



SENATE BILL No. 1190

June 21, 1994, Introduced by Senator ARTHURHULTZ and
referred to the Committee on Commerce

A bill to amend the title and sections 1, 2, 3, 5, 6, 7, 13,
and 16 of Act No 157 of the Public Acts of 1986, entitled
"Michigan export development act "
sections 2, 3, 5, and 7 as amended by Act No 304 of the Public
Acts of 1990, being sections 447 151, 447 152 447 153 447 155,
447 156, 447 157, 447 163, and 447 166 of the Michigan Compiled
Laws and to repeal certain acts and parts of acts

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 The title and sections 1, 2, 3, 5, 6, 7, 13, and
2 16 of Act No 157 of the Public Acts of 1986, sections 2, 3, 5,
3 and 7 as amended by Act No 304 of the Public Acts of 1990, being
4 sections 447 151, 447 152, 447 153, 447 155, 447 156, 447 157,
5 447 163, and 447 166 of the Michigan Compiled Laws, are amended
6 to read as follows

1 TITLE

2 An act to help stimulate the expansion of international
3 export markets of state products and services to provide for the
4 creation of the Michigan ~~export development~~ INTERNATIONAL TRADE
5 authority and to establish its board of directors to prescribe
6 the powers and duties of the authority and of the board, to pro-
7 vide for the issuance of, and certain terms and conditions of,
8 bonds to exempt bonds from certain taxes to prescribe the
9 powers and duties of certain state officers and to provide for
10 the creation of certain funds and for the funding of the creation
11 and operation of the authority

12 Sec 1 This act shall be known and may be cited as the
13 "Michigan ~~export development~~ INTERNATIONAL TRADE act"

14 Sec 2 As used in this act

15 (a) "Authority" means the Michigan ~~export development~~
16 INTERNATIONAL TRADE authority created ~~by~~ IN section 3

17 (b) "Board" means the board of directors of the authority
18 established by section 4

19 (c) "Eligible export loan" means a loan by a participating
20 financial institution located within this state the proceeds of
21 which are restricted to the financing of eligible export
22 transactions

23 (d) "Eligible export transaction" means the sale of goods or
24 services, or the development of goods or services for sale, out-
25 side of the United States by a person doing business in this
26 state, which goods or services, in the judgment of the authority,
27 have a substantial portion of their value created within this

1 state and which sale or development, in the judgment of the
2 authority, creates or maintains employment in this state

3 (e) "Export insurance" means insurance made available by the
4 authority to protect an exporter against a foreign buyer's fail-
5 ure to pay for goods or services for political or commercial
6 reasons The amount of the loss covered for each transaction and
7 particular risks shall be determined by the authority

8 (f) "Grant" means an amount of money provided by the author-
9 ity to a nonprofit organization

10 (g) "Guarantee" means a guarantee against loss, in whole or
11 in part, of principal of and interest on an eligible export
12 loan The guarantee may include, without limitation, insurance
13 against loss up to the guarantee amount A single guarantee may
14 encompass several individual eligible export loans or eligible
15 export transactions

16 (h) "Guarantee amount" means the maximum amount payable
17 under a guarantee which amount shall be specifically set forth in
18 writing at the time the guarantee is entered into by the
19 authority

20 (i) "Participating financial institution" means a bank as
21 defined by the banking code of 1969, Act No 319 of the Public
22 Acts of 1969, being sections 487 301 to 487 598 of the Michigan
23 Compiled Laws, an agency or branch of a foreign banking corpora-
24 tion licensed by the commissioner of the financial institutions
25 bureau, or a national bank, state or federal savings and loan
26 association, or savings bank or federal credit union located
27 within this state that has been approved by the board to

1 participate in guaranteed funding for eligible export loans and
2 transactions within the purposes of this act

3 Sec 3 (1) The Michigan ~~export development~~ INTERNATIONAL
4 TRADE authority is created as a body politic and corporate within
5 ~~, but not as a part of,~~ the department of ~~agriculture~~
6 COMMERCE The authority shall exercise ~~the authority's~~ ITS
7 prescribed statutory powers, duties, and functions independently
8 of the director of ~~the department of agriculture and indepen-~~
9 ~~dently of the commission of agriculture~~ COMMERCE The budget-
10 ing, procurement and related functions of the authority shall be
11 performed under the direction and supervision of the director of
12 ~~the department of agriculture~~ COMMERCE

