

**SUBSTITUTE FOR
SENATE BILL NO. 1497**

A bill to create certain agriculture innovation loan programs; to create certain boards and authorities and define their powers and duties; to authorize the making of loan guarantees by certain private entities; to enhance value-added agricultural processing, commercialization of agriculture technologies, processes, or products, and farming operations within this state; to provide for certain powers and duties for certain private entities, state agencies, commissions, and departments; to authorize loan guarantees and expenditures from the funds; to finance the development of value-added agricultural processing, commercialization of agriculture technologies, processes, or products, and farming operations within this state; to provide for the issuance and purchase of notes and bonds; to provide for the

establishment of funds; and to prescribe penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "George A. McManus, Jr. agriculture innovation loan guarantee act".

3 Sec. 3. As used in this act:

4 (a) "Agricultural processing" means 1 or more of the
5 operations that transform, package, sort, or grade livestock or
6 livestock products, agricultural commodities, or plant or plant
7 products into goods that are used for the intermediate or final
8 consumption, including goods for nonfood use.

9 (b) "Agriculture innovation loan guarantee programs" means 1
10 or more of the following:

11 (i) An agriculture innovation loan guarantee program.

12 (ii) A loan guarantee program for beginning and small farmers.

13 (iii) An interest rate assistance program.

14 (c) "Authority" means the Michigan agriculture innovation
15 finance authority.

16 (d) "Beginning farmer" means a farmer who has 10 years or less
17 of farming or ranching experience as of the date the loan is
18 originally made.

19 (e) "Board" means the board of directors of the Michigan
20 agriculture innovation finance authority.

21 (f) "Bond" means a bond issued by the authority pursuant to
22 this act.

23 (g) "Commercialization" means the transition from research to
24 the actions necessary to achieve market entry and general market
25 competitiveness of new innovative technologies, processes, and

1 products and the services that support, assist, equip, finance, or
2 promote a person or an entity with that transition.

3 (h) "Department" means the Michigan department of agriculture.

4 (i) "Eligible participants" means a person able to receive
5 loan guarantee expenditures under this section and includes, but is
6 not limited to, individuals, farmer-owned cooperatives,
7 partnerships, limited liability companies, private or public
8 corporations, and nonprofit organizations in Michigan. Eligible
9 participants shall not include any entity located in a renaissance
10 zone established under the Michigan renaissance zone act, 1996 PA
11 376, MCL 125.2681 to 125.2696.

12 (j) "Farming" means the cultivation of land for the production
13 and harvest of agricultural crops and includes the production of
14 poultry and poultry products, the production of livestock and
15 cervidae including breeding and grazing, the production of grains
16 and feeds, the production of forages and sod, the production of
17 dairy products, and the production of fruits and vegetables, the
18 harvest and production of timber and timber products, the
19 production of seeds and grasses, the harvest and production of
20 floriculture, the production of aquaculture, and the production of
21 equines.

22 (k) "FSA" means the farm service agency in the United States
23 department of agriculture.

24 (l) "Loan guarantee" means a commitment by the authority to pay
25 part or all of a loan's principal and interest to a lender or the
26 holder of a security in case the borrower defaults.

27 (m) "Loan guarantee transaction" means the aggregation of the

1 dollar amount of the existing outstanding principal balance of all
2 loans to the same borrower guaranteed under this act in addition to
3 the amounts of any new guarantee loan applications to the same
4 applicant.

5 (n) "Net worth" means total assets minus total liabilities as
6 determined in accordance with generally accepted accounting
7 principles with appropriate exceptions and exemptions.

8 (o) "Note" means a note issued by the authority pursuant to
9 this act.

10 (p) "Participating lenders" means lenders who have experience
11 in agricultural lending, who are approved by FSA as a preferred
12 lender or a certified lender, and who are eligible to participate
13 in the FSA guaranteed farm loan program.

