

CHAPTER 67
CORRECTED COPY

AN ACT establishing a Social Impact Investment Fund, supplementing chapter 18A of Title 52 of the Revised Statutes, and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.52:18A-265 Findings, declarations.

1. The Legislature finds and declare that:
 - a. New Jersey residents could meaningfully benefit from expanded access to below-market-rate capital for socially beneficial projects, including support for public infrastructure, affordable housing and neighborhood revitalization, small business lending, early childhood education facilities, and higher education financing.
 - b. Access to capital is vitally important for the health, security, and well-being of all individuals and businesses in this State and the lack of accessible capital exacerbates the economic hardships being faced by working families and businesses.
 - c. Public banking is a model that could expand capital access by leveraging public and private dollars to finance and support sustainable and forward-thinking projects that would benefit the public interest.
 - d. A public banking model could address the unique needs and goals of community banking institutions, small businesses, and emerging and early-stage developers.
 - e. Recognizing the value that a public bank could provide, Governor Murphy issued Executive Order No. 91 of 2019 establishing a Public Bank Implementation Board responsible for studying and making recommendations to the Governor regarding the development of a public bank for New Jersey.
 - f. The Social Impact Investment Fund established by P.L.2023, c.67 (C.52:18A-265 et seq.), inspired by the work of the Public Bank Implementation Board, will leverage public capital with investments from private sector institutions and individuals to create a lending pool to provide below-market-rate loans and guarantees to achieve positive social impacts.
 - g. It is the intent of the Legislature that the deployment of State funds through the Social Impact Investment Fund will demonstrate the potential of a public banking model to the benefit the residents of New Jersey.

C.52:18A-266 Definitions.

2. As used in P.L.2023, c.67 (C.52:18A-265 et seq.):

“Affordable housing project” means development undertaken for the purpose of creating one or more residential structures, whether in the form of detached units or attached units for separate occupancy, in which a substantial percentage of the housing units are provided for a reasonable income range of low- and moderate-income households, as determined by the New Jersey Housing and Mortgage Finance Agency, including any structures or facilities appurtenant or ancillary thereto.

“Financially impaired municipality” means any municipality that at the time of the initiation of a project meets one or more of the following conditions: is eligible to receive aid under the “Special Municipal Aid Act,” P.L.1987, c.75 (C.52:27D-118.24 et seq.); is coextensive with a school district which qualified for designation as a “special needs district” pursuant to the “Quality Education Act of 1990,” P.L.1990, c.52 (C.18A:7D-1 et seq.); or is unable to satisfy the credit worthiness standards as set forth in the New Jersey Infrastructure Bank’s credit policy as determined by the New Jersey Infrastructure Bank.

“Fund” means the “Social Impact Investment Fund” established pursuant to subsection a. of section 3 of P.L.2023, c.67 (C.52:18A-267).

“Fund manager” means a private professional investment manager selected pursuant to subsection b. of section 3 of P.L.2023, c.67 (C.52:18A-267) to manage and invest the assets of the Social Impact Investment Fund.

“Institutional lender” means any bank or trust company, savings bank, national banking association, savings and loan association, credit union, or building and loan association maintaining an office in this State, or any insurance company, community development financial institution certified by the United States Department of the Treasury, or any mortgage banking firm or mortgage banking corporation authorized to transact business in this State.

“Letter of understanding” means a notice on a prescribed form from the New Jersey Housing and Mortgage Finance Agency that indicates that the proposed affordable housing project should be considered for a predevelopment loan from the fund. The letter of understanding shall not guarantee or construe that the affordable housing project will receive development financing from the New Jersey Housing and Mortgage Finance Agency.

