

MICHIGAN BIDCO ACT (EXCERPT)
Act 89 of 1986

ARTICLE 2
REGULATION, REPORTING, AND EXAMINATION

487.1201 Administration of act; orders; rules; imposition of conditions; applications for declaratory rulings; judicial review.

Sec. 201. (1) The commissioner shall administer this act. The commissioner may issue orders and promulgate rules that, in the opinion of the commissioner, are necessary to execute, enforce, and effectuate the purposes of this act. Any rules promulgated shall be promulgated in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) Whenever the commissioner issues an order or license under this act, the commissioner may impose conditions that are necessary, in the opinion of the commissioner, to carry out this act and the purposes of this act.

(3) The commissioner may honor applications from interested persons for declaratory rulings regarding any provision of this act.

(4) Every final order, decision, license, or other official act of the commissioner under this act is subject to judicial review in accordance with law.

History: 1986, Act 89, Imd. Eff. May 1, 1986.

487.1203 Application; form; information; business plan.

Sec. 203. (1) An applicant for a license under this act shall file an application with the commissioner. Subject to subsection (2), the commissioner shall establish the form of the application and the information the applicant must provide on or with the application form.

(2) For purposes of section 303, an application for a license under this act shall include a business plan. If the applicant is applying for a license as a business development enterprise, the business plan must include the objective of providing public benefit.

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

487.1205 Investigations; purposes; oaths and affirmations; witnesses; evidence; documents or records; failure to comply with subpoena.

Sec. 205. (1) The commissioner may make public or private investigations within or outside this state that the commissioner considers necessary to determine whether to approve an application filed with the commissioner under this act, to determine whether a person has violated or is about to violate this act, to aid in the enforcement of this act, or to aid in issuing an order or promulgating a rule under this act.

(2) For purposes of an investigation, examination, or other proceeding under this act, the commissioner may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner considers relevant or material to the proceeding.

(3) If a person fails to comply with a subpoena issued by the commissioner or to testify with respect to a matter concerning which the person may be lawfully questioned, the circuit court for Ingham county, on application of the commissioner, may issue an order requiring the attendance of the person and the giving of testimony or production of evidence.

History: 1986, Act 89, Imd. Eff. May 1, 1986.

487.1207 Service of process.

Sec. 207. Service of process authorized to be made by the commissioner in connection with a noncriminal proceeding under this act may be made by registered or certified mail.

History: 1986, Act 89, Imd. Eff. May 1, 1986.

487.1209 Establishment of annual schedule of fees; payment; action for recovery of fees or penalties; failure to submit report; disposition.

Sec. 209. (1) The commissioner shall establish annually a schedule of fees sufficient to pay for the bureau's costs of enforcing this act. The fees shall be as follows:

(a) For filing an application for a license, not less than \$2,500.00 or more than \$8,000.00.

(b) For filing an application for approval to acquire control of a licensee, not less than \$1,250.00 or more than \$6,000.00.

(c) For filing an application for approval for a licensee to merge with another corporation, an application for approval for a licensee to purchase all or substantially all of the business of another person, or an application for approval for a licensee to sell all or substantially all of its business or of the business of any of its offices to another licensee, not less than \$1,250.00 or more than \$6,000.00. Two or more applications relating to the same merger, purchase, or sale may be filed, for the same fee as for filing a single application.

(d) For annual license renewal, not less than \$2,500.00 or more than \$8,000.00, payable at a time prescribed by the commissioner. A license renewal fee not paid when due is subject to a penalty of \$25.00 for each day the fee is delinquent or \$1,000.00, whichever is less.

(e) For examination of the licensee, not less than \$40.00 or more than \$70.00 per hour for each examiner involved in the examination. If the commissioner examines a licensee or a subsidiary of a licensee, within 10 days after receiving a statement from the commissioner, the licensee shall pay the fee, plus travel expenses.

(2) A fee for filing an application with the commissioner is nonrefundable and is to be paid at the time the application is filed with the commissioner.

(3) If any fees or penalties provided for in this act are not paid when required, the attorney general may maintain an action against the delinquent licensee to recover the fees or penalties together with interest and costs.

(4) A licensee or an affiliate or subsidiary of a licensee that fails to submit a report as required by section 215 is subject to a penalty of \$25.00 for each day the report is delinquent or \$1,000.00, whichever is less.