14 (q) "Real or personal property" means all or any specifically
15 designated real estate, fixtures, or personal property offered as
16 security for the loan, including all forms of property eligible for
17 a security interest as defined by the uniform commercial code, 1962
18 PA 174, MCL 440.1101 to 440.11102.

19 (r) "Secured loan" means a financial obligation secured by a
20 lien on an interest in real or personal property.

21 (s) "Small farmer" means a farmer who has sustained annual
22 gross sales from agricultural production of less than \$250,000.00
23 at the date the loan was originally made. When 2 or more borrowers
24 sign a promissory note, the annual sales of the borrowers will be
25 aggregated for the purpose of determining whether the loan
26 qualifies as a small farmer loan.

27 (t) "Value-added" means the enhancement or improvement of the

1 overall value of an agricultural commodity or of an animal or plant
2 product into a product of higher value. The enhancement or
3 improvement includes, but is not limited to, marketing,
4 agricultural processing, transforming, or packaging.

5 Sec. 5. The Michigan agriculture innovation finance authority
6 is created as a body corporate within the department and shall be
7 administered under the supervision of the department but shall
8 exercise its prescribed statutory power, duties, and functions
9 independently of the department. The budgeting, procurement, and
10 related functions of the authority shall be performed under the
11 direction and supervision of the department. Funds of the authority
12 shall be handled in the same manner and subject to the same
13 provisions of law applicable to state funds or in a manner
14 specified in a resolution of the authority authorizing the issuance
15 of bonds and notes.

16 Sec. 7. (1) The authority shall be governed by a board of
17 directors consisting of the director of agriculture, the state
18 treasurer, and 7 other members with knowledge, skill, and
19 experience in production agriculture, agri-business, agricultural
20 banking, business, or the financial field who shall be appointed by
21 the governor with the advice and consent of the senate. None of the
22 7 members appointed under this section shall be employees of the
23 state. Of the members appointed under this section, there shall be
24 2 members representing production agriculture and 2 members
25 representing agricultural banking or the financial field. Of the
26 members appointed by the governor to serve an original term of 3
27 years, 1 shall be appointed from a list of 2 or more nominees of

1 the speaker of the house of representatives and 1 shall be
2 appointed from a list of 2 or more nominees of the senate majority
3 leader.

4 (2) The 7 members appointed under subsection (1) shall serve
5 terms of 3 years. In appointing the initial 7 members of the board,
6 the governor shall designate 3 to serve for 3 years, 2 to serve for
7 2 years, and 2 to serve for 1 year.

8 (3) Upon appointment to the board under subsection (1), and
9 upon the taking and filing of the constitutional oath of office, a
10 member of the board shall enter the office and exercise the duties
11 of the office.

12 (4) Regardless of the cause of a vacancy on the board, the
13 governor shall fill a vacancy in the office of a member of the
14 board by appointment with the advice and consent of the senate. A
15 vacancy shall be filled for the balance of the unexpired term of
16 the office. A member of the board shall hold office until a
17 successor has been appointed and has qualified.

18 (5) Members of the board and officers and employees of the
19 authority are subject to 1968 PA 317, MCL 15.321 to 15.330. A
20 member of the board or an officer, employee, or agent of the
21 authority shall discharge the duties of his or her position in a
22 nonpartisan manner, with good faith, and with that degree of
23 diligence, care, and skill that an ordinarily prudent person would
24 exercise under similar circumstances in a like position. In
25 discharging his or her duties, a member of the board or an officer,
26 employee, or agent of the authority, when acting in good faith, may
27 rely upon the opinion of counsel for the authority, upon the report

1 of an independent appraiser selected with reasonable care by the
2 board, or upon financial statements of the authority represented to
3 the member of the board, officer, employee, or agent to be correct
4 by the officer of the authority having charge of its books or
5 account, or stated in a written report by the auditor general or a
6 certified public accountant or the firm of the accountants fairly
7 to reflect the financial condition of the authority.

