CHAPTER 116S

MINNESOTA BUSINESS FINANCE, INC.

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116S.01 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

Subd. 2. **Board.** "Board" means the Board of Directors of Minnesota Business Finance, Inc.

Subd. 3. **Corporation.** "Corporation" means Minnesota Business Finance, Inc.

History: *1993 c 177 s 2*

116S.02 CORPORATION; MEMBERS; BOARD OF DIRECTORS; POWERS.

Subdivision 1. **Public corporation.** Minnesota Business Finance, Inc. is a public corporation of the state and is not subject to the laws governing a state agency except as provided in this chapter. The business of the corporation must be conducted under the name "Minnesota Business Finance, Inc."

Subd. 2. **Purpose.** The purpose of the corporation is to engage in economic development activities throughout Minnesota and to provide access to capital for commercial borrowers throughout Minnesota primarily through the Small Business Administration section 503 program, United States Code, title 15, section 697, as amended.

Subd. 3. **Board of directors.** The corporation is governed by a board of 14 directors. The membership terms, compensation, removal, and filling of vacancies of public members of the board are governed by section 15.0575 except that the terms of the public members are concurrent. The membership of the board consists of the commissioner of employment and economic development or the commissioner's designee and 13 members who are:

(1) involved in economic development within the state of Minnesota;

(2) selected by the membership of the corporation in accordance with section 116S.04, subdivision 3; and

(3) representative of government, private-sector lending institutions, community organizations, and business organizations as described in Code of Federal Regulations, title 13, section 108.503-1(b)(2), as amended.

Subd. 4. **Bylaws.** The board of directors shall adopt bylaws and publish the bylaws and amendments to the bylaws in the State Register.

Subd. 5. **Places of business.** The board shall locate and maintain the corporation's places of business within the state.

Subd. 6. **Meetings and actions of board.** (a) The board shall meet at least twice a year and may hold additional meetings upon giving notice in accordance with the bylaws of the corporation. Except as provided in subdivision 7, board meetings are subject to chapter 13D.

(b) A conference among directors by any means of communication through which the directors may simultaneously hear each other during the conference constitutes a board meeting if the number of directors participating in the conference is sufficient to constitute a quorum for the meeting. Participation in a meeting by that means constitutes presence in person at the meeting.

Subd. 7. **Closed meetings; recording.** The board of directors may by a majority vote in a public meeting decide to hold a closed meeting for purposes of discussing data described in subdivision 8 or security information, trade secret information, or labor relations information, as defined in section 13.37, subdivision 1. The time and place of the closed meeting must be announced at the public meeting. A written roll of members present at the closed meeting must be made available to the public after the closed meeting. The proceedings of a closed meeting must be tape recorded. The data on the tape are nonpublic data or private data on individuals as defined in section 13.02, subdivision 9 or 12, whichever is applicable.

Subd. 8. **Application and investigative data.** Financial data, statistics, and information furnished to the corporation in connection with assistance or proposed assistance, including credit reports, financial statements, statements of net worth, income tax returns, either personal or corporate, and any other business and personal financial records are private data with regard to data on individuals under section 13.02, subdivision 12, or as nonpublic data with regard to data not on individuals under section 13.02, subdivision 9.

Subd. 9. **Conflict of interest.** A director, employee, or officer of the corporation may not participate in or vote on a decision of the board relating to an organization in which the director has either a direct or indirect financial interest or a conflict of interest as described in section 10A.07.

Subd. 10. **Tort claims.** The corporation is a state agency for purposes of section 3.736.

Subd. 11. **Data practices and records management.** The corporation is subject to chapter 13 and sections 15.17 and 138.163 to 138.226.

History: *1993 c 177 s 3; 1Sp2003 c 4 s 1*

116S.03 CORPORATE PERSONNEL.

Subdivision 1. **Generally.** The board shall appoint and set the compensation for the executive director, who serves as chief executive officer of the corporation. The executive director's compensation may not exceed 95 percent of the salary of the governor set under section 15A.082. The board may designate the executive director as its general agent. Subject to the approval of the board, the executive director shall employ staff consultants and other agents necessary to carry out the mission of the corporation.

Subd. 2. **Status of employees.** Employees, officers, and directors of the corporation are not state employees, but are covered by section 3.736 and, at the option of the board, may participate in the state retirement plan, the state deferred compensation plan for employees in the unclassified service, and an insurance plan administered by the commissioner of management and budget.

