

SENATE BILL No. 1637

November 12, 2008, Introduced by Senators HUNTER and JANSEN and referred to the Committee on Families and Human Services.

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 2002 PA 385.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

9 (b) To undertake and carry out studies and analyses of housing

1 needs within this state and ways of meeting those needs, including
2 data with respect to population and family groups, the distribution
3 of population and family groups according to income, and the amount
4 and quality of available housing and its distribution according to
5 rentals and sales prices, employment, wages, and other factors
6 affecting housing needs and the meeting of housing needs; to make
7 the results of those studies and analyses available to the public
8 and the housing and supply industries; and to engage in research
9 and disseminate information on housing.

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

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

17 (e) To establish and collect fees and charges in connection
18 with the sale of the authority's publications and the authority's
19 loans, commitments, and servicing, including but not limited to,
20 the reimbursement of costs of financing by the authority, service
21 charges, and insurance premiums as the authority determines to be
22 reasonable and as approved by the authority. Fees and charges shall
23 be determined by the authority and shall not be considered to be
24 interest. The authority may use any accumulated fees and charges
25 and interest income for achieving any of the corporate purposes of
26 the authority, to the extent that the fees, charges, and interest
27 income are not pledged to the repayment of bonds and notes of the

1 authority or the interest on those bonds and notes.

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

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

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

17 (i) To make or purchase loans, including loans for condominium
18 units as defined in section 4 of the condominium act, 1978 PA 59,
19 MCL 559.104, and including loans to mortgage lenders, which are
20 unsecured or the repayments of which are secured by mortgages,
21 security interests, or other forms of security; to purchase and
22 enter into commitments for the purchase of securities, certificates
23 of deposits, time deposits, or mortgage loans from mortgage
24 lenders; to participate in the making or purchasing of unsecured or
25 secured loans and undertake commitments to make or purchase
26 unsecured or secured loans; to sell mortgages, security interests,
27 notes, and other instruments or obligations evidencing or securing

1 loans, including certificates evidencing interests in 1 or more
2 loans, at public or private sale; in connection with the sale of an
3 instrument or obligation evidencing or securing 1 or more loans, to
4 service, guarantee payment on, or repurchase the instrument or
5 obligation, whether or not it is in default; to modify or alter
6 mortgages and security interests; to foreclose on any mortgage,
7 security interest, or other form of security; to finance housing
8 units; to commence an action to protect or enforce a right
9 conferred upon the authority by law, mortgage, security agreement,
10 contract, or other agreement; to bid for and purchase property that
11 was the subject of the mortgage, security interest, or other form
12 of security, at a foreclosure or at any other sale, and to acquire
13 or take possession of the property. Upon acquiring or taking
14 possession of the property, the authority may complete, administer,
15 and pay the principal and interest of obligations incurred in
16 connection with the property, and may dispose of and otherwise deal
17 with the property in any manner necessary or desirable to protect
18 the interests of the authority in the property. If the authority or
19 an entity that provides mortgage insurance to the authority
20 acquires property upon the default of a borrower, the authority may
21 make a mortgage loan to a subsequent purchaser of that property
22 even if the purchaser does not meet otherwise applicable income
23 limitations and purchase price limits.

24 (j) To set standards for housing projects that receive loans
25 under this act and to provide for inspections to determine
26 compliance with those standards. The standards for construction and
27 rehabilitation of mobile homes, mobile home parks, and mobile home

1 condominium projects shall be established jointly by the authority
2 and the mobile home commission, created in the mobile home
3 commission act, 1987 PA 96, MCL 125.2301 to 125.2349. However,
4 financing standards shall be established solely by the authority.

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

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

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

24 (n) To invest, at the discretion of the authority, funds held
25 in reserve or sinking funds, or money not required for immediate
26 use or disbursement, in obligations of this state or of the United
27 States, in obligations the principal and interest of which are

1 guaranteed by this state or the United States, or in other
2 obligations as may be approved by the state treasurer.

3 (o) To promulgate rules necessary to carry out the purposes of
4 this act and to exercise the powers expressly granted in this act
5 in accordance with the administrative procedures act of 1969, 1969
6 PA 306, MCL 24.201 to 24.328.

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

17 (q) To appoint to the board of directors of a nonprofit
18 housing corporation, consumer housing cooperative, limited dividend
19 housing corporation, mobile home park corporation, or mobile home
20 park association, a number of new directors sufficient to
21 constitute a majority of the board notwithstanding other provisions
22 of the articles of incorporation or other provisions of law.
23 Directors appointed under this subsection need not be stockholders
24 or members or meet other qualifications that may be described by
25 the certificate of incorporation or bylaws. In the absence of fraud
26 or bad faith, directors appointed under this subsection shall not
27 be personally liable for debts, obligations, or liabilities of the

1 corporation or association. The authority may appoint directors
2 under this subsection only if 1 or more of the following occur:

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

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

14 (iii) The authority determines that some part of the net income
15 or net earnings of the nonprofit housing corporation is inuring to
16 the benefit of a private individual, firm, corporation,
17 partnership, or association; the authority determines that an
18 unreasonable part of the net income or net earnings of the consumer
19 housing cooperative is inuring to the benefit of a private
20 individual, firm, corporation, partnership, or association; or the
21 authority determines that some part of the net income or net
22 earnings of the limited dividend housing corporation, in excess of
23 that permitted by other provisions of this act, is inuring to the
24 benefit of a private individual, firm, corporation, partnership, or
25 association.

