilities, temporary or permanent roads and driveways, silt fences, perimeter construction fences, curbs and gutters, sidewalks, pavement markings, water systems, gas distribution lines, concrete, including, but not limited to, building pads, storm drainage systems, sanitary sewer systems, parking lot paving and light fixtures, electrical service, communications systems, including broadband and high-speed internet, site signage, and excavation, backfill, grading of site, landscaping and irrigation, within the development area for the use, in whole or in part, of any public or private person or business entity, or a combination of these.

(b) Incur expenses and expend funds to pay or reimburse a public or private person for costs associated with any of the improvements described in subdivision (a).

(c) Make and enter into financing arrangements with a public or private person for the purposes of implementing the board's powers described in this section, including, but not limited to, lease purchase agreements, land contracts, installment sales agreements, sale leaseback agreements, and loan agreements.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005;—Am. 2007, Act 44, Imd. Eff. July 17, 2007.

125.2882 Authority as instrument of political subdivision.

Sec. 12. The authority is an instrumentality of a political subdivision for purposes of 1972 PA 227, MCL 213.321 to 213.332.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005.

125.2883 Acquisition of private property; transfer to authority; use.

Sec. 13. A municipality may acquire private property under 1911 PA 149, MCL 213.21 to 213.25, for the purpose of transfer to the authority, and may transfer the property to the authority for use in an approved development, on terms and conditions it considers appropriate, and the taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005.

125.2884 Financing sources; disposition.

Sec. 14. (1) The activities of the authority shall be financed from 1 or more of the following sources:

(a) Donations to the authority for the performance of its functions.

(b) Money borrowed and to be repaid as authorized by sections 16 and 17.

(c) Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(d) Proceeds of a tax increment financing plan established under sections 18 to 20.

(e) Proceeds from a special assessment district created as provided by law.

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(f) Money obtained from other sources approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance a development program.

(2) Money received by the authority and not covered under subsection (1) shall immediately be deposited to the credit of the authority, subject to disbursement under this act. Except as provided in this act, the municipality shall not obligate itself, and shall not be obligated, to pay any sums from public funds, other than money received by the municipality under this section, for or on account of the activities of the authority.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005.

125.2885 Special assessment; levy; borrowing money and issuing bonds.

Sec. 15. (1) An authority with the approval of the governing body may levy a special assessment as provided by law.

(2) The municipality may at the request of the authority borrow money and issue its notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of the ad valorem tax authorized in this section.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005.

125.2886 Revenue bonds.

Sec. 16. The authority may, with approval of the local governing body, borrow money and issue its negotiable revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. Revenue bonds issued by the authority are not a debt of the municipality unless the municipality by majority vote of the members of its governing body pledges its full faith and credit to support the authority's revenue bonds. Revenue bonds issued by the authority are never a debt of the state.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005.

125.2887 Acquisition or construction of property; financing; bonds or notes.

Sec. 17. (1) The authority may with approval of the local governing body borrow money and issue its revenue bonds or notes to finance all or part of the costs of acquiring or constructing or causing to be constructed property in connection with either of the following:

(a) The implementation of a development plan in the development area.

(b) The refund, or refund in advance, of bonds or notes issued under this section.

(2) Any of the following may be financed by the issuance of revenue bonds or notes:

(a) The cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing property in connection with the implementation of a development plan in the development area, and, for the implementation of the development plan in a qualified development area, the cost of reimbursing a public or private person for any of those costs.

(b) Any engineering, architectural, legal, accounting, or financial expenses.

(c) The costs necessary or incidental to the borrowing of money.

(d) Interest on the bonds or notes during the period of construction.

(e) A reserve for payment of principal and interest on the bonds or notes.

(f) A reserve for operation and maintenance until sufficient revenues have developed.

(3) The authority may secure the bonds and notes by mortgage, assignment, or pledge of the property and any money, revenues, or income received in connection with the property.

(4) A pledge made by the authority is valid and binding from the time the pledge is made. The money or property pledged by the authority immediately is subject to the lien of the pledge without a physical delivery, filing, or further act. The lien of a pledge is valid and binding against parties having claims of any kind in tort, contract, or otherwise, against the authority, whether or not the parties have notice of the lien. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created must be filed or recorded to be enforceable.

(5) Bonds or notes issued under this section are exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(6) The municipality is not liable on bonds or notes of the authority issued under this section, and the bonds or notes are not a debt of the municipality. The bonds or notes shall contain on their face a statement to that effect.

(7) The bonds and notes of the authority may be invested in by all public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by all public officers and the agencies and political subdivisions of this state for any purpose for which the deposit of bonds is authorized.

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History: 2005, Act 280, Imd. Eff. Dec. 19, 2005;—Am. 2007, Act 44, Imd. Eff. July 17, 2007.

125.2888 Tax increment financing plan.

Sec. 18. (1) If the authority determines that it is necessary for the achievement of the purposes of this act, the authority shall prepare and submit a tax increment financing plan to the governing body of the municipality. The plan shall include a development plan as provided in section 21, a detailed explanation of the tax increment procedure, the maximum amount of bonded indebtedness to be incurred, and the duration of the program, and shall be in compliance with section 19. The plan shall contain a statement of the estimated impact of tax increment financing on the assessed values of all taxing jurisdictions in which the development area is located. The plan may provide for the use of part or all of the captured assessed value, but the portion intended to be used by the authority shall be clearly stated in the tax increment financing plan. The authority or municipality may exclude from captured assessed value growth in property value resulting solely from inflation. The plan shall set forth the method for excluding growth in property value resulting solely from inflation.

(2) Approval of the tax increment financing plan shall comply with the notice, hearing, and disclosure provisions of section 22. If the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together.

(3) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to meet with the governing body. The authority shall fully inform the taxing jurisdictions of the fiscal and economic implications of the proposed development area. The taxing jurisdictions may present their recommendations at the public hearing on the tax increment financing plan. The authority may enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the development area is located to share a portion of the captured assessed value of the development area.

(4) A tax increment financing plan may be modified if the modification is approved by the governing body upon notice and after public hearings and agreements as are required for approval of the original plan.

(5) Except for a development area located in a qualified development area, not more than 60 days after the public hearing on the tax increment financing plan, the governing body in a taxing jurisdiction levying ad valorem property taxes that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to create the authority. The resolution shall take effect when filed with the clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005;—Am. 2007, Act 44, Imd. Eff. July 17, 2007;—Am. 2008, Act 44, Imd. Eff. Mar. 27, 2008.

125.2889 Tax increment revenues; transmission; expenditures; use; annual report.

Sec. 19. (1) The municipal and county treasurers shall transmit tax increment revenues to the authority.

(2) The authority shall expend the tax increment revenues received for the development program only under the terms of the tax increment financing plan. Unused funds shall revert proportionately to the respective taxing bodies. Tax increment revenues shall not be used to circumvent existing property tax limitations. The governing body of the municipality may abolish the tax increment financing plan if it finds that the purposes for which it was established are accomplished. However, the tax increment financing plan shall not be abolished until the principal of, and interest on, bonds issued under section 20 have been paid or funds sufficient to make the payment have been segregated.

(3) Annually the authority shall submit to the governing body of the municipality and the state tax commission a report on the status of the tax increment financing account. The report shall include the following:

(a) The amount and source of revenue in the account.

(b) The amount in any bond reserve account.

(c) The amount and purpose of expenditures from the account.

(d) The amount of principal and interest on any outstanding bonded indebtedness.

(e) The initial assessed value of the project area.

(f) The captured assessed value retained by the authority.

(g) The tax increment revenues received.

(h) The increase in the state equalized valuation as a result of the implementation of the tax increment financing plan.

(i) The type and cost of capital improvements made in the development area.

(j) Any additional information the governing body considers necessary.

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History: 2005, Act 280, Imd. Eff. Dec. 19, 2005.

125.2890 Financing development program of tax increment financing plan; authorization, issuance, and sale of general obligation bonds; estimate of anticipated tax increment revenues; resolution; security; lien.

Sec. 20. (1) The municipality may by resolution of its governing body authorize, issue, and sell limited general obligation bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan and shall pledge its full faith and credit for the payment of the bonds. The municipality may pledge as additional security for the bonds any money received by the authority or the municipality under section 14. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Before the municipality may authorize the borrowing, the authority shall submit an estimate of the anticipated tax increment revenues and other revenue available under section 14 to be available for payment of principal and interest on the bonds, to the governing body of the municipality. This estimate shall be approved by the governing body of the municipality by resolution adopted by majority vote of the members of the governing body in the resolution authorizing the bonds. If the governing body of the municipality adopts the resolution authorizing the bonds, the estimate of the anticipated tax increment revenues and other revenue available under section 14 to be available for payment of principal and interest on the bonds shall be conclusive for purposes of this section. The bonds issued under this subsection shall be considered a single series for the purposes of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) By resolution of its governing body, the authority may authorize, issue, and sell tax increment bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan. The tax increment bonds issued by the authority under this subsection shall pledge solely the tax increment revenues of a development area in which the project is located or a development area from which tax increment revenues may be used for this project, or both. In addition or in the alternative, the bonds issued by the authority under this subsection may be secured by any other revenues identified in section 14 as sources of financing for activities of the authority that the authority shall specifically pledge in the resolution. However, the full faith and credit of the municipality shall not be pledged to secure bonds issued under this subsection. The bond issue may include a sum sufficient to pay interest on the tax increment bonds until full development of tax increment revenues from the project and also a sum to provide a reasonable reserve for payment of principal and interest on the bonds. The resolution authorizing the bonds shall create a lien on the tax increment revenues and other revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds may be issued of equal standing and parity of lien as to the tax increment revenues and other revenues pledged under the resolution. Bonds issued under this subsection that pledge revenue received under section 15 for repayment of the bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005;—Am. 2008, Act 44, Imd. Eff. Mar. 27, 2008.

125.2891 Development plan; preparation; contents.

Sec. 21. (1) If a board decides to finance a project in a development area by the use of revenue bonds as authorized in section 16 or tax increment financing as authorized in sections 18, 19, and 20, it shall prepare a development plan.

(2) The development plan shall contain all of the following:

(a) The designation of boundaries of the development area in relation to highways, streets, streams, or otherwise.

(b) The location and extent of existing streets and other public facilities within the development area, designating the location, character, and extent of the categories of public and private land uses then existing and proposed for the development area, including residential, recreational, commercial, industrial, educational, and other uses, and including a legal description of the development area.

(c) A description of existing improvements in the development area to be demolished, repaired, or altered, a description of any repairs and alterations, and an estimate of the time required for completion.

(d) The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the development area and an estimate of the time required for completion.

(e) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(f) A description of any parts of the development area to be left as open space and the use contemplated for the space.

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(g) A description of any portions of the development area that the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.

(h) A description of desired zoning changes and changes in streets, street levels, intersections, traffic flow modifications, or utilities.

(i) An estimate of the cost of the development, a statement of the proposed method of financing the development, and the ability of the authority to arrange the financing.

(j) Designation of the person or persons, natural or corporate, to whom all or a portion of the development is to be leased, sold, or conveyed in any manner and for whose benefit the project is being undertaken if that information is available to the authority.

(k) The procedures for bidding for the leasing, purchasing, or conveying in any manner of all or a portion of the development upon its completion, if there is no express or implied agreement between the authority and persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed in any manner to those persons.

(*l*) Estimates of the number of persons residing in the development area and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, a development plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those units in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(m) A plan for establishing priority for the relocation of persons displaced by the development in any new housing in the development area.

(n) Provision for the costs of relocating persons displaced by the development and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646, 84 Stat. 1894.

(o) A plan for compliance with 1972 PA 227, MCL 213.321 to 213.332.

(p) The requirement that amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection.

(q) A schedule to periodically evaluate the effectiveness of the development plan.

(r) Other material that the authority, local public agency, or governing body considers pertinent.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005.

125.2892 Development plan; public hearing; notice; contents; opportunity to speak; hearing record.

Sec. 22. (1) The governing body, before adoption of a resolution approving a development plan or tax increment financing plan, shall hold a public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall be not less than 20 days before the date set for the hearing. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the development area not less than 20 days before the hearing. Notice shall also be mailed to all property taxpayers of record in the development area and to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the tax increment financing plan is approved not less than 20 days before the hearing. The notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the tax increment financing plan is approved.

(2) Notice of the time and place of hearing on a development plan shall contain all of the following:

(a) A description of the proposed development area in relation to highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice.

(c) A statement that all aspects of the development plan will be open for discussion at the public hearing.

(d) Other information that the governing body considers appropriate.

(3) At the time set for the hearing, the governing body shall provide an opportunity for interested persons to speak and shall receive and consider communications in writing. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for consideration of documentary

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evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented at the hearing.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005;—Am. 2008, Act 44, Imd. Eff. Mar. 27, 2008.

125.2893 Approval, rejection, or approval with modification; considerations.

Sec. 23. The governing body after a public hearing on the development plan or the tax increment financing plan, or both, with notice given under section 22, shall determine whether the development plan or tax increment financing plan constitutes a public purpose. If it determines that the development plan or tax increment financing plan constitutes a public purpose, it shall by resolution approve or reject the plan, or approve it with modification, based on the following considerations:

(a) The plan meets the requirements under section 20(2).

(b) The proposed method of financing the development is feasible and the authority has the ability to arrange the financing.

(c) The development is reasonable and necessary to carry out the purposes of this act.

(d) The land included within the development area to be acquired is reasonably necessary to carry out the purposes of the plan and of this act in an efficient and economically satisfactory manner.

(e) The development plan is in reasonable accord with the land use plan of the municipality.

(f) Public services, such as fire and police protection and utilities, are or will be adequate to service the project area.

(g) Changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005;—Am. 2008, Act 44, Imd. Eff. Mar. 27, 2008.

125.2894 Notice to vacate.

Sec. 24. A person to be relocated under this act shall be given not less than 90 days' written notice to vacate unless modified by court order issued for good cause and after a hearing.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005.

125.2895 Budget; submission to board; preparation; approval; adoption; cost of handling and auditing funds.

Sec. 25. (1) The director of the authority shall submit a budget to the board for the operation of the authority for each fiscal year before the beginning of the fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. After review by the board, the budget shall be submitted to the governing body. The governing body must approve the budget before the board may adopt the budget. Unless authorized by the governing body or this act, funds of the municipality shall not be included in the budget of the authority.

(2) The governing body of the municipality may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed, which shall be paid annually by the board pursuant to an appropriate item in its budget.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005.

125.2896 Preservation of historical sites.

Sec. 26. (1) A public facility, building, or structure that is determined by the municipality to have significant historical interests shall be preserved in a manner considered necessary by the municipality in accordance with laws relative to the preservation of historical sites.

(2) An authority shall refer all proposed changes to the exterior of sites listed on the state register of historic sites and the national register of historic places to the applicable historic district commission created under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, or the department of history, arts, and libraries for review.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

125.2897 Dissolution.

Sec. 27. An authority that has completed the purposes for which it was organized shall be dissolved by resolution of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority belong to the municipality.

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History: 2005, Act 280, Imd. Eff. Dec. 19, 2005;—Am. 2008, Act 44, Imd. Eff. Mar. 27, 2008.

125.2898 Enforcement of act; rules.

Sec. 28. (1) The state tax commission may institute proceedings to compel enforcement of this act.

(2) The state tax commission may promulgate rules necessary for the administration of this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2005, Act 280, Imd. Eff. Dec. 19, 2005.

125.2899 Tax increment revenues; definition; condition.

Sec. 29. (1) Subject to the requirements of subsection (2), within 60 days after a development plan for a qualified development area has been approved under section 18, upon written request from the authority, the Michigan economic growth authority under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, may include the following within the definition of tax increment revenues under section 3(g):

(a) Taxes under the state education tax act, 1933 PA 331, MCL 211.901 to 211.906.

(b) Taxes levied by local or intermediate school districts under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(2) The Michigan economic growth authority may only allow inclusion of the taxes described in subsection (1) in the definition of tax increment revenues if the Michigan economic growth authority under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, determines that the inclusion is necessary to reduce unemployment, promote economic growth, and increase capital investment in a qualified development area.

History: Add. 2007, Act 44, Imd. Eff. July 17, 2007.

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NEIGHBORHOOD IMPROVEMENT AUTHORITY ACT
Act 61 of 2007

AN ACT to provide for the establishment of a neighborhood improvement authority; to prescribe the powers and duties of the authority; to correct and prevent deterioration in neighborhoods and certain other areas; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans and development areas; to promote residential and economic growth; to create a board; to prescribe the powers and duties of the board; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to prescribe powers and duties of certain state officials; to provide for rule promulgation; and to provide for enforcement of the act.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

The People of the State of Michigan enact:

125.2911 Short title.

Sec. 1. This act shall be known and may be cited as the "neighborhood improvement authority act".