13 (2) The purpose of the authority is

14 (a) To assist, promote, encourage, develop, and advance eco-
15 nomic prosperity and employment throughout this state by foster-
16 ing the expansion of exports of goods and services to foreign
17 purchasers

18 (b) To cooperate and act in conjunction with other organiza-
19 tions, public and private, the objects of which are the promotion
20 and advancement of export trade activities in this state

21 (c) To provide guarantees and grants and to locate sources
22 and export insurance to support export development not otherwise
23 available

24 (d) To provide information and referrals to, and to act as a
25 clearinghouse for, potential and existing exporters

26 (E) TO ASSUME ALL THE STATUTORY AUTHORITY, POWERS, DUTIES,
27 FUNCTIONS, AND RESPONSIBILITIES OF THE DIVISION OF INTERNATIONAL

1 COMMERCE CREATED UNDER ACT NO 24 OF THE PUBLIC ACTS OF 1968,
2 BE'NG SECTIONS 447 101 TO 447 103 OF THE MICHIGAN COMPILED LAWS
3 (F) TO ASSUME ALL THE STATUTORY AUTHORITY, POWERS, DUTIES,
4 FUNCTIONS, AND RESPONSIBILITIES OF THE FOREIGN TRADE BRANCH CRE-
5 ATED UNDER ACT NO 23 OF THE PUBLIC ACTS OF 1968, BEING SECTIONS
6 447 121 TO 447 123 OF THE MICHIGAN COMPILED LAWS

7 (G) TO ASSUME ALL THE STATUTORY AUTHORITY, POWERS, DUTIES,
8 FUNCTIONS, AND RESPONSIBILITIES OF THE MICHIGAN INTERNATIONAL
9 OFFICE, MICHIGAN DEPARTMENT OF COMMERCE

10 (H) TO SERVE AS RESOURCE TO ASSIST OFFICERS AND AGENCIES OF
11 THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES OF STATE GOV-
12 ERNMENT IN PROPERLY AND EFFECTIVELY ARRANGING AND CONDUCTING
13 MEETINGS AND EVENTS INVOLVING FOREIGN OFFICIALS AND FOREIGN DIS-
14 TINGUISHED VISITORS

15 Sec 5 (1) A vacancy in the membership of the board shall
16 not impair the right of a quorum to exercise all rights and per-
17 form all the duties of the board An action taken by the board
18 may be authorized by resolution at a regular or special meeting
19 and shall take effect upon the date the resolution is approved by
20 the board unless some other date is provided in the resolution

21 (2) The board may delegate to 1 or more of its members or to
22 an official, agent, or employee of the authority the powers and
23 duties as the board considers proper

24 (3) THE BOARD MAY APPOINT A FINANCE COMMITTEE COMPOSED OF
25 NOT LESS THAN 3 MEMBERS AND MAY DELEGATE TO THAT COMMITTEE THE
26 POWERS OF THE AUTHORITY ENUMERATED IN SECTION 7(C) HOWEVER, ANY

1 GUARANTEE OF AN AMOUNT MORE THAN \$500 000 00 REQUIRES THE
2 APPROVAL OF THE BOARD

3 (4) ~~-(3)-~~ A member of the board or a person acting on behalf
4 of the authority executing a contract, commitment, or agreement
5 issued under this act ~~-shall-~~ IS not ~~-be-~~ personally liable or
6 accountable on the contract, commitment, or agreement

7 (5) ~~-(4)-~~ A member of the board or a person acting on behalf
8 of the authority ~~-shall-~~ IS not ~~-be-~~ liable personally for damage
9 or injury resulting from the performance of his or her duties
10 arising under this act The authority shall indemnify and pro-
11 cure insurance indemnifying the members of the board and staff
12 officers appointed by a resolution of the board from personal
13 loss or accountability from liability asserted by a person on the
14 bonds or notes of the fund or from any personal liability or
15 accountability by reason of the issuance of the bonds, notes,
16 insurance, or guarantees or by reason of any other action taken
17 or the failure to act by the authority

18 (6) ~~-(5)-~~ The board may appoint up to 2 employees to unclas-
19 sified positions not included in the state civil service to serve
20 for terms at the pleasure of the board

21 Sec 6 (1) The business ~~-which-~~ THAT the authority OR ITS
22 FINANCE COMMITTEE DESCRIBED IN SECTION 5 may perform shall be
23 conducted at a public meeting of the authority held in compliance
24 with the open meetings act, Act No 267 of the Public Acts of
25 1976, being sections 15 261 to 15 275 of the Michigan Compiled
26 Laws Public notice of the time, date, and place of the meeting

