

Act No. 475
Public Acts of 2016
Approved by the Governor
January 4, 2017
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January 5, 2017
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Senator Knezek

ENROLLED SENATE BILL No. 912

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people's right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 19609, 19610, 19611, and 19612 (MCL 324.19609, 324.19610, 324.19611, and 324.19612), sections 19609, 19610, and 19611 as added by 1998 PA 288 and section 19612 as amended by 2014 PA 115, and by adding section 19610a.

The People of the State of Michigan enact:

Sec. 19609. (1) An application for a grant or a loan from the fund shall be made on a form or in a format prescribed by the administering state department. The administering state department may require the applicant to provide any information reasonably necessary to allow the administering state department to make a determination required by this part.

(2) Of the funds to be used to provide grants and loans under section 19608(1)(a)(iv), the following apply:

(a) The department shall accept, and consider for approval, applications for grants and loans throughout the year.

(b) The department shall make final application decisions within 90 days after receipt of a complete grant or loan application.

(c) A complete application includes all of the following:

(i) A description of the proposed eligible activities and the reasons they should be funded.

(ii) An itemized budget for the proposed eligible activities.

(iii) A schedule for the completion of the proposed eligible activities.

(iv) The location of the property.

(v) The current ownership and ownership history of the property.

(vi) The relevant history of the use of the property.

(vii) The current use of the property.

(viii) The existing and proposed future zoning of the property.

(ix) If the property is not owned by the applicant, a draft of an enforceable agreement between the property owner and the applicant that commits the property owner to cooperate with the applicant, including a commitment to allow access to the property to complete, at a minimum, the proposed eligible activities.

(x) A description of the property's economic redevelopment potential.

(xi) For loans, a resolution from the governing body of the applicant committing to repayment of the loan.

(xii) A letter from the chief executive officer or highest ranking appointed official indicating that the local unit of government supports the brownfield project and that the brownfield project complies with all local zoning and planning ordinances.

(xiii) Any other relevant information the department requires.

Sec. 19610. (1) Upon receipt of a grant or loan application, for funding provided under section 19608(1)(a)(iv), the department shall review the application based on the following considerations:

(a) Whether the brownfield project proposed to be funded is authorized by this part.

(b) Whether the brownfield project is consistent with the local planning and zoning for the area in which the project is located.

(c) Whether the brownfield project provides measurable environmental benefit.

(d) Whether the brownfield project provides measurable economic benefit or will significantly contribute to the local unit of government's economic and community redevelopment or the revitalization of adjacent neighborhoods.

(e) The viability of the redevelopment plan.

(f) The level of public and private commitment and other resources available for the project.

(g) How the brownfield project relates to a broader economic and community development plan for the local unit of government as a whole.

(h) Other criteria that the department considers relevant.

(2) The department shall issue grants under section 19608(1)(a)(iv) for brownfield projects that the department determines meet the requirements of this part and will contribute to the revitalization of underutilized properties.

Sec. 19610a. For the funds to be used to provide grants and loans under section 19608(1)(a)(iv), all of the following apply:

(a) To receive grant or loan funds, approved applicants must enter into a grant or loan agreement with the department. At a minimum, the grant or loan agreement shall contain all of the following:

(i) The approved eligible activities to be undertaken with grant or loan funds.

(ii) An implementation schedule for the approved eligible activities.

(iii) Reporting requirements, including, at a minimum, the following:

(A) The grant or loan recipient shall submit progress status reports to the department during the implementation of the brownfield project that include documentation of project costs and expenditures, at a frequency determined by the department.

(B) The grant or loan recipient shall provide a final report upon completion of the grant- or loan-funded activities within a time frame determined by the department.

(iv) If the property is not owned by the grant or loan recipient, an executed agreement that meets the requirements of section 19609(2)(c)(ix).

(v) When entering into a loan agreement, the loan recipient shall provide financial assurance of repayment of the loan including pledges of revenue sharing, escrow account, letter of credit, or other acceptable mechanism negotiated with the department. Use of real property as a means to secure a loan is not considered an acceptable mechanism. The department is authorized to include in the loan agreement a provision that permits the release of the financial assurance in favor of a pledge of the right of first refusal of the tax increment revenue to the department under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, if the brownfield project has been substantially completed and the annual tax increment being captured relative to the brownfield project is equal to or greater than 125% of the annual loan reimbursement payment.

