

Act No. 395
Public Acts of 2012
Approved by the Governor
December 19, 2012
Filed with the Secretary of State
December 19, 2012
EFFECTIVE DATE: December 19, 2012

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Reps. Jacobsen, Walsh and Denby

ENROLLED HOUSE BILL No. 5926

AN ACT to amend 1984 PA 270, entitled "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," by amending sections 90a, 90b, 90c, and 90d (MCL 125.2090a, 125.2090b, 125.2090c, and 125.2090d), section 90a as added by 2011 PA 252, section 90b as amended by 2012 PA 145, and sections 90c and 90d as added by 2011 PA 253.

The People of the State of Michigan enact:

Sec. 90a. As used in this chapter:

(a) "Community revitalization grant" or "grant" means a grant that is approved under section 90b and that is subject to requirements in section 90c.

(b) "Community revitalization incentive" means a community revitalization grant, a community revitalization loan, or other economic assistance.

(c) "Community revitalization loan" or "loan" means a loan that is approved under section 90b and that is subject to the requirements in section 90d.

(d) "Eligible investment" means 1 or more of the following, subject to a written agreement under this section, including investment which occurred prior to the approval of the application, to the extent that the project has not been completely reimbursed to or been paid for on behalf of the person requesting a community revitalization incentive under this chapter:

(i) Any demolition, construction, alteration, rehabilitation, or improvement of buildings.

(ii) Site improvements.

(iii) The addition of machinery, equipment, or fixtures to the approved project.

(iv) Architectural, engineering, surveying, and similar professional fees but not certain soft costs of the eligible investment as determined by the board, including, but not limited to, developer fees, appraisals, performance bonds, closing costs, bank fees, loan fees, risk contingencies, financing costs, permanent or construction period interest, legal expenses, leasing or sales commissions, marketing costs, professional fees, shared savings, taxes, title insurance, bank inspection fees, insurance, and project management fees.

(e) "Eligible property" means property that meets 1 or more of the following conditions:

(i) Is determined to be a facility. As used in this subparagraph, "facility" means that term as defined in section 2 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2652.

(ii) Is a historic resource. As used in this subparagraph, "historic resource" means a publicly or privately owned historic building or structure located within a historic district designated by the national register of historic places, the state register of historic sites, or a local unit acting under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.

(iii) Is blighted property. As used in this subparagraph, "blighted property" means property that meets any of the following criteria:

(A) Has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.

(B) Is an attractive nuisance to children because of physical condition, use, or occupancy.

(C) Is a fire hazard or is otherwise dangerous to the safety of persons or property.

(D) 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.

(E) Is tax reverted property owned by a qualified local governmental unit, by a county, or by this state.

(F) Is property owned or 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.

(G) Has substantial subsurface demolition debris buried on site so that the property is unfit for its intended use.

(iv) Is functionally obsolete property. As used in this subparagraph, "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 as determined by a Michigan advanced assessing officer or a Michigan master assessing officer.

(v) Is a parcel that is adjacent or contiguous to property described in subparagraphs (i) through (iv) if the development of the adjacent or contiguous parcel is estimated to increase the taxable value of the property described in subparagraphs (i) through (iv).

(f) "Other economic assistance" means any other form of assistance allowed under this act that is not a community revitalization loan or community revitalization grant.

Sec. 90b. (1) The fund shall create and operate the Michigan community revitalization program to provide community revitalization incentives for eligible investments on eligible property in this state. The fund shall develop and use a detailed application, approval, and compliance process adopted by a resolution of the board and published and available on the fund's website. Program standards, guidelines, templates, or any other forms used by the fund to implement the Michigan community revitalization program shall be approved by the board.

(2) A person or 2 or more persons may apply to the fund for approval of community revitalization incentives associated with a project under this section. Community revitalization incentives shall not be approved for any property that is not eligible property.

(3) Funds appropriated for programs under this chapter shall be placed in the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260.

