

Act No. 328  
Public Acts of 2012  
Approved by the Governor  
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**STATE OF MICHIGAN  
96TH LEGISLATURE  
REGULAR SESSION OF 2012**

Introduced by Senator Kowall

# **ENROLLED SENATE BILL No. 1125**

AN ACT to amend 1966 PA 346, entitled "An act to create a state housing development authority; to define the powers and duties of the authority; to establish a housing development revolving fund; to establish a land acquisition and development fund; to establish a rehabilitation fund; to establish a conversion condominium fund; to create certain other funds and provide for the expenditure of certain funds; to authorize the making and purchase of loans, deferred payment loans, and grants to qualified developers, sponsors, individuals, mortgage lenders, and municipalities; to establish and provide acceleration and foreclosure procedures; to provide tax exemption; to authorize payments instead of taxes by nonprofit housing corporations, consumer housing cooperatives, limited dividend housing corporations, mobile home park corporations, and mobile home park associations; and to prescribe criminal penalties for violations of this act," by amending section 32 (MCL 125.1432), as amended by 2008 PA 56.

*The People of the State of Michigan enact:*

Sec. 32. (1) The authority may create and establish 1 or more special funds called capital reserve funds to secure notes and bonds of the authority. The authority shall pay into a capital reserve fund money appropriated and made available by this state for the purposes of the fund, the proceeds of the sale of notes or bonds to the extent provided in the resolution of the authority authorizing the issuance of the notes or bonds, and other money that is made available to the authority for the purpose of a fund from any other source. In addition to, or in lieu of, depositing money in a capital reserve fund, the authority may obtain and pledge letters of credit and, effective retroactively as of June 1, 1993, insurance policies, surety bonds, guarantees, or other security arrangements if those other security arrangements are approved by the state treasurer, for the purposes of the capital reserve fund. The amount available under letters of credit, insurance policies, surety bonds, guarantees, or other security arrangements pledged to a capital reserve fund shall be credited toward the satisfaction of a capital reserve fund requirement. All money and proceeds under letters of credit, insurance policies, surety bonds, guarantees, or other security arrangements held in a capital reserve fund, except as specifically provided, shall be used as required solely for the payment of the principal of notes or bonds of the authority secured in whole or in part by the capital reserve fund, for the purchase or redemption of notes or bonds, for the payment of interest on the notes or bonds, or for the payment of a redemption premium required to be paid when the notes or bonds are redeemed prior to maturity. However, the authority shall not use the capital reserve fund for an optional purchase or optional redemption of notes or bonds if the use would reduce the total of the money on deposit in the capital reserve fund and amounts available under a letter of credit, insurance policy, surety bond, guarantee, or other security arrangement pledged to a capital reserve fund to less than the capital reserve fund requirement established for the fund. Income or interest earned by, or increment to, a capital reserve fund from the investment of the money in the capital reserve fund may be transferred by the authority to other funds or accounts of the authority to the extent that the transfer does not reduce the total of the amount of money in a capital reserve fund and amounts available under a letter of credit, insurance policy, surety bond, guarantee, or other security arrangement pledged to the capital reserve fund below the capital reserve fund requirement for the fund.

(2) The authority shall not issue notes or bonds secured in whole or in part by a capital reserve fund if, upon the issuance of the notes or bonds, the amount in the capital reserve fund, including the amounts available under a letter of credit, insurance policy, surety bond, guarantee, or other security arrangement pledged to the capital reserve fund, would be less than the capital reserve fund requirement for the fund, unless the authority, at the time of issuance of the notes or bonds, deposits in the fund from the proceeds of the notes or bonds to be issued, or from other sources, an amount that, together with the amount then in the fund, is not less than the capital reserve fund requirement for the fund, or obtains a letter of credit, insurance policy, surety bond, guarantee, or other security arrangement in an amount that, together with the amount then in the fund, is not less than the capital reserve fund requirement for the fund. For the purposes of this section, "capital reserve fund requirement" means the amount required in the resolution of the authority authorizing the notes or bonds with respect to which the fund is established, which amount shall not exceed the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the notes or bonds of the authority secured in whole or part by the fund.

(3) The authority has, before January 9, 1977, in connection with its housing development bonds issued pursuant to a bond resolution dated June 10, 1971, established within the capital reserve fund relating to housing development bonds, a capital reserve account and a capital reserve capital account. This capital reserve account constitutes a capital reserve fund under this act. Money in this capital reserve account shall secure only housing development bonds issued pursuant to the June 10, 1971 bond resolution. Unless otherwise provided by the authority, money in the capital reserve capital account shall secure all bonds and notes of the authority. In determining whether the capital reserve fund requirement established for a capital reserve fund has been met, the authority shall not include or take into account money in the capital reserve capital account.

(4) The authority has, before January 9, 1977, in connection with its insured mortgage revenue bonds issued pursuant to a bond resolution dated May 11, 1976, established a bond reserve fund. This bond reserve fund constitutes a capital reserve fund under this act.

(5) The authority may issue notes and bonds subject to the following limitations:

(a) The authority shall not have outstanding at any time bonds and notes for any of its corporate purposes in an aggregate principal amount exceeding \$4,200,000,000.00, excluding all of the following:

(i) The principal amount of bonds and notes issued to refund outstanding bonds and notes.

(ii) The principal amount of bonds and notes that appreciate in principal amount, except to the extent of the principal amount of these bonds and notes payable at such time.

(iii) The principal amount of notes and bonds representing original issue discount, if any.

(b) After November 1, 2014, the limitation on the aggregate principal amount of notes and bonds provided in subdivision (a) is \$3,400,000,000.00, excluding all of the following:

(i) The exclusions provided in subdivision (a)(i), (ii), and (iii).

(ii) The aggregate principal amount of bonds and notes issued on or before November 1, 2014, that is outstanding on November 1, 2014, and that exceeds \$3,400,000,000.00.

(6) Subject to the limitation in subsection (5), that portion of the state ceiling to be used for qualified mortgage bonds, mortgage credit certificates, or bonds to finance qualified residential rental projects shall be allocated to the authority unless the authority elects by resolution to allow another issuer to issue qualified mortgage bonds, mortgage credit certificates, or bonds to finance qualified residential rental projects. As used in this subsection:

(a) "Mortgage credit certificate" means that term as defined in section 25 of the internal revenue code, 26 USC 25.

(b) "Qualified mortgage bond" means that term as defined in section 143 of the internal revenue code, 26 USC 143.

(c) "Qualified residential rental project" means that term as defined in section 142 of the internal revenue code, 26 USC 142.

(d) "State ceiling" means the aggregate amount of certain private activity bonds, including qualified mortgage bonds, that may be issued in any calendar year in this state pursuant to section 146 of the internal revenue code, 26 USC 146.

(7) To ensure the continued operation and solvency of the authority for the carrying out of the public purposes of this act, the authority shall accumulate in each capital reserve fund an amount equal to the capital reserve fund requirement for that fund. If at any time the capital reserve fund requirement for a capital reserve fund exceeds the amount of the capital reserve fund, the authority shall transfer to this fund from the capital reserve capital account established by the authority's June 10, 1971 bond resolution the amount necessary to restore the capital reserve fund to an amount equal to the capital reserve fund requirement. If a deficiency exists in more than 1 capital reserve fund and the amount in the capital reserve capital account is not sufficient to fully restore the capital reserve funds, the money in the capital reserve capital account shall be allocated between the deficient capital reserve funds pro rata according to the amounts of the deficiencies. If at any time the capital reserve capital account has been exhausted and the capital reserve fund requirement for a capital reserve fund exceeds the amount of the capital reserve fund, the chairperson of the authority on or before September 1 shall certify to the governor and budget director the amount, if

any, necessary to restore a capital reserve fund to an amount equal to the capital reserve fund requirement. The governor and the budget director shall include in the annual budget the amount certified by the chairperson of the authority.

(8) In computing the amount of a capital reserve fund for the purposes of this section, securities in which all or a portion of the fund is invested shall be valued at par. If the securities are purchased at other than par, the securities may be valued at their cost to the authority, as adjusted by amortization of the discount or premium paid upon purchase of the securities on a pro rata basis to the maturity date of the securities.

(9) To the extent possible and consistent with sound fiscal management and good housing development planning, the authority shall make full use of available federal housing subsidy programs. The authority shall recommend programs and legislation to better maintain and improve existing housing stock.

(10) The authority shall require that not less than 15% of the multifamily dwelling units financed by mortgage loans from the authority in a calendar year under federal government subsidy programs, subject to applicable federal regulations, be offered on a priority basis to low income families and persons receiving their primary incomes from social security programs or state and federal public assistance programs.

(11) The authority shall implement a program of loans for mobile homes as soon as is reasonably feasible. The authority shall develop a program for financing the construction or rehabilitation of mobile home parks and mobile home condominium projects within 24 months after December 31, 1982, subject to a determination of feasibility by the authority and the authority's ability to sell bonds.

(12) The authority shall implement a program of loans for consumer housing cooperatives as soon as is reasonably feasible. The authority shall develop a program for financing the construction or rehabilitation of consumer housing cooperative projects within 12 months after July 10, 1984, subject to a determination of feasibility by the authority and the authority's ability to sell bonds.

(13) When processing rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the authority shall furnish to each member of the legislature a copy of a notice of a public hearing or proposed rule change at least 10 days before the public hearing and at least 20 days before the adoption of the rule.

(14) Before October 1 of each year, the authority shall identify housing production goals for housing projects financed with bonds and notes issued under the limitations provided in section 32a. The authority shall identify a goal for the authority as a whole and a specific goal for each program. The authority shall submit those goals in an annual report to the governor and to the house committee on urban affairs and the senate committee on finance, or their successor committees.

(15) Within 6 months after the legislature enacts or the authority adopts a new program, the authority shall submit an interim report to the same persons to whom an annual report is submitted. If both the legislature and the authority establish a program, the authority shall submit the interim report within 6 months after the effective date of the act establishing the program. The authority shall include in an interim report all of the information required in an annual report that is specific to that program.

(16) After the initial or an interim report, the authority shall include in an annual report all of the following for each program:

(a) Whether the production goals for the previous 12-month period have been met. If those production goals have not been met, the authority shall explain in the report the reasons why those production goals have not been met.

(b) Any significant obstacles to the development of housing for low and moderate income persons that have been encountered by the authority.

(c) The estimated economic and social benefits of these housing projects to the immediate neighborhoods in which the housing projects have been constructed.

(d) The estimated economic and social benefits of these housing projects to the municipalities in which the housing projects have been constructed.

(e) The extent of displacement, direct and indirect, of lower income persons caused by these housing projects, and steps taken by the authority and other governmental and private parties to ameliorate the displacement, and the results of those efforts.

(f) The estimated extent of additional reinvestment activities by private lenders attributable to the authority's financing of these housing projects.

(g) The age, race, family size, median income, and average income of the tenants of these housing projects.

(h) The estimated economic impact of these housing projects, including the number of construction jobs created, wages paid, and taxes and payments in lieu of taxes paid.

(i) The progress in developing mobile home parks and mobile home condominium projects, in financing the construction or rehabilitation of consumer housing cooperative projects, and in financing the construction or rehabilitation of nonprofit housing corporation projects.

(j) A report on the neighborhood preservation program under section 44f. The report shall include information about the progress in developing the program, the neighborhoods identified as eligible for the program, the neighborhoods or municipalities that have applied for the program, the neighborhoods that have received funds from the program, and the reasons that neighborhoods or municipalities have been denied funds from the program.

(k) A report on the status of federal programs that provide assistance to low income tenants displaced as the result of prepayments of federally and authority assisted loans.

(l) A report on the low income housing tax credit program under section 22b. The report shall include information regarding the amount of tax credits allocated to the state under each of the subdivisions of section 22b(2); the projects that have received tax credits; and the reasons why projects have been denied tax credits under the program; a geographical description of the distribution of those tax credits; and a description of amendments to the allocation plan made during that year.

(m) A report on education and training opportunities provided by the authority under section 17. The report shall indicate the types of education and training opportunities made available and the amount of funding committed to these activities.

(n) For any programs or projects involving refinancings, the number of refinancings undertaken by the authority and the total dollar amount of all refinancings undertaken by the authority.

(17) The authority shall conduct an annual review of all loans, financial instruments that require repayment, or lines of credit with the Michigan broadband development authority created in section 4 of the Michigan broadband development authority act, 2002 PA 49, MCL 484.3204. The review shall contain an analysis of the Michigan broadband development authority's ability to repay all loans, financial instruments that require repayment, and lines of credit with the authority and the amount and payment schedule of all current loans, financial instruments that require payment, and lines of credit with the authority. The review shall also contain an analysis of the number of authority-assisted or -financed developments and homes purchasing high-speed internet connections at substantially reduced rates as a direct result of loans from the Michigan broadband development authority, as specified in the memorandum of understanding between the authority and the Michigan broadband development authority.

(18) The authority shall ensure that the income characteristics of individuals served by an authority program are provided in a manner that ensures each individual's confidentiality. The authority shall also ensure that proprietary information in its reports under this section concerning an individual, corporation, cooperative, or association is not released without the permission of that individual, corporation, cooperative, or association.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Jay E. Randall*

Clerk of the House of Representatives

Approved .....

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Governor