

Act No. 86
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STATE OF MICHIGAN
84TH LEGISLATURE
REGULAR SESSION OF 1987

Introduced by Reps. Saunders, Harrison, Murphy, Bankes, DeMars, Joe Young, Sr., Bennane, Leland, Hertel, Stabenow, Jondahl, Bartnik, Maynard, Spaniola, Clack, Rocca, Griffin, Gagliardi, Weeks, Niederstadt, Gubow, Palamara, Dobronski, Smith, Sitz, Joe Young, Jr., Hunter, Watkins, Stallworth, Lynn Owen, Jonker, Browne, Kosteva, Gire, Kilpatrick, DeBeaussiaert, Scott, Farhat, Hart, Brown, Hollister, Jacobetti, Varga, Sofio, Hood, Barns, Porreca, Perry Bullard, Oxender and Hillegonds

ENROLLED HOUSE BILL No. 4505

AN ACT to amend sections 32, 44, and 44c of Act No. 346 of the Public Acts of 1966, entitled as amended "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 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 in lieu 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," as amended by Act No. 183 of the Public Acts of 1985, being sections 125.1432, 125.1444, and 125.1444c of the Michigan Compiled Laws; and to add sections 22b, 32c, and 44d.

The People of the State of Michigan enact:

Section 1. Sections 32, 44, and 44c of Act No. 346 of the Public Acts of 1966, as amended by Act No. 183 of the Public Acts of 1985, being sections 125.1432, 125.1444, and 125.1444c of the Michigan Compiled Laws, are amended and sections 22b, 32c, and 44d are added to read as follows:

Sec. 22b. (1) The authority is designated as the housing credit agency for the state for the purpose of allocating and administering the low income housing credit established under section 42 of the internal revenue code.

(2) The state's allocable tax credit authority is an amount equal to \$1.25 multiplied by the number of residents of the state as determined by the most recent census estimates of the state's population published by the United States bureau of census before the beginning of the calendar year or by another method as authorized by the internal revenue code.

(3) An applicant for an allocation of low income housing tax credit shall be qualified to receive the credit pursuant to the requirements of the internal revenue code and the regulations, guidelines, rulings, and interpretations issued by the United States treasury department or the internal revenue service, which shall control in the event of conflict with a requirement of this section.

(4) The state's allocable low income housing credit is apportioned for allocation to all housing projects on a first-come, first-served basis with amounts set aside, subject to subsection (13), for specific types of applicants and housing projects as follows:

(a) Qualified nonprofit organizations as required by section 42 of the internal revenue code - not less than 10%.

(b) Farmers home 515 projects - not less than 10%.

(c) Housing projects in eligible distressed areas - not less than 30%.

(5) Except for the amount for qualified nonprofit organizations, if a low income housing tax credit apportioned under subsection (4) is not allocated before November 1 of the year in which that credit amount is authorized under the internal revenue code for allocation by the state, the authority may reapportion the unallocated credit amounts in a reasonable manner so as to maximize the allocation of the state low income housing credit.

(6) Within 30 days after the effective date of this section, the authority shall provide forms enabling applicants to apply for an allocation of the state's low income housing credit for the 1987 tax year or a tax year after the 1987 tax year in which the state is authorized to allocate low income housing credits. An application for a reservation of allocable tax credit authority shall be filed with the authority no later than December 1 of the calendar year for which the allocation is requested.

(7) An application for a reservation of tax credit shall be on the authority's prescribed form, shall be signed by an authorized representative of the housing sponsor, and shall include all of the following:

(a) The names and addresses of the sponsor and development team members, tax information number, and form of organization.

(b) A legal description and street address of the project.

(c) A description of the type of project to be acquired, constructed, or rehabilitated including a description of the proposed or actual financing to be utilized and whether that financing will be or is tax-exempt under any provision of the internal revenue code.

(d) The projected number of project units including minimum set-asides pursuant to section 42 of the internal revenue code.

(e) An estimate of the eligible basis of the project and of the qualified basis of the project.

(f) An estimated schedule for acquisition, construction, or rehabilitation.

(g) A statement that all required permits, consents, or authorizations have been or can be obtained.