(vi) Other provisions as considered appropriate by the department.

(b) All eligible activities must be consistent with an approved grant or loan work plan.

(c) Unless otherwise approved by the director of the department, only activities carried out and costs incurred after execution of a grant or loan agreement are eligible.

(d) Grant funds shall be disbursed on a reimbursement basis upon receipt of appropriate documentation.

(e) Loan funds shall be disbursed in draws based on an approved work plan, and supporting documentation must be submitted after expenses are incurred.

(f) The department shall specify documentation requirements for grants and loans on a form prescribed for requesting reimbursement or draws.

Sec. 19611. (1) Prior to making a grant or loan with money from the fund, the administering state department shall consider the extent to which the making of the grant or loan contributes to the achievement of a balanced distribution of grants and loans throughout the state.

(2) In determining whether a grant or a loan is appropriate under section 19608(1)(a)(iv), the department shall consider whether the project is likely to be undertaken without state assistance, the availability of state funds from other sources, the degree of private sector participation in the type of project under consideration, and other factors considered important by the department.

Sec. 19612. (1) A recipient of a grant or a loan made with money from the fund shall do both of the following:

(a) Keep an accounting of the money spent on the project or facility in a generally accepted manner. The accounting is subject to a postaudit.

(b) Obtain authorization from the administering state department before implementing a change that significantly alters the proposed project.

(2) The administering state department may revoke a grant or a loan made with money from the fund or withhold payment if the recipient fails to comply with the terms and conditions of the grant or loan agreement or with the requirements of this part or the rules promulgated under this part, or with other applicable law or rules. If a grant or loan is revoked, the administering state department may recover all funds awarded.

(3) The administering state department may withhold a grant or a loan until the administering state department determines that the recipient is able to proceed with the proposed project.

(4) To assure timely completion of a project, the administering state department may withhold 10% of the grant or loan amount until the project is complete.

(5) If an approved applicant fails to sign a grant or loan agreement within 90 days after receipt of a written grant or loan offer by the administering state department, the administering state department may cancel the grant or loan offer. The applicant may not appeal or contest a cancellation pursuant to this subsection.

(6) The administering state department may terminate a grant or loan agreement and require immediate repayment of the grant or loan if the recipient uses grant or loan funds for any purpose other than for the approved activities specified in the grant or loan agreement. The administering state department shall provide the recipient written notice of the termination 30 days prior to the termination.

(7) A loan made with money in the fund must be made on the following terms:

(a) A loan interest rate of not more than 50% of the prime rate as determined by the administering state department as of the date of approval of the loan.

(b) Loan recipients shall repay loans in equal annual installments of principal and interest beginning not later than 5 years after the first draw of the loan and concluding not later than 15 years after the first draw of the loan.

(c) A loan recipient shall enter into a loan agreement with the administering state department.

(d) Upon default of a loan, as determined by the administering state department, or upon the request of the loan recipient as a method to repay the loan, the department of treasury shall withhold from state payments payable to the loan recipient amounts consistent with the repayment schedule in the loan agreement until the loan is repaid. The department of treasury shall deposit the withheld or collected money into the fund until the loan is repaid.

(8) Upon request of a loan recipient and a showing of financial hardship related to the project that was financed in whole or in part by the loan, the administering state department may renegotiate the terms of any outstanding loan, including the length of the loan, the interest rate, and the repayment terms. However, the administering state department shall not reduce or eliminate the amount of the outstanding loan principal. The department shall report to the legislature the number of loans refinanced under this subsection, the local unit of government or authority responsible for each loan refinanced, and the change in the terms of the loan, as appropriate. This information may be included in the report prepared by the department under section 16 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2666.

(9) Loan payments and interest shall be deposited in the fund.

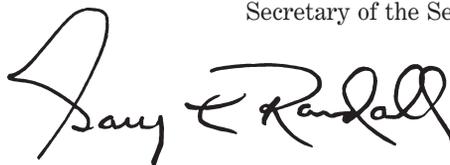
Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 98th Legislature are enacted into law:

- (a) Senate Bill No. 908.
- (b) Senate Bill No. 909.
- (c) Senate Bill No. 910.
- (d) Senate Bill No. 911.
- (e) Senate Bill No. 913.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor