

MICHIGAN BIDCO ACT (EXCERPT)
Act 89 of 1986

487.1303 Review of information; approval of application for license; determinations; net worth; findings; grounds.

Sec. 303. (1) After a review of information regarding the directors, officers, managers, and controlling persons of the applicant, a review of the applicant's business plan, including at least 3 years of detailed financial projections and other relevant information, and a review of additional information considered relevant by the commissioner, the commissioner shall approve an application for a license if, and only if, the commissioner determines all of the following:

(a) The applicant has a net worth, or firm financing commitments that demonstrate that the applicant will have a net worth when the applicant begins transacting business as a BIDCO, in liquid form available to provide financing assistance, that is adequate for the applicant to transact business as a BIDCO, as determined under subsection (2).

(b) Each director, officer, manager, and controlling person of the applicant is of good character and sound financial standing, is competent to perform his or her functions with respect to the applicant, and that the directors, officers, and managers of the applicant are collectively adequate to manage the business of the applicant as a licensee.

(c) It is reasonable to believe that the applicant, if licensed, will comply with this act.

(d) The applicant has reasonable promise of being a viable, ongoing BIDCO and of satisfying the basic objectives of its business plan.

(e) If the applicant is or will be a Michigan limited liability company, the applicant's operating agreement and business plan are consistent with the objectives of promoting the stability and viability of the applicant and will not impede the ability of the applicant to retain any earnings or increases to fund balances and borrow funds to support the applicant's continued operations. The applicant's operating agreement or articles of organization shall contain provisions as the commissioner considers necessary to satisfy this subsection.

(f) If the applicant is applying for a license as a business development enterprise, the applicant has been designated as a qualified business development enterprise by the Michigan strategic fund under section 304.

(2) In determining if the applicant has a net worth or firm financing commitments adequate to transact business as a BIDCO under subsection (1)(a), the commissioner shall consider the types and variety of financing assistance that the applicant plans to provide, the experience that the directors, officers, managers, and controlling persons of the applicant have in providing financing assistance and managerial assistance to business firms, the financial projections and other relevant information from the applicant's business plan, and whether the applicant intends to operate as a profit or nonprofit corporation or as a limited liability company. For purposes of subsection (1)(a), the commissioner shall require that the applicant demonstrate that the applicant will have a net worth when it begins transacting business that meets 1 of the following:

(a) Unless subdivision (b) or (c) applies, a minimum net worth of not less than \$1,000,000.00 and not more than \$10,000,000.00.

(b) The commissioner may require a minimum net worth of less than \$1,000,000.00, but not less than \$500,000.00, if, in the context of the applicant's business plan, the initial capitalization amount is adequate for the applicant to transact business as a BIDCO because of special circumstances including, but not limited to, funded overhead, low overhead, or specialized opportunities.

(c) If the applicant is applying for a license as a business development enterprise, a minimum net worth and firm financing commitments of not less than \$25,000,000.00.

(3) For the purposes of subsection (1), the commissioner may find any of the following:

(a) That a director, officer, manager, or controlling person of an applicant is not of good character if the director, officer, manager, or controlling person, or a director, officer, or manager of a controlling person, has been convicted of or has pleaded nolo contendere to a crime involving fraud or dishonesty.

(b) That it is not reasonable to believe that an applicant, if licensed, will comply with this act, if the applicant has been convicted of or has pleaded nolo contendere to a crime involving fraud or dishonesty.

(4) For purposes of subsection (1), subsection (3) shall not be considered to be the only grounds upon which the commissioner may find that a director, officer, manager, or controlling person of an applicant is not of good character or that it is not reasonable to believe that an applicant, if licensed, will comply with this act.

History: 1986, Act 89, Imd. Eff. May 1, 1986;—Am. 1997, Act 150, Imd. Eff. Dec. 2, 1997;—Am. 2012, Act 358, Imd. Eff. Dec. 13, 2012.