(h) Any other information required by the authority to assure compliance with state or federal requirements.

(8) Upon its acceptance and approval of an application for reservation, authority staff shall notify the applicant of its reservation status.

(9) Prior to the expiration of the reservation, the housing sponsor shall submit to the authority additional information as required by the authority. The additional information may include 1 or more of the following:

(a) Construction financing commitment or letter of intent in an amount sufficient to assure completion of the development as projected.

(b) In the case of a nonprofit housing sponsor, a copy of the articles of incorporation and confirmation of its status as a tax-exempt entity.

(c) Updated acquisition, construction, or rehabilitation schedule.

(d) The certification of the sponsor that the information in the original application remains true and correct except as modified by the application for commitment.

(e) Other information not previously submitted which is required by the authority to ascertain compliance with state or federal requirements.

(10) Upon acceptance and approval of the items required in subsection (9), the executive director or his or her designee may issue a commitment to the housing sponsor if there is allocable tax credit authority. The commitment shall be subject to the sponsor's fulfilling all requirements of the internal revenue code. The executive director or his or her designee may waive any submission required by this section that is not required by federal law if it is determined that the waiver will maximize the use of the credit.

(11) Upon receipt and approval by the authority of evidence that the project has been placed in service, of executed copies of a project regulatory agreement in the form prescribed by the authority, and of a sworn

affidavit and indemnification agreement with respect to the eligible basis of the project, the qualified basis of the project, and the actual costs of the project, the executive director or his or her designee may allocate a portion of the allocable low income housing tax credit by issuing a tax credit certificate to the holder of a commitment for the certificate.

(12) If the authority does not allocate a housing credit amount to an applicant, the authority shall provide the applicant with the reasons for the denial in writing.

(13) An applicant that has a reservation or commitment for an allocation of low income housing credit shall forfeit that reservation or commitment on November 1 of the year for which the reservation or commitment has been made unless the applicant verifies to the authority before November 1 of that year that the housing project will be ready to be placed in service on or before December 31 of that year or such later time as may be permitted under the internal revenue code. The authority may allocate low income housing credit amounts forfeited under this subsection to other applicants.

(14) For an application under this section, the authority may charge a reasonable fee to cover the authority's administrative cost of processing the application.

Sec. 32. (1) The authority may create and establish 1 or more special funds to secure notes and bonds of the authority, referred to in this act as capital reserve funds. 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 which is made available to the authority for the purpose of a fund from any other source. All money held in any 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 any redemption premium required to be paid when the notes or bonds are redeemed prior to maturity. However, the authority shall not use the money for any optional purchase or optional redemption of notes or bonds if the use would reduce the amount of money on deposit in a capital reserve fund to less than the capital reserve fund requirement established for the fund. Any income or interest earned by, or increment to, a capital reserve fund due to 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 amount of a capital reserve fund below the capital reserve fund requirement for a fund.

(2) The authority shall not at any time 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 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 which, together with the amount then in the fund, is not less than the capital reserve fund requirement for the fund. For purposes of this section, "capital reserve fund requirement" means the requirement provided 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 any 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. 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 any 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 shall constitute 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 \$3,000,000,000.00, 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 which 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, 1987, the limitation on the aggregate principal amount of notes and bonds provided in subdivision (a) is reduced to \$1,800,000,000.00, but, in addition to the exclusions provided in subdivision (a), the

aggregate principal amount of bonds and notes issued before November 2, 1987, subject to the limitations of section 32a shall be excluded from this reduced limitation.

(6) Subject to the limitation in subsection (5), the entire state ceiling is allocated to the authority unless the authority elects by resolution to allow another issuer to issue qualified mortgage bonds. As used in this subsection:

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

(b) "Qualified mortgage bond" shall have the same meaning ascribed to that term in section 143 of the internal revenue code.

(7) To assure 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 any 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. The authority shall submit a report to the governor and the legislature on its progress in developing a program for financing the construction or rehabilitation of mobile home parks and mobile home condominium projects at 6-month intervals from December 31, 1982.

