HOUSE SUBSTITUTE FOR

SENATE BILL NO. 966

A bill to amend 1966 PA 346, entitled

"State housing development authority act of 1966,"

by amending section 22 (MCL 125.1422), as amended by 2012 PA 327, and by adding section 22e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 22. The authority possesses all powers necessary or convenient to carry out this act, including the following powers in addition to other powers granted by other provisions of this act:

(a) To sue and to be sued; to have a seal and to alter the seal at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make, amend, and repeal bylaws and rules.

(b) To undertake and carry out studies and analyses of housing needs within this state and ways of meeting those needs, including data with respect to population and family groups, the distribution of population and family groups according to income, and the amount and quality of available housing and its distribution according to rentals and sales prices, employment, wages, and other factors affecting housing needs and the meeting of housing needs; to make the results of those studies and analyses available to the public and the housing and supply industries; and to engage in research and disseminate information on housing.

(c) To agree and comply with conditions attached to federal financial assistance.

(d) To survey and investigate housing conditions and needs, both urban and rural, throughout this state and make recommendations to the governor and the legislature regarding legislation and other measures necessary or advisable to alleviate any existing housing shortage in this state.

(e) To establish and collect fees and charges in connection with the sale of the authority's publications and the authority's loans, commitments, and ~~servicing,~~ **services**, including, but not limited to, the reimbursement of costs of financing by the authority, service charges, and insurance premiums as the authority determines to be reasonable and as approved by the authority. Fees and charges ~~shall~~ **must** be determined by the authority and ~~shall~~ **are** not ~~be~~ considered to be interest. The authority may use any accumulated fees and charges and interest income for achieving any of the corporate purposes of the authority, to the extent that the fees, charges, and interest income are not pledged to the repayment of bonds and notes of the authority or the interest on those bonds

and notes.

(f) To encourage community organizations to assist in initiating housing projects as provided in this act.

(g) To encourage the salvage of all possible usable housing scheduled for demolition because of highway, school, urban renewal, or other programs by seeking authority for the sponsors of the programs to use funds provided for the demolition of the buildings, to be allocated to those sponsors approved by the authority to defray moving and rehabilitation costs of the buildings.

(h) To engage and encourage research in, and to formulate demonstration projects to develop, new and better techniques and methods for increasing the supply of housing for persons eligible for assistance as provided in this act; and to provide technical assistance in the development of housing projects and in the development of programs to improve the quality of life for all the people of this state.

(i) To make or purchase loans, including loans for condominium units as **that term is** defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104, and ~~including~~ loans to mortgage lenders ~~,~~ ~~which~~ **that** are unsecured or the repayments of which are secured by mortgages, security interests, or other forms of security; to purchase and enter into commitments for the purchase of securities, certificates of deposits, time deposits, or mortgage loans from mortgage lenders; to participate in the making or purchasing of unsecured or secured loans and undertake commitments to make, **guarantee**, or purchase unsecured or secured loans; to sell mortgages, security interests, notes, and other instruments or obligations evidencing or securing loans, including certificates evidencing interests in 1 or more loans, at public or private sale;

in connection with the sale of an instrument or obligation evidencing or securing 1 or more loans, to service, guarantee payment on, or repurchase the instrument or obligation, whether or not it is in default; to modify or alter mortgages and security interests; to foreclose on any mortgage, security interest, or other form of security; to finance housing units; to commence an action to protect or enforce a right conferred upon the authority by law, mortgage, security agreement, contract, or other agreement; to bid for and purchase property that was the subject of the mortgage, security interest, or other form of security, at a foreclosure or at any other sale, and to acquire or take possession of the property. Upon acquiring or taking possession of the property, the authority may complete, administer, and pay the principal and interest of obligations incurred in connection with the property, and may dispose of and otherwise deal with the property in any manner necessary or desirable to protect the interests of the authority in the property. If the authority or an entity that provides mortgage insurance to the authority acquires property ~~upon~~ **on** the default of a borrower, the authority may make a mortgage loan to a subsequent purchaser of that property even if the purchaser does not meet otherwise applicable income limitations and purchase price limits.

