

Act No. 357  
Public Acts of 2002  
Approved by the Governor  
May 23, 2002  
Filed with the Secretary of State  
May 23, 2002  
EFFECTIVE DATE: May 23, 2002

**STATE OF MICHIGAN  
91ST LEGISLATURE  
REGULAR SESSION OF 2002**

Introduced by Senator Shugars

# **ENROLLED SENATE BILL No. 1077**

AN ACT to amend 1974 PA 338, entitled "An act to provide for the creation of public economic development corporations; to prescribe their powers and duties; to provide for their dissolution; to provide for the issuance of notes and other evidence of indebtedness; to provide for the issuance of bonds; to validate bonds, notes, and other evidence of indebtedness; to provide for condemnation of property; to provide for the undertaking of projects relative to the economic development of municipalities; to provide for loans, grants, transfers, and conveyances of funds and property by municipalities, and disbursement of certain funds to public economic development corporations; to provide for the creation of subsidiary neighborhood development corporations by certain economic development corporations; to provide for the receipt by public economic development corporations of funds and property; to provide for industrial and commercial enterprises and for enterprises involved in housing or neighborhood improvement, and furnishings, equipment, and machinery for the industrial and commercial enterprises and housing; to validate the incorporation of de facto economic development corporations and all actions of the de facto corporations; and to provide savings provisions," by amending sections 6a, 7, 8, and 23 (MCL 125.1606a, 125.1607, 125.1608, and 125.1623), section 6a as added and sections 7, 8, and 23 as amended by 1980 PA 501.

*The People of the State of Michigan enact:*

Sec. 6a. (1) In order to implement section 3(f)(ii), a corporation incorporated by a city with a population of greater than 750,000 persons may create subsidiary neighborhood development corporations within the city in which the parent corporation may operate. A subsidiary neighborhood development corporation created pursuant to this subsection shall have power to conduct business solely for the purpose of a project under section 3(f)(ii), but in respect to those projects the subsidiary shall have the same powers of a corporation formed under this act, except as may be limited by the parent corporation in the articles of incorporation or bylaws of the subsidiary.

(2) To the extent the project involves training for disadvantaged youths, a subsidiary created pursuant to this section shall be exempt from the requirement of the payment of prevailing wage and fringe benefit rates described in section 8(4)(h).

(3) Any surplus from the sale of property in the involved project area under section 3(f)(ii), after payment of principal and interest or other evidences of indebtedness, shall be deposited in a revolving fund of the corporation creating the subsidiary corporation, which fund shall be restricted to provide revenue for other projects authorized by section 3(f)(ii), within the city.

(4) When bonds or notes are sold to implement projects under section 3(f)(ii), provision shall be made for the immediate repayment of the bonds or notes at the time all property in the involved project area is sold.

Sec. 7. (1) In order to accomplish the public purposes set forth in section 2 the corporation may:

(a) Construct, acquire by gift or purchase, reconstruct, improve, maintain, or repair projects and acquire the necessary land, or an interest in land or portions of the land, for the site of a project.

(b) Acquire by gift or purchase the necessary machinery, furnishings, and equipment for a project.

(c) Make secured or unsecured loans, participate in the making of secured or unsecured loans, undertake commitments to make secured or unsecured loans and mortgages, sell loans and mortgages at public or private sale, rewrite loans and mortgages, discharge loans and mortgages, foreclose on a mortgage, or commence an action to protect or enforce a right conferred upon it by a law, mortgage, loan, contract, or other agreement.

(d) Borrow money and issue its revenue bonds or revenue notes to finance or refinance part or all of the project costs and the costs necessary or incidental to the borrowing of money and issuing of bonds or notes for that purpose, and may secure those bonds and notes by mortgage, assignment, or pledge of any of its money, revenues, income, and properties. Bonds and notes may be issued under this act to acquire and install projects, necessary lands, or an interest in the land or a portion of the land, for the site of the project, and the necessary machinery, furnishings, and equipment for a project notwithstanding that the corporation does not own or propose to own the projects, lands, or machinery, furnishings, and equipment. The corporation for a municipality that has a population of more than 1,000,000 persons may combine part or all of the project costs of more than 1 project for pollution control facilities in a single financing arrangement. However, the bonds and notes for each project for pollution control facilities shall be secured by a separate agreement and collateral for each project.