8 (6) The board shall organize and make its own policies and
9 procedures. The board shall conduct all business at public meetings
10 held in compliance with the open meetings act, 1976 PA 267, MCL
11 15.261 to 15.275. Public notice of the time, date, and place of
12 each meeting shall be given in the manner required by the open
13 meetings act, 1976 PA 267, MCL 15.261 to 15.275. Five members of
14 the board constitute a quorum for the transaction of business. An
15 action of the board requires a concurring vote by 5 members of the
16 board. A state officer who is a member of the board may designate a
17 representative from his or her department to serve instead of that
18 state officer as a voting member of the board for 1 or more
19 meetings.

20 Sec. 9. (1) The authority shall elect a chairperson and a
21 vice-chairperson from among its members. The authority may employ
22 legal and technical experts and other officers, agents, or
23 employees, permanent or temporary, paid from the funds of the
24 authority. The authority shall determine the qualifications,
25 duties, and compensation of its employees. The authority may
26 delegate to 1 or more members, officers, agents, or employees any
27 powers or duties it considers proper.

1 (2) The authority shall contract with the department for the
2 purpose of maintaining and improving the rights and interests of
3 the authority.

4 (3) The accounts of the authority shall be subject to annual
5 audits by the state auditor general or a certified public
6 accountant appointed by the auditor general. Records shall be
7 maintained according to generally accepted auditing principles.

8 Sec. 11. (1) The agriculture innovation loan guarantee
9 programs are created within the authority. The programs shall
10 promote value-added agricultural processing, commercialization of
11 agriculture technologies, processes, or products, and farming
12 operations within this state.

13 (2) The loan guarantee interest rate and payment terms are
14 negotiated between the participating lender and the eligible
15 participant.

16 (3) Participating lenders shall not use a loan guarantee for
17 the sole purpose of refinancing prior debt.

18 (4) The loan guarantee shall not be more than 90% of the
19 participating lender's loss after all alternatives to collect have
20 been exhausted.

21 (5) All loan guarantee programs established by the authority
22 shall include a provision that out-of-state business must have a
23 significant existing or proposed business presence in this state.

24 (6) Guaranteed loans are the property and responsibility of
25 the lender. The lender makes the loan and services it to
26 conclusion.

27 Sec. 13. The authority shall establish and administer an

1 agriculture innovation loan guarantee program that does all of the
2 following:

3 (a) Utilizes participating lenders only.

4 (b) Provides that loan guarantees are approved by the
5 authority only for projects in this state designed to establish,
6 retain, expand, attract, or develop new innovation in value-added
7 agricultural processing and related agricultural production
8 operations or the commercialization of agriculture technologies,
9 processes, or products.

10 (c) Permits the purchase of real estate, real estate
11 improvements, machinery, equipment, and operating needs not to
12 exceed a total of \$5,000,000.00 for each loan guarantee transaction
13 for established agricultural processing as well as new ventures.

14 (d) Requires segregation of security and lien priority issues
15 to be documented in the agreement between the authority and the
16 participating lender.

17 (e) Ensures that the loan guarantees are used to finance
18 operations that are viable, productive, and sustainable as
19 determined by the participating lender.

20 Sec. 15. The authority may establish and administer a loan
21 guarantee program for beginning farmers and small farmers that does
22 all of the following:

23 (a) Utilizes participating lenders only.

24 (b) Limits loan guarantees to no more than \$1,000,000.00 per
25 loan guarantee transaction.

26 (c) Requires the applicant to fund at least 10% of the
27 purchase price.

1 (d) Permits the purchase of real estate, real estate
2 improvements, machinery, equipment, and operating needs not to
3 exceed a total of \$1,000,000.00 per farm unit to be included in any
4 loan it guarantees.

5 Sec. 17. (1) The authority may establish and administer an
6 interest rate assistance program on a farm loan guarantee through a
7 participating lender to provide interest rate assistance for any of
8 the following:

9 (a) Beginning farmers.

10 (b) Small farmers.

11 (c) New ventures that will enhance value-added agricultural
12 processing or the commercialization of agriculture technologies,
13 processes, or products.