(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. The authority shall submit a report to the governor and the legislature on its progress in developing a program for financing the construction or rehabilitation of consumer housing cooperative projects at 6-month intervals from July 10, 1984.

(13) In addition to the powers granted the state housing development authority in this act to promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, the authority shall furnish to each member of the legislature a copy of 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 submit those goals in a report to the governor and to the legislature. After the initial report, the authority shall include in the report all of the following:

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

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

(d) 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.

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

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

(g) 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.

Sec. 32c. For calendar year 1988, \$150,000,000.00 of the state's unified volume limitation as defined in executive order 1986-6 as amended by executive order 1986-18 is allocated to the authority. Any portion of the authority's allocation for which private activity bonds as defined by executive order 1986-6 have not been issued by October 15, 1988 shall be reallocated by the state treasurer to municipalities whose allocation requests have not been fulfilled.

Sec. 44. (1)(a) The authority may make loans to any nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, limited dividend housing association, mobile home park corporation, mobile home park association, or to any public body or agency for the construction or rehabilitation, and for the long-term financing, of the following:

(i) Housing for low income or moderate income persons.

(ii) For the period of time beginning May 1, 1984, and ending November 1, 1987, housing projects in which not less than 20% of the dwelling units are allotted to individuals of low or moderate income within the meaning of former section 103(b)(4)(A) of the internal revenue code; not less than 60% of the dwelling units are available to persons and families whose gross household income does not exceed 125% of the higher of either the median income for a family in this state or the median income for a family within the nonmetropolitan county or metropolitan statistical area in which the housing project is located, as determined by the authority; and not more than 20% of the dwelling units are available for occupancy without regard to income. The enactment of this subparagraph or the expiration of the authority granted by it shall not affect rules in effect before July 10, 1984, or promulgated after July 9, 1984, to define low or moderate income persons.

(iii) For the period of time beginning May 1, 1984, and ending November 1, 1987, housing projects in eligible distressed areas in which housing projects not less than 20% of the dwelling units are allotted to individuals of low or moderate income within the meaning of former section 103(b)(4)(A) of the internal revenue code; not less than 60% of the dwelling units are available to persons and families whose gross household income does not exceed 150% of the higher of either the median income for a family in this state or the median income for a family within the nonmetropolitan county or metropolitan statistical area in which the housing project is located, as determined by the authority, and not more than 20% of the dwelling units may be made available for occupancy without regard to income.

(iv) Social, recreational, commercial, or communal facilities necessary to serve and improve the residential area in which an authority-financed housing project is located or is planned to be located thereby enhancing the viability of such housing.

(b) Notwithstanding the provisions of this section, the authority may establish by resolution such higher income limits as it considers necessary to achieve sustained occupancy of a housing project financed under subsection (1)(a)(i), (ii), or (iii) if the authority determines all of the following:

(i) The owner of the housing project exercised reasonable efforts to rent the dwelling units to persons and families whose incomes did not exceed the income limitations originally applicable.

(ii) For any annual period after the first tenant has occupied the housing project, the owner of the housing project has been unable to attain and sustain at least a 95% occupancy level at the housing project.

(c) A loan under this section may be in an amount not to exceed 100% of the project cost as approved by the authority in the case of a nonprofit housing corporation, consumer housing cooperative, or public body or agency, and in an amount not to exceed 90% of the project cost as approved by the authority in the case of a limited dividend housing corporation, mobile home park corporation, or mobile home park association. A loan

may not be made under this section unless a market analysis has been conducted which demonstrates a sufficient market exists for the housing project.

(d) After November 1, 1987, the authority may continue to finance multifamily housing projects for families or persons whose incomes do not exceed the limits provided in subsection (1)(a)(ii) or (iii), or (1)(b), until funds derived from the proceeds of bonds or notes issued before November 2, 1987, for that purpose, including the proceeds of prepayments or recovery payments with respect to these multifamily housing projects, have been expended. Multifamily housing projects or single family housing units in an eligible distressed area which are financed by proceeds of notes or bonds issued before June 30, 1984, and which the authority has designated for occupancy by persons and families without regard to income pursuant to this act shall remain eligible for occupancy by families and persons without regard to income until the authority's mortgage loan issued with respect to these multifamily housing projects is fully repaid.

