# STATE BUILDING AUTHORITY
## Act 183 of 1964

AN ACT creating the state building authority with power to acquire, construct, furnish, equip, own, improve, enlarge, operate, mortgage, and maintain facilities for the use of the state or any of its agencies; to act as a developer or co-owner of facilities as a condominium project for the use of the state or any of its agencies; to authorize the execution of leases pertaining to those facilities by the building authority with the state or any of its agencies; to authorize the payment of true rentals by the state; to provide for the issuance of revenue obligations by the building authority to be paid from the true rentals to be paid by the state and other resources and security provided for and pledged by the building authority; to authorize the creation of funds; to authorize the conveyance of lands by the state or any of its agencies for the purposes authorized in this act; to authorize the appointment of a trustee for bondholders; to permit remedies for the benefit of parties in interest; to provide for other powers and duties of the authority; and to provide for other matters in relation to the authority and its obligations.

**History:** 1964, Act 183, Imd. Eff. May 19, 1964;—Am. 1976, Act 240, Eff. Mar. 31, 1977;—Am. 1980, Act 240, Imd. Eff. July 24, 1980;—Am. 1981, Act 183, Imd. Eff. Dec. 23, 1981;—Am. 1983, Act 156, Imd. Eff. July 24, 1983;—Am. 1988, Act 248, Imd. Eff. July 11, 1988;—Am. 1994, Act 252, Imd. Eff. July 5, 1994.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

*The People of the State of Michigan enact:*

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### 830.411 Definitions.

Sec. 1. As used in this act:

(a) "Building authority" means the state building authority created by this act.

(b) "State" means the legislative, executive, and judicial branches of state government and includes institutions of higher education.

(c) "Existing facilities" means all existing buildings and other facilities, the sites for the buildings or facilities, and furnishings or equipment for the buildings or facilities located on real property acquired by the building authority under the terms of this act.

(d) "Facilities" means furnishings or equipment, capital maintenance improvements, existing facilities, and all new buildings, parking structures and lots, and other facilities, the sites for the buildings, structures, or facilities, and furnishings or equipment for the buildings, structures, or facilities in any way acquired or constructed by the building authority under this act.

(e) "True rental" means the rental required to be paid by the state to the building authority under a lease between the state and the building authority entered into under this act. The true rental shall be paid by the state to the building authority or its assignee periodically as specified in the lease with the building authority and shall be in periodic amounts that do not exceed the economic or market value to the state of the leased facilities. The economic or market value to the state of the leased facilities shall be determined by the state administrative board before the execution of a lease by the state under this act by an appraisal made by or for the state using commonly employed procedures that will fairly determine economic or market value. When using procedures commonly employed by appraisers, an appraisal may set forth a range for the true rental that reflects variations that may occur in the components upon which the appraisal is based. If a lease is only for furnishings or equipment, the state administrative board may employ an appraiser to determine the economic or market value to the state of the furnishings or equipment, or the state administrative board may approve an alternative method to determine the economic or market value to the state of the furnishings or equipment. The alternative method may include the determination of the economic or market value to the state by a person who is in the business of leasing furnishings or equipment.

(f) "Board" means the board of trustees of the building authority.

(g) "Bond" or "obligation" means a bond, note, or other debt obligation issued by the building authority under section 8.

(h) "Institution of higher education" means a college or university listed in section 4 or 5 of article VIII of the state constitution of 1963 or described in section 6 of article VIII of the state constitution of 1963 or a community or junior college established under section 7 of article VIII of the state constitution of 1963.

(i) "Equipment" means machinery, hardware, or any other type of equipment or a group of integrally related equipment, which shall meet all of the following:

(*i*) The equipment or the predominant portion of the group of integrally related equipment is located in or is physically connected to a state occupied building or facility or is located on state owned property.


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(*ii*) The portion of the group of integrally related equipment that is not described in subparagraph (*i*) is integral to the functioning of the integrally related equipment described in subparagraph (*i*).

(*iii*) The projected useful life of the equipment is 5 years or more.

(j) "Party in interest" includes an owner of an obligation issued under this act; a counterparty to an agreement relating to security or management of payment, revenue, or interest rate exposure, including, but not limited to, a bank, bond insurance provider, or security firm, as its interest appears; and a trustee or fiduciary duly designated by the building authority or otherwise to act on behalf of 1 or more owners or counterparties.

(k) "Capital maintenance improvements" means an expenditure to provide capital maintenance that is an asset depreciable under the internal revenue code that is used by this state or an institution of higher education.

**History:** 1964, Act 183, Imd. Eff. May 19, 1964;—Am. 1976, Act 240, Eff. Mar. 31, 1977;—Am. 1981, Act 183, Imd. Eff. Dec. 23, 1981;—Am. 1988, Act 248, Imd. Eff. July 11, 1988;—Am. 1994, Act 252, Imd. Eff. July 5, 1994;—Am. 2005, Act 67, Imd. Eff. July 7, 2005.

**Constitutionality:** Section 830.411 et seq. is constitutional. In re Advisory Opinion 1976 PA 240, 400 Mich 311; 254 NW2d 544 (1977).

**Transfer of powers:** See MCL 16.205.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

### 830.411a Legislative findings.

Sec. 1a. The legislature finds all of the following:

(a) That there is a present need for the state, its agencies, and departments, in order to carry out necessary governmental functions and enterprises and to provide necessary services to the people of the state as mandated or permitted by constitution and law, to do both of the following:

(*i*) Rent, lease, or otherwise acquire additional buildings, together with necessary parking structures and lots, facilities, furnishings, equipment, and sites.

(*ii*) Renovate or restore properties owned or used by this state.

(b) That this state now rents and leases from private owners at a substantial cost space and furnishings or equipment in many communities in order to provide services, and as this state continues to grow it will be necessary to rent or lease substantial additional space and furnishings or equipment from private owners at substantial additional cost to provide services.

(c) That the state building authority is created by this act with the powers granted in this act to do both of the following:

(*i*) Provide additional space and furnishings or equipment in the best locations and in the most economical and efficient manner.

(*ii*) Improve existing facilities through capital maintenance improvements or the restoration or renovation of those facilities.

**History:** Add. 1976, Act 240, Eff. Mar. 31, 1977;—Am. 1988, Act 248, Imd. Eff. July 11, 1988;—Am. 2005, Act 67, Imd. Eff. July 7, 2005.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

### 830.412 State building authority; creation; body corporate; powers; handling of funds; board of trustees; appointment and terms of members; vacancy; oath; organization; conducting business at public meeting; notice; quorum; action of board.

Sec. 2. (1) The state building authority is created, is made a body corporate, separate and distinct from the state, and may sue and be sued, plead and be impleaded, contract and be contracted with, have a corporate seal, and enjoy and carry out all powers granted it in this act. Funds of the authority shall be handled in the same manner and by the same provisions of law which apply to state funds.

(2) The building authority shall be governed by a board of trustees consisting of 5 members appointed by the governor, with the advice and consent of the senate, for terms of 4 years. In appointing the first members of the board, the governor shall designate 2 to serve for 4 years, 1 to serve for 3 years, 1 to serve for 2 years, and 1 to serve for 1 year.

(3) A vacancy in office of a member of the board, whether caused by resignation, death, expiration of office, or otherwise, shall be filled by appointment by the governor with the advice and consent of the senate. Each member of the board shall enter upon his or her duties after appointment and shall qualify by taking and filing the constitutional oath of office. A member of the board shall hold office until the appointment and

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qualification of a successor. A person holding an elective or appointive office with the state shall not be appointed to the board.

(4) After designation and qualification of the members of the board, the board shall organize. The business which the board of trustees may perform shall be conducted at a public meeting of the board of trustees held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. A quorum for the transaction of business shall consist of 3 of the members of the board. An action of the board requires a concurring vote by a majority of the board.

**History:** 1964, Act 183, Imd. Eff. May 19, 1964;—Am. 1976, Act 240, Eff. Mar. 31, 1977;—Am. 1978, Act 199, Imd. Eff. June 4, 1978.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

### 830.413 Powers of building authority generally.

Sec. 3. The building authority may do any of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal.

(c) Maintain a principal office at a place within this state.

(d) Sue and be sued in its own name and plead and be impleaded.

(e) Acquire, construct, furnish, equip, improve, restore, renovate, enlarge, own, operate, and maintain facilities that are approved in an appropriations act for the use of this state or an agency of this state.

(f) Acquire in the name of the building authority, hold, and dispose of real and personal property, or an interest in real and personal property, in the exercise of its powers and the performance of its duties.

(g) Act as a developer or co-owner of a facility that is a condominium project under the condominium act, 1978 PA 59, MCL 559.101 to 559.276, in the exercise of its powers and the performance of its duties.

(h) Borrow money for a corporate purpose as prescribed in this act, issue negotiable revenue bonds payable solely from the true rental except to the extent paid from the proceeds of sale of revenue obligations and any additional security provided for and pledged by the building authority in the resolution authorizing revenue obligations under section 8, and provide for the payment of the bonds and the rights of the holders of the bonds and mortgage facilities in favor of the holders of bonds issued under this act.

(i) Make and enter into contracts, leases, and other instruments necessary or incident to the performance of its duties and the execution of its powers. A lease may include provisions for construction, improvement, restoration, renovation, capital maintenance improvements, operation, use, and disposition of the facilities on payment of the bonds. If the cost of a contract for construction, materials, or services, other than compensation for personal or professional services, involves an expenditure of more than $5,000.00, the building authority shall make a written contract with the lowest qualified bidder, after advertisement for not less than 2 consecutive weeks in a newspaper of general circulation in this state, and in other publications as determined by the building authority.

(j) Employ and fix the compensation of consulting engineers, architects, superintendents, managers, and other construction, accounting, appraisal, and financial experts, attorneys, and other employees and agents as the authority determines are necessary to perform its duties and functions under this act.

(k) Receive and accept from a federal agency grants for or in aid of the construction of facilities and receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which the grants and contributions were made.

(*l*) Require fidelity bonds from employees handling money of the building authority. The bonds shall be in sums and subject to the terms and conditions that the board considers satisfactory.

(m) Do all acts necessary or, in the opinion of the building authority, convenient to carry out the powers expressly granted.

(n) Require that final actions of the board are entered in the journal of the board. A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(o) Require that the books and records of account of the building authority are audited annually by the auditor general, or if the auditor general is unable to act, by an independent certified public accountant appointed by the auditor general.

(p) Make and enter into contracts for insurance, letters of credit, and commitments to purchase its revenue obligations, or enter into other transactions to provide separate security to assure the timely payment of any revenue obligations of the building authority. A contract of the building authority permitted by this section

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shall not be a general obligation of the state or building authority.

**History:** 1964, Act 183, Imd. Eff. May 19, 1964;—Am. 1976, Act 240, Eff. Mar. 31, 1977;—Am. 1978, Act 199, Imd. Eff. June 4, 1978;—Am. 1981, Act 183, Imd. Eff. Dec. 23, 1981;—Am. 1988, Act 248, Imd. Eff. July 11, 1988;—Am. 2005, Act 67, Imd. Eff. July 7, 2005;—Am. 2012, Act 519, Imd. Eff. Dec. 28, 2012.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

### 830.414 Acquisition of property; condemnation.

Sec. 4. The building authority may acquire property by purchase, construction, lease, gift, devise, or condemnation, and for the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Michigan Compiled Laws, or any other appropriate statute.

**History:** 1964, Act 183, Imd. Eff. May 19, 1964;—Am. 1976, Act 240, Eff. Mar. 31, 1977.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

### 830.415 Conveyance to building authority of property owned by state or institution of higher education.

Sec. 5. (1) Property owned by the state may be conveyed to the building authority for any purpose expressed in this act, subject, however, to prior approval by the state administrative board, by the attorney general, and as provided in an appropriations act. After approval as provided in this subsection, a conveyance shall be executed for and on behalf of the state by the governor and secretary of state, or in the event of the absence or disability of either of them, by the lieutenant governor or deputy secretary of state.

(2) In addition to other authority granted by law, property owned by an institution of higher education may be conveyed to the building authority for any purpose expressed in this act, subject, however, to approval by the governing body of the institution of higher education, by the state administrative board, and as provided in an appropriations act. After approval as provided in this subsection, a conveyance shall be executed for and on behalf of the institution of higher education by authorized officers of the institution of higher education. In addition to other authority granted by law, an institution of higher education may enter into a lease with the building authority under section 6 for the period provided in that section.

**History:** 1964, Act 183, Imd. Eff. May 19, 1964;—Am. 1976, Act 240, Eff. Mar. 31, 1977;—Am. 1993, Act 35, Imd. Eff. May 11, 1993;—Am. 1994, Act 252, Imd. Eff. July 5, 1994;—Am. 2012, Act 519, Imd. Eff. Dec. 28, 2012.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

### 830.416 Lease of facilities to state; term; provisions.

Sec. 6. The building authority may lease existing facilities or facilities defined by this act for the purposes specified in this act, to the state, or any of its agencies acting on its behalf. A lease authorized by this act shall be for a period not exceeding 40 years from the date of execution of the lease, and shall contain provisions for the payment of true rental by the state to the building authority. If bonds are issued by the building authority in accordance with the authorization provided in section 8 for the purpose of financing all or part of the cost of facilities, the true rental shall be fixed in the lease. A lease may contain other provisions relative to the construction, operation, use, and disposition of the facilities on payment of the bonds, and improvement of the facilities and remedies available to the authority upon default by the state of any of the state's obligations under the lease within the scope and purposes provided in this act as may be agreed upon.

**History:** 1964, Act 183, Imd. Eff. May 19, 1964;—Am. 1976, Act 240, Eff. Mar. 31, 1977;—Am. 1980, Act 240, Imd. Eff. July 24, 1980;—Am. 1981, Act 183, Imd. Eff. Dec. 23, 1981.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

### 830.417 Lease of facilities from authority; approval; payment of true rental; leasing of furnishings or equipment; lease for capital maintenance improvements.

Sec. 7. (1) The state may lease facilities from the building authority for public purposes within the concepts provided in this act, upon terms and conditions agreed upon and subject to the limitations and provisions provided in section 6. Before execution, a lease shall be approved by the state administrative board and, except as provided in subsections (3) and (4), as provided in an appropriations act. The lease as approved by the building authority and the administrative board, and if required, the legislature or an institution of higher education, may provide for a determinable true rental as a range as permitted under section 1(e).

(2) If a lease is approved containing a true rental stated as a range, then actual rental to be paid under the


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lease shall be fixed at an amount certified by the appraiser and, after the certification, shall be approved by the state administrative board and the building authority. The appraiser shall not certify, and the board and authority shall not approve, a true rental amount unless the amount is fixed within or below the stated range. A lease shall not be executed more than 5 years after its approval by the legislature. The state shall pay to the building authority or its assignee the true rental at the times, in the manner, and at the place specified in the lease. The governor and the budget director shall include in the annual budget of the state for each year an amount fully sufficient to pay the true rental required to be paid by the state to the building authority or its assignee required by any lease under this act. If the lease is for an institution of higher education, then in addition, the lease shall be authorized by the institution of higher education and signed by its authorized officers.

(3) The state, except institutions of higher education, may lease from the building authority property that is comprised only of furnishings or equipment if all of the following requirements are met:

(a) Before a lease that is only for furnishings or equipment is executed, the general form of the lease shall be approved as provided in an appropriations act. The form of the lease approved by the legislature need not contain a description of the property to be leased or the rental or a rental range. However, before the state executes the lease, the description of the property to be leased and the rental shall be approved by the state administrative board as provided in subsection (2). The appropriations act approving the form of lease shall also approve a maximum amount of furnishings and equipment that may be leased. A lease that is only for furnishings or equipment shall not be executed more than 4 years after its approval by the legislature.

(b) A lease that is only for furnishings or equipment shall be executed only if the furnishings or equipment are for use by a state agency as determined under the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

(4) Through September 30, 2007, an institution of higher education, this state, and the building authority may enter into a lease for capital maintenance improvements if, before a lease that is only for capital maintenance improvements is executed, the general form of the lease is approved by concurrent resolution of the legislature concurred in by a majority of the members elected to and serving in each house. The form of the lease approved by the legislature need not contain a description of the capital maintenance improvements to be leased or the rental or a rental range. However, before this state executes the lease, the description of the capital maintenance improvements to be leased and the rental shall be approved by the state administrative board.

(5) The building authority shall retain title to capital maintenance improvements during the term of a lease approved under subsection (4). The building authority shall not be required to have any ownership interest in the structure to which a capital maintenance improvement is made. Title to the capital maintenance improvement shall be evidenced by a bill of sale.

(6) The actual rental to be paid under a lease approved under subsection (4) for a capital maintenance improvement shall be determined by an appraiser or by an alternate method and, after the determination, shall be approved by the state administrative board and the building authority. The state administrative board shall approve any alternate method for determining actual rental, and an alternate method may include a determination by a person or business that is in the business of providing capital maintenance improvements to institutions of higher education.

(7) The state shall pay to the building authority or its assignee the true rental at the times, in the manner, and at the place specified in the lease approved under subsection (4). The governor and the budget director shall include in the annual budget of the state for each year an amount fully sufficient to pay the true rental required to be paid by this state to the building authority or its assignee required by any lease under this act.

**History:** 1964, Act 183, Imd. Eff. May 19, 1964;—Am. 1976, Act 240, Eff. Mar. 31, 1977;—Am. 1981, Act 183, Imd. Eff. Dec. 23, 1981;—Am. 1988, Act 248, Imd. Eff. July 11, 1988;—Am. 1994, Act 252, Imd. Eff. July 5, 1994;—Am. 2005, Act 67, Imd. Eff. July 7, 2005;—Am. 2012, Act 519, Imd. Eff. Dec. 28, 2012.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

### 830.418 Revenue obligations generally.

Sec. 8. (1) By resolution or resolutions of its board, the building authority may provide for the issuance of revenue obligations, which may include revenue bonds, revenue notes, or other evidences of revenue indebtedness, and refunding revenue bonds or notes, or other refunding evidences of indebtedness, the obligations for which shall not become a general obligation of this state or a charge against this state, but all revenue obligations and the interest on the revenue obligations and the call premiums for the revenue obligations shall be payable solely from true rental, except to the extent paid from the proceeds of sale of revenue obligations and any additional security provided for and pledged, or from other funds as provided in

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this act, and each revenue obligation shall have such a statement printed on the face of the revenue obligation. If the resolution of the building authority provides for interest coupons to be attached to a revenue obligation, each interest coupon shall have a statement printed on the coupon that the coupon is not a general obligation of this state or the building authority but is payable solely from certain revenues as specified in the revenue obligation. Revenue obligations may be issued for the purpose of paying part or all of the costs of the facilities or for the purpose of refunding or advance refunding, in whole or in part, outstanding revenue obligations issued pursuant to this act whether the obligations to be refunded or advance refunded have matured or are redeemable or shall mature or become redeemable after being refunded. The cost of the facilities may include an allowance for legal, engineering, architectural, and consulting services; interest on revenue obligations becoming due before the collection of the first true rental available for the payment of those revenue obligations; a reserve for the payment of principal, interest, and redemption premiums on the revenue obligations of the authority; and other necessary incidental expenses including, but not limited to, placement fees; fees or charges for insurance, letters of credit, lines of credit, remarketing agreements, or commitments to purchase obligations issued under this act; fees or charges associated with an agreement to manage payment, revenue, or interest rate exposure; or any other fees or charges for any other security provided to assure timely payment of the obligations.

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

(a) Both of the following are true:

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

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

(b) The obligation is part of an interim financing pool described in subsection (20).

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

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

(5) Within limits considered appropriate and established by the board, the board may authorize by


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resolution a member of the board or the person appointed by the building authority as its chief operating officer or chief staff person, if the authorization limits or prescribes the maximum interest rates, minimum price, maximum principal amount, and the latest maturity date of the obligations, to do any of the following:

(a) Determine interest rates or methods for determining interest rates for, maturities of, principal amounts of, denominations of, dates of issuance of, interest payment dates for, redemption rights and the terms under which redemption rights may be waived, transferred, or sold, prepayment rights with respect to, the purchase price of, and the type of funds for settlement of obligations.

(b) Determine which, if any, letter of credit, line of credit, standby note or bond purchase agreement, bond insurance, or other agreement providing security or liquidity for obligations of the building authority, approved by the board, provides a cost savings and should be entered into in connection with the issuance of the obligations of the building authority.

(c) Take any other action on behalf of the board within limitations established by the board as the board considers necessary in connection with the issuance of obligations of the building authority.

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

(a) The true rental derived from the facilities constructed or acquired with the proceeds of the revenue obligations.

(b) The proceeds of revenue obligations.

(c) The reserve, if any, established for the payment of principal of, or interest or redemption premiums on, the obligations.

(d) The proceeds of insurance, a letter of credit, or a line of credit acquired as security for the revenue obligations.

(e) The proceeds of obligations issued to refund the revenue obligations.

(f) The proceeds of the foreclosure or enforcement of a mortgage, security interest, or deed of trust on the facilities financed by the revenue obligations granted by the authority as security for the revenue obligations.

(g) Other funds of the authority not previously pledged for other obligations of the authority, including funds of the authority derived from rentals and other revenues, investment income or profit, or funds or accounts relating to other facilities, and payments received pursuant to an agreement to manage payment, revenue, or interest rate exposure as provided in subsection (19).

(h) Investment earnings and profits on any or all of the sources described in subdivisions (a) to (g).

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

(a) The true rental derived from the facilities constructed or acquired with the proceeds of the obligations being refunded.

(b) The proceeds of the refunding obligations.

(c) The reserve, if any, established for the payment of the principal of, or interest and redemption premiums on, the refunding obligations or the obligations to be refunded.

(d) The proceeds of insurance, a letter of credit, or a line of credit acquired as security for the revenue obligations.

(e) The proceeds of obligations issued to refund the refunding obligations.

(f) The proceeds of the foreclosure or enforcement of any mortgage, security interest, or deed of trust on the facilities financed from the proceeds of the obligations being refunded, granted by the authority as security for the refunding obligations.

(g) Other funds of the authority not previously pledged for other obligations of the authority, including other funds of the authority derived from rentals and other revenues, investment income or profit, or funds or accounts relating to other facilities, and payments received pursuant to an agreement to manage payment, revenue, or interest rate exposure as provided in subsection (19).

(h) Investment earnings or profits on any of the sources described in subdivisions (a) to (g).

(8) Obligations issued under this act may be either serial obligations or term obligations, or any combination of serial or term obligations. The obligations shall mature not more than 40 years from their date, and in any event not more than 1 year from the due date of the last true rental pledged for the payment of the obligations, and may bear interest at fixed or variable interest rates, or may be without stated interest, but the net interest rate or rates of interest, taking into account any discount on the sale of the obligations, shall not exceed a rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The obligations may be sold at a discount.

(9) Except as otherwise provided in this subsection, in the resolution or resolutions authorizing the

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issuance of the obligations, the board shall determine the principal amount of the obligations to be issued, the registration provisions, the date of issuance, the obligation numbers, the obligation denominations, the obligation designations, the obligation maturities, the interest payment dates, the paying agent or paying agents or the method of selection of the agent or agents, the rights of prior redemption of the obligations, and the terms under which redemption rights may be waived, transferred, or sold, the rights of the holders to require prepayment of the principal of or interest on the obligations, the maximum rate of interest, the method of execution of the obligations, and such other provisions respecting the obligations, the rights of the holders of the obligations, the security for the obligations, and the procedures for disbursement of the obligation proceeds and for the investment of the proceeds of obligations and money for the payment of obligations. Rather than making the determinations required by this subsection, the board may authorize a person identified in subsection (5) to make the determinations and take the actions authorized under subsection (5).

(10) The board in the resolution or resolutions authorizing the issuance of obligations may provide for the assignment of the true rental to be paid by the state under the lease or leases to 1 of the paying agents for the obligations or to a trustee, as provided in this act, in which case the state shall pay the rental to the paying agent or trustee. For the purposes and within the limitations set forth in this act, the board may by resolution covenant to issue or cause to be issued, or use its best efforts to issue or cause to be issued, refunding revenue obligations to refund obligations issued under this act.

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

(12) All obligations and the interest coupons, if any, attached to the obligations are declared to be fully negotiable and to have all of the qualities incident to negotiable instruments under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, subject only to the provisions for registration of the obligations that may appear on the obligations. The obligations and interest on the obligations are exempt from all taxation by this state or any of its political subdivisions.

(13) The obligations may be sold at private or at public sale under the procedures and subject to the conditions prescribed by resolution of the board.

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

(15) The authority shall not have obligations outstanding at any 1 time for any of its corporate purposes in a principal amount totaling more than $2,700,000,000.00, which limitations shall not include principal appreciation as provided in subsection (17) or obligations or portions of obligations used to pay for any of the following:

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

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

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

(d) The sums expected to be set aside for the purposes provided in this subsection for any obligations authorized by the authority but not sold. The amount set aside or expected to be set aside for the purposes provided in this subsection shall be conclusively determined by a certificate setting forth the amounts executed by the executive director of the building authority. In addition, there shall be excluded from the limitation obligations issued to refund prior obligations if those prior obligations will not be retired within 90 days after the date of issuance of the refunding obligations. If an obligation is issued to retire a prior

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obligation within 90 days after the date of issuance of the refunding obligation, the obligation is counted against the limitation when the refunded obligation is retired.

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

(17) If the authority issues an obligation that appreciates in principal amount, the amount of principal appreciation each year on that obligation, after the date of original issuance, shall not be considered to be principal indebtedness for the purposes of the limitation in subsection (15) or any other limitation. The appreciation of principal after the date of original issue shall be considered interest and shall be within the interest rate limitations set forth in this act.

(18) Of the $2,700,000,000.00 authorized under subsection (15), priority shall be determined by the joint capital outlay committee.

(19) In connection with an obligation issued previously or to be issued under this act or an investment made previously or to be made, the board may by resolution authorize and approve the execution and delivery of an agreement to manage payment, revenue, or interest rate exposure. The agreement may include, but is not limited to, an interest rate exchange agreement, an agreement providing for payment or receipt of money based on levels of or changes in interest rates, an agreement to exchange cash flows or series of payments, or an agreement providing for or incorporating interest rate caps, collars, floors, or locks. Subject to a prior pledge or lien created under this act, a payment to be made by the building authority under an agreement described in this subsection is payable, together with other obligations of the building authority, from those sources described in subsections (6) and (7), all with the parity or priority and upon the conditions set forth in the board's resolution. An agreement entered into under this subsection is not a general obligation of this state or the building authority, and the agreement does not count against the limitation on outstanding obligations contained in subsection (15).

(20) The building authority may authorize by resolution a pool of obligations to meet interim financing needs. A pool may be issued in 1 or more series, may relate to 1 or more projects, and is subject to all of the following:

(a) The board's resolution approving the pool shall state at least all of the following:

(*i*) The name or designation of the pool to distinguish it from any other pool issued under this subsection.

(*ii*) The latest date by which an obligation issued under the pool must mature, which shall not be later than 5 years after the date on which the pool is established. The duration of the pool shall be the time from the date on which the pool is established to the latest possible maturity date of obligations issued pursuant to the pool, or sooner as provided by resolution.

(*iii*) The maximum par amount of obligations that may be outstanding at any time during the duration of the pool. The resolution may state the maximum par amount of obligations that may be issued pursuant to the pool.

(*iv*) Other terms of the obligations as provided in subsection (8) or the limits within which the chief operating officer, chief staff person, or member of the board shall determine those terms as provided in subsection (5).

(*v*) The security for obligations issued pursuant to the pool.

(*vi*) Other provisions, not inconsistent with the terms of this act, that the board determines to be necessary or appropriate to the pool.

(b) Proceeds of obligations issued as part of a pool established under this subsection may be used for any of the purposes for which revenue obligations of the building authority may be used as described in

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subsection (1). However, an obligation shall not be issued with respect to a facility unless all of the following are true:

(*i*) The board approves the financing of the facility pursuant to the pool, which approval may be made at the same time as or after the establishment of the pool.

(*ii*) The board approves the proposed form of lease for the facility, which approval may be made prior to, at the same time as, or after the establishment of the pool.

(*iii*) The state administrative board, an institution of higher education, if applicable, and the legislature have approved the form of the lease as required by section 7, which approval may be made prior to, at the same time as, or after the establishment of the pool.

(*iv*) The aggregate amounts of obligations issued and outstanding with respect to a facility under a pool, together with other obligations that may have been issued and are outstanding with respect to the facility under this act do not exceed the cost of the facility, including allowable interest costs, as approved by the state administrative board, an institution of higher education, if applicable, and the legislature.

(*v*) On or before the issuance of obligations the proceeds of which are to finance the acquisition, construction, renovation, or rehabilitation of the facility, the building authority and the state, and, if applicable, an institution of higher education, enter into the lease or an agreement to construct or acquire the facility, which lease or agreement sets forth the terms and conditions under which the building authority will finance the construction or acquisition of the facility for lease to the state or to the state and any applicable institution of higher education.

(21) Bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(22) The issuance of bonds and notes under this act is subject to the agency financing reporting act, 2002 PA 470, MCL 129.171 to 129.177.

**History:** 1964, Act 183, Imd. Eff. May 19, 1964;—Am. 1976, Act 240, Eff. Mar. 31, 1977;—Am. 1980, Act 240, Imd. Eff. July 24, 1980;—Am. 1981, Act 183, Imd. Eff. Dec. 23, 1981;—Am. 1983, Act 156, Imd. Eff. July 24, 1983;—Am. 1985, Act 206, Imd. Eff. Dec. 27, 1985;—Am. 1987, Act 119, Imd. Eff. July 20, 1987;—Am. 1993, Act 35, Imd. Eff. May 11, 1993;—Am. 1994, Act 252, Imd. Eff. July 5, 1994;—Am. 1997, Act 127, Imd. Eff. Nov. 5, 1997;—Am. 2002, Act 382, Imd. Eff. May 24, 2002;—Am. 2012, Act 519, Imd. Eff. Dec. 28, 2012.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

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### 830.418a Reserve fund; creation; purpose; use of income and interest.

Sec. 8a. The building authority may create and establish a special fund or funds to secure any issue of obligations, referred to as a reserve fund, and shall pay into the reserve fund any proceeds of sale of any issue of obligations to the extent provided in the resolution of the building authority authorizing the issuance thereof and any other money derived from true rental, investment income, or any lease or facility which may be available to the authority for the purpose of the fund. All money held in any reserve fund, except as provided in this section or section 8, shall be used solely for the payment of the principal of the obligations for which the fund was established, the payment of interest on the obligations for which the fund was established, or the payment of any redemption premium required to be paid when the obligations are redeemed before maturity. Money in the reserve fund shall not be withdrawn except for the purpose of paying principal of and interest on the obligations for which the fund was established maturing and becoming due and for the payment of which other money of the authority is not available or as otherwise provided in this act. Except as provided in section 8, any income or interest earned by, or increment to, the reserve fund due to the investment or reinvestment of the reserve fund may only be withdrawn and used for any purposes for which obligations may be issued and to pay interest and to pay at maturity, purchase, or call for redemption obligations of the building authority for which the fund was established, as the building authority determines in the resolution authorizing the obligations.

**History:** Add. 1980, Act 240, Imd. Eff. July 24, 1980;—Am. 1981, Act 183, Imd. Eff. Dec. 23, 1981;—Am. 1983, Act 156, Imd. Eff. July 24, 1983.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

### 830.419 Obligations; statutory first lien; enforcement.

Sec. 9. A board resolution authorizing the issuance of an obligation, or an agreement relating to the security of the obligation or agreement to manage payment, revenue, or interest rate exposure with respect to the obligation, may assign, pledge, and create a statutory first lien, and 1 or more subordinate liens, on the true rental for a facility and on the other revenues, funds, and accounts described in section 8 to and in favor of parties in interest. An assignment or pledge made by the building authority is valid and binding from the


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date of delivery of the obligation, or as applicable, an agreement related to security or management of payment, revenue, or interest rate exposure. The lien of the assignment and pledge is effective without physical delivery or further action and is valid and binding against parties having claims of any kind against the building authority irrespective of whether the parties have notice of the lien and pledge. The resolution, and any instrument by which the assignment or pledge is made or created, need not be recorded. By suit, action, mandamus, or other proceedings, a party in interest may protect and enforce the statutory first lien and any and all rights of the parties in interest under the laws of the state, or under a resolution authorizing the issuance of the obligation, or as applicable, an agreement related to security or management of payment, revenue, or interest rate exposure, and may enforce and compel the performance of all duties required by this act, the resolution, or the lease to be performed by the building authority, the state, or any officers of the state. An action, mandamus, or other proceedings may be brought by a party in interest concerning an obligation or agreement under this act directly against the state to compel the performance of the duties of the state required by this act, the resolution, or the lease.

**History:** 1964, Act 183, Imd. Eff. May 19, 1964;—Am. 1976, Act 240, Eff. Mar. 31, 1977;—Am. 1983, Act 156, Imd. Eff. July 24, 1983;—Am. 1994, Act 252, Imd. Eff. July 5, 1994.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

### 830.419a Moneys of building authority; contract with bondholders; security for deposits.

Sec. 9a. The building authority may contract with the holders of its bonds as to the custody, collection, securing, investment, and payment of any moneys of the building authority. Moneys of the building authority and deposits of such moneys may be secured in the manner determined by the building authority. Banks and trust companies may give security for such deposits.

**History:** Add. 1976, Act 240, Eff. Mar. 31, 1977.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

### 830.420 Indebtedness of state.

Sec. 10. This act shall not be construed or interpreted as to authorize or permit the incurring of indebtedness of the state contrary to the provisions of the state constitution.

**History:** 1964, Act 183, Imd. Eff. May 19, 1964;—Am. 1976, Act 240, Eff. Mar. 31, 1977.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

### 830.421 Exemption from taxation.

Sec. 11. Property owned and acquired by the building authority in accordance with this act shall be exempt from taxes levied by the state or its political subdivisions and taxing districts. The building authority shall not be required to pay taxes or assessments upon its activities or upon its income or revenues.

**History:** 1964, Act 183, Imd. Eff. May 19, 1964;—Am. 1976, Act 240, Eff. Mar. 31, 1977.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

### 830.421a Liability on notes or bonds.

Sec. 11a. The members of the authority and persons executing notes or bonds shall not be liable personally on the notes or bonds, or be subject to personal liability or accountability by reason of the issuance thereof.

**History:** Add. 1976, Act 240, Eff. Mar. 31, 1977.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

### 830.422 Investment in bonds.

Sec. 12. Bonds issued by the building authority under this act are securities in which banks, bankers, savings banks, trust companies, savings and loan associations, investment companies, and other persons carrying on a banking business, insurance companies, insurance associations, and other persons carrying on an insurance business, and administrators, executors, guardians, trustees, and other fiduciaries may properly and legally invest funds belonging to them or within their control.

**History:** 1964, Act 183, Imd. Eff. May 19, 1964;—Am. 1976, Act 240, Eff. Mar. 31, 1977.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

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### 830.423 Declaration of public purpose; liberal construction.

Sec. 13. It is hereby found, determined, and declared that the creation of the building authority and the carrying out of its corporate purposes are in all respects for the benefit of the people of the state and constitute a public purpose and that the facilities to be acquired are necessary for the public welfare of the people of the state, and that the building authority will be performing an essential governmental function in the exercise of the power conferred upon it by this act. This act shall be liberally construed to effect the intents and purposes hereof.

**History:** 1964, Act 183, Imd. Eff. May 19, 1964;—Am. 1976, Act 240, Eff. Mar. 31, 1977.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

### 830.424 Act supplemental and additional to existing powers.

Sec. 14. This act shall be deemed to provide an additional or alternative method for accomplishing the purposes authorized hereby. This act shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers presently existing.

**History:** 1964, Act 183, Imd. Eff. May 19, 1964;—Am. 1976, Act 240, Eff. Mar. 31, 1977.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

### 830.425 Advisory opinion as to constitutionality.

Sec. 15. Pursuant to section 8 of article 3 of the state constitution of 1963, it is the intent of the legislature to request by concurrent resolution the opinion of the supreme court as to the constitutionality of this 1976 amendatory act as amended. Notwithstanding section 5 of chapter 1 of the Revised Statutes of 1846, being section 8.5 of the Michigan Compiled Laws, if the supreme court's advisory opinion finds any portion of this act, as amended, to be invalid, the entire act shall be invalid.

**History:** Add. 1976, Act 240, Eff. Mar. 31, 1977.

**Compiler's note:** For transfer of state building authority from department of technology, management, and budget to department of treasury, see E.R.O. No. 2013-3, compiled at MCL 125.1393.

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