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2912 Definitions; A to M.

Sec. 2. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

(b) "Assessed value" means the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) "Authority" means a neighborhood improvement authority created under this act.

(d) "Board" means the governing body of an authority.

(e) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the development area, including the assessed value of property for which specific local taxes are paid in lieu of property taxes as determined in section 3(d), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(f) "Chief executive officer" means the mayor or city manager of a city or the president or village manager of a village.

(g) "Development area" means that area described in section 5 to which a development plan is applicable.

(h) "Development plan" means that information and those requirements for a development area set forth in section 19.

(i) "Development program" means the implementation of the development plan.

(j) "Fiscal year" means the fiscal year of the authority.

(k) "Governing body" or "governing body of a municipality" means the elected body of a municipality having legislative powers.

(*l*) "Housing" means publicly owned housing, individual or multifamily.

(m) "Initial assessed value" means the assessed value of all the taxable property within the boundaries of the development area at the time the ordinance establishing the tax increment financing plan is approved, as shown by the most recent assessment roll of the municipality at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax is paid in lieu of a property tax shall not be considered to be property that is exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of a property tax shall be determined as provided in section 3(d).

(n) "Land use plan" means a plan prepared under former 1921 PA 207 or a site plan under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702.

(o) "Municipality" means a city or a village.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2913 Definitions; O to T.

Sec. 3. As used in this act:

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(a) "Operations" means office maintenance, including salaries and expenses of employees, office supplies, consultation fees, design costs, and other expenses incurred in the daily management of the authority and planning of its activities.

(b) "Parcel" means an identifiable unit of land that is treated as separate for valuation or zoning purposes.

(c) "Public facility" means housing, a street, plaza, pedestrian mall, and any improvements to a street, plaza, or pedestrian mall including street furniture and beautification, park, parking facility, recreational facility, right-of-way, structure, waterway, bridge, lake, pond, canal, utility line or pipe, or building, including access routes designed and dedicated to use by the public generally, or used by a public agency. Public facility includes an improvement to a facility used by the public or a public facility as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351, if the improvement complies with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(d) "Residential district" means an area of a municipality where 75% or more of the area is zoned for residential housing.

(e) "Specific local tax" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the technology park development act, 1984 PA 385, MCL 207.701 to 207.718, 1953 PA 189, MCL 211.181 to 211.182, the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786, or the commercial rehabilitation act, 2005 PA 210, MCL 207.841 to 207.856. The initial assessed value or current assessed value of property subject to a specific local tax shall be the quotient of the specific local tax paid divided by the ad valorem millage rate. The state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

(f) "State fiscal year" means the annual period commencing October 1 of each year.

(g) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area. Tax increment revenues do not include any of the following:

(*i*) Taxes under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(*ii*) Taxes levied by local or intermediate school districts.

(*iii*) Ad valorem property taxes attributable either to a portion of the captured assessed value shared with taxing jurisdictions within the jurisdictional area of the authority or to a portion of value of property that may be excluded from captured assessed value or specific local taxes attributable to the ad valorem property taxes.

(*iv*) Ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority or specific local taxes attributable to the ad valorem property taxes.

(*v*) Ad valorem property taxes exempted from capture under section 14(5) or specific local taxes attributable to those ad valorem property taxes.

(*vi*) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit or specific taxes attributable to those ad valorem property taxes.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2914 Multiple authorities; establishment; authority as public body corporate.

Sec. 4. (1) Except as otherwise provided in this subsection, a municipality may establish multiple authorities. A parcel of property shall not be included in more than 1 authority created under this act.

(2) An authority is a public body corporate that may sue and be sued in any court of this state. An authority possesses all the powers necessary to carry out its purpose. The enumeration of a power in this act shall not be construed as a limitation upon the general powers of an authority.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2915 Operation of authority; resolution of intent; public hearing; notice; adoption of ordinance establishing authority; filing; alteration or amendment of boundaries; exclusions; duration.

Sec. 5. (1) If the governing body of a municipality determines that it is necessary for the best interests of the public to promote residential growth in a residential district and to promote economic growth, the governing body may, by resolution, declare its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body shall set a date for a public hearing on the adoption of a proposed ordinance creating the authority and designating the boundaries of the development area. Notice of

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the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 or more than 40 days before the date of the hearing. Not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in the proposed development area and to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure of a property taxpayer to receive the notice does not invalidate these proceedings. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the proposed development area not less than 20 days before the hearing. The notice shall state the date, time, and place of the hearing and shall describe the boundaries of the proposed development area. A citizen, taxpayer, or property owner of the municipality or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of the proposed development area. The governing body of the municipality shall not incorporate land into the development area not included in the description contained in the notice of public hearing, but it may eliminate described lands from the development area in the final determination of the boundaries.

(3) Not less than 60 days after the public hearing, if the governing body of the municipality intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members, an ordinance establishing the authority and designating the boundaries of the development area within which the authority shall exercise its powers. The adoption of the ordinance is subject to any applicable statutory or charter provisions in respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of an ordinance over his or her veto. This ordinance shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(4) The governing body of the municipality may alter or amend the boundaries of the development area to include or exclude lands from the development area in the same manner as adopting the ordinance creating the authority.

(5) A residential district or development area under this act shall not include an area of a municipality that is part of a residential district or a development area under the historical neighborhood tax increment finance authority act, 2004 PA 530, MCL 125.2841 to 125.2866.

(6) An authority created under this act shall have a duration of not more than 30 years from the date of the resolution creating the authority. The governing body of a municipality may extend the duration of the authority by resolution if the purposes for which the authority was created still exist.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2916 Annexation or consolidation with another municipality.

Sec. 6. If a development area is part of an area annexed to or consolidated with another municipality, the authority managing that development area shall become an authority of the annexing or consolidated municipality. Obligations of that authority incurred under a development or tax increment plan, agreements related to a development or tax increment plan, and bonds issued under this act shall remain in effect following the annexation or consolidation.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2917 Board; chief officer; membership; appointment terms; vacancy; oath; open meetings; removal of member; financial records; writings subject to freedom of information act.

Sec. 7. (1) An authority shall be under the supervision and control of a board consisting of the chief executive officer of the municipality or his or her designee and not less than 5 or more than 9 members as determined by the governing body of the municipality. Members shall be appointed by the chief executive officer of the municipality, subject to approval by the governing body of the municipality. Not less than a majority of the members shall be persons having an ownership or business interest in property located in the development area. At least 1 of the members shall be a resident of the development area or of an area within 1/2 mile of any part of the development area. Of the members first appointed, an equal number of the members, as near as is practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years. A member shall hold office until the member's successor is appointed. After the initial appointment, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board.

(2) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

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(3) The proceedings and rules of the board are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held if called in the manner provided in the rules of the board.

(4) After having been given notice and an opportunity to be heard, a member of the board may be removed for cause by the governing body.

(5) All expense items of the authority shall be publicized monthly and the financial records shall always be open to the public.

(6) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2918 Director; compensation; service; eligibility; oath; posting of bond; director as chief executive officer; duties of director; acting director; treasurer; secretary; retention of legal counsel; other personnel.

Sec. 8. (1) The board may employ and fix the compensation of a director, subject to the approval of the governing body of the municipality. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before beginning his or her duties, the director shall take and subscribe to the constitutional oath, and furnish bond, by posting a bond in the sum determined in the ordinance establishing the authority payable to the authority for use and benefit of the authority, approved by the board, and filed with the municipal clerk. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive officer of the authority. Subject to the approval of the board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board and shall provide to the board and to the governing body of the municipality a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before beginning his or her duties, the acting director shall take and subscribe to the oath, and furnish bond, as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

(2) The board may employ and fix the compensation of a treasurer, who shall keep the financial records of the authority and who, together with the director, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform all duties delegated to him or her by the board and shall furnish bond in an amount prescribed by the board.

(3) The board may employ and fix the compensation of a secretary, who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform other duties delegated by the board.

(4) The board may retain legal counsel to advise the board in the proper performance of its duties. The legal counsel shall represent the authority in actions brought by or against the authority.

(5) The board may employ other personnel considered necessary by the board.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2919 Municipal retirement and insurance programs; participation.

Sec. 9. The employees of an authority shall be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees except that the employees of an authority are not civil service employees.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2920 Authority of board.

Sec. 10. The board may do any of the following:

(a) Prepare an analysis of economic changes taking place in the development area.

(b) Study and analyze the impact of metropolitan growth upon the development area.

(c) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility, an existing building, or a multiple-family dwelling unit which may be necessary or appropriate to the execution of a plan which, in the opinion of the board, aids in the residential growth and economic growth of the development area.

(d) Plan, propose, and implement an improvement to a public facility within the development area to

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comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(e) Develop long-range plans, in cooperation with the agency that is chiefly responsible for planning in the municipality, designed to halt the deterioration of property values in the development area and to promote the residential growth and economic growth of the development area, and take steps as may be necessary to persuade property owners to implement the plans to the fullest extent possible.

(f) Implement any plan of development, including housing for low-income individuals, in the development area necessary to achieve the purposes of this act in accordance with the powers of the authority granted by this act.

(g) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.

(h) Acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in the property, that the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options.

(i) Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, clear, improve, maintain, repair, and operate any public facility, building, including multiple-family dwellings, and any necessary or desirable appurtenances to those buildings, within the development area for the use, in whole or in part, of any public or private person or corporation, or a combination thereof.

(j) Fix, charge, and collect fees, rents, and charges for the use of any facility, building, or property under its control or any part of the facility, building, or property, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(k) Lease, in whole or in part, any facility, building, or property under its control.

(*l*) Accept grants and donations of property, labor, or other things of value from a public or private source.

(m) Acquire and construct public facilities.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2921 Financing sources; disposition of money received.

Sec. 11. (1) The activities of the authority shall be financed from 1 or more of the following sources:

(a) Donations to the authority for the performance of its functions.

(b) Money borrowed and to be repaid as authorized by sections 12 and 13.

(c) Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(d) Proceeds of a tax increment financing plan established under sections 14 to 16.

(e) Proceeds from a special assessment district created as provided by law.

(f) Money obtained from other sources approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance a development program.

(2) Money received by the authority and not covered under subsection (1) shall immediately be deposited to the credit of the authority, subject to disbursement under this act. Except as provided in this act, the municipality shall not obligate itself, and shall not be obligated, to pay any sums from public funds, other than money received by the municipality under this section, for or on account of the activities of the authority.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2922 Borrowing money and issuing negotiable revenue bonds.

Sec. 12. The authority may borrow money and issue its negotiable revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2923 Acquisition or construction of property; borrowing money and issuing revenue bonds; other financing; securing bonds and notes; pledge; exemption from taxation; exceptions; liability; investments.

Sec. 13. (1) The authority may with approval of the local governing body borrow money and issue its revenue bonds or notes to finance all or part of the costs of acquiring or constructing property in connection with either of the following:

(a) The implementation of a development plan in the development area.

(b) The refund, or refund in advance, of bonds or notes issued under this section.

(2) Any of the following may be financed by the issuance of revenue bonds or notes:

(a) The cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing property

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in connection with the implementation of a development plan in the development area.

(b) Any engineering, architectural, legal, accounting, or financial expenses.

(c) The costs necessary or incidental to the borrowing of money.

(d) Interest on the bonds or notes during the period of construction.

(e) A reserve for payment of principal and interest on the bonds or notes.

(f) A reserve for operation and maintenance until sufficient revenues have developed.

(3) The authority may secure the bonds and notes by mortgage, assignment, or pledge of the property and any money, revenues, or income received in connection with the property.

(4) A pledge made by the authority is valid and binding from the time the pledge is made. The money or property pledged by the authority immediately is subject to the lien of the pledge without a physical delivery, filing, or further act. The lien of a pledge is valid and binding against parties having claims of any kind in tort, contract, or otherwise, against the authority, whether or not the parties have notice of the lien. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created must be filed or recorded to be enforceable.

(5) Bonds or notes issued under this section are exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(6) The municipality is not liable on bonds or notes of the authority issued under this section, and the bonds or notes are not a debt of the municipality. The bonds or notes shall contain on their face a statement to that effect.

(7) The bonds and notes of the authority may be invested in by all public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by all public officers and the agencies and political subdivisions of this state for any purpose for which the deposit of bonds is authorized.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2924 Tax increment financing plan; preparation and submission; contents; hearing and approval procedure; agreement with taxing jurisdiction; modification; exemption from tax; separate millage for public library purposes; resolution.

Sec. 14. (1) If the authority determines that it is necessary for the achievement of the purposes of this act, the authority shall prepare and submit a tax increment financing plan to the governing body of the municipality. The plan shall include a development plan as provided in section 16, a detailed explanation of the tax increment procedure, the maximum amount of bonded indebtedness to be incurred, and the duration of the program, and shall be in compliance with section 15. The plan shall contain a statement of the estimated impact of tax increment financing on the assessed values of all taxing jurisdictions in which the development area is located. The plan may provide for the use of part or all of the captured assessed value, but the portion intended to be used by the authority shall be clearly stated in the tax increment financing plan. The authority or municipality may exclude from captured assessed value growth in property value resulting solely from inflation. The plan shall set forth the method for excluding growth in property value resulting solely from inflation.

(2) Approval of the tax increment financing plan shall comply with the notice, hearing, and disclosure provisions of section 18. If the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together.

(3) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to meet with the governing body. The authority shall fully inform the taxing jurisdictions of the fiscal and economic implications of the proposed development area. The taxing jurisdictions may present their recommendations at the public hearing on the tax increment financing plan. The authority may enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the development area is located to share a portion of the captured assessed value of the development area.

(4) A tax increment financing plan may be modified if the modification is approved by the governing body upon notice and after public hearings and agreements as are required for approval of the original plan.

(5) Not more than 60 days after the public hearing, the governing body in a taxing jurisdiction levying ad valorem property taxes that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to create the authority. In the event that the governing body levies a separate millage for public library purposes, at the request of the public library board, that separate millage shall be exempt from the capture. The resolution shall take effect when filed with the clerk and remains effective until a copy of a resolution rescinding that

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resolution is filed with that clerk.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2925 Tax increment revenues; transmission to authority; expenditures; report on status of tax increment financing account.

Sec. 15. (1) The municipal and county treasurers shall transmit tax increment revenues to the authority.

(2) The authority shall expend the tax increment revenues received for the development program only under the terms of the tax increment financing plan. Unused funds shall revert proportionately to the respective taxing bodies. Tax increment revenues shall not be used to circumvent existing property tax limitations. The governing body of the municipality may abolish the tax increment financing plan if it finds that the purposes for which it was established are accomplished. However, the tax increment financing plan shall not be abolished until the principal of, and interest on, bonds issued under section 16 have been paid or funds sufficient to make the payment have been segregated.

(3) Annually the authority shall submit to the governing body of the municipality and the state tax commission a report on the status of the tax increment financing account. The report shall include the following:

(a) The amount and source of revenue in the account.

(b) The amount in any bond reserve account.

(c) The amount and purpose of expenditures from the account.

(d) The amount of principal and interest on any outstanding bonded indebtedness.

(e) The initial assessed value of the project area.

(f) The captured assessed value retained by the authority.

(g) The tax increment revenues received.

(h) The number of public facilities developed.

(i) The amount of public housing created or improved.

(j) The number of jobs created as a result of the implementation of the tax increment financing plan.

(k) Any additional information the governing body considers necessary.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2926 Authorization, issuance, and sale of tax increment bonds; limitations; pledge; resolution to create lien on revenues; limited tax pledge.

Sec. 16. (1) By resolution of its governing body, the authority may authorize, issue, and sell tax increment bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan. The tax increment bonds issued by the authority under this subsection shall pledge solely the tax increment revenues of a development area in which the project is located or a development area from which tax increment revenues may be used for this project, or both. In addition or in the alternative, the bonds issued by the authority under this subsection may be secured by any other revenues identified in section 11 as sources of financing for activities of the authority that the authority shall specifically pledge in the resolution. However, except as otherwise provided in this section, the full faith and credit of the municipality shall not be pledged to secure bonds issued under this subsection. The bond issue may include a sum sufficient to pay interest on the tax increment bonds until full development of tax increment revenues from the project and also a sum to provide a reasonable reserve for payment of principal and interest on the bonds. The resolution authorizing the bonds shall create a lien on the tax increment revenues and other revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds may be issued of equal standing and parity of lien as to the tax increment revenues and other revenues pledged under the resolution. Bonds issued under this subsection are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The municipality, by majority vote of the members of its governing body, may make a limited tax pledge to support the authority's tax increment bonds or notes or, if authorized by the voters of the municipality, may pledge its unlimited tax full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds or notes.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2927 Development plan; contents.

Sec. 17. (1) If a board decides to finance a project in a development area by the use of revenue bonds as authorized in section 12 or tax increment financing as authorized in sections 14, 15, and 16, it shall prepare a development plan.

(2) The development plan shall contain all of the following:

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(a) The designation of boundaries of the development area in relation to highways, streets, streams, or otherwise.

(b) The location and extent of existing streets and other public facilities within the development area, designating the location, character, and extent of the categories of public and private land uses then existing and proposed for the development area, including residential, recreational, commercial, industrial, educational, and other uses, and including a legal description of the development area.

(c) A description of existing improvements in the development area to be demolished, repaired, or altered, a description of any repairs and alterations, and an estimate of the time required for completion.

(d) The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the development area and an estimate of the time required for completion.

(e) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(f) A description of any parts of the development area to be left as open space and the use contemplated for the space.

(g) A description of any portions of the development area that the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.

(h) A description of desired zoning changes and changes in streets, street levels, intersections, or utilities.

(i) An estimate of the cost of the development, a statement of the proposed method of financing the development, and the ability of the authority to arrange the financing.

(j) Designation of the person or persons, natural or corporate, to whom all or a portion of the development is to be leased, sold, or conveyed in any manner and for whose benefit the project is being undertaken if that information is available to the authority.

(k) The procedures for bidding for the leasing, purchasing, or conveying in any manner of all or a portion of the development upon its completion, if there is no express or implied agreement between the authority and persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed in any manner to those persons.

(*l*) The requirement that amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection.

(m) Other material that the authority, local public agency, or governing body considers pertinent.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2928 Development plan; public hearing; notice; opportunity to speak and provide written comment.

Sec. 18. (1) The governing body, before adoption of an ordinance approving a development plan or tax increment financing plan, shall hold a public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall be not less than 20 days before the date set for the hearing. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the development area not less than 20 days before the hearing. Notice shall also be mailed to all property taxpayers of record in the development area and to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the tax increment financing plan is approved not less than 20 days before the hearing.

(2) Notice of the time and place of hearing on a development plan shall contain all of the following:

(a) A description of the proposed development area in relation to highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, if any, are available for public inspection at a place designated in the notice.

(c) A statement that all aspects of the development plan will be open for discussion at the public hearing.

(d) Other information that the governing body considers appropriate.

(3) At the time set for the hearing, the governing body shall provide an opportunity for interested persons to speak and shall receive and consider communications in writing. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for consideration of documentary evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented at the hearing.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2929 Development plan or tax increment financing plan as public purpose; consideration for approval, rejection, or modification.

Sec. 19. The governing body after a public hearing on the development plan or the tax increment financing

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plan, or both, with notice given under section 18, shall determine whether the development plan or tax increment financing plan constitutes a public purpose. If it determines that the development plan or tax increment financing plan constitutes a public purpose, it shall by ordinance approve or reject the plan, or approve it with modification, based on the following considerations:

(a) The plan meets the requirements under section 17(2).

(b) The proposed method of financing the development is feasible and the authority has the ability to arrange the financing.

(c) The development is reasonable and necessary to carry out the purposes of this act.

(d) The land included within the development area to be acquired is reasonably necessary to carry out the purposes of the plan and of this act in an efficient and economically satisfactory manner.

(e) The development plan is in reasonable accord with the land use plan of the municipality.

(f) Public services, such as fire and police protection and utilities, are or will be adequate to service the project area.

(g) Changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2930 Budget; submission; approval; cost of handling and auditing funds.

Sec. 20. (1) The director of the authority shall submit a budget to the board for the operation of the authority for each fiscal year before the beginning of the fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. After review by the board, the budget shall be submitted to the governing body. The governing body must approve the budget before the board may adopt the budget. Unless authorized by the governing body or this act, funds of the municipality shall not be included in the budget of the authority.

(2) The governing body of the municipality may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed, which shall be paid annually by the board pursuant to an appropriate item in its budget.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2931 Dissolution of authority; property and assets.

Sec. 21. An authority that has completed the purposes for which it was organized shall be dissolved by ordinance of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority belong to the municipality.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

125.2932 Enforcement; rules.

Sec. 22. (1) The state tax commission may institute proceedings to compel enforcement of this act.

(2) The state tax commission may promulgate rules necessary for the administration of this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2007, Act 61, Imd. Eff. Sept. 19, 2007.

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MICHIGAN ZONING ENABLING ACT
Act 110 of 2006

AN ACT to codify the laws regarding local units of government regulating the development and use of land; to provide for the adoption of zoning ordinances; to provide for the establishment in counties, townships, cities, and villages of zoning districts; to prescribe the powers and duties of certain officials; to provide for the assessment and collection of fees; to authorize the issuance of bonds and notes; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

History: 2006, Act 110, Eff. July 1, 2006.

The People of the State of Michigan enact:

ARTICLE I
GENERAL PROVISIONS

125.3101 Short title.

Sec. 101. This act shall be known and may be cited as the "Michigan zoning enabling act".

History: 2006, Act 110, Eff. July 1, 2006.

125.3102 Definitions.

Sec. 102. As used in this act:

(a) "Agricultural land" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

(b) "Airport" means an airport licensed by the Michigan department of transportation, bureau of aeronautics under section 86 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.86.

(c) "Airport approach plan" and "airport layout plan" mean a plan, or an amendment to a plan, filed with the zoning commission under section 151 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.151.

(d) "Airport manager" means that term as defined in section 2 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2.

(e) "Airport zoning regulations" means airport zoning regulations under the airport zoning act, 1950 (Ex Sess) PA 23, MCL 259.431 to 259.465, for an airport hazard area that lies in whole or part in the area affected by a zoning ordinance under this act.

(f) "Conservation easement" means that term as defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140.

(g) "Coordinating zoning committee" means a coordinating zoning committee as described under section 307.

(h) "Development rights" means the rights to develop land to the maximum intensity of development authorized by law.

(i) "Development rights ordinance" means an ordinance, which may comprise part of a zoning ordinance, adopted under section 507.

(j) "Family child care home" and "group child care home" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111, and only apply to the bona fide private residence of the operator of the family or group child care home.

(k) "Greenway" means a contiguous or linear open space, including habitats, wildlife corridors, and trails, that links parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.

(*l*) "Improvements" means those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of a local unit of government and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of zoning approval.

(m) "Intensity of development" means the height, bulk, area, density, setback, use, and other similar characteristics of development.

(n) "Legislative body" means the county board of commissioners of a county, the board of trustees of a township, or the council or other similar elected governing body of a city or village.

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(o) "Local unit of government" means a county, township, city, or village.

(p) "Other eligible land" means land that has a common property line with agricultural land from which development rights have been purchased and is not divided from that agricultural land by a state or federal limited access highway.

(q) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(r) "Population" means the population according to the most recent federal decennial census or according to a special census conducted under section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, whichever is the more recent.

(s) "Site plan" includes the documents and drawings required by the zoning ordinance to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

(t) "State licensed residential facility" means a structure constructed for residential purposes that is licensed by the state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or fewer individuals under 24-hour supervision or care.

(u) "Undeveloped state" means a natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

(v) "Zoning commission" means a zoning commission as described under section 301.

(w) "Zoning jurisdiction" means the area encompassed by the legal boundaries of a city or village or the area encompassed by the legal boundaries of a county or township outside the limits of incorporated cities and villages. The zoning jurisdiction of a county does not include the areas subject to a township zoning ordinance.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2007, Act 219, Imd. Eff. Dec. 28, 2007;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

125.3103 Notice; publication; mail or personal delivery; requirements.

Sec. 103. (1) Except as otherwise provided under this act, if a local unit of government conducts a public hearing required under this act, the local unit of government shall publish notice of the hearing in a newspaper of general circulation in the local unit of government not less than 15 days before the date of the hearing.

(2) Notice required under this act shall be given as provided under subsection (3) to the owners of property that is the subject of the request. Notice shall also be given as provided under subsection (3) to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different persons, 1 occupant of each unit or spatial area shall be given notice. If a single structure contains more than 4 dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.

(3) The notice under subsection (2) is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.

(4) A notice under this section shall do all of the following:

(a) Describe the nature of the request.

(b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

(c) State when and where the request will be considered.

(d) Indicate when and where written comments will be received concerning the request.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

ARTICLE II

ZONING AUTHORIZATION AND INITIATION

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125.3201 Regulation of land development and establishment of districts; provisions; uniformity of regulations; designations; limitations.

Sec. 201. (1) A local unit of government may provide by zoning ordinance for the regulation of land development and the establishment of 1 or more districts within its zoning jurisdiction which regulate the use of land and structures to meet the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements, and to promote public health, safety, and welfare.

(2) Except as otherwise provided under this act, the regulations shall be uniform for each class of land or buildings, dwellings, and structures within a district.

(3) A local unit of government may provide under the zoning ordinance for the regulation of land development and the establishment of districts which apply only to land areas and activities involved in a special program to achieve specific land management objectives and avert or solve specific land use problems, including the regulation of land development and the establishment of districts in areas subject to damage from flooding or beach erosion.

(4) A local unit of government may adopt land development regulations under the zoning ordinance designating or limiting the location, height, bulk, number of stories, uses, and size of dwellings, buildings, and structures that may be erected or altered, including tents and recreational vehicles.

History: 2006, Act 110, Eff. July 1, 2006.

125.3202 Zoning ordinance; determination by local legislative body; amendments or supplements; notice of proposed rezoning.

Sec. 202. (1) The legislative body of a local unit of government may provide by ordinance for the manner in which the regulations and boundaries of districts or zones shall be determined and enforced or amended or supplemented. Amendments or supplements to the zoning ordinance shall be adopted in the same manner as provided under this act for the adoption of the original ordinance.

(2) Except as provided in subsection (3), the zoning commission shall give a notice of a proposed rezoning in the same manner as required under section 103.

(3) For any group of adjacent properties numbering 11 or more that is proposed for rezoning, the requirements of section 103(2) and the requirement of section 103(4)(b) that street addresses be listed do not apply to that group of adjacent properties.

(4) An amendment to a zoning ordinance by a city or village is subject to a protest petition under section 403.

(5) An amendment to conform a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the legislative body and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for under this act.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

125.3203 Zoning ordinance; plan; incorporation of airport layout plan or airport approach plan; zoning ordinance adopted after March 28, 2001.

Sec. 203. (1) The zoning ordinance shall be based upon a plan designed to promote the public health, safety, and general welfare, to encourage the use of lands in accordance with their character and adaptability, to limit the improper use of land, to conserve natural resources and energy, to meet the needs of the state's residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to insure that uses of the land shall be situated in appropriate locations and relationships, to avoid the overcrowding of population, to provide adequate light and air, to lessen congestion on the public roads and streets, to reduce hazards to life and property, to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements, and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and properties. The zoning ordinance shall be made with reasonable consideration to the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development.

(2) If a local unit of government adopts or revises a plan required under subsection (1) after an airport

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layout plan or airport approach plan has been filed with the local unit of government, the local unit of government shall incorporate the airport layout plan or airport approach plan into the plan adopted under subsection (1).

(3) In addition to the requirements of subsection (1), a zoning ordinance adopted after March 28, 2001 shall be adopted after reasonable consideration of both of the following:

(a) The environs of any airport within a district.

(b) Comments received at or before a public hearing under section 306 or transmitted under section 308 from the airport manager of any airport.

(4) If a zoning ordinance was adopted before March 28, 2001, the zoning ordinance is not required to be consistent with any airport zoning regulations, airport layout plan, or airport approach plan. A zoning ordinance amendment adopted or variance granted after March 28, 2001 shall not increase any inconsistency that may exist between the zoning ordinance or structures or uses and any airport zoning regulations, airport layout plan, or airport approach plan. This section does not limit the right to petition for submission of a zoning ordinance amendment to the electors under section 402 or the right to file a protest petition under section 403.

History: 2006, Act 110, Eff. July 1, 2006.

125.3204 Single-family residence; instruction in craft or fine art as home occupation.

Sec. 204. A zoning ordinance adopted under this act shall provide for the use of a single-family residence by an occupant of that residence for a home occupation to give instruction in a craft or fine art within the residence. This section does not prohibit the regulation of noise, advertising, traffic, hours of operation, or other conditions that may accompany the use of a residence under this section.

History: 2006, Act 110, Eff. July 1, 2006.

125.3205 Ordinance subject to MCL 460.561 to 460.575; regulation or control of oil or gas wells; prohibition.

Sec. 205. (1) An ordinance adopted under this act is subject to the electric transmission line certification act, 1995 PA 30, MCL 460.561 to 460.575.

(2) A county or township shall not regulate or control the drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes and shall not have jurisdiction with reference to the issuance of permits for the location, drilling, completion, operation, or abandonment of such wells.

History: 2006, Act 110, Eff. July 1, 2006.

125.3206 Residential use of property; adult foster care facilities; family or group child care homes.

Sec. 206. (1) Except as otherwise provided in subsection (2), a state licensed residential facility shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.

(2) Subsection (1) does not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

(3) For a county or township, a family child care home is considered a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.

(4) For a county or township, a group child care home shall be issued a special use permit, conditional use permit, or other similar permit if the group child care home meets all of the following standards:

(a) Is located not closer than 1,500 feet to any of the following:

(*i*) Another licensed group child care home.

(*ii*) An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(*iii*) A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, 1978 PA 368, MCL 333.6101 to 333.6523.

(*iv*) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.

(b) Has appropriate fencing for the safety of the children in the group child care home as determined by the local unit of government.

(c) Maintains the property consistent with the visible characteristics of the neighborhood.

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(d) Does not exceed 16 hours of operation during a 24-hour period. The local unit of government may limit but not prohibit the operation of a group child care home between the hours of 10 p.m. and 6 a.m.

(e) Meets regulations, if any, governing signs used by a group child care home to identify itself.

(f) Meets regulations, if any, requiring a group child care home operator to provide off-street parking accommodations for his or her employees.

(5) For a city or village, a group child care home may be issued a special use permit, conditional use permit, or other similar permit.

(6) A licensed or registered family or group child care home that operated before March 30, 1989 is not required to comply with the requirements of this section.

(7) The requirements of this section shall not prevent a local unit of government from inspecting and enforcing a family or group child care home for the home's compliance with the local unit of government's zoning ordinance. For a county or township, an ordinance shall not be more restrictive for a family or group child care home than as provided under 1973 PA 116, MCL 722.111 to 722.128.

(8) The subsequent establishment of any of the facilities listed under subsection (4)(a) will not affect any subsequent special use permit renewal, conditional use permit renewal, or other similar permit renewal pertaining to the group child care home.

(9) The requirements of this section shall not prevent a local unit of government from issuing a special use permit, conditional use permit, or other similar permit to a licensed or registered group child care home that does not meet the standards listed under subsection (4).

(10) The distances required under subsection (4)(a) shall be measured along a road, street, or place maintained by this state or a local unit of government and generally open to the public as a matter of right for the purpose of vehicular traffic, not including an alley.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2007, Act 219, Imd. Eff. Dec. 28, 2007.

125.3207 Zoning ordinance or decision; effect as prohibiting establishment of land use.

Sec. 207. A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of a land use within a local unit of government in the presence of a demonstrated need for that land use within either that local unit of government or the surrounding area within the state, unless a location within the local unit of government does not exist where the use may be appropriately located or the use is unlawful.

History: 2006, Act 110, Eff. July 1, 2006.

125.3208 Nonconforming uses or structures.

Sec. 208. (1) If the use of a dwelling, building, or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the zoning ordinance or amendment. This subsection is intended to codify the law as it existed before July 1, 2006 in section 216(1) of the former county zoning act, 1943 PA 183, section 286(1) of the former township zoning act, 1943 PA 184, and section 583a(1) of the former city and village zoning act, 1921 PA 207, as they applied to counties, townships, and cities and villages, respectively, and shall be construed as a continuation of those laws and not as new enactments.

(2) The legislative body may provide in a zoning ordinance for the completion, resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures upon terms and conditions provided in the zoning ordinance. In establishing terms for the completion, resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures, different classes of nonconforming uses may be established in the zoning ordinance with different requirements applicable to each class.

(3) The legislative body may acquire, by purchase, condemnation, or otherwise, private property or an interest in private property for the removal of nonconforming uses and structures. The legislative body may provide that the cost and expense of acquiring private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of special assessment districts for public improvements in local units of government. Property acquired under this subsection by a city or village shall not be used for public housing.

(4) The elimination of the nonconforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The legislative body may institute proceedings for condemnation of nonconforming uses and structures under 1911 PA 149, MCL 213.21 to 213.25.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

125.3209 Township zoning ordinance not subject to county ordinance, rule, or regulation.

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Sec. 209. Except as otherwise provided under this act, a township that has enacted a zoning ordinance under this act is not subject to an ordinance, rule, or regulation adopted by a county under this act.

History: 2006, Act 110, Eff. July 1, 2006.

125.3210 Ordinance as controlling.

Sec. 210. Except as otherwise provided under this act, an ordinance adopted under this act shall be controlling in the case of any inconsistencies between the ordinance and an ordinance adopted under any other law.

History: 2006, Act 110, Eff. July 1, 2006.

125.3211 Appointment of zoning commission by legislative body; purposes; petition; initiation of action to formulate zoning commission and zoning ordinance.

Sec. 211. (1) The legislative body may proceed with the adoption of a zoning ordinance containing land development regulations and establishing zoning districts under this act upon appointment of a zoning commission as provided in section 301.

(2) The legislative body may appoint a zoning commission for purposes of formulating a zoning ordinance on its own initiative or upon receipt of a petition requesting that action as provided under subsection (3).

(3) Upon receipt of a petition signed by a number of qualified and registered voters residing in the zoning jurisdiction equal to not less than 8% of the total votes cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at which a governor was elected, filed with the clerk of the local unit of government requesting the legislative body to appoint a zoning commission for purposes of formulating a zoning ordinance, the legislative body, at the next regular meeting, may initiate action to formulate a zoning commission and zoning ordinance under this act.

History: 2006, Act 110, Eff. July 1, 2006.

ARTICLE III
ZONING COMMISSION

125.3301 Zoning commission; creation; transfer of powers to planning commission; resolution; membership; terms; successors; vacancy; limitation; removal of member; officers.

Sec. 301. (1) Each local unit of government in which the legislative body exercises authority under this act shall create a zoning commission unless 1 of the following applies:

(a) A county zoning commission created under former 1943 PA 183, a township zoning board created under former 1943 PA 184, or a city or village zoning commission created under former 1921 PA 207 was in existence in the local unit of government as of June 30, 2006. Unless abolished by the legislative body, that existing board or commission shall continue as and exercise the powers and perform the duties of a zoning commission under this act, subject to a transfer of power under subsection (2).

(b) A planning commission was, as of June 30, 2006, in existence in the local unit of government and pursuant to the applicable planning enabling act exercising the powers and performing the duties of a county zoning commission created under former 1943 PA 185, of a township zoning board created under former 1943 PA 184, or of a city or village zoning commission created under former 1921 PA 207. Unless abolished by the legislative body, that existing planning commission shall continue and exercise the powers and perform the duties of a zoning commission under this act.

(c) The local unit of government has created a planning commission on or after July 1, 2006 and transferred the powers and duties of a zoning commission to the planning commission pursuant to the applicable planning enabling act.

(2) Except as otherwise provided under this subsection, if the powers and duties of the zoning commission have been transferred to the planning commission as provided by law, the planning commission shall function as the zoning commission of the local unit of government. By July 1, 2011, the legislative body shall transfer the powers and duties of the zoning commission to the planning commission. Except as provided under this subsection, beginning July 1, 2011, a zoning commission's powers or duties under this act or an ordinance adopted under this act shall only be exercised or performed by a planning commission.

(3) If a zoning commission is created on or after July 1, 2006, the zoning commission shall be created by resolution and be composed of not fewer than 5 or more than 11 members appointed by the legislative body. Not fewer than 2 of the members of a county zoning commission shall be recommended for membership by the legislative bodies of townships that are, or will be, subject to the county zoning ordinance. This requirement may be met as vacancies occur on a county zoning commission that existed on June 30, 2006.

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(4) The members of a zoning commission shall be selected upon the basis of the members' qualifications and fitness to serve as members of a zoning commission.

(5) The first zoning commission appointed under subsection (3) shall be divided as nearly as possible into 3 equal groups, with terms of each group as follows:

(a) One group for 1 year.

(b) One group for 2 years.

(c) One group for 3 years.

(6) Upon the expiration of the terms of the members first appointed, successors shall be appointed in the same manner for terms of 3 years each. A member of the zoning commission shall serve until a successor is appointed and has been qualified.

(7) A vacancy on a zoning commission shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

(8) An elected officer of a local unit of government shall not serve simultaneously as a member or an employee of the zoning commission of that local unit of government, except that 1 member of the legislative body may be a member of the zoning commission.

(9) The legislative body shall provide for the removal of a member of a zoning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing.

(10) A zoning commission shall elect from its members a chairperson, a secretary, and other officers and establish such committees it considers necessary and may engage any employees, including for technical assistance, it requires. The election of officers shall be held not less than once in every 2-year period.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

125.3302 Expenses; compensation.

Sec. 302. Members of the zoning commission may be reimbursed for reasonable expenses actually incurred in the discharge of their duties and may receive compensation as fixed by the legislative body.

History: 2006, Act 110, Eff. July 1, 2006.

125.3303 Planning expert; compensation.

Sec. 303. (1) With the approval of the legislative body, the zoning commission may engage the services of a planning expert. Compensation for the planning expert shall be paid by the legislative body.

(2) The zoning commission shall consider any information and recommendations furnished by appropriate public officials, departments, or agencies.

History: 2006, Act 110, Eff. July 1, 2006.

125.3304 Regular meetings; notice; zoning commission subject to open meetings act.

Sec. 304. The zoning commission shall hold a minimum of 2 regular meetings annually, giving notice of the time and place by publication in a newspaper of general circulation in the zoning jurisdiction. Notice shall be given not less than 15 days before the meeting. The zoning commission is subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

History: 2006, Act 110, Eff. July 1, 2006.

125.3305 Recommendations of zoning commission; adoption and filing.

Sec. 305. The zoning commission shall adopt and file with the legislative body the following recommendations:

(a) A zoning plan for the areas subject to zoning of the local unit of government.

(b) The establishment of zoning districts, including the boundaries of those districts.

(c) The text of a zoning ordinance with the necessary maps and zoning regulations to be adopted for a zoning district or the zoning jurisdiction as a whole.

(d) The manner of administering and enforcing the zoning ordinance.

History: 2006, Act 110, Eff. July 1, 2006.

125.3306 Recommendations of zoning commission; submission to legislative body; public hearing; notice; examination of proposed text and maps.

Sec. 306. (1) Before submitting its recommendations for a proposed zoning ordinance to the legislative body, the zoning commission shall hold at least 1 public hearing. Notice of the time and place of the public hearing shall be given in the same manner as required under section 103(1) for the initial adoption of a zoning ordinance or section 202 for any other subsequent zoning text or map amendments.

(2) Notice of the time and place of the public hearing shall also be given by mail to each electric, gas, and

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pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the clerk of the legislative body for the purpose of receiving the notice of public hearing.

(3) The notices required under this section shall include the places and times at which the proposed text and any maps of the zoning ordinance may be examined.

History: 2006, Act 110, Eff. July 1, 2006.

125.3307 Review and recommendations after hearing; submission to township; submission to coordinating zoning committee; waiver of right to review.

Sec. 307. (1) Following the hearing required in section 306, a township shall submit for review and recommendation the proposed zoning ordinance, including any zoning maps, to the zoning commission of the county in which the township is situated if a county zoning commission has been appointed as provided under this act.

(2) If there is not a county zoning commission or county planning commission, the proposed zoning ordinance shall be submitted to the coordinating zoning committee. The coordinating zoning committee shall be composed of either 3 or 5 members appointed by the legislative body of the county for the purpose of coordinating the zoning ordinances proposed for adoption under this act with the zoning ordinances of a township, city, or village having a common boundary with the township.

(3) The county will have waived its right for review and recommendation of an ordinance if the recommendation of the county zoning commission, planning commission, or coordinating zoning committee has not been received by the township within 30 days from the date the proposed ordinance is received by the county.

(4) The legislative body of a county by resolution may waive its right to review township ordinances and amendments under this section.

History: 2006, Act 110, Eff. July 1, 2006.

125.3308 Summary of public hearing comments; transmission to legislative body by zoning commission; report.

Sec. 308. (1) Following the required public hearing under section 306, the zoning commission shall transmit a summary of comments received at the hearing and its proposed zoning ordinance, including any zoning maps and recommendations, to the legislative body of the local unit of government.

(2) Following the enactment of the zoning ordinance, the zoning commission shall at least once per year prepare for the legislative body a report on the administration and enforcement of the zoning ordinance and recommendations for amendments or supplements to the ordinance.

History: 2006, Act 110, Eff. July 1, 2006.

ARTICLE IV
ZONING ADOPTION AND ENFORCEMENT

125.3401 Public hearing to be held by legislative body; conditions; notice; approval of zoning ordinance and amendments by legislative body; filing; notice of ordinance adoption; notice mailed to airport manager; information to be included in notice; other statutory requirements superseded.

Sec. 401. (1) After receiving a zoning ordinance under section 308(1) or an amendment under sections 202 and 308(1), the legislative body may hold a public hearing if it considers it necessary or if otherwise required.

(2) Notice of a public hearing to be held by the legislative body shall be given in the same manner as required under section 103(1) for the initial adoption of a zoning ordinance or section 202 for any zoning text or map amendments.

(3) The legislative body may refer any proposed amendments to the zoning commission for consideration and comment within a time specified by the legislative body.

(4) The legislative body shall grant a hearing on a proposed ordinance provision to an interested property owner who requests a hearing by certified mail, addressed to the clerk of the legislative body. A hearing under this subsection is not subject to the requirements of section 103, except that notice of the hearing shall be given to the interested property owner in the manner required in section 103(3) and (4).

(5) After any proceedings under subsections (1) to (4), the legislative body shall consider and vote upon the adoption of a zoning ordinance, with or without amendments. A zoning ordinance and any amendments shall be approved by a majority vote of the members of the legislative body.

(6) Except as otherwise provided under section 402, a zoning ordinance shall take effect upon the

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expiration of 7 days after publication as required by subsection (7) or at such later date after publication as may be specified by the legislative body or charter.

(7) Following adoption of a zoning ordinance or any subsequent amendments by the legislative body, the zoning ordinance or subsequent amendments shall be filed with the clerk of the legislative body, and a notice of ordinance adoption shall be published in a newspaper of general circulation in the local unit of government within 15 days after adoption.

(8) A copy of the notice required under subsection (7) shall be mailed to the airport manager of an airport entitled to notice under section 306.

(9) The notice required under this section shall include all of the following information:

(a) In the case of a newly adopted zoning ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the legislative body of the [county, township, city, or village] of _____.".

(b) In the case of an amendment to an existing zoning ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.

(c) The effective date of the ordinance or amendment.

(d) The place where and time when a copy of the ordinance or amendment may be purchased or inspected.

(10) The filing and publication requirements under this section supersede any other statutory or charter requirements relating to the filing and publication of county, township, city, or village ordinances.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

125.3402 Notice of intent to file petition.

Sec. 402. (1) Within 7 days after publication of a zoning ordinance under section 401, a registered elector residing in the zoning jurisdiction of a county or township may file with the clerk of the legislative body a notice of intent to file a petition under this section.

(2) If a notice of intent is filed under subsection (1), the petitioner shall have 30 days following the publication of the zoning ordinance to file a petition signed by a number of registered electors residing in the zoning jurisdiction not less than 15% of the total vote cast within the zoning jurisdiction for all candidates for governor at the last preceding general election at which a governor was elected, with the clerk of the legislative body requesting the submission of a zoning ordinance or part of a zoning ordinance to the electors residing in the zoning jurisdiction for their approval.

(3) Upon the filing of a notice of intent under subsection (1), the zoning ordinance or part of the zoning ordinance adopted by the legislative body shall not take effect until 1 of the following occurs:

(a) The expiration of 30 days after publication of the ordinance, if a petition is not filed within that time.

(b) If a petition is filed within 30 days after publication of the ordinance, the clerk of the legislative body determines that the petition is inadequate.

(c) If a petition is filed within 30 days after publication of the ordinance, the clerk of the legislative body determines that the petition is adequate and the ordinance or part of the ordinance is approved by a majority of the registered electors residing in the zoning jurisdiction voting on the petition at the next regular election or at any special election called for that purpose. The legislative body shall provide the manner of submitting the zoning ordinance or part of the zoning ordinance to the electors for their approval or rejection and determining the result of the election.

(4) A petition and an election under this section are subject to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: 2006, Act 110, Eff. July 1, 2006.

125.3403 Amendment to zoning ordinance; filing of protest petition; vote.

Sec. 403. (1) An amendment to a zoning ordinance by a city or village is subject to a protest petition as required by this subsection. If a protest petition is filed, approval of the amendment to the zoning ordinance shall require a 2/3 vote of the legislative body, unless a larger vote, not to exceed a 3/4 vote, is required by ordinance or charter. The protest petition shall be presented to the legislative body of the city or village before final legislative action on the amendment and shall be signed by 1 or more of the following:

(a) The owners of at least 20% of the area of land included in the proposed change.

(b) The owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.

(2) Publicly owned land shall be excluded in calculating the 20% land area requirement under subsection (1).

History: 2006, Act 110, Eff. July 1, 2006.

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125.3404 Interim zoning ordinance.

Sec. 404. (1) To protect the public health, safety, and general welfare of the inhabitants and the lands and resources of a local unit of government during the period required for the preparation and enactment of an initial zoning ordinance under this act, the legislative body of a local unit of government may direct the zoning commission to submit, within a specified period of time, recommendations as to the provisions of an interim zoning ordinance.

(2) Before presenting its recommendations to the legislative body, the zoning commission of a township shall submit the interim zoning ordinance, or an amendment to the ordinance, to the county zoning commission or the coordinating zoning committee, for the purpose of coordinating the zoning ordinance with the zoning ordinances of a township, city, or village having a common boundary with the township. The ordinance shall be considered approved 15 days from the date the zoning ordinance is submitted to the legislative body.

(3) After approval, the legislative body, by majority vote of its members, may give the interim ordinance or amendments to the interim ordinance immediate effect. An interim ordinance and subsequent amendments shall be filed and published as required under section 401.

(4) The interim ordinance, including any amendments, shall be limited to 1 year from the effective date and to not more than 2 years of renewal thereafter by resolution of the local unit of government.

History: 2006, Act 110, Eff. July 1, 2006.

125.3405 Use and development of land as condition to rezoning.

Sec. 405. (1) An owner of land may voluntarily offer in writing, and the local unit of government may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.

(2) In approving the conditions under subsection (1), the local unit of government may establish a time period during which the conditions apply to the land. Except for an extension under subsection (4), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.

(3) The local government shall not add to or alter the conditions approved under subsection (1) during the time period specified under subsection (2) of this section.

(4) The time period specified under subsection (2) may be extended upon the application of the landowner and approval of the local unit of government.

(5) A local unit of government shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (1) shall not otherwise affect a landowner's rights under this act, the ordinances of the local unit of government, or any other laws of this state.

History: 2006, Act 110, Eff. July 1, 2006.

125.3406 Zoning permits; fees.

Sec. 406. The legislative body may require the payment of reasonable fees for zoning permits as a condition to the granting of authority to use, erect, alter, or locate dwellings, buildings, and structures, including tents and recreational vehicles, within a zoning district established under this act.

History: 2006, Act 110, Eff. July 1, 2006.

125.3407 Certain violations as nuisance per se.

Sec. 407. Except as otherwise provided by law, a use of land or a dwelling, building, or structure, including a tent or recreational vehicle, used, erected, altered, razed, or converted in violation of a zoning ordinance or regulation adopted under this act is a nuisance per se. The court shall order the nuisance abated, and the owner or agent in charge of the dwelling, building, structure, tent, recreational vehicle, or land is liable for maintaining a nuisance per se. The legislative body shall in the zoning ordinance enacted under this act designate the proper official or officials who shall administer and enforce the zoning ordinance and do 1 of the following for each violation of the zoning ordinance:

(a) Impose a penalty for the violation.

(b) Designate the violation as a municipal civil infraction and impose a civil fine for the violation.

(c) Designate the violation as a blight violation and impose a civil fine or other sanction authorized by law. This subdivision applies only to a city that establishes an administrative hearings bureau pursuant to section 4q of the home rule city act, 1909 PA 279, MCL 117.4q.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

ARTICLE V

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125.3501 Submission and approval of site plan; procedures and requirements.

Sec. 501. (1) The local unit of government may require the submission and approval of a site plan before authorization of a land use or activity regulated by a zoning ordinance. The zoning ordinance shall specify the body or official responsible for reviewing site plans and granting approval.

(2) If a zoning ordinance requires site plan approval, the site plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a change conforming to the zoning ordinance is agreed to by the landowner and the body or official that initially approved the site plan.

(3) The procedures and requirements for the submission and approval of site plans shall be specified in the zoning ordinance. Site plan submission, review, and approval shall be required for special land uses and planned unit developments.

