

SENATE BILL No. 200

March 12, 2015, Introduced by Senators BOOHER, ZORN and SCHMIDT and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
(MCL 125.2001 to 125.2094) by adding section 88s.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 88S. (1) THE FUND SHALL CREATE AND OPERATE THE MICHIGAN
2 INVESTMENT PROGRAM TO PROVIDE GRANTS, LOANS, AND OTHER ECONOMIC
3 ASSISTANCE TO MICHIGAN INVESTMENT MARKETS IN THIS STATE AND TO
4 QUALIFIED PERSONS THAT HAVE A CONTROLLING INTEREST IN A MICHIGAN
5 ADVANCEMENT PORTFOLIO.

6 (2) THE MICHIGAN INVESTMENT PROGRAM SHALL PROVIDE FOR ALL OF
7 THE FOLLOWING:

8 (A) GRANTS, LOANS, AND OTHER ECONOMIC ASSISTANCE TO ASSIST IN
9 DEVELOPING MICHIGAN INVESTMENT MARKETS AND MICHIGAN ADVANCEMENT

1 PORTFOLIOS IN THIS STATE.

2 (B) A DETAILED APPLICATION, APPROVAL, AND COMPLIANCE PROCESS
3 PUBLISHED AND AVAILABLE ON THE FUND'S WEBSITE. THE DETAILED
4 APPLICATION, APPROVAL, AND COMPLIANCE PROCESS SHALL, AT A MINIMUM,
5 CONTAIN THE FOLLOWING:

6 (i) A MICHIGAN INVESTMENT MARKET OR QUALIFIED PERSON WITH A
7 CONTROLLING INTEREST IN A MICHIGAN ADVANCEMENT PORTFOLIO MAY APPLY
8 FOR A GRANT, LOAN, OR OTHER ECONOMIC ASSISTANCE IN A FORM AND
9 MANNER DETERMINED BY THE FUND.

10 (ii) AFTER RECEIPT OF AN APPLICATION, THE FUND MAY ENTER INTO A
11 WRITTEN AGREEMENT WITH THE MICHIGAN INVESTMENT MARKET OR QUALIFIED
12 PERSON.

13 (iii) THE WRITTEN AGREEMENT SHALL PROVIDE IN A CLEAR AND CONCISE
14 MANNER ALL OF THE CONDITIONS IMPOSED, INCLUDING SPECIFIC TIME
15 FRAMES, ON THE MICHIGAN INVESTMENT MARKET OR THE QUALIFIED PERSON
16 TO RECEIVE A GRANT, LOAN, OR OTHER ECONOMIC ASSISTANCE UNDER THIS
17 SECTION.

18 (iv) THE WRITTEN AGREEMENT SHALL PROVIDE FOR A REPAYMENT
19 PROVISION OF ANY GRANTS, LOANS, OR OTHER ECONOMIC ASSISTANCE IF THE
20 MICHIGAN INVESTMENT MARKET OR QUALIFIED PERSON FAILS TO COMPLY WITH
21 THE PROVISIONS OF THE WRITTEN AGREEMENT.

22 (v) THE WRITTEN AGREEMENT SHALL PROVIDE FOR AN AUDIT PROVISION
23 THAT REQUIRES THE FUND TO VERIFY THAT ESTABLISHED MILESTONES FOR
24 THE MICHIGAN INVESTMENT MARKET OR QUALIFIED PERSON HAVE BEEN MET.

25 (C) IN ANY FISCAL YEAR, A MICHIGAN INVESTMENT MARKET OR
26 QUALIFIED PERSON SHALL NOT RECEIVE MORE THAN \$1,000,000.00 UNDER
27 THIS SECTION.

1 (3) THE FUND SHALL NOT ENTER INTO A WRITTEN AGREEMENT WITH A
2 MICHIGAN INVESTMENT MARKET OR QUALIFIED PERSON UNLESS ALL OF THE
3 FOLLOWING ARE MET:

4 (A) THE MICHIGAN INVESTMENT MARKET OR QUALIFIED PERSON
5 PROVIDES A BUSINESS PLAN OR DEMONSTRATES THE NEED FOR THE GRANT,
6 LOAN, OR OTHER ECONOMIC ASSISTANCE.

7 (B) THE MICHIGAN INVESTMENT MARKET OR QUALIFIED PERSON AGREES
8 TO PROVIDE THE DATA DESCRIBED IN THE WRITTEN AGREEMENT NECESSARY
9 FOR THE FUND TO REPORT TO THE LEGISLATURE UNDER THIS ACT.

10 (4) THE FUND SHALL POST ON ITS WEBSITE OR POST ON THE WEBSITE
11 OF THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION THE NAME AND
12 LOCATION OF EACH MICHIGAN INVESTMENT MARKET AND QUALIFIED PERSON
13 THAT RECEIVED A GRANT, LOAN, OR OTHER ECONOMIC ASSISTANCE AWARDED
14 UNDER THIS SECTION AND THE AMOUNT OF THE GRANT, LOAN, OR OTHER
15 ECONOMIC ASSISTANCE.

