



SENATE BILL No. 160

January 26, 1993, Introduced by Senators POLLACK,
HONIGMAN, BERRYMAN, CHERRY, STABENOW, SMITH and
KELLY and referred to the Committee on Local
Government and Urban Development.

A bill to provide for the reuse of certain real property in certain areas for economic development purposes to reduce urban sprawl and to aid in the revitalization of property that is served by existing infrastructure; to prescribe the powers and duties of certain state departments and officials, communities, and other persons; and to prescribe procedures and criteria for the issuance and repayment of loans.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Community" means a city, township, or village that
3 meets the eligibility requirements of this act.

4 (b) "Council" means 1 or more counties, that in conjunction
5 with at least 2 cities, villages, or townships that are located
6 within a participating county, join together to address growth
7 issues that affect a project area as required under section 3. A

1 council also may in addition include regional planning entities,
2 metropolitan planning councils, and similar alliances established
3 to facilitate economic development.

4 (c) "Department" means the department of commerce.

5 (d) "Economic development purposes" means purposes that fur-
6 ther jobs creation, tax base enhancement, neighborhood physical
7 revitalization, and public and private investment in the area
8 served by a project and in the region as a whole.

9 (e) "Fund" means the fund created in section 2.

10 (f) "Infrastructure" means roads and public water and sewer
11 systems, utility service, and related land, equipment, and struc-
12 tures necessary to serve a project area.

13 (g) "Loan" means a disbursement of money from the fund to a
14 community that is a member of a council to finance a project that
15 meets the requirements of this act.

16 (h) "Person" means an individual, partnership, corporation,
17 association, governmental entity, or other legal entity.

18 (i) "Physical revitalization" means the replacement, reha-
19 bilitation, or restoration of existing neighborhood facilities or
20 the creation of 1 or more new neighborhood facilities.

21 Neighborhood facilities may include streets, sidewalks, parks,
22 recreational facilities, residential structures, and public
23 facilities.

24 (j) "Project" means the assembly of real property within a
25 community that is assembled for economic development purposes,
26 and may include, but, is not limited to, the purchase of
27 property, necessary demolition, relocation of persons, necessary

1 environmental investigation and remediation activities, and site
2 improvements required to make the property marketable for a pro-
3 posed use to reduce urban sprawl, or to aid in reutilizing
4 property.

5 (k) "Project area" means the boundaries of the real property
6 to be purchased or as described in the project plan.

7 (l) "Project plan" means the information required by the
8 department for review of a proposed project.

9 (m) "Rule" means a rule promulgated pursuant to the adminis-
10 trative procedures act of 1969, Act No. 306 of the Public Acts of
11 1969, being sections 24.201 to 24.328 of the Michigan Compiled
12 Laws.

13 Sec. 2. (1) A fund is created within the state treasury.
14 The department shall administer the fund. The fund shall receive
15 money from appropriations which may include money from the gen-
16 eral fund and from any other lawful source.

17 (2) The fund shall be used for projects within communities
18 for economic development purposes, to reduce urban sprawl, and to
19 aid in reutilizing property that is served by existing infra-
20 structure for communities that belong to a council and that meet
21 the eligibility requirements of this act.

22 (3) The fund shall operate on a revolving basis. Annual
23 appropriations, repayments to the fund, and all interest earned
24 by the fund shall remain in the fund to be made available for
25 future loans.

1 (4) This act shall not be implemented until the legislature
2 appropriates funds to provide for the issuance of loans as
3 provided in this act.

4 Sec. 3. (1) A community that is a member of the council is
5 eligible to apply for a loan from the fund if the council has
6 defined a geographic area to be served that consists of at least
7 1 county and has representation on the council from the county
8 government and at least 2 cities, villages, or townships within
9 the participating county. A community shall only apply for money
10 from the fund for the same project as a member of a single
11 council.

12 (2) With the approval of the county board of commissioners
13 and the county executive, if applicable, a regional planning
14 agency, metro council, or similar alliance that is in existence
15 within a geographic area that seeks to become a council may be a
16 member of a council or may represent the county on a council.

17 (3) A council shall meet the threshold planning requirements
18 by adopting growth management policies for the area being planned
19 and establishing strategies to implement those growth management
20 policies. Growth management policies shall do all of the
21 following:

22 (a) Encourage economic development in areas served by exist-
23 ing infrastructure.

24 (b) Encourage necessary improvements in existing
25 infrastructure.

