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:

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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.

(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

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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

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125.2237 Articles of incorporation; contents.

Sec. 7.

The articles of incorporation of a Michigan early stage venture investment corporation must contain all of the following:

(a) The purposes of the corporation, which must 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 must be governed by a board of directors that complies with the requirements in section 13.

(c) A provision that provides for all of the following:

(i) If, on June 30, 2024, a Michigan early stage venture investment corporation has 1 or more Michigan early stage venture investment funds with realized earned returns on investments as of June 30, 2024, the board of the Michigan early stage venture investment corporation shall enter into an agreement with the department of treasury to distribute to the state treasurer $60,000,000.00 of the earned returns for deposit in the 21st century jobs trust fund established in section 7 of the Michigan trust fund act, 2000 PA 489, MCL 12.257, and the remainder of the earned returns for deposit in the general fund of this state.

(ii) For each year after December 31, 2024, if a Michigan early stage venture investment corporation has 1 or more Michigan early stage venture investment funds with realized earned returns on investments as of June 30 of that year, the board of the Michigan early stage venture investment corporation shall enter into an agreement with the department of treasury to distribute the earned returns as of June 30 of that year to the state treasurer for deposit in the general fund of this state.

(iii) On 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 must be deposited in the general fund of this state. 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 ;-- Am. 2015, Act 192, Imd. Eff. Nov. 16, 2015 ;-- Am. 2024, Act 189, Eff. Apr. 2, 2025

125.2239 Articles of incorporation; review and certification by attorney general; exception.

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.

(3) Notwithstanding subsections (1) and (2), a Michigan early stage venture investment corporation that amends its articles of incorporation for the sole purpose of complying with section 7(c) is not required to submit that amendment to the attorney general for review or certification or to pay the fee otherwise required by subsection (2). The attorney general is not required to review or certify the amendment, and that amendment shall not affect any previous certification by the attorney general of the Michigan early stage venture investment corporation.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004 ;-- Am. 2015, Act 192, Imd. Eff. Nov. 16, 2015

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125.2241 Filing with state treasurer; exception.

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 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.

(5) Notwithstanding subsections (1) through (4), a Michigan early stage venture investment corporation that amends its articles of incorporation for the sole purpose of complying with section 7(c) is not required to submit that amendment to the state treasurer for examination, investigation, or registration under this section. The state treasurer is not required to examine or conduct any investigation with respect to that amendment, and that amendment shall not affect any previous registration by the state treasurer for that Michigan early stage venture investment corporation.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004 ;-- Am. 2015, Act 192, Imd. Eff. Nov. 16, 2015

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

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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 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

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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) Except as otherwise provided in section 19(4), 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 ;-- Am. 2015, Act 192, Imd. Eff. Nov. 16, 2015

125.2247 Agreements with investors; modification of existing agreement.

Sec. 17.

(1) Subject to subsection (9), 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 former 1975 PA 228, 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 206.713, and the first year in which that tax voucher may be used to pay a liability under former 1975 PA 228, 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 206.713, including any withholding tax imposed on the investor under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.713.

(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 206.713, 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.

(9) The Michigan early stage venture investment corporation shall not enter into any new agreements with investors after the effective date of the amendatory act that added this subsection. However, the Michigan early stage venture investment corporation may modify an existing agreement with an investor as long as no additional principal is borrowed from that investor and tax vouchers are not increased above the level that have been approved under section 23 on the effective date of the amendatory act that added this subsection. However, the Michigan early stage venture investment corporation may modify an existing agreement with an investor that the Michigan early stage venture investment corporation has received a loan or line of credit from and may expend money to modify that agreement, as long as that agreement meets all of the following:

(a) The modification does not result in the Michigan early stage venture investment corporation expending greater than $500,000.00 in costs, fees, legal fees, management fees, or other expenses without the consent of the state budget director.

(b) Notification of the modification is reported to the state budget office and chairpersons of the house and senate appropriations committees within 30 days of the finalization of the modification.

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 ;-- Am. 2015, Act 192, Imd. Eff. Nov. 16, 2015

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125.2249 Michigan early stage venture investment fund; investment plan; criteria; modification of existing agreement or investment.

