

MICHIGAN BIDCO ACT (EXCERPT)
Act 89 of 1986

487.1511 Definitions; transactions involving potential conflict of interest; authority of commissioner to determine conflict of interest not limited.

Sec. 511. (1) For purposes of this section:

(a) "Associate" means that term as defined in article 8.

(b) "Relative" means parent, child, sibling, spouse, father-in-law, mother-in-law, son-in-law, brother-in-law, daughter-in-law, sister-in-law, grandparent, grandchild, nephew, niece, uncle, or aunt.

(2) If a licensee provides financing assistance to a business firm or engages in another business transaction, and if that financing assistance or transaction involves a potential conflict of interest, the terms and conditions under which the licensee provides the financing assistance or engages in the transaction shall not be less favorable to the licensee than the terms and conditions that would be required by the licensee in the ordinary course of business if the transaction did not involve a potential conflict of interest. Each person who participates in the decision of the licensee relating to a transaction described in this section and has knowledge of a potential conflict of interest involving that transaction shall take care that the potential conflict of interest is disclosed in the financing documents of the transaction or, for a business transaction not involving financing assistance, in another appropriate document.

(3) For the purposes of subsection (2), transactions engaged in by a licensee that involve a potential conflict of interest include, but are not limited to, the following:

(a) Providing financing assistance to a principal owner of the licensee, to a person controlled by a principal owner of the licensee, or to a director, officer, manager, partner, relative, controlling person, or affiliate of a principal owner of the licensee.

(b) Providing financing assistance to a business firm that a principal owner of the licensee, a director, officer, manager, partner, relative, controlling person, or affiliate of a principal owner of a licensee, or a person controlled by a principal owner of the licensee provides or plans to provide contemporaneous financing assistance.

(c) Providing financing assistance to a business firm that has or is expected to have a substantial business relationship with another business firm that has a director, officer, manager, or controlling person who is also a director, officer, manager, or controlling person of the licensee or who is the spouse of a director, officer, manager, or controlling person of the licensee.

(d) Providing financing assistance to a business firm if that business firm, or a director, officer, manager, or controlling person of that business firm, contemporaneously has lent or will lend money to an associate of the licensee.

(e) Providing financing assistance for the purchase of property of an associate or principal owner of the licensee.

(f) Selling or otherwise transferring any of its assets to an associate or principal owner of the licensee.

(4) Nothing in this act limits the authority of the commissioner to determine that an act involves a conflict of interest and is an unsafe or unsound act.

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