14 (2) The authority may provide an interest buy-down to the
15 participating lender in which the participating lender receives its
16 typical return and the eligible participant benefits from a reduced
17 interest rate.

18 Sec. 19. In the performance of its duties, the implementation
19 of its powers, and the selection of specific programs and projects
20 under the agriculture innovation loan guarantee programs, the
21 authority shall comply with all of the following:

22 (a) The authority shall not become an owner of agricultural
23 land, agricultural improvements, or real or personal property,
24 except that the authority may own agricultural land, agricultural
25 improvements, or real or personal property on a temporary basis if
26 necessary to implement its programs, to protect its investments by
27 means of foreclosure or other means, or to facilitate transfer of

1 agricultural land, agricultural improvements, or real or personal
2 property.

3 (b) The authority shall exercise diligence and care in the
4 selection of projects and shall apply customary and acceptable
5 business and lending standards in the selection and subsequent
6 implementation of those projects. The authority may delegate
7 primary responsibility for determination and implementation of the
8 projects to an agency of the federal government if that agency
9 assumes an obligation to repay the loan, either directly or by
10 insurance or guarantee.

11 Sec. 21. The authority shall possess all powers necessary or
12 convenient to carry out this act, including all the following
13 powers and other powers granted by other provisions of this act:

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

19 (b) In cooperation with other state agencies, state
20 universities, local units of government, and other industry groups,
21 to conduct studies and analyses of agricultural trends and future
22 economic estimates within this state, the results of which shall be
23 made available to the public and the agricultural industry; to
24 engage in research; and to disseminate information to industry
25 partners.

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

1 (d) To establish and collect fees and charges in connection
2 with the sale of the authority's loan guarantee commitments and
3 servicing, including the reimbursement of costs of financing by the
4 authority and service charges; and to use any accumulated fees,
5 charges, and interest income for achieving any of the corporate
6 purposes of the authority, to the extent that the fees, charges,
7 and interest income are not pledged to the repayment of bonds and
8 notes of the authority or the interest on those bonds and notes.

9 (e) To make loan guarantees.

10 (f) To establish standards or inspect records, or both,
11 relating to guarantees made under the agriculture innovation loan
12 guarantee programs.

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

18 (h) As provided in section 19(a), to acquire or contract to
19 acquire from a person, firm, corporation, municipality, or federal
20 or state agency, by grant, purchase, or otherwise, leaseholds or
21 real or personal property, or any interest in a leasehold or real
22 or personal property; and to own, hold, clear, improve, and
23 rehabilitate and to sell, assign, exchange, transfer, convey,
24 lease, mortgage, or otherwise dispose of or encumber any interest
25 in a leasehold or real or personal property. This act shall not
26 impede the operation and effect of the Michigan right to farm act,
27 1981 PA 93, MCL 286.471 to 286.474; local zoning, building, and

1 housing ordinances; ordinances relating to subdivision control,
2 land development, or fire prevention; or other ordinances having to
3 do with agricultural land, farming, or the development of farming.

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

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

12 (k) To promulgate rules necessary to carry out the purposes of
13 this act and to exercise the powers expressly granted in this act.
14 Rules shall be promulgated pursuant to the administrative
15 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

16 (l) To engage the services of private consultants on a contract
17 basis for rendering professional and technical assistance and
18 advice.

19 Sec. 23. (1) The authority shall submit to the governor, the
20 clerk of the house of representatives, the secretary of the senate,
21 and the chairpersons of the senate and house standing committees on
22 agriculture not later than January 15 of each year a complete
23 report on the activities of the authority under this act. The
24 report shall include all of the following:

25 (a) A description of its operations and accomplishments.

26 (b) An accounting of its receipts and expenditures during the
27 fiscal year, in accordance with the classifications it establishes

1 for its operating and capital accounts.

2 (c) An accounting of its assets and liabilities at the end of
3 its fiscal year and the status of reserve, special, and other
4 funds.

