

SENATE BILL No. 1124

May 15, 2012, Introduced by Senator JANSEN and referred to the Committee on Economic Development.

A bill to amend 1966 PA 346, entitled
"State housing development authority act of 1966,"
by amending section 22 (MCL 125.1422), as amended by 2008 PA 449.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

10 (b) To undertake and carry out studies and analyses of housing
11 needs within this state and ways of meeting those needs, including

1 data with respect to population and family groups, the distribution
2 of population and family groups according to income, and the amount
3 and quality of available housing and its distribution according to
4 rentals and sales prices, employment, wages, and other factors
5 affecting housing needs and the meeting of housing needs; to make
6 the results of those studies and analyses available to the public
7 and the housing and supply industries; and to engage in research
8 and disseminate information on housing.

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

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

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

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

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

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

16 (i) To make or purchase loans, including loans for condominium
17 units as defined in section 4 of the condominium act, 1978 PA 59,
18 MCL 559.104, and including loans to mortgage lenders, which are
19 unsecured or the repayments of which are secured by mortgages,
20 security interests, or other forms of security; to purchase and
21 enter into commitments for the purchase of securities, certificates
22 of deposits, time deposits, or mortgage loans from mortgage
23 lenders; to participate in the making or purchasing of unsecured or
24 secured loans and undertake commitments to make or purchase
25 unsecured or secured loans; to sell mortgages, security interests,
26 notes, and other instruments or obligations evidencing or securing
27 loans, including certificates evidencing interests in 1 or more

1 loans, at public or private sale; in connection with the sale of an
2 instrument or obligation evidencing or securing 1 or more loans, to
3 service, guarantee payment on, or repurchase the instrument or
4 obligation, whether or not it is in default; to modify or alter
5 mortgages and security interests; to foreclose on any mortgage,
6 security interest, or other form of security; to finance housing
7 units; to commence an action to protect or enforce a right
8 conferred upon the authority by law, mortgage, security agreement,
9 contract, or other agreement; to bid for and purchase property that
10 was the subject of the mortgage, security interest, or other form
11 of security, at a foreclosure or at any other sale, and to acquire
12 or take possession of the property. Upon acquiring or taking
13 possession of the property, the authority may complete, administer,
14 and pay the principal and interest of obligations incurred in
15 connection with the property, and may dispose of and otherwise deal
16 with the property in any manner necessary or desirable to protect
17 the interests of the authority in the property. If the authority or
18 an entity that provides mortgage insurance to the authority
19 acquires property upon the default of a borrower, the authority may
20 make a mortgage loan to a subsequent purchaser of that property
21 even if the purchaser does not meet otherwise applicable income
22 limitations and purchase price limits.

23 (j) To set standards for housing projects that receive loans
24 under this act and to provide for inspections to determine
25 compliance with those standards. The standards for construction and
26 rehabilitation of mobile homes, mobile home parks, and mobile home
27 condominium projects shall be established jointly by the authority

1 and the mobile home commission, created in **SECTION 3 OF** the mobile
2 home commission act, 1987 PA 96, MCL ~~125.2301 to 125.2349~~ **125.2303**.
3 However, financing standards shall be established solely by the
4 authority.

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

10 (l) To acquire or contract to acquire from a person, firm,
11 corporation, municipality, or federal or state agency, by grant,
12 purchase, or otherwise, leaseholds or real or personal property, or
13 any interest in a leasehold or real or personal property; to own,
14 hold, clear, improve, and rehabilitate and to sell, assign,
15 exchange, transfer, convey, lease, mortgage, or otherwise dispose
16 of or encumber any interest in a leasehold or real or personal
17 property. This act shall not impede the operation and effect of
18 local zoning, building, and housing ordinances, ordinances relating
19 to subdivision control, land development, or fire prevention, or
20 other ordinances having to do with housing or the development of
21 housing.

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

24 (n) To invest, at the discretion of the authority, funds held
25 in reserve or sinking funds, or money not required for immediate
26 use or disbursement, in obligations of this state or of the United
27 States, in obligations the principal and interest of which are

1 guaranteed by this state or the United States, or in other
2 obligations as may be approved by the state treasurer.

3 (o) To promulgate rules necessary to carry out the purposes of
4 this act and to exercise the powers expressly granted in this act
5 ~~in accordance with~~ **PURSUANT TO** the administrative procedures act of
6 1969, 1969 PA 306, MCL 24.201 to 24.328.

