



# HOUSE BILL No. 5025

August 31, 1993, Introduced by Reps. Bobier, Bodem, Shepich, Gagliardi, Gernaat, McManus and Lowe and referred to the Committee on Agriculture and Forestry.

A bill to amend sections 4, 7, 8, 9, 10, 11, and 13 of Act No. 280 of the Public Acts of 1990, entitled "Michigan forest finance authority act," being sections 320.2004, 320.2007, 320.2008, 320.2009, 320.2010, 320.2011, and 320.2013 of the Michigan Compiled Laws; and to add section 1a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 4, 7, 8, 9, 10, 11, and 13 of Act  
2 No. 280 of the Public Acts of 1990, being sections 320.2004,  
3 320.2007, 320.2008, 320.2009, 320.2010, 320.2011, and 320.2013 of  
4 the Michigan Compiled Laws, are amended and section 1a is added  
5 to read as follows:

6 SEC. 1A. THE PURPOSE OF THIS ACT AND OF THE AUTHORITY  
7 CREATED BY THIS ACT IS TO PRESERVE EXISTING JOBS, CREATE NEW  
8 JOBS, AND ALLEVIATE AND PREVENT UNEMPLOYMENT THROUGH THE

1 RETENTION, PROMOTION, AND DEVELOPMENT OF FORESTRY AND FOREST  
2 INDUSTRIES AND TO PROTECT THE HEALTH AND VIGOR OF THE FOREST  
3 RESOURCES BY DOING ALL OF THE FOLLOWING:

4 (A) FUNDING PRACTICES PRESCRIBED AND APPROVED BY THE DEPART-  
5 MENT OF NATURAL RESOURCES THAT INTENSIFY MANAGEMENT OF CERTAIN  
6 HIGHLY PRODUCTIVE PORTIONS OF THE STATE'S FOREST SYSTEM.

7 (B) IMPLEMENTING A SYSTEM OF FOREST MANAGEMENT THAT IS  
8 INVESTMENT-ORIENTED, ECONOMICALLY EFFICIENT, AND ENVIRONMENTALLY  
9 SOUND.

10 (C) PROMOTING A STABLE AND CONTINUING SUPPLY OF TIMBER FOR  
11 FUTURE ECONOMIC EXPANSION.

12 (D) PROVIDING DEPENDABLE FUNDING OF SCHEDULED FOREST MANAGE-  
13 MENT OPERATIONS.

14 (E) PROMOTING EFFECTIVE INVESTMENT OF REVENUES FROM TIMBER  
15 SALES FOR HIGH FUTURE RETURNS.

16 (F) FACILITATING TIMELY PERFORMANCE OF FOREST MANAGEMENT  
17 OPERATIONS.

18 (G) EARNING ADDITIONAL REVENUES FOR FOREST MANAGEMENT FROM  
19 TIMBER SALES.

20 (H) IMPROVING EXISTING TIMBER STANDS AND ESTABLISHING NEW  
21 STANDS OF TREES.

22 (I) PROVIDING FOR REFORESTATION, FOREST PROTECTION, AND  
23 TIMBER STAND IMPROVEMENT.

24 (J) PROVIDING AN ADDITIONAL FUNDING SOURCE FOR THE PURPOSES  
25 DESCRIBED IN THIS SECTION FROM INDEBTEDNESS SECURED WITH REVENUES  
26 GENERATED FROM FUTURE SALE OF TIMBER HARVESTED FROM STATE TAX  
27 REVERTED LANDS.

1        Sec. 4. (1) The authority shall be governed by a board of  
2 directors consisting of the director of the department of natural  
3 resources, the state treasurer, and 3 residents of the state  
4 appointed by the governor with the advice and consent of the  
5 senate. The 3 resident directors shall serve terms of 3 years.  
6 In appointing the initial 3 resident members of the board, the  
7 governor shall designate 1 to serve for 3 years, 1 to serve for 2  
8 years, and 1 to serve for 1 year.

