

Act No. 220
Public Acts of 1993
Approved by the Governor
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**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

**Introduced by Reps. Hill, Vorva, London, Bankes, Jersevic, Rivers, Agee, Gire, Points, Dobronski, Kukuk,
Varga and Wetters**

ENROLLED HOUSE BILL No. 4810

AN ACT to amend sections 11, 22, 22b, 22c, 25, 27, 32a, 44, 44c, 45, and 46 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," section 11 as amended by Act No. 281 of the Public Acts of 1989, sections 22, 22c, 44, and 44c as amended by Act No. 138 of the Public Acts of 1991, sections 22b, 25, and 32a as amended by Act No. 137 of the Public Acts of 1991, section 27 as amended by Act No. 215 of the Public Acts of 1984, and section 46 as amended by Act No. 183 of the Public Acts of 1985, being sections 125.1411, 125.1422, 125.1422b, 125.1422c, 125.1425, 125.1427, 125.1432a, 125.1444, 125.1444c, 125.1445, and 125.1446 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 11, 22, 22b, 22c, 25, 27, 32a, 44, 44c, 45, and 46 of Act No. 346 of the Public Acts of 1966, section 11 as amended by Act No. 281 of the Public Acts of 1989, sections 22, 22c, 44, and 44c as amended by Act No. 138 of the Public Acts of 1991, sections 22b, 25, and 32a as amended by Act No. 137 of the Public Acts of 1991, section 27 as amended by Act No. 215 of the Public Acts of 1984, and section 46 as amended by Act No. 183 of the Public Acts of 1985, being sections 125.1411, 125.1422, 125.1422b, 125.1422c, 125.1425, 125.1427, 125.1432a, 125.1444, 125.1444c, 125.1445, and 125.1446 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 11. As used in this act:

(a) "Authority" means the Michigan state housing development authority created in this act.

(b) "Development costs" means the costs that have been approved by the authority as appropriate expenditures, and includes:

(i) Payments for options to purchase properties on the proposed housing project site, deposits on contracts of purchase, or, with the prior approval of the authority, payments for the purchases of those properties.

(ii) Legal, organizational, and marketing expenses, including payment of attorneys' fees, project manager and clerical staff salaries, office rent, and other incidental expenses.

(iii) Payment of fees for preliminary feasibility studies, advances for planning, engineering, and architectural work.

- (iv) Expenses for surveys as to need, and market analyses.
- (v) Necessary application and other fees to federal and other government agencies.
- (vi) Other expenses incurred by the nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association that the authority considers appropriate to effectuate the purposes of this act.
- (c) "Federally-aided mortgage" means any of the following:
 - (i) A below market interest rate mortgage insured, purchased, or held by the secretary of the department of housing and urban development.
 - (ii) A market interest rate mortgage insured by the secretary of the department of housing and urban development and augmented by a program of rent supplements.
 - (iii) A mortgage receiving interest reduction payments provided by the secretary of the department of housing and urban development.
 - (iv) A mortgage on a housing project to which the authority allocates low income housing tax credits under section 22b.
 - (v) A mortgage receiving special benefits under other federal law designated specifically to develop low and moderate income housing, consistent with this act.
- (d) "Fund" means the housing development fund created by this act.
- (e) "Project cost" means the sum total of all reasonable or necessary costs incurred by the nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association for carrying out all works and undertakings for the completion of a housing project and approved by the authority. In addition to other reasonable and necessary costs, "project costs" includes costs for all of the following: studies and surveys; plans, specifications, and architectural and engineering services; legal, organization, marketing, or other special services; financing, acquisition, demolition, construction, equipment, and site development of new and rehabilitated buildings; movement of existing buildings to other sites; rehabilitation, reconstruction, repair, or remodeling of existing buildings; carrying charges during construction; the cost of placement of tenants or occupants, and relocation services in connection with a housing project; and, to the extent not already included, all development costs.
- (f) "Housing project" means any of the following:
 - (i) Residential real property developed or to be developed or receiving benefits under this act.
 - (ii) A specific work or improvement either for rental or for subsequent sale to an individual purchaser undertaken by a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association pursuant to or receiving benefits under this act to provide dwelling accommodations, including the acquisition, construction, or rehabilitation of lands, buildings, and improvements.
 - (iii) Social, recreational, commercial, and communal facilities that the authority finds necessary to serve and improve a residential area in which housing pursuant to subparagraph (i) or (ii) is located or is planned to be located, thereby enhancing the viability of the housing.
- (g) "Low income or moderate income persons" means families and persons who cannot afford to pay the amounts at which private enterprise, without federally-aided mortgages or loans from the authority, is providing a substantial supply of decent, safe, and sanitary housing and who fall within income limitations set in this act or by the authority in its rules. Among low income or moderate income persons, preference shall be given to the elderly and those displaced by urban renewal, slum clearance, or other governmental action.
- (h) "Municipality" means a city, village, or township in this state.
- (i) "County" means a county within this state.
- (j) "Governing body" means in the case of a city, the council or commission of the city; in the case of a village, the council, commission, or board of trustees of the village; in the case of a township, the township board; and in the case of a county, the county board of commissioners.
- (k) "Nonprofit housing corporation" means a nonprofit corporation incorporated pursuant to the corporation laws of this state and chapter 4.
- (l) "Consumer housing cooperative" means a nonprofit corporation incorporated pursuant to the corporation laws of this state and chapter 5.
- (m) "Annual shelter rent" means the total collections during an agreed annual period from all occupants of a housing project representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.
- (n) "Taxing jurisdiction" means a municipality, county, or district, including a school district or any special district having the power to levy or collect taxes upon real property or in whose behalf taxes may be levied or collected.

(o) "Elderly" means a single person who is 55 years of age or older or a household in which at least 1 member is 55 years of age or older and all other members are 50 years of age or older.

(p) "Housing development" means a development that contains a significant element of housing for persons of low or moderate income and elements of other housing and commercial, recreational, industrial, communal, and educational facilities that the authority determines improve the quality of the development as it relates to housing for persons of low or moderate income.

(q) "Limited dividend housing corporation" means a corporation incorporated or qualified pursuant to the corporation laws of this state and chapter 6 and a limited dividend housing association organized and qualified pursuant to chapter 7.

(r) "Residential real property" means real property located in this state, used for residential purposes, and improved or to be improved by a residential structure. Residential real property includes a mobile home, a mobile home park, and a mobile home condominium project. When the terms "rehabilitate" or "rehabilitation" are used in conjunction with residential real property, residential real property refers to property improved by a residential structure.

(s) "Rehabilitation" means all or part of those repairs and improvements necessary to make residential real property safe, sanitary, or adequate.

(t) "Deferred payment loan" means a loan that is repayable or partially repayable upon the occurrence of a specified event as determined by the authority.

(u) "Eligible distressed area" means any of the following:

(i) An area located in a city with a population of at least 10,000, which area is either designated as a "blighted area" by a local legislative body pursuant to Act No. 344 of the Public Acts of 1945, as amended, being sections 125.71 to 125.84 of the Michigan Compiled Laws, or which area is determined by the authority to be blighted or largely vacant by reason of clearance of blight, if, with respect to the area, the authority determines all of the following:

(A) That private enterprise has failed to provide a supply of adequate, safe, and sanitary dwellings sufficient to meet market demand.

(B) That approval of elimination of income limits applicable in connection with authority loans has been received from the city in the form of either a resolution adopted by the highest legislative body of the city or, if the city charter provides for the mayor to be elected at large with that office specifically designated on the ballot, provides that the office of mayor is a full-time position, and provides that the mayor has the power to veto legislative actions of the legislative body of that city, a written communication from the mayor of that city.

(ii) A municipality that meets all of the following requirements:

(A) The municipality shows a negative population change from 1970 to the date of the most recent federal decennial census.

(B) The municipality shows an overall increase in the state equalized value of real and personal property of less than the statewide average increase since 1972.

(C) The municipality has a poverty rate, as defined by the most recent federal decennial census, greater than the statewide average.

(D) The municipality has had an unemployment rate higher than the statewide average unemployment rate for 3 of the preceding 5 years.

(iii) An area located in a local unit of government certified by the Michigan enterprise zone authority as meeting the criteria prescribed in section 2(d) of the neighborhood enterprise zone act, Act No. 147 of the Public Acts of 1992, being section 207.772 of the Michigan Compiled Laws.

(v) "Mobile home" means a structure, transportable in 1 or more sections, that is built on a chassis and is designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Mobile home may, but need not, include the real property to which the mobile home may be attached. Mobile home does not include a recreational vehicle.

