



HOUSE BILL No. 4785

May 13, 1993, Introduced by Reps. Alley and Middaugh and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend the title and sections 2, 4, 6, 7, 9, 15, 20, 21, 23, and 25 of Act No. 518 of the Public Acts of 1988, entitled as amended

"Michigan underground storage tank financial assurance act," sections 4, 7, 9, 15, and 25 as amended by Act No. 1 of the Public Acts of 1993, section 6 as amended by Act No. 161 of the Public Acts of 1989, and section 23 as amended by Act No. 152 of the Public Acts of 1989, being sections 299.802, 299.804, 299.806, 299.807, 299.809, 299.815, 299.820, 299.821, 299.823, and 299.825 of the Michigan Compiled Laws; and to add sections 19a, 19b, 19c, 19d, 19e, 19f, 19g, 19h, 19i, 19j, 19k, 19l, 19m, 19n, 19o, 19p, 19q, and 19r.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 2, 4, 6, 7, 9, 15, 20,
2 21, 23, and 25 of Act No. 518 of the Public Acts of 1988,

1 sections 4, 7, 9, 15, and 25 as amended by Act No. 1 of the
 2 Public Acts of 1993, section 6 as amended by Act No. 161 of the
 3 Public Acts of 1989, and section 23 as amended by Act No. 152 of
 4 the Public Acts of 1989, being sections 299.802, 299.804,
 5 299.806, 299.807, 299.809, 299.815, 299.820, 299.821, 288.823,
 6 and 299.825 of the Michigan Compiled Laws, are amended and sec-
 7 tions 19a, 19b, 19c, 19d, 19e, 19f, 19g, 19h, 19i, 19j, 19k, 19l,
 8 19m, 19n, 19o, 19p, 19q, and 19r are added to read as follows:

9 TITLE

10 An act to assist certain owners and operators of certain
 11 underground storage tank systems in meeting their financial
 12 responsibility requirements; to create certain funds to address
 13 certain problems associated with releases from certain under-
 14 ground storage tank systems and their associated equipment; to
 15 promote compliance with certain regulatory programs; to provide
 16 for the use of these funds; to create a Michigan underground
 17 storage tank financial assurance policy board; TO CREATE THE
 18 MICHIGAN UNDERGROUND STORAGE TANK FINANCIAL ASSURANCE AUTHORITY;
 19 TO AUTHORIZE THE USE OF BONDS, NOTES, OBLIGATIONS, OR OTHER EVI-
 20 DENCE OF INDEBTEDNESS; to prescribe the powers and duties of cer-
 21 tain state agencies and officials; to provide for certain regula-
 22 tory fees; to repeal certain parts of the act on a specific date;
 23 and to repeal this act on a specific date.

24 Sec. 2. The objectives of this act are to assist persons in
 25 this state in meeting the financial responsibility requirements
 26 ~~provided for in subtitle I of title II of the solid waste~~
 27 ~~disposal act, Public Law 89-272, 42 U.S.C. 6991 to 6991i FOR~~

1 CLAIMS AND REQUESTS FOR INDEMNIFICATION SUBMITTED ON OR BEFORE
2 MAY 20, 1993, to address certain problems associated with
3 releases from petroleum underground storage tank systems, and to
4 promote compliance with the underground storage tank regulatory
5 act, Act No. 423 of the Public Acts of 1984, BEING
6 SECTIONS 299.701 TO 299.712 OF THE MICHIGAN COMPILED LAWS, and
7 the leaking underground storage tank act, ACT NO. 478 OF THE
8 PUBLIC ACTS OF 1988, BEING SECTIONS 299.831 TO 299.850 OF THE
9 MICHIGAN COMPILED LAWS.

10 Sec. 4. As used in this act:

11 (a) "Administrator" means the fund administrator provided
12 for in section 12.

13 (b) "Approved claim" means a claim that is approved pursuant
14 to section 15.

15 (C) "AUTHORITY" MEANS THE MICHIGAN UNDERGROUND STORAGE TANK
16 FINANCIAL ASSURANCE AUTHORITY CREATED IN SECTION 19A.

17 (D) ~~(c)~~ "Board" means the Michigan underground storage
18 tank financial assurance policy board created in section 20.

19 (E) "BOARD OF DIRECTORS" MEANS THE BOARD OF DIRECTORS OF THE
20 AUTHORITY.

21 (F) "BONDS" MEANS THE BONDS OR OTHER OBLIGATIONS OF INDEBT-
22 EDNESS OF THE AUTHORITY ISSUED PURSUANT TO THIS ACT.

23 (G) ~~(d)~~ "Claim" means the submission by the owner or oper-
24 ator, or their representative, of documentation requesting pay-
25 ment from the fund. A claim shall include, at a minimum, a com-
26 pleted and signed claim form and legible itemized work invoices.

1 (H) ~~(e)~~ "Corrective action" means an action to stop,
2 minimize, eliminate, or clean up a release or its effects, as may
3 be necessary to protect the public health, safety, welfare, or
4 the environment. This includes, but is not limited to, release
5 investigation, mitigation of fire and safety hazards, tank repair
6 or removal, soil remediation, hydrogeological investigations,
7 free product removal, groundwater remediation and monitoring,
8 exposure assessments, the temporary or permanent relocation of
9 residents, and the provision of alternate water supplies.

10 (I) ~~(f)~~ "Deductible" means the deductible provided for in
11 section 13.

12 (J) ~~(g)~~ "Department" means the department of ~~management~~
13 ~~and budget~~ STATE POLICE, FIRE MARSHAL DIVISION.

14 (K) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF STATE
15 POLICE.

16 (L) ~~(h)~~ "Financial responsibility requirements" means the
17 financial responsibility for taking corrective action and for
18 compensating third parties for bodily injury and property damage
19 caused by a release from an underground storage tank system that
20 the owner or operator of an underground storage tank system must
21 demonstrate under the underground storage tank regulatory act,
22 Act No. 423 of the Public Acts of 1984, being sections 299.701 to
23 299.712 of the Michigan Compiled Laws, and the rules promulgated
24 under that act.

25 (M) ~~(i)~~ "Fund" means the Michigan underground storage tank
26 financial assurance fund created in section 6.

1 (N) ~~(j)~~ "Heating oil" means petroleum that is No. 1,
2 No. 2, No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy,
3 and No. 6 technical grades of fuel oil; other residual fuel oils
4 including navy special fuel oil and bunker C; and other fuels
5 when used as substitutes for 1 of these fuel oils.

6 (O) ~~(k)~~ "Indemnification" means indemnification of a
7 person for a judgment entered against that person in a court of
8 law or for a settlement entered into by that person and approved
9 by the attorney general, if the judgment or settlement arises out
10 of an injury suffered because of a release from a petroleum
11 underground storage tank system operated by that person.

12 (P) ~~(l)~~ "Location" means a facility or parcel of property
13 where petroleum underground storage tank systems are registered
14 pursuant to Act No. 423 of the Public Acts of 1984.

15 (Q) "NOTES" MEANS NOTES, COMMERCIAL PAPER, OR OTHER OBLIGA-
16 TIONS OF INDEBTEDNESS OF THE AUTHORITY ISSUED PURSUANT TO THIS
17 ACT.

18 (R) ~~(m)~~ "Operator" means a person who was at the time of
19 discovery of a release, in control of, or responsible for, the
20 operation of a petroleum underground storage tank system or a
21 person to whom an approved claim has been assigned or
22 transferred.

23 (S) ~~(n)~~ "Owner" means a person, other than a regulated
24 financial institution, who, at the time of discovery of a
25 release, held a legal, equitable, or possessory interest of any
26 kind in an underground storage tank system, or in the property on
27 which an underground storage tank system is located, including,

1 but not limited to, a trust, vendor, vendee, lessor, or lessee.
2 Owner includes a person to whom an approved claim is assigned or
3 transferred. However, owner does not include a person or a regul-
4 lated financial institution who, without participating in the
5 management of an underground storage tank system and who is not
6 otherwise engaged in petroleum production, refining, or marketing
7 relating to the underground storage tank system, is acting in a
8 fiduciary capacity or who holds indicia of ownership primarily to
9 protect the person's or the regulated financial institution's
10 security interest in the underground storage tank system or the
11 property on which it is located. This exclusion does not apply
12 to a grantor, beneficiary, remainderman, or other person who
13 could directly or indirectly benefit financially from the exclu-
14 sion other than by the receipt of payment for fees and expenses
15 related to the administration of a trust.