9        (2) Upon appointment to the board under subsection (1), AND  
10 UPON THE TAKING AND FILING OF THE CONSTITUTIONAL OATH OF OFFICE,  
11 a member of the board shall enter THE office and exercise the  
12 duties of THE office. ~~A member of the board shall qualify by~~  
13 ~~taking and filing the constitutional oath of office.~~

14        (3) Regardless of the cause of a vacancy on the board, the  
15 governor shall fill a vacancy in the office of a member of the  
16 board by appointment with the advice and consent of the senate.  
17 A vacancy shall be filled for the balance of the unexpired term  
18 of ~~such~~ THE office. A member of the board shall hold office  
19 until a successor has been appointed and has qualified.

20        (4) Members of the board and officers and employees of the  
21 authority ~~shall be~~ ARE subject to Act No. 317 of the Public  
22 Acts of 1968, being sections 15.321 to 15.330 of the Michigan  
23 Compiled Laws. A member of the board or an officer, employee, or  
24 agent ~~of the funds~~ of the authority shall discharge the duties  
25 of his or her position in a nonpartisan manner, with good faith,  
26 and with that degree of diligence, care, and skill that an  
27 ordinarily prudent person would exercise under similar

1 circumstances in a like position. In discharging his or her  
 2 duties, a member of the board or an officer, employee, or agent  
 3 of the authority, when acting in good faith, may rely upon the  
 4 opinion of counsel for the authority, upon the report of an inde-  
 5 pendent appraiser selected with reasonable care by the board, or  
 6 upon financial statements of the authority represented to the  
 7 member of the board, officer, employee, or agent to be correct by  
 8 the officer of THE authority having charge of its books or  
 9 account, or stated in a written report by THE AUDITOR GENERAL OR  
 10 a certified public accountant or the firm of the accountants  
 11 fairly to reflect the financial condition of the authority.

12 (5) The board shall organize and make its own policies and  
 13 procedures. The board shall conduct all business at public meet-  
 14 ings held in compliance with the open meetings act, Act No. 267  
 15 of the Public Acts of 1976, being sections 15.261 to 15.275 of  
 16 the Michigan Compiled Laws. Public notice of the time, date, and  
 17 place of each meeting shall be given in the manner required by  
 18 Act No. 267 of the Public Acts of 1976. ~~Four~~ THREE members of  
 19 the board ~~shall~~ constitute a quorum for the transaction of  
 20 business. An action of the board ~~shall require~~ REQUIRES a con-  
 21 curring vote by ~~a majority of the members present at the~~  
 22 ~~meeting~~ 3 MEMBERS OF THE BOARD. A state officer or director who  
 23 is a member of the board may designate a representative from his  
 24 or her department to serve instead of that state officer or  
 25 director as a voting member of the board for 1 or more meetings.

26 Sec. 7. (1) The authority shall finance only forest  
 27 management operations and practices that follow the guidelines,

1 rules, and objectives prescribed and approved by the department  
2 of natural resources as these guidelines, rules, and objectives  
3 are amended by the department of natural resources.

4 (2) Funds managed by the authority shall be applied in a  
5 manner consistent with the land management planning policies of  
6 the department of natural resources on lands that have been iden-  
7 tified for forest management practices. In the absence of an  
8 approved state forest management plan covering a candidate area,  
9 an interim procedure, as adopted by the commission of natural  
10 resources, shall be used to assure that all forest values have  
11 been considered in selecting sites for investment with funds of  
12 the authority. The department of natural resources shall annu-  
13 ally submit a list of activities and practices allocated from the  
14 funds generated under this act for the board's review and deter-  
15 mination of consistency with the purposes of this act.