16 (5) THE FUND, WITH ASSISTANCE FROM THE MICHIGAN ECONOMIC
17 DEVELOPMENT CORPORATION AND THE OFFICE OF THE CHIEF COMPLIANCE
18 OFFICER, SHALL ESTABLISH POLICIES AND PROCEDURES TO CONDUCT
19 BACKGROUND CHECKS ON EACH MICHIGAN INVESTMENT MARKET AND QUALIFIED
20 PERSON APPLYING FOR A GRANT, LOAN, OR OTHER ECONOMIC ASSISTANCE
21 UNDER THIS SECTION.

22 (6) BEGINNING NOVEMBER 1, 2015 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 NUMBER OF NEW WRITTEN AGREEMENTS.

2 (B) THE AMOUNT OF THE GRANT, LOAN, OR OTHER ECONOMIC
3 ASSISTANCE AWARDED UNDER THIS SECTION SEPARATELY FOR EACH MICHIGAN
4 INVESTMENT MARKET AND EACH QUALIFIED PERSON.

5 (C) THE ACTUAL AMOUNT OF THE GRANT, LOAN, OR OTHER ECONOMIC
6 ASSISTANCE MADE UNDER THIS SECTION SEPARATELY FOR EACH MICHIGAN
7 INVESTMENT MARKET AND EACH QUALIFIED PERSON VERIFIED BY THE FUND.

8 (7) BEGINNING FEBRUARY 1, 2016 AND NOT LESS THAN EVERY 3
9 MONTHS THEREAFTER, THE FUND SHALL POST ON ITS INTERNET WEBSITE THE
10 NAME AND LOCATION OF EACH MICHIGAN INVESTMENT MARKET AND EACH
11 QUALIFIED PERSON THAT RECEIVED APPROVAL OF A GRANT, LOAN, OR OTHER
12 ECONOMIC ASSISTANCE UNDER THIS SECTION IN THE IMMEDIATELY PRECEDING
13 3-MONTH PERIOD.

14 (8) THE LEGISLATURE FINDS AND DECLARES THAT FUNDING AUTHORIZED
15 UNDER THIS SECTION TO ENCOURAGE DIVERSIFICATION OF THE ECONOMY, TO
16 ENCOURAGE CAPITAL INVESTMENT IN THIS STATE, AND TO PROMOTE THE
17 DEVELOPMENT OF MICHIGAN INVESTMENT MARKETS AND MICHIGAN ADVANCEMENT
18 PORTFOLIOS IN THIS STATE IS A PUBLIC PURPOSE AND OF PARAMOUNT
19 CONCERN IN THE INTEREST OF THE HEALTH, SAFETY, AND GENERAL WELFARE
20 OF THE CITIZENS OF THIS STATE.

21 (9) FOR PURPOSES OF THIS SECTION, BOTH OF THE FOLLOWING APPLY:

22 (A) A BUSINESS IS CONSIDERED TO BE DOING BUSINESS IN THIS
23 STATE IF ALL OF THE FOLLOWING ARE MET:

24 (i) IF THE BUSINESS HAD GROSS REVENUES OF MORE THAN \$5,000.00
25 FROM THE SALE OF PRODUCTS OR SERVICES OR OTHER CONDUCT OF ITS
26 BUSINESS FOR ITS MOST RECENT 12-MONTH FISCAL PERIOD, IT DERIVED AT
27 LEAST 80% OF ITS GROSS REVENUES, AND THOSE OF ITS SUBSIDIARIES ON A

1 CONSOLIDATED BASIS, FROM THE OPERATION OF A BUSINESS OR OF REAL
2 PROPERTY LOCATED IN OR FROM THE RENDERING OF SERVICES IN THIS STATE
3 DURING 1 OF THE FOLLOWING TIME PERIODS:

4 (A) IN ITS MOST RECENT FISCAL YEAR, IF THE FIRST OFFER OF ANY
5 PART OF THE ISSUE IS MADE DURING THE FIRST 6 MONTHS OF THE ISSUER'S
6 CURRENT FISCAL YEAR.

7 (B) IN THE FIRST 6 MONTHS OF ITS CURRENT FISCAL YEAR, OR
8 DURING THE 12-MONTH FISCAL PERIOD ENDING WITH THAT 6-MONTH PERIOD,
9 IF THE FIRST OFFER OF ANY PART OF THE BUSINESS'S INTRASTATE
10 OFFERING IS MADE DURING THE LAST 6 MONTHS OF THE BUSINESS'S CURRENT
11 FISCAL YEAR.

12 (ii) AT THE END OF ITS MOST RECENT SEMIANNUAL FISCAL PERIOD
13 BEFORE THE FIRST OFFER OF ANY PART OF THE ISSUE, THE BUSINESS HAD
14 AT LEAST 80% OF ITS ASSETS AND THOSE OF ITS SUBSIDIARIES ON A
15 CONSOLIDATED BASIS LOCATED IN THIS STATE.

