ENTERPRISE COMMUNITY DEVELOPMENT CORPORATION ACT
Act 123 of 1995

AN ACT to provide for the authorization of municipalities of this state to create an enterprise community development corporation; to facilitate the implementation of strategic plans relating to the designation and treatment of enterprise communities; to stimulate the creation of new jobs for the disadvantaged and long-term unemployed; to promote revitalization of economically distressed areas; to prescribe the powers and duties of enterprise community development corporations; to provide for the creation of neighborhood review panels; and to provide for the condemnation and transfer of public and private property to carry out the purposes of this act.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

The People of the State of Michigan enact:

125.2601 Short title.

Sec. 1. This act shall be known and may be cited as the "enterprise community development corporation act".

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2603 Legislative findings.

Sec. 3. There exists in this state the continuing need for programs to alleviate and prevent conditions of long-term unemployment, economic distress, and accompanying social ills. Accordingly, the legislature finds that in order to stimulate the creation of new jobs and to promote the revitalization of distressed areas, it is necessary to empower municipalities to create enterprise community development corporations to facilitate the implementation of municipalities' strategic plans aimed toward those ends, and to ensure local oversight of strategic plan implementation.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2605 Definitions.

Sec. 5. As used in this act:

(a) "Board" means the board of directors of an enterprise community development corporation.

(b) "Chief executive officer" means the mayor or city manager of a city, the president of a village, the supervisor of a township, or the county executive of a county or, if a county does not have a county executive, the chairperson of the county board of commissioners.

(c) "Corporation" means an enterprise community development corporation organized under this act.

(d) "Enterprise community" means an area designated as an enterprise community by the United States department of housing and urban development or the United States department of agriculture.

(e) "Governing body" means the body in which the legislative powers of a municipality are vested.

(f) "Municipality" means a county, city, village, or township.

(g) "Strategic plan" means a plan agreed to by this state and a municipality concerning an enterprise community that includes both of the following:

(*i*) Certification of the authority to adopt a strategic plan in an application for nomination as an enterprise community under applicable federal regulations.

(*ii*) A written commitment of this state and the municipality to adhere to the plan.

(h) "Substantial interest" means 1 or more of the following:

(*i*) Owning real property or a business located in the enterprise community.

(*ii*) Having a substantial demonstrable interest in real property or in a business located in the enterprise community.

(*iii*) Engaging in activities to improve the social and economic conditions of the enterprise community.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2607 Enterprise community development corporation; application for incorporation; notice; public hearing; process for approving articles of incorporation and bylaws.

Sec. 7. (1) A written application may be made by not less than 3 persons to the governing body of a municipality with a population of less than 900,000 for permission to incorporate an enterprise community development corporation on behalf of the municipality. The application shall include proposed articles of incorporation and proposed bylaws. The name of the corporation shall be "the enterprise community development corporation of _____" (the name of the incorporating municipality).

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(2) The governing body of the municipality shall notify the public of receipt of the application as provided in subsection 3. The application may be approved after a public hearing by adoption of a resolution by the governing body.

(3) Notice of the time and place of the hearing shall be given by publication once in a newspaper of general circulation designated by the municipality not less than 10 days before the date set for the hearing. In addition, notice of the hearing shall be posted not less than 10 days before the hearing in at least 10 conspicuous and public places within the designated enterprise community.

(4) The process for approving the articles of incorporation and the bylaws and for amending the articles or bylaws shall be prescribed by an ordinance of the municipality.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2609 Articles of incorporation; filing; validity.

Sec. 9. (1) If the governing body approves both the application to incorporate the corporation and the articles of incorporation, the clerk of the municipality shall file the original of the articles of incorporation with the department of commerce and 1 copy in his or her office after certifying that the copy is a true and accurate copy of the original articles of incorporation.

(2) The corporation is incorporated at the time the articles of incorporation are filed with the department of commerce. The validity of the incorporation shall be conclusively presumed unless challenged in a court of competent jurisdiction not more than 60 days after the incorporation.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2611 Incorporation of more than 1 corporation prohibited.

Sec. 11. A municipality shall not approve incorporation of more than 1 corporation under this act.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2613 Board of directors; determination of size and composition by ordinance; appointment; removal; qualifications, selection, vacancy, number, and demographic diversity of members; executive committee; neighborhood review panel; employment of executive director and staff.

Sec. 13. (1) The size and composition of the board shall be determined by an ordinance of the municipality. In a municipality with a population of 900,000 or more, 60% of the board members shall live or work in the enterprise community as prescribed in an ordinance of the municipality, and 40% of the board members need not be residents of, but shall have a significant interest in or shall be representatives of organizations with a substantial interest in, the enterprise community as prescribed in an ordinance of the municipality. An elected official or candidate for elective office shall not serve as a board member.

(2) The chief executive officer, with the approval of the municipality's governing body, shall appoint the members of the board of directors. A director may be removed for cause by the chief executive officer as prescribed by an ordinance of the municipality.