5 (d) A schedule of the bonds and notes outstanding at the end
6 of its fiscal year and a statement of the amounts redeemed and
7 issued during its fiscal year.

8 (e) A statement of its proposed and projected activities.

9 (f) A list of participating lenders.

10 (g) A list of eligible participants that used a loan guarantee
11 under this act.

12 (h) An accounting of administrative expenses.

13 (i) Recommendations to the legislature.

14 (2) The annual report shall identify the performance goals of
15 the authority and clearly indicate the progress made to attain
16 those goals during the reporting period. If possible, results shall
17 be expressed in terms of number of loan guarantees, amount of
18 capital investment, and types of value-added and commercialization
19 activities assisted.

20 Sec. 25. A program authorized by this act may be combined with
21 any other state or federal program in order to promote value-added
22 agricultural processing; commercialization of agriculture
23 technologies, processes, or products; and farming operations within
24 this state.

25 Sec. 27. (1) The authority may authorize and issue its bonds
26 or notes payable solely from the revenues or funds available to the
27 authority. Bonds and notes of the authority are not a debt or

1 liability of the state and do not create or constitute any
2 indebtedness, liability, or obligations of the state or constitute
3 a pledge of the faith and credit of the state. All authority bonds
4 and notes shall be payable solely from revenues or funds pledged or
5 available for their payment as authorized in this part. Each bond
6 and note shall contain on its face a statement to the effect that
7 the authority is obligated to pay the principal of and the interest
8 on the bond or note only from revenues or funds of the authority
9 pledged for the payment of principal and interest and that the
10 state is not obligated to pay that principal or interest and that
11 neither the faith and credit nor the taxing power of the state is
12 pledged to the payment of the principal of or the interest on the
13 bond or note.

14 (2) All expenses incurred in carrying out this program shall
15 be payable solely from revenues or funds provided or to be provided
16 under this part. This section does not authorize the authority to
17 incur any indebtedness or liability on behalf of or payable by the
18 state. Any money derived from the proceeds of bonds or notes shall
19 be expended by the authority in the manner prescribed in this act
20 and the resolution authorizing such indebtedness.

21 Sec. 29. (1) The authority may issue from time to time bonds
22 or notes in principal amounts the authority considers necessary to
23 provide funds for any purpose, including, but not limited to, all
24 of the following:

25 (a) The payment, funding, or refunding of the principal of,
26 interest on, or redemption premiums on bonds or notes issued by the
27 authority whether the bonds or notes or interest to be funded or

1 refunded have or have not become due.

2 (b) The establishment or increase of reserves to secure or to
3 pay authority bonds or notes or interest on those bonds or notes.

4 (c) The payment of interest on the bonds or notes for a period
5 as the authority determines.

6 (d) The payment of all other costs or expenses of the
7 authority incidental to and necessary or convenient to carry out
8 its corporate purposes and powers.

9 (2) The bonds or notes of the authority shall not be a general
10 obligation of the authority but shall be payable solely from the
11 revenues or funds, or both, pledged to the payment of the principal
12 of and interest on the bonds or notes as provided in the resolution
13 authorizing the bond or note.

14 (3) The following apply to the bonds or notes of the
15 authority:

16 (a) Shall be authorized by resolution of the authority.

17 (b) Shall bear the date or dates of issuance.

18 (c) May be issued as either tax-exempt bonds or notes or
19 taxable bonds or notes for federal income tax purposes.

20 (d) Shall be serial bonds, term bonds, or term and serial
21 bonds.

22 (e) Shall mature at such time or times not exceeding 30 years
23 from the date of issuance.

24 (f) May provide for sinking fund payments.

25 (g) May provide for redemption at the option of the authority
26 for any reason or reasons.

27 (h) May provide for redemption at the option of the bondholder

1 for any reason or reasons.

2 (i) Shall bear interest at a fixed or variable rate or rates
3 of interest per annum or at no interest.

4 (j) Shall be registered bonds, coupon bonds, or both.