16 (T) ~~(o)~~ "Oxygenate" means an organic compound containing
17 oxygen and having properties as a fuel that are compatible with
18 petroleum, including, but not limited to, ethanol, methanol, or
19 methyl tertiary butyl ether (MTBE).

20 Sec. 6. (1) The Michigan underground storage tank financial
21 assurance fund is created.

22 (2) The state treasurer shall direct the investment of the
23 fund. Interest and earnings from fund investments shall be cred-
24 ited to the fund.

25 (3) Money in the fund at the close of the fiscal year shall
26 remain in the fund and shall not revert to the general fund.

1 (4) Money in the fund shall be expended only as follows and
2 in the following order of priority:

3 (A) TO PAY OFF BONDS, NOTES, OBLIGATIONS, OR OTHER EVIDENCE
4 OF INDEBTEDNESS INCURRED PURSUANT TO THIS ACT PLUS ANY AMOUNT
5 NECESSARY TO MAINTAIN A FULLY FUNDED DEBT RESERVE OR OTHER
6 RESERVE INTENDED TO SECURE THE PRINCIPAL AND INTEREST ON THE
7 BONDS, OBLIGATIONS, OR OTHER EVIDENCES OF INDEBTEDNESS.

8 (B) ~~(a)~~ For the reasonable administrative cost of imple-
9 menting this act by the department, ~~the department of natural~~
10 ~~resources, the department of state police,~~ the department of
11 treasury, ~~and~~ the department of attorney general, AND THE
12 AUTHORITY as annually appropriated by the legislature.

13 Administrative costs shall include the actual and necessary
14 expenses incurred by the board and its members in carrying out
15 the duties imposed by this act. Total administrative costs
16 expended under this subdivision shall not exceed 7% of the fund's
17 projected revenues in any year. ~~Within 2 years of the effective~~
18 ~~date of this 1989 amendatory act~~ NOT LATER THAN AUGUST 15, 1991,
19 the department shall conduct an audit of the actual administra-
20 tive costs of implementing this act and shall report the results
21 of this audit to the legislature.

22 (C) ~~(b)~~ For the interest subsidy program established in
23 section 19. The money expended under this subdivision shall not
24 exceed 10% of the fund's projected revenues in any year.
25 However, 10% of the revenue of the fund during the first year of
26 the fund's operation shall be expended on the interest subsidy
27 program. If this money is not expended during the first year,

1 this money shall be carried over for expenditure in the
2 succeeding years of the fund's operation. No additional fund
3 revenue shall be set aside for the interest subsidy program until
4 all of the first year revenue is expended.

5 (D) ~~(c)~~ For corrective action and indemnification includ-
6 ing both of the following:

7 (i) Payments for approved work invoices pursuant to this
8 act.

9 (ii) Payments for approved requests for indemnification pur-
10 suant to this act.

11 (5) The board shall make recommendations to the appropria-
12 tions committees in the senate and house of representatives on
13 the distribution and amount of administrative costs under subsec-
14 tion (4). The board shall provide a copy of these recommenda-
15 tions to each affected department.

16 Sec. 7. (1) The emergency response fund is created.

17 (2) The state treasurer shall direct the investment of the
18 emergency response fund. Interest and earnings of the emergency
19 response fund shall remain in the emergency response fund.

20 (3) Money in the emergency response fund at the close of the
21 fiscal year shall remain in the emergency response fund and shall
22 not revert to the general fund.

23 (4) Except as provided in section 27, money in the emergency
24 response fund shall not exceed \$1,000,000.00.

25 (5) Except as provided in section 26, money in the emergency
26 response fund shall be expended by the director ~~of the~~
27 ~~department of natural resources~~ to undertake corrective actions

1 to address releases from petroleum underground storage tank
2 systems pursuant to the leaking underground storage tank act, Act
3 No. 478 of the Public Acts of 1988, being sections 299.831 to
4 299.850 of the Michigan Compiled Laws.

5 (6) Not more than \$1,000,000.00 shall be expended from the
6 emergency response fund in any year.

7 (7) If money in the emergency response fund is expended
8 under subsection (5), the person or persons responsible for the
9 corrective action shall be liable to the state for all such
10 expenditures.

11 Sec. 9. (1) An owner or operator may receive money from the
12 fund for corrective action or indemnification only if all of the
13 following requirements are satisfied:

14 (a) The release from which the corrective action or indemni-
15 fication arose was discovered and reported on or after July 18,
16 1989. However, money in the fund shall not be expended until the
17 fund begins operating pursuant to section 12.

18 (b) The petroleum underground storage tank from which the
19 release occurred was, at the time of discovery of the release,
20 and is presently, in compliance with the registration require-
21 ments of the underground storage tank regulatory act, Act No. 423
22 of the Public Acts of 1984, being sections 299.701 to 299.712 of
23 the Michigan Compiled Laws, and the rules promulgated under that
24 act.

25 (c) The owner or operator was at the time of discovery of
26 the release, and is presently, in compliance with the 30-day
27 notice of closure, removal, or change in service reporting

1 requirements and the 24-hour notice of release reporting as
2 required by Act No. 423 of the Public Acts of 1984 and the appl
3 cable requirements of the leaking underground storage tank act,
4 Act No. 478 of the Public Acts of 1988, being sections 299.831
5 299.850 of the Michigan Compiled Laws, rules promulgated under
6 each of these acts, or the requirements of subtitle I of title
7 of the solid waste disposal act, Public Law 89-272,
8 42 U.S.C. 6991 to 6991i and rules promulgated under that act.
9 Records kept under these acts shall be valid and verifiable.

10 (d) The owner or operator has provided the administrator
11 with proof of financial responsibility for the deductible amount
12 that will satisfy the requirements for financial responsibility
13 instruments under subtitle I of title II of the solid waste dis
14 posal act, Public Law 89-272, 42 U.S.C. 6991 to 6991i.

15 (e) The owner or operator is not the United States
16 government.

17 (f) The claim or request for indemnification is submitted to
18 the administrator pursuant to this act and the rules promulgated
19 under this act on or before ~~December 22, 1998~~ MAY 20, 1993.

20 (2) The owner or operator may receive money from the fund
21 for corrective action or indemnification due to a release that
22 originates from an aboveground piping and dispensing portion of a
23 petroleum underground storage tank system, if all of the follow-
24 ing requirements are satisfied:

25 (a) The owner or operator is otherwise in compliance with
26 this act and the rules promulgated under this act.

1 (b) The release is sudden and immediate.

2 (c) The release is of a quantity exceeding 25 gallons and is
3 released into groundwater, surface water, or soils.

4 (d) The release is reported to the department ~~of state~~
5 ~~police, fire marshal division~~ within 24 hours of discovery of
6 the release.

7 (3) Either the owner or the operator may receive money from
8 the fund under this act for an occurrence but not both.

9 (4) An owner or operator who is a public utility with more
10 than 500,000 customers in this state is ineligible to receive
11 money from the fund for corrective action or indemnification
12 associated with a release from a petroleum underground storage
13 tank system used to supply petroleum for the generation of steam
14 electricity.

15 (5) If an owner or operator has received money from the fund
16 under this act for a release at a location, the owner and opera-
17 tor are not eligible to receive money from the fund for a subse-
18 quent release at the same location unless the owner or operator
19 has done either or both of the following:

20 (a) Discovered the subsequent release pursuant to remedial
21 action being taken on a confirmed release and included this sub-
22 sequent release as part of the corrective action for the con-
23 firmed release.

24 (b) Upgraded, replaced, removed, or properly closed in place
25 all underground storage tank systems at the location of the
26 release so as to meet the requirements of Act No. 423 of the
27 Public Acts of 1984, and the rules promulgated under that act.

1 (6) An owner or operator who discovers a subsequent release
2 at the same location as an initial release pursuant to
3 subsection (5)(a) may receive money from the fund to perform cor-
4 rective action on the subsequent release, if the owner or opera-
5 tor otherwise complies with the requirements of this act and the
6 rules promulgated under this act. However, the subsequent
7 release shall be considered as part of the claim for the initial
8 release for purposes of determining the total amount of expendi-
9 tures for corrective action and indemnification under
10 section 10.