History: *1993 c 177 s 4; 2008 c 204 s 42; 2009 c 101 art 2 s 109*

116S.04 POWERS OF CORPORATION.

Subdivision 1. **General corporate powers.** (a) The corporation has the powers granted to a nonprofit corporation by section 317A.161, except as otherwise provided in this chapter.

(b) Except as specified in section 116S.02, subdivision 10, the state is not liable for the obligations of the corporation.

(c) Section 317A.161 applies to this chapter and the corporation in the same manner that it applies to business corporations established under chapter 317A.

(d) The corporation is a state agency for purposes of the following accounting and budgeting requirements:

(1) financial reports and other requirements under section 16A.06;

(2) the state budget system under sections 16A.095, 16A.10, and 16A.11;

(3) the state allotment and encumbrance, and accounting systems under sections 16A.14, subdivisions 2, 3, 4, and 5; and 16A.15, subdivisions 2 and 3; and

(4) indirect costs under section 16A.127.

Subd. 2. **Duties.** (a) The corporation must qualify as a state development company for purposes of United States Code, title 15, section 697, as amended, and must comply with applicable Small Business Administration organizational, operational, regulatory, and reporting requirements.

(b) The corporation must also comply with the requirements of the Small Business Administration's section 504 loan program, United States Code, title 15, section 697a, as amended.

Subd. 3. **Membership.** The governor shall appoint at least 25 members of the corporation, who must be representatives of government, private-sector lending institutions, community organizations, and business organizations, as described in Code of Federal Regulations, title 13, section 108.503-1(d), as amended. The membership shall select the members of the board of directors in accordance with section 116S.02, subdivision 3. The board may submit names of persons for consideration by the governor in filling vacancies in the membership under this subdivision.

History: *1993 c 177 s 5*

116S.05 REGISTERED NAME.

Notwithstanding section 317A.115, the secretary of state shall register the name "Minnesota Business Finance, Inc." on behalf of the corporation.

History: *1993 c 177 s 6*

116S.06 MINNESOTA BUSINESS FINANCE ACCOUNT.

The Minnesota business finance account is an account in the special revenue fund. Money in the account not needed for the immediate purposes of the corporation may be invested by the state Board of Investment in any way authorized by section 11A.24. Money in the account is appropriated to the corporation to be used as provided in this chapter.

History: *1993 c 177 s 7*

116S.07 AUDITS.

The corporation is subject to the auditing requirements of sections 3.971 and 3.972.

History: *1993 c 177 s 8*

116S.08 ANNUAL REPORTS.

The board shall submit annual reports to the chairs of the Committee on Commerce and Economic Development of the house of representatives and the Committee on Jobs, Energy and Community Development of the senate and to the Small Business Administration on the activities of the corporation. The board shall supply more frequent reports if requested.

History: *1993 c 177 s 9*

116S.09 DISSOLUTION.

In the event of dissolution of the corporation for any reason, the state, upon action by the governor, and after consultation with the Legislative Advisory Commission, may require the liquidation of all holdings and investments and the return of the proceeds of that liquidation and any wholly owned assets of the corporation to the state, in exchange for the assumption of all outstanding obligations of the corporation.

If the corporation is dissolved, or certain of its functions transferred to another entity, the assets and liabilities and property associated with the dissolved or transferred functions must return to the state or to the entity designated by laws.

History: *1993 c 177 s 10*

116S.10 SUCCESSOR STATUS.

(a) Minnesota Business Finance, Inc. is the legal successor in all respects of Opportunities Minnesota Incorporated established under section 116J.985, and all assets and liabilities are transferred to it. The board of directors shall promptly upon appointment amend the relevant documents and file them with the secretary of state.

(b) The balance of the funds in the special revenue fund account currently allocated to Opportunities Minnesota Incorporated are transferred to the Minnesota business finance account for the purposes of sections 13.598, subdivision 3, and 116S.01 to 116S.09.

History: *1993 c 177 s 11; 1999 c 227 s 22*

116S.11 RELATIONSHIP TO OTHER CERTIFIED DEVELOPMENT COMPANIES.

The corporation must refer all Small Business Administration 504 projects to a local certified development company if a local certified development company serves the area where the project is located. If the local certified development company is unable to assist a business it must inform the business that it can apply for the project through the corporation.

History: *1993 c 177 s 12*