

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1124

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 2008 PA 449.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

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

1 income are not pledged to the repayment of bonds and notes of the
2 authority or the interest on those bonds and notes.

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

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

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

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

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

25 (j) To set standards for housing projects that receive loans
26 under this act and to provide for inspections to determine
27 compliance with those standards. The standards for construction and

1 rehabilitation of mobile homes, mobile home parks, and mobile home
2 condominium projects shall be established jointly by the authority
3 and the mobile home commission, created in **SECTION 3 OF** the mobile
4 home commission act, 1987 PA 96, MCL ~~125.2301 to 125.2349~~ **125.2303**.
5 However, financing standards shall be established solely by the
6 authority.

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

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

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

26 (n) To invest, at the discretion of the authority, funds held
27 in reserve or sinking funds, or money not required for immediate

1 use or disbursement, in obligations of this state or of the United
2 States, in obligations the principal and interest of which are
3 guaranteed by this state or the United States, or in other
4 obligations as may be approved by the state treasurer.

5 (o) To promulgate rules necessary to carry out the purposes of
6 this act and to exercise the powers expressly granted in this act
7 ~~in accordance with~~ **PURSUANT TO** the administrative procedures act of
8 1969, 1969 PA 306, MCL 24.201 to 24.328.

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

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

1 or bad faith, directors appointed under this subsection shall not
2 be personally liable for debts, obligations, or liabilities of the
3 corporation or association. The authority may appoint directors
4 under this subsection only if 1 or more of the following occur:

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

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

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

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

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

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

27 (r) To give approval or consent to the articles of

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

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

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

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

20 (v) To set forth in the various loan documents of the
21 authority those restrictions on the sale, conveyance by land
22 contract, or transfer of residential real property, housing
23 projects, or housing units for which a note is held by the
24 authority and restrictions on the assumption by subsequent
25 purchasers of loans originated by and held by, or originated for
26 purchase by and held by, the authority as the authority determines
27 to be necessary in order to comply with requirements of federal

1 statutes, federal rules or regulations promulgated under ~~sections~~
2 ~~551 to 559 of title 5 of the United States Code,~~ 5 USC 551 to 559,
3 state statutes, or state rules promulgated under the administrative
4 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, or to
5 obtain and maintain the tax exempt status of authority bonds and
6 notes. However, the authority shall not use a due on sale or
7 acceleration clause solely for the purpose of renegotiating the
8 interest rate on a loan made with respect to an owner-occupied
9 single-family housing unit. Without limiting the authority's power
10 to establish other restrictions, as provided in this section, on
11 the sale, conveyance by land contract, or transfer of residential
12 real property, housing projects, or housing units for which a note
13 is held by the authority and the assumption by subsequent
14 purchasers of loans made or purchased by the authority, the
15 authority shall provide in its loan documents relating to a single
16 family loan that the single family loan may be assumed by a new
17 purchaser only when the new purchaser qualifies under the authority
18 income limitations rules, ~~except where~~ **UNLESS** such a restriction
19 diminishes or precludes the insurance or a guarantee by an agency
20 of the federal government with respect to the single family loan. A
21 loan made for a mobile home that the borrower does not intend to
22 permanently affix to real property shall become immediately due and
23 payable ~~in the event~~ **IF** the mobile home is moved out of the state.
24 Any restrictions on conveyance by sale, conveyance by land
25 contract, or transfer that are authorized in this section shall
26 apply only to loans originated by and held by, or originated for
27 purchase by and held by, the authority and may, at the option of

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

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

1 subdivision is applicable to secured and unsecured loans.

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

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

10 (z) To verify for the state treasurer statements submitted by
11 a city, village, township, or county as to exempt properties under
12 section 7d of the general property tax act, 1893 PA 206, MCL
13 211.7d.

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

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

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

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

20 (ee) To impose covenants running with the land in order to
21 satisfy requirements of applicable state or federal law with
22 respect to housing financed by the authority. **THESE COVENANTS SHALL**
23 **BE IMPOSED** by executing and recording regulatory agreements between
24 the authority and the person or entity to be bound. ~~These~~**THE**
25 covenants shall run with the land and be effective with respect to
26 the parties making the covenants and other intended beneficiaries
27 of the covenants, even though there is no privity of estate or

1 privity of contract between the authority and the persons or
2 entities to be bound. With respect to ~~the application of any~~
3 applicable environmental laws, this subdivision ~~shall not be~~
4 ~~construed to~~ **DOES NOT** grant to the authority any additional rights,
5 privileges, or immunities not otherwise afforded to a private
6 lender that is not in the chain of title for the land.

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

17 (gg) To invest, **UNDER THE CONDITIONS PRESCRIBED IN THIS**
18 **SUBDIVISION AND WITHOUT THE CONSENT OF THE ESCROW DEPOSITORS**, up to
19 20% of funds held, by or for the authority, in escrow accounts for
20 the benefit of the authority or mortgagors of authority-financed
21 housing. **THE INVESTMENTS UNDER THIS SUBDIVISION SHALL BE MADE** in
22 loans originated or purchased by the authority ~~, under the~~
23 ~~conditions prescribed in this subdivision and without the consent~~
24 ~~of the escrow depositors.~~ **FOR CONSTRUCTION OR REHABILITATION OF**
25 **MULTIFAMILY HOUSING DEVELOPMENTS FOR OCCUPANCY BY PERSONS OR**
26 **FAMILIES WITHOUT REGARD TO INCOME.** In connection with loans
27 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 funds. ~~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 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 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 ~~repurchase from~~ **PAY WITH** its own funds ~~and at the same prices at which the loans were sold to~~ **THE PRINCIPAL BALANCE OF ANY LOAN, MADE WITH** the escrow funds, ~~as adjusted for the accretion of discount or amortization of premium, plus accrued interest, any loans that become~~ **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 ~~advances money~~ **PAYS TO THE ESCROW FUNDS** from its own funds ~~in the amount of the delinquent payments.~~ The authority's election to ~~advance~~ **PAY THE DELINQUENT** payments **TO THE**

1 **ESCROW FUNDS** does not in any manner abate or cure the delinquency
2 of the loan and the authority may resort to any remedies that would
3 exist in the absence of that payment.

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

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

12 (i) The urban homestead act, 1999 PA 127, MCL 125.2701 to
13 125.2709.

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

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

18 (iv) The urban homesteading in multifamily public housing act,
19 1999 PA 84, MCL 125.2721 to 125.2734.

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

22 (kk) To implement, administer, or execute administrative,
23 substantive, or supervisory powers pursuant to the individual or
24 family development account program act, 2006 PA 513, MCL ~~206.701~~
25 **206.901** to ~~206.711~~ **206.911**.