(3) The qualifications and mechanisms for the selection of the members of the board of directors, the filling of vacancies, and the number of members shall be prescribed by an ordinance of the municipality. The board of directors and all committees shall reflect the demographic diversity of the enterprise community.

(4) The board of directors shall establish an executive committee to manage the corporation. The size and manner of selection of the members of the executive committee and the number of members shall be prescribed by ordinance of the municipality. In a municipality with a population of 900,000 or more, 60% of the executive committee shall live or work in the enterprise community as prescribed in an ordinance of the municipality, and 40% of the executive committee need not be residents of, but shall have a substantial interest in or shall be representatives of organizations with a substantial interest in, the enterprise community as prescribed in an ordinance of the municipality. The executive committee shall reflect the demographic diversity of the enterprise community.

(5) The board of directors may establish neighborhood review panels and necessary subcommittees to monitor the implementation of programs detailed in the strategic plan. The size and manner of selection of the members of the neighborhood review panels and the number of members shall be prescribed by an ordinance of the municipality. In addition, the neighborhood review panel shall demographically reflect the enterprise community.

(6) The corporation shall employ an executive director and other necessary staff.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2615 Board of directors; appointment; terms; expiration of term; compensation and

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expenses.

Sec. 15. (1) The board of directors shall be appointed for staggered terms as prescribed by an ordinance of the municipality.

(2) A director whose term of office has expired shall continue to hold office until the chief executive officer appoints the director's successor, with the approval of the municipality's governing body.

(3) A director shall serve without compensation, but may be reimbursed for the actual expenses incurred in the performance of his or her official duties.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2617 Disclosure of interest in matter before corporation.

Sec. 17. A director who has either a direct or indirect interest in a matter before the corporation shall disclose that interest before the corporation takes action on the matter. This disclosure shall be made a part of the record of the corporation's official proceedings and the interested director shall refrain from participation in the corporation relating to the matter.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2619 Board of directors; quorum.

Sec. 19. The number of board members required to make a quorum for the transaction of corporation business shall be prescribed by an ordinance of the municipality.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2621 Corporation; powers and duties.

Sec. 21. (1) The corporation has the powers and duties to do all of the following:

(a) Coordinate, review, recommend prioritization of, monitor, and evaluate the programs of the agencies implementing the strategic plan to ensure the achievement of benchmarks and timetables as detailed in that strategic plan.

(b) Solicit and accept gifts, donations, in-kind services, grants, loans, appropriations, or other money from a federal, state, local, or private source for operating expenses.

(c) Acquire, hold, lease, or dispose of real or personal property necessary or convenient to accomplish the purposes of this act.

(d) Procure the director's bond and liability insurance that are prescribed by an ordinance of the municipality.

(e) Submit to the chief executive officer and the governing body of the municipality periodic progress, financial, and performance reviews, and other reports considered necessary by the chief executive officer and the governing body of the municipality. These reports shall be made available to the public by the municipality upon request.

(f) With the concurrence of the municipality by its governing body and chief executive officer, modify the strategic plan, except as precluded by federal, state, or local law.

(g) Possess all other powers necessary and appropriate that are not inconsistent with federal, state, or local law to coordinate, review, recommend prioritization of, monitor, and evaluate the programs of the agencies implementing the strategic plan as detailed in that strategic plan.

(2) The municipality may assign by ordinance to the corporation additional powers and duties to the extent not prohibited by state law.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2623 Corporation; dissolution.

Sec. 23. (1) A corporation that completes the duties enumerated in section 21(1)(a) shall be dissolved by the adoption of a resolution by a majority of 2/3 of the members of the board of directors. The resolution shall be approved by a majority of the members of the governing body of the municipality. After approval of the resolution, the clerk of the municipality shall file a copy of the resolution with the department of commerce.

(2) Net assets of the corporation that are in excess of that amount necessary to retire indebtedness or to complete the duties enumerated in section 21(1)(a) shall inure to the benefit of the municipality, and not to another person or entity. Upon dissolution of the corporation, title to all corporate real and personal property vests in the municipality, and possession of all corporate money transfers to the municipality to be used exclusively for charitable or public purposes.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2625 Imposition of sanctions; basis; approval.

Sec. 25. The chief executive officer of the municipality may impose sanctions upon the corporation based

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on periodic performance reviews as prescribed by an ordinance of the municipality and with the approval of the governing body of the municipality.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2627 Proceedings under powers of eminent domain; taking and transfer of property; terms and conditions.

Sec. 27. In order to accomplish the purposes of this act, a municipality may institute and prosecute proceedings under its powers of eminent domain in accordance with state law or local charter. The taking and transfer of public and private property by the municipality for use in a project set forth in a strategic plan may be on terms and conditions that the municipality considers appropriate and shall be considered necessary for the benefit of the public.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2629 Construction of act.

Sec. 29. This act shall be liberally construed to effectuate its purposes.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

125.2631 Authority of act in addition to power of municipality.

Sec. 31. The authority given by this act shall be in addition to and not in derogation of the power of a municipality existing under statutory or charter provisions.

History: 1995, Act 123, Imd. Eff. June 30, 1995.

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