

HOUSE BILL No. 5926

September 19, 2012, Introduced by Reps. Jacobsen, Walsh and Denby and referred to the Committee on Commerce.

A bill to amend 1984 PA 270, entitled "Michigan strategic fund act," by amending sections 90a, 90b, 90c, and 90d (MCL 125.2090a, 125.2090b, 125.2090c, and 125.2090d), section 90a as added by 2011 PA 252, section 90b as amended by 2012 PA 145, and sections 90c and 90d as added by 2011 PA 253.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

8 (c) "Community revitalization loan" or "loan" means a loan

1 that is approved under section 90b and that is subject to the
2 requirements in section 90d.

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

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

11 (ii) Site improvements.

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

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

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

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

1 125.2652.

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

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

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

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

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

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

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

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

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

1 (iv) Is functionally obsolete property. As used in this
2 subparagraph, "functionally obsolete" means that the property is
3 unable to be used to adequately perform the function for which it
4 was intended due to a substantial loss in value resulting from
5 factors such as overcapacity, changes in technology, deficiencies
6 or superadequacies in design, or other similar factors that affect
7 the property itself or the property's relationship with other
8 surrounding property as determined by a Michigan advanced assessing
9 officer or a Michigan master assessing officer.

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

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

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

26 (2) A person **OR 2 OR MORE PERSONS** may apply to the fund for
27 approval of community revitalization incentives associated with a

1 project under this section. Community revitalization incentives
2 shall not be approved for any property that is not eligible
3 property.

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

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

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

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

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

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

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

25 (f) Creation of jobs.

26 (g) The level of private sector and other contributions,
27 including, but not limited to, federal funds and federal tax

1 credits.

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

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

4 (j) Whether the project promotes mixed-use development and
5 walkable communities.

6 (k) Whether the project converts abandoned public buildings to
7 private use.

8 (l) Whether the project promotes sustainable development.

9 (m) Whether the project involves the rehabilitation of a
10 historic resource.

11 (n) Whether the project addresses areawide redevelopment.

12 (o) Whether the project addresses underserved markets of
13 commerce.

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

15 (q) If the rehabilitation of the historic resource will meet
16 the federal secretary of the interior's standards for
17 rehabilitation and guidelines for rehabilitating historic
18 buildings, 36 CFR 67.

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

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

24 (5) An application shall be approved or denied not more than
25 90 days after receipt of the application that is considered
26 administratively complete by the board or its designee. If the
27 application is neither approved nor denied within 90 days after

1 being considered administratively complete, it shall be considered
2 by the fund board, or its president if delegated, for action at, or
3 by, the next regularly scheduled board meeting. If an application
4 is approved, the fund shall determine the amount of community
5 revitalization incentives for the project based on the fund's
6 review of the application and the criteria specified in subsection
7 (4).

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

22 (7) When the board approves an application and determines the
23 amount of community revitalization incentives, the board shall
24 enter into a written agreement with the applicant. The written
25 agreement shall provide in a clear and concise manner all of the
26 conditions imposed, including specific time frames, on the
27 applicant to receive the community revitalization incentive under

1 this chapter. The written agreement shall provide for repayment and
2 penalties if the applicant fails to comply with the provisions of
3 the written agreement as determined by the board. The applicant
4 shall agree to provide the data described in the written agreement
5 that is necessary for the fund to report to the legislature under
6 this chapter.

7 (8) Not more than 4% of the annual appropriation as provided
8 by law from the 21st century jobs trust fund established in the
9 Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may be
10 used for the purposes of administering the programs and activities
11 authorized under this chapter. However, the fund and the fund board
12 shall not use more than 3% of the annual appropriation for
13 administering the programs and activities authorized under this
14 chapter unless the fund board by a 2/3 vote authorizes the
15 additional 1% for administration. The MEDC may charge actual and
16 reasonable fees for costs associated with the community
17 revitalization incentive authorized under this chapter. These fees
18 are in addition to an amount of the appropriation used for
19 administering the programs and activities authorized under this
20 chapter.

21 Sec. 90c. Upon ~~completion of a project~~ **SATISFYING A MILESTONE**
22 **ESTABLISHED IN A WRITTEN AGREEMENT** for which the board has approved
23 a community revitalization grant under section 90b, the applicant
24 may apply to the fund for ~~the A grant and may assign a grant by~~
25 ~~submitting written request of the assignment to the fund~~
26 **DISBURSEMENT AS SPECIFIED IN THE WRITTEN AGREEMENT. ALL OR A**
27 **PORTION OF THE RIGHTS OR OBLIGATIONS OF THE APPLICANT UNDER THE**

1 WRITTEN GRANT AGREEMENT MAY BE ASSIGNED BY THE APPLICANT TO 1 OR
 2 MORE ASSIGNEES WITH PRIOR WRITTEN APPROVAL OF, AND ON TERMS AND
 3 CONDITIONS ACCEPTABLE TO, THE FUND. The board shall develop and
 4 implement the use of an application form and assignment form to be
 5 used under this section. Within 90 days of receipt of an
 6 application for disbursement, the fund or its designee shall then
 7 determine whether the project has complied with the terms of the
 8 written agreement and, if applicable, the federal secretary of the
 9 interior's standards for rehabilitation and guidelines for
 10 rehabilitating historic buildings, 36 CFR 67. If the fund or its
 11 designee determines that the project has complied with the written
 12 agreement and, if applicable, the federal secretary of the
 13 interior's standards for rehabilitation and guidelines for
 14 rehabilitating historic buildings, 36 CFR 67, the fund shall issue
 15 the grant proceeds to the applicant or, if the grant has been
 16 assigned, to the assignee.

17 Sec. 90d. (1) ~~Upon completion of a project~~ **SATISFYING A**
 18 **MILESTONE ESTABLISHED IN A WRITTEN AGREEMENT** for which the board
 19 has approved a community revitalization loan under section 90b, the
 20 applicant may apply to the fund for ~~the loan proceeds and may~~
 21 ~~assign some or all of the loan proceeds by submitting written~~
 22 ~~notice of the assignment to the fund~~ **A LOAN DISBURSEMENT AS**
 23 **SPECIFIED IN THE WRITTEN AGREEMENT. ALL OR A PORTION OF THE RIGHTS**
 24 **OR OBLIGATIONS OF THE APPLICANT UNDER THE WRITTEN LOAN AGREEMENT**
 25 **MAY BE ASSIGNED BY THE APPLICANT TO 1 OR MORE ASSIGNEES WITH PRIOR**
 26 **WRITTEN APPROVAL OF, AND ON TERMS AND CONDITIONS ACCEPTABLE TO, THE**
 27 **FUND.** The board shall develop and implement the use of an

1 application for disbursement form and assignment form to be used
2 under this subsection. Within 90 days of receipt or disbursement of
3 an application for disbursement, the fund or its designee shall
4 determine whether the project has complied with the written
5 agreement and, if applicable, the federal secretary of the
6 interior's standards for rehabilitation and guidelines for
7 rehabilitating historic buildings, 36 CFR 67. If the fund or its
8 designee determines that the project has complied with the written
9 agreement and, if applicable, the federal secretary of the
10 interior's standards for rehabilitation and guidelines for
11 rehabilitating historic buildings, 36 CFR 67, the fund shall
12 distribute the loan proceeds to the applicant or, if the loan
13 proceeds have been assigned, to the assignee.

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

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

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

1 the following:

2 (a) The total proposed amount of private investment attracted
3 under this section.

4 (b) The total actual amount of private investment attracted
5 under this section as reported to the fund.

6 (c) The total number of new written agreements.

7 (d) The amount of the community revitalization incentives
8 awarded under this chapter separately for each project.

9 (e) The actual amount of the community revitalization
10 incentives made under this chapter separately for each project.

11 (f) The total actual amount of square footage revitalized or
12 added for each project approved under this section as reported to
13 the fund. When reporting square footage, the person must report the
14 square footage by category, including, but not limited to,
15 commercial, residential, or retail.

16 (g) The aggregate increase in taxable value of all property
17 subject to a written agreement under this chapter when established
18 and recorded by the local units of government and as reported to
19 the fund.

20 (h) A summary of all written agreements for community
21 revitalization loans.

22 (i) The total actual number of residential units revitalized
23 or added for each project approved under this section as reported
24 to the fund.

25 (j) The identity of persons who received a community
26 revitalization incentive outside the program standards and
27 guidelines and why the variance was given.

1 (k) The amount of administrative costs used to administer the
2 programs and activities authorized under this chapter.

3 (l) A summary of the projected and actual aggregated taxpayer
4 return on investment for each eligible investment that received a
5 distribution in the reporting period.

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

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

16 (a) The chairperson and minority vice-chairperson of the house
17 commerce committee.

18 (b) The chairperson and minority vice-chairperson of the house
19 appropriations subcommittee on general government.

20 (c) The chairperson and minority vice-chairperson of the
21 senate economic development committee.

22 (d) The chairperson and minority vice-chairperson of the
23 senate appropriations subcommittee on general government.