(4) A decision rejecting, approving, or conditionally approving a site plan shall be based upon requirements and standards contained in the zoning ordinance, other statutorily authorized and properly adopted local unit of government planning documents, other applicable ordinances, and state and federal statutes.

(5) A site plan shall be approved if it contains the information required by the zoning ordinance and is in compliance with the conditions imposed under the zoning ordinance, other statutorily authorized and properly adopted local unit of government planning documents, other applicable ordinances, and state and federal statutes.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

125.3502 Special land uses; review and approval; application; notice of request; public hearing; incorporation of decision in statement of findings and conclusions.

Sec. 502. (1) The legislative body may provide in a zoning ordinance for special land uses in a zoning district. A special land use shall be subject to the review and approval of the zoning commission, the planning commission, an official charged with administering the zoning ordinance, or the legislative body as required by the zoning ordinance. The zoning ordinance shall specify all of the following:

(a) The special land uses and activities eligible for approval and the body or official responsible for reviewing and granting approval.

(b) The requirements and standards for approving a request for a special land use.

(c) The procedures and supporting materials required for the application, review, and approval of a special land use.

(2) Upon receipt of an application for a special land use which requires a discretionary decision, the local unit of government shall provide notice of the request as required under section 103. The notice shall indicate that a public hearing on the special land use request may be requested by any property owner or the occupant of any structure located within 300 feet of the property being considered for a special land use regardless of whether the property or occupant is located in the zoning jurisdiction.

(3) At the initiative of the body or official responsible for approving the special land use or upon the request of the applicant, a real property owner whose real property is assessed within 300 feet of the property, or the occupant of a structure located within 300 feet of the property, a public hearing shall be held before a discretionary decision is made on the special land use request.

(4) The body or official designated to review and approve special land uses may deny, approve, or approve with conditions a request for special land use approval. The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.

History: 2006, Act 110, Eff. July 1, 2006.

125.3503 Planned unit development.

Sec. 503. (1) As used in this section, "planned unit development" includes such terms as cluster zoning, planned development, community unit plan, and planned residential development and other terminology denoting zoning requirements designed to accomplish the objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

(2) The legislative body may establish planned unit development requirements in a zoning ordinance that permit flexibility in the regulation of land development, encourage innovation in land use and variety in design, layout, and type of structures constructed, achieve economy and efficiency in the use of land, natural

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resources, energy, and the provision of public services and utilities, encourage useful open space, and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of this state. The review and approval of planned unit developments shall be by the zoning commission, an individual charged with administration of the zoning ordinance, or the legislative body, as specified in the zoning ordinance.

(3) Within a land development project designated as a planned unit development, regulations relating to the use of land, including, but not limited to, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, and land use density, shall be determined in accordance with the planned unit development regulations specified in the zoning ordinance. The planned unit development regulations need not be uniform with regard to each type of land use if equitable procedures recognizing due process principles and avoiding arbitrary decisions are followed in making regulatory decisions. Unless explicitly prohibited by the planned unit development regulations, if requested by the landowner, a local unit of government may approve a planned unit development with open space that is not contiguous with the rest of the planned unit development.

(4) The planned unit development regulations established by the local unit of government shall specify all of the following:

(a) The body or official responsible for the review and approval of planned unit development requests.

(b) The conditions that create planned unit development eligibility, the participants in the review process, and the requirements and standards upon which applicants will be reviewed and approval granted.

(c) The procedures required for application, review, and approval.

(5) Following receipt of a request to approve a planned unit development, the body or official responsible for the review and approval shall hold at least 1 public hearing on the request. A zoning ordinance may provide for preapplication conferences before submission of a planned unit development request and the submission of preliminary site plans before the public hearing. Notification of the public hearing shall be given in the same manner as required under section 103.

(6) Within a reasonable time following the public hearing, the body or official responsible for approving planned unit developments shall meet for final consideration of the request and deny, approve, or approve with conditions the request. The body or official shall prepare a report stating its conclusions, its decision, the basis for its decision, and any conditions imposed on an affirmative decision.

(7) If amendment of a zoning ordinance is required by the planned unit development regulations of a zoning ordinance, the requirements of this act for amendment of a zoning ordinance shall be followed, except that the hearing and notice required by this section shall fulfill the public hearing and notice requirements of section 306.

(8)If the planned unit development regulations of a zoning ordinance do not require amendment of the zoning ordinance to authorize a planned unit development, the body or official responsible for review and approval shall approve, approve with conditions, or deny a request.

(9)Final approval may be granted on each phase of a multiphased planned unit development if each phase contains the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area.

(10)In establishing planned unit development requirements, a local unit of government may incorporate by reference other ordinances or statutes which regulate land development. The planned unit development regulations contained in zoning ordinances shall encourage complementary relationships between zoning regulations and other regulations affecting the development of land.

History: 2006, Act 110, Eff. July 1, 2006.

125.3504 Special land uses; regulations and standards; compliance; conditions; record of conditions.

Sec. 504. (1) If the zoning ordinance authorizes the consideration and approval of special land uses or planned unit developments under section 502 or 503 or otherwise provides for discretionary decisions, the regulations and standards upon which those decisions are made shall be specified in the zoning ordinance.

(2) The standards shall be consistent with and promote the intent and purpose of the zoning ordinance and shall insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The standards shall also insure that the land use or activity is consistent with the public health, safety, and welfare of the local unit of government.

(3) A request for approval of a land use or activity shall be approved if the request is in compliance with the standards stated in the zoning ordinance, the conditions imposed under the zoning ordinance, other applicable ordinances, and state and federal statutes.

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(4) Reasonable conditions may be required with the approval of a special land use, planned unit development, or other land uses or activities permitted by discretionary decision. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

(a) Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

(b) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

(c) Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the zoning ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

(5) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of conditions which are changed.

History: 2006, Act 110, Eff. July 1, 2006.

125.3505 Performance guarantee.

Sec. 505. (1) To ensure compliance with a zoning ordinance and any conditions imposed under a zoning ordinance, a local unit of government may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the local unit of government covering the estimated cost of improvements be deposited with the clerk of the legislative body to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The local unit of government may not require the deposit of the performance guarantee until it is prepared to issue the permit. The local unit of government shall establish procedures by which a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements shall be made as work progresses.

(2) This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited under the land division act, 1967 PA 288, MCL 560.101 to 560.293.

History: 2006, Act 110, Eff. July 1, 2006.

125.3506 Open space preservation.

Sec. 506. (1) Subject to subsection (4) and section 402, a qualified local unit of government shall provide in its zoning ordinance that land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a smaller portion of the land than specified in the zoning ordinance, but not more than 50% for a county or township or 80% for a city or village, that could otherwise be developed, as determined by the local unit of government under existing ordinances, laws, and rules on the entire land area, if all of the following apply:

(a) The land is zoned at a density equivalent to 2 or fewer dwelling units per acre or, if the land is served by a public sewer system, 3 or fewer dwelling units per acre.

(b) A percentage of the land area specified in the zoning ordinance, but not less than 50% for a county or township or 20% for a city or village, will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, as prescribed by the zoning ordinance.

(c) The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the option provided by this subsection would also depend upon the extension.

(d) The option provided under this subsection has not previously been exercised with respect to that land.

(2) After a landowner exercises the option provided under subsection (1), the land may be rezoned accordingly.

(3) The development of land under subsection (1) is subject to other applicable ordinances, laws, and rules, including rules relating to suitability of groundwater for on-site water supply for land not served by public water and rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers.

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(4) Subsection (1) does not apply to a qualified local unit of government if both of the following apply:

(a) On or before October 1, 2001, the local unit of government had in effect a zoning ordinance provision providing for both of the following:

(*i*) Land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a smaller portion of the land that, as determined by the local unit of government, could otherwise be developed under existing ordinances, laws, and rules on the entire land area.

(*ii*) If the landowner exercises the option provided by subparagraph (*i*), the portion of the land not developed will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land.

(b) On or before December 15, 2001, a landowner exercised the option provided under the zoning ordinance provision referred to in subdivision (a) with at least 50% of the land area for a county or township or 20% of the land area for a city or village, remaining perpetually in an undeveloped state.

(5) The zoning ordinance provisions required by subsection (1) shall be cited as the "open space preservation" provisions of the zoning ordinance.

(6) As used in this section, "qualified local unit of government" means a county, township, city, or village that meets all of the following requirements:

(a) Has adopted a zoning ordinance.

(b) Has a population of 1,800 or more.

(c) Has land that is not developed and that is zoned for residential development at a density described in subsection (1)(a).

History: 2006, Act 110, Eff. July 1, 2006.

125.3507 Purchase of development rights program; adoption of ordinance; limitations; agreements with other local governments.

Sec. 507. (1) As used in this section and sections 508 and 509, "PDR program" means a purchase of development rights program.

(2) The legislative body may adopt a development rights ordinance limited to the establishment, financing, and administration of a PDR program, as provided under this section and sections 508 and 509. The PDR program may be used only to protect agricultural land and other eligible land. This section and sections 508 and 509 do not expand the condemnation authority of a local unit of government as otherwise provided for in this act.

(3) A PDR program shall not acquire development rights by condemnation. This section and sections 508 and 509 do not limit any authority that may otherwise be provided by law for a local unit of government to protect natural resources, preserve open space, provide for historic preservation, or accomplish similar purposes.

(4) A legislative body shall not establish, finance, or administer a PDR program unless the legislative body adopts a development rights ordinance. If the local unit of government has a zoning ordinance, the development rights ordinance may be adopted as part of the zoning ordinance under the procedures for a zoning ordinance under this act. A local unit of government may adopt a development rights ordinance in the same manner as required for a zoning ordinance.

(5) A legislative body may promote and enter into agreements with other local units of government for the purchase of development rights, including cross-jurisdictional purchases, subject to applicable development rights ordinances.

History: 2006, Act 110, Eff. July 1, 2006.

125.3508 PDR program; purchase of development rights by local unit of government; conveyance; notice; requirements for certain purchases.

Sec. 508. (1) A development rights ordinance shall provide for a PDR program. Under a PDR program, the local unit of government purchases development rights, but only from a willing landowner. A development rights ordinance providing for a PDR program shall specify all of the following:

(a) The public benefits that the local unit of government may seek through the purchase of development rights.

(b) The procedure by which the local unit of government or a landowner may by application initiate purchase of development rights.

(c) The development rights authorized to be purchased subject to a determination under standards and procedures required by subdivision (d).

(d) The standards and procedures to be followed by the legislative body for approving, modifying, or rejecting an application to purchase development rights, including the determination of all the following:

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(*i*) Whether to purchase development rights.

(*ii*) Which development rights to purchase.

(*iii*) The intensity of development permitted after the purchase on the land from which the development rights are purchased.

(*iv*) The price at which development rights will be purchased and the method of payment.

(*v*) The procedure for ensuring that the purchase or sale of development rights is legally fixed so as to run with the land.

(e) The circumstances under which an owner of land from which development rights have been purchased under a PDR program may repurchase those development rights and how the proceeds of the purchase are to be used by the local unit of government.

(2) If the local unit of government has a zoning ordinance, the purchase of development rights shall be consistent with the plan referred to in section 203 upon which the zoning ordinance is based.

(3) Development rights acquired under a PDR program may be conveyed only as provided under subsection (1)(e).

(4) A county shall notify each township, city, or village, and a township shall notify each village, in which is located land from which development rights are proposed to be purchased of the receipt of an application for the purchase of development rights and shall notify each township, city, or village of the disposition of that application.

(5) A county shall not purchase development rights under a development rights ordinance from land subject to a township, city, or village zoning ordinance unless all of the following requirements are met:

(a) The development rights ordinance provisions for the PDR program are consistent with the plan upon which the township, city, or village zoning is based.

(b) The legislative body of the township, city, or village adopts a resolution authorizing the PDR program to apply in the township, city, or village.

(c) As part of the application procedure for the specific proposed purchase of development rights, the township, city, or village provides the county with written approval of the purchase.

History: 2006, Act 110, Eff. July 1, 2006.

125.3509 PDR program; financing sources; bonds or notes; special assessments.

Sec. 509. (1) A PDR program may be financed through 1 or more of the following sources:

(a) General appropriations by the local unit of government.

(b) Proceeds from the sale of development rights by the local unit of government subject to section 508(3).

(c) Grants.

(d) Donations.

(e) Bonds or notes issued under subsections (2) to (5).

(f) General fund revenue.

(g) Special assessments under subsection (6).

(h) Other sources approved by the legislative body and permitted by law.

(2) The legislative body may borrow money and issue bonds or notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, subject to the general debt limit applicable to the local unit of government. The bonds or notes may be revenue bonds or notes, general obligation limited tax bonds or notes, or, subject to section 6 of article IX of the state constitution of 1963, general obligation unlimited tax bonds or notes.

(3) The legislative body may secure bonds or notes issued under this section by mortgage, assignment, or pledge of property, including, but not limited to, anticipated tax collections, revenue sharing payments, or special assessment revenues. A pledge made by the legislative body is valid and binding from the time the pledge is made. The pledge immediately shall be subject to the lien of the pledge without a filing or further act. The lien of the pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the local unit of government, irrespective of whether the parties have notice of the lien. Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.

(4) Bonds or notes issued under this section are exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in this state.

(5) The bonds and notes issued under this section may be invested in by the state treasurer and all other public officers, state agencies, and political subdivisions, insurance companies, financial institutions, investment companies, and fiduciaries and trustees and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is in addition to all

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other authority granted by law.

(6) A development rights ordinance may authorize the legislative body to finance a PDR program by special assessments. In addition to meeting the requirements of section 508, the development rights ordinance shall include in the procedure to approve and establish a special assessment district both of the following:

(a) The requirement that there be filed with the legislative body a petition containing all of the following:

(*i*) A description of the development rights to be purchased, including a legal description of the land from which the purchase is to be made.

(*ii*) A description of the proposed special assessment district.

(*iii*) The signatures of the owners of at least 66% of the land area in the proposed special assessment district.

(*iv*) The amount and duration of the proposed special assessments.

(b) The requirement that the legislative body specify how the proposed purchase of development rights will specially benefit the land in the proposed special assessment district.

History: 2006, Act 110, Eff. July 1, 2006.

ARTICLE VI
ZONING BOARD OF APPEALS

125.3601 Zoning board of appeals; appointment; procedural rules; membership; composition; alternate members; per diem; expenses; removal; terms of office; vacancies; conduct of meetings; conflict of interest.

Sec. 601. (1) A zoning ordinance shall create a zoning board of appeals. A zoning board of appeals in existence on June 30, 2006 may continue to act as the zoning board of appeals subject to this act. Subject to subsection (2), members of a zoning board of appeals shall be appointed by majority vote of the members of the legislative body serving.

(2) The legislative body of a city or village may act as a zoning board of appeals and may establish rules to govern its procedure as a zoning board of appeals.

(3) A zoning board of appeals shall be composed of not fewer than 5 members if the local unit of government has a population of 5,000 or more or not fewer than 3 members if the local unit of government has a population of less than 5,000. The number of members of the zoning board of appeals shall be specified in the zoning ordinance.

(4) In a county or township, 1 of the regular members of the zoning board of appeals shall be a member of the zoning commission, or of the planning commission if the planning commission is functioning as the zoning commission. In a city or village, 1 of the regular members of the zoning board of appeals may be a member of the zoning commission, or of the planning commission if the planning commission is functioning as the zoning commission, unless the legislative body acts as the zoning board of appeals under subsection (2). A decision made by a city or village zoning board of appeals before the effective date of the 2007 amendatory act that amended this section is not invalidated by the failure of the zoning board of appeals to include a member of the city or village zoning commission or planning commission, as was required by this subsection before that amendatory act took effect.

(5) The remaining regular members of a zoning board of appeals, and any alternate members under subsection (7), shall be selected from the electors of the local unit of government residing within the zoning jurisdiction of that local unit of government or, in the case of a county, residing within the county but outside of any city or village. The members selected shall be representative of the population distribution and of the various interests present in the local unit of government.

(6) Subject to subsection (2), 1 regular or alternate member of a zoning board of appeals may be a member of the legislative body. Such a member shall not serve as chairperson of the zoning board of appeals. An employee or contractor of the legislative body may not serve as a member of the zoning board of appeals.

(7) The legislative body may appoint to the zoning board of appeals not more than 2 alternate members for the same term as regular members. An alternate member may be called as specified in the zoning ordinance to serve as a member of the zoning board of appeals in the absence of a regular member if the regular member will be unable to attend 1 or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. An alternate member serving on the zoning board of appeals has the same voting rights as a regular member.

(8) A member of the zoning board of appeals may be paid a reasonable per diem and reimbursed for expenses actually incurred in the discharge of his or her duties.