(w) "Mobile home condominium project" means a condominium project in which mobile homes are intended to be located upon separate sites that constitute individual condominium units and which complies with the condominium act, Act No. 59 of the Public Acts of 1978, as amended, being sections 559.101 to 559.275 of the Michigan Compiled Laws.

(x) "Mobile home park" means a parcel or tract of land under the control of a person or entity upon which 3 or more mobile homes are located on a continual, nonrecreational, residential basis and that is offered to the public for general public use for continual, nonrecreational, residential purposes regardless of whether a charge is made for that use, together with any social, recreational, commercial, and communal facilities used or intended for use incident to the occupancy of a mobile home. Mobile home park does not include trailer parks and courts for use on a transient basis.

(y) "Mobile home park association" means a mobile home park association organized and qualified pursuant to chapter 9.

(z) "Mobile home park corporation" means a corporation incorporated pursuant to the corporation laws of this state and qualified pursuant to chapter 8.

(aa) "Housing unit" means living accommodations that are intended for occupancy by a single family, that may be site constructed or may be a mobile home or other form of manufactured housing, and with respect to which either of the following applies:

(i) The occupant owns the housing unit.

(ii) A cooperative shareholder or member has a proprietary lease of the housing unit.

(bb) "Moderate cost residential rental property" means dwelling units for which the rental payment is equal to or less than that established from time to time as the fair market rents for existing housing pursuant to 1 of the following:

(i) The section 8 leased housing program established under section 8 of the United States housing act of 1937, 42 U.S.C. 1437f, and the regulations promulgated under that act, or a substantially equivalent successor federal program.

(ii) A determination made by the authority of the average fair market rent for existing rental property.

(cc) "Area of chronic economic distress" means an area that qualifies as a "qualified census tract" or an "area of chronic economic distress" as defined in former section 103A(k) of the internal revenue code, or an eligible distressed area.

(dd) "Mortgage lender" means a state or national bank, state or federal savings and loan association, mortgage company, insurance company, state pension fund, or any other financial institution, intermediary, or entity authorized to make mortgage loans in this state.

(ee) "Authority-aided mortgage" means a mortgage made, held, purchased, or assisted by the authority.

(ff) "Subsidiary nonprofit housing corporation" means an entity created under section 22c.

(gg) "Family income" means all income that is included in a determination of family income under section 143(f) of the internal revenue code together with the income of all adults who will reside in the residence, which income might otherwise be excluded from consideration because the individual was not expected to both live in the residence and be primarily or secondarily liable on the mortgage note.

(hh) "Statewide median gross income" means the statewide median gross income as determined under section 143(f) of the internal revenue code.

(ii) "Mutual housing association" means a corporation organized in accordance with chapter 10.

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 through federal programs such as the low income housing tax credit program or the home investment partnerships program by executing and recording regulatory agreements between the authority or such municipality or other entity as may be designated by 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.

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

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

(2) The state's housing credit ceiling applicable for a calendar year shall be an amount equal to the sum of all of the following:

(a) One dollar and twenty-five cents multiplied by the state's population, unless a different amount is authorized by section 42 of the internal revenue code. The state's population shall be determined by the most recent census estimates of the state's population published by the United States bureau of census before the beginning of the calendar year or by another method as authorized by the internal revenue code.

(b) The unused state housing credit ceiling, if any, of the state for the preceding calendar year, for years subsequent to 1989.

(c) The amount of state housing credit ceiling returned in the calendar year, for years subsequent to 1989.

(d) The amount, if any, allocated to the state under section 42(h)(3)(d) of the internal revenue code.

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

(4) The state's low income housing tax credit is allocable pursuant to a qualified allocation plan prepared by the authority, submitted to the legislature, and approved by the governor after notice to the public and public hearing. The plan shall set forth criteria to be used to determine housing priorities of the state, and shall give the highest priority to those projects in which the highest percentage of the housing credit dollar amount is to be used for project costs other than the cost of intermediaries, unless granting such priority would impede the development of projects in hard-to-develop areas. In allocating low income housing tax credit dollar amounts among selected projects, the allocation plan shall give preference to projects serving the lowest income tenants and projects obligated to serve qualified tenants for the longest periods, and shall provide a procedure that the authority will follow in notifying the internal revenue service of noncompliance with the provisions of section 42 of the internal revenue code of which the authority becomes aware. The plan shall set forth the process for selecting eligible projects and may be amended from time to time pursuant to its terms and the requirements of section 42 of the internal revenue code. The selection criteria in the qualified allocation plan shall include those set forth in section 42 of the internal revenue code.

(5) The state's low income housing tax credit authority shall be distributed in accordance with the qualified allocation plan. Amounts allocable under subsection (2) shall be set aside as follows:

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

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

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

(d) Housing projects for the elderly - not less than 10%. Projects counted in 1 category shall not count in another category towards meeting the minimum set-aside requirements.

(6) Except for the amount for qualified nonprofit organizations, if the low income housing tax credit set aside under subsection (5) is not allocated before November 1 of the year in which that credit amount is authorized under subsection (2)(a), the authority may reapportion the unallocated credit amounts in a reasonable manner pursuant to the state's qualified allocation plan.

(7) All applications for low income housing tax credit shall be on the authority's prescribed forms and shall include information necessary pursuant to the qualified allocation plan and section 42 of the internal revenue code.

(8) The authority may charge applicants reasonable fees under the low income housing tax credit program.

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, 1996, 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. 25. (1) The authority may issue its negotiable bonds and notes in a principal amount, which in the opinion of the authority shall be necessary to provide sufficient funds for achieving its corporate purposes, including the making of loans for housing projects and the making or purchasing of loans for the rehabilitation of residential real property, the provision of money for the land acquisition and development fund as provided in this act, the payment of interest on bonds and notes of the authority during construction, the establishment of reserves to secure bonds and notes, the provision of money for the housing development fund in order to make noninterest bearing advances to nonprofit housing corporations and consumer housing cooperatives as provided in this act, the provision of money to be used for the land acquisition and development powers and purposes of the authority, the development, rehabilitation, or acquisition of real and personal property for use as office facilities by the authority, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(2) The authority may issue renewal notes, issue bonds to pay notes, and when it determines refunding expedient, refund bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded. The authority may issue

instruments separate from the obligations described in this section that establish a contractual right in the holder of the instrument to require mandatory tender for purchase of the obligations to which the instrument applies for such period of time and subject to such provisions as the authority may determine.

(3) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of revenues or money of the authority, subject only to agreements with the holders of particular notes or bonds pledging any particular receipts or revenues.

(4) Whether or not the notes or bonds are of a form or character as to be negotiable instruments under the uniform commercial code, the notes or bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the notes or bonds for registration.

(5) Unless an exception is available pursuant to subsection (6), a bond issued by the authority shall be approved by the municipal finance commission or its successor agency but, except as provided by subsection (6), shall not otherwise be subject to 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.

(6) The requirement of subsection (5) for obtaining the prior approval of the municipal finance commission or its successor agency before issuing bonds under this section shall be 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 shall have 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 (5) for bonds authorized by this section.

Sec. 27. Any resolution authorizing any notes or bonds or any issue of notes or bonds may contain provisions, which shall be a part of the contract with the holders of the notes or bonds, as to:

(a) Pledging all or any part of the fees and charges made or received by the authority, and all or any part of the money received in payment of mortgage loans and interest on mortgage loans, and other money received or to be received, to secure the payment of the notes or bonds or of any issue of notes or bonds, and subject to such agreements with bondholders or noteholders as may then exist.

(b) Pledging all or any part of the assets of the authority, including mortgages and obligations securing the assets, to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist.

(c) Pledging of any loan, grant, or contribution from the federal, state, or local government, or source in aid of such development as provided for in this act.

(d) The use and disposition of the gross income from mortgages owned by the authority and payment of principal of mortgages owned by the authority.

(e) The setting aside of reserves or sinking funds and the regulation and disposition of reserves or sinking funds.

(f) Limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue of notes or bonds.

(g) Limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; and the refunding of outstanding or other notes or bonds.

(h) The procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent to the amendment or abrogation and the manner in which such consent may be given.

(i) Vesting in a trustee or trustees such property, rights, powers, and duties in trust as the authority may determine, which may include any or all of the rights, powers, and duties of the trustee appointed by the bondholders pursuant to this act and limiting or abrogating the right of the bondholders to appoint a trustee under this section or limiting the rights, powers, and duties of such trustee.

(j) Establishing a contractual right to require mandatory tender for purchase of the notes or bonds in an instrument separate from the notes or bonds, which instrument may be issued or sold by the authority to investors in such instruments.

(k) Any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

(l) Delegating to an officer or other employee of the authority, or an agent designated by the authority, the power to cause the issue, and sale and delivery, of the notes or bonds within limits on those notes or bonds established by the authority as to any of the following:

(i) The form.

(ii) The maximum interest rate or rates.

(iii) The maturity date or dates.

- (iv) The purchase price.
- (v) The denominations.
- (vi) The redemption premiums.
- (vii) The nature of the security.
- (viii) The selection of the applicable interest rate index.
- (ix) Other terms and conditions with respect to issuance of the notes or bonds as the authority shall prescribe.

Sec. 32a. (1) The \$2,400,000,000.00 increases in debt capacity of the authority authorized after July 9, 1984 shall be subject to the following limitations:

(a) Not more than \$1,300,000,000.00 shall be used to finance home improvement loans and single family homes. With respect to bonds, other than refunding bonds, issued to finance single family homes after November 1, 1989, for the first 120 days following the announcement of a program funded by the proceeds of those bonds, 50% of the proceeds of those bonds available to make loans, as determined by the preliminary information obtained by originating lenders at the time a reservation is submitted, shall be reserved for applicants with gross annual incomes at or below 55% of the statewide median gross income. With respect to bonds, other than refunding bonds, issued to finance single family homes after November 1, 1989, not more than 50% of the proceeds of those bonds may be used to finance single family homes for homebuyers who previously have had an ownership interest in a residence. For purposes of this subsection, a previous ownership interest in a mobile home shall not be considered to be an ownership interest in a residence. The authority may rely on the applicant's affidavit to determine whether or not the applicant has had a prior ownership interest in a residence. The authority shall publicize the programs funded under this subdivision by using all reasonable means available, including, but not limited to, public interest announcements in the media, and announcements to lending institutions, community groups, and real estate organizations. The authority shall submit a report annually to the legislature containing all statistics necessary to indicate its compliance with this subdivision.

(b) Not more than \$800,000,000.00 shall be used to finance multifamily housing projects under section 44c and not more than 75% of this amount shall be used for housing projects located in areas other than eligible distressed areas.

(c) Not more than \$300,000,000.00 shall be used to finance multifamily housing projects exclusive of multifamily housing projects financed under section 44c and not more than 50% of this amount shall be used for housing projects located in areas other than eligible distressed areas.

(2) Except as provided in subsection (3), a note or bond issued by the authority after July 9, 1984 shall be considered to be issued subject to the limitations of subsection (1). After the limitation set forth in subsection (1)(c) has been reached, the principal amount of a note or bond issued to finance housing described in subsection (1)(c) shall be applied against the debt capacity that was in effect on July 9, 1984. After a limitation set forth in subsection (1)(a) or (b) is reached, the authority shall not issue a note or bond under the provisions of section 44c or 44(2)(a).

(3) A note or bond issued by the authority under section 25 for the purpose of developing, rehabilitating, or acquiring real and personal property for use by the authority as office facilities shall be applied against the debt capacity that was in effect on July 7, 1984.

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, 1996, 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, 1996, 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, 1996, 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, 1996 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 \$41,700.00 on or before May 1, 1995, and \$43,575.00 after that date and the purchase price of the housing unit shall not exceed the lesser of \$99,000.00 or 90% of the average area purchase price for new housing. 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 \$41,700.00 on or before May 1, 1995, and \$43,575.00 after that date and the purchase price of the housing unit shall not exceed the lesser of \$80,000.00 or 90% of the average area purchase price for existing housing. 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, 1996 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. 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, 1996, 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, 1996, 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 nonprofit housing corporation qualified under section 501(c)(3) of the internal revenue code. 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 nonprofit housing corporation qualified under section 501(c)(3) of the internal revenue code, 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.

Sec. 45. Among low income or moderate income persons, preference shall be given to those displaced by urban renewal, slum clearance, or other governmental action.

Sec. 46. The authority shall require that occupancy of housing projects and residential real property assisted under this act shall be open to all regardless of sex, race, religion, color, national origin, age, or marital status, and that contractors and subcontractors engaged in the construction of housing projects and lending institutions engaged in making residential mortgages, shall take affirmative action to assure an equal opportunity for employment and borrowing. This section does not apply, with respect to the age provision only, to the sale, rental, or lease of housing accommodations meeting the requirements of federal, state, or local housing programs for senior citizens, or accommodations otherwise intended, advertised, designed or operated, bona fide, for the purpose of providing housing accommodations for persons 55 years of age or older.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.