

**STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966 (EXCERPT)**  
**Act 346 of 1966**

CHAPTER 2

**125.1421 Michigan state housing development authority; creation; composition; appointment, qualifications, and terms of members; vacancy; expenses; certificate of appointment or reappointment; designated resident members; powers vested in members; quorum; actions of authority; findings of fact; meetings; chairperson and vice-chairperson; officers, agents, and employees; delegation of powers and duties; relationship to department of consumer and industry services; "section 8" defined.**

Sec. 21. (1) There is created a public body corporate and politic to be known as the "Michigan state housing development authority". The authority shall consist of 3 heads of principal departments of the executive branch of the state government and 4 persons appointed by the governor with the advice and consent of the senate. Excluding the 3 heads of principal departments of the executive branch of state government and the designated resident member described in subsection (2), not more than 2 of the individuals appointed shall be members of the same political party. Upon completion of each term, an individual shall be appointed for a term of 4 years, except that a vacancy must be filled for the unexpired term. A member of the authority shall not receive compensation for services but is entitled to the necessary expenses, including traveling expenses, incurred in the discharge of the member's duties. Each member shall hold office until a successor has been appointed and has qualified. A certificate of appointment or reappointment of a member must be filed with the authority and this certificate is conclusive evidence of the proper appointment of that member.

(2) If federal law requires designation of a resident member on the authority, the number of gubernatorially appointed members, in addition to the 3 heads of principal departments, increases from 4 to 5. One of the 5 gubernatorially appointed members shall be the designated resident member. The resident member shall meet both of the following requirements:

(a) The individual is an individual that is directly assisted by a federal housing program administered through the authority. As used in this subdivision, "directly assisted" means residing in federally supported public housing or receiving section 8 tenant-based assistance. Directly assisted does not include a state-financed housing assistance program, section 8 project-based assistance, or section 8 new construction assistance.

(b) The individual is an eligible resident. As used in this subdivision, "eligible resident" means an individual whose name appears on the lease of the assisted housing and who is 18 years of age or older.

(3) An individual who no longer meets either requirement of subsection (2)(a) or (b) is removed from the authority for cause upon the appointment of another individual to the resident member position.

(4) The powers of the authority are vested in the members in office. A majority of the members of the authority constitutes a quorum for the purpose of conducting the authority's business, for exercising the authority's powers, and for other purposes, notwithstanding the existence of any vacancies. Action may be taken by the authority upon a vote of a majority of the members present, unless the bylaws of the authority require a larger number. The resident member shall not take part in, vote on, or exercise the powers of the authority in a matter that uniquely applies to the resident member and is not generally applicable to all residents. In the absence of fraud, a determination of the authority with respect to findings of fact made by the authority acting within the scope of its powers is conclusive, except with respect to the approval of the municipal finance commission or its successor agency as required by law.

(5) Meetings of the members of the authority may be held anywhere in this state. The business that the authority may perform must be conducted at a public meeting of the authority held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting must be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) The authority shall elect a chairperson and vice-chairperson. The authority shall employ an executive director, legal and technical experts, and other officers, agents, and employees, permanent and temporary, as the authority requires, and shall determine their qualifications, duties, and compensation. The authority may delegate to 1 or more agents or employees those powers or duties as the authority considers proper.

(7) The authority shall be within the department of labor and economic opportunity and shall exercise the authority's prescribed statutory powers, duties, and functions independently of the head of that department. However, the budgeting, procurement, and related functions of the authority must be performed under the direction and supervision of the director of the department of labor and economic opportunity.

(8) As used in this section, "section 8" means section 8 of the United States housing act of 1937, 42 USC 1437f.

**History:** 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1977, Act 161, Imd. Eff. Nov. 8, 1977;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1983, Act 49, Imd. Eff. May 16, 1983;—Am. 2000, Act 257, Imd. Eff. June 29, 2000;—Am. 2024, Act 192, Eff. Apr. 2, 2025.

**Compiler's note:** For transfer of powers and duties of Michigan state housing development authority from department of energy, labor, and economic growth to department of treasury, see E.R.O. No. 2010-2, compiled at MCL 12.194.

For transfer of Michigan state housing development authority to Michigan strategic fund, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

For transfer of Michigan state housing development authority from Michigan strategic fund to department of talent and economic development, see E.R.O. No. 2014-6, compiled at MCL 125.1995.