(9) A member of the zoning board of appeals may be removed by the legislative body for misfeasance,

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malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

(10) The terms of office for members appointed to the zoning board of appeals shall be for 3 years, except for members serving because of their membership on the zoning commission or legislative body, whose terms shall be limited to the time they are members of those bodies. When members are first appointed, the appointments may be for less than 3 years to provide for staggered terms. A successor shall be appointed not more than 1 month after the term of the preceding member has expired.

(11) A vacancy on the zoning board of appeals shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

(12) A zoning board of appeals shall not conduct business unless a majority of the regular members of the zoning board of appeals are present.

(13) A member of the zoning board of appeals who is also a member of the zoning commission, the planning commission, or the legislative body shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the zoning commission, the planning commission, or the legislative body. However, the member may consider and vote on other unrelated matters involving the same property.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

125.3602 Meetings; call of the chairperson; oaths; attendance of witnesses; record of proceedings.

Sec. 602. (1) Meetings of the zoning board of appeals shall be held at the call of the chairperson and at other times as the zoning board of appeals in its rules of procedure may specify. The chairperson or, in his or her absence, the acting chairperson may administer oaths and compel the attendance of witnesses.

(2) The zoning board of appeals shall maintain a record of its proceedings which shall be filed in the office of the clerk of the legislative body.

History: 2006, Act 110, Eff. July 1, 2006.

125.3603 Zoning board of appeals; powers; concurring vote of majority of members.

Sec. 603. (1) The zoning board of appeals shall hear and decide questions that arise in the administration of the zoning ordinance, including the interpretation of the zoning maps, and may adopt rules to govern its procedures sitting as a zoning board of appeals. The zoning board of appeals shall also hear and decide on matters referred to the zoning board of appeals or upon which the zoning board of appeals is required to pass under a zoning ordinance adopted under this act. It shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of a zoning ordinance adopted under this act. For special land use and planned unit development decisions, an appeal may be taken to the zoning board of appeals only if provided for in the zoning ordinance.

(2) The concurring vote of a majority of the members of the zoning board of appeals is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the zoning board of appeals is required to pass under the zoning ordinance, or to grant a variance in the zoning ordinance.

History: 2006, Act 110, Eff. July 1, 2006.

125.3604 Zoning board of appeals; procedures.

Sec. 604. (1) An appeal to the zoning board of appeals may be taken by a person aggrieved or by an officer, department, board, or bureau of this state or the local unit of government. In addition, a variance in the zoning ordinance may be applied for and granted under section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and as provided under this act. The zoning board of appeals shall state the grounds of any determination made by the board.

(2) An appeal under this section shall be taken within such time as prescribed by the zoning board of appeals by general rule, by filing with the body or officer from whom the appeal is taken and with the zoning board of appeals a notice of appeal specifying the grounds for the appeal. The body or officer from whom the appeal is taken shall immediately transmit to the zoning board of appeals all of the papers constituting the record upon which the action appealed from was taken.

(3) An appeal to the zoning board of appeals stays all proceedings in furtherance of the action appealed. However, if the body or officer from whom the appeal is taken certifies to the zoning board of appeals after

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the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by the zoning board of appeals or a circuit court.

(4) Following receipt of a written request for a variance, the zoning board of appeals shall fix a reasonable time for the hearing of the request and give notice as provided in section 103.

(5) If the zoning board of appeals receives a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, the zoning board of appeals shall conduct a public hearing on the request. Notice shall be given as required under section 103. However, if the request does not involve a specific parcel of property, notice need only be published as provided in section 103(1) and given to the person making the request as provided in section 103(3).

(6) At a hearing under subsection (5), a party may appear personally or by agent or attorney. The zoning board of appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.

(7) If there are practical difficulties for nonuse variances as provided in subsection (8) or unnecessary hardship for use variances as provided in subsection (9) in the way of carrying out the strict letter of the zoning ordinance, the zoning board of appeals may grant a variance in accordance with this section, so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done. The ordinance shall establish procedures for the review and standards for approval of all types of variances. The zoning board of appeals may impose conditions as otherwise allowed under this act.

(8) The zoning board of appeals of all local units of government shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance.

(9) The authority to grant variances from uses of land is limited to the following:

(a) Cities and villages.

(b) Townships and counties that as of February 15, 2006 had an ordinance that uses the phrase "use variance" or "variances from uses of land" to expressly authorize the granting of use variances by the zoning board of appeals.

(c) Townships and counties that granted a use variance before February 15, 2006.

(10) The authority granted under subsection (9) is subject to the zoning ordinance of the local unit of government otherwise being in compliance with subsection (7) and having an ordinance provision that requires a vote of 2/3 of the members of the zoning board of appeals to approve a use variance.

(11) The authority to grant use variances under subsection (9) is permissive, and this section does not require a local unit of government to adopt ordinance provisions to allow for the granting of use variances.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

125.3605 Decision as final; appeal to circuit court.

Sec. 605. The decision of the zoning board of appeals shall be final. A party aggrieved by the decision may appeal to the circuit court for the county in which the property is located as provided under section 606.

History: 2006, Act 110, Eff. July 1, 2006.

125.3606 Circuit court; review; duties.

Sec. 606. (1) Any party aggrieved by a decision of the zoning board of appeals may appeal to the circuit court for the county in which the property is located. The circuit court shall review the record and decision to ensure that the decision meets all of the following requirements:

(a) Complies with the constitution and laws of the state.

(b) Is based upon proper procedure.

(c) Is supported by competent, material, and substantial evidence on the record.

(d) Represents the reasonable exercise of discretion granted by law to the zoning board of appeals.

(2) If the court finds the record inadequate to make the review required by this section or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on conditions that the court considers proper. The zoning board of appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.

(3) An appeal from a decision of a zoning board of appeals shall be filed within 30 days after the zoning board of appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the zoning board of appeals, if there is no chairperson, or within 21 days after the zoning board of appeals approves the minutes of its decision. The court may affirm, reverse, or modify the decision

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of the zoning board of appeals. The court may make other orders as justice requires.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

125.3607 Party aggrieved by order, determination, or decision; circuit court review; proper party.

Sec. 607. (1) Any party aggrieved by any order, determination, or decision of any officer, agency, board, commission, zoning board of appeals, or legislative body of any local unit of government made under section 208 may obtain a review in the circuit court for the county in which the property is located. The review shall be in accordance with section 606.

(2) Any person required to be given notice under section 604(4) of the appeal of any order, determination, or decision made under section 208 shall be a proper party to any action for review under this section.

History: 2006, Act 110, Eff. July 1, 2006.

ARTICLE VII
STATUTORY COMPLIANCE AND REPEALER

125.3701 Compliance with open meetings act; availability of writings to public.

Sec. 701. (1) All meetings subject to this act shall be conducted in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(2) A writing prepared, owned, used, in the possession of, or retained as required by this act shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2006, Act 110, Eff. July 1, 2006.

125.3702 Repeal of MCL 125.581 to 125.600, 125.201 to 125.240, and 125.271 to 125.310; construction of section.

Sec. 702. (1) The following acts and parts of acts are repealed:

(a) The city and village zoning act, 1921 PA 207, MCL 125.581 to 125.600.

(b) The county zoning act, 1943 PA 183, MCL 125.201 to 125.240.

(c) The township zoning act, 1943 PA 184, MCL 125.271 to 125.310.

(2) This section does not alter, limit, void, affect, or abate any pending litigation, administrative proceeding, or appeal that existed on June 30, 2006 or any ordinance, order, permit, or decision that was based on the acts repealed under subsection (1). The zoning ordinance need not be readopted but is subject to the requirements of this act, including, but not limited to, the amendment procedures set forth in this act.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.

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MICHIGAN PLANNING ENABLING ACT
Act 33 of 2008

AN ACT to codify the laws regarding and to provide for county, township, city, and village planning; to provide for the creation, organization, powers, and duties of local planning commissions; to provide for the powers and duties of certain state and local governmental officers and agencies; to provide for the regulation and subdivision of land; and to repeal acts and parts of acts.

History: 2008, Act 33, Eff. Sept. 1, 2008.

The People of the State of Michigan enact:

ARTICLE I.
GENERAL PROVISIONS

125.3801 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan planning enabling act".

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3803 Definitions.

Sec. 3. As used in this act:

(a) "Chief administrative official" means the manager or other highest nonelected administrative official of a city or village.

(b) "Chief elected official" means the mayor of a city, the president of a village, the supervisor of a township, or, subject to section 5, the chairperson of the county board of commissioners of a county.

(c) "County board of commissioners", subject to section 5, means the elected county board of commissioners, except that, as used in sections 39 and 41, county board of commissioners means 1 of the following:

(*i*) A committee of the county board of commissioners, if the county board of commissioners delegates its powers and duties under this act to the committee.

(*ii*) The regional planning commission for the region in which the county is located, if the county board of commissioners delegates its powers and duties under this act to the regional planning commission.

(d) "Ex officio member", in reference to a planning commission, means a member, with full voting rights unless otherwise provided by charter, who serves on the planning commission by virtue of holding another office, for the term of that other office.

(e) "Legislative body" means the county board of commissioners of a county, the board of trustees of a township, or the council or other elected governing body of a city or village.

(f) "Local unit of government" or "local unit" means a county or municipality.

(g) "Master plan" means either of the following:

(*i*) As provided in section 81(1), any plan adopted or amended before the effective date of this act under a planning act repealed under section 85.

(*ii*) Any plan adopted or amended under this act. This includes, but is not limited to, a plan prepared by a planning commission authorized by this act and used to satisfy the requirement of section 203(1) of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3203, regardless of whether it is entitled a master plan, basic plan, county plan, development plan, guide plan, land use plan, municipal plan, township plan, plan, or any other term.

(h) "Municipality" or "municipal" means or refers to a city, village, or township.

(i) "Planning commission" means either of the following, as applicable:

(*i*) A planning commission created pursuant to section 11(1).

(*ii*) A planning commission retained pursuant to section 81(2) or (3), subject to the limitations on the application of this act provided in section 81(2) and (3).

(j) "Planning jurisdiction" for a county, city, or village refers to the areas encompassed by the legal boundaries of that county, city, or village, subject to section 31(1). Planning jurisdiction for a township refers to the areas encompassed by the legal boundaries of that township outside of the areas of incorporated villages and cities, subject to section 31(1).

(k) "Population" means the population according to the most recent federal decennial census or according to a special census conducted under section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, whichever is the more recent.

(*l*) "Street" means a street, avenue, boulevard, highway, road, lane, alley, viaduct, or other way intended

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for use by automobiles.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3805 Assignment of power or duty to county officer or body.

Sec. 5. The assignment of a power or duty under this act to a county officer or body is subject to 1966 PA 293, MCL 45.501 to 45.521, or 1973 PA 139, MCL 45.551 to 45.573, in a county organized under 1 of those acts.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3807 Master plan; adoption, amendment, and implementation by local government; purpose.

Sec. 7. (1) A local unit of government may adopt, amend, and implement a master plan as provided in this act.

(2) The general purpose of a master plan is to guide and accomplish, in the planning jurisdiction and its environs, development that satisfies all of the following criteria:

(a) Is coordinated, adjusted, harmonious, efficient, and economical.

(b) Considers the character of the planning jurisdiction and its suitability for particular uses, judged in terms of such factors as trends in land and population development.

(c) Will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and general welfare.

(d) Includes, among other things, promotion of or adequate provision for 1 or more of the following:

(*i*) A system of transportation to lessen congestion on streets.

(*ii*) Safety from fire and other dangers.

(*iii*) Light and air.

(*iv*) Healthful and convenient distribution of population.

(*v*) Good civic design and arrangement and wise and efficient expenditure of public funds.

(*vi*) Public utilities such as sewage disposal and water supply and other public improvements.

(*vii*) Recreation.

(*viii*) The use of resources in accordance with their character and adaptability.

History: 2008, Act 33, Eff. Sept. 1, 2008.

ARTICLE II.
PLANNING COMMISSION CREATION AND ADMINISTRATION

125.3811 Planning commission; creation; adoption of ordinance by local unit of government; notice required; exception; adoption of charter provision by city or home rule village; effect of repeal of planning act; continued exercise or transfer of powers and duties of zoning board or zoning commission.

Sec. 11. (1) A local unit of government may adopt an ordinance creating a planning commission with powers and duties provided in this act. The planning commission of a local unit of government shall be officially called "the planning commission", even if a charter, ordinance, or resolution uses a different name such as "plan board" or "planning board".

(2) Within 14 days after a local unit of government adopts an ordinance under subsection (1) creating a planning commission, the clerk of the local unit shall transmit notice of the adoption to the planning commission of the county where the local unit is located. However, if there is not a county planning commission or if the local unit adopting the ordinance is a county, notice shall be transmitted to the regional planning commission engaged in planning for the region within which the local unit is located. Notice under this subsection is not required when a planning commission created before the effective date of this act continues in existence under this act, but is required when an ordinance governing or creating a planning commission is amended or superseded under section 81(2)(b) or (3)(b).

(3) If, after the effective date of this act, a city or home rule village adopts a charter provision providing for a planning commission, the charter provision shall be implemented by an ordinance that conforms to this act. Section 81(2) provides for the continuation of a planning commission created by a charter provision adopted before the effective date of this act.

(4) Section 81(3) provides for the continuation of a planning commission created under a planning act repealed under section 85.

(5) Section 83 provides for the continued exercise by a planning commission, or the transfer to a planning commission, of the powers and duties of a zoning board or zoning commission.

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History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3813 Planning commission; effect of township ordinance; number of days; petition requesting submission of ordinance to electors; filing; petition subject to Michigan election law; violation.

Sec. 13. (1) Subject to subsection (2), a township ordinance creating a planning commission under this act shall take effect 63 days after the ordinance is published by the township board in a newspaper having general circulation in the township.

(2) Subject to subsection (3), before a township ordinance creating a planning commission takes effect, a petition may be filed with the township clerk requesting the submission of the ordinance to the electors residing in the unincorporated portion of the township for their approval or rejection. The petition shall be signed by a number of qualified and registered electors residing in the unincorporated portion of the township equal to not less than 8% of the total vote cast for all candidates for governor, at the last preceding general election at which a governor was elected. If such a petition is filed, the ordinance shall not take effect until approved by a majority of the electors residing in the unincorporated portion of the township voting thereon at the next regular or special election that allows reasonable time for proper notices and printing of ballots or at any special election called for that purpose, as determined by the township board. The township board shall specify the language of the ballot question.

(3) Subsection (2) does not apply if the planning commission created by the ordinance is the successor to an existing zoning commission or zoning board as provided for under section 301 of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3301.

(4) If a township board does not on its own initiative adopt an ordinance under this act creating a planning commission, a petition may be filed with the township clerk requesting the township board to adopt such an ordinance. The petition shall be signed by a number of qualified and registered electors as provided in subsection (2). If such a petition is filed, the township board, at its first meeting following the filing shall submit the question to the electors of the township in the same manner as provided under subsection (2).

(5) A petition under this section, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3815 Planning commission; membership; appointment; terms; vacancy; representation; qualifications; ex-officio members; board serving as planning commission; removal of member; conditions; conflict of interest; additional requirements.

Sec. 15. (1) In a municipality, the chief elected official shall appoint members of the planning commission, subject to approval by a majority vote of the members of the legislative body elected and serving. In a county, the county board of commissioners shall determine the method of appointment of members of the planning commission by resolution of a majority of the full membership of the county board.

(2) A city, village, or township planning commission shall consist of 5, 7, or 9 members. A county planning commission shall consist of 5, 7, 9, or 11 members. Members of a planning commission other than ex officio members under subsection (5) shall be appointed for 3-year terms. However, of the members of the planning commission, other than ex officio members, first appointed, a number shall be appointed to 1-year or 2-year terms such that, as nearly as possible, the terms of 1/3 of all the planning commission members will expire each year. If a vacancy occurs on a planning commission, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment. A member shall hold office until his or her successor is appointed.

(3) The membership of a planning commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the local unit of government, in accordance with the major interests as they exist in the local unit of government, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the local unit of government to the extent practicable.

(4) Members of a planning commission shall be qualified electors of the local unit of government, except that the following number of planning commission members may be individuals who are not qualified electors of the local unit of government:

(a) 3, in a city that on the effective date of this act had a population of more than 2,700 but less than 2,800.

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(b) 2, in a city or village that has, or on the effective date of this act had, a population of less than 5,000, except as provided in subdivision (a).

(c) 1, in local units of government other than those described in subdivision (a) or (b).