7 (p) To enter into agreements with nonprofit housing
8 corporations, consumer housing cooperatives, limited dividend
9 housing corporations, mobile home park corporations, and mobile
10 home park associations that provide for regulation by the authority
11 of the planning, development, and management of any housing project
12 undertaken by nonprofit housing corporations, consumer housing
13 cooperatives, limited dividend housing corporations, mobile home
14 park corporations, and mobile home park associations and that
15 provide for the disposition of the property and franchises of those
16 corporations, cooperatives, and associations.

17 (q) To appoint to the board of directors of a nonprofit
18 housing corporation, consumer housing cooperative, limited dividend
19 housing corporation, mobile home park corporation, or mobile home
20 park association, a number of new directors sufficient to
21 constitute a majority of the board notwithstanding other provisions
22 of the articles of incorporation or other provisions of law.
23 Directors appointed under this subsection need not be stockholders
24 or members or meet other qualifications that may be described by
25 the certificate of incorporation or bylaws. In the absence of fraud
26 or bad faith, directors appointed under this subsection shall not
27 be personally liable for debts, obligations, or liabilities of the

1 corporation or association. The authority may appoint directors
2 under this subsection only if 1 or more of the following occur:

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

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

14 (iii) The authority determines that some part of the net income
15 or net earnings of the nonprofit housing corporation is inuring to
16 the benefit of a private individual, firm, corporation,
17 partnership, or association; the authority determines that an
18 unreasonable part of the net income or net earnings of the consumer
19 housing cooperative is inuring to the benefit of a private
20 individual, firm, corporation, partnership, or association; or the
21 authority determines that some part of the net income or net
22 earnings of the limited dividend housing corporation, in excess of
23 that permitted by other provisions of this act, is inuring to the
24 benefit of a private individual, firm, corporation, partnership, or
25 association.

26 (iv) The authority determines that the nonprofit corporation or
27 consumer housing cooperative is in some manner controlled by, under

1 the direction of, or acting in the substantial interest of a
2 private individual, firm, corporation, partnership, or association
3 seeking to derive benefit or gain from, or seeking to eliminate or
4 minimize losses in any dealings or transactions with, the nonprofit
5 corporation or consumer housing cooperative. However, this
6 subparagraph shall apply to individual cooperators in consumer
7 housing cooperatives only in circumstances defined by the authority
8 in its rules.

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

14 (vi) The authority determines that the nonprofit housing
15 corporation, consumer housing cooperative, limited dividend housing
16 corporation, mobile home park corporation, or mobile home park
17 association is in violation of 1 or more agreements entered into
18 with the authority that provide for regulation by the authority of
19 the planning, development, and management of a housing project
20 undertaken by the nonprofit housing corporation, consumer housing
21 cooperative, limited dividend housing corporation, mobile home park
22 corporation, or mobile home park association or that provide for
23 the disposition of the property and franchises of the corporation,
24 ~~or~~ cooperative, or association.

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

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

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

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

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

18 (v) To set forth in the various loan documents of the
19 authority those restrictions on the sale, conveyance by land
20 contract, or transfer of residential real property, housing
21 projects, or housing units for which a note is held by the
22 authority and restrictions on the assumption by subsequent
23 purchasers of loans originated by and held by, or originated for
24 purchase by and held by, the authority as the authority determines
25 to be necessary in order to comply with requirements of federal
26 statutes, federal rules or regulations promulgated under ~~sections~~
27 ~~551 to 559 of title 5 of the United States Code, 5 USC 551 to 559,~~