26 (iv) The authority determines that the nonprofit corporation or
27 consumer housing cooperative is in some manner controlled by, under

1 the direction of, or acting in the substantial interest of a
2 private individual, firm, corporation, partnership, or association
3 seeking to derive benefit or gain from, or seeking to eliminate or
4 minimize losses in any dealings or transactions with, the nonprofit
5 corporation or consumer housing cooperative. However, this
6 subparagraph shall apply to individual cooperators in consumer
7 housing cooperatives only in circumstances defined by the authority
8 in its rules.

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

14 (vi) The authority determines that the nonprofit housing
15 corporation, consumer housing cooperative, limited dividend housing
16 corporation, mobile home park corporation, or mobile home park
17 association is in violation of 1 or more agreements entered into
18 with the authority that provide for regulation by the authority of
19 the planning, development, and management of a housing project
20 undertaken by the nonprofit housing corporation, consumer housing
21 cooperative, limited dividend housing corporation, mobile home park
22 corporation, or mobile home park association or that provide for
23 the disposition of the property and franchises of the corporation,
24 or cooperative, or association.

25 (r) To give approval or consent to the articles of
26 incorporation submitted to the authority by a corporation seeking
27 approval as a nonprofit housing corporation, consumer housing

1 cooperative, limited dividend housing corporation, or mobile home
2 park corporation under chapter 4, 5, 6, or 8; to give approval or
3 consent to the partnership agreement, joint venture agreement,
4 trust agreement, or other document of basic organization of a
5 limited dividend housing association under chapter 7 or mobile home
6 park association under chapter 9.

7 (s) To engage the services of private consultants on a
8 contract basis for rendering professional and technical assistance
9 and advice.

10 (t) To lease real or personal property and to accept federal
11 funds for, and participate in, federal programs of housing
12 assistance.

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

18 (v) To set forth in the various loan documents of the
19 authority those restrictions on the sale, conveyance by land
20 contract, or transfer of residential real property, housing
21 projects, or housing units for which a note is held by the
22 authority and restrictions on the assumption by subsequent
23 purchasers of loans originated by and held by, or originated for
24 purchase by and held by, the authority as the authority determines
25 to be necessary in order to comply with requirements of federal
26 statutes, federal rules or regulations promulgated under sections
27 551 to 559 of title 5 of the United States Code, 5 ~~U.S.C.~~ **USC** 551

1 to 559, state statutes, or state rules promulgated under the
2 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
3 24.328, or to obtain and maintain the tax exempt status of
4 authority bonds and notes. However, the authority shall not use a
5 due on sale or acceleration clause solely for the purpose of
6 renegotiating the interest rate on a loan made with respect to an
7 owner-occupied single-family housing unit. Without limiting the
8 authority's power to establish other restrictions, as provided in
9 this section, on the sale, conveyance by land contract, or transfer
10 of residential real property, housing projects, or housing units
11 for which a note is held by the authority and the assumption by
12 subsequent purchasers of loans made or purchased by the authority,
13 the authority shall provide in its loan documents relating to a
14 single family loan that the single family loan may be assumed by a
15 new purchaser only when the new purchaser qualifies under the
16 authority income limitations rules except where such a restriction
17 diminishes or precludes the insurance or a guarantee by an agency
18 of the federal government with respect to the single family loan. A
19 loan made for a mobile home that the borrower does not intend to
20 permanently affix to real property shall become immediately due and
21 payable in the event the mobile home is moved out of the state. Any
22 restrictions on conveyance by sale, conveyance by land contract, or
23 transfer that are authorized in this section shall apply only to
24 loans originated by and held by, or originated for purchase by and
25 held by, the authority and may, at the option of the authority, be
26 enforced by accelerating and declaring immediately due and payable
27 all sums evidenced by the note held by the authority. An

1 acceleration and declaration of all sums to be due and payable on
2 conveyance by sale, land contract, or transfer is not an
3 unreasonable restraint on alienation. An acceleration and
4 declaration, unless otherwise prohibited in this subdivision, of
5 all sums to be due and payable under this subdivision is
6 enforceable in any court of competent jurisdiction. This
7 subdivision is applicable to secured and unsecured loans. This
8 subdivision is also applicable to loan documents utilized in
9 conjunction with an authority-operated program of residential
10 rehabilitation by an entity cooperating or participating with the
11 authority under section 22a(4), which loans are originated with the
12 intent to sell those loans to the authority.