11 (7) An owner or operator who discovers a subsequent release
12 at the same location as an initial release pursuant to
13 subsection (5)(b) may receive money from the fund to perform cor-
14 rective action on the subsequent release, if the owner or opera-
15 tor otherwise complies with the requirements of this act and the
16 rules promulgated under this act. The subsequent release shall
17 be considered a separate claim for purposes of determining the
18 total amount of expenditures for corrective action and indemnifi-
19 cation under section 10.

20 Sec. 15. (1) To be eligible to access the fund for correc-
21 tive action, the owner or operator shall follow the procedures
22 outlined in this section and shall submit reports and work plans
23 as required under the leaking underground storage tank act, Act
24 No. 478 of the Public Acts of 1988, being sections 299.831 to
25 299.850 of the Michigan Compiled Laws, and rules promulgated
26 under that act.

1 (2) THE ADMINISTRATOR SHALL NOT ACCEPT CLAIMS UNDER THIS ACT
2 AFTER MAY 20, 1993.

3 (3) ~~(2)~~ Upon receipt of a claim, the administrator ~~—~~
4 ~~within 30 days after responses have been received from the~~
5 ~~department of natural resources and the department of state~~
6 ~~police,~~ shall make all of the following determinations:

7 (a) Whether ~~the department of natural resources has deter-~~
8 ~~mined that~~ work performed or proposed to be performed is consis-
9 tent with the requirements of Act No. 478 of the Public Acts of
10 1988, and rules promulgated under that act.

11 (b) Whether the cost of performing the work is reasonable.

12 (c) Whether the owner or operator is eligible to receive
13 funding under this act.

14 (D) WHETHER THE CLAIM WAS SUBMITTED ON OR BEFORE MAY 20,
15 1993.

16 (4) ~~(3)~~ If the administrator fails to make the determina-
17 tions required under this section within 30 days after receipt of
18 ~~certification from the department of natural resources and the~~
19 ~~department of state police~~ A CLAIM, the claim is considered to
20 be approved.

21 (5) ~~(4)~~ If the administrator determines under
22 subsection ~~(2)~~ (3) that the claim is both reasonable in terms
23 of cost and consistent with the requirements of subsection
24 ~~(2)(a)~~ (3)(A) and the owner or operator is eligible for funding
25 under this act, the administrator shall approve the claim and
26 notify the owner or operator who submitted the claim of the
27 approval. If the administrator determines that the cost of the

1 claim is not reasonable, that the work is not consistent with the
2 requirements of subsection ~~(2)(a)~~ (3)(A), or that the owner or
3 operator is not eligible for funding under this act, the adminis-
4 trator shall deny the claim and give notice of the denial to the
5 owner or operator who submitted the claim.

6 (6) ~~(5)~~ The owner or operator may submit additional work
7 invoices to the administrator after approval of a claim under
8 subsection ~~(4)~~ (5). Upon receipt of a work invoice, the admin-
9 istrator shall make the following determinations:

10 (a) Whether the work invoice is reasonable in terms of cost
11 and consistent with the requirements of subsection ~~(2)(a)~~
12 (3)(A).

13 (b) Whether the owner or operator is currently in compliance
14 with the registration requirements of the underground storage
15 tank regulatory act, Act No. 423 of the Public Acts of 1984,
16 being sections 299.701 to 299.712 of the Michigan Compiled Laws,
17 and the rules promulgated under that act.

18 (7) ~~(6)~~ If the administrator determines that the work
19 invoice does not meet the requirements of subsection ~~(5)~~ (6),
20 he or she shall deny the work invoice and give notice of the
21 denial to the owner or operator who submitted the work invoice.

22 (8) ~~(7)~~ The administrator shall keep records of approved
23 work invoices. If the owner or operator has submitted approved
24 work invoices totaling the deductible amount, then the adminis-
25 trator shall forward payment vouchers to the state treasurer, as
26 long as the owner or operator has not exceeded the allowable
27 amount of expenditure provided in section 10.

1 (9) ~~(8)~~ The administrator may approve a reimbursement for
2 a work invoice that was submitted by an owner or operator for
3 corrective action taken pursuant to Act No. 478 of the Public
4 Acts of 1988, if the corrective action meets the requirements of
5 Act No. 478 of the Public Acts of 1988. Additionally, the
6 receipt for the payment shall meet the requirements of this act
7 for an approved claim and an approved work invoice.

8 (10) ~~(9)~~ Except as provided in subsection ~~(10)~~ (11),
9 upon receipt of a payment voucher, the state treasurer shall make
10 a payment to the owner or operator if the owner or operator sub-
11 mits certified canceled checks, or the owner or operator and the
12 contractor listed on the payment voucher and claim within 30 days
13 if sufficient money exists in the fund.

14 (11) ~~(10)~~ Upon direction of the administrator, the state
15 treasurer may withhold partial payment of money on payment vouch-
16 ers to assure acceptable completion of the proposed work.

17 SEC. 19A. THE MICHIGAN UNDERGROUND STORAGE TANK FINANCIAL
18 ASSURANCE AUTHORITY IS CREATED AS A BODY CORPORATE WITHIN THE
19 DEPARTMENT AND SHALL EXERCISE ITS PRESCRIBED STATUTORY POWER,
20 FINANCIAL DUTIES, AND FINANCIAL FUNCTIONS INDEPENDENTLY OF THE
21 DIRECTOR OF THE DEPARTMENT. FUNDS OF THE AUTHORITY SHALL BE HAN-
22 DLED IN THE SAME MANNER AND SUBJECT TO THE SAME PROVISIONS OF LAW
23 APPLICABLE TO STATE FUNDS OR IN A MANNER SPECIFIED IN A RESOLU-
24 TION OF THE AUTHORITY AUTHORIZING THE ISSUANCE OF BONDS AND
25 NOTES.

26 SEC. 19B. (1) THE AUTHORITY SHALL BE GOVERNED BY A BOARD OF
27 DIRECTORS CONSISTING OF THE DIRECTOR, THE STATE TREASURER, AND 3

1 RESIDENTS OF THE STATE APPOINTED BY THE GOVERNOR WITH THE ADVICE
2 AND CONSENT OF THE SENATE. THE 3 RESIDENT DIRECTORS SHALL SERVE
3 TERMS OF 3 YEARS. IN APPOINTING THE INITIAL 3 RESIDENT MEMBERS
4 OF THE BOARD, THE GOVERNOR SHALL DESIGNATE 1 TO SERVE FOR 3
5 YEARS, 1 TO SERVE FOR 2 YEARS, AND 1 TO SERVE FOR 1 YEAR.

6 (2) UPON APPOINTMENT TO THE BOARD OF DIRECTORS UNDER
7 SUBSECTION (1), AND UPON THE TAKING AND FILING OF THE CONSTITU-
8 TIONAL OATH OF OFFICE, A MEMBER OF THE BOARD OF DIRECTORS SHALL
9 ENTER OFFICE AND EXERCISE THE DUTIES OF OFFICE.

10 (3) REGARDLESS OF THE CAUSE OF A VACANCY ON THE BOARD OF
11 DIRECTORS, THE GOVERNOR SHALL FILL A VACANCY IN THE OFFICE OF A
12 MEMBER OF THE BOARD OF DIRECTORS BY APPOINTMENT WITH THE ADVICE
13 AND CONSENT OF THE SENATE. A VACANCY SHALL BE FILLED FOR THE
14 BALANCE OF THE UNEXPIRED TERM OF SUCH OFFICE. A MEMBER OF THE
15 BOARD OF DIRECTORS SHALL HOLD OFFICE UNTIL A SUCCESSOR HAS BEEN
16 APPOINTED AND HAS QUALIFIED.

17 (4) MEMBERS OF THE BOARD OF DIRECTORS AND OFFICERS AND
18 EMPLOYEES OF THE AUTHORITY SHALL BE SUBJECT TO ACT NO. 317 OF THE
19 PUBLIC ACTS OF 1968, BEING SECTIONS 15.321 TO 15.330 OF THE
20 MICHIGAN COMPILED LAWS. A MEMBER OF THE BOARD OF DIRECTORS OR AN
21 OFFICER, EMPLOYEE, OR AGENT OF THE AUTHORITY SHALL DISCHARGE THE
22 DUTIES OF HIS OR HER POSITION IN A NONPARTISAN MANNER, WITH GOOD
23 FAITH, AND WITH THAT DEGREE OF DILIGENCE, CARE, AND SKILL THAT AN
24 ORDINARILY PRUDENT PERSON WOULD EXERCISE UNDER SIMILAR CIRCUM-
25 STANCES IN A LIKE POSITION. IN DISCHARGING HIS OR HER DUTIES, A
26 MEMBER OF THE BOARD OF DIRECTORS OR AN OFFICER, EMPLOYEE, OR
27 AGENT OF THE AUTHORITY, WHEN ACTING IN GOOD FAITH, MAY RELY UPON

1 THE OPINION OF COUNSEL FOR THE AUTHORITY, UPON THE REPORT OF AN
2 INDEPENDENT APPRAISER SELECTED WITH REASONABLE CARE BY THE BOARD
3 OF DIRECTORS, OR UPON FINANCIAL STATEMENTS OF THE AUTHORITY REP-
4 RESENTED TO THE MEMBER OF THE BOARD OF DIRECTORS, OFFICER,
5 EMPLOYEE, OR AGENT TO BE CORRECT BY THE OFFICER OF AUTHORITY
6 HAVING CHARGE OF ITS BOOKS OR ACCOUNT, OR STATED IN A WRITTEN
7 REPORT BY THE AUDITOR GENERAL OR A CERTIFIED PUBLIC ACCOUNTANT OR
8 THE FIRM OF THE ACCOUNTANTS FAIRLY TO REFLECT THE FINANCIAL CON-
9 DITION OF THE AUTHORITY.

10 (5) THE BOARD OF DIRECTORS SHALL ORGANIZE AND MAKE ITS OWN
11 POLICIES AND PROCEDURES. THE BOARD OF DIRECTORS SHALL CONDUCT
12 ALL BUSINESS AT PUBLIC MEETINGS HELD IN COMPLIANCE WITH THE OPEN
13 MEETINGS ACT, ACT NO. 267 OF THE PUBLIC ACTS OF 1976, BEING SEC-
14 TIONS 15.261 TO 15.275 OF THE MICHIGAN COMPILED LAWS. PUBLIC
15 NOTICE OF THE TIME, DATE, AND PLACE OF EACH MEETING SHALL BE
16 GIVEN IN THE MANNER REQUIRED BY ACT NO. 267 OF THE PUBLIC ACTS OF
17 1976. THREE MEMBERS OF THE BOARD OF DIRECTORS SHALL CONSTITUTE A
18 QUORUM FOR THE TRANSACTION OF BUSINESS. AN ACTION OF THE BOARD
19 SHALL REQUIRE A CONCURRING VOTE BY 3 MEMBERS OF THE BOARD. A
20 STATE OFFICER OR DIRECTOR WHO IS A MEMBER OF THE BOARD OF DIREC-
21 TORS MAY DESIGNATE A REPRESENTATIVE FROM HIS OR HER DEPARTMENT TO
22 SERVE INSTEAD OF THAT STATE OFFICER OR DIRECTOR AS A VOTING
23 MEMBER OF THE BOARD OF DIRECTORS FOR 1 OR MORE MEETINGS.

24 (6) THE BOARD OF DIRECTORS SHALL ELECT A CHAIRPERSON FROM
25 AMONG ITS MEMBERS AND ANY OTHER OFFICERS THE BOARD OF DIRECTORS
26 CONSIDERS APPROPRIATE.

1 SEC. 19C. (1) THE DIRECTOR SHALL DESIGNATE THE EXECUTIVE
2 DIRECTOR OF THE AUTHORITY. THE AUTHORITY MAY EMPLOY LEGAL AND
3 TECHNICAL EXPERTS, AND OTHER OFFICERS, AGENTS, OR EMPLOYEES, PER-
4 MANENT OR TEMPORARY, PAID FROM THE FUNDS OF THE AUTHORITY. THE
5 AUTHORITY SHALL DETERMINE THE QUALIFICATIONS, DUTIES, AND COMPEN-
6 SATION OF THOSE IT EMPLOYS, BUT AN EMPLOYEE SHALL NOT BE PAID A
7 HIGHER SALARY THAN THE DIRECTOR. THE AUTHORITY MAY DELEGATE TO 1
8 OR MORE MEMBERS, OFFICERS, AGENTS, OR EMPLOYEES ANY POWERS OR
9 DUTIES IT CONSIDERS PROPER.

10 (2) THE BUDGETING, PROCUREMENT, AND RELATED FUNCTIONS OF THE
11 AUTHORITY SHALL BE PERFORMED UNDER THE DIRECTION AND SUPERVISION
12 OF THE DIRECTOR.

13 (3) THE AUTHORITY SHALL CONTRACT WITH THE DEPARTMENT FOR THE
14 PURPOSE OF MAINTAINING AND IMPROVING THE RIGHTS AND INTERESTS OF
15 THE AUTHORITY.

16 (4) THE AUTHORITY SHALL ANNUALLY FILE A WRITTEN REPORT ON
17 ITS ACTIVITIES OF THE LAST YEAR WITH THE LEGISLATURE. THIS
18 REPORT SHALL BE SUBMITTED NOT LATER THAN 270 DAYS FOLLOWING THE
19 END OF THE FISCAL YEAR. THIS REPORT SHALL SPECIFY THE AMOUNT AND
20 SOURCE OF REVENUES RECEIVED, THE STATUS OF INVESTMENTS MADE, AND
21 MONEY EXPENDED WITH PROCEEDS OF BONDS SOLD UNDER THE PROVISIONS
22 OF THIS ACT.

23 (5) THE ACCOUNTS OF THE AUTHORITY SHALL BE SUBJECT TO ANNUAL
24 AUDITS BY THE STATE AUDITOR GENERAL OR A CERTIFIED PUBLIC ACCOUN-
25 TANT APPOINTED BY THE AUDITOR GENERAL. RECORDS SHALL BE MAIN-
26 TAINED ACCORDING TO GENERALLY ACCEPTED AUDITING PRINCIPLES.

1 SEC. 19D. EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, THE
2 BOARD OF DIRECTORS MAY DO ALL THINGS NECESSARY OR CONVENIENT TO
3 CARRY OUT THE PURPOSES, OBJECTIVES, AND PROVISIONS OF THIS ACT,
4 AND THE PURPOSES, OBJECTIVES, AND POWERS DELEGATED TO THE BOARD
5 BY OTHER LAWS OR EXECUTIVE ORDERS, INCLUDING, BUT NOT LIMITED TO,
6 ALL OF THE FOLLOWING:

7 (A) ADOPT AN OFFICIAL SEAL AND BYLAWS FOR THE REGULATION OF
8 ITS AFFAIRS AND ALTER THE SEAL OR BYLAWS AT ITS PLEASURE.

9 (B) SUE AND BE SUED IN ITS OWN NAME AND PLEAD AND BE
10 IMPLEADED.

11 (C) BORROW MONEY AND ISSUE NEGOTIABLE REVENUE BONDS AND
12 NOTES PURSUANT TO THIS ACT.

13 (D) ENTER INTO CONTRACTS AND OTHER INSTRUMENTS NECESSARY,
14 INCIDENTAL, OR CONVENIENT TO THE PERFORMANCE OF ITS DUTIES AND
15 THE EXERCISE OF ITS POWERS.

16 (E) WITH THE PRIOR CONSENT OF THE DIRECTOR, SOLICIT AND
17 ACCEPT GIFTS, GRANTS, LOANS, AND OTHER AID FROM ANY PERSON, OR
18 THE FEDERAL, STATE, OR LOCAL GOVERNMENT OR ANY AGENCY OF THE FED-
19 ERAL, STATE, OR LOCAL GOVERNMENT, OR PARTICIPATE IN ANY OTHER WAY
20 IN A FEDERAL, STATE, OR LOCAL GOVERNMENT PROGRAM.

21 (F) PROCURE INSURANCE AGAINST LOSS IN CONNECTION WITH THE
22 PROPERTY, ASSETS, OR ACTIVITIES OF THE AUTHORITY.

23 (G) INVEST MONEY OF THE AUTHORITY, AT THE BOARD OF
24 DIRECTORS' DISCRETION, IN INSTRUMENTS, OBLIGATIONS, SECURITIES,
25 OR PROPERTY DETERMINED PROPER BY THE BOARD OF DIRECTORS, AND NAME
26 AND USE DEPOSITORIES FOR ITS MONEY.