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 former 1975 PA 228, 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 206.713.

(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 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.

(4) A Michigan early stage venture investment corporation shall not create a Michigan early stage venture investment fund and a Michigan early stage venture investment corporation shall not make any new commitments to contribute capital to a venture capital company after the effective date of the amendatory act that added this subsection. However, a fund may modify an existing agreement or investment with a venture capital company as long as no additional funds are committed to the venture capital company after the effective date of the amendatory act that added this subsection.

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 ;-- Am. 2015, Act 192, Imd. Eff. Nov. 16, 2015

125.2251 Annual financial audit.

Sec. 21.

The fund manager shall file an annual 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

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administration and investment of the fund.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004 ;-- Am. 2015, Act 192, Imd. Eff. Nov. 16, 2015

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 former 1975 PA 228, 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 206.713, 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. 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). The department of treasury shall not approve any new tax voucher certificates after the effective date of the amendatory act that added this sentence.

(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 former 1975 PA 228 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 former 1975 PA 228, 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 206.713.

(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 former 1975 PA 228, 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 206.713, 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 former 1975 PA 228, 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 206.713, the amount that exceeds the investor's tax liability may be retained and used to pay a future liability of the investor under former 1975 PA 228, 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 206.713.

(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 $450,000,000.00.

(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

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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 former 1975 PA 228, 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 206.713, 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 ;-- Am. 2015, Act 192, Imd. Eff. Nov. 16, 2015

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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.

(1) The Michigan early stage venture investment corporation shall publish and make available on the Internet 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.

(c) Return through the fiscal year from investments made by each Michigan early stage venture investment fund in venture capital companies.

(d) The number of seed or early stage businesses that have been funded by venture capital companies.

(e) The aggregate net distributions made to each fund by the venture capital companies that have entered into agreements with each Michigan early stage venture investment fund through the end of the fiscal year and since the inception of each Michigan early stage venture investment fund.

(f) The total amount invested by each Michigan early stage venture investment fund in venture capital companies.

(g) Any upcoming use of tax vouchers that is certain and the timing of that use.

(h) An estimate of the potential use of tax vouchers over the 5-year period following the end of the fiscal year.

(2) Each year, the Michigan early stage venture investment corporation shall provide a copy of the annual report described in subsection (1) to the chairpersons of the house and senate appropriations committees upon its publication.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004 ;-- Am. 2015, Act 192, Imd. Eff. Nov. 16, 2015

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.

(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

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125.2261 Expiration of fund.

Sec. 31.

A fund created in section 19 expires on the date determined by the board of the Michigan early stage investment corporation that established the fund, which date must be after January 1, 2030. Any money in the fund on expiration of the fund, subject to all outstanding debts and obligation of the Michigan early stage venture investment corporation being defeased and satisfied, must be deposited in the general fund of this state.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004 ;-- Am. 2015, Act 193, Imd. Eff. Nov. 16, 2015 ;-- Am. 2024, Act 189, Eff. Apr. 2, 2025

125.2263 Distribution agreement of earned returns.

Sec. 33.

Notwithstanding anything to the contrary in this act, both of the following apply:

(a) If, on June 30, 2024, a Michigan early stage venture investment corporation has 1 or more Michigan early stage venture investment funds with realized earned returns on investments as of June 30, 2024, the board of the Michigan early stage venture investment corporation shall enter into an agreement with the department of treasury to distribute to the state treasurer $60,000,000.00 of the earned returns for deposit in the 21st century jobs trust fund established in section 7 of the Michigan trust fund act, 2000 PA 489, MCL 12.257, and the remainder of the earned returns for deposit in the general fund of this state.

(b) For each year after December 31, 2024, if a Michigan early stage venture investment corporation has 1 or more Michigan early stage venture investment funds with realized earned returns on investments as of June 30 of that year, the board of the Michigan early stage venture investment corporation shall enter into an agreement with the department of treasury to distribute the earned returns as of June 30 of that year to the state treasurer for deposit in the general fund of this state.

History: 2003, Act 296, Imd. Eff. Jan. 8, 2004 ;-- Am. 2024, Act 189, Eff. Apr. 2, 2025

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