“Predevelopment loan” means a loan for required expenses, other than administrative and construction, that are incurred by qualifying affordable housing developers in the process of, and prior to, securing long-term financing for construction, conversion, preservation, or rehabilitation of an affordable housing project, and that are recoverable once long-term financing is obtained. The purposes for which predevelopment loans may be made include, but are not limited to, the costs of, or the costs associated with: land purchase or options to buy land; options or deposits to buy or preserve existing government-assisted rental housing for the purpose of preserving the affordability of the units; professional services such as architectural, engineering, or legal services; permit or application fees; environmental remediation costs; and bonding, site preparation, related water or sewer development, or material expenses. In addition, the loans may be made for the purpose of extending the time for exercising an option or extending the time period for repayment of an advance previously obtained. These loan funds may be deposited in banks as compensating balances to establish lines of credit for qualifying affordable housing developers.

“Qualifying affordable housing developer” means any person, firm, company, corporation, urban renewal entity, or association of persons that has participated in and completed a New Jersey Housing and Mortgage Finance Agency approved emerging developer training and certification program and to which the agency has provided a letter of understanding.

“Special purpose vehicle” means an entity that is administered pursuant to an agreement between the State Treasurer and fund manager that is formed solely for the purpose of investing in the purposes enumerated in section 4 of P.L.2023, c.67 (C.52:18A-268).

C.52:18A-267 “Social Impact Investment Fund” established, maintained, State Treasurer.

3. a. The State Treasurer shall establish and maintain in the General Fund a separate, non-lapsing fund to be known as the Social Impact Investment Fund to carry out the purposes enumerated in section 4 of P.L.2023, c.67 (C.52:18A-268). The State Treasurer shall credit the fund with:

- (1) moneys appropriated by the Legislature for the purpose of the fund;
- (2) distributions from payments or repayments made to the fund;
- (3) earnings received, if any, from the investment or reinvestment of money credited to the fund; and
- (4) any money which, from time to time, may otherwise become available for the purposes of the fund.

- b. For the purposes of administering the fund, the State Treasurer shall have the power to:
 - (1) select, through an open and competitive process in consultation with other State agencies including but not limited to the New Jersey Infrastructure Bank, the Economic Development Authority, and the New Jersey Housing and Mortgage Finance Agency, one or more fund managers, and any other entities to create and manage one or more special purpose vehicles;
 - (2) enter into agreements with a fund manager necessary for the formation and management of a special purpose vehicle on terms and conditions as the State Treasurer determines to be reasonable, including, but not limited to, fees and operating expenses payable to the fund manager and other entities and a requirement for the fund manager to provide the State Treasurer with information required to complete the report required by section 5 of P.L.2023, c.67 (C.52:18A-269);
 - (3) monitor and audit a fund manager and any other entities by audits or other reports;
 - (4) invest monies from the fund in one or more special purpose vehicles developed, managed, and maintained by a fund manager pursuant to paragraph (1) of this subsection; and
 - (5) adopt rules and regulations governing the use and application of fund proceeds.
- c. Subject to the terms of an agreements to be entered between the State Treasurer and a fund manager or a special purpose vehicle, as applicable, a fund manager or special purpose vehicle shall:
 - (1) create one or more special purpose vehicles, which shall be funded by an initial \$20,000,000 investment from the Social Impact Investment Fund and any additional funds which may become available;
 - (2) make loans to institutional lenders and enter into agreements with institutional lenders that receive money from the fund, which agreements shall, at a minimum, require an institutional lender to use the moneys for the purposes set forth in section 4 of P.L.2023, c.67 (C.52:18A-268) and to provide the fund manager with information as required to complete the report required by section 5 of P.L.2023, c.67 (C.52:18A-269);
 - (3) purchase participation in loans from institutional lenders that advance the purposes set forth in section 4 of P.L.2023, c.67 (C.52:18A-268);
 - (4) sell loans made pursuant to paragraph (2) of this subsection or loan participations to enhance liquidity, interest rate risk management, capital and earnings, and to serve the credit needs of borrowers; and
 - (5) raise private capital of at least a 1:1 ratio for every public dollar invested net of the fund manager's operating expenses and fees, by utilizing the fund manager's own funds or by drawing on private capital including, but not limited to, direct investments or coordinated co-investments.
- d. The agreement between the State Treasurer and fund manager shall include terms governing the dissolution of the fund.
- e. Notwithstanding any other provision of law to the contrary, financial information received by the State Treasurer from a special purpose vehicle, to the extent that material or data consists of trade secrets, proprietary or commercial information, or information that may give other competitors an advantage, is confidential and shall not constitute a public record under P.L.1963, c.73 (C.47:1A-1 et seq.), or a government record subject to access pursuant to P.L.2001, c.404, and shall not otherwise be open to the public for inspection.