(j) To set standards for housing projects that receive loans under this act and to provide for inspections to determine compliance with those standards. The standards for construction and rehabilitation of mobile homes, mobile home parks, and mobile home condominium projects shall be established jointly by the authority and the mobile home commission, created in section 3 of the mobile home commission act, 1987 PA 96, MCL 125.2303. However, financing

standards shall be established solely by the authority.

(k) To accept gifts, grants, loans, appropriations, or other aid from the federal, state, or local government, from a subdivision, agency, or instrumentality of a federal, state, or local government, or from a person, corporation, firm, or other organization.

(*l*) To acquire or contract to acquire from a person, firm, corporation, municipality, or federal or state agency, by grant, purchase, or otherwise, leaseholds or real or personal property, or any interest in a leasehold or real or personal property; to own, hold, clear, improve, and rehabilitate and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber any interest in a leasehold or real or personal property. This act shall not impede the operation and effect of local zoning, building, and housing ordinances, ordinances relating to subdivision control, land development, or fire prevention, or other ordinances having to do with housing or the development of housing.

(m) To procure insurance against any loss in connection with the property and other assets of the authority.

(n) To invest, at the discretion of the authority, funds held in reserve or sinking funds, or money not required for immediate use or disbursement, in obligations of this state or of the United States, in obligations the principal and interest of which are guaranteed by this state or the United States, or in other obligations as may be approved by the state treasurer.

(o) To promulgate rules necessary to carry out the purposes of this act and to exercise the powers expressly granted in this act ~~pursuant to~~ **under** the administrative procedures act of 1969, 1969

PA 306, MCL 24.201 to 24.328.

(p) To enter into agreements with nonprofit housing corporations, consumer housing cooperatives, limited dividend housing corporations, mobile home park corporations, and mobile home park associations that provide for regulation by the authority of the planning, development, and management of any housing project undertaken by nonprofit housing corporations, consumer housing cooperatives, limited dividend housing corporations, mobile home park corporations, and mobile home park associations and that provide for the disposition of the property and franchises of those corporations, cooperatives, and associations.

(q) To appoint to the board of directors of a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association, a number of new directors sufficient to constitute a majority of the board notwithstanding other provisions of the articles of incorporation or other provisions of law. Directors appointed under this subsection need not be stockholders or members or meet other qualifications that may be described by the certificate of incorporation or bylaws. In the absence of fraud or bad faith, directors appointed under this subsection shall not be personally liable for debts, obligations, or liabilities of the corporation or association. The authority may appoint directors under this subsection only if 1 or more of the following occur:

(*i*) The nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association has received a loan or advance, as provided for in this act, and the authority determines that the loan or advance is in jeopardy of not being repaid.

(*ii*) The nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association received a loan or advance as provided for in this act and the authority determines that the proposed housing project for which the loan or advance was made is in jeopardy of not being constructed.

(*iii*) The authority determines that ~~some~~ **any of the following apply:**

(A) Some part of the net income or net earnings of the nonprofit housing corporation is inuring to the benefit of a private individual, firm, corporation, partnership, or association. ~~; the authority determines that an~~

(B) An unreasonable part of the net income or net earnings of the consumer housing cooperative is inuring to the benefit of a private individual, firm, corporation, partnership, or association. ~~; or the authority determines that some~~

(C) Some part of the net income or net earnings of the limited dividend housing corporation, in excess of that permitted by other provisions of this act, is inuring to the benefit of a private individual, firm, corporation, partnership, or association.

(*iv*) The authority determines that the nonprofit corporation or consumer housing cooperative is in some manner controlled by, under the direction of, or acting in the substantial interest of a private individual, firm, corporation, partnership, or association seeking to derive benefit or gain from, or seeking to eliminate or minimize losses in any dealings or transactions with, the nonprofit corporation or consumer housing cooperative. ~~However, this~~ **This** subparagraph ~~shall apply~~ **applies** to individual cooperators in consumer housing cooperatives only in circumstances defined by the

authority in its rules.

(*v*) The authority determines that the nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association is in violation of the rules promulgated under this section.

(*vi*) The authority determines that the nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association is in violation of 1 or more agreements entered into with the authority that provide for regulation by the authority of the planning, development, and management of a housing project undertaken by the nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association or that provide for the disposition of the property and franchises of the corporation, cooperative, or association.

(r) To ~~give approval~~ **approve** or consent to ~~the~~ **any of the following:**

(*i*) The articles of incorporation submitted to the authority by a corporation seeking approval as a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, or mobile home park corporation under chapter 4, 5, 6, or 8. ~~; to give approval or consent to the~~

(*ii*) The partnership agreement, joint venture agreement, trust agreement, or other document of basic organization of a limited dividend housing association under chapter 7 or mobile home park association under chapter 9.

(s) To engage the services of private consultants on a

contract basis for rendering professional and technical assistance and advice.

(t) To lease real or personal property, **to operate as the sole statewide public housing agency**, and to accept federal funds for, and participate in, federal programs of housing assistance. **As used in this subdivision, "public housing agency" means that term as defined under 42 USC 1437a.**

(u) To review and approve rental charges for authority-financed housing projects and require whatever changes the authority determines to be necessary. The changes ~~shall become~~ **are** effective ~~after~~ not less than 30 ~~days'~~ **days after** written notice is given to the residents of the affected authority-financed housing projects.

(v) To set forth in the various loan documents of the authority those restrictions on the sale, conveyance by land contract, or transfer of residential real property, housing projects, or housing units for which a note is held by the authority and restrictions on the assumption by subsequent purchasers of loans originated by and held by, or originated for purchase by and held by, the authority as the authority determines to be necessary in order to comply with requirements of federal statutes, federal rules or regulations promulgated under 5 USC 551 to 559, state statutes, or state rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, or to obtain and maintain the tax exempt status of authority bonds and notes. ~~However, the~~ **The** authority shall not use a due on sale or acceleration clause solely for the purpose of renegotiating the interest rate on a loan made with respect to an owner-occupied single-family housing unit. Without limiting the

authority's power to establish other restrictions, as provided in this section, on the sale, conveyance by land contract, or transfer of residential real property, housing projects, or housing units for which a note is held by the authority and the assumption by subsequent purchasers of loans made or purchased by the authority, the authority shall provide in its loan documents relating to a single family loan that the single family loan may be assumed by a new purchaser only when the new purchaser qualifies under the authority income limitations rules, unless such a restriction diminishes or precludes the insurance or a guarantee by an agency of the federal government with respect to the single family loan. A loan made for a mobile home that the borrower does not intend to permanently affix to real property shall become immediately due and payable if the mobile home is moved out of the state. Any restrictions on conveyance by sale, conveyance by land contract, or transfer that are authorized in this section ~~shall~~ apply only to loans originated by and held by, or originated for purchase by and held by, the authority and may, at the option of the authority, be enforced by accelerating and declaring immediately due and payable all sums evidenced by the note held by the authority. An acceleration and declaration of all sums to be due and payable on conveyance by sale, land contract, or transfer is not an unreasonable restraint on alienation. An acceleration and declaration, unless otherwise prohibited in this subdivision, of all sums to be due and payable under this subdivision is enforceable in any court of competent jurisdiction. This subdivision ~~is applicable~~ **applies** to secured and unsecured loans ~~.~~ ~~This subdivision is also applicable to~~ **and** loan documents utilized in conjunction with an authority-operated program of residential

rehabilitation by an entity cooperating or participating with the authority under section 22a(4), if the loans are originated with the intent to sell those loans to the authority.

(w) To set forth in the various loan documents of the authority remedies for the making of a false statement, representation, or pretense or a material misstatement by a borrower during the loan application process. Without limiting the authority's power to pursue other remedies, the authority shall provide in its loan documents that, if a borrower makes a false statement, representation, or pretense or a material misstatement during the loan application process, the authority, at its option, may accelerate and declare immediately due and payable all sums evidenced by the note held by the authority. An acceleration and declaration of all sums to be due and payable as provided in this subdivision is enforceable in any court of competent jurisdiction. This subdivision ~~is applicable~~ **applies** to secured and unsecured loans.

(x) To collect interest on a real estate loan, the primary security for which is not a first lien on real estate, at the rate of 15% or less per annum on the unpaid balance. This subdivision does not impair the validity of a transaction or rate of interest that is lawful ~~without regard to~~ **notwithstanding** this subdivision.

(y) To encourage and engage or participate in programs to accomplish the preservation of housing in this state available for occupancy by persons and families of low or moderate income.

(z) To verify for the state treasurer statements submitted by a city, village, township, or county as to exempt properties under section 7d of the general property tax act, 1893 PA 206, MCL 211.7d.

(aa) For the purpose of more effectively managing its debt service, to enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the authority.

(bb) To make working capital loans to contractors or subcontractors on housing projects financed by the authority. The authority shall submit an annual report to the legislature containing the amount, recipient, duration, circumstance, and other related statistics for each capital loan made to a contractor or subcontractor under this subdivision. The authority shall include in the report statistics related to the cost of improvements made to adapt property for use by disabled individuals as provided in section 32b or 44.

(cc) Subject to rules of the civil service commission, to adopt a code of ethics with respect to its employees that requires disclosure of financial interests, defines and precludes conflicts of interest, and establishes reasonable post-employment restrictions for a period of up to 1 year after an employee terminates employment with the authority.

(dd) To impose covenants running with the land in order to satisfy requirements of applicable federal law with respect to housing assisted or to be assisted through federal programs such as the low income housing tax credit program or the home investment partnerships program. These covenants shall be imposed by executing and recording regulatory agreements between the authority, or a municipality or other entity designated by the authority, and the person or entity to be bound. The covenants shall run with the land and be effective with respect to the parties making the covenants

and other intended beneficiaries of the covenants, even though there is no privity of estate or privity of contract between the authority and the persons or entities to be bound.

(ee) To impose covenants running with the land in order to satisfy requirements of applicable state or federal law with respect to housing financed by the authority. These covenants shall be imposed by executing and recording regulatory agreements between the authority and the person or entity to be bound. The covenants shall run with the land and be effective with respect to the parties making the covenants and other intended beneficiaries of the covenants, even though there is no privity of estate or privity of contract between the authority and the persons or entities to be bound. With respect to any applicable environmental laws, this subdivision does not grant to the authority any additional rights, privileges, or immunities not otherwise afforded to a private lender that is not in the chain of title for the land.

(ff) To participate in programs designed to assist persons and families whose incomes do not exceed 115% of the greater of statewide median gross income or the area median gross income become homeowners where loans are made by private lenders for purchase by the government national mortgage association, federal national mortgage association, federal home loan mortgage corporation, or other federally chartered organizations. Participation may include providing or funding homeownership counseling and providing some or all of a reserve fund to be used to pay for losses in excess of insurance coverage.

(gg) To invest, under the conditions prescribed in this subdivision and without the consent of the escrow depositors, up to 20% of funds held, by or for the authority, in escrow accounts for

the benefit of the authority or mortgagors of authority-financed housing. The investments under this subdivision shall be made in loans originated or purchased by the authority for construction or rehabilitation of multifamily housing developments for occupancy by persons or families without regard to income. In connection with loans described in this subdivision, the authority may charge and retain fees in amounts similar to those charged with respect to similar loans for which the source of funding does not come from escrow accounts. For purposes of this subdivision, "escrow account" means any account or reserve held by the authority and established in a mortgage or a regulatory agreement to which the authority is a party or which has been assigned to the authority. ~~However, for~~ **For** purposes of this subdivision, escrow account does not include any account labeled in the associated regulatory agreement as "development cost escrow principal" or "operating assurance reserve". For purposes of this subdivision, "multifamily housing development" means a development in which not less than 50% of the floor space is used primarily for residential purposes. The investment authorized by this subdivision ~~shall~~ **must** not be made unless both of the following requirements are met:

(*i*) The return on the loan is approximately equivalent to that which could be obtained from investments of substantially similar credit quality and maturity, as determined by the authority.

(*ii*) The authority agrees to pay with its own funds the principal balance of any loan, made with the escrow funds, that becomes delinquent in excess of 30 days. This subdivision does not obligate the authority to purchase a delinquent loan so long as with respect to that loan the authority pays to the escrow funds from its own funds the amount of the delinquent payments. The

authority's election to pay the delinquent payments to the escrow funds does not in any manner abate or cure the delinquency of the loan and the authority may resort to any remedies that would exist in the absence of that payment.

(hh) To acquire, develop, rehabilitate, own, operate, and enter into contracts with respect to the management and operation of real and personal property to use as office facilities by the authority and to enter into leases with respect to facilities not immediately necessary for the activities of the authority.

(ii) To make loans to certain qualified buyers and resident organizations and to make grants to resident organizations as provided in the following:

(*i*) The urban homestead act, 1999 PA 127, MCL 125.2701 to 125.2709.

(*ii*) The urban homesteading on vacant land act, 1999 PA 129, MCL 125.2741 to 125.2748.

(*iii*) The urban homesteading in single-family public housing act, 1999 PA 128, MCL 125.2761 to 125.2770.

(*iv*) The urban homesteading in multifamily public housing act, 1999 PA 84, MCL 125.2721 to 125.2734.

(jj) To implement and administer a housing and community development program as described in this act.

(kk) To implement, administer, or execute administrative, substantive, or supervisory powers ~~pursuant to~~ **under** the individual or family development account program act, 2006 PA 513, MCL 206.901 to 206.911.

(*ll*) To establish, implement, and administer the housing opportunity tax credit program under section 22e.

Sec. 22e. (1) The authority, in cooperation with the

department of treasury, shall establish, implement, and administer a housing opportunity tax credit program to encourage the development of qualified projects in this state.

(2) For award cycles beginning on and after January 1, 2027, the authority shall, in conjunction with applications received under section 22b, accept applications for housing opportunity tax credits under this section. The authority shall not issue an award for an annual housing opportunity tax credit under this program for a qualified project that exceeds the lesser of the following:

(a) The amount necessary for the financial feasibility of the qualified project.

(b) The adjusted annual federal credit amount for the qualified project.

(3) A person seeking a housing opportunity tax credit under this section shall submit an application in a form and manner as prescribed by the authority. In a process determined by the authority that considers the impact on total development costs, the authority shall give preference to qualified projects that use building components during construction or rehabilitation that are manufactured in this state. The authority shall review completed applications for housing opportunity tax credits received for 4% qualified projects on a first-come, first-served basis. The authority shall treat all complete applications received on the same day as having been received simultaneously. If the applications received for 4% qualified projects exceed the portion of the award cycle cap set aside under subsection (4)(b) and (c) on any day, the authority shall establish an evaluation methodology to determine which of the 4% qualified projects applications are approved and issued an approval notice for a housing opportunity

tax credit. Except as otherwise provided under this subsection, the evaluation methodology required under this subsection must be limited to factors that maximize efficient unit production, including, but not limited to, each of the following:

(a) The amount of the housing opportunity tax credit requested for each unit under the proposed qualified project.

(b) The number of units to be preserved or created under the proposed qualified project.

(c) The estimated development period of the proposed qualified project from the initial approval notice to placing the proposed qualified project in service.

(4) For the 2027 award cycle, the authority shall not issue approval notices for a total of more than the base annual amount of $42,000,000.00 for housing opportunity tax credits under this section. For each award cycle after the 2027 award cycle, to determine the award cycle cap for that award cycle, the base annual amount for the immediately preceding award cycle must be adjusted annually by the percentage increase in the United States Consumer Price Index for the immediately preceding calendar year. The total amount of all housing opportunity tax credits for which an approval notice is issued under this section must not exceed the award cycle cap for any award cycle. For each application window, the authority shall approve and allot not less than 45% of the award cycle cap set aside under subdivisions (b) and (c) to 4% qualified projects to the extent that the authority receives a sufficient number of applications. If, at the end of the final application window of each award cycle, the authority has not received a sufficient number of completed applications to allot the amount set aside under subdivision (b) or (c), the authority may reapportion the

unallotted credit amounts to other qualified projects in accordance with the qualified allocation plan or other alternative competitive processes. Except as otherwise provided under this subsection, the authority must set aside the following amounts of the award cycle cap as follows:

(a) Up to 50% to any qualified project at the authority's discretion.

(b) Not less than 25% shall be available during application windows to 4% qualified projects that are new construction.

(c) Not less than 25% shall be available during application windows to 4% qualified projects that are preservation.

(d) To the extent the authority receives a sufficient number of completed applications for projects that are located in rural areas, not less than 30% of the amounts set aside under subdivisions (a) to (c) during each award cycle shall be designated for qualified projects that are located in a rural area.

(5) If the authority approves an application for a housing opportunity tax credit, the authority shall send an approval notice to the applicant that states the amount of the housing opportunity tax credit approved for each year of the qualified project's credit period. The approval notice must clearly stipulate that the housing opportunity tax credit approved is contingent on the authority's approval of a final cost certification and the issuance of an eligibility statement, and for the purposes of the housing opportunity tax credit only, the exception under section 42(h)(6)(E)(i)(II) of the internal revenue code, 26 USC 42, does not apply. The owner and the authority shall use a regulatory agreement that gives preference to maximizing long-term affordability. On completion of a qualified project, as determined

by the authority, the owner shall submit a final cost certification and a request for the issuance of an eligibility statement to the authority. On approval of the final cost certification, the authority shall issue an eligibility statement to the owner for the qualified project. The eligibility statement must state the amount of the housing opportunity tax credit that may be claimed against an applicable tax each year of the credit period. Except as otherwise provided under section 281 or 678 of the income tax act of 1967, 1967 PA 281, MCL 206.281 and 206.678, or under section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, whichever is applicable, for each calendar year of the credit period, an owner claiming a housing opportunity tax credit shall claim the credit for that calendar year against an applicable tax for the owner's tax year beginning with or within that calendar year.

(6) If an owner that is a qualified taxpayer is a flow-through entity, the owner may, in a form and manner as prescribed by the authority, allocate all or a portion of the housing opportunity tax credit attributable to a qualified project to some or all of its members in any manner agreed to by its members, regardless of whether that member is allocated or allowed any portion of any federal low-income housing tax credit with respect to the same qualified project, whether the allocation of the housing opportunity tax credit under the terms of the agreement has substantial economic effect within the meaning of section 704(b) of the internal revenue code, 26 USC 704, and whether the member is deemed a partner for federal income tax purposes. A flow-through entity that receives an allocation of the housing opportunity tax credit under this subsection, either from the owner of the

qualified project or from another flow-through entity, may further allocate the housing opportunity tax credit among some or all of its members in the same manner as the owner. A member of a flow-through entity that is allocated or receives a pass-through of a housing opportunity tax credit under this subsection may assign all or any part of its interest in the flow-through entity and the assignee may subsequently be allocated credits from the flow-through entity. Except as otherwise provided under section 281 or 678 of the income tax act of 1967, 1967 PA 281, MCL 206.281 and 206.678, or under section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, whichever is applicable, a qualified taxpayer that has been allocated all or a portion of a housing opportunity tax credit under this subsection shall claim that credit against an applicable tax for the qualified taxpayer's tax year beginning with or within the calendar year in which the allocation was made. Any flow-through entity allocating all or a portion of a housing opportunity tax credit for a qualified project under this subsection shall provide the recipient with a copy of the eligibility statement or, if the authority has not yet issued an eligibility statement, the approval notice for that qualified project. If a copy of the approval notice is provided to the recipient and an eligibility statement is subsequently issued, the person who allocated the credit shall provide the recipient with a copy of the eligibility statement.

(7) The owner of a qualified project that is awarded a housing opportunity tax credit shall report any recapture event described in section 281(3) or 678(3) of the income tax act of 1967, 1967 PA 281, MCL 206.281 and 206.678, or section 476a(10) of the insurance code of 1956, 1956 PA 218, MCL 500.476a, to the designated

reporter, the department of treasury, and the authority in the same manner as required for the recapture of federal low-income housing tax credits. If the owner of the qualified project is not the only qualified taxpayer that claimed the housing opportunity tax credit attributable to that qualified project against an applicable tax, the designated reporter shall also report the recapture event to each qualified taxpayer that was allocated a housing opportunity tax credit attributable to that same qualified project.

(8) A designated reporter shall do both of the following:

(a) For each calendar year, provide the department of treasury, in the form prescribed by the department of treasury, an allocation report for the qualified project containing all of the following information:

(*i*) The name, address, and taxpayer identification number of the owner and each qualified taxpayer that has been allocated all or a portion of the annual credit listed on the eligibility statement or approval notice, whichever is applicable, for that year.

(*ii*) The amount of the annual credit retained by or allocated to each person listed under subparagraph (*i*) for that year and the person's tax year under the applicable tax.

(*iii*) The total of the amounts listed for each person under subparagraph (*ii*), demonstrating that the total does not exceed the amount listed on the eligibility statement or approval notice, whichever is applicable, for that year.

(*iv*) Any other information required by the department of treasury.

(b) If any of the information reported under subdivision (a) changes after the designated reporter has provided the allocation

report to the department of treasury, including, but not limited to, changes resulting from a reduction or increase in the amount of the annual credit approved in the approval notice, provide the department of treasury and any affected qualified taxpayer an updated allocation report for the calendar year in the time and manner as prescribed by the department of treasury.

(9) As used in this section:

(a) "Adjusted annual federal credit amount" means 1/6 of the aggregate amount of the federal credit allocated to a qualified project on federal income tax form 8609 over its federal credit period.

(b) "Allocation report" means the annual report submitted by a designated reporter to the department of treasury under subsection (8).

(c) "Applicable tax" means a tax imposed under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.847, or under section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a.

(d) "Application window" means the first quarter, January 1 through March 31, or the third quarter, July 1 through September 30, of the award cycle. If either the first or last day of the application window falls on a nonbusiness day, then the starting or ending date is the next business day.

(e) "Approval notice" means a binding reservation letter issued by the authority for a housing opportunity tax credit attributable to a qualified project during an award cycle, setting forth the amount of the housing opportunity tax credit to be claimed in each year of the credit period.

(f) "Award" or "awarded" means the issuance or receipt of an eligibility statement under subsection (5) for a qualified project.

(g) "Award cycle" means each calendar year for which the authority approves and issues approval notices for housing opportunity tax credits for qualified projects.

(h) "Award cycle cap" means the sum of the following:

(*i*) The base annual amount as determined under subsection (4) for each calendar year of the credit period.

(*ii*) The amount, if any, by which the award cycle cap prescribed under this section for the preceding award cycle exceeds the total of all housing opportunity tax credits approved by the authority in that award cycle.

(*iii*) The amount of housing opportunity tax credits recaptured or otherwise disallowed under subsection (7) in the preceding calendar year or otherwise returned to the authority since the prior award cycle.

(i) "Credit period" means the period of 6 calendar years beginning with the calendar year in which a building that is part of a qualified project is placed in service. If a qualified project consists of more than 1 building, then the owner may elect to either treat all buildings as 1 project and begin the credit period when the last building is placed in service or treat each building's credit period independently on a building-by-building basis. For purposes of the housing opportunity tax credit under this section, the special rule for the first year of the credit period under section 42(f)(2) of the internal revenue code does not apply.