16 (iii) THE BUSINESS INTENDS TO USE AND USES AT LEAST 80% OF THE
17 NET PROCEEDS TO THE BUSINESS FROM THE SALE OR RESALE OF INTRASTATE
18 SECURITIES IN CONNECTION WITH THE OPERATION OF A BUSINESS OR OF
19 REAL PROPERTY IN, THE PURCHASE OF REAL PROPERTY LOCATED IN, OR THE
20 RENDERING OF SERVICES IN THIS STATE.

21 (iv) THE PRINCIPAL OFFICE OF THE BUSINESS IS LOCATED WITHIN
22 THIS STATE.

23 (B) EACH OF THE FOLLOWING IS PRIMA FACIE EVIDENCE THAT AN
24 INDIVIDUAL IS A RESIDENT OF THIS STATE:

25 (i) A VALID OPERATOR'S LICENSE, CHAUFFEUR'S LICENSE, OR
26 OFFICIAL PERSONAL IDENTIFICATION CARD ISSUED BY THIS STATE.

27 (ii) A CURRENT MICHIGAN VOTER REGISTRATION.

1 (iii) A SIGNED AFFIDAVIT AS DESCRIBED IN SECTION 7CC(2) OF THE
2 GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.7CC, THAT INDICATES
3 THAT THE INDIVIDUAL OWNS AND OCCUPIES PROPERTY IN THIS STATE AS HIS
4 OR HER PRINCIPAL RESIDENCE.

5 (iv) ANY OTHER RECORD OR DOCUMENTS ISSUED BY THIS STATE THAT
6 ESTABLISHES THAT THE INDIVIDUAL'S PRINCIPAL RESIDENCE IS IN THIS
7 STATE.

8 (10) AS USED IN THIS SECTION:

9 (A) "INSTITUTIONAL INVESTOR" MEANS THAT TERM AS DEFINED IN
10 SECTION 102A OF THE UNIFORM SECURITIES ACT (2002), 2008 PA 551, MCL
11 451.2102A.

12 (B) "MICHIGAN ADVANCEMENT PORTFOLIO" MEANS A COLLECTION OF
13 INVESTMENTS THAT, AS A WHOLE, MEETS ALL OF THE FOLLOWING CRITERIA:

14 (i) INCLUDES SECURITIES ONLY IN BUSINESSES THAT ARE DOING
15 BUSINESS IN THIS STATE.

16 (ii) AT LEAST 10% OF THE PORTFOLIO'S OVERALL INVESTMENT FOR A
17 CALENDAR YEAR IS IN BUSINESSES THAT EMPLOY 50 OR FEWER EMPLOYEES AT
18 THE TIME OF THE INVESTMENT.

19 (iii) INCLUDES SECURITIES IN BUSINESSES THAT EMPLOY 50 OR FEWER
20 EMPLOYEES AT THE TIME OF THE INVESTMENT TRANSACTED THROUGH A
21 MICHIGAN INVESTMENT MARKET.

22 (iv) MAINTAINS AT LEAST \$1,000,000.00 IN INVESTMENTS AT ALL
23 TIMES.

24 (C) "MICHIGAN INVESTMENT MARKET" MEANS THAT TERM AS DEFINED IN
25 SECTION 451 OF THE UNIFORM SECURITIES ACT (2002), 2008 PA 551, MCL
26 451.2451.

27 (D) "OTHER ECONOMIC ASSISTANCE" MEANS ANY OTHER FORM OF

1 ASSISTANCE ALLOWED UNDER THIS ACT THAT IS NOT A GRANT OR A LOAN.
2 ECONOMIC ASSISTANCE MAY INCLUDE PROVIDING SECURITY FOR A QUALIFIED
3 PERSON'S INVESTMENTS WITHIN ITS MICHIGAN ADVANCEMENT PORTFOLIO, AND
4 THAT SECURITY MAY BE EQUAL TO OR LESS THAN 35% OF THE ORIGINAL
5 VALUE OF THE QUALIFIED PERSON'S MICHIGAN ADVANCEMENT PORTFOLIO.
6 HOWEVER, THAT SECURITY IS ONLY PAYABLE IN PROPORTION TO REALIZED
7 LOSSES ON INVESTMENTS WITHIN THAT PORTFOLIO ON AN INDIVIDUAL BASIS.

8 (E) "QUALIFIED PERSON" MEANS A PERSON THAT IS DOING BUSINESS
9 IN THIS STATE OR IS A RESIDENT OF THIS STATE AND IS EITHER AN
10 INSTITUTIONAL INVESTOR OR AN ACCREDITED INVESTOR AS DEFINED BY RULE
11 501 OF SEC REGULATION D, 17 CFR 230.501. THE FUND MAY RELY ON
12 CONFIRMATION THAT THE PURCHASER IS AN ACCREDITED INVESTOR FROM A
13 LICENSED BROKER-DEALER OR ANOTHER THIRD PARTY IN MAKING A
14 DETERMINATION THAT THE INDIVIDUAL IS AN ACCREDITED INVESTOR.