

Act No. 35  
Public Acts of 1993  
Approved by the Governor  
May 5, 1993  
Filed with the Secretary of State  
May 11, 1993

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1993**

Introduced by Reps. Pitoniak, Anthony, DeMars, Scott and Brown

Reps. Baade, Bandstra, Bennane, Bobier, Bodem, Bullard, Byrum, Ciaramitaro, Crissman, Curtis, Dobb, Dobronski, Dolan, Freeman, Gagliardi, Gernaat, Gilmer, Gire, Hammerstrom, Harrison, Johnson, Kilpatrick, Llewellyn, London, McBryde, McManus, Middleton, Murphy, Olshove, Palamara, Points, Profit, Rhead, Rivers, Saunders, Shugars, Stille, Varga, Vorva, Wetters and Yokich named co-sponsors

## **ENROLLED HOUSE BILL No. 4413**

AN ACT to amend sections 5 and 8 of Act No. 183 of the Public Acts of 1964, entitled as amended "An act creating the state building authority with power to acquire, construct, furnish, equip, own, improve, enlarge, operate, mortgage, and maintain buildings, necessary parking structures or lots and facilities, and sites therefor, or furnishings or equipment for the use of the state or any of its agencies; to act as a developer or co-owner of buildings, necessary parking structures or lots, and facilities, and sites therefor as a condominium project for the use of the state or any of its agencies; to authorize the execution of leases pertaining to such properties, facilities, furnishings, or equipment by the building authority with the state or any of its agencies; to authorize the payment of true rentals by the state; to provide for the issuance of revenue obligations by the building authority to be paid from the true rentals to be paid by the state and other resources and security provided for and pledged by the building authority; to authorize the creation of funds; to authorize the conveyance of lands by the state or any of its agencies for the purposes herein authorized; to authorize the appointment of a trustee for bondholders and to permit remedies for the benefit of bondholders; and to provide for other matters in relation thereto," section 8 as amended by Act No. 119 of the Public Acts of 1987, being sections 830.415 and 830.418 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 5 and 8 of Act No. 183 of the Public Acts of 1964, section 8 as amended by Act No. 119 of the Public Acts of 1987, being sections 830.415 and 830.418 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 5. (1) Property owned by the state may be conveyed to the building authority for any purpose expressed in this act, subject, however, to prior approval by the state administrative board, by the attorney general, and by concurrent resolution of the legislature concurred in by a majority of the members elected to and serving in each house. The votes and names of the members voting on the resolution shall be entered in the journal. After approval as provided in this subsection, a conveyance shall be executed for and on behalf of the state by the governor and secretary of state, or in the event of the absence or disability of either of them, by the lieutenant governor or deputy secretary of state.

(2) In addition to other authority granted by law, property owned by an institution of higher education may be conveyed to the building authority for any purpose expressed in this act, subject, however, to approval by the governing body of the institution of higher education, by the state administrative board, and by concurrent resolution of the legislature concurred in by a majority of the members elected to and serving in each house. The votes and names of the

members voting on the resolution shall be entered in the journal. After approval as provided in this subsection, a conveyance shall be executed for and on behalf of the institution of higher education by authorized officers of the institution of higher education.

Sec. 8. (1) By resolution or resolutions of its board, the building authority may provide for the issuance of revenue obligations, which may include revenue bonds, revenue notes, or other evidences of revenue indebtedness, and refunding revenue bonds or notes, or other refunding evidences of indebtedness, the obligations for which shall not become a general obligation of the state or a charge against the state, but all revenue obligations and the interest on the revenue obligations and the call premiums for the revenue obligations shall be payable solely from true rental, except to the extent paid from the proceeds of sale of revenue obligations and any additional security provided for and pledged, or from other funds as provided in this act, and each revenue obligation shall have such a statement printed on the face of the revenue obligation. If the resolution of the building authority provides for interest coupons to be attached to a revenue obligation, each interest coupon shall have a statement printed on the coupon that the coupon is not a general obligation of the state or the building authority but is payable solely from certain revenues as specified in the revenue obligation. Revenue obligations may be issued for the purpose of paying part or all of the costs of the facilities or for the purpose of refunding or advance refunding, in whole or in part, outstanding revenue obligations issued pursuant to this act whether the obligations to be refunded or advance refunded have matured or are redeemable or shall mature or become redeemable after being refunded. The cost of the facilities may include an allowance for legal, engineering, architectural, and consulting services; interest on revenue obligations becoming due before the collection of the first true rental available for the payment of those revenue obligations; a reserve for the payment of principal, interest, and redemption premiums on the revenue obligations of the authority; and other necessary incidental expenses including, but not limited to, placement fees and fees or charges for insurance, letters of credit, lines of credit, remarketing agreements, or commitments to purchase obligations issued pursuant to this act; or any other fees or charges for any other security provided to assure timely payment of the obligations.

(2) The proceeds of a revenue obligation issue may be used to pay the cost of facilities that are subject to more than 1 lease if both of the following are true:

(a) The resolution authorizing the revenue obligations provides for the use of a specific allocable portion of the revenue obligation proceeds to pay the estimated cost of each of the facilities, together with the allocable portion of the reserves, discount, interest on the obligations becoming due before the first true rental available for payment of the obligations, and obligation issuance expense with respect to each facility.

(b) The true rental and other funds of the building authority and other security as provided in this act available for the revenue obligations including other funds as provided in this act are sufficient to pay the allocable portion of the revenue obligation issue for which the true rental and other funds and security are pledged.

(3) Revenue obligations that refund outstanding obligations may include the payment of interest accrued, or to accrue, to the earliest or any subsequent date of redemption, purchase, or maturity of the revenue obligations to be refunded, redemption premium, if any, and any commission, service fee, and other expense necessary to be paid in connection with revenue obligations that refund outstanding obligations. Proceeds of refunding revenue obligations may also be used to pay part of the cost of issuance of the refunding revenue obligations, interest on the refunding revenue obligations, a reserve for the payment of principal, interest, and redemption premiums on the refunding revenue obligations, and other necessary incidental expenses including, but not limited to, placement fees; fees or charges for insurance, letters of credit, lines of credit, remarketing agreements, or commitments to purchase obligations issued pursuant to this act; or any other fees or charges for any other security provided to assure timely payment of the obligations. The building authority may also provide for the withdrawal of any funds from a reserve created for the payment of principal, interest, and redemption premiums on the refunded obligations and for the deposit of those funds in the reserve for the payment of principal, interest, and redemption premiums on the refunding obligations or may provide for use of that reserve money to pay principal, interest, and redemption premiums on the obligations to be refunded. Obligations issued to refund outstanding obligations may be issued in a principal amount greater than, the same as, or less than the principal amount of the obligations to be refunded, and subject to the maximum rate of interest provided in subsection (8), may bear interest rates that are higher than, the same as, or lower than the interest rates of the obligations to be refunded. If obligations are issued to refund outstanding obligations of the authority, a lease whose rental has been pledged for repayment of the obligations to be refunded shall not be terminated solely by reason of the payment or provision for payment of the obligations to be refunded, and the lease and all of the rights and obligations under the lease remain in full force and effect in accordance with its terms.

(4) Except as otherwise provided in this section, the building authority shall use income or profit derived from the investment of money in a fund or account of the building authority, including the proceeds of sale of the revenue obligations, only for the purpose of paying principal, interest, and redemption premiums on the revenue obligations of the building authority, or for any purpose for which the proceeds of the revenue obligations may be used under this act, as determined by the resolution of the board authorizing the issuance of revenue obligations.

(5) The board may authorize by resolution the person appointed by the building authority as its chief operating officer or chief staff person to issue and deliver obligations for and on behalf of the building authority, if the autho-

ization limits or prescribes the maximum interest rates, minimum price, maximum principal amount, and the latest maturity date of the obligations.

(6) To the extent provided by resolution of the board, principal of, and interest and redemption premiums on, revenue obligations issued for the purpose of paying all or part of the cost of the facilities shall be secured by and payable only from any or all of the following sources:

- (a) The true rental derived from the facilities constructed or acquired with the proceeds of the revenue obligations.
- (b) The proceeds of revenue obligations.
- (c) The reserve, if any, established for the payment of principal of, or interest or redemption premiums on, the obligations.
- (d) The proceeds of insurance, a letter of credit, or a line of credit acquired as security for the revenue obligations.
- (e) The proceeds of obligations issued to refund the revenue obligations.
- (f) The proceeds of the foreclosure or enforcement of a mortgage, security interest, or deed of trust on the facilities financed by the revenue obligations granted by the authority as security for the revenue obligations.
- (g) Other funds of the authority not previously pledged for other obligations of the authority, including funds of the authority derived from rentals and other revenues, investment income or profit, or funds or accounts relating to other facilities.
- (h) Investment earnings and profits on any or all of the sources described in subdivisions (a) to (g).

(7) To the extent provided by resolution of the board, principal of, and interest and redemption premiums on, refunding revenue obligations shall be secured by and payable only from any or all of the following sources:

- (a) The true rental derived from the facilities constructed or acquired with the proceeds of the obligations being refunded.
- (b) The proceeds of the refunding obligations.
- (c) The reserve, if any, established for the payment of the principal of, or interest and redemption premiums on, the refunding obligations or the obligations to be refunded.
- (d) The proceeds of insurance, a letter of credit, or a line of credit acquired as security for the revenue obligations.
- (e) The proceeds of obligations issued to refund the refunding obligations.
- (f) The proceeds of the foreclosure or enforcement of any mortgage, security interest, or deed of trust on the facilities financed from the proceeds of the obligations being refunded, granted by the authority as security for the refunding obligations.
- (g) Other funds of the authority not previously pledged for other obligations of the authority, including other funds of the authority derived from rentals and other revenues, investment income or profit, or funds or accounts relating to other facilities.
- (h) Investment earnings or profits on any of the sources described in subdivisions (a) to (g).

(8) Obligations issued under this act may be either serial obligations or term obligations, or any combination of serial or term obligations. The obligations shall mature not more than 40 years from their date, and in any event not more than 1 year from the due date of the last true rental pledged for the payment of the obligations, and may bear interest at fixed or variable interest rates, or may be without stated interest, but the net interest rate or rates of interest, taking into account any discount on the sale of the obligations, shall not exceed 18% or a higher rate if permitted by the municipal finance act, Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 139.3 of the Michigan Compiled Laws. The obligations may be sold at a discount.

(9) Except as otherwise provided in this subsection, in the resolution or resolutions authorizing the issuance of the obligations, the board shall determine the principal amount of the obligations to be issued, the registration provisions, the date of issuance, the obligation numbers, the obligation denominations, the obligation designations, the obligation maturities, the interest payment dates, the paying agent or paying agents or the method of selection of the agent or agents, the rights of prior redemption of the obligations, the rights of the holders to require prepayment of the principal of or interest on the obligations, the maximum rate of interest, the method of execution of the obligations, and such other provisions respecting the obligations, the rights of the holders of the obligations, the security for the obligations, and the procedures for disbursement of the obligation proceeds and for the investment of the proceeds of obligations and money for the payment of obligations. However, the determination of interest rates, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights, and prepayment rights may, within limits set by the board, be made by the chief operating officer or chief staff person of the building authority, as provided in this act.

(10) The board in the resolution or resolutions authorizing the issuance of obligations may provide for the assignment of the true rental to be paid by the state under the lease or leases to 1 of the paying agents for the obligations or to a trustee, as provided in this act, in which case the state shall pay the rental to the paying agent or trustee. For the

purposes and within the limitations set forth in this act, the board may by resolution covenant to issue or cause to be issued, or use its best efforts to issue or cause to be issued, refunding revenue obligations to refund obligations issued under this act.

(11) The board in the resolution, or resolutions, authorizing the obligations may provide for the terms and conditions upon which the holders of the obligations, or a portion of the obligations or a trustee for the obligations, is entitled to the appointment of a receiver. The receiver may enter and take possession of the facility, may lease and maintain the facility, may prescribe rentals and collect, receive, and apply income and revenues thereafter arising from the facility in the same manner and to the same extent that the authority is so authorized. The resolution or resolutions may provide for the appointment of a trustee for the holders of the obligations, may give to the trustee the appropriate rights, duties, remedies, and powers, with or without the execution of a deed of trust or mortgage, necessary and appropriate to secure the obligations, and may provide that the principal of and interest on any obligations issued under this act shall be secured by a mortgage, security interest, or deed of trust covering the facility, which mortgage, security interest, or deed of trust may contain the covenants, agreements, and remedies as will properly safeguard the obligations as may be provided for in the resolution or resolutions authorizing the obligations, including the right to sell the facility upon foreclosure sale, not inconsistent with this act.

(12) All obligations and the interest coupons, if any, attached to the obligations are declared to be fully negotiable and to have all of the qualities incident to negotiable instruments under the uniform commercial code, Act No. 174 of the Public Acts of 1962, as amended, being sections 440.1101 to 440.11102 of the Michigan Compiled Laws, subject only to the provisions for registration of the obligations that may appear on the obligations. The obligations and interest on the obligations are exempt from all taxation by the state or any of its political subdivisions.

(13) Unless an exception from prior approval is available pursuant to subsection (18), the issuance of the obligations is subject to approval of the department of treasury under Act No. 202 of the Public Acts of 1943, as amended. However, Act No. 202 of the Public Acts of 1943, as amended, except as otherwise provided in this act, is not applicable to the issuance of obligations. The department of treasury shall issue its order of approval when it has determined all of the following:

(a) That the revenues, properties, and other securities pledged for revenue obligations are sufficient.

(b) That, to the extent authorized by the building authority, insurance, letters of credit, irrevocable commitments to purchase revenue obligations, or other transactions to provide separate security to assure timely payment of any revenue obligations of the building authority have been provided, and in fact, those transactions do provide resources, when taken with true rental and proceeds authorized by this act, for the prompt repayment of the revenue obligations.

(c) That the purpose for which the revenue obligations are issued and the manner in which the revenue obligations are proposed to be issued comply with this act.

(14) When prior approval is required, the department of treasury may approve the issuance from time to time of obligations to refinance by refunding any obligations at the same time it approves the issuance of the obligations to be refunded. The department of treasury may require the building authority to file with the department of treasury periodic reports and information as the department of treasury considers necessary. The department of treasury has the enforcement and remedial powers with respect to the building authority and its obligations as are provided by Act No. 202 of the Public Acts of 1943, as amended, or other provisions of law.

(15) The obligations may be sold at private or at public sale. If sold at public sale, notice of the sale of the obligations shall be published once at least 7 days before the date of sale in a publication approved by the department of treasury as a publication carrying as part of its regular services notices of sale of municipal bonds and in a newspaper of general circulation published in the state.

(16) The building authority may issue additional obligations of equal standing with respect to the pledge of the true rentals and additional security provided pursuant to this act with previously issued obligations of the building authority issued to acquire or construct a facility or facilities, or to refund the obligations, for the purpose of completing, or making additions, improvements, or replacements to, the facility or facilities for which the previous obligations of the authority were issued or to refund all or part of obligations previously issued for such a facility, under the terms and conditions provided in the resolution authorizing the previous issue of obligations.

(17) The authority shall not have obligations outstanding at any 1 time for any of its corporate purposes in a principal amount totaling more than \$2,000,000,000.00, which limitations shall not include principal appreciation as provided in subsection (20) or obligations or portions of obligations used to pay for any of the following:

(a) Amounts set aside for payment of interest becoming due before the collection of the first true rental available.

(b) Amounts set aside for a reserve for payment of principal, interest, and redemption premiums.

(c) Costs of issuance of the obligations and the discount, if any, on sale.

(d) The sums expected to be set aside for the purposes provided in subdivisions (a), (b), and (c) for any obligations authorized by the authority but not sold. The amount set aside or expected to be set aside for the purposes provided in subdivisions (a), (b), (c), and this subdivision shall be conclusively determined by a certificate setting forth the amounts

executed by the executive director of the building authority. In addition, there shall be excluded from the limitation obligations issued to refund prior obligations.

(18) The requirement of subsection (13) for obtaining the prior approval of the department of treasury before issuing obligations under this section is subject to sections 10 and 11 of chapter III of Act No. 202 of the Public Acts of 1943, being sections 133.10 and 133.11 of the Michigan Compiled Laws, and the department of treasury has the same authority as provided by section 11 of chapter III of Act No. 202 of the Public Acts of 1943 to issue an order providing or denying an exception from the prior approval required by subsection (13) for obligations authorized by this act.

(19) The authority may apply and pledge, if not already pledged, all or any unpledged part of the true rental and other revenues of a facility; income and profit from the investment of money pertaining to a facility; and money in a fund or account of the authority pertaining to a facility to pay the principal, interest, and redemption premiums on revenue obligations of the authority other than those to which the true rental and other revenues, investment income, or profit or funds or accounts pertain; or to pay part or all of the cost of additional facilities to be acquired by the authority for the use of the state. The authority may establish a separate fund into which the rental and other revenues, investment income or profit, or money of such a fund or account shall be deposited to be used to pay principal, interest, and redemption premiums on outstanding obligations of the authority or to acquire facilities for the use of the state. The authority shall not acquire a facility unless the acquisition is approved by the state administrative board and by a concurrent resolution of the legislature approved by a majority of the members elected to and serving in each house. The authority may pledge any or all of the foregoing to the payment of revenue obligations of the authority other than those to which they pertain. If the true rental and other revenues, investment income or profit, or the money in funds or accounts to be applied as specified in this subsection pertain to a facility leased to the state and an institution of higher education pursuant to a lease executed and delivered before January 1, 1983, no application or pledge thereof may be made unless approved by the institution of higher education.

(20) If the authority issues an obligation that appreciates in principal amount, the amount of principal appreciation each year on that obligation, after the date of original issuance, shall not be considered to be principal indebtedness for the purposes of the limitation in subsection (17) or any other limitation. The appreciation of principal after the date of original issue shall be considered interest and shall be within the interest rate limitations set forth in this act.

(21) Of the \$2,000,000,000.00 authorized under subsection (17), priority shall be determined by the joint capital outlay committee.

Section 2. This amendatory act shall not take effect unless Senate Bill No. 363 of the 87th Legislature is enacted into law.

This act is ordered to take immediate effect.

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Co-Clerk of the House of Representatives.

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Secretary of the Senate.

Approved \_\_\_\_\_

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Governor.