16 (3) THE EXECUTIVE DIRECTOR OF THE AUTHORITY SHALL NOTIFY THE  
17 DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES IF THE AUTHORITY  
18 PROJECTS A PROBABLE DEFAULT ON ANY BONDS OR NOTES ISSUED BY THE  
19 AUTHORITY, AND WITHIN 1 YEAR OF RECEIPT OF THE NOTIFICATION, OR  
20 WITHIN LESS THAN 1 YEAR, IF THE NOTIFICATION INDICATES A SHORTER  
21 TIME PERIOD IS NECESSARY TO AVOID A DEFAULT, THE DIRECTOR OF THE  
22 DEPARTMENT OF NATURAL RESOURCES SHALL IDENTIFY AND CONVEY TO THE  
23 AUTHORITY SUFFICIENT TIMBER ON TAX REVERTED LANDS TO ENABLE THE  
24 AUTHORITY TO AVOID THE PROJECTED DEFAULT AND TO PROVIDE FOR  
25 TIMELY PAYMENT OF PRINCIPAL OF AND INTEREST ON THE AUTHORITY'S  
26 BONDS OR NOTES. The authority may ONLY issue contracts for the  
27 cutting and sale of timber ~~only upon approval by an authorized~~

1 ~~representative of the department of natural resources~~ WHICH HAS  
2 BEEN CONVEYED TO THE AUTHORITY UNDER THIS SECTION TO AVOID A  
3 DEFAULT ON ANY BONDS OR NOTES ISSUED BY THE AUTHORITY. THE  
4 DETERMINATION OF THE BOARD AS TO THE NEED TO CUT AND SELL TIMBER  
5 IS CONCLUSIVE. Contracts for the cutting and sale of timber  
6 shall be consistent with the guidelines, rules, and objectives  
7 prescribed by the department of natural resources.

8 (4) THE AUTHORITY SHALL ESTABLISH A FUND DESIGNATED AS THE  
9 "FOREST DEVELOPMENT FUND". ANY MONEY ON HAND OR RECEIVED IN THE  
10 FUTURE FROM BOND PROCEEDS AND FROM CONTRACTS FOR THE CUTTING AND  
11 SALE OF TIMBER ON TAX REVERTED LANDS SHALL BE DEPOSITED IN THE  
12 FOREST DEVELOPMENT FUND AND UTILIZED BY THE AUTHORITY TO PROVIDE  
13 FOR THE PAYMENT OF PRINCIPAL OF AND INTEREST ON ANY BONDS OR  
14 NOTES ISSUED BY THE AUTHORITY AND FOR REFORESTATION, FOREST PRO-  
15 TECTION, AND TIMBER STAND IMPROVEMENT AND ANY OTHER PURPOSES  
16 AUTHORIZED BY THIS ACT. ALL MONEY IN THE SPECIAL FOREST MANAGE-  
17 MENT FUND ESTABLISHED PURSUANT TO FORMER ACT NO. 268 OF THE  
18 PUBLIC ACTS OF 1945 SHALL BE TRANSFERRED TO THE FOREST DEVELOP-  
19 MENT FUND.

20 Sec. 8. (1) ~~The~~ EXCEPT AS PROVIDED IN SECTION 7(3), THE  
21 department of natural resources shall act as the agent for the  
22 authority in contracting for the cutting and sale of timber or  
23 other forest management operations and practices undertaken by  
24 the authority.

25 (2) ~~Upon the expiration of 180 days after the effective~~  
26 ~~date of this act, the~~ THE state's interest in all existing AND  
27 FUTURE contracts granting timber cutting rights on state tax

1 reverted lands ~~shall be~~ ARE HEREBY conveyed to the authority to  
2 be used for any of the purposes of this act subject to the  
3 restrictions of ~~section 9~~ THIS ACT. THE MONEY RECEIVED BY THE  
4 STATE FROM EXISTING OR FUTURE CONTRACTS FOR THE CUTTING AND SALE  
5 OF TIMBER ON STATE TAX REVERTED LANDS SHALL BE DEPOSITED IN THE  
6 FOREST DEVELOPMENT FUND AND UTILIZED AS PROVIDED IN  
7 SECTION 7(4).