26 (c) Encourage existing economic base industries to remain
27 and reinvest at their present locations.

1 (d) Support the development of regional transportation and
2 road systems that complement each other and provide for travel to
3 and from places of employment and for the movement of goods.

4 (e) Support urban and suburban residential neighborhoods and
5 community facilities as essential elements in a balanced and com-
6 petitive regional economy or support the type of infrastructure
7 investments in rural areas that support rural residential and
8 related town center land uses that enhance long-term stability
9 and discourage urban sprawl.

10 (f) Recognize and support the preservation and enhancement
11 of open space and quality of life features that discourage urban
12 sprawl.

13 (4) A community that is a member of a council is eligible to
14 receive a loan from the fund if that community adopts through
15 resolution or comparable legislative action the council's growth
16 management policies as described in subsection (3).

17 Sec. 4. (1) If a council completes all the threshold
18 requirements of section 3, the council may submit the required
19 information for formal acceptance as a council to the
20 department.

21 (2) The organizers of a proposed council shall propose orga-
22 nizational bylaws by which its operations shall be governed. The
23 bylaws shall include a process for reviewing new applications for
24 admission to the council on at least an annual basis. Upon
25 receipt of an application for formation of a council, including
26 the proposed bylaws, the department shall approve the formation
27 of a council if it meets the requirements of this act. Upon

1 formation, the council shall consider applications for loans from
 2 the fund submitted to the council by 1 or more of its community
 3 members.

4 (3) Prior to submittal to the department, the council shall
 5 prioritize all projects submitted to the council for review and
 6 later submittal by the community to the department. The priori-
 7 tization shall be prepared and evaluated by a council based on
 8 the following point project rating model as applied to the apply-
 9 ing community:

10	PROJECT RATING MODEL	
11 <u>Criteria</u>	<u>Points</u>	
12 I. Money from the fund invested in rela- 13 tion to number of full-time employment 14 positions projected.	0 to 5	
15 II. Private investment as a percentage of 16 total project funding. A higher per- 17 centage of private investment shall 18 receive more points.	0 to 5	
19 III. Federal and community investment as a 20 percent of total project funding, and 21 state investment other than from fund 22 investment, in relation to fund 23 investment. A higher percentage of 24 public investment, other than from the 25 fund, shall receive more points.	0 to 5	
26 IV. Percentage value added to local tax 27 base, using state equalized value. A		

1	higher value added to the local tax	
2	base shall receive more points.	0 to 10
3	V. Contribution to neighborhood physical	
4	revitalization.	0 to 10
5	VI. Immediate reuse potential.	0 to 10
6	VII. Relative tax effort as annually deter-	
7	mined by the department of treasury.	0 to 15
8	VIII. Encourages reuse of existing infra-	
9	structure and previously developed	
10	property.	0 to 15
11	IX. Michigan community indicator and the	
12	relative distress index as annually	
13	developed by the department.	0 to 15
14	X. Other considerations as considered	
15	appropriate by the council.	0 to 10
16		
	TOTAL	=====

17 Maximum Points = 100

18 (4) The council shall submit to the department a breakdown
 19 of the rating model under subsection (3) for each application
 20 submitted under this act.

21 Sec. 5. (1) In addition to rating each proposed project in
 22 accordance with the project rating model, a council shall develop
 23 and submit to the department its own criteria to assess the fea-
 24 sibility and desirability of a project proposed by a community
 25 that is a member of the council. However, at a minimum, the cri-
 26 teria shall require all of the following:

1 (a) That the growth management policies described in
2 section 3 are met.

3 (b) An assessment of the reasonable likelihood of project
4 development.

5 (c) That the projected cost of the project is reasonable in
6 relation to a comparable project.

7 (d) That the eligibility requirements of section 3 are met.

8 (2) Communities are encouraged to apply for planning loans
9 as described in subsection (3)(a) and to undertake detailed
10 studies of project costs, benefits, and feasibility before apply-
11 ing for loans for eligible project implementation activities as
12 described in subsection (3)(b), (c), and (d).

13 (3) Communities that receive approval of a preliminary
14 project application from the council may make an application for
15 a loan from the fund for 1 or more of the following eligible
16 activities:

17 (a) Planning and application preparation are eligible activ-
18 ities where at least 25% of the cost of preparing the application
19 and planning is provided by the applicant. Money from the fund
20 expended for planning and application preparation shall not
21 exceed 5% of disbursements from the fund for any application
22 period provided under section 7(1). Eligible activities are:

23 (i) Planning for the purchase of land and facilities and
24 site preparation.

25 (ii) Planning for site design costs, for environmental
26 assessments or environmental impact statement studies, for

1 economic development corporation studies and other studies
2 related to development of a site.

3 (iii) Development of plans for industrial parks, commercial
4 centers, research and development facilities and office centers,
5 town centers, and mixed use projects.

6 (iv) Appraisals for acquisition of land, demolition, and
7 relocation.

8 (v) Plans for the reuse of existing facilities to meet the
9 specifications of a user.

10 (vi) Options on land critical to a project.

11 (vii) Legal fees for organizing the project, except if legal
12 fees are paid pursuant to the uniform condemnation procedures
13 act, Act No. 87 of the Public Acts of 1980, being sections 213.51
14 to 213.77 of the Michigan Compiled Laws.

15 (viii) Other professional fees.

16 (b) Providing for infrastructure if the need to update
17 infrastructure or provide for de minimis modifications of exist-
18 ing infrastructure, or both, is a prime consideration in attract-
19 ing reinvestment to areas where underutilized infrastructure
20 exists.

21 (c) Land assembly, relocation, and demolition. The fund may
22 be used for land assembly, relocation, and demolition.

23 (d) Environmental cleanup, if there is a need for cleanup of
24 environmental contamination, not to exceed 10% of disbursements
25 from the fund for any application period provided for in
26 section 7(1). Money expended under this subsection shall be
27 expended in the same manner as state funds expended under the

1 environmental response act, Act No. 307 of the Public Acts of
2 1982, being sections 299.601 to 299.618 of the Michigan Compiled
3 Laws. Such expenditures do not cause the state to forfeit its
4 right to recover money under Act No. 307 of the Public Acts of
5 1982.

6 (4) If the council approves the application of the council
7 member and finds it meets the requirement of this section, the
8 council shall submit the application to the department. An
9 applicant for a loan shall distinguish an application for a plan-
10 ning loan from an application for a project implementation loan
11 for infrastructure improvements, environmental clean up, or land
12 assembly, relocation, and demolition. A council shall assist its
13 members in fulfilling the requirements for an application for a
14 loan.

15 (5) In addition to the other requirements of this section, a
16 council shall attest to all of the following in an affidavit that
17 accompanies an application for a loan from the fund:

18 (a) That the project community within the council is served
19 or is designated for service by public water and sewer services
20 and capacity is available for the project.

21 (b) That at the time the application is approved by the
22 council, the project is not expected to result in the transfer of
23 employment from 1 community of this state to another community in
24 this state in which the project is to be located unless the gov-
25 erning body of each impacted community from which employment is
26 to be transferred consents by resolution to the transfer.

1 Sec. 6. Except for funding for activities described in
2 section 5(3)(a) an application for a project funding that is
3 submitted to the council by a community that is a member of a
4 council for a specific project shall include all of the
5 following:

6 (a) A project plan that meets the requirements of this act.

7 (b) A description of the project's consistency with plans
8 for economic development, the community's master plan, if a
9 master plan has been adopted, and the council's adopted growth
10 management policies.

11 (c) A description of the planned real property to be
12 acquired for industrial or commercial use.

13 (d) A description of the planned industrial, commercial, or
14 mixed use reuse of the project area and, if displacement of per-
15 sons or entities is to occur, a plan for providing for the per-
16 sons or entities to be displaced.

17 (e) A description of the economic impact of the proposed
18 project, including, but not limited to, the reduction of urban
19 sprawl and to aid in reutilization of property that is served by
20 existing infrastructure and including market and financial feasi-
21 bility evaluations.

22 Sec. 7. (1) Upon the request of a council, the state shall
23 provide technical assistance to councils and to council members
24 in the preparation of a project. The department shall accept
25 applications from January 1-15, May 1-15, and September 1-15 of
26 each calendar year.

1 (2) Upon receipt of an application for a loan from a council
2 on behalf of a community that is a member of that council, the
3 department within 60 days shall take the following steps:

4 (a) Review the prioritized projects based upon the project
5 rating model scores and the criteria of the council required
6 under section 5 from all councils and prioritize all projects on
7 a statewide basis. Planning loan applications and implementation
8 loan applications shall be prioritized as separate groups.

9 (b) Following the review under subdivision (a), evaluate the
10 statewide prioritized list giving primary consideration to all of
11 the following:

12 (i) Evidence of market feasibility and project financing
13 feasibility, including scheduled repayment.

14 (ii) Implementation of adopted regional growth management
15 policies and the project's consistency with this act.

16 (iii) The annual geographic distribution of projects funded
17 throughout the state.

18 (iv) Existence of opposition from a city, village, or town-
19 ship within a county that is a member of a council, or a city,
20 village, or township adjacent to the applicant community.

21 (c) Deny any project that is not in compliance with the pri-
22 mary considerations in subdivision (b)(i), (ii), and (iii).

23 (3) Projects will be reviewed and prioritized statewide
24 within 60 calendar days from the date the department has set for
25 application receipt. At the close of the 60 calendar days for
26 review, the department shall notify the council of the approval

1 or disapproval of an application. When an application has been
2 disapproved, the reason for disapproval shall be specified.

3 (4) Upon making a decision to provide either a project plan-
4 ning or project implementation loan, the department shall inform
5 a council of the decision of the department and inform the coun-
6 cil of what, if anything, is required of it and the applicant
7 project to obtain the authorized loan for a project.

8 Sec. 8. (1) Loan agreements shall be executed between the
9 department and the community that receives a loan. These agree-
10 ments shall include a description of the project, and provisions
11 for repayment that meet the requirements of this act and any
12 qualification placed on receipt of the loan. Following the exe-
13 cution of a loan agreement, substantial changes to the project
14 shall not be made by the applicant without the written approval
15 of the department. Upon request for a change in a project, the
16 department shall approve or deny the request within 30 days.

17 (2) A community that receives money from the fund shall
18 submit an annual report to the department, which shall include
19 information and documentation regarding the sale or other dispo-
20 sition of property that was the subject of a loan and any other
21 information required by the department.

22 (3) The loan agreement between the community and department
23 shall include a legally enforceable provision requiring that the
24 community repay the fund as stated in the loan agreement and may
25 include provisions for collateral or security for such loan.
26 This subsection shall not be construed to give priority to

1 repayment to the fund over the interests of a secured lender who
2 may provide financing for the project.

3 (4) The loan agreement may provide that a community which
4 receives money from the fund may sell or lease real property to
5 an industrial or commercial user at less than the community's
6 total cost of assembly and improvement, provided the community
7 demonstrates to the department the need to reduce the cost of the
8 real property to make the land economically competitive.

9 (5) The department may negotiate a restructuring of a loan
10 made under this act, under terms and conditions that are agreed
11 to between the department and the recipient of a loan if the
12 necessity for this action is established to the satisfaction of
13 the department.

14 Sec. 9. (1) A community that receives money from the fund
15 shall repay the fund as provided in this section. Upon sale of
16 real property for which money was loaned by the fund, sale pro-
17 ceeds shall be allocated to the fund in proportion to the amount
18 of the loan from the fund as a percentage of the total project
19 cost; and to the community in proportion to the amount of money
20 expended by the community from its own resources on the project,
21 as a percentage of total project cost. The portion of sales pro-
22 ceeds allocated for repayment to the fund shall be remitted to
23 the fund in the manner specified in the loan agreement pursuant
24 to section 8.

25 (2) If the real property which was the subject of a loan
26 from the fund is leased, the lease payments shall be allocated to
27 the fund and to the community in the same manner as provided for

1 in subsection (1). Lease payments shall be remitted to the fund
2 as provided for in the loan agreement between the department and
3 the community pursuant to section 8.

4 (3) To the extent that the allocated portion of sales pro-
5 ceeds or lease proceeds or both are expected to be insufficient
6 to repay the full amount of the loan from the fund, the loan
7 agreement may provide that the community shall remit an amount
8 equivalent to the full amount of real and personal property taxes
9 collected on the project pursuant to the general property tax
10 act, Act No. 206 of the Public Acts of 1893, being sections 211.1
11 to 211.157 of the Michigan Compiled Laws, and up to the full
12 amount of industrial facilities tax collected on the project by
13 the community, pursuant to Act No. 198 of the Public Acts of
14 1974, being sections 207.551 to 207.570 of the Michigan Compiled
15 Laws, exclusive of real and personal property taxes or industrial
16 facility taxes ordinarily allocated to school districts, coun-
17 ties, and other authorities other than the applicant community,
18 for a period of up to 5 years, or until the fund is repaid in
19 full, whichever occurs first. Payments under this subsection
20 shall be remitted to the department as provided for in the loan
21 agreement pursuant to section 8.

22 Sec. 10. The department may promulgate rules to implement
23 this act.