13 (w) To set forth in the various loan documents of the
14 authority those remedies for the making of a false statement,
15 representation, or pretense or a material misstatement by a
16 borrower during the loan application process. Without limiting the
17 authority's power to pursue other remedies, the authority shall
18 provide in its loan documents that, if a borrower makes a false
19 statement, representation, or pretense or a material misstatement
20 during the loan application process, the authority, at its option,
21 may accelerate and declare immediately due and payable all sums
22 evidenced by the note held by the authority. An acceleration and
23 declaration of all sums to be due as authorized under this
24 subdivision and payable as provided in this subdivision is
25 enforceable in any court of competent jurisdiction. This
26 subdivision is applicable to secured and unsecured loans.

27 (x) To collect interest on a real estate loan, the primary

1 security for which is not a first lien on real estate, at the rate
2 of 15% or less per annum on the unpaid balance. This subdivision
3 does not impair the validity of a transaction or rate of interest
4 that is lawful without regard to this subdivision.

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

8 (z) To verify for the state treasurer statements submitted by
9 a city, village, township, or county as to exempt properties under
10 section 7d of the general property tax act, 1893 PA 206, MCL
11 211.7d.

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

17 (bb) To make working capital loans to contractors or
18 subcontractors on housing projects financed by the authority. The
19 authority shall submit an annual report to the legislature
20 containing the amount, recipient, duration, circumstance, and other
21 related statistics for each capital loan made to a contractor or
22 subcontractor under this subdivision. The authority shall include
23 in the report statistics related to the cost of improvements made
24 to adapt property for use by disabled individuals as provided in
25 section 32b(5) or (6) or section 44(2)(a).

26 (cc) Subject to rules of the civil service commission, to
27 adopt a code of ethics with respect to its employees that requires

1 disclosure of financial interests, defines and precludes conflicts
2 of interest, and establishes reasonable post-employment
3 restrictions for a period of up to 1 year after an employee
4 terminates employment with the authority.

5 (dd) To impose covenants running with the land in order to
6 satisfy requirements of applicable federal law with respect to
7 housing assisted or to be assisted through federal programs such as
8 the low income housing tax credit program or the home investment
9 partnerships program by executing and recording regulatory
10 agreements between the authority or such municipality or other
11 entity as may be designated by the authority and the person or
12 entity to be bound. These covenants shall run with the land and be
13 effective with respect to the parties making the covenants and
14 other intended beneficiaries of the covenants, even though there is
15 no privity of estate or privity of contract between the authority
16 and the persons or entities to be bound.

17 (ee) To impose covenants running with the land in order to
18 satisfy requirements of applicable state or federal law with
19 respect to housing financed by the authority by executing and
20 recording regulatory agreements between the authority and the
21 person or entity to be bound. These covenants shall run with the
22 land and be effective with respect to the parties making the
23 covenants and other intended beneficiaries of the covenants, even
24 though there is no privity of estate or privity of contract between
25 the authority and the persons or entities to be bound. With respect
26 to the application of any applicable environmental laws, this
27 subdivision shall not be construed to grant to the authority any

1 additional rights, privileges, or immunities not otherwise afforded
2 to a private lender that is not in the chain of title for the land.

3 (ff) To participate in programs designed to assist persons and
4 families whose incomes do not exceed 115% of the greater of
5 statewide median gross income or the area median gross income
6 become homeowners where loans are made by private lenders for
7 purchase by the government national mortgage association, federal
8 national mortgage association, federal home loan mortgage
9 corporation, or other federally chartered organizations.

10 Participation may include providing or funding homeownership
11 counseling and providing some or all of a reserve fund to be used
12 to pay for losses in excess of insurance coverage.

13 (gg) To invest up to 20% of funds held by or for the authority
14 in escrow accounts for the benefit of the authority or mortgagors
15 of authority-financed housing in loans originated or purchased by
16 the authority, under the conditions prescribed in this subdivision
17 and without the consent of the escrow depositors. In connection
18 with loans described in this subdivision, the authority may charge
19 and retain fees in amounts similar to those charged with respect to
20 similar loans for which the source of funding does not come from
21 escrow funds. The investment authorized by this subdivision shall
22 not be made unless both of the following requirements are met:

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

26 (ii) The authority agrees to repurchase from its own funds and
27 at the same prices at which the loans were sold to the escrow

1 funds, as adjusted for the accretion of discount or amortization of
2 premium, plus accrued interest, any loans that become delinquent in
3 excess of 30 days. This subdivision does not obligate the authority
4 to purchase a delinquent loan so long as with respect to that loan
5 the authority advances money from its own funds in the amount of
6 the delinquent payments. The authority's election to advance
7 payments does not in any manner abate or cure the delinquency of
8 the loan and the authority may resort to any remedies that would
9 exist in the absence of that payment.

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

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

18 (i) The urban homestead act, 1999 PA 127, MCL 125.2701 to
19 125.2709.

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

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

24 (iv) The urban homesteading in multifamily public housing act,
25 1999 PA 84, MCL 125.2721 to 125.2734.

26 **(JJ) TO IMPLEMENT, ADMINISTER, OR EXECUTE ADMINISTRATIVE,**
27 **SUBSTANTIVE, OR SUPERVISORY POWERS PURSUANT TO THE INDIVIDUAL OR**

1 FAMILY DEVELOPMENT ACCOUNT PROGRAM ACT, 2006 PA 513, MCL 206.701 TO
2 206.711.