1 shall be given in the manner required by Act No 267 of the
2 Public Acts of 1976

3 (2) Except as provided in subsection (3), all writing pre-
4 pared, owned, used, in the possession of, or retained by the
5 authority OR ITS FINANCE COMMITTEE in the performance of an offi-
6 cial function shall be made available to the public in compliance
7 with the freedom of information act, Act No 442 of the Public
8 Acts of 1976, being sections 15 231 to 15 246 of the Michigan
9 Compiled Laws A MEMBER OF THE AUTHORITY OR ITS FINANCE COMMIT-
10 TEE MAY PARTICIPATE IN A PUBLIC MEETING BY AUDIO, VIDEO, OR OTHER
11 ELECTRONIC MEANS OF COMMUNICATION

12 (3) Information submitted to or compiled by the authority OR
13 ITS FINANCE COMMITTEE in connection with ~~the authority's~~ ITS
14 responsibilities with respect to the identity, background,
15 finance, marketing plans, trade secrets, or any other commer-
16 cially sensitive information of persons, firms, associations,
17 partnerships, agencies, corporations, or other entities is confi-
18 dential, except to the extent that the person or entity ~~which~~
19 THAT provided the information consents to disclosure

20 Sec 7 The authority shall possess all the powers of a
21 body politic and corporate necessary and convenient to accomplish
22 the purposes of this act including, but not limited to, all of
23 the following powers

24 (a) To borrow money and otherwise incur indebtedness for any
25 of its purposes including the issuance of bonds, debentures,
26 notes, or other evidence of indebtedness, whether secured or
27 unsecured

1 (b) To purchase, discount, sell, or negotiate, with or
 2 without guaranty notes, other evidences of indebtedness, and to
 3 sell and guarantee securities

4 (c) To lend money OR PROVIDE WORKING CAPITAL LOAN GUARANTEES
 5 to a financial institution ~~in the form of an~~ COVERING eligible
 6 export ~~loan which is~~ LOANS used to finance eligible export
 7 transactions

8 (d) To procure or locate sources of export insurance To
 9 ~~provide guarantees to guarantee,~~ insure, coinsure, or reinsure
 10 against ~~risk of~~ loss DUE TO COMMERCIAL OR POLITICAL RISKS, and
 11 TO PROVIDE other insurance ~~or guarantees~~ as the authority may
 12 consider necessary

13 (e) To provide EXPORT financial counseling services to busi-
 14 nesses of this state

15 (f) To procure insurance to secure the payment of principal
 16 and interest on bonds, notes, or other obligations of the
 17 authority

18 (G) TO SERVE AS A POLICY ADVISER TO THE GOVERNOR WITH
 19 RESPECT TO INTERNATIONAL ISSUES

20 (H) ~~(g)~~ To accept gifts, grants, or loans from, and enter
 21 into contracts or other transactions with, a federal or state
 22 agency, a municipality, a private organization, or any other
 23 source To charge and collect fees for its services To enter
 24 into contracts or other agreements with the export-import bank of
 25 the United States, the foreign credit insurance association, or
 26 other federal agencies or instrumentalities AND PRIVATE FINANCIAL
 27 INSTITUTIONS

1 (I) ~~(h)~~ To adopt, and from time to time to amend or
 2 rescind, a bylaw or rule of the authority as may be necessary or
 3 convenient for the performance of its functions, powers, and
 4 duties under this act

5 (J) ~~(i)~~ To sue and be sued

6 (K) ~~(j)~~ To purchase receive, take by grant, gift, devise,
 7 bequest, or otherwise lease or acquire, own, hold, improve,
 8 employ, use, or deal in and with real or personal property, or
 9 any interest in real or personal property, wherever situated

10 (L) ~~(k)~~ To sell, convey, lease, exchange, transfer, or
 11 otherwise dispose of property or an interest in property, wher-
 12 ever situated

13 (M) ~~(l)~~ To promulgate rules necessary to carry out the pur-
 14 poses of this act and to exercise the powers expressly granted in
 15 this act pursuant to the administrative procedures act of 1969,
 16 Act No 306 of the Public Acts of 1969, being sections 24 201 to
 17 24 328 of the Michigan Compiled Laws

18 (N) ~~(m)~~ To lead, participate in, support, or otherwise
 19 cooperate in trade missions, trade shows, and related efforts to
 20 encourage the export of Michigan goods and services

21 (O) ~~(n)~~ To sponsor or foster a foreign sales corporation
 22 as defined in section 922 of the internal revenue code of 1986,
 23 26 U S C 922 To establish, participate, and secure federal
 24 approval for an export trading company under the export trading
 25 company act of 1982, Public Law 97-290, 96 Stat 1233, or equiva-
 26 lent entities under similar federal legislation The authority,
 27 ~~may~~ in connection with any entities created under this

1 subdivision, MAY acquire and transfer title to goods and
2 corporate or partnership ownership interest, and may enter into
3 joint ventures with other export trading companies

4 (P) ~~-(e)-~~ To exercise all other powers and functions neces-
5 sary or appropriate to carry out the duties and purposes set
6 forth in this act

7 Sec 13 (1) The proceeds from the sale of any bonds issued
8 under this act shall be applied only for the purpose for which
9 the bonds were issued However, any premium or secured interest
10 received in a sale shall be applied to the payment of the princi-
11 pal of or the interest on the bonds sold If for any reason a
12 portion of the proceeds ~~-shall-~~ IS not ~~-be-~~ needed for the pur-
13 pose for which the bonds were issued, the unneeded portion of the
14 proceeds shall be applied to the payment of the principal of or
15 the interest on the bonds

16 (2) The proceeds of bonds issued under this act shall be
17 kept in a separate fund to be known as the ~~-export development-~~
18 INTERNATIONAL TRADE bond fund, which separate fund is created in
19 the state treasury All other money received by the authority
20 also shall be deposited in this fund With the approval of the
21 board, the state treasurer may invest and reinvest all money in
22 the fund from time to time in such obligations of the United
23 States or of such other governmental or corporate issuers as the
24 state treasurer, with the approval of the board, considers
25 appropriate All earnings upon the investments shall be added to
26 the fund

1 Sec 16 (1) The authority may create an insurance fund
2 consisting solely of funds from the ~~export development~~
3 INTERNATIONAL TRADE bond fund The insurance fund shall be held
4 in the custody of 1 or more financial institutions having a prin-
5 cipal place of business in this state The insurance fund shall
6 be held as security for the holders of bonds issued under this
7 act

8 (2) An insurance fund authorized by this section shall be
9 governed by a trust agreement entered into by the authority with
10 the trustees The trust agreement may contain such provisions
11 and limitations as to the investment and disbursement of money in
12 the insurance fund the payment of expenses of the insurance
13 fund the appointment, resignation, and discharge of trustees
14 the delegation of enforcement and collection powers under the
15 insurance agreements to the trustee the duties of the trustees
16 amendments of the trust agreement and such other lawful provi-
17 sions and limitations as the authority considers appropriate
18 The trust agreement may pledge premiums and other money that may
19 be deposited in the insurance fund The pledge shall be valid
20 and binding from the time when the pledge is made The premiums
21 and other money so pledged and thereafter received by the insur-
22 ance fund or by the trustees in its behalf immediately shall be
23 subject to the lien of the pledge and shall be valid and binding
24 as against all parties having claims of any kind against the
25 insurance fund, irrespective of whether the parties have notice
26 of the lien

1 (3) The authority also may use ~~export development~~
2 INTERNATIONAL TRADE bond funds to purchase insurance that shall
3 be pledged for the security of the holders of any bonds issued
4 under this act ~~In any case in which~~ IF insurance is pledged
5 as security, whether obtained through the insurance funds autho-
6 rized to be created under this section or purchased with ~~export~~
7 ~~development~~ INTERNATIONAL TRADE bond funds, any description of
8 the insurance shall expressly indicate the limitation of the
9 liability of the authority and that neither the credit nor taxing
10 power of this state or of any political subdivision of this state
11 shall be available to satisfy any obligations with respect to the
12 insurance

13 Section 2 Act No 23 of the Public Acts of 1968, being
14 sections 447 121 to 447 123 of the Michigan Compiled Laws, and
15 Act No 24 of the Public Acts of 1968, being sections 447 101 to
16 447 103 of the Michigan Compiled Laws, are repealed

17 Section 3 This amendatory act shall not take effect unless
18 all of the following bills of the 87th Legislature are enacted
19 into law

20 (a) Senate Bill No 1191

21

22 (b) Senate Bill No 1189

23