5 (k) May contain a conversion feature.

6 (l) May be transferable.

7 (m) Shall be in the form, denomination or denominations, and
8 with the other provisions and terms as is determined necessary or
9 beneficial by the authority.

10 (4) If a member of the board or any officer of the authority
11 whose signature or facsimile of his or her signature appears on the
12 note, bond, or coupon ceases to be a member or officer before the
13 delivery of that note or bond, the signature shall continue to be
14 valid and sufficient for all purposes, as if the member or officer
15 had remained in office until the delivery.

16 (5) Bonds or notes of the authority may be sold at a public or
17 private sale at the time or times, at the price or prices, and at a
18 discount as the authority determines. Bonds and notes of the
19 authority are not subject to the revised municipal finance act,
20 2001 PA 34, MCL 141.2101 to 141.2821. The bond or note of the
21 authority is not required to be filed under the uniform securities
22 act, 1964 PA 265, MCL 451.501 to 451.818.

23 (6) The issuance of bonds and notes under this section is
24 subject to the agency financing reporting act, 2002 PA 470, MCL
25 129.171 to 129.177.

26 (7) For the purpose of more effectively managing its debt
27 service, the authority may enter into an interest rate exchange or

1 swap, hedge, or similar agreement with respect to its bonds or
2 notes on the terms and payable from the sources and with the
3 security, if any, as determined by a resolution of the authority.

4 Sec. 31. (1) The authority may provide for the issuance of
5 bonds or notes in the amounts the authority considers necessary for
6 the purpose of refunding bonds or notes of the authority then
7 outstanding, including the payment of any redemption premium and
8 interest accrued or to accrue to the earliest or subsequent date of
9 redemption, purchase, or maturity of these bonds or notes. The
10 proceeds of bonds or notes issued for the purpose of refunding
11 outstanding bonds or notes may be applied by the authority to the
12 purchase or retirement at maturity or redemption of outstanding
13 bonds or notes either on the earliest or subsequent redemption
14 date, and pending such applications, may be placed in escrow to be
15 applied to the purchase or retirement at maturity or redemption on
16 the date or dates determined by the authority. Pending such
17 application and subject to agreements with noteholders or
18 bondholders, the escrowed proceeds may be invested and reinvested
19 in the manner the authority determines, maturing at the date or
20 times as appropriate to assure the prompt payment of the principal,
21 interest, and redemption premium, if any, on the outstanding bonds
22 or notes to be refunded. After the terms of the escrow have been
23 fully satisfied and carried out, the balance of the proceeds and
24 interest, income, and profits, if any, earned or realized on the
25 investment of the proceeds shall be returned to the authority for
26 use by the authority in any lawful manner.

27 (2) In the resolution authorizing bonds or notes to refund

1 bonds or notes, the authority may provide that the bonds or notes
2 to be refunded shall be considered paid when there has been
3 deposited in escrow, money or investment obligations that would
4 provide payments of principal and interest adequate to pay the
5 principal and interest on the bonds to be refunded, as that
6 principal and interest becomes due whether by maturity or prior
7 redemption and that, upon the deposit of the money or investment
8 obligations, the obligations of the authority to the holders of the
9 bonds or notes to be refunded shall be terminated except as to the
10 rights to the money or investment obligations deposited in trust.

11 (3) The authority shall not have outstanding at any time bonds
12 or notes in an aggregate principal amount exceeding \$40,000,000.00
13 excluding bonds or notes issued to refund outstanding bonds or
14 notes. Administrative costs shall not exceed 5% over the life of
15 the program.

16 (4) The authority may hire a person to administer the bonding
17 provisions of this act.

18 Sec. 33. (1) The authority may authorize and approve an
19 insurance contract, an agreement for a line of credit, a letter of
20 credit, a commitment to purchase notes or bonds, an agreement to
21 remarket bonds or notes, and any other transaction to provide
22 security to assure timely payment of a bond or note.