1 (H) CONTRACT FOR GOODS AND SERVICES AND ENGAGE PERSONNEL AS
2 NECESSARY AND ENGAGE THE SERVICES OF PRIVATE CONSULTANTS,
3 MANAGERS, LEGAL COUNSEL, AND AUDITORS FOR RENDERING PROFESSIONAL
4 FINANCIAL ASSISTANCE AND ADVICE PAYABLE OUT OF ANY MONEY OF THE
5 AUTHORITY.

6 (I) INDEMNIFY AND PROCURE INSURANCE INDEMNIFYING MEMBERS OF
7 THE BOARD FROM PERSONAL LOSS OR ACCOUNTABILITY FROM LIABILITY
8 ASSERTED BY A PERSON ON BONDS OR NOTES OF THE AUTHORITY, OR FROM
9 ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE ISSU-
10 ANCE OF THE BONDS OR NOTES, OR BY REASON OF ANY OTHER ACTION
11 TAKEN OR THE FAILURE TO ACT BY THE AUTHORITY.

12 (J) DO ALL OTHER THINGS NECESSARY OR CONVENIENT TO ACHIEVE
13 THE OBJECTIVES AND PURPOSES OF THE AUTHORITY, THIS ACT, RULES
14 PROMULGATED UNDER THIS ACT, OR OTHER LAWS THAT RELATE TO THE PUR-
15 POSES AND RESPONSIBILITIES OF THE AUTHORITY.

16 SEC. 19E. THE PROCEEDS OF BONDS OR NOTES ISSUED PURSUANT TO
17 THIS ACT SHALL BE DEPOSITED INTO THE FUND.

18 SEC. 19F. (1) THE AUTHORITY MAY AUTHORIZE AND ISSUE ITS
19 BONDS OR NOTES PAYABLE SOLELY FROM THE REVENUES OR FUNDS AVAIL-
20 ABLE TO THE FUND UNDER SECTION 8. BONDS AND NOTES OF THE AUTHOR-
21 ITY SHALL NOT BE IN ANY WAY A DEBT OR LIABILITY OF THE STATE AND
22 SHALL NOT CREATE OR CONSTITUTE ANY INDEBTEDNESS, LIABILITY, OR
23 OBLIGATIONS OF THE STATE OR BE OR CONSTITUTE A PLEDGE OF THE
24 FAITH AND CREDIT OF THE STATE. ALL AUTHORITY BONDS AND NOTES
25 SHALL BE PAYABLE SOLELY FROM REVENUES OR FUNDS PLEDGED OR AVAIL-
26 ABLE FOR THEIR PAYMENT AS AUTHORIZED IN THIS ACT. EACH BOND AND
27 NOTE SHALL CONTAIN ON ITS FACE A STATEMENT TO THE EFFECT THAT THE

1 AUTHORITY IS OBLIGATED TO PAY THE PRINCIPAL OF AND THE INTEREST
2 ON THE BOND OR NOTE ONLY FROM REVENUES OR FROM FUNDS OF THE
3 AUTHORITY PLEDGED FOR SUCH PAYMENT AND THAT THE STATE IS NOT
4 OBLIGATED TO PAY THAT PRINCIPAL OR INTEREST AND THAT NEITHER THE
5 FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE IS PLEDGED TO
6 THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE BOND OR
7 NOTE.

8 (2) ALL EXPENSES INCURRED IN CARRYING OUT THIS ACT SHALL BE
9 PAYABLE SOLELY FROM REVENUES OR FUNDS PROVIDED OR TO BE PROVIDED
10 UNDER THIS ACT. THIS ACT SHALL NOT BE CONSTRUED TO AUTHORIZE THE
11 AUTHORITY TO INCUR ANY INDEBTEDNESS OR LIABILITY ON BEHALF OF OR
12 PAYABLE BY THE STATE.

13 SEC. 19G. (1) THE AUTHORITY MAY ISSUE FROM TIME TO TIME
14 BONDS OR NOTES IN PRINCIPAL AMOUNTS THE AUTHORITY CONSIDERS NEC-
15 ESSARY TO PROVIDE FUNDS FOR ANY PURPOSE, INCLUDING, BUT NOT
16 LIMITED TO, ALL OF THE FOLLOWING:

17 (A) THE PAYMENT, FUNDING, OR REFUNDING OF THE PRINCIPAL OF,
18 INTEREST ON, OR REDEMPTION PREMIUMS ON BONDS OR NOTES ISSUED BY
19 THE AUTHORITY WHETHER THE BONDS OR NOTES OR INTEREST TO BE FUNDED
20 OR REFUNDED HAVE OR HAVE NOT BECOME DUE.

21 (B) THE ESTABLISHMENT OR INCREASE OF RESERVES TO SECURE OR
22 TO PAY AUTHORITY BONDS OR NOTES OR INTEREST ON THOSE BONDS OR
23 NOTES.

24 (C) THE PAYMENT OF INTEREST ON THE BONDS OR NOTES FOR A
25 PERIOD AS THE AUTHORITY DETERMINES.

1 (D) THE PAYMENT OF ALL OTHER COSTS OR EXPENSES OF THE
2 AUTHORITY INCIDENT TO AND NECESSARY OR CONVENIENT TO CARRY OUT
3 ITS CORPORATE PURPOSES AND POWERS.

4 (2) THE BONDS OR NOTES OF THE AUTHORITY SHALL NOT BE A GEN-
5 ERAL OBLIGATION OF THE AUTHORITY BUT SHALL BE PAYABLE SOLELY FROM
6 THE REVENUES OR FUNDS, OR BOTH, PLEDGED TO THE PAYMENT OF THE
7 PRINCIPAL OF AND INTEREST ON THE BONDS OR NOTES AS PROVIDED IN
8 THE RESOLUTION AUTHORIZING THE BOND OR NOTE.

9 (3) THE BONDS OR NOTES OF THE AUTHORITY:

10 (A) SHALL BE AUTHORIZED BY RESOLUTION OF THE AUTHORITY.

11 (B) SHALL BEAR THE DATE OR DATES OF ISSUANCE.

12 (C) MAY BE ISSUED AS EITHER TAX-EXEMPT BONDS OR NOTES OR
13 TAXABLE BONDS OR NOTES FOR FEDERAL INCOME TAX PURPOSES.

14 (D) SHALL BE SERIAL BONDS, TERM BONDS, OR TERM AND SERIAL
15 BONDS.

16 (E) SHALL MATURE AT SUCH TIME OR TIMES NOT EXCEEDING 50
17 YEARS FROM THE DATE OF ISSUANCE.

18 (F) MAY PROVIDE FOR SINKING FUND PAYMENTS.

19 (G) MAY PROVIDE FOR REDEMPTION AT THE OPTION OF THE AUTHOR-
20 ITY FOR ANY REASON OR REASONS.

21 (H) MAY PROVIDE FOR REDEMPTION AT THE OPTION OF THE BOND-
22 HOLDER FOR ANY REASON OR REASONS.

23 (I) SHALL BEAR INTEREST AT A FIXED OR VARIABLE RATE OR RATES
24 OF INTEREST PER ANNUM OR AT NO INTEREST.

25 (J) SHALL BE REGISTERED BONDS, COUPON BONDS, OR BOTH.

26 (K) MAY CONTAIN A CONVERSION FEATURE.

1 (L) MAY BE TRANSFERABLE.

2 (M) SHALL BE IN THE FORM, DENOMINATION OR DENOMINATIONS, AND
3 WITH SUCH OTHER PROVISIONS AND TERMS AS IS DETERMINED NECESSARY
4 OR BENEFICIAL BY THE AUTHORITY.

5 (4) IF A MEMBER OF THE BOARD OF DIRECTORS OR ANY OFFICER OF
6 THE AUTHORITY WHOSE SIGNATURE OR FACSIMILE OF HIS OR HER SIGNA-
7 TURE APPEARS ON THE NOTE, BOND, OR COUPON CEASES TO BE A MEMBER
8 OR OFFICER BEFORE THE DELIVERY OF THAT NOTE OR BOND, THE SIGNA-
9 TURE SHALL CONTINUE TO BE VALID AND SUFFICIENT FOR ALL PURPOSES,
10 AS IF THE MEMBER OR OFFICER HAD REMAINED IN OFFICE UNTIL THE
11 DELIVERY.