8 (3) IN ORDER TO PROVIDE FOR ADDITIONAL SECURITY FOR INDEBT-  
9 EDNESS OF THE AUTHORITY, THE DIRECTOR OF THE DEPARTMENT OF NATU-  
10 RAL RESOURCES MAY CONVEY TO THE AUTHORITY TITLE TO TIMBER ON ALL  
11 OR ANY PORTION OF TAX REVERTED LANDS AS DETERMINED BY THE COMMIS-  
12 SION OF NATURAL RESOURCES. THE FORM OF CONVEYANCE SHALL BE  
13 APPROVED BY THE ATTORNEY GENERAL AND BY RESOLUTION OF THE STATE  
14 ADMINISTRATIVE BOARD. IF THE AUTHORITY RECEIVES TITLE TO ANY  
15 TIMBER, IT MAY RELEASE AND RECONVEY TIMBER ON STATE TAX REVERTED  
16 LANDS IF REQUESTED BY THE DEPARTMENT OF NATURAL RESOURCES AND THE  
17 RECONVEYANCE FROM THE AUTHORITY TO THE DEPARTMENT OF NATURAL  
18 RESOURCES WILL NOT CAUSE THE AUTHORITY TO DEFAULT ON ANY OBLIGA-  
19 TION OR COVENANT CONTAINED IN ANY RESOLUTION OF THE AUTHORITY  
20 AUTHORIZING ISSUANCE OF BONDS OR NOTES.

21 Sec. 9. (1) The authority may authorize and issue its bonds  
22 or notes payable solely from the revenues or funds available to  
23 the authority. Bonds and notes of the authority ~~shall~~ ARE not  
24 ~~be in any way~~ a debt or liability of the state and ~~shall~~ DO  
25 not create or constitute any indebtedness, liability, or obliga-  
26 tions of the state or ~~be or~~ constitute a pledge of the faith  
27 and credit of the state. All authority bonds and notes shall be

1 payable solely from revenues or funds pledged or available for  
2 their payment as authorized in this act. Each bond and note  
3 shall contain on its face a statement to the effect that the  
4 authority is obligated to pay the principal of and the interest  
5 on the bond or note only from revenues or funds of the authority  
6 PLEDGED FOR THE PAYMENT OF PRINCIPAL AND INTEREST and that the  
7 state is not obligated to pay that principal or interest and that  
8 neither the faith and credit nor the taxing power of the state is  
9 pledged to the payment of the principal of or the interest on the  
10 bond or note.

11 (2) All expenses incurred in carrying out this act shall be  
12 payable solely from revenues or funds provided or to be provided  
13 under this act. This act ~~shall not be construed to~~ DOES NOT  
14 authorize the authority to incur any indebtedness or liability on  
15 behalf of or payable by the state.

16 (3) ANY REVENUES OR FUNDS AVAILABLE TO THE AUTHORITY THAT  
17 ARE NOT NECESSARY TO PAY PRINCIPAL OF OR INTEREST ON ANY OUT-  
18 STANDING BONDS OR NOTES OF THE AUTHORITY OR WHICH ARE NOT  
19 REQUIRED TO BE DEPOSITED IN A FUND CREATED TO SECURE THE BONDS OR  
20 NOTES OF THE AUTHORITY OR REQUIRED TO PROVIDE FOR THE FUNDING OF  
21 ANY OTHER MATTERS REQUIRED BY A RESOLUTION AUTHORIZING THE ISSU-  
22 ANCE OF BONDS OR NOTES OF THE AUTHORITY SHALL BE EXPENDED TO FUND  
23 FOREST MANAGEMENT PROGRAMS IN A MANNER PRESCRIBED BY THE DEPART-  
24 MENT OF NATURAL RESOURCES. ANY MONEY DERIVED FROM THE PROCEEDS  
25 OF BONDS OR NOTES SHALL BE EXPENDED BY THE AUTHORITY IN THE  
26 MANNER PRESCRIBED IN THE ACT AND THE RESOLUTION AUTHORIZING SUCH  
27 INDEBTEDNESS.