23 (2) The authority may authorize payment from the proceeds of
24 the notes or bonds, or other funds available, of the cost of
25 issuance including, but not limited to, fees for placement, charges
26 for insurance, letters of credit, lines of credit, remarketing
27 agreements, reimbursement agreements, or purchase or sales

1 agreements or commitments, or agreements to provide security to
2 assure timely payment of notes or bonds.

3 Sec. 35. Within limitations that shall be contained in the
4 issuance or authorization resolution of the authority, the
5 authority may authorize a member of the board or other officer of
6 the authority to do 1 or more of the following:

7 (a) Sell and deliver, and receive payment for notes or bonds.

8 (b) Refund notes or bonds by the delivery of new notes or
9 bonds whether or not the notes or bonds to be refunded have matured
10 or are subject to redemption.

11 (c) Deliver notes or bonds, partly to refund notes or bonds
12 and partly for any other authorized purpose.

13 (d) Buy notes or bonds so issued and resell those notes or
14 bonds.

15 (e) Approve interest rates or methods for fixing interest
16 rates, prices, discounts, maturities, principal amounts,
17 denominations, dates of issuance, interest payment dates,
18 redemption rights at the option of the authority or the holder, the
19 place of delivery and payment, and other matters and procedures
20 necessary to complete the transactions authorized.

21 (f) Direct the investment of any and all funds of the
22 authority.

23 (g) Approve the terms of a contract, including, but not
24 limited to, a contract for the sale or cutting of timber, and
25 execute and deliver the contract subject to the restrictions of
26 this part.

27 (h) Approve terms of any insurance contract, agreement for a

1 line of credit, a letter of credit, a commitment to purchase notes
2 or bonds, an agreement to remarket bonds or notes, an agreement to
3 manage payment, revenue, or interest rate exposure, or any other
4 transaction to provide security to assure timely payment of a bond
5 or note.

6 (i) Perform any power, duty, function, or responsibility of
7 the authority.

8 Sec. 37. A resolution authorizing bonds or notes may provide
9 for all of the following that shall be part of the contract with
10 the holders of the bonds or notes:

11 (a) A pledge to any payment or purpose all or any part of
12 authority revenues or assets to which its right then exists or may
13 later come to exist, and of money derived from the revenues or
14 assets, and of the proceeds of bonds or notes or of an issue of
15 bonds or notes, subject to any existing agreements with bondholders
16 or noteholders.

17 (b) A pledge of a loan, grant, or contribution from the
18 federal or state government.

19 (c) The establishment and setting aside of reserves or sinking
20 funds and the regulation and disposition of reserves or sinking
21 funds subject to this part.

22 (d) Authority for and limitations on the issuance of
23 additional bonds or notes for the purposes provided for in the
24 resolution and the terms upon which additional notes or bonds may
25 be issued and secured.

26 (e) The procedure, if any, by which the terms of a contract
27 with noteholders or bondholders may be amended or abrogated, the

1 number of noteholders or bondholders who are required to consent to
2 the amendment or abrogation, and the manner in which the consent
3 may be given.

4 (f) A contract with the bondholders as to the custody,
5 collection, securing, investment, and payment of any money of the
6 authority. Money of the authority and deposits of money may be
7 secured in the manner determined by the authority. Banks and trust
8 companies may give security for such deposits.

9 (g) Vest in a trustee, or a secured party, such property,
10 income, revenues, receipts, rights, remedies, powers, and duties in
11 trust or otherwise as the authority determines necessary or
12 appropriate to adequately secure and protect noteholders and
13 bondholders or to limit or abrogate the right of the holders of
14 bonds or notes of the authority to appoint a trustee under this
15 part or to limit the rights, powers, and duties of the trustee.

16 (h) Provide to a trustee or the noteholders or bondholders
17 remedies that may be exercised if the authority fails or refuses to
18 comply with this part or defaults in an agreement made with the
19 holders of an issue of bonds or notes, which may include any of the
20 following:

21 (i) By mandamus or other suit, action, or proceeding at law or
22 in equity, to enforce the rights of the bondholders or noteholders,
23 and require the authority to carry out any other agreements with
24 the holders of those notes or bonds and to perform the authority's
25 duties under this part.

