

Act No. 138
Public Acts of 1991
Approved by the Governor
November 22, 1991
Filed with the Secretary of State
November 22, 1991

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1991**

Introduced by Rep. Saunders

ENROLLED HOUSE BILL No. 5041

AN ACT to amend sections 22, 22c, 32, 44, 44a, 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," sections 22, 32, and 44 as amended by Act No. 330 of the Public Acts of 1990, section 22c as added by Act No. 180 of the Public Acts of 1987, section 44a as amended by Act No. 220 of the Public Acts of 1989, and section 44c as amended by Act No. 281 of the Public Acts of 1989, being sections 125.1422, 125.1422c, 125.1432, 125.1444, 125.1444a, and 125.1444c of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 22, 22c, 32, 44, 44a, and 44c of Act No. 346 of the Public Acts of 1966, sections 22, 32, and 44 as amended by Act No. 330 of the Public Acts of 1990, section 22c as added by Act No. 180 of the Public Acts of 1987, section 44a as amended by Act No. 220 of the Public Acts of 1989, and section 44c as amended by Act No. 281 of the Public Acts of 1989, being sections 125.1422, 125.1422c, 125.1432, 125.1444, 125.1444a, and 125.1444c of the Michigan Compiled Laws, are amended to read as follows:

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

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

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

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

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

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

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

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

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

(i) To make or purchase loans, including loans for condominium units as defined in section 4 of the condominium act, Act No. 59 of the Public Acts of 1978, being section 559.104 of the Michigan Compiled Laws, and including loans to mortgage lenders, which are unsecured or the repayments of which are secured by mortgages, security interests, or other forms of security; to purchase and enter into commitments for the purchase of securities, certificates of deposits, time deposits, or mortgage loans from mortgage lenders; to participate in the making or purchasing of unsecured or secured loans and undertake commitments to make or purchase unsecured or secured loans; to sell mortgages, security interests, notes, and other instruments or obligations evidencing or securing loans, including certificates evidencing interests in 1 or more loans, at public or private sale; in connection with the sale of an instrument or obligation evidencing or securing 1 or more loans, to service, guarantee payment on, or repurchase the instrument or obligation, whether or not it is in default; to modify or alter mortgages and security interests; to foreclose on any mortgage, security interest, or other form of security; to finance housing units; to commence an action to protect or enforce a right conferred upon the authority by law, mortgage, security agreement, contract, or other agreement; to bid for and purchase property that was the subject of the mortgage, security interest, or other form of security, at a foreclosure or at any other sale, and to acquire or take possession of the property. Upon acquiring or taking possession of the property, the authority may complete, administer, and pay the principal and interest of obligations incurred in connection with the property, and may dispose of and otherwise deal with the property in any manner necessary or desirable to protect the interests of the authority in the property. If the authority or an entity that provides mortgage insurance to the authority acquires property upon the default of a borrower, the authority may make a mortgage loan to a subsequent purchaser of that property even if the purchaser does not meet otherwise applicable income limitations and purchase price limits.

(j) To set standards for housing projects that receive loans under this act and to provide for inspections to determine compliance with those standards. The standards for construction and rehabilitation of mobile homes, mobile home parks, and mobile home condominium projects shall be established jointly by the authority and the mobile home commission, created in the mobile home commission act, Act No. 96 of the Public Acts of 1987, being sections 125.2301 to 125.2349 of the Michigan Compiled Laws. However, financing standards shall be established solely by the authority.

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

(l) To acquire or contract to acquire from a person, firm, corporation, municipality, or federal or state agency, by grant, purchase, or otherwise, leaseholds or real or personal property, or any interest in a leasehold

or real or personal property; to own, hold, clear, improve, and rehabilitate and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber any interest in a leasehold or real or personal property. This act shall not impede the operation and effect of local zoning, building, and housing ordinances, ordinances relating to subdivision control, land development, or fire prevention, or other ordinances having to do with housing or the development of housing.

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

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

(o) To promulgate rules necessary to carry out the purposes of this act and to exercise the powers expressly granted in this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(p) To enter into agreements with nonprofit housing corporations, consumer housing cooperatives, limited dividend housing corporations, mobile home park corporations, and mobile home park associations that provide for regulation by the authority of the planning, development, and management of any housing project undertaken by nonprofit housing corporations, consumer housing cooperatives, limited dividend housing corporations, mobile home park corporations, and mobile home park associations and which provide for the disposition of the property and franchises of those corporations, cooperatives, and associations.

(q) To appoint to the board of directors of a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association, a number of new directors sufficient to constitute a majority of the board notwithstanding other provisions of the articles of incorporation or other provisions of law. Directors appointed under this subsection need not be stockholders or members or meet other qualifications that may be described by the certificate of incorporation or bylaws. In the absence of fraud or bad faith, directors appointed under this subsection shall not be personally liable for debts, obligations, or liabilities of the corporation or association. The authority may appoint directors under this subsection only if 1 or more of the following occur:

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

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

(iii) The authority determines that some part of the net income or net earnings of the nonprofit housing corporation is inuring to the benefit of a private individual, firm, corporation, partnership, or association; the authority determines that an unreasonable part of the net income or net earnings of the consumer housing cooperative is inuring to the benefit of a private individual, firm, corporation, partnership, or association; or the authority determines that some part of the net income or net earnings of the limited dividend housing corporation, in excess of that permitted by other provisions of this act, is inuring to the benefit of a private individual, firm, corporation, partnership, or association.

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

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

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

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

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

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

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

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

(v) To set forth in the various loan documents of the authority those restrictions on the sale, conveyance by land contract, or transfer of residential real property, housing projects, or housing units for which a note is held by the authority and restrictions on the assumption by subsequent purchasers of loans originated by and held by, or originated for purchase by and held by, the authority as the authority determines to be necessary in order to comply with requirements of federal statutes, federal rules or regulations promulgated pursuant to 5 U.S.C. 551 to 559, state statutes, or state rules promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, or to obtain and maintain the tax exempt status of authority bonds and notes. However, the authority shall not use a due on sale or acceleration clause solely for the purpose of renegotiating the interest rate on a loan made with respect to an owner-occupied single-family housing unit. Without limiting the authority's power to establish other restrictions, as provided in this section, on the sale, conveyance by land contract, or transfer of residential real property, housing projects, or housing units for which a note is held by the authority and the assumption by subsequent purchasers of loans made or purchased by the authority, the authority shall provide in its loan documents relating to a single family loan that the single family loan may be assumed by a new purchaser only when the new purchaser qualifies under the authority income limitations rules except where such a restriction diminishes or precludes the insurance or a guarantee by an agency of the federal government with respect to the single family loan. A loan made for a mobile home that the borrower does not intend to permanently affix to real property shall become immediately due and payable in the event the mobile home is moved out of the state. Any restrictions on conveyance by sale, conveyance by land contract, or transfer that are authorized in this section shall apply only to loans originated by and held by, or originated for purchase by and held by, the authority and may, at the option of the authority, be enforced by accelerating and declaring immediately due and payable all sums evidenced by the note held by the authority. An acceleration and declaration of all sums to be due and payable on conveyance by sale, land contract, or transfer is not an unreasonable restraint on alienation. An acceleration and declaration, unless otherwise prohibited in this subdivision, of all sums to be due and payable pursuant to this subdivision is enforceable in any court of competent jurisdiction. This subdivision is applicable to secured and unsecured loans. This subdivision is also applicable to loan documents utilized in conjunction with an authority-operated program of residential rehabilitation by an entity cooperating or participating with the authority pursuant to section 22a(4), which loans are originated with the intent to sell those loans to the authority.

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

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

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

(z) To verify for the state treasurer statements submitted by a city, village, township, or county as to exempt properties pursuant to section 7d of the general property tax act, Act No. 206 of the Public Acts of 1893, being section 211.7d of the Michigan Compiled Laws.

(aa) To enter into interest rate exchanges or swaps, hedges, or similar agreements with respect to its bonds or notes in the same manner and subject to the same limitations and conditions provided for a municipality in section 15 of chapter III of the municipal finance act, Act No. 202 of the Public Acts of 1943, being section 133.15 of the Michigan Compiled Laws.

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

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

(dd) To impose covenants running with the land in order to satisfy requirements of applicable federal law with respect to housing assisted or to be assisted by the federal low income housing tax credit program, by executing and recording regulatory agreements between the authority and the person or entity to be bound. These covenants shall run with the land and be effective with respect to the parties making the covenants and other intended beneficiaries of the covenants, even though there is no privity of estate or privity of contract as between the authority and the persons or entities to be bound.

(ee) To impose covenants running with the land in order to satisfy requirements of applicable state or federal law with respect to housing financed by the authority by executing and recording regulatory agreements between the authority and the person or entity to be bound. These covenants shall run with the land and be effective with respect to the parties making the covenants and other intended beneficiaries of the covenants, even though there is no privity of estate or privity of contract as between the authority and the persons or entities to be bound. With respect to the application of any applicable environmental laws, this subdivision shall not be construed to grant to the authority any additional rights, privileges, or immunities not otherwise afforded to a private lender that is not in the chain of title for the land.

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

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

(i) The return on the mortgage 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 its own funds and at the same prices at which the mortgage loans were sold to the escrow funds, as adjusted for the accretion of discount or amortization of premium, plus accrued interest, any mortgage loans that become delinquent in excess of 30 days. This subdivision does not obligate the authority to purchase a delinquent mortgage loan so long as with respect to that mortgage loan the authority advances money from its own funds in the amount of the delinquent mortgage payments. The authority's election to advance payments does not in any manner abate or cure the delinquency of the mortgage loan and the authority may resort to any remedies that would exist in the absence of that payment.

Sec. 22c. (1) The authority may incorporate 1 or more nonprofit housing corporations for the purposes of owning, holding, maintaining, improving, completing, receiving subsidy payments for, or transferring ownership of a housing project or housing unit either acquired through foreclosure or deed in lieu of foreclosure or over which the authority has, following a declaration of default, otherwise obtained control. Until November 1, 1993, in order to preserve housing for low and moderate income persons, the authority may also incorporate or cause the incorporation of 1 or more nonprofit housing corporations for the purpose of acquiring housing projects or an interest in the ownership of 1 or more housing projects and owning, holding, maintaining, or improving the housing projects, if regulatory or contractual restrictions assuring occupancy of some or all of the units in 1 or more of the housing projects by families and persons of low or moderate income are subject to termination within a 2-year period following the acquisition of the housing project. A nonprofit housing corporation incorporated pursuant to this subsection may acquire a housing project only if all of the following requirements are met:

(a) At least 6 months have passed since the eighteenth anniversary of the commencement of amortization of the project's permanent mortgage loan on the housing project.

(b) The authority by resolution determines all of the following:

(i) The tenants residing in the housing project have been notified of the opportunity to acquire the housing project in accordance with the Cranston-Gonzalez national affordable housing act, Public Law 101-625, 104 Stat. 4079.

(ii) No tenant organization that the authority determines to have the legal, financial, and managerial capabilities to acquire the housing project has developed and submitted to the housing project owners an acquisition proposal with respect to which negotiations are ongoing.

(iii) No local or statewide nonprofit housing corporation that the authority determines to have the legal, financial, and managerial capabilities to acquire the project has submitted to the housing project owners an acquisition proposal with respect to which negotiations are ongoing.

(c) The nonprofit housing corporation incorporated pursuant to this section contracts with a private firm for the management of the housing project.

(2) A subsidiary nonprofit housing corporation may sue and be sued in its own name, and the circuit court of Ingham county has exclusive jurisdiction over all actions brought against a subsidiary nonprofit housing corporation, except if jurisdiction over the action is in the supreme court, the court of appeals, or the court of claims.

(3) A subsidiary nonprofit housing corporation is a separate legal entity. The authority is not liable for the debts or obligations or for any actions or inactions of the subsidiary nonprofit housing corporation unless it expressly agrees otherwise. A member, officer, or employee of a subsidiary nonprofit housing corporation is not individually liable for actions undertaken or failure to act on behalf of the subsidiary nonprofit housing corporation so long as the individual is acting or reasonably believes he or she is acting within the scope of his or her authority as a member, officer, or employee of the subsidiary nonprofit housing corporation.

(4) The authority may make loans or grants to a subsidiary nonprofit housing corporation to enable the subsidiary nonprofit housing corporation to carry out any of its purposes.

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 that may be drawn upon for the purposes of the capital reserve fund, and the amount available to be drawn under letters of credit pledged to a capital reserve fund shall be credited toward the satisfaction of a capital reserve fund requirement. All money and proceeds of draws under letters of credit 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 capital reserve fund for any 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 to be drawn on any letter of credit pledged to 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 total of the amount of money in a capital reserve fund and amounts available to be drawn on any letter of credit pledged to the 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, including the amounts available to be drawn on any letter of credit pledged to a 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 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 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. 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 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 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 \$3,400,000,000.00, 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, 1993, 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, 1993, subject to the limitations of section 32a shall be excluded from this reduced limitation.

(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) "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", "mortgage credit certificate", and "qualified residential rental project" mean those terms as defined in 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.

(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) 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 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 which 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) 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 municipalities 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, median income, 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.

(h) 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.

(i) A report on the neighborhood preservation program under section 44f shall include information about the progress in developing the program, the neighborhoods identified as being 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.

(j) 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. If the authority determines that federal programs are inadequate for tenants of authority-financed housing projects, the authority will provide recommendations to the legislature as to how to address this problem on or before May 1, 1989.

(k) A report on the low income housing tax credit program under section 22b, which 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 any amendments to the allocation plan made during that year.

(17) The authority shall insure that the income characteristics of individuals served by an authority program are provided in a manner that insures each individual's confidentiality. The authority shall also insure 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.

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, or 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) For the period of time beginning November 1, 1987, and ending November 1, 1993, multifamily housing projects that meet the 20-50 test established in section 142 of the internal revenue code and, in addition, in which 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.

(v) For the period of time beginning November 1, 1987, and ending November 1, 1993, multifamily housing projects in eligible distressed areas that meet the 20-50 test established in section 142 of the internal revenue code and, in addition, in which not more than 80% of the dwelling units are available for occupancy without regard to income.

(vi) 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), (iii), (iv), or (v) 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 90% of the project cost as approved by the authority. For purposes of this section, the term "project cost" includes all items included in the definition of a project cost in section 11 and also includes a builder's fee equal to an amount up to 5% of the amount of the construction contract, developer overhead allowance and fee of 5% of the amount of the project cost, the cost of furnishings, and a sponsor's risk allowance equal to 10% of the project cost. A loan shall 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) After November 1, 1993, 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)(iv) or (v), or (1)(b), until funds derived from the proceeds of bonds or notes issued before November 2, 1993 for that purpose, including the proceeds of refunding notes or bonds or prepayments or recovery payments with respect to these multifamily housing projects, have been expended.

(f) Notwithstanding the expiration of lending authority under subsection (1)(a)(ii), (iii), (iv), or (v), 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 those subparagraphs or subsection (1)(b).

(g) For purposes of this subsection:

(i) "Gross household income" means gross income of a household as those terms are defined in rules of the authority.

(ii) "Median income for a family in this state" and "median income for a family within the nonmetropolitan county or metropolitan statistical area" mean those income levels as determined by the authority.

(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 the condominium act, 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 family income shall not exceed \$36,500.00 and the purchase price of the housing unit shall not exceed \$80,000.00. 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, the borrower's family income shall not exceed \$36,500.00 and the purchase price of the housing unit shall not exceed \$60,000.00. For costs for improvements to adapt an existing housing unit 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. If an income or purchase price limit prescribed by this subsection exceeds a limit prescribed by the internal revenue code, the internal revenue code limit applies. Except with respect to newly constructed housing units, until November 1, 1993 the authority may at any time by resolution establish, for any length of time it considers appropriate, maximum borrower income or purchase price limits more restrictive than those maximum limitations set forth in this section. The authority shall advise the appropriate house and senate standing committees 5 days prior to the adoption of a resolution establishing more restrictive maximum borrower income or purchase price limits. 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 is 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, is not to be eligible for a loan under this act.

Sec. 44a. (1) The authority may make, purchase, or participate in loans, grants, or deferred payment loans to persons and families of low and moderate income to finance the rehabilitation of residential real property designed for occupancy by not more than 4 families which is owned or is being purchased by 1 or more persons or families of low and moderate income and which is for occupancy by persons or families of low and moderate income.

(2) The authority, without regard to the income of the owners or occupants of residential rental property, may make, purchase, or participate in loans, grants, or deferred payment loans for the rehabilitation of residential rental property to persons or entities owning residential rental property located in areas of chronic economic distress and moderate cost residential rental property located elsewhere in this state.

(3) A loan under this section may be secured or unsecured as determined by the authority. If the loan is unsecured, it shall be accepted for insurance under title 1 of the national housing act, 12 U.S.C. 1702, 1703, 1705, and 1706b to 1706d, or another federal or private insurance program providing coverage at least equal to that provided by that title, or the authority shall establish a reserve for losses on uninsured loans made under this section and shall deposit into that reserve an amount equal to 5% of the principal amount of each such uninsured loan on or before the making of the loan. Money may be withdrawn by the authority from this reserve for application as loan repayments in connection with loans that are delinquent. In addition, upon repayment of a loan made, purchased, or participated in under this section, the authority may withdraw the amount deposited in the reserve in connection with that loan, reduced by any amounts withdrawn as loan repayments in connection with the loan, and may apply the amounts to any of the authority's programs and purposes. Any income or interest earned by or increment to the reserve due to the investment of the money in the reserve may, at such times as the authority shall determine, be transferred by the authority to other funds or accounts of the authority and applied to any of the corporate purposes of the authority. A loan under this section shall bear interest at a rate and be repaid in the period, not exceeding 20 years, as may be determined by the authority and under additional terms and conditions as may be determined by the authority.

(4) A deferred payment loan or grant may be secured or unsecured as determined by the authority, and shall be made under additional terms and conditions determined by the authority.

(5) In recognition of the need for rehabilitation loans, grants, and deferred payment loans in all geographic areas of the state, the authority shall promulgate rules that provide for the availability of loans, grants, and deferred payment loans on an equitable basis to qualified applicants in all geographic areas of this state. With respect to loans, grants, and deferred payment loans made pursuant to this section that are not based on residency in a neighborhood selected pursuant to section 22a(5), eligibility for loans, grants, or deferred

payment loans shall not be based upon the number of qualified applicants in the geographic area in which the individual resides.

(6) For purposes of this section, persons and families of low and moderate income means persons and families whose family income does not exceed \$36,500.00. Until November 1, 1993 the authority may at any time by resolution establish, for any length of time it considers appropriate, maximum family income limits more restrictive than those maximum limitations set forth in this section. The authority shall advise the appropriate house and senate standing committees 5 days prior to the adoption of a resolution establishing more restrictive maximum family income limits.

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, rehabilitation, long-term financing or any combination of construction, rehabilitation, or 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, 1993, 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, 1993, 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.

(2) 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, the construction or rehabilitation is undertaken with authority financing, or long-term financing is being provided with respect to a housing project for which regulatory or contractual restrictions assuring occupancy of some or all of the units by families or persons of low or moderate income are subject to termination within a 2-year period following the acquisition of the housing project.

(3) 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.

(4) 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 (3).

(5) 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 or may be waived by the authority in the event the owner of the housing project is or will be a qualified 501(c)(3) nonprofit housing corporation. In all other cases the fee is nonrefundable.

(6) 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 (5) 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.

(7) Unless a borrower is a qualified 501(c)(3) nonprofit housing corporation, 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 (6). 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.

(8) Simultaneously with the issuance of the loan commitment by the authority, the borrower shall pay a commitment fee in the amount of not more than 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 (5) against this commitment fee. The authority shall extend a 6-month loan commitment issued under subsection (6) 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.

(9) 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.

(10) 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 (8), 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.

(11) 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.

(12) 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.

(13) 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, the 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.

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

(15) 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, or a third party credit enhancement provider with respect to, 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. This section does not preclude the authority from regulating a multifamily housing project in consideration for other types of program benefits, incentives, or concessions provided by the authority over and above the financing made available under this section.

(16) 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.

(17) 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.

(18) Except for housing projects for which the authority has adopted an inducement resolution on or before April 1, 1991, loans shall not be made under this section unless the authority determines that use of the state's unified volume cap for a project will not impair the ability of the authority to carry out programs or finance housing developments or housing units which are targeted to lower income persons.

This act is ordered to take immediate effect.

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

.....
Secretary of the Senate.

Approved.....

.....
Governor.