

SENATE BILL No. 1248

April 15, 2008, Introduced by Senators RICHARDVILLE, KAHN, PAPPAGEORGE, VAN WOERKOM and KUIPERS and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
by amending section 88d (MCL 125.2088d), as added by 2005 PA 225.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 88d. (1) The fund shall create and operate a loan
2 enhancement program.

3 (2) As a separate and distinct part of the loan enhancement
4 program, the fund may create a loan guarantee program that does all
5 of the following:

6 (a) Provide a loan guarantee mechanism to financial
7 institutions located in this state that provide commercial loans to
8 qualified businesses, public authorities, and local units of
9 government.

1 (b) Ensures that participating financial institutions do not
2 refinance prior debt.

3 (c) Provide that a qualified business is only eligible for a
4 loan guarantee under this section if it has a documented growth
5 opportunity. As used in this subdivision, "documented growth
6 opportunity" means a plant expansion, capital equipment investment,
7 acquisition of intellectual property or technology, or the hiring
8 of new employees to meet or satisfy a new business opportunity.

9 (d) Provide that a qualified business that engages primarily
10 in retail sales is not eligible for a loan guarantee under this
11 chapter unless the fund board makes a specific finding that the
12 loan guarantee supports a new concept that has significant growth
13 potential.

14 (e) Provide repayment provisions for a loan or a guarantee
15 given to a qualified business that leaves Michigan within 3 years
16 of the provision of the loan or guarantee or otherwise breaches the
17 terms of an agreement with the fund.

18 (3) As a separate and distinct part of the loan enhancement
19 program, the fund shall reestablish the small business capital
20 access program that was previously operated by the fund for small
21 businesses in a manner similar to how that program was operated
22 before January 1, 2002. The small business capital access program
23 shall operate on a market-driven basis and provide for premium
24 payments by borrowers into a special reserve fund. The small
25 business capital access program established by the board shall
26 prohibit an officer, director, principal shareholder of a
27 participating financial institution, or his or her immediate family

1 members from receiving a small business capital access program loan
2 from the financial institution. A loan under the small business
3 capital access program shall provide that the proceeds of a loan
4 may only be used for a business purpose within this state and may
5 not be used for any of the following:

6 (a) The construction or purchase of residential housing.

7 (b) To finance passive real estate ownership.

8 (c) To refinance prior debt from the participating financial
9 institution that is not part of the small business capital access
10 program.

11 (4) AS A SEPARATE AND DISTINCT PART OF THE LOAN ENHANCEMENT
12 PROGRAM, THE FUND SHALL ESTABLISH THE CHOOSE MICHIGAN
13 ENTREPRENEURIAL LOAN FUND TO INVEST IN LOANS FROM THE 21ST CENTURY
14 JOBS TRUST FUND AND THE INVESTMENT FUND TO COMPANIES ELIGIBLE FOR A
15 TAX CREDIT UNDER SECTION 441 OF THE MICHIGAN BUSINESS TAX ACT, 2007
16 PA 36, MCL 208.1441. A LOAN ISSUED UNDER THIS SUBSECTION IS SUBJECT
17 TO ALL OF THE FOLLOWING REQUIREMENTS:

18 (A) A LOAN SHALL BE PROVIDED AT AN INTEREST RATE OF NOT LESS
19 THAN 1%.

20 (B) THE MINIMUM AMOUNT OF A LOAN UNDER THIS SUBSECTION IS
21 \$50,000.00.

22 (C) THE MAXIMUM TERM OF A LOAN UNDER THIS SUBSECTION IS 10
23 YEARS, INCLUDING UP TO 3 YEARS OF DEFERRED PRINCIPAL PAYMENTS TO
24 ALIGN PRINCIPAL PAYMENTS WITH RECEIPT OF TAX CREDIT, AS DETERMINED
25 BY THE FUND BOARD.

26 (D) THE VALUE OF THE LOAN MAY NOT EXCEED THE VALUE OF THE TAX
27 CREDIT THAT THE COMPANY IS ELIGIBLE TO RECEIVE OVER 3 YEARS, AS

1 DISCOUNTED BY THE FUND BOARD. A LOAN AUTHORIZED BY THE FUND BOARD
2 MAY PROVIDE FOR A LOAN AMOUNT EQUAL TO A PORTION OR ALL OF THE
3 DISCOUNTED VALUE OF THE TAX CREDIT, AS DISCOUNTED BY THE FUND
4 BOARD.

5 (E) THE COMPANY IS RESPONSIBLE FOR REPAYMENT OF THE LOAN
6 REGARDLESS OF THE ACTUAL TAX CREDIT AMOUNT RECEIVED.

7 (F) THE COMPANY ALSO OBTAINS AN ADDITIONAL LOAN FROM AN
8 ACCREDITED FINANCIAL INSTITUTION OR OTHER APPROVED LENDING MARKET.

9 (G) THE LOAN SHALL BE ISSUED CONSISTENT WITH GUIDELINES FOR
10 THE INITIATION OF A LOAN AND THE TERMS OF THE LOAN UNDER THIS
11 SUBSECTION APPROVED BY THE FUND BOARD.

12 Enacting section 1. This amendatory act does not take effect
13 unless Senate Bill No. 1204 of the 94th Legislature is enacted into
14 law.