For transfer of the Michigan state housing development authority from the department of talent and economic development to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

**Transfer of powers:** See MCL 16.732.

### **125.1422 Powers of authority.**

Sec. 22. The authority possesses all powers necessary or convenient to carry out this act, including the following powers in addition to other powers granted by other provisions of this act:

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

(b) To undertake and carry out studies and analyses of housing needs within this state and ways of meeting those needs, including data with respect to population and family groups, the distribution of population and family groups according to income, and the amount and quality of available housing and its distribution according to rentals and sales prices, employment, wages, and other factors affecting housing needs and the meeting of housing needs; to make the results of those studies and analyses available to the public and the housing and supply industries; and to engage in research and disseminate information on housing.

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

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

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

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

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

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

(i) To make or purchase loans, including loans for condominium units as defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104, and including loans to mortgage lenders, which are unsecured or the repayments of which are secured by mortgages, security interests, or other forms of security; to purchase and enter into commitments for the purchase of securities, certificates of deposits, time deposits, or mortgage loans from mortgage lenders; to participate in the making or purchasing of unsecured or secured loans and undertake commitments to make or purchase unsecured or secured loans; to sell mortgages, security interests, notes, and other instruments or obligations evidencing or securing loans, including certificates evidencing interests in 1 or more loans, at public or private sale; in connection with the sale of an instrument or obligation evidencing or securing 1 or more loans, to service, guarantee payment on, or repurchase the instrument or obligation, whether or not it is in default; to modify or alter mortgages and security interests; to

foreclose on any mortgage, security interest, or other form of security; to finance housing units; to commence an action to protect or enforce a right conferred upon the authority by law, mortgage, security agreement, contract, or other agreement; to bid for and purchase property that was the subject of the mortgage, security interest, or other form of security, at a foreclosure or at any other sale, and to acquire or take possession of the property. Upon acquiring or taking possession of the property, the authority may complete, administer, and pay the principal and interest of obligations incurred in connection with the property, and may dispose of and otherwise deal with the property in any manner necessary or desirable to protect the interests of the authority in the property. If the authority or an entity that provides mortgage insurance to the authority acquires property upon the default of a borrower, the authority may make a mortgage loan to a subsequent purchaser of that property even if the purchaser does not meet otherwise applicable income limitations and purchase price limits.

(j) To set standards for housing projects that receive loans under this act and to provide for inspections to determine compliance with those standards. The standards for construction and rehabilitation of mobile homes, mobile home parks, and mobile home condominium projects shall be established jointly by the authority and the mobile home commission, created in section 3 of the mobile home commission act, 1987 PA 96, MCL 125.2303. However, financing standards shall be established solely by the authority.

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

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

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

(n) To invest, at the discretion of the authority, funds held in reserve or sinking funds, or money not required for immediate use or disbursement, in obligations of this state or of the United States, in obligations the principal and interest of which are guaranteed by this state or the United States, or in other obligations as may be approved by the state treasurer.

(o) To promulgate rules necessary to carry out the purposes of this act and to exercise the powers expressly granted in this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

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

(q) To appoint to the board of directors of a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association, a number of new directors sufficient to constitute a majority of the board notwithstanding other provisions of the articles of incorporation or other provisions of law. Directors appointed under this subsection need not be stockholders or members or meet other qualifications that may be described by the certificate of incorporation or bylaws. In the absence of fraud or bad faith, directors appointed under this subsection shall not be personally liable for debts, obligations, or liabilities of the corporation or association. The authority may appoint directors under this subsection only if 1 or more of the following occur:

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

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

(iii) The authority determines that some part of the net income or net earnings of the nonprofit housing corporation is inuring to the benefit of a private individual, firm, corporation, partnership, or association; the

authority determines that an unreasonable part of the net income or net earnings of the consumer housing cooperative is inuring to the benefit of a private individual, firm, corporation, partnership, or association; or the authority determines that some part of the net income or net earnings of the limited dividend housing corporation, in excess of that permitted by other provisions of this act, is inuring to the benefit of a private individual, firm, corporation, partnership, or association.

(iv) The authority determines that the nonprofit corporation or consumer housing cooperative is in some manner controlled by, under the direction of, or acting in the substantial interest of a private individual, firm, corporation, partnership, or association seeking to derive benefit or gain from, or seeking to eliminate or minimize losses in any dealings or transactions with, the nonprofit corporation or consumer housing cooperative. However, this subparagraph shall apply to individual cooperators in consumer housing cooperatives only in circumstances defined by the authority in its rules.