(e) Notwithstanding the expiration of lending authority under subsection (1)(a)(ii) and (iii), multifamily housing projects financed under those subparagraphs may continue to remain eligible for occupancy by persons and families whose incomes do not exceed the limits provided in subsection (1)(a)(ii) and (iii), or (1)(b).

(2)(a) The authority may make loans to any nonprofit housing corporation, limited dividend housing corporation, mobile home park corporation, or mobile home park association for the construction or rehabilitation of housing units, including residential condominium units as defined in section 4 of Act No. 59 of the Public Acts of 1978, being section 559.104 of the Michigan Compiled Laws, for sale to individual purchasers of low or moderate income or to individual purchasers without regard to income when the housing units are located in an eligible distressed area. The authority may make or purchase loans to individual purchasers for the long-term financing of a newly rehabilitated, newly constructed, or existing housing unit, including a residential condominium unit as defined in section 4 of Act No. 59 of the Public Acts of 1978. For a loan for a newly rehabilitated or newly constructed housing unit, including a residential condominium unit, the borrower's gross income as defined in rules of the authority may not exceed \$30,000.00 and the purchase price of the housing unit may not exceed \$70,000.00, except that, for unexpected cost increases during construction or improvements to adapt the property for use by handicapped individuals, the authority may increase the purchase price limit by an amount sufficient to cover those cost increases, but not to exceed \$3,500.00. For a loan for an existing housing unit, including a residential condominium unit, located other than in an eligible distressed area as defined in section 11(u)(i) or (ii), the borrower's gross income as defined in rules of the authority may not exceed \$24,600.00 and the purchase price of the housing unit may not exceed \$40,000.00. For an existing housing unit, including a residential condominium unit, located in an eligible distressed area as defined in section 11(u)(i) or (ii), the borrower's gross income as defined in rules of the authority may not exceed \$26,300.00 and the purchase price of the housing unit may not exceed \$50,000.00. Before making any loan under this section, authority staff shall determine that the borrower has the ability to repay the loan. A loan made or purchased to finance the acquisition of an existing housing unit may include funds for rehabilitation. A loan under this section may be in an amount not to exceed 100% of the project cost as approved by the authority in the case of a nonprofit housing corporation or individual purchaser, and in an amount not to exceed 90% of the project cost as approved by the authority in the case of a limited dividend housing corporation, mobile home park corporation, or mobile home park association.

(b) While a loan under this subsection is outstanding, any sale by a nonprofit housing corporation or limited dividend housing corporation or any subsequent resale shall be subject to approval by the authority. The authority shall provide in its rules concerning these sales and resales that the price of the housing unit sold, the method of making payments after the sale, the security afforded, and the interest rate, fees, and charges to be paid shall at all times be sufficient to permit the authority to make the payments on its bonds and notes and to meet administrative or other costs of the authority in connection with the transactions. Housing units shall be sold under terms that provide for monthly payments including principal, interest, taxes, and insurance.

(c) While a loan under this subsection is outstanding, the authority, before the approval of sale by a nonprofit housing corporation, limited dividend housing corporation, mobile home park corporation, or mobile home park association, shall satisfy itself that the sale is to persons of low or moderate income if the housing unit is not located in an eligible distressed area, or to persons without regard to income if the housing unit is located in an eligible distressed area.

(d) Upon the sale by a nonprofit housing corporation, limited dividend housing corporation, mobile home park corporation, or mobile home park association of any housing unit to an individual purchaser of low or moderate income or to an individual purchaser without regard to income if the unit is located in an eligible distressed area under this subsection to whom a loan is being made by the authority, the housing unit shall be released from the mortgage running from the nonprofit housing corporation, limited dividend housing corporation, mobile home park corporation, or mobile home park association to the authority, and the mortgage shall be replaced as to the housing unit by a mortgage running from the individual purchaser to the authority.

(e) The authority shall encourage nonprofit housing corporations and limited dividend housing corporations engaged in construction or rehabilitation under this subsection to utilize the labor of prospective individual

purchasers of low or moderate income in the construction or rehabilitation of the housing units involved. The value of the labor of the prospective purchasers so utilized shall be used to reduce the project costs of the housing units involved.

(f) In the construction of housing units to be sold to the individual purchasers of low or moderate income at a price not to exceed \$12,000.00, the individual purchasers may be required to perform, in a manner and under conditions to be specified by the authority in its rules, a minimum number of hours of labor. The value of the labor shall be credited to the purchase price.

(3) A loan shall be secured in a manner and be repaid in a period, not exceeding 50 years, as may be determined by the authority. A loan shall bear interest at a rate determined by the authority.

(4) A person who, for purposes of securing a loan under this act, misrepresents his or her income, including taking a leave of absence from his or her employment for purposes of diminishing his or her income, shall not be eligible for a loan under this act.

Sec. 44c. (1) If the resolution authorizing the issuance of notes or bonds provides that the notes or bonds are limited and not general obligations of the authority, are not secured by the capital reserve capital account, and are secured solely by revenues and property derived from or obtained in connection with the housing project, the authority shall use the proceeds of those notes or bonds to make loans directly, or indirectly by a loan through a mortgage lender, to a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, limited dividend housing association, mobile home park corporation, mobile home park association, or public body or agency for the construction or rehabilitation, and for the long-term financing, of any of the following:

(a) Multifamily housing projects for low income or moderate income persons.

(b) For the period of time beginning May 1, 1984, and ending November 1, 1987, multifamily housing projects in which not less than 20% of the dwelling units are allotted to individuals of low or moderate income within the meaning of former section 103(b)(4)(A) of the internal revenue code; not less than 15% of the dwelling units are allotted to persons and families whose gross household income does not exceed 125% of the higher of either the median income for a family in this state or the median income for a family within the nonmetropolitan county or metropolitan statistical area in which the housing project is located, as determined by the authority, or to the elderly; not less than 15% of the dwelling units are allotted to persons and families whose gross household income does not exceed 150% of the median income for a family in this state or the median income for a family within the nonmetropolitan county or metropolitan statistical area in which the housing project is located, as determined by the authority, or to the elderly; and not more than 50% of the dwelling units are available for occupancy without regard to income.

(c) For the period of time beginning May 1, 1984, and ending November 1, 1987, multifamily housing projects in eligible distressed areas in which not less than 20% of the dwelling units are allotted to individuals of low or moderate income within the meaning of former section 103(b)(4)(A) of the internal revenue code and in which not more than 80% of the dwelling units are available for occupancy without regard to income.

(d) Social, recreational, commercial, or communal facilities to serve and improve the residential area in which an authority-financed multifamily housing project is located or is planned to be located, thereby enhancing the viability of such housing.

(e) To qualify as rehabilitation under this section, the rehabilitation expenditures with respect to the project must equal or exceed 30% of the portion of the cost of acquiring the building and equipment financed with the proceeds of the notes or bonds issued to acquire and rehabilitate the project. For a project located in an eligible distressed area, the amount of rehabilitation may be less than the 30% requirement if the authority determines and expresses by resolution that the likely benefit to the community or the proposed residents of the project merits the use of this financing source. This subsection does not apply to a project for which the authority has authorized a loan commitment under this section before December 18, 1985. The authority shall not provide long-term financing for a project under this section unless the project is constructed or rehabilitated in anticipation of authority financing or the construction or rehabilitation is undertaken with authority financing.

(2) Notwithstanding the provisions of this section, the authority shall establish by resolution higher income limits for a housing project financed under either subsection (1)(a) or (b) equal to the income limits of subsection (1)(c) if the authority determines all of the following:

(a) The owner of the housing project exercised reasonable efforts to rent the dwelling units to persons and families whose incomes did not exceed the originally applicable income limitations.

(b) For any annual period after the first tenant has occupied the housing project, the owner of the housing project has been unable to attain and sustain at least a 95% occupancy level at the housing project.

(3) Notwithstanding the expiration of lending authority under this section, multifamily housing projects financed under this section may continue to remain eligible for occupancy by persons and families whose incomes do not exceed the limits provided in subsection (1) or (2).

(4) A borrower seeking to qualify for a loan under this section shall file an application with the authority which includes the following:

(a) A description of the proposed credit enhancement. The proposed credit enhancement may be in the form of a letter of credit, bonding, guarantee, mortgage insurance, or other appropriate security in an amount sufficient to assure the authority that repayment of notes or bonds issued by the authority is reasonably secure.

(b) An undertaking to pay all costs of issuing the notes or bonds and to provide compensation for, as considered appropriate by the borrower and at no cost to the authority, any underwriters, trustees, counsel, and other professionals as are necessary to complete the financing.

(c) An application fee equal to the greater of \$4,000.00 or 0.0005 multiplied by the principal amount of notes or bonds for which issuance is requested. For a project located in an eligible distressed area, the fee required by this subdivision shall be refundable if the notes or bonds are not delivered. In all other cases the fee is nonrefundable.

(5) So long as there is uncommitted bonding capability under the limitations of section 32a(1)(b), the authority shall issue a 6-month commitment to loan funds, subject to sale by the authority of its notes and bonds in compliance with applicable law and pursuant to terms and conditions which permit the funding of such loan, either directly or indirectly by a loan through a mortgage lender, to the borrower in the amount of the total development cost of the proposed multifamily housing project or \$25,000,000.00, whichever is less, or if the proposed multifamily housing project is located in an eligible distressed area, in the amount of the total development cost of the proposed project or \$50,000,000.00, whichever is less, upon the determination by the authority of all of the following:

(a) The housing project is eligible for financing under this section.

(b) The borrower is an eligible borrower under this act.

(c) The requirements of subsection (4) have been met.

(d) The borrower has provided evidence of a commitment to issue a credit enhancement in the form of a letter of credit, bonding, guarantee, mortgage insurance, or other appropriate security in a form and amount sufficient to assure the authority that the repayment of notes or bonds issued by the authority for purposes of making a loan to the borrower is reasonably secure. If the authority determines that repayment of the notes or bonds will be reasonably secure, the authority's review of the credit enhancement shall take the place of the authority's normal underwriting and feasibility review.

(e) If the loan is made indirectly by a loan through a mortgage lender, the requirements of section 44b have been met.

(6) A borrower and any person who is a related person to the borrower as defined in section 144(a)(3) of the internal revenue code shall not have outstanding loan commitments under this section which total more than the greater of \$25,000,000.00 or the amount of financing approved for a single project under subsection (5). Once a loan has been made under this section, the commitment made with respect to the loan shall no longer be considered to be outstanding.

(7) Simultaneously with the issuance of the loan commitment by the authority, the borrower shall pay a commitment fee in the amount of 0.1% of the principal amount of notes or bonds to be issued. The authority shall credit the amount paid by the borrower as an application fee under subsection (4) against this commitment fee. The authority shall extend a 6-month loan commitment issued under subsection (5) for an additional 6 months upon payment by the borrower of a nonrefundable extension fee of \$5,000.00 which fee shall not be credited against any other fee or payment to the authority.

(8) Within the period during which the commitment is effective, the authority, upon a determination that the terms and conditions of the commitment have been satisfied, shall make its loan directly, or indirectly through a loan to a mortgage lender, to the borrower.

(9) Except as otherwise provided in this subsection, upon issuance of any notes or bonds to finance a housing project under this section, the borrower shall pay at the time the notes or bonds are issued, in addition to any commitment or extension fee paid under subsection (7), a fee of either not more than 0.9% of the principal amount of the notes or bonds for a loan made for a project located in an eligible distressed area or not more than 1.9% of the principal amount of the notes or bonds for a loan made for a project located in other than an eligible distressed area. If notes or bonds have been issued under this section for a project owned by the borrower located in an eligible distressed area within 180 days before the issuance of notes or bonds for the next project financed by that borrower, which next project is located in other than an eligible distressed area, the fee under this subsection shall be not more than 0.9% of the principal amount of the notes or bonds. If notes or bonds have been issued under this section for a project located in other than an eligible distressed area and the borrower has paid the 1.9% fee, the authority shall not charge a fee under this subsection for the next project financed by that borrower if that next project is located in an eligible distressed area and if the notes or bonds are issued within 180 days after the notes or bonds were issued for the project located in other than an eligible distressed area.