(4) Subject to section 88c, the fund shall review all applications for community revitalization incentives. As part of the application, the applicant shall include documentation establishing that the project is located on eligible property and a project description that includes a project pro-forma. The fund shall consider the following criteria to the extent reasonably applicable to the type of project proposed when approving a community revitalization incentive:

(a) The importance of the project to the community in which it is located.

(b) If the project will act as a catalyst for additional revitalization of the community in which it is located.

(c) The amount of local community and financial support for the project.

(d) The applicant's financial need for a community revitalization incentive.

- (e) The extent of reuse of vacant buildings, reuse of historical buildings, and redevelopment of blighted property.
- (f) Creation of jobs.
- (g) The level of private sector and other contributions, including, but not limited to, federal funds and federal tax credits.
- (h) Whether the project is financially and economically sound.
- (i) Whether the project increases the density of the area.
- (j) Whether the project promotes mixed-use development and walkable communities.
- (k) Whether the project converts abandoned public buildings to private use.
- (l) Whether the project promotes sustainable development.
- (m) Whether the project involves the rehabilitation of a historic resource.
- (n) Whether the project addresses areawide redevelopment.
- (o) Whether the project addresses underserved markets of commerce.
- (p) The level and extent of environmental contamination.
- (q) If the rehabilitation of the historic resource will meet the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR 67.
- (r) Whether the project will compete with or effect existing Michigan businesses within the same industry.
- (s) Any other additional criteria approved by the board that are specific to each individual project and are consistent with the findings and intent of this chapter.

(5) An application shall be approved or denied not more than 90 days after receipt of the application that is considered administratively complete by the board or its designee. If the application is neither approved nor denied within 90 days after being considered administratively complete, it shall be considered by the fund board, or its president if delegated, for action at, or by, the next regularly scheduled board meeting. If an application is approved, the fund shall determine the amount of community revitalization incentives for the project based on the fund's review of the application and the criteria specified in subsection (4).

(6) The amount of community revitalization incentives that the board may approve for a single project shall not exceed 25% of a project's eligible investment up to \$10,000,000.00. A community revitalization loan shall not exceed \$10,000,000.00 and a community revitalization grant shall not exceed \$1,000,000.00. However, a combination of loans, grants, and other economic assistance under this chapter shall not exceed \$10,000,000.00 per project. The board may not approve \$10,000,000.00 per project in community revitalization incentives to more than 3 projects per fiscal year. The board shall approve not less than 5 projects of \$1,000,000.00 or less per project per fiscal year. If, after reviewing all applications in a fiscal year, the fund determines that less than 5 projects warranted an award of \$1,000,000.00 or less, this subsection shall not apply.

(7) When the board approves an application and determines the amount of community revitalization incentives, the board shall enter into a written agreement with the applicant. The written agreement shall provide in a clear and concise manner all of the conditions imposed, including specific time frames, on the applicant to receive the community revitalization incentive under this chapter. The written agreement shall provide for the secured status of any loan, repayment, and penalties if the applicant fails to comply with the provisions of the written agreement as determined by the board. The applicant shall agree to provide the data described in the written agreement that is necessary for the fund to report to the legislature under this chapter.

(8) 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 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. The MEDC may charge actual and reasonable fees for costs associated with the community revitalization incentive authorized under this chapter. These fees are in addition to an amount of the appropriation used for administering the programs and activities authorized under this chapter.

Sec. 90c. Upon satisfying a milestone established in a written agreement for which the board has approved a community revitalization grant under section 90b, the applicant may apply to the fund for a grant disbursement as specified in the written agreement. All or a portion of the rights or obligations of the applicant under the written grant agreement may be assigned by the applicant to 1 or more assignees with prior written approval of, and on terms and conditions acceptable to, the fund. The board shall develop and implement the use of an application form and assignment form to be used under this section. Within 90 days of receipt of an application for disbursement, the fund or its designee shall then determine whether the project has complied with the terms of the written agreement and, if applicable, the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings,

36 CFR 67. If the fund or its designee determines that the project has complied with the written agreement and, if applicable, the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR 67, the fund shall issue the grant proceeds to the applicant or, if the grant has been assigned, to the assignee.