(5) Money collected under this section shall be paid into the state treasury to the credit of the financial institutions bureau and used only for the operation of the financial institutions bureau.

History: 1986, Act 89, Imd. Eff. May 1, 1986;—Am. 1992, Act 74, Imd. Eff. June 2, 1992.

487.1211 Books, accounts, and other records of licensee; location and preservation; valuation of assets; audit report.

Sec. 211. (1) A licensee shall make and keep books, accounts, and other records in a form and manner as the commissioner may require. These records shall be kept at a place and be preserved for a length of time as the commissioner may require.

(2) The commissioner may require by order that a licensee write down any asset on its books and records to a valuation that represents its then value.

(3) Not more than 90 days after the close of each calendar year or a longer period if specified by the commissioner, a licensee shall file with the commissioner an audit report containing all of the following:

(a) Financial statements, including balance sheet, statement of income or loss, statement of changes in capital accounts, and statement of changes in financial position or, for a licensee that is a Michigan nonprofit corporation or Michigan limited liability company, comparable financial statements for, or as of the end of, the calendar year, prepared with an audit by an independent certified public accountant or an independent public accountant in accordance with generally accepted accounting principles.

(b) A report, certificate, or opinion of the independent certified public accountant or independent public accountant who performs the audit, stating that the financial statements were prepared in accordance with generally accepted accounting principles.

(c) Other information that the commissioner may require.

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

487.1213 Making or keeping of books, accounts, or other records by person other than licensee; applicability of act; approval of commissioner.

Sec. 213. (1) If a person other than a licensee makes or keeps the books, accounts, or other records of that licensee, this act applies to that person with respect to the performance of those services and with respect to those books, accounts, and other records to the same extent as if that person were the licensee.

(2) If a person other than an affiliate or subsidiary of a licensee makes or keeps any of the books, accounts, or other records of that affiliate or subsidiary, this act applies to that person with respect to those books, accounts, and other records to the same extent as if that person were the affiliate or subsidiary.

(3) If the commissioner considers it expedient, the commissioner may require any particular licensee to obtain the approval of the commissioner before permitting another person to make or keep any of the books, accounts, or other records of the licensee.

History: 1986, Act 89, Imd. Eff. May 1, 1986.

487.1215 Filing reports with commissioner; form; contents.

Sec. 215. Each licensee, each affiliate of a licensee, and each subsidiary of a licensee shall file with the commissioner such reports as and when the commissioner may require. A report under this section shall be in

such a form and shall contain such information as the commissioner may require.

History: 1986, Act 89, Imd. Eff. May 1, 1986.

487.1216 Publication and distribution of information on impact of act.

Sec. 216. (1) The commissioner shall publish annually and provide to the house committee on economic development and energy and senate committee on economic development, trade and tourism information on the impact of this act in promoting economic development in this state. At the minimum, the information shall include aggregate statistics on each of the following:

(a) The number and dollar amount of provisions of financing assistance made by licensees to business firms.

(b) The number and dollar amount of provisions of financing assistance made by licensees to business firms classified in broad categories of industry such as divisions of the standard industrial classification manual.

(c) The number and dollar amount of provisions of financing assistance made by licensees to minority owned business firms and to woman owned business firms.

(d) Estimates of the number of jobs created or retained.

History: 1986, Act 89, Imd. Eff. May 1, 1986.

487.1217 Examination of licensee or subsidiary of licensee; exhibiting books, accounts, and other records; facilitating examination; retention of person to assist commissioner.

Sec. 217. (1) The commissioner shall examine each licensee not less than once each calendar year.

(2) The commissioner may at any time examine a licensee or subsidiary of a licensee.

(3) A director, officer, manager, or employee of a licensee or of a subsidiary of a licensee being examined by the commissioner, or a person having custody of any of the books, accounts, or records of the licensee or of the subsidiary, shall provide the commissioner, on request, any of the books, accounts, and other records of the licensee or of the subsidiary and shall otherwise facilitate the examination so far as it is in their power to do so.

(4) If in the commissioner's opinion it is necessary in the examination of a licensee or of a subsidiary of a licensee, the commissioner may retain a certified public accountant, attorney, appraiser, or other person to assist the commissioner. Within 10 days after receipt of a statement from the commissioner, the licensee being examined shall pay the fees of a person retained by the commissioner under this subsection.

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