26 (ii) Bring suit upon the notes or bonds.

27 (iii) By action or suit, require the authority to account as if

1 it were the trustee of an express trust for the holders of the
2 notes or bonds.

3 (iv) By action or suit in equity, enjoin any acts or things
4 that may be unlawful or in violation of the rights of the holders
5 of the notes or bonds.

6 (v) Declare the notes or bonds due and payable and, if all
7 defaults shall be made good, then, as permitted by such resolution,
8 annul that declaration and its consequences.

9 (i) Any other matters of like or different character that in
10 any way affect the security of protection of the bonds or notes.

11 Sec. 39. A pledge made by the authority shall be valid and
12 binding from the time the pledge is made. The money or property
13 pledged and then received by the authority immediately is subject
14 to the lien of the pledge without a physical delivery or further
15 act. The lien of a pledge is valid and binding as against parties
16 having claims of any kind in tort, contract, or otherwise against
17 the authority, and is valid and binding as against the transfers of
18 the money or property pledged, irrespective of whether parties have
19 notice. Neither the resolution, the trust agreement, nor any other
20 instrument by which a pledge is created need be recorded in order
21 to establish and perfect a lien or security interest in the
22 property so pledged.

23 Sec. 41. Neither the members of the authority nor any person
24 executing bonds or notes issued under this act or any person
25 executing any agreement on behalf of the authority is liable
26 personally on the bonds or notes by reason of their issuance.

27 Sec. 43. The authority may purchase bonds or notes of the

1 authority out of funds or money of the authority available for that
2 purpose. The authority may hold, cancel, or resell authority bonds
3 or notes subject to or in accordance with an agreement with holders
4 of authority bonds or notes.

5 Sec. 45. The state pledges to and agrees with the holders of
6 bonds or notes issued under this act that the state shall not limit
7 or restrict the rights vested in the authority by this act to
8 fulfill the terms of an agreement made with the holders of
9 authority bonds or notes, or in any way impair the rights or
10 remedies of the holders of the bonds or notes of the authority
11 until the bonds and notes, together with interest on the bonds or
12 notes and interest on any unpaid installments of interest, and all
13 costs and expenses in connection with an action or proceedings by
14 or on behalf of those holders are fully met, paid, and discharged.

15 Sec. 47. Notwithstanding any restriction contained in any
16 other law, the state and a public officer, local unit of
17 government, or agency of the state or a local unit of government; a
18 bank, trust company, savings bank and institution, savings and loan
19 association, investment company, or other person carrying on a
20 banking business; an insurance company, insurance association, or
21 other person carrying on an insurance business; or an executor,
22 administrator, guardian, trustee, or other fiduciary may legally
23 invest funds belonging to them or within their control in bonds or
24 notes issued under this act, and authority bonds or notes shall be
25 authorized security for public deposits.

26 Sec. 49. Property of the authority is public property devoted
27 to an essential public and governmental function and purpose.

Senate Bill No. 1497 as amended November 12, 2008

1 Income of the authority is considered to be for a public purpose.
2 The property of the authority and its income and operation are
3 exempt from all taxes and special assessments of the state or a
4 political subdivision of the state. Bonds or notes issued by the
5 authority, and the interest on and income from those bonds and
6 notes, are exempt from all taxation of the state or a political
7 subdivision of the state.

8 Sec. 51. This act shall be construed liberally to effectuate
9 the legislative intent and the purposes as complete and independent
10 authority for the performance of each and every act and thing
11 authorized by this act, and all powers granted shall be broadly
12 interpreted to effectuate the intent and purposes and not as a
13 limitation of powers.

<<Enacting section 1. This amendatory act does not take effect
unless Senate Bill No. 1244 of the 94th Legislature is enacted into
law.>>