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

(vi) The authority determines that the nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association is in violation of 1 or more agreements entered into with the authority that provide for regulation by the authority of the planning, development, and management of a housing project undertaken by the nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association or that provide for the disposition of the property and franchises of the corporation, cooperative, or association.

(r) To give approval or consent to the articles of incorporation submitted to the authority by a corporation seeking approval as a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, or mobile home park corporation under chapter 4, 5, 6, or 8; to give approval or consent to the partnership agreement, joint venture agreement, trust agreement, or other document of basic organization of a limited dividend housing association under chapter 7 or mobile home park association under chapter 9.

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

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

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

(v) To set forth in the various loan documents of the authority those restrictions on the sale, conveyance by land contract, or transfer of residential real property, housing projects, or housing units for which a note is held by the authority and restrictions on the assumption by subsequent purchasers of loans originated by and held by, or originated for purchase by and held by, the authority as the authority determines to be necessary in order to comply with requirements of federal statutes, federal rules or regulations promulgated under 5 USC 551 to 559, state statutes, or state rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, or to obtain and maintain the tax exempt status of authority bonds and notes. However, the authority shall not use a due on sale or acceleration clause solely for the purpose of renegotiating the interest rate on a loan made with respect to an owner-occupied single-family housing unit. Without limiting the authority's power to establish other restrictions, as provided in this section, on the sale, conveyance by land contract, or transfer of residential real property, housing projects, or housing units for which a note is held by the authority and the assumption by subsequent purchasers of loans made or purchased by the authority, the authority shall provide in its loan documents relating to a single family loan that the single family loan may be assumed by a new purchaser only when the new purchaser qualifies under the authority income limitations rules, unless such a restriction diminishes or precludes the insurance or a guarantee by an agency of the federal government with respect to the single family loan. A loan made for a mobile home that the borrower does not intend to permanently affix to real property shall become immediately due and payable if the mobile home is moved out of the state. Any restrictions on conveyance by sale, conveyance by land contract, or transfer that are authorized in this section shall apply only to loans originated by and held by, or originated for purchase by and held by, the authority and may, at the option of the authority, be enforced by accelerating and declaring immediately due and payable all sums evidenced by the note held by the authority. An acceleration and declaration of all sums to be due and payable on conveyance by sale, land contract, or transfer is not an unreasonable restraint on alienation. An acceleration and declaration, unless otherwise prohibited in this subdivision, of all sums to be due and payable under this subdivision is enforceable in any court of competent jurisdiction. This subdivision is applicable to secured

and unsecured loans. This subdivision is also applicable to loan documents utilized in conjunction with an authority-operated program of residential rehabilitation by an entity cooperating or participating with the authority under section 22a(4), if the loans are originated with the intent to sell those loans to the authority.

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

(x) To collect interest on a real estate loan, the primary security for which is not a first lien on real estate, at the rate of 15% or less per annum on the unpaid balance. This subdivision does not impair the validity of a transaction or rate of interest that is lawful without regard to this subdivision.

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

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

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

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

(cc) Subject to rules of the civil service commission, to adopt a code of ethics with respect to its employees that requires disclosure of financial interests, defines and precludes conflicts of interest, and establishes reasonable post-employment restrictions for a period of up to 1 year after an employee terminates employment with the authority.

(dd) To impose covenants running with the land in order to satisfy requirements of applicable federal law with respect to housing assisted or to be assisted through federal programs such as the low income housing tax credit program or the home investment partnerships program. These covenants shall be imposed by executing and recording regulatory agreements between the authority, or a municipality or other entity designated by the authority, and the person or entity to be bound. The covenants shall run with the land and be effective with respect to the parties making the covenants and other intended beneficiaries of the covenants, even though there is no privity of estate or privity of contract between the authority and the persons or entities to be bound.

(ee) To impose covenants running with the land in order to satisfy requirements of applicable state or federal law with respect to housing financed by the authority. These covenants shall be imposed by executing and recording regulatory agreements between the authority and the person or entity to be bound. The covenants shall run with the land and be effective with respect to the parties making the covenants and other intended beneficiaries of the covenants, even though there is no privity of estate or privity of contract between the authority and the persons or entities to be bound. With respect to any applicable environmental laws, this subdivision does not grant to the authority any additional rights, privileges, or immunities not otherwise afforded to a private lender that is not in the chain of title for the land.