12 (5) BONDS OR NOTES OF THE AUTHORITY MAY BE SOLD AT A PUBLIC
13 OR PRIVATE SALE AT THE TIME OR TIMES, AT THE PRICE OR PRICES, AND
14 AT A DISCOUNT AS THE AUTHORITY DETERMINES. AN AUTHORITY BOND OR
15 NOTE IS NOT SUBJECT TO THE MUNICIPAL FINANCE ACT, ACT NO. 202 OF
16 THE PUBLIC ACTS OF 1943, BEING SECTIONS 131.1 TO 139.3 OF THE
17 MICHIGAN COMPILED LAWS. THE BOND OR NOTE SHALL NOT REQUIRE THE
18 APPROVAL OF THE STATE TREASURER UNDER ACT NO. 202 OF THE PUBLIC
19 ACTS OF 1943 AND SHALL NOT BE REQUIRED TO BE REGISTERED. THE
20 BOND OR NOTE OF THE AUTHORITY SHALL NOT BE REQUIRED TO BE FILED
21 UNDER THE UNIFORM SECURITIES ACT, ACT NO. 265 OF THE PUBLIC ACTS
22 OF 1964, BEING SECTIONS 451.501 TO 451.818 OF THE MICHIGAN
23 COMPILED LAWS.

24 SEC. 19H. (1) THE AUTHORITY MAY PROVIDE FOR THE ISSUANCE OF
25 BONDS OR NOTES IN THE AMOUNTS THE AUTHORITY CONSIDERS NECESSARY
26 FOR THE PURPOSE OF REFUNDING BONDS OR NOTES OF THE AUTHORITY THEN
27 OUTSTANDING, INCLUDING THE PAYMENT OF ANY REDEMPTION PREMIUM AND

1 INTEREST ACCRUED OR TO ACCRUE TO THE EARLIEST OR SUBSEQUENT DATE
2 OF REDEMPTION, PURCHASE, OR MATURITY OF THESE BONDS OR NOTES.
3 THE PROCEEDS OF BONDS OR NOTES ISSUED FOR THE PURPOSE OF REFUND-
4 ING OUTSTANDING BONDS OR NOTES MAY BE APPLIED BY THE AUTHORITY TO
5 THE PURCHASE OR RETIREMENT AT MATURITY OR REDEMPTION OF OUTSTAND-
6 ING BONDS OR NOTES EITHER ON THE EARLIEST OR SUBSEQUENT REDEMP-
7 TION DATE, AND PENDING SUCH APPLICATIONS, MAY BE PLACED IN ESCROW
8 TO BE APPLIED TO THE PURCHASE OR RETIREMENT AT MATURITY OR
9 REDEMPTION ON THE DATE OR DATES DETERMINED BY THE AUTHORITY.
10 PENDING SUCH APPLICATION AND SUBJECT TO AGREEMENTS WITH NOTE-
11 HOLDERS OR BONDHOLDERS, THE ESCROWED PROCEEDS MAY BE INVESTED AND
12 REINVESTED IN THE MANNER THE AUTHORITY DETERMINES, MATURING AT
13 THE DATE OR TIMES AS APPROPRIATE TO ASSURE THE PROMPT PAYMENT OF
14 THE PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM, IF ANY, ON THE
15 OUTSTANDING BONDS OR NOTES TO BE REFUNDED. AFTER THE TERMS OF
16 THE ESCROW HAVE BEEN FULLY SATISFIED AND CARRIED OUT, THE BALANCE
17 OF THE PROCEEDS AND INTEREST, INCOME, AND PROFITS, IF ANY, EARNED
18 OR REALIZED ON THE INVESTMENT OF THE PROCEEDS SHALL BE RETURNED
19 TO THE AUTHORITY FOR USE BY THE AUTHORITY IN ANY LAWFUL MANNER.

20 (2) IN THE RESOLUTION AUTHORIZING BONDS OR NOTES TO REFUND
21 BONDS OR NOTES, THE AUTHORITY MAY PROVIDE THAT THE BONDS OR NOTES
22 TO BE REFUNDED SHALL BE CONSIDERED PAID WHEN THERE HAS BEEN
23 DEPOSITED IN ESCROW, MONEY OR INVESTMENT OBLIGATIONS THAT WOULD
24 PROVIDE PAYMENTS OF PRINCIPAL AND INTEREST ADEQUATE TO PAY THE
25 PRINCIPAL AND INTEREST ON THE BONDS TO BE REFUNDED, AS THAT PRIN-
26 CIPAL AND INTEREST BECOMES DUE WHETHER BY MATURITY OR PRIOR
27 REDEMPTION AND THAT, UPON THE DEPOSIT OF THE MONEY OR INVESTMENT

1 OBLIGATIONS, THE OBLIGATIONS OF THE AUTHORITY TO THE HOLDERS OF
2 THE BONDS OR NOTES TO BE REFUNDED SHALL BE TERMINATED EXCEPT AS
3 TO THE RIGHTS TO THE MONEY OR INVESTMENT OBLIGATIONS DEPOSITED IN
4 TRUST.

5 SEC. 19I. (1) THE AUTHORITY MAY AUTHORIZE AND APPROVE AN
6 INSURANCE CONTRACT, AN AGREEMENT FOR A LINE OF CREDIT, A LETTER
7 OF CREDIT, A COMMITMENT TO PURCHASE NOTES OR BONDS, AN AGREEMENT
8 TO REMARKET BONDS OR NOTES, AN AGREEMENT TO MANAGE PAYMENT, REVE-
9 NUE OR INTEREST RATE EXPOSURE, AND ANY OTHER TRANSACTION TO PRO-
10 VIDE SECURITY TO ASSURE TIMELY PAYMENT OF A BOND OR NOTE.

11 (2) THE AUTHORITY MAY AUTHORIZE PAYMENT FROM THE PROCEEDS OF
12 THE NOTES OR BONDS, OR OTHER FUNDS AVAILABLE, OF THE COST OF
13 ISSUANCE INCLUDING, BUT NOT LIMITED TO, FEES FOR PLACEMENT,
14 CHARGES FOR INSURANCE, LETTERS OF CREDIT, LINES OF CREDIT, REMAR-
15 KETING AGREEMENTS, AGREEMENTS TO MANAGE PAYMENT, REVENUE OR
16 INTEREST RATE EXPOSURE, REIMBURSEMENT AGREEMENTS, OR PURCHASE OR
17 SALES AGREEMENTS OR COMMITMENTS, OR AGREEMENTS TO PROVIDE SECUR-
18 ITY TO ASSURE TIMELY PAYMENT OF NOTES OR BONDS.

19 SEC. 19J. WITHIN LIMITATIONS THAT SHALL BE CONTAINED IN THE
20 ISSUANCE OR AUTHORIZATION RESOLUTION OF THE AUTHORITY, THE
21 AUTHORITY MAY AUTHORIZE A MEMBER OF THE BOARD OF DIRECTORS, THE
22 EXECUTIVE DIRECTOR, OR OTHER OFFICER OF THE AUTHORITY TO DO 1 OR
23 MORE OF THE FOLLOWING:

24 (A) SELL AND DELIVER, AND RECEIVE PAYMENT FOR NOTES OR
25 BONDS.

1 (B) REFUND NOTES OR BONDS BY THE DELIVERY OF NEW NOTES OR
2 BONDS WHETHER OR NOT THE NOTES OR BONDS TO BE REFUNDED HAVE
3 MATURED OR ARE SUBJECT TO REDEMPTION.

4 (C) DELIVER NOTES OR BONDS, PARTLY TO REFUND NOTES OR BONDS
5 AND PARTLY FOR ANY OTHER AUTHORIZED PURPOSE.

6 (D) BUY NOTES OR BONDS SO ISSUED AND RESELL THOSE NOTES OR
7 BONDS.

8 (E) APPROVE INTEREST RATES OR METHODS FOR FIXING INTEREST
9 RATES, PRICES, DISCOUNTS, MATURITIES, PRINCIPAL AMOUNTS, DENOMI-
10 NATIONS, DATES OF ISSUANCE, INTEREST PAYMENT DATES, REDEMPTION
11 RIGHTS AT THE OPTION OF THE AUTHORITY OR THE HOLDER, THE PLACE OF
12 DELIVERY AND PAYMENT, AND OTHER MATTERS AND PROCEDURES NECESSARY
13 TO COMPLETE THE TRANSACTIONS AUTHORIZED.

14 (F) DIRECT THE INVESTMENT OF ANY AND ALL FUNDS OF THE
15 AUTHORITY.

16 (G) APPROVE TERMS OF ANY INSURANCE CONTRACT, AGREEMENT FOR A
17 LINE OF CREDIT, A LETTER OF CREDIT, A COMMITMENT TO PURCHASE
18 NOTES OR BONDS, AN AGREEMENT TO REMARKET BONDS OR NOTES OR ANY
19 OTHER TRANSACTION TO PROVIDE SECURITY TO ASSURE TIMELY PAYMENT OF
20 A BOND OR NOTE OR AN AGREEMENT TO MANAGE PAYMENT, REVENUE OR
21 INTEREST RATE EXPOSURE.

22 (H) ANY POWER, DUTY, FUNCTION, OR RESPONSIBILITY OF THE
23 AUTHORITY.

24 SEC. 19K. A RESOLUTION AUTHORIZING BONDS OR NOTES MAY PRO-
25 VIDE FOR ALL OR ANY PORTION OF THE FOLLOWING THAT SHALL BE PART
26 OF THE CONTRACT WITH THE HOLDERS OF THE BONDS OR NOTES:

1 (A) A PLEDGE TO ANY PAYMENT OR PURPOSE ALL OR ANY PART OF
2 AUTHORITY REVENUES OR ASSETS TO WHICH ITS RIGHT THEN EXISTS OR
3 MAY LATER COME TO EXIST, AND OF MONEY DERIVED FROM THE REVENUES
4 OR ASSETS, AND OF THE PROCEEDS OF BONDS OR NOTES OR OF AN ISSUE
5 OF BONDS OR NOTES, SUBJECT TO ANY EXISTING AGREEMENTS WITH BOND-
6 HOLDERS OR NOTEHOLDERS.

7 (B) A PLEDGE OF A LOAN, GRANT, OR CONTRIBUTION FROM THE FED-
8 ERAL OR STATE GOVERNMENT.

9 (C) THE ESTABLISHMENT AND SETTING ASIDE OF RESERVES OR SINK-
10 ING FUNDS AND THE REGULATION AND DISPOSITION OF RESERVES OR SINK-
11 ING FUNDS SUBJECT TO THIS ACT.

12 (D) AUTHORITY FOR AND LIMITATIONS ON THE ISSUANCE OF ADDI-
13 TIONAL BONDS OR NOTES FOR THE PURPOSES PROVIDED FOR IN THE RESO-
14 LUTION AND THE TERMS UPON WHICH ADDITIONAL NOTES OR BONDS MAY BE
15 ISSUED AND SECURED.

16 (E) THE PROCEDURE, IF ANY, BY WHICH THE TERMS OF A CONTRACT
17 WITH NOTEHOLDERS OR BONDHOLDERS MAY BE AMENDED OR ABROGATED, THE
18 NUMBER OF NOTEHOLDERS OR BONDHOLDERS WHO ARE REQUIRED TO CONSENT
19 TO THE AMENDMENT OR ABROGATION, AND THE MANNER IN WHICH THE CON-
20 SENT MAY BE GIVEN.

21 (F) A CONTRACT WITH THE BONDHOLDERS AS TO THE CUSTODY, COL-
22 LECTION, SECURING, INVESTMENT, AND PAYMENT OF ANY MONEY OF THE
23 AUTHORITY. MONEY OF THE AUTHORITY AND DEPOSITS OF MONEY MAY BE
24 SECURED IN THE MANNER DETERMINED BY THE AUTHORITY. BANKS AND
25 TRUST COMPANIES MAY GIVE SECURITY FOR SUCH DEPOSITS.

26 (G) VEST IN A TRUSTEE, OR A SECURED PARTY, SUCH PROPERTY,
27 INCOME, REVENUES, RECEIPTS, RIGHTS, REMEDIES, POWERS, AND DUTIES

1 IN TRUST OR OTHERWISE AS THE AUTHORITY DETERMINES NECESSARY OR
2 APPROPRIATE TO ADEQUATELY SECURE AND PROTECT NOTEHOLDERS AND
3 BONDHOLDERS OR TO LIMIT OR ABROGATE THE RIGHT OF THE HOLDERS OF
4 BONDS OR NOTES OF THE AUTHORITY TO APPOINT A TRUSTEE UNDER THIS
5 ACT OR TO LIMIT THE RIGHTS, POWERS, AND DUTIES OF THE TRUSTEE.

6 (H) PROVIDE TO A TRUSTEE OR THE NOTEHOLDERS OR BONDHOLDERS
7 REMEDIES THAT MAY BE EXERCISED IN THE EVENT THAT THE AUTHORITY
8 FAILS OR REFUSES TO COMPLY WITH THIS ACT OR DEFAULTS IN AN AGREEMENT
9 MADE WITH THE HOLDERS OF AN ISSUE OF BONDS OR NOTES, WHICH
10 MAY INCLUDE ANY OF THE FOLLOWING:

11 (i) BY MANDAMUS OR OTHER SUIT, ACTION, OR PROCEEDING AT LAW
12 OR IN EQUITY, TO ENFORCE THE RIGHTS OF THE BONDHOLDERS OR NOTE-
13 HOLDERS, AND REQUIRE THE AUTHORITY TO CARRY OUT ANY OTHER AGREE-
14 MENTS WITH THE HOLDERS OF THOSE NOTES OR BONDS AND TO PERFORM THE
15 AUTHORITY'S DUTIES UNDER THIS ACT.

16 (ii) BRING SUIT UPON THE NOTES OR BONDS.

17 (iii) BY ACTION OR SUIT, REQUIRE THE AUTHORITY TO ACCOUNT AS
18 IF IT WERE THE TRUSTEE OF AN EXPRESS TRUST FOR THE HOLDERS OF THE
19 NOTES OR BONDS.

20 (iv) BY ACTION OR SUIT IN EQUITY, ENJOIN ANY ACTS OR THINGS
21 WHICH MAY BE UNLAWFUL OR IN VIOLATION OF THE RIGHTS OF THE HOLD-
22 ERS OF THE NOTES OR BONDS.

23 (v) DECLARE THE NOTES OR BONDS DUE AND PAYABLE, AND IF ALL
24 DEFAULTS SHALL BE MADE GOOD, THEN, AS PERMITTED BY SUCH RESOLU-
25 TION, TO ANNUL THAT DECLARATION AND ITS CONSEQUENCES.

1 (I) ANY OTHER MATTERS OF LIKE OR DIFFERENT CHARACTER, WHICH
2 IN ANY WAY AFFECT THE SECURITY OF PROTECTION OF THE BONDS OR
3 NOTES.

4 SEC. 19L. A PLEDGE MADE BY THE AUTHORITY SHALL BE VALID AND
5 BINDING FROM THE TIME THE PLEDGE IS MADE. THE MONEY OR PROPERTY
6 PLEDGED AND THEN RECEIVED BY THE AUTHORITY IMMEDIATELY SHALL BE
7 SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT A PHYSICAL DELIVERY OR
8 FURTHER ACT. THE LIEN OF A PLEDGE SHALL BE VALID AND BINDING AS
9 AGAINST PARTIES HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT, OR
10 OTHERWISE AGAINST THE AUTHORITY, AND SHALL BE VALID AND BINDING
11 AS AGAINST THE TRANSFERS OF THE MONEY OR PROPERTY PLEDGED, IRRE-
12 SPECTIVE OF WHETHER PARTIES HAVE NOTICE. NEITHER THE RESOLUTION,
13 THE TRUST AGREEMENT, NOR ANY OTHER INSTRUMENT BY WHICH A PLEDGE
14 IS CREATED NEED BE RECORDED IN ORDER TO ESTABLISH AND PERFECT A
15 LIEN OR SECURITY INTEREST IN THE PROPERTY SO PLEDGED.

16 SEC. 19M. NEITHER THE MEMBERS OF THE AUTHORITY NOR ANY
17 PERSON EXECUTING BONDS OR NOTES ISSUED UNDER THIS ACT OR ANY
18 PERSON EXECUTING ANY AGREEMENT ON BEHALF OF THE AUTHORITY SHALL
19 BE LIABLE PERSONALLY ON THE BONDS OR NOTES BY REASON OF THEIR
20 ISSUANCE.

21 SEC. 19N. THE STATE PLEDGES TO AND AGREES WITH THE HOLDERS
22 OF BONDS OR NOTES ISSUED UNDER THIS ACT THAT THE STATE SHALL NOT
23 LIMIT OR RESTRICT THE RIGHTS VESTED IN THE AUTHORITY BY THIS ACT
24 TO FULFILL THE TERMS OF AN AGREEMENT MADE WITH THE HOLDERS OF
25 AUTHORITY BONDS OR NOTES, OR IN ANY WAY IMPAIR THE RIGHTS OR REM-
26 EDIES OF THE HOLDERS OF THE BONDS OR NOTES OF THE AUTHORITY UNTIL
27 THE BONDS AND NOTES, TOGETHER WITH INTEREST ON THE BONDS OR NOTES

1 AND INTEREST ON ANY UNPAID INSTALLMENTS OF INTEREST, AND ALL
2 COSTS AND EXPENSES IN CONNECTION WITH AN ACTION OR PROCEEDINGS BY
3 OR ON BEHALF OF THOSE HOLDERS ARE FULLY MET, PAID, AND
4 DISCHARGED.

5 SEC. 190. NOTWITHSTANDING ANY RESTRICTION CONTAINED IN ANY
6 OTHER LAW, THE STATE AND A PUBLIC OFFICER, LOCAL UNIT OF GOVERN-
7 MENT, OR AGENCY OF THE STATE OR A LOCAL UNIT OF GOVERNMENT; A
8 BANK, TRUST COMPANY, SAVINGS BANK AND INSTITUTION, SAVINGS AND
9 LOAN ASSOCIATION, INVESTMENT COMPANY, OR OTHER PERSON CARRYING ON
10 A BANKING BUSINESS; AN INSURANCE COMPANY, INSURANCE ASSOCIATION,
11 OR OTHER PERSON CARRYING ON AN INSURANCE BUSINESS; OR AN EXECU-
12 TOR, ADMINISTRATOR, GUARDIAN, TRUSTEE, OR OTHER FIDUCIARY MAY
13 LEGALLY INVEST FUNDS BELONGING TO THEM OR WITHIN THEIR CONTROL IN
14 BONDS OR NOTES ISSUED UNDER THIS ACT, AND AUTHORITY BONDS OR
15 NOTES SHALL BE AUTHORIZED SECURITY FOR PUBLIC DEPOSITS.

16 SEC. 19P. PROPERTY OF THE AUTHORITY IS PUBLIC PROPERTY
17 DEVOTED TO AN ESSENTIAL PUBLIC AND GOVERNMENTAL FUNCTION AND
18 PURPOSE. INCOME OF THE AUTHORITY IS CONSIDERED TO BE FOR A
19 PUBLIC PURPOSE. THE PROPERTY OF THE AUTHORITY AND ITS INCOME AND
20 OPERATION ARE EXEMPT FROM ALL TAXES AND SPECIAL ASSESSMENTS OF
21 THE STATE OR A POLITICAL SUBDIVISION OF THE STATE. BONDS OR
22 NOTES ISSUED BY THE AUTHORITY, AND THE INTEREST ON AND INCOME
23 FROM THOSE BONDS AND NOTES, ARE EXEMPT FROM ALL TAXATION OF THE
24 STATE OR A POLITICAL SUBDIVISION OF THE STATE.

25 SEC. 19Q. THIS ACT SHALL BE CONSTRUED LIBERALLY TO EFFECTU-
26 ATE THE LEGISLATIVE INTENT AND THE PURPOSES AS COMPLETE AND
27 INDEPENDENT AUTHORITY FOR THE PERFORMANCE OF EACH AND EVERY ACT

1 AND THING AUTHORIZED BY THIS ACT AND ALL POWERS GRANTED SHALL BE
2 BROADLY INTERPRETED TO EFFECTUATE THE INTENT AND PURPOSES AND NOT
3 AS A LIMITATION OF POWERS.

4 SEC. 19R. THE AUTHORITY MAY PROMULGATE RULES AS NECESSARY
5 TO IMPLEMENT SECTIONS 19A TO 19Q.

6 Sec. 20. (1) The Michigan underground storage tank finan-
7 cial assurance policy board is created in the department.

8 (2) The board shall consist of the following:

9 (a) The director of the department, or his or her designee.

10 (b) The director of the department of natural resources, or
11 his or her designee.

12 (c) The director of the department of ~~state police~~
13 MANAGEMENT AND BUDGET, or his or her designee.

14 (d) The state treasurer, or his or her designee.

15 (e) Seven individuals appointed by the governor with the
16 advice and consent of the senate as follows:

17 (i) One individual representing an independent petroleum
18 wholesale distributor-marketer trade association.

19 (ii) One individual representing a petroleum
20 refiner-supplier trade association.

21 (iii) One individual representing a service station dealers'
22 trade association.

23 (iv) One individual representing a truck stop operators
24 trade association.

25 (v) One individual representing an environmental public
26 interest organization.

1 (vi) One individual representing the general public.

2 (vii) One individual representing local government.

3 (3) The governor shall appoint individuals to the board
4 under subsection (2)(e) within 60 days after the effective date
5 of this act. An individual appointed to the board shall serve
6 for a term of 2 years.

7 (4) A vacancy on the board shall be filled in the same
8 manner as the original appointment.

9 (5) The first meeting of the board shall be called by the
10 director of the department. ~~of management and budget.~~ At its
11 first meeting, the board shall elect from among its members a
12 chairperson and other officers as it considers necessary. After
13 the first meeting, a meeting of the board shall be called by the
14 chairperson on his or her own initiative or by the chairperson on
15 petition of 3 or more members. Upon receipt of a petition of 3
16 or more members, a meeting shall be called for a date no later
17 than 14 days after the date of receipt of the petition.

18 (6) The business which the board may perform shall be con-
19 ducted at a public meeting of the board held in compliance with
20 the open meetings act, Act No. 267 of the Public Acts of 1976,
21 being sections 15.261 to 15.275 of the Michigan Compiled Laws.

22 (7) A majority of the members of the board constitutes a
23 quorum for the transaction of business at a meeting of the
24 board. Action by the board shall be by a majority of the votes
25 cast.

1 (8) The board shall advise the department and the
2 administrator on all matters related to the implementation of
3 this act.

4 Sec. 21. The department, ~~of natural resources,~~ after con-
5 sultation with the board, shall prepare and annually update a
6 list of approved contractors who, based on department ~~of natural~~
7 ~~resources~~ guidelines, are qualified to undertake corrective
8 actions. However, in preparing this list of approved contrac-
9 tors, the department ~~of natural resources~~ is not responsible or
10 liable for the performance of the contractors. The department
11 ~~of natural resources~~ shall make this list of approved contrac-
12 tors available to a person upon request. A contractor shall be
13 suspended or removed from the list for fraud or other cause as
14 determined by the department.

15 Sec. 23. (1) This act shall not be construed as creating
16 any liability on behalf of the state. This act shall not be con-
17 strued as making the state the guarantor of the fund.

18 (2) This act shall not be construed as to relieve any person
19 who may be eligible to receive money from the fund or the emer-
20 gency response fund from any liability that he or she may incur
21 as the owner or operator of an underground storage tank system.
22 The state is not assuming the liability of an owner or operator
23 eligible for funding under this act, it is only providing assist-
24 ance to such owners or operators in meeting the financial respon-
25 sibility requirements.

26 (3) ~~If~~ ALL BONDS, NOTES, AND OTHER OBLIGATIONS OF THE
27 AUTHORITY PAYABLE FROM THE FUND HAVE BEEN FULLY PAID OR PROVIDED

1 FOR AND IF any provision of this act is found to be
2 unconstitutional by a court of competent jurisdiction and the
3 allowable time for filing an appeal has expired or the appellant
4 has exhausted all of his or her avenues of appeal, this whole act
5 shall be considered unconstitutional and invalid.

6 Sec. 25. (1) Section 7 is repealed effective December 22,
7 1998.

8 (2) Upon the repeal of section 7, any unexpended money in
9 the emergency response fund reverts to the fund.

10 (3) This act is repealed effective January 1, ~~2000~~ 2005.