(10) Subject to any rights of the holders of any notes or bonds issued to finance a multifamily housing project under this section, if the owner of a multifamily housing project financed under this section provides evidence satisfactory to the authority that the new owner of the multifamily housing project is an eligible borrower under this act and the exemption from federal income taxation of interest on the notes or bonds issued to finance the multifamily housing project will not be impaired as a result of a sale, refinancing, or resyndication, the borrower may sell, refinance from a source other than the authority, or resyndicate that housing project at any time. There shall not be a prepayment penalty or fee required for the sale, refinancing, or resyndication in addition to any prepayment penalty or fee owing to the holders of notes or bonds issued to finance a housing project under this section.

(11) A borrower is allowed distributions equal to a 12% return on the borrower's investment in a multifamily housing project financed under this section for the first 12 months of operation of the housing project following substantial completion. The allowable return shall be increased by 1% for each 12-month period after the first 12 months. The maximum allowable return for a housing project located in other than an eligible distressed area is 25%. Any return less than the allowable rate in any preceding period may be received in any subsequent period on a cumulative basis.

(12) Before September 1 of each year after 1984, the owner of a housing project financed under this section shall report to the authority all of the following which the authority shall include in the report required by section 32(14):

(a) The incomes of the tenants residing in that housing project in a manner which preserves the anonymity of those tenants.

(b) The estimated economic and social benefits of that housing project to the immediate neighborhoods in which it has been constructed.

(c) The estimated economic and social benefits of that housing project to the city in which it has been constructed.

(d) Information requested by the authority about that housing project which is needed so that the authority can report the extent of displacement, direct and indirect, of lower income persons caused by housing projects financed under this section, and steps taken by governmental and private parties to ameliorate the displacement, and the results of those efforts.

(e) Information requested by the authority about that housing project which is needed so that the authority can report the estimated extent of additional reinvestment activities by private lenders attributable to the authority's financing of housing projects financed under this section.

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

(g) 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.

(13) Mortgages securing loans made under this section are authority-aided mortgages.

(14) The authority may inspect and audit projects and records of projects financed under this section in order to monitor compliance with the requirements of this section. If there is noncompliance, the authority, pursuant to the provisions of the financing and organizational documents applicable to the transaction, may pursue the remedies which the authority considers appropriate. Except as is required to assure compliance with this section or section 46 or otherwise required by purchasers of notes or bonds issued to finance a multifamily housing project under this section, the authority shall not regulate, in any manner, a multifamily housing project financed under this section.

(15) Notwithstanding any other provision of this section, there shall not be any liability on the part of the authority or its members, officers, employees, or agents, and the assets of the authority shall not be subject to any liability, as a result of any act or failure to act under this section on the part of the authority or its members, officers, employees, or agents.

(16) If notes or bonds have been issued under this section for a project located in an eligible distressed area within 180 days before the submission, by the same borrower or a borrower having the same general partners, of a commitment for credit enhancement, that borrower's application shall be given priority over the other applications submitted under this section to finance projects located in other than eligible distressed areas, except for projects for which the authority has authorized loan commitments. The principal amount of notes or bonds issued to finance a project given priority under this subsection shall not exceed 10 times the principal amount of the notes or bonds issued to finance the distressed area project that qualifies the borrower for priority consideration.

Sec. 44d. (1) The authority may make loans to any nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, limited dividend housing association, mobile home park association, or mobile home park corporation, or to any public body or agency for the construction or rehabilitation, and for the long-term financing, of housing projects that meet the following criteria:

(a) The housing project provides a system of support services that promote and preserve the independent living of handicappers, the elderly, or other persons at risk of institutionalization.

(b) Social, recreational, medical, and shopping facilities are readily accessible to the residents who cannot provide their own transportation.

(c) An affordable, daily demand actuated transportation system is integrated into the project for elderly and handicapper residents who are unable to transport themselves.

This act is ordered to take immediate effect.

.....
Clerk of the House of Representatives.

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Secretary of the Senate.

Approved

.....
Governor.