(e) Enter into leases, lease purchase agreements, installment sales contracts or loan agreements with any person, firm, or corporation for the use or sale of the project.

(f) Mortgage or create security interests in the project, a part of the project, a lease or loan, or the rents, revenues, or sums to be paid during the term of a lease or loan, in favor of holders of bonds or notes issued by the corporation.

(g) Sell and convey the project or any part of the project for a price and at a time as the corporation determines.

(h) Lend, grant, transfer, or convey funds, described in section 27, as permitted by law, but subject to applicable restrictions affecting the use of those funds.

(2) Bonds and notes issued under this act are not subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(3) Bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

Sec. 8. (1) The corporation shall designate the project area to the governing body of the municipality for which the corporation is incorporated. The governing body of the municipality for which the corporation is incorporated shall certify its approval of the designation of a project area by resolution.

(2) Before acquiring property, or an interest in land, or incurring obligations for a specific project, other than the acquisition of an option, the corporation shall prepare a project plan and secure the recommendation of the local public agency of the municipality for which the corporation is incorporated, except as provided in section 9(3), the approval of the governing body of each city, village, or township in which all or a part of the project is located, and the approval of the county, if the corporation is an economic development corporation for the county.

(3) The corporation shall certify to the governing body of the municipality for which the corporation is incorporated that at the time the project plan is approved by the corporation, the project shall not have the effect of transferring employment of more than 20 full-time persons from a municipality of this state to the municipality in which the project is to be located. This restriction shall not prevent the approval of a project if the governing body of each municipality from which employment is to be transferred consents by resolution to the transfer.

(4) The project plan shall contain the following, except that agricultural and forestry enterprise projects need only comply with subsection (9) with respect to project plans:

(a) The location and extent of existing streets and other public facilities within the project district area, and shall designate the location, character, and extent of the categories of public and private land uses then existing and proposed for the project area, including residential, recreational, commercial, industrial, educational, and other uses and shall include a legal description of the project area.

(b) A description of existing improvements in the project area to be demolished, repaired, or altered, a description of repairs and alterations, and an estimate of the time required for completion.

(c) The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the project area and an estimate of the time required for completion.