(5) In a township that on the effective date of this act had a planning commission created under former 1931 PA 285, 1 member of the legislative body or the chief elected official, or both, may be appointed to the planning commission, as ex officio members. In any other township, 1 member of the legislative body shall be appointed to the planning commission, as an ex officio member. In a city, village, or county, the chief administrative official or a person designated by the chief administrative official, if any, the chief elected official, 1 or more members of the legislative body, or any combination thereof, may be appointed to the planning commission, as ex officio members, unless prohibited by charter. However, in a city, village, or county, not more than 1/3 of the members of the planning commission may be ex officio members. Except as provided in this subsection, an elected officer or employee of the local unit of government is not eligible to be a member of the planning commission. The term of an ex officio member of a planning commission shall be as follows:

(a) The term of a chief elected official shall correspond to his or her term as chief elected official.

(b) The term of a chief administrative official shall expire with the term of the chief elected official that appointed him or her as chief administrative official.

(c) The term of a member of the legislative body shall expire with his or her term on the legislative body.

(6) For a county planning commission, the county shall make every reasonable effort to ensure that the membership of the county planning commission includes a member of a public school board or an administrative employee of a school district included, in whole or in part, within the county's boundaries. The requirements of this subsection apply whenever an appointment is to be made to the planning commission, unless an incumbent is being reappointed or an ex officio member is being appointed under subsection (5).

(7) Subject to subsection (8), a city or village that has a population of less than 5,000, and that has not created a planning commission by charter, may by an ordinance adopted under section 11(1) provide that 1 of the following boards serve as its planning commission:

(a) The board of directors of the economic development corporation of the city or village created under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636.

(b) The board of a downtown development authority created under 1975 PA 197, MCL 125.1651 to 125.1681, if the boundaries of the downtown district are the same as the boundaries of the city or village.

(c) A board created under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, if the boundaries of the authority district are the same as the boundaries of the city or village.

(8) Subsections (1) to (5) do not apply to a planning commission established under subsection (7). All other provisions of this act apply to a planning commission established under subsection (7).

(9) The legislative body may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the planning commission. Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office. Unless the legislative body, by ordinance, defines conflict of interest for the purposes of this subsection, the planning commission shall do so in its bylaws.

(10) An ordinance creating a planning commission may impose additional requirements relevant to the subject matter of, but not inconsistent with, this section.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3817 Chairperson, secretary, and other offices; election; terms; appointment of advisory committees.

Sec. 17. (1) A planning commission shall elect a chairperson and secretary from its members and create and fill other offices as it considers advisable. An ex officio member of the planning commission is not eligible to serve as chairperson. The term of each officer shall be 1 year, with opportunity for reelection as specified in bylaws adopted under section 19.

(2) A planning commission may appoint advisory committees whose members are not members of the planning commission.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3819 Bylaws; adoption; public record requirements; annual report by planning commission.

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Sec. 19. (1) A planning commission shall adopt bylaws for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations.

(2) A planning commission shall make an annual written report to the legislative body concerning its operations and the status of planning activities, including recommendations regarding actions by the legislative body related to planning and development.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3821 Meetings; frequency; time; place; special meeting; notice; compliance with open meetings act; availability of writings to public.

Sec. 21. (1) A planning commission shall hold not less than 4 regular meetings each year, and by resolution shall determine the time and place of the meetings. Unless the bylaws provide otherwise, a special meeting of the planning commission may be called by the chairperson or by 2 other members, upon written request to the secretary. Unless the bylaws provide otherwise, the secretary shall send written notice of a special meeting to planning commission members not less than 48 hours before the meeting.

(2) The business that a planning commission may perform shall be conducted at a public meeting of the planning commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of a regular or special meeting shall be given in the manner required by that act.

(3) A writing prepared, owned, used, in the possession of, or retained by a planning commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3823 Compensation; expenses; preparation of budget; acceptance of gifts.

Sec. 23. (1) Members of a planning commission may be compensated for their services as provided by the legislative body. A planning commission may adopt bylaws relative to compensation and expenses of its members and employees for travel when engaged in the performance of activities authorized by the legislative body, including, but not limited to, attendance at conferences, workshops, educational and training programs, and meetings.

(2) After preparing the annual report required under section 19, a planning commission may prepare a detailed budget and submit the budget to the legislative body for approval or disapproval. The legislative body annually may appropriate funds for carrying out the purposes and functions permitted under this act, and may match local government funds with federal, state, county, or other local government or private grants, contributions, or endowments.

(3) A planning commission may accept gifts for the exercise of its functions. However, in a township, other than a township that on the effective date of this act had a planning commission created under former 1931 PA 285, only the township board may accept such gifts, on behalf of the planning commission. A gift of money so accepted in either case shall be deposited with the treasurer of the local unit of government in a special nonreverting planning commission fund for expenditure by the planning commission for the purpose designated by the donor. The treasurer shall draw a warrant against the special nonreverting fund only upon receipt of a voucher signed by the chairperson and secretary of the planning commission and an order drawn by the clerk of the local unit of government. The expenditures of a planning commission, exclusive of gifts and grants, shall be within the amounts appropriated by the legislative body.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3825 Employment of planning director and other personnel; contract for services; use of information and advice provided by public officials, departments, and agencies.

Sec. 25. (1) A local unit of government may employ a planning director and other personnel as it considers necessary, contract for the services of planning and other technicians, and incur other expenses, within a budget authorized by the legislative body. This authority shall be exercised by the legislative body, unless a charter provision or ordinance delegates this authority to the planning commission or another body or official. The appointment of employees is subject to the same provisions of law as govern other corresponding civil employees of the local unit of government.

(2) For the purposes of this act, a planning commission may make use of maps, data, and other information and expert advice provided by appropriate federal, state, regional, county, and municipal officials, departments, and agencies. All public officials, departments, and agencies shall make available public information for the use of planning commissions and furnish such other technical assistance and advice as they may have for planning purposes.

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History: 2008, Act 33, Eff. Sept. 1, 2008.

ARTICLE III.
PREPARATION AND ADOPTION OF MASTER PLAN

125.3831 Master plan; preparation by planning commission; conditions; duties; meetings with other governmental planning commissions or agency staff; powers.

Sec. 31. (1) A planning commission shall make and approve a master plan as a guide for development within the planning jurisdiction subject to section 81 and the following:

(a) For a county, the master plan may include planning in cooperation with the constituted authorities for incorporated areas in whole or to the extent to which, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(b) For a township that on the effective date of this act had a planning commission created under former 1931 PA 285, or for a city or village, the planning jurisdiction may include any areas outside of the municipal boundaries that, in the planning commission's judgment, are related to the planning of the municipality.

(2) In the preparation of a master plan, a planning commission shall do all of the following, as applicable:

(a) Make careful and comprehensive surveys and studies of present conditions and future growth within the planning jurisdiction with due regard to its relation to neighboring jurisdictions.

(b) Consult with representatives of adjacent local units of government in respect to their planning so that conflicts in master plans and zoning may be avoided.

(c) Cooperate with all departments of the state and federal governments and other public agencies concerned with programs for economic, social, and physical development within the planning jurisdiction and seek the maximum coordination of the local unit of government's programs with these agencies.

(3) In the preparation of the master plan, the planning commission may meet with other governmental planning commissions or agency staff to deliberate.

(4) In general, a planning commission has such lawful powers as may be necessary to enable it to promote local planning and otherwise carry out the purposes of this act.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3833 Master plan; land use and infrastructure issues; inclusion of maps, plats, charts, and other related matter; recommendations for physical development; additional subjects; implementation of master street plan; specifications; section subject to MCL 125.3881(1).

Sec. 33. (1) A master plan shall address land use and infrastructure issues and may project 20 years or more into the future. A master plan shall include maps, plats, charts, and descriptive, explanatory, and other related matter and shall show the planning commission's recommendations for the physical development of the planning jurisdiction.

(2) A master plan shall also include those of the following subjects that reasonably can be considered as pertinent to the future development of the planning jurisdiction:

(a) A land use plan that consists in part of a classification and allocation of land for agriculture, residences, commerce, industry, recreation, ways and grounds, public buildings, schools, soil conservation, forests, woodlots, open space, wildlife refuges, and other uses and purposes. If a county has not adopted a zoning ordinance under former 1943 PA 183 or the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, a land use plan and program for the county may be a general plan with a generalized future land use map.

(b) The general location, character, and extent of streets, railroads, airports, bicycle paths, pedestrian ways, bridges, waterways, and waterfront developments; sanitary sewers and water supply systems; facilities for flood prevention, drainage, pollution prevention, and maintenance of water levels; and public utilities and structures.

(c) Recommendations as to the general character, extent, and layout of redevelopment or rehabilitation of blighted areas; and the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of streets, grounds, open spaces, buildings, utilities, or other facilities.

(d) For a local unit of government that has adopted a zoning ordinance, a zoning plan for various zoning districts controlling the height, area, bulk, location, and use of buildings and premises. The zoning plan shall include an explanation of how the land use categories on the future land use map relate to the districts on the zoning map.

(e) Recommendations for implementing any of the master plan's proposals.

(3) If a master plan is or includes a master street plan, the means for implementing the master street plan in cooperation with the county road commission and the state transportation department shall be specified in the

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master street plan in a manner consistent with the respective powers and duties of and any written agreements between these entities and the municipality.

(4) This section is subject to section 81(1).

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3835 Subplan; adoption.

Sec. 35. A planning commission may, by a majority vote of the members, adopt a subplan for a geographic area less than the entire planning jurisdiction, if, because of the unique physical characteristics of that area, more intensive planning is necessary for the purposes set forth in section 7.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3837 Metropolitan county planning commission; designation; powers.

Sec. 37. (1) A county board of commissioners may designate the county planning commission as the metropolitan county planning commission. A county planning commission so designated shall perform metropolitan and regional planning whenever necessary or desirable. The metropolitan county planning commission may engage in comprehensive planning, including, but not limited to, the following:

(a) Preparation, as a guide for long-range development, of general physical plans with respect to the pattern and intensity of land use and the provision of public facilities, together with long-range fiscal plans for such development.

(b) Programming of capital improvements based on relative urgency, together with definitive financing plans for the improvements to be constructed in the earlier years of the program.

(c) Coordination of all related plans of local governmental agencies within the metropolitan area or region.

(d) Intergovernmental coordination of all related planning activities among the state and local governmental agencies within the metropolitan area or region.

(2) In addition to the powers conferred by other provisions of this act, a metropolitan county planning commission may apply for, receive, and accept grants from any local, regional, state, or federal governmental agency and agree to and comply with the terms and conditions of such grants. A metropolitan county planning commission may do any and all things necessary or desirable to secure the financial aid or cooperation of a regional, state, or federal governmental agency in carrying out its functions, when approved by a 2/3 vote of the county board of commissioners.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3839 Master plan; adoption; procedures; notice; submittals; use of electronic mail.

Sec. 39. (1) A master plan shall be adopted under the procedures set forth in this section and sections 41 and 43. A master plan may be adopted as a whole or by successive parts corresponding with major geographical areas of the planning jurisdiction or with functional subject matter areas of the master plan.

(2) Before preparing a master plan, a planning commission shall send to all of the following, by first-class mail or personal delivery, a notice explaining that the planning commission intends to prepare a master plan and requesting the recipient's cooperation and comment:

(a) For any local unit of government undertaking a master plan, the planning commission, or if there is no planning commission, the legislative body, of each municipality located within or contiguous to the local unit of government.

(b) For a county undertaking a master plan, the regional planning commission for the region in which the county is located, if any.

(c) For a county undertaking a master plan, the county planning commission, or if there is no county planning commission, the county board of commissioners, for each county located contiguous to the county.

(d) For a municipality undertaking a master plan, the regional planning commission for the region in which the municipality is located, if there is no county planning commission for the county in which that municipality is located. If there is a county planning commission, the municipal planning commission may consult with the regional planning commission but is not required to do so.

(e) For a municipality undertaking a master plan, the county planning commission, or if there is no county planning commission, the county board of commissioners, for the county in which that municipality is located.

(f) For any local unit of government undertaking a master plan, each public utility company and railroad company owning or operating a public utility or railroad within the local unit of government, and any government entity that registers its name and mailing address for this purpose with the planning commission.

(g) If the master plan will include a master street plan, the county road commission and the state transportation department.

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(3) A submittal under section 41 or 43 by or to an entity described in subsection (2) may be made by personal or first-class mail delivery of a hard copy or by electronic mail. However, the planning commission preparing the plan shall not make such submittals by electronic mail unless, in the notice described in subsection (2), the planning commission states that it intends to make such submittals by electronic mail and the entity receiving that notice does not respond by objecting to the use of electronic mail. Electronic mail may contain a link to a website on which the submittal is posted if the website is accessible to the public free of charge.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3841 Preparation of proposed master plan; submission to legislative body for review and comment; approval required; notice; submission of comments; statements as advisory.

Sec. 41. (1) After preparing a proposed master plan, a planning commission shall submit the proposed master plan to the legislative body for review and comment. The process of adopting a master plan shall not proceed further unless the legislative body approves the distribution of the proposed master plan.

(2) If the legislative body approves the distribution of the proposed master plan, it shall notify the secretary of the planning commission, and the secretary of the planning commission shall submit, in the manner provided in section 39(3), a copy of the proposed master plan, for review and comment, to all of the following:

(a) For any local unit of government proposing a master plan, the planning commission, or if there is no planning commission, the legislative body, of each municipality located within or contiguous to the local unit of government.

(b) For a county proposing a master plan, the regional planning commission for the region in which the county is located, if any.

(c) For a county proposing a master plan, the county planning commission, or if there is no county planning commission, the county board of commissioners, for each county located contiguous to the county.

(d) For a municipality proposing a master plan, the regional planning commission for the region in which the municipality is located, if there is no county planning commission for the county in which that local unit of government is located. If there is a county planning commission, the secretary of the planning commission may submit a copy of the proposed master plan to the regional planning commission but is not required to do so.

(e) For a municipality proposing a master plan, the county planning commission, or if there is no county planning commission, the county board of commissioners, for the county in which that municipality is located. The secretary of the planning commission shall concurrently submit to the county planning commission, in the manner provided in section 39(3), a statement that the requirements of subdivision (a) have been met or, if there is no county planning commission, shall submit to the county board of commissioners, in the manner provided in section 39(3), a statement that the requirements of subdivisions (a) and (d) have been met. The statement shall be signed by the secretary and shall include the name and address of each planning commission or legislative body to which a copy of the proposed master plan was submitted under subdivision (a) or (d), as applicable, and the date of submittal.

(f) For any local unit of government proposing a master plan, each public utility company and railroad company owning or operating a public utility or railroad within the local unit of government, and any government entity that registers its name and address for this purpose with the secretary of the planning commission. An entity described in this subdivision that receives a copy of a proposed master plan, or of a final master plan as provided in section 43(5), shall reimburse the local unit of government for any copying and postage costs thereby incurred.

(g) If the proposed master plan is or includes a proposed master street plan, the county road commission and the state transportation department.

(3) An entity described in subsection (2) may submit comments on the proposed master plan to the planning commission in the manner provided in section 39(3) within 63 days after the proposed master plan was submitted to that entity under subsection (2). If the county planning commission or the county board of commissioners that receives a copy of a proposed master plan under subsection (2)(e) submits comments, the comments shall include, but need not be limited to, both of the following, as applicable:

(a) A statement whether the county planning commission or county board of commissioners considers the proposed master plan to be inconsistent with the master plan of any municipality or region described in subsection (2)(a) or (d).

(b) If the county has a county master plan, a statement whether the county planning commission considers the proposed master plan to be inconsistent with the county master plan.

(4) The statements provided for in subsection (3)(a) and (b) are advisory only.

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History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3843 Proposed master plan; public hearing; notice; approval by resolution of planning commission; statement; submission of copy of master plan to legislative body; approval or rejection by legislative body; procedures; submission of adopted master plan to certain entities.

Sec. 43. (1) Before approving a proposed master plan, a planning commission shall hold not less than 1 public hearing on the proposed master plan. The hearing shall be held after the expiration of the deadline for comment under section 41(3). The planning commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the local unit of government. The planning commission shall also submit notice of the public hearing in the manner provided in section 39(3) to each entity described in section 39(2). This notice may accompany the proposed master plan submitted under section 41.

(2) The approval of the proposed master plan shall be by resolution of the planning commission carried by the affirmative votes of not less than 2/3 of the members of a city or village planning commission or not less than a majority of the members of a township or county planning commission. The resolution shall refer expressly to the maps and descriptive and other matter intended by the planning commission to form the master plan. A statement recording the planning commission's approval of the master plan, signed by the chairperson or secretary of the planning commission, shall be included on the inside of the front or back cover of the master plan and, if the future land use map is a separate document from the text of the master plan, on the future land use map. Following approval of the proposed master plan by the planning commission, the secretary of the planning commission shall submit a copy of the master plan to the legislative body.