1 state statutes, or state rules promulgated under the administrative
2 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, or to
3 obtain and maintain the tax exempt status of authority bonds and
4 notes. However, the authority shall not use a due on sale or
5 acceleration clause solely for the purpose of renegotiating the
6 interest rate on a loan made with respect to an owner-occupied
7 single-family housing unit. Without limiting the authority's power
8 to establish other restrictions, as provided in this section, on
9 the sale, conveyance by land contract, or transfer of residential
10 real property, housing projects, or housing units for which a note
11 is held by the authority and the assumption by subsequent
12 purchasers of loans made or purchased by the authority, the
13 authority shall provide in its loan documents relating to a single
14 family loan that the single family loan may be assumed by a new
15 purchaser only when the new purchaser qualifies under the authority
16 income limitations rules, ~~except where~~ **UNLESS** such a restriction
17 diminishes or precludes the insurance or a guarantee by an agency
18 of the federal government with respect to the single family loan. A
19 loan made for a mobile home that the borrower does not intend to
20 permanently affix to real property shall become immediately due and
21 payable ~~in the event~~ **IF** the mobile home is moved out of the state.
22 Any restrictions on conveyance by sale, conveyance by land
23 contract, or transfer that are authorized in this section shall
24 apply only to loans originated by and held by, or originated for
25 purchase by and held by, the authority and may, at the option of
26 the authority, be enforced by accelerating and declaring
27 immediately due and payable all sums evidenced by the note held by

1 the authority. An acceleration and declaration of all sums to be
2 due and payable on conveyance by sale, land contract, or transfer
3 is not an unreasonable restraint on alienation. An acceleration and
4 declaration, unless otherwise prohibited in this subdivision, of
5 all sums to be due and payable under this subdivision is
6 enforceable in any court of competent jurisdiction. This
7 subdivision is applicable to secured and unsecured loans. This
8 subdivision is also applicable to loan documents utilized in
9 conjunction with an authority-operated program of residential
10 rehabilitation by an entity cooperating or participating with the
11 authority under section 22a(4), ~~which~~ **IF THE** loans are originated
12 with the intent to sell those loans to the authority.

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

27 (x) To collect interest on a real estate loan, the primary

1 security for which is not a first lien on real estate, at the rate
2 of 15% or less per annum on the unpaid balance. This subdivision
3 does not impair the validity of a transaction or rate of interest
4 that is lawful without regard to this subdivision.

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

8 (z) To verify for the state treasurer statements submitted by
9 a city, village, township, or county as to exempt properties under
10 section 7d of the general property tax act, 1893 PA 206, MCL
11 211.7d.

12 (aa) For the purpose of more effectively managing its debt
13 service, to enter into an interest rate exchange or swap, hedge, or
14 similar agreement with respect to its bonds or notes on the terms
15 and payable from the sources and with the security, if any, as
16 determined by a resolution of the authority.

17 (bb) To make working capital loans to contractors or
18 subcontractors on housing projects financed by the authority. The
19 authority shall submit an annual report to the legislature
20 containing the amount, recipient, duration, circumstance, and other
21 related statistics for each capital loan made to a contractor or
22 subcontractor under this subdivision. The authority shall include
23 in the report statistics related to the cost of improvements made
24 to adapt property for use by disabled individuals as provided in
25 section ~~32b(5) or (6)~~ **32B** or ~~section 44(2)(a)~~ **.44**.

26 (cc) Subject to rules of the civil service commission, to
27 adopt a code of ethics with respect to its employees that requires

1 disclosure of financial interests, defines and precludes conflicts
2 of interest, and establishes reasonable post-employment
3 restrictions for a period of up to 1 year after an employee
4 terminates employment with the authority.

5 (dd) To impose covenants running with the land in order to
6 satisfy requirements of applicable federal law with respect to
7 housing assisted or to be assisted through federal programs such as
8 the low income housing tax credit program or the home investment
9 partnerships program. **THESE COVENANTS SHALL BE IMPOSED** by executing
10 and recording regulatory agreements between the authority, or ~~such~~
11 ~~A~~ municipality or other entity ~~as may be designated~~ by the
12 authority, and the person or entity to be bound. ~~These~~ **THE**
13 covenants shall run with the land and be effective with respect to
14 the parties making the covenants and other intended beneficiaries
15 of the covenants, even though there is no privity of estate or
16 privity of contract between the authority and the persons or
17 entities to be bound.

18 (ee) To impose covenants running with the land in order to
19 satisfy requirements of applicable state or federal law with
20 respect to housing financed by the authority. **THESE COVENANTS SHALL**
21 **BE IMPOSED** by executing and recording regulatory agreements between
22 the authority and the person or entity to be bound. ~~These~~ **THE**
23 covenants shall run with the land and be effective with respect to
24 the parties making the covenants and other intended beneficiaries
25 of the covenants, even though there is no privity of estate or
26 privity of contract between the authority and the persons or
27 entities to be bound. With respect to ~~the application of any~~

1 applicable environmental laws, this subdivision ~~shall not be~~
2 ~~construed to~~ **DOES NOT** grant to the authority any additional rights,
3 privileges, or immunities not otherwise afforded to a private
4 lender that is not in the chain of title for the land.

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

15 (gg) To invest, **UNDER THE CONDITIONS PRESCRIBED IN THIS**
16 **SUBDIVISION AND WITHOUT THE CONSENT OF THE ESCROW DEPOSITORS**, up to
17 20% of funds held, by or for the authority, in escrow accounts for
18 the benefit of the authority or mortgagors of authority-financed
19 housing. **THE INVESTMENTS UNDER THIS SUBDIVISION SHALL BE MADE** in
20 loans originated or purchased by the authority. ~~under the~~
21 ~~conditions prescribed in this subdivision and without the consent~~
22 ~~of the escrow depositors.~~ In connection with loans described in
23 this subdivision, the authority may charge and retain fees in
24 amounts similar to those charged with respect to similar loans for
25 which the source of funding does not come from escrow ~~funds.~~
26 **ACCOUNTS. FOR PURPOSES OF THIS SUBDIVISION, "ESCROW ACCOUNT" MEANS**
27 **ANY ACCOUNT OR RESERVE HELD BY THE AUTHORITY AND ESTABLISHED IN A**

1 MORTGAGE OR A REGULATORY AGREEMENT TO WHICH THE AUTHORITY IS A
 2 PARTY OR WHICH HAS BEEN ASSIGNED TO THE AUTHORITY. HOWEVER, FOR
 3 PURPOSES OF THIS SUBDIVISION, ESCROW ACCOUNT DOES NOT INCLUDE ANY
 4 ACCOUNT LABELED IN THE ASSOCIATED REGULATORY AGREEMENT AS
 5 "DEVELOPMENT COST ESCROW PRINCIPAL" OR "OPERATING ASSURANCE
 6 RESERVE". The investment authorized by this subdivision shall not
 7 be made unless both of the following requirements are met:

8 (i) The return on the loan is approximately equivalent to that
 9 which could be obtained from investments of substantially similar
 10 credit quality and maturity, as determined by the authority.

11 (ii) The authority agrees to ~~repurchase from~~ **PAY WITH** its own
 12 funds ~~and at the same prices at which the loans were sold to~~ **THE**
 13 **PRINCIPAL BALANCE OF ANY LOAN, MADE WITH** the escrow funds, ~~as~~
 14 ~~adjusted for the accretion of discount or amortization of premium,~~
 15 ~~plus accrued interest, any loans that become~~ **THAT BECOMES**
 16 delinquent in excess of 30 days. This subdivision does not obligate
 17 the authority to purchase a delinquent loan so long as with respect
 18 to that loan the authority ~~advances money~~ **PAYS TO THE ESCROW FUNDS**
 19 from its own funds ~~in~~ the amount of the delinquent payments. The
 20 authority's election to ~~advance~~ **PAY THE DELINQUENT** payments **TO THE**
 21 **ESCROW FUNDS** does not in any manner abate or cure the delinquency
 22 of the loan and the authority may resort to any remedies that would
 23 exist in the absence of that payment.

24 (hh) To acquire, develop, rehabilitate, own, operate, and
 25 enter into contracts with respect to the management and operation
 26 of real and personal property to use as office facilities by the
 27 authority and to enter into leases with respect to facilities not

1 immediately necessary for the activities of the authority.

2 (ii) To make loans to certain qualified buyers and resident
3 organizations and to make grants to resident organizations as
4 provided in the following:

5 (i) The urban homestead act, 1999 PA 127, MCL 125.2701 to
6 125.2709.

7 (ii) The urban homesteading on vacant land act, 1999 PA 129,
8 MCL 125.2741 to 125.2748.

9 (iii) The urban homesteading in single-family public housing
10 act, 1999 PA 128, MCL 125.2761 to 125.2770.

11 (iv) The urban homesteading in multifamily public housing act,
12 1999 PA 84, MCL 125.2721 to 125.2734.

13 (jj) To implement and administer a housing and community
14 development program as described in this act.

15 (kk) To implement, administer, or execute administrative,
16 substantive, or supervisory powers pursuant to the individual or
17 family development account program act, 2006 PA 513, MCL ~~206.701~~
18 ~~206.901~~ to ~~206.711~~-~~206.911~~.