(j) "Designated reporter" means the owner of the qualified project or a person designated by the owner to prepare the allocation report for the qualified project.

(k) "Eligibility statement" means a statement issued by the

authority to the owner of a qualified project certifying that the project is a qualified project and specifying the amount of the housing opportunity tax credit that may be claimed each year of the credit period, the years that comprise the credit period, the name, address, and taxpayer identification number of the owner, the date of issuance, and any additional information prescribed by the authority.

(*l*) "Federal credit period" means the 10-year period described under section 42(f)(1) of the internal revenue code, 26 USC 42.

(m) "Federal low-income housing tax credit" or "federal credit" means the credit allowed under section 42 of the internal revenue code, 26 USC 42.

(n) "Flow-through entity" means an entity that for the relevant tax year is treated as a subchapter S corporation under section 1362(a) of the internal revenue code, 26 USC 1362, a general partnership, a trust, a limited partnership, a limited liability partnership, or a limited liability company, and that for the tax year is not taxed as a corporation for federal income tax purposes. Flow-through entity does not include any entity treated as a corporation under section 699 of the income tax act of 1967, 1967 PA 281, MCL 206.699.

(o) "4% qualified project" means a qualified project that is eligible for both of the following:

(*i*) A federal low-income housing tax credit under section 42(h)(4) of the internal revenue code, 26 USC 42.

(*ii*) A bond issued under section 44c in which the authority is not the bondholder with respect to the bond proceeds.

(p) "Housing opportunity tax credit" means a tax credit authorized to be claimed against an applicable tax.

(q) "Internal revenue code" means the United States internal revenue code of 1986, 26 USC 1 to 9834.

(r) "Manufactured in this state" means the following:

(*i*) For iron or steel products, all manufacturing processes, from the initial melting stage through the application of coatings, occurred in this state.

(*ii*) For manufactured products, the final point of manufacture for the finished product is a facility physically located within the borders of this state, regardless of the origin of the subcomponents or raw materials used in the assembly or production of said product.

(*iii*) For construction materials, all manufacturing processes for the construction material occurred in this state.

(s) "Member", when used in reference to a flow-through entity, means a shareholder of a subchapter S corporation, a partner in a general partnership, a limited partnership, or a limited liability partnership, a member of a limited liability company, or a beneficiary of a trust that is a flow-through entity, as long as the shareholder, partner, member, or beneficiary, as applicable, is considered a shareholder, partner, member, or beneficiary under applicable state law governing such flow-through entity.

(t) "New construction" means newly constructed housing units and does not include the rehabilitation or acquisition of existing buildings or adaptive reuse projects. New construction includes the demolition necessary for the construction of new housing units.

(u) "Owner" means a person holding a fee simple interest in a qualified project or a leasehold interest pursuant to a ground lease in the land on which a qualified project is located.

(v) "Person" means an individual, bank, financial institution,

insurance company, association, corporation, flow-through entity, receiver, estate, trust, or any other group or combination of groups acting as a unit.

(w) "Preservation" means projects that involve rehabilitation of existing housing units or the adaptive re-use of an existing building.

(x) "Qualified project" means a qualified low-income building as defined in section 42(c) of the internal revenue code, 26 USC 42, that is located in this state, is eligible for the federal low-income housing tax credit, and is placed in service on or after January 1, 2027.

(y) "Qualified taxpayer" means that term as defined in section 281 or 678 of the income tax act of 1967, 1967 PA 281, MCL 206.281 and 206.678, or in section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, as applicable.

(z) "Rural area" means a city, village, or township with a population of 35,000 or less, or an area designated as rural as defined by the United States Department of Agriculture or the United States Census Bureau.

(aa) "Taxpayer" means a person subject to an applicable tax.

(bb) "United States Consumer Price Index" means the United States Consumer Price Index for all urban consumers as defined and reported by the United States Department of Labor, Bureau of Labor Statistics.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 103rd Legislature are enacted into law:

(a) House Bill No. 5806.

(b) House Bill No. 5807.