(3) Approval of the proposed master plan by the planning commission under subsection (2) is the final step for adoption of the master plan, unless the legislative body by resolution has asserted the right to approve or reject the master plan. In that case, after approval of the proposed master plan by the planning commission, the legislative body shall approve or reject the proposed master plan. A statement recording the legislative body's approval of the master plan, signed by the clerk of the legislative body, shall be included on the inside of the front or back cover of the master plan and, if the future land use map is a separate document from the text of the master plan, on the future land use map.

(4) If the legislative body rejects the proposed master plan, the legislative body shall submit to the planning commission a statement of its objections to the proposed master plan. The planning commission shall consider the legislative body's objections and revise the proposed master plan so as to address those objections. The procedures provided in subsections (1) to (3) and this subsection shall be repeated until the legislative body approves the proposed master plan.

(5) Upon final adoption of the master plan, the secretary of the planning commission shall submit, in the manner provided in section 39(3), copies of the adopted master plan to the same entities to which copies of the proposed master plan were required to be submitted under section 41(2).

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3845 Extension, addition, revision, or other amendment to master plan; adoption; procedures; review and findings.

Sec. 45. (1) An extension, addition, revision, or other amendment to a master plan shall be adopted by following the procedure under sections 39, 41, and 43, subject to all of the following:

(a) Any of the following amendments to a master plan may be made without following the procedure under sections 39, 41, and 43:

(*i*) A grammatical, typographical, or similar editorial change.

(*ii*) A title change.

(*iii*) A change to conform to an adopted plat.

(b) Subject to subdivision (a), the review period provided for in section 41(3) shall be 42 days instead of 63 days.

(c) When a planning commission sends notice to an entity under section 39(2) that it intends to prepare a subplan, the notice may indicate that the local unit of government intends not to provide that entity with further notices of or copies of proposed or final subplans otherwise required to be submitted to that entity under section 39, 41, or 43. Unless the entity responds that it chooses to receive notice of subplans, the local unit of government is not required to provide further notice of subplans to that entity.

(2) At least every 5 years after adoption of a master plan, a planning commission shall review the master plan and determine whether to commence the procedure to amend the master plan or adopt a new master plan. The review and its findings shall be recorded in the minutes of the relevant meeting or meetings of the

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planning commission.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3847 Part of county master plan covering incorporated area; adoption by appropriate city or village required; exception.

Sec. 47. (1) Subject to subsection (2), a part of a county master plan covering an incorporated area within the county shall not be recognized as the official master plan or part of the official master plan for that area unless adopted by the appropriate city or village in the manner prescribed by this act.

(2) Subsection (1) does not apply if the incorporated area is subject to county zoning pursuant to the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, and a contract under the urban cooperation act, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3849 City or village planning department; authority to submit proposed master plan, or proposed extension, addition, revision, or other amendment.

Sec. 49. (1) This act does not alter the authority of a planning department of a city or village created by charter to submit a proposed master plan, or a proposed extension, addition, revision, or other amendment to a master plan, to the planning commission, whether directly or indirectly as provided by charter.

(2) Subsection (1) notwithstanding, a planning commission described in subsection (1) shall comply with the requirements of this act.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3851 Public interest and understanding; promotion.

Sec. 51. (1) To promote public interest in and understanding of the master plan, a planning commission may publish and distribute copies of the master plan or of any report, and employ other means of publicity and education.

(2) A planning commission shall consult with and advise public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and citizens concerning the promotion or implementation of the master plan.

History: 2008, Act 33, Eff. Sept. 1, 2008.

ARTICLE IV.
SPECIAL PROVISIONS, INCLUDING CAPITAL IMPROVEMENTS AND SUBDIVISION REVIEW

125.3861.new Construction of certain projects in area covered by municipal master plan; approval; initiation of work on project; requirements; report and advice.

Sec. 61. (1) A street; square, park, playground, public way, ground, or other open space; or public building or other structure shall not be constructed or authorized for construction in an area covered by a municipal master plan unless the location, character, and extent of the street, public way, open space, structure, or utility have been submitted to the planning commission by the legislative body or other body having jurisdiction over the authorization or financing of the project and has been approved by the planning commission. The planning commission shall submit its reasons for approval or disapproval to the body having jurisdiction. If the planning commission disapproves, the body having jurisdiction may overrule the planning commission by a vote of not less than 2/3 of its entire membership for a township that on the enactment date of this act had a planning commission created under former 1931 PA 285, or for a city or village, or by a vote of not less than a majority of its membership for any other township. If the planning commission fails to act within 35 days after submission of the proposal to the planning commission, the project shall be considered to be approved by the planning commission.

(2) Following adoption of the county plan or any part of a county plan and the certification by the county planning commission to the county board of commissioners of a copy of the plan, work shall not be initiated on any project involving the expenditure of money by a county board, department, or agency for the acquisition of land, the erection of structures, or the extension, construction, or improvement of any physical facility by any county board, department, or agency unless a full description of the project, including, but not limited to, its proposed location and extent, has been submitted to the county planning commission and the report and advice of the planning commission on the proposal have been received by the county board of commissioners and by the county board, department, or agency submitting the proposal. However, work on the project may proceed if the planning commission fails to provide in writing its report and advice upon the

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proposal within 35 days after the proposal is filed with the planning commission. The planning commission shall provide copies of the report and advice to the county board, department, or agency sponsoring the proposal.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3863 Approval of construction project before effective date of act; rescission of authorization; failure of planning commission to act within certain period of time.

Sec. 63. If the opening, widening, or extension of a street, or the acquisition or enlargement of any square, park, playground, or other open space has been approved by a township planning commission that was created before the effective date of this act under former 1931 PA 285 or by a city or village planning commission and authorized by the legislative body as provided under section 61, the legislative body shall not rescind its authorization unless the matter has been resubmitted to the planning commission and the rescission has been approved by the planning commission. The planning commission shall hold a public hearing on the matter. The planning commission shall submit its reasons for approval or disapproval of the rescission to the legislative body. If the planning commission disapproves the rescission, the legislative body may overrule the planning commission by a vote of not less than 2/3 of its entire membership. If the planning commission fails to act within 63 days after submission of the proposed rescission to the planning commission, the proposed rescission shall be considered to be approved by the planning commission.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3865 Capital improvements program of public structures and improvements; preparation; basis.

Sec. 65. (1) To further the desirable future development of the local unit of government under the master plan, a planning commission, after adoption of a master plan, shall annually prepare a capital improvements program of public structures and improvements, unless the planning commission is exempted from this requirement by charter or otherwise. If the planning commission is exempted, the legislative body either shall prepare and adopt a capital improvements program, separate from or as a part of the annual budget, or shall delegate the preparation of the capital improvements program to the chief elected official or a nonelected administrative official, subject to final approval by the legislative body. The capital improvements program shall show those public structures and improvements, in the general order of their priority, that in the commission's judgment will be needed or desirable and can be undertaken within the ensuing 6-year period. The capital improvements program shall be based upon the requirements of the local unit of government for all types of public structures and improvements. Consequently, each agency or department of the local unit of government with authority for public structures or improvements shall upon request furnish the planning commission with lists, plans, and estimates of time and cost of those public structures and improvements.

(2) Any township may prepare and adopt a capital improvement program. However, subsection (1) is only mandatory for a township if the township, alone or jointly with 1 or more other local units of government, owns or operates a water supply or sewage disposal system.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3867 Programs for public structures and improvements; recommendations.

Sec. 67. A planning commission may recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof, regardless of whether the planning commission is exempted from the requirement to prepare a capital improvements program under section 65.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3869 Copy of zoning ordinance and amendments; request by county planning commission for submission by municipal planning commission.

Sec. 69. If a municipal planning commission has zoning duties pursuant to section 83 and the municipality has adopted a zoning ordinance, the county planning commission, if any, may, by first-class mail or personal delivery, request the municipal planning commission to submit to the county planning commission a copy of the zoning ordinance and any amendments. The municipal planning commission shall submit the requested documents to the county planning commission within 63 days after the request is received and shall submit any future amendments to the zoning ordinance within 63 days after the amendments are adopted. The municipal planning commission may submit a zoning ordinance or amendment under this subsection electronically.

History: 2008, Act 33, Eff. Sept. 1, 2008.

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125.3871 Recommendations for ordinances or rules governing subdivision of land; public hearing; notice; action on proposed plat; approval, approval with conditions, or disapproval by planning commission; approval of plat as amendment to master plan.

Sec. 71. (1) A planning commission may recommend to the legislative body provisions of an ordinance or rules governing the subdivision of land authorized under section 105 of the land division act, 1967 PA 288, MCL 560.105. If a township is subject to county zoning consistent with section 209 of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3209, or a city or village is subject to county zoning pursuant to the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, and a contract under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, the county planning commission may recommend to the legislative body of the municipality provisions of an ordinance or rules governing the subdivision of land authorized under section 105 of the land division act, 1967 PA 288, MCL 560.105. A planning commission may proceed under this subsection on its own initiative or upon request of the appropriate legislative body.

(2) Recommendations for a subdivision ordinance or rule may address plat design, including the proper arrangement of streets in relation to other existing or planned streets and to the master plan; adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, recreation, light, and air; and the avoidance of congestion of population, including minimum width and area of lots. The recommendations may also address the extent to which streets shall be graded and improved and to which water and sewer and other utility mains, piping, or other facilities shall be installed as a condition precedent to the approval of a plat.

(3) Before recommending an ordinance or rule described in subsection (1), the planning commission shall hold a public hearing on the proposed ordinance or rule. The planning commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the local unit of government.

(4) If a municipality has adopted a master plan or master street plan, the planning commission of that municipality shall review and make recommendations on plats before action thereon by the legislative body under section 112 of the land division act, 1967 PA 288, MCL 560.112. If a township is subject to county zoning consistent with section 209 of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3209, or a city or village is subject to county zoning pursuant to the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, and a contract under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, and the municipality has adopted a master plan or master street plan, the county planning commission shall also review and make recommendations on plats before action thereon by the legislative body of the municipality under section 112 of the land division act, 1967 PA 288, MCL 560.112.

(5) A planning commission shall not take action on a proposed plat without affording an opportunity for a public hearing thereon. A plat submitted to the planning commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. Not less than 15 days before the date of the hearing, notice of the date, time, and place of the hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the municipality. Similar notice shall be mailed to the owners of land immediately adjoining the proposed platted land.

(6) A planning commission shall recommend approval, approval with conditions, or disapproval of a plat within 63 days after the plat is submitted to the planning commission. If applicable standards under the land division act, 1967 PA 288, MCL 560.101 to 560.293, and an ordinance or published rules governing the subdivision of land authorized under section 105 of that act, MCL 560.105, are met, the planning commission shall recommend approval of the plat. If the planning commission fails to act within the required period, the plat shall be considered to have been recommended for approval, and a certificate to that effect shall be issued by the planning commission upon request of the proprietor. However, the proprietor may waive this requirement and consent to an extension of the 63-day period. The grounds for any recommendation of disapproval of a plat shall be stated upon the records of the planning commission.

(7) A plat approved by a municipality and recorded under section 172 of the land division act, 1967 PA 288, MCL 560.172, shall be considered to be an amendment to the master plan and a part thereof. Approval of a plat by a municipality does not constitute or effect an acceptance by the public of any street or other open space shown upon the plat.

History: 2008, Act 33, Eff. Sept. 1, 2008.

ARTICLE V.

TRANSITIONAL PROVISIONS AND REPEALER

125.3881 Plan adopted or amended under planning act repealed under MCL 125.3885; effect;

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city or home rule village charter provision creating planning commission or ordinance implementing provision before effective date of act; ordinance creating planning commission under former law; ordinance or rules governing subdivision of land.

Sec. 81. (1) Unless rescinded by the local unit of government, any plan adopted or amended under a planning act repealed under section 85 need not be readopted under this act but continues in effect as a master plan under this act, regardless of whether it is entitled a master plan, basic plan, county plan, development plan, guide plan, land use plan, municipal plan, township plan, plan, or any other term. This includes, but is not limited to, a plan prepared by a planning commission and adopted before the effective date of this act to satisfy the requirements of section 1 of the former city and village zoning act, 1921 PA 207, section 3 of the former township zoning act, 1943 PA 184, section 3 of the former county zoning act, 1943 PA 183, or section 203(1) of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3203. The master plan is subject to the requirements of this act, including, but not limited to, the requirement for periodic review under section 45(2) and the amendment procedures set forth in this act. However, the master plan is not subject to the requirements of section 33 until it is first amended under this act.

(2) Unless repealed, a city or home rule village charter provision creating a planning commission before the effective date of this act and any ordinance adopted before the effective date of this act implementing that charter provision continues in effect under this act, and the planning commission need not be newly created by an ordinance adopted under this act. However, both of the following apply:

(a) The legislative body may by ordinance increase the powers and duties of the planning commission to correspond with the powers and duties of a planning commission created under this act. Provisions of this act regarding planning commission powers and duties do not otherwise apply to a planning commission created by charter before the effective date of this act and provisions of this act regarding planning commission membership, appointment, and organization do not apply to such a planning commission. All other provisions of this act, including, but not limited to, provisions regarding planning commission selection of officers, meetings, rules, records, appointment of employees, contracts for services, and expenditures, do apply to such a planning commission.

(b) The legislative body shall amend any ordinance adopted before the effective date of this act to implement the charter provision, or repeal the ordinance and adopt a new ordinance, to fully conform to the requirements of this act made applicable by subdivision (a), by the earlier of the following dates:

(*i*) The date when an amendatory or new ordinance is first adopted under this act for any purpose.

(*ii*) July 1, 2011.

(3) Unless repealed, an ordinance creating a planning commission under former 1931 PA 285 or former 1945 PA 282 or a resolution creating a planning commission under former 1959 PA 168 continues in effect under this act, and the planning commission need not be newly created by an ordinance adopted under this act. However, all of the following apply:

(a) Beginning on the effective date of this act, the duties of the planning commission are subject to the requirements of this act.

(b) The legislative body shall amend the ordinance, or repeal the ordinance or resolution and adopt a new ordinance, to fully conform to the requirements of this act by the earlier of the following dates:

(*i*) The date when an amendatory or new ordinance is first adopted under this act for any purpose.

(*ii*) July 1, 2011.

(c) An ordinance adopted under subdivision (b) is not subject to referendum.

(4) Unless repealed or rescinded by the legislative body, an ordinance or published rules governing the subdivision of land authorized under section 105 of the land division act, 1967 PA 288, MCL 560.105, need not be readopted under this act or amended to comply with this act but continue in effect under this act. However, if amended, the ordinance or published rules shall be amended under the procedures of this act.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3883 Transfer of powers, duties, and records.

Sec. 83. (1) If, on the effective date of this act, a planning commission had the powers and duties of a zoning board or zoning commission under the former city and village zoning act, 1921 PA 207, the former county zoning act, 1943 PA 183, or the former township zoning act, 1943 PA 184, and under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, the planning commission may continue to exercise those powers and duties without amendment of the ordinance, resolution, or charter provision that created the planning commission.

(2) If, on the effective date of this act, a local unit of government had a planning commission without zoning authority created under former 1931 PA 285, former 1945 PA 282, or former 1959 PA 168, the legislative body may by amendment to the ordinance creating the planning commission, or, if the planning

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commission was created by resolution, may by resolution, transfer to the planning commission all the powers and duties provided to a zoning board or zoning commission created under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702. If an existing zoning board or zoning commission in the local unit of government is nearing the completion of its draft zoning ordinance, the legislative body shall postpone the transfer of the zoning board's or zoning commission's powers, duties, and records until the completion of the draft zoning ordinance, but is not required to postpone the transfer more than 1 year.

(3) If, on or after the effective date of this act, a planning commission is created in a local unit of government that has had a zoning board or zoning commission since before the effective date of this act, the legislative body shall transfer all the powers, duties, and records of the zoning board or zoning commission to the planning commission before July 1, 2011. If the existing zoning board or zoning commission is nearing the completion of its draft zoning ordinance, the legislative body may, by resolution, postpone the transfer of the zoning board's or zoning commission's powers, duties, and records until the completion of the draft zoning ordinance, but not later than until 1 year after creation of the planning commission or July 1, 2011, whichever comes first.

History: 2008, Act 33, Eff. Sept. 1, 2008.

125.3885 Repeal of certain acts.

Sec. 85. (1) The following acts are repealed:

(a) 1931 PA 285, MCL 125.31 to 125.45.

(b) 1945 PA 282, MCL 125.101 to 125.115.

(c) 1959 PA 168, MCL 125.321 to 125.333.

(2) Any plan adopted or amended under an act repealed under subsection (1) is subject to section 81(1).

History: 2008, Act 33, Eff. Sept. 1, 2008.

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