(d) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

- (e) A description of the parts of the project area to be left as open space and the use contemplated for the space.
- (f) A description of portions of the project area that the corporation desires to sell, donate, exchange, or lease to or from the municipality, and the proposed terms.
- (g) A description of desired zoning changes and changes in streets, street levels, intersections, and utilities.
- (h) A statement of the proposed method of financing the project, including, except as provided in section 6a, a statement by a person described in subparagraph (j) indicating the payment to all persons performing work on the construction project of the prevailing wage and fringe benefit rates for the same or similar work in the locality in which the work is to be performed, and a statement of the ability of the corporation to arrange the financing. The prevailing wage and fringe benefit rates shall be determined under 1965 PA 166, MCL 408.551 to 408.558. A corporation may conclusively rely upon the statement required under this subsection as to compliance with the payment of prevailing wage and fringe benefit rates and any contracts, bonds or notes of any corporation entered into or issued upon reliance on any statement shall not be subsequently voided by reason of the failure to comply with the requirements of this subsection.
- (i) A list of persons who will manage or be associated with the management of the project for a period of not less than 1 year from the date of approval of the project plan.
- (j) Designation of the person or persons, natural or corporate, to whom the project is to be leased, sold, or conveyed and for whose benefit the project is being undertaken if that information is available to the corporation.
- (k) If there is not an express or implied agreement between the corporation and persons, natural or corporate, that the project will be leased, sold, or conveyed to those persons, the procedures for bidding for the leasing, purchasing, or conveying of the project upon its completion.
- (l) Estimates of the number of persons residing in the project area, and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the corporation, a project plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.
- (m) A plan for establishing priority for the relocation of persons displaced by the project in new housing in the project area.
- (n) Provision for the costs of relocating persons displaced by the project and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646, 84 Stat. 1894.
- (o) A plan for compliance with 1972 PA 227, MCL 213.321 to 213.332.
- (p) Other material as the corporation, local public agency, or governing body considers pertinent.
- (5) The corporation shall be considered an instrumentality of a political subdivision for purposes of 1972 PA 227, MCL 213.321 to 213.332.
- (6) A person shall be given not less than 90 days' written notice to vacate unless modified by court order for good cause.
- (7) The corporation shall not operate a project or an enterprise in a project, other than as lessor.
- (8) The governing body may utilize the corporation to issue obligations pursuant to section 7 to accomplish the public purposes of the municipality set forth in section 2, and for that purpose may by resolution direct the corporation to take appropriate action as set forth in subsections (1) and (2) with respect to a proposed project.
- (9) In the case of project plans for agricultural and forestry enterprises, the following information shall be provided in lieu of the requirements of subsections (2) and (4):
  - (a) A statement of intention regarding the objectives of the project.
  - (b) A general description of the kinds of buildings, improvements, storage facilities, restorations, acquisition of machinery, equipment furnishings, leasehold improvements and incidental related costs to be financed.
  - (c) A statement regarding the length of the project and the maximum amount to be financed over the life of the project.
  - (d) A statement by the corporation that no zoning change or eminent domain proceedings will be necessary to implement the project.
  - (e) A description of the process to be followed in implementing the individual transactions that may comprise the project.

Sec. 23. (1) For the purpose of defraying all or part of its project costs, refunding or refunding in advance obligations authorized under this act or obligations authorized under the industrial development revenue bond act of 1963, 1963 PA 62, MCL 125.1251 to 125.1267, by a municipality incorporating a corporation under this act, a corporation may borrow money and issue its revenue bonds or revenue notes. Refunding bonds may be issued by the corporation whether the bonds to be refunded have or have not matured, are or are not redeemable on the date of issuance of the refunding bonds, or are or are not subject to redemption before maturity, and may be issued to pay principal, interest, redemption premiums, or any combination thereof of the obligations to be refunded. The bonds may be issued partly to refund bonds and partly for any other purpose authorized by this act. The refunding bonds may be issued in a principal amount greater than the principal amount of the bonds to be refunded as may be necessary to effect the refunding pursuant to the plan of refunding. The bonds or notes shall be exempt from all taxation except inheritance and transfer taxes and the interest on the bonds or notes shall be exempt from all taxation in the state of Michigan, notwithstanding that the interest may be subject to federal income tax.

(2) The municipality shall not be liable on notes or bonds of the corporation and the notes and bonds shall not be a debt of the municipality. The notes and bonds shall contain on their face a statement to that effect.

(3) The bonds and notes of the corporation may be invested in by all public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by all public officers and the agencies and political subdivisions of this state for any purpose for which the deposit of bonds is authorized.

(4) The corporation shall report to the governing body of the municipality for which the corporation is incorporated and the Michigan economic development corporation not less than once per year, which report shall fully describe the activities of the corporation including a statement of all revenues and expenditures since the previous report.

(5) The financial records, accountings, audit reports, and other reports of public money under the control of the corporation shall be public records and open to inspection. The corporation shall publish in a newspaper of general circulation in the incorporating municipality not more than 120 days after the conclusion of the corporation's operating year a statement of all of its revenues and expenditures for the year and shall distribute copies of the report upon request.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate.

*Jay E. Randall*

Clerk of the House of Representatives.

Approved .....

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Governor.