C.52:18A-268 State Treasurer, invest, special purpose vehicle, Social Impact Investment Fund.

4. Following the selection of a fund manager, the State Treasurer shall invest moneys appropriated to the Social Impact Investment Fund in one or more special purpose vehicles developed, managed, and maintained by the fund manager pursuant to paragraph (1) of

subsection b. of section 3 of P.L.2023, c.67 (C.52:18A-267). Permissible uses of fund capital invested in a special purpose vehicle shall be as follows:

a. to facilitate the financing of water and transportation infrastructure components of redevelopment projects in financially impaired municipalities through the provision of limited guarantees, debt reserve fund collateral, or subordinated loans for the municipalities. Any funds provided for the purposes of this subsection shall be transferred to the New Jersey Infrastructure Bank for purposes in accordance with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and shall be subject to the terms of an agreement between the special purpose vehicle and the New Jersey Infrastructure Bank. The agreement shall, at a minimum, set forth the various lien positions and the rights and liabilities of each entity and its impacts on the other creditors. Repayment of the amount transferred from the special purpose vehicle and any special purpose vehicle funds, net of returns on private capital investment, no longer needed to act as support for the purposes of this section shall be returned to the Social Impact Investment Fund. Notwithstanding the provisions of section 23 of P.L.1985, c.334 (C.58:11B-23) or any other law to the contrary, moneys received by the New Jersey Infrastructure Bank pursuant to P.L.2023, c.67 (C.52:18A-265 et seq.) may be expended consistent with the provisions of P.L.2023, c.67 (C.52:18A-265 et seq.);

b. to provide predevelopment loans, in consultation with the New Jersey Housing and Mortgage Finance Agency, to qualifying affordable housing developers that are seeking to participate in Low Income Housing Tax Credit supported development under the Unified Application for New Jersey Housing and Mortgage Finance Agency Multifamily Rental Housing Production Programs; and

c. to facilitate the financing of construction and maintenance of early childhood education facilities, for children age zero through pre-K, in financially impaired municipalities, as determined by the Division of Early Childhood Education in the Department of Education.

C.52:18A-269 Report to Governor, Legislature.

5. On or before June 30 of the second year following the effective date of P.L.2023, c.67 (C.52:18A-265 et seq.), the State Treasurer, in consultation with the New Jersey Infrastructure Bank and New Jersey Housing and Mortgage Finance Agency, shall prepare and submit a written report regarding the use of funds appropriated to the Social Impact Investment Fund. This report shall be submitted to the Governor and, pursuant to section 3 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

C.52:18A-270 Regulations, implementation.

6. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the State Treasurer, in consultation with the New Jersey Infrastructure Bank and New Jersey Housing and Mortgage Finance Agency, may adopt, immediately upon filing with the Office of Administrative Law, regulations the State Treasurer deems necessary to implement the provisions of P.L.2023, c.67 (C.52:18A-265 et seq.), which regulations shall be effective for a period not to exceed 365 days and may, thereafter, be amended, adopted, or readopted by the State Treasurer, in consultation with the New Jersey Infrastructure Bank and New Jersey Housing and Mortgage Finance Agency, in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

7. There is appropriated from the General Fund to the Social Impact Investment Fund, established in subsection a. of section 3 of P.L.2023, c.67 (C.52:18A-267), \$20,000,000 to effectuate the purposes of P.L.2023, c.67 (C.52:18A-265 et seq.).

8. This act shall take effect immediately.

Approved June 30, 2023.