Sec. 10. (1) The authority may issue from time to time bonds or notes in principal amounts the authority considers necessary to provide funds for any purpose, including, but not limited to, all of the following:

(a) The payment, funding, or refunding of the principal of, interest on, or redemption premiums on bonds or notes issued by the authority whether the bonds or notes or interest to be funded or refunded have or have not become due.

(b) The establishment or increase of reserves to secure or to pay authority bonds or notes or interest on those bonds or notes.

(c) The payment of interest on the bonds or notes for a period as the authority determines.

(d) The payment of all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(2) The bonds or notes of the authority shall not be a general obligation of the authority but shall be payable solely from the revenues or funds, or both, pledged to the payment of the principal of and interest on the bonds or notes as provided in the resolution authorizing the bond or note.

(3) The bonds or notes of the authority: ~~shall be authorized by resolution of the authority and shall comply with all of the following:~~

~~(a) Be issued in 1 or more series.~~

~~(b) Bear the date or dates of issuance.~~

- 1 ~~(c) Mature at the time or times not exceeding 50 years from~~  
2 ~~the date of their issuance.~~
- 3 ~~(d) Provide sinking fund payments.~~
- 4 ~~(e) Bear interest at a fixed or variable rate or rates of~~  
5 ~~interest per annum or at no interest.~~
- 6 ~~(f) Be in a denomination or denominations.~~
- 7 ~~(g) Be in the form, either coupon or registered.~~
- 8 ~~(h) Carry the conversion or registration privileges.~~
- 9 ~~(i) Have the rank or priority.~~
- 10 ~~(j) Be executed in the manner.~~
- 11 ~~(k) Be transferable.~~
- 12 ~~(l) Be payable from the sources in the medium of payment at~~  
13 ~~the place or places within or without the state.~~
- 14 ~~(m) Be subject to redemption at the option of the authority~~  
15 ~~or the holder and with the terms and redemption premiums, as the~~  
16 ~~resolution provides.~~
- 17 (A) SHALL BE AUTHORIZED BY RESOLUTION OF THE AUTHORITY.
- 18 (B) SHALL BEAR THE DATE OR DATES OF ISSUANCE.
- 19 (C) MAY BE ISSUED AS EITHER TAX-EXEMPT BONDS OR NOTES OR  
20 TAXABLE BONDS OR NOTES FOR FEDERAL INCOME TAX PURPOSES.
- 21 (D) SHALL BE SERIAL BONDS, TERM BONDS, OR TERM AND SERIAL  
22 BONDS.
- 23 (E) SHALL MATURE AT SUCH TIME OR TIMES NOT EXCEEDING 50  
24 YEARS FROM THE DATE OF ISSUANCE.
- 25 (F) MAY PROVIDE FOR SINKING FUND PAYMENTS.
- 26 (G) MAY PROVIDE FOR REDEMPTION AT THE OPTION OF THE  
27 AUTHORITY FOR ANY REASON OR REASONS.

(H) MAY PROVIDE FOR REDEMPTION AT THE OPTION OF THE  
BONDHOLDER FOR ANY REASON OR REASONS.

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

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

(K) MAY CONTAIN A CONVERSION FEATURE.

(L) MAY BE TRANSFERABLE.

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

(4) If a member of the board or any officer of the authority  
whose signature or facsimile of his or her signature appears on  
the note, bond, or coupon ceases to be a member or officer before  
the delivery of that note or bond, the signature shall continue  
to be valid and sufficient for all purposes, as if the member or  
officer had remained in office until the delivery.