Sec. 90d. (1) Upon satisfying a milestone established in a written agreement for which the board has approved a community revitalization loan under section 90b, the applicant may apply to the fund for a loan disbursement as specified in the written agreement. All or a portion of the rights or obligations of the applicant under the written loan agreement may be assigned by the applicant to 1 or more assignees with prior written approval of, and on terms and conditions acceptable to, the fund. The board shall develop and implement the use of an application for disbursement form and assignment form to be used under this subsection. Within 90 days of receipt or disbursement of an application for disbursement, the fund or its designee shall determine whether the project has complied with the written agreement and, if applicable, the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR 67. If the fund or its designee determines that the project has complied with the written agreement and, if applicable, the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR 67, the fund shall distribute the loan proceeds to the applicant or, if the loan proceeds have been assigned, to the assignee.

(2) The board shall develop criteria for repayment of the community revitalization loan.

(3) The proceeds from repayment of community revitalization loans under subsection (2) shall be paid into the investment fund described in section 88h and expended exclusively for community revitalization incentives under this chapter.

(4) Beginning November 1, 2012 and each year thereafter, the fund shall report to each house of the legislature on the activities of the fund under this chapter that occurred in the previous fiscal year. The report shall be made available in an electronic format. Except as otherwise provided in this subsection or in this act, the fund shall not divulge sensitive or private financial information associated with a community revitalization incentive. The report shall include, but is not limited to, all of the following:

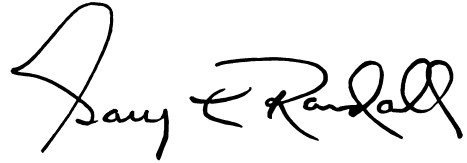
- (a) The total proposed amount of private investment attracted under this section.
- (b) The total actual amount of private investment attracted under this section as reported to the fund.
- (c) The total number of new written agreements.
- (d) The amount of the community revitalization incentives awarded under this chapter separately for each project.
- (e) The actual amount of the community revitalization incentives made under this chapter separately for each project.
- (f) The total actual amount of square footage revitalized or added for each project approved under this section as reported to the fund. When reporting square footage, the person must report the square footage by category, including, but not limited to, commercial, residential, or retail.
- (g) The aggregate increase in taxable value of all property subject to a written agreement under this chapter when established and recorded by the local units of government and as reported to the fund.
- (h) A summary of all written agreements for community revitalization loans.
- (i) The total actual number of residential units revitalized or added for each project approved under this section as reported to the fund.
- (j) The identity of persons who received a community revitalization incentive outside the program standards and guidelines and why the variance was given.
- (k) The amount of administrative costs used to administer the programs and activities authorized under this chapter.
- (l) A summary of the projected and actual aggregated taxpayer return on investment for each eligible investment that received a distribution in the reporting period.

(5) Beginning February 1, 2012 and not less than every 3 months thereafter, the fund shall post on its internet website the name and location of a person who received approval of community revitalization investment under this chapter in the immediately preceding 3-month period.

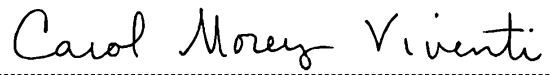
(6) Beginning on and after January 1, 2012, on a monthly basis the fund shall provide exact copies of all information that is provided to board members of the fund for the purpose of monthly board meetings, subject to confidentiality under section 5, to each of the following:

- (a) The chairperson and minority vice-chairperson of the house commerce committee.
- (b) The chairperson and minority vice-chairperson of the house appropriations subcommittee on general government.
- (c) The chairperson and minority vice-chairperson of the senate economic development committee.
- (d) The chairperson and minority vice-chairperson of the senate appropriations subcommittee on general government.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor