

**SUBSTITUTE FOR
SENATE BILL NO. 271**

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
by amending sections 88r, 90a, 90b, 90c, and 90d (MCL 125.2088r,
125.2090a, 125.2090b, 125.2090c, and 125.2090d), section 88r as
added by 2011 PA 250 and sections 90a, 90b, 90c, and 90d as amended
by 2012 PA 395.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 88r. (1) The fund shall create and operate the Michigan
2 business development program to provide grants, loans, and other
3 economic assistance to qualified businesses that make qualified
4 investments in this state or provide qualified new jobs in this
5 state.

6 (2) The Michigan business development program shall provide
7 for all of the following:

1 (a) Grants, loans, and other economic assistance to assist
2 qualified businesses in making qualified investments and providing
3 new jobs in this state, with preference given to qualified
4 businesses that need additional assistance for deal-closing and for
5 second stage company gap financing.

6 (b) A detailed application, approval, and compliance process
7 published and available on the fund's website. The detailed
8 application, approval, and compliance process shall, at a minimum,
9 contain the following:

10 (i) A qualified business may apply for a grant, loan, or other
11 economic assistance in a form and manner determined by the fund.

12 (ii) After receipt of an application, the fund may enter into a
13 written agreement with the qualified business if the qualified
14 business agrees to make certain qualified investments or create a
15 certain number of new jobs in this state.

16 (iii) The written agreement shall provide in a clear and concise
17 manner all of the conditions imposed, including specific time
18 frames, on the qualified business to receive a grant, loan, or
19 other economic assistance under this section.

20 (iv) The written agreement shall provide for a repayment
21 provision of any grants, loans, or other economic assistance if the
22 qualified business fails to comply with the provisions of the
23 written agreement.

24 (v) The written agreement shall provide for an audit provision
25 that requires the fund to verify that established milestones for
26 the project have been met.

27 (c) In any fiscal year, a qualified business shall not receive

1 more than \$10,000,000.00 for a project funded under this section.

2 (3) The fund shall not enter into a written agreement with a
3 qualified business unless all of the following are met:

4 (a) The municipality makes a staff, financial, or economic
5 commitment to the project as determined by the fund.

6 (b) The qualified business provides a business plan or
7 demonstrates the need for the grant, loan, or other economic
8 assistance.

9 (c) The qualified business agrees to provide the data
10 described in the written agreement necessary for the fund to report
11 to the legislature under this act.

12 (4) The fund shall post on its website or post on the website
13 of the Michigan economic development corporation the name and
14 location of each qualified business that received a grant, loan, or
15 other economic assistance awarded under this section and the amount
16 of the grant, loan, or other economic assistance.

17 ~~—— (5) The fund, with assistance from the Michigan economic
18 development corporation and the office of the chief compliance
19 officer, shall establish policies and procedures to conduct
20 background checks on each qualified business applying for a grant,
21 loan, or other economic assistance under this section.~~

22 ~~—— (6) Beginning November 1, 2012 and each year thereafter, the
23 fund shall report to each house of the legislature on the
24 activities of the fund under this section that occurred in the
25 previous fiscal year. The report shall be made available in an
26 electronic format. The report shall include, but is not limited to,
27 all of the following:~~

1 ~~—— (a) The total proposed amount of qualified investment~~
2 ~~attracted under this section.~~

3 ~~—— (b) The total actual amount of qualified investment attracted~~
4 ~~under this section as reported to the fund.~~

5 ~~—— (c) The total committed number of new jobs created under this~~
6 ~~section.~~

7 ~~—— (d) The total actual number of new jobs created under this~~
8 ~~section as reported to the fund.~~

9 ~~—— (e) The total number of new written agreements.~~

10 ~~—— (f) The amount of the grant, loan, or other economic~~
11 ~~assistance awarded under this section separately for each qualified~~
12 ~~business.~~

13 ~~—— (g) The actual amount of the grant, loan, or other economic~~
14 ~~assistance made under this section separately for each qualified~~
15 ~~business verified by the fund.~~

16 ~~—— (h) For each qualified business, whether it is a new business,~~
17 ~~whether it is an expansion of an existing business, or whether it~~
18 ~~relocated from outside of this state.~~

19 ~~—— (i) An evaluation of the aggregate return on investment that~~
20 ~~this state realizes on the actual qualified new jobs and actual~~
21 ~~qualified investment made by qualified businesses.~~

22 ~~—— (j) A report on the individuals hired by the qualified~~
23 ~~business that includes the number of individuals hired by the~~
24 ~~qualified business, their educational attainment, including, but~~
25 ~~not limited to, high school diploma or equivalent, higher education~~
26 ~~certificate or degree, or advanced degree or training, and the~~
27 ~~number of individuals hired by the qualified business who relocated~~

1 ~~to this state as reported to the fund.~~

2 (5) ~~(7)~~ Beginning February 1, 2012 and not less than every 3
3 months thereafter, the fund shall post on its internet website the
4 name and location of a qualified business that received approval of
5 a grant, loan, or other economic assistance under this section in
6 the immediately preceding 3-month period.

7 (6) ~~(8)~~ The legislature finds and declares that funding
8 authorized under this section to encourage diversification of the
9 economy, to encourage capital investment in this state, and to
10 promote the creation of qualified new jobs in this state is a
11 public purpose and of paramount concern in the interest of the
12 health, safety, and general welfare of the citizens of this state.

13 (7) ~~(9)~~ As used in this section:

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

16 (b) "Qualified business" means a business that is located in
17 or operates in this state or will locate or will operate in this
18 state as determined by the fund. **A QUALIFIED BUSINESS MAY INCLUDE
19 MORE THAN 1 BUSINESS AS DETERMINED BY THE FUND BOARD.**

20 (c) "Qualified investment" means investment in this state
21 related to a project subject to a written agreement under this
22 section.

23 (d) "Qualified new job" means a job performed by an individual
24 who is a resident of this state whose Michigan income taxes are
25 withheld by an employer, or an employee leasing company or
26 professional employer organization on behalf of the employer, that
27 is in excess of the number of jobs maintained by the qualified

1 business maintained in this state prior to the expansion or
2 location, as determined and verified by the fund.

3 Sec. 90a. As used in this chapter:

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

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

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

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

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

21 (ii) Site improvements.

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

24 (iv) Architectural, engineering, surveying, and similar
25 professional fees but not certain soft costs of the eligible
26 investment as determined by the board, including, but not limited
27 to, developer fees, appraisals, performance bonds, closing costs,

1 bank fees, loan fees, risk contingencies, financing costs,
2 permanent or construction period interest, legal expenses, leasing
3 or sales commissions, marketing costs, professional fees, shared
4 savings, taxes, title insurance, bank inspection fees, insurance,
5 and project management fees.

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

8 (i) Is determined to be a facility. As used in this
9 subparagraph, "facility" means that term as defined in section 2 of
10 the brownfield redevelopment financing act, 1996 PA 381, MCL
11 125.2652.

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

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

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

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

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

1 (D) Has had the utilities, plumbing, heating, or sewerage
2 permanently disconnected, destroyed, removed, or rendered
3 ineffective so that the property is unfit for its intended use.

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

6 (F) Is property owned or under the control of a land bank fast
7 track authority under the land bank fast track act, 2003 PA 258,
8 MCL 124.751 to 124.774.

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

11 (iv) Is functionally obsolete property. As used in this
12 subparagraph, "functionally obsolete" means that the property is
13 unable to be used to adequately perform the function for which it
14 was intended due to a substantial loss in value resulting from
15 factors such as overcapacity, changes in technology, deficiencies
16 or superadequacies in design, or other similar factors that affect
17 the property itself or the property's relationship with other
18 surrounding property as determined by a Michigan advanced assessing
19 officer or a Michigan master assessing officer.

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

24 **(vi) ANY OTHER PROPERTY AS DETERMINED BY THE FUND BOARD.**

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

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

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

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

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

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

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

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

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

7 (e) The extent of reuse of vacant buildings, reuse of
8 historical buildings, and redevelopment of blighted property.

9 (f) Creation of jobs.

10 (g) The level of private sector and other contributions,
11 including, but not limited to, federal funds and federal tax
12 credits.

13 (h) Whether the project is financially and economically sound.

14 (i) Whether the project increases the density of the area.

15 (j) Whether the project promotes mixed-use development and
16 walkable communities.

17 (k) Whether the project converts abandoned public buildings to
18 private use.

19 (l) Whether the project promotes sustainable development.

20 (m) Whether the project involves the rehabilitation of a
21 historic resource.

22 (n) Whether the project addresses areawide redevelopment.

23 (o) Whether the project addresses underserved markets of
24 commerce.

25 (p) The level and extent of environmental contamination.

26 (q) If the rehabilitation of the historic resource will meet
27 the federal secretary of the interior's standards for

1 rehabilitation and guidelines for rehabilitating historic
2 buildings, 36 CFR 67.

3 (r) Whether the project will compete with or effect existing
4 Michigan businesses within the same industry.

5 (s) Any other additional criteria approved by the board that
6 are specific to each individual project and are consistent with the
7 findings and intent of this chapter.

8 (5) An application shall be approved or denied not more than
9 90 days after receipt of the application that is considered
10 administratively complete by the board or its designee. If the
11 application is neither approved nor denied within 90 days after
12 being considered administratively complete, it shall be considered
13 by the fund board, or its president if delegated, for action at, or
14 by, the next regularly scheduled board meeting. If an application
15 is approved, the fund shall determine the amount of community
16 revitalization incentives for the project based on the fund's
17 review of the application and the criteria specified in subsection
18 (4).

19 (6) The amount of community revitalization incentives that the
20 board may approve for a single project shall not exceed 25% of a
21 project's eligible investment up to \$10,000,000.00. A community
22 revitalization loan shall not exceed \$10,000,000.00 and a community
23 revitalization grant shall not exceed ~~\$1,000,000.00~~ **\$2,500,000.00**.
24 However, a combination of loans, grants, and other economic
25 assistance under this chapter shall not exceed \$10,000,000.00 per
26 project. The board may not approve \$10,000,000.00 per project in
27 community revitalization incentives to more than 3 projects per

1 fiscal year. The board shall approve not less than 5 projects of
2 \$1,000,000.00 or less per project per fiscal year. If, after
3 reviewing all applications in a fiscal year, the fund determines
4 that less than 5 projects warranted an award of \$1,000,000.00 or
5 less, this subsection shall not apply.

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

18 (8) Not more than 4% of the annual appropriation as provided
19 by law from the 21st century jobs trust fund established in the
20 Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may be
21 used for the purposes of administering the programs and activities
22 authorized under this chapter. However, the fund and the fund board
23 shall not use more than 3% of the annual appropriation for
24 administering the programs and activities authorized under this
25 chapter unless the fund board by a 2/3 vote authorizes the
26 additional 1% for administration. The MEDC may charge actual and
27 reasonable fees for costs associated with the community

1 revitalization incentive authorized under this chapter. These fees
2 are in addition to an amount of the appropriation used for
3 administering the programs and activities authorized under this
4 chapter.

5 Sec. 90c. Upon satisfying a milestone established in a written
6 agreement for which the board has approved a community
7 revitalization grant under section 90b, the applicant may apply to
8 the fund for a grant disbursement as specified in the written
9 agreement. All or a portion of the rights or obligations of the
10 applicant under the written grant agreement may be assigned by the
11 applicant to 1 or more assignees with prior written approval of,
12 and on terms and conditions acceptable to, the fund. The board, **OR**
13 **ITS DESIGNEE**, shall develop and implement the use of an application
14 form and assignment form to be used under this section. Within 90
15 days of receipt of an application for disbursement, the fund or its
16 designee shall then determine whether the project ~~has complied~~ **IS**
17 **IN COMPLIANCE** with the terms of the written agreement and, if
18 applicable, **IS IN COMPLIANCE, OR WHEN COMPLETED WILL BE IN**
19 **COMPLIANCE, WITH** the federal secretary of the interior's standards
20 for rehabilitation and guidelines for rehabilitating historic
21 buildings, 36 CFR 67. If the fund or its designee determines that
22 the project ~~has complied~~ **IS IN COMPLIANCE** with the written
23 agreement and, if applicable, **IS IN COMPLIANCE, OR WHEN COMPLETED**
24 **WILL BE IN COMPLIANCE, WITH** the federal secretary of the interior's
25 standards for rehabilitation and guidelines for rehabilitating
26 historic buildings, 36 CFR 67, the fund shall issue the grant
27 proceeds to the applicant or, if the grant has been assigned, to

1 the assignee.

2 Sec. 90d. (1) Upon satisfying a milestone established in a
3 written agreement for which the board has approved a community
4 revitalization loan under section 90b, the applicant may apply to
5 the fund for a loan disbursement as specified in the written
6 agreement. All or a portion of the rights or obligations of the
7 applicant under the written loan agreement may be assigned by the
8 applicant to 1 or more assignees with prior written approval of,
9 and on terms and conditions acceptable to, the fund. The board, **OR**
10 **ITS DESIGNEE**, shall develop and implement the use of an application
11 for disbursement form and assignment form to be used under this
12 subsection. Within 90 days of receipt or disbursement of an
13 application for disbursement, the fund or its designee shall
14 determine whether the project ~~has complied~~ **IS IN COMPLIANCE** with
15 the written agreement and, if applicable, **IS IN COMPLIANCE, OR WHEN**
16 **COMPLETED WILL BE IN COMPLIANCE, WITH** the federal secretary of the
17 interior's standards for rehabilitation and guidelines for
18 rehabilitating historic buildings, 36 CFR 67. If the fund or its
19 designee determines that the project ~~has complied~~ **IS IN COMPLIANCE**
20 with the written agreement and, if applicable, **IS IN COMPLIANCE, OR**
21 **WHEN COMPLETED WILL BE IN COMPLIANCE, WITH** the federal secretary of
22 the interior's standards for rehabilitation and guidelines for
23 rehabilitating historic buildings, 36 CFR 67, the fund shall
24 distribute the loan proceeds to the applicant or, if the loan
25 proceeds have been assigned, to the assignee.

26 ~~(2) The board shall develop criteria for repayment of the~~ **EACH**
27 **WRITTEN AGREEMENT FOR A** community revitalization loan **SHALL CONTAIN**

1 **A REPAYMENT PROVISION.**

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

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

15 ~~—— (a) The total proposed amount of private investment attracted~~
16 ~~under this section.~~

17 ~~—— (b) The total actual amount of private investment attracted~~
18 ~~under this section as reported to the fund.~~

19 ~~—— (c) The total number of new written agreements.~~

20 ~~—— (d) The amount of the community revitalization incentives~~
21 ~~awarded under this chapter separately for each project.~~

22 ~~—— (e) The actual amount of the community revitalization~~
23 ~~incentives made under this chapter separately for each project.~~

24 ~~—— (f) The total actual amount of square footage revitalized or~~
25 ~~added for each project approved under this section as reported to~~
26 ~~the fund. When reporting square footage, the person must report the~~
27 ~~square footage by category, including, but not limited to,~~

1 ~~commercial, residential, or retail.~~

2 ~~—— (g) The aggregate increase in taxable value of all property~~
3 ~~subject to a written agreement under this chapter when established~~
4 ~~and recorded by the local units of government and as reported to~~
5 ~~the fund.~~

6 ~~—— (h) A summary of all written agreements for community~~
7 ~~revitalization loans.~~

8 ~~—— (i) The total actual number of residential units revitalized~~
9 ~~or added for each project approved under this section as reported~~
10 ~~to the fund.~~

11 ~~—— (j) The identity of persons who received a community~~
12 ~~revitalization incentive outside the program standards and~~
13 ~~guidelines and why the variance was given.~~

14 ~~—— (k) The amount of administrative costs used to administer the~~
15 ~~programs and activities authorized under this chapter.~~

16 ~~—— (l) A summary of the projected and actual aggregated taxpayer~~
17 ~~return on investment for each eligible investment that received a~~
18 ~~distribution in the reporting period.~~

19 ~~(4) (5)~~ Beginning February 1, 2012 and not less than every 3
20 months thereafter, the fund shall post on its internet website the
21 name and location of a person who received approval of community
22 revitalization investment under this chapter in the immediately
23 preceding 3-month period.

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

1 of the following.

2 ~~—— (a) The chairperson and minority vice chairperson of the house~~
3 ~~commerce committee.~~

4 ~~—— (b) The chairperson and minority vice chairperson of the house~~
5 ~~appropriations subcommittee on general government.~~

6 ~~—— (c) The chairperson and minority vice chairperson of the~~
7 ~~senate economic development committee.~~

8 ~~—— (d) The chairperson and minority vice chairperson of the~~
9 ~~senate appropriations subcommittee on general government.~~