(5) Bonds or notes of the authority may be sold at a public  
or private sale at the time or times, at the price or prices, and  
at a discount as the authority determines. An authority bond or  
note is not subject to the municipal finance act, Act No. 202 of  
the Public Acts of 1943, being sections 131.1 to 139.3 of the  
Michigan Compiled Laws. The bond or note ~~shall~~ DOES not  
require the approval of the state treasurer under Act No. 202 of  
the Public Acts of 1943 and ~~shall~~ IS not ~~be~~ required to be  
registered. The bond or note of the authority ~~shall~~ IS not  
~~be~~ required to be filed under the uniform securities act, Act

1 No. 265 of the Public Acts of 1964, being sections 451.501 to  
2 451.818 of the Michigan Compiled Laws.

3       Sec. 11. (1) The authority may provide for the issuance of  
4 bonds or notes in the amounts the authority considers necessary  
5 for the purpose of refunding bonds or notes of the authority then  
6 outstanding, including the payment of any redemption premium and  
7 interest accrued or to accrue to the earliest or subsequent date  
8 of redemption, purchase, or maturity of these bonds or notes.  
9 The proceeds of bonds or notes issued for the purpose of refund-  
10 ing outstanding bonds or notes may be applied by the authority to  
11 the purchase or retirement at maturity or redemption of outstand-  
12 ing bonds or notes either on the earliest or subsequent redemp-  
13 tion date, and pending such applications, may be placed in escrow  
14 to be applied to the purchase or retirement at maturity or  
15 redemption on the date or dates determined by the authority.  
16 Pending such application and subject to agreements with note-  
17 holders or bondholders, the escrowed proceeds may be invested and  
18 reinvested in the manner the authority determines, maturing at  
19 the date or times as appropriate to assure the prompt payment of,  
20 the principal, interest, and redemption premium, if any, on the  
21 outstanding bonds or notes to be refunded. After the terms of  
22 the escrow have been fully satisfied and carried out, the balance  
23 of the proceeds and interest, income, and profits, if any, earned  
24 or realized on the investment of the proceeds shall be returned  
25 to the authority for use by the authority in any lawful manner.  
26       (2) In the resolution authorizing bonds or notes to refund  
27 bonds or notes the authority may provide that the bonds or notes

1 to be refunded shall be considered paid when there has been  
2 deposited in escrow, money or investment obligations that would  
3 provide payments of principal and interest adequate to pay the  
4 principal and interest on the bonds to be refunded, as that prin-  
5 cipal and interest becomes due whether by maturity or prior  
6 redemption and that, upon the deposit of the money or investment  
7 obligations, the obligations of the authority to the holders of  
8 the bonds or notes to be refunded shall be terminated except as  
9 to the rights to the money or investment obligations deposited in  
10 trust.

11 (3) THE AUTHORITY SHALL NOT HAVE OUTSTANDING AT ANY TIME  
12 BONDS OR NOTES IN AN AGGREGATE PRINCIPAL AMOUNT EXCEEDING  
13 \$20,000,000.00 EXCLUDING BONDS OR NOTES ISSUED TO REFUND OUT-  
14 STANDING BONDS OR NOTES.

15 Sec. 13. Within limitations that shall be contained in the  
16 issuance or authorization resolution of the authority, the  
17 authority may authorize a member of the board, the executive  
18 director, or other officer of the authority to do 1 or more of  
19 the following:

20 (a) Sell and deliver, and receive payment for notes or  
21 bonds.

22 (b) Refund notes or bonds by the delivery of new notes or  
23 bonds whether or not the notes or bonds to be refunded have  
24 matured or are subject to redemption.

25 (c) Deliver notes or bonds, partly to refund notes or bonds  
26 and partly for any other authorized purpose.

1 (d) Buy notes or bonds so issued and resell those notes or  
2 bonds.

3 (e) Approve interest rates or methods for fixing interest  
4 rates, prices, discounts, maturities, principal amounts, denomi-  
5 nations, dates of issuance, interest payment dates, redemption  
6 rights at the option of the authority or the holder, the place of  
7 delivery and payment, and other matters and procedures necessary  
8 to complete the transactions authorized.

9 (f) Direct the investment of any and all funds of the  
10 authority.

11 (g) Approve the terms of a contract, including, but not  
12 limited to, a contract for the sale or cutting of timber, and  
13 execute and deliver the contract subject to the restrictions of  
14 ~~section 7~~ THIS ACT.

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

21 (I) ~~(h) Any~~ PERFORM ANY power, duty, function, or respon-  
22 sibility of the authority.