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 Notes: 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:

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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 Notes: 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

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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 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

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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 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.

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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

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125.1580 Report; hiring management consultants or contracting with management 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

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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.

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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