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

(gg) To invest, under the conditions prescribed in this subdivision and without the consent of the escrow depositors, up to 20% of funds held, by or for the authority, in escrow accounts for the benefit of the authority or mortgagors of authority-financed housing. The investments under this subdivision shall be made in loans originated or purchased by the authority for construction or rehabilitation of multifamily housing developments for occupancy by persons or families without regard to income. In connection with loans described in this subdivision, the authority may charge and retain fees in amounts similar to those charged



with respect to similar loans for which the source of funding does not come from escrow accounts. For purposes of this subdivision, "escrow account" means any account or reserve held by the authority and established in a mortgage or a regulatory agreement to which the authority is a party or which has been assigned to the authority. However, for purposes of this subdivision, escrow account does not include any account labeled in the associated regulatory agreement as "development cost escrow principal" or "operating assurance reserve". For purposes of this subdivision, "multifamily housing development" means a development in which not less than 50% of the floor space is used primarily for residential purposes. The investment authorized by this subdivision shall not be made unless both of the following requirements are met:

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

(ii) The authority agrees to pay with its own funds the principal balance of any loan, made with the escrow funds, that becomes delinquent in excess of 30 days. This subdivision does not obligate the authority to purchase a delinquent loan so long as with respect to that loan the authority pays to the escrow funds from its own funds the amount of the delinquent payments. The authority's election to pay the delinquent payments to the escrow funds does not in any manner abate or cure the delinquency of the loan and the authority may resort to any remedies that would exist in the absence of that payment.

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

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

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

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

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

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

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

(kk) To implement, administer, or execute administrative, substantive, or supervisory powers pursuant to the individual or family development account program act, 2006 PA 513, MCL 206.901 to 206.911.

**History:** 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1977, Act 130, Imd. Eff. Oct. 25, 1977;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1982, Act 506, Imd. Eff. Dec. 31, 1982;—Am. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983;—Am. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1985, Act 183, Imd. Eff. Dec. 18, 1985;—Am. 1987, Act 180, Imd. Eff. Nov. 25, 1987;—Am. 1989, Act 220, Imd. Eff. Dec. 11, 1989;—Am. 1990, Act 330, Imd. Eff. Dec. 21, 1990;—Am. 1991, Act 138, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 1998, Act 33, Imd. Eff. Mar. 18, 1998;—Am. 1999, Act 131, Imd. Eff. July 23, 1999;—Am. 2002, Act 385, Imd. Eff. May 30, 2002;—Am. 2008, Act 216, Imd. Eff. July 16, 2008;—Am. 2008, Act 449, Imd. Eff. Jan. 9, 2009;—Am. 2012, Act 327, Imd. Eff. Oct. 9, 2012.

**Administrative rules:** R 125.101 et seq. of the Michigan Administrative Code.

**Compiler's note:** For transfer of Michigan state housing development authority from Michigan strategic fund to department of talent and economic development, see E.R.O. No. 2014-6, compiled at MCL 125.1995.

## **125.1422a Rehabilitation of residential real or rental property; loans, grants, or deferred payment loans to persons and families of low and moderate income; loans to persons in areas of chronic economic stress and to persons located elsewhere in state; powers of authority; participation or cooperation with governing bodies, private organizations, or public organizations; plan; selection of neighborhoods.**

Sec. 22a. (1) In addition to the powers described in section 22, the authority may purchase, make, or otherwise participate in the making and may enter into commitments for the purchase, making, or participation in the making of loans, grants, or deferred payment loans to persons and families of low and moderate income for the rehabilitation of residential real property owned or to be owned by them or the authority may, without regard to the income of the owners or occupants of residential rental property, purchase, make, or otherwise participate in the making and may enter into commitments for the purchase, making, or participation in the making of loans for the rehabilitation of residential rental property to persons or entities owning residential rental property located in areas of chronic economic distress or to persons or entities owning moderate cost residential rental property located elsewhere in this state.

(2) In connection with the loans, grants, and deferred payment loans the authority may do any of the

following:

- (a) Sell mortgages and security interests at public or private sale.
- (b) Modify or alter mortgages and security interests.
- (c) Foreclose on a mortgage, security interest, or other form of security.
- (d) Commence an action to protect or enforce a right conferred upon it by law, mortgage, security agreement, contract, or other agreement.
- (e) Bid for and purchase property which was the subject of the mortgage, security interest, or other form of security at a foreclosure or at any other sale.
- (f) Acquire or take possession of the property.

(3) If the authority takes any action under subsection (2), the authority may complete, administer, pay the principal and interest or obligations incurred in connection with the property, dispose of, and otherwise deal with, the property, in a manner necessary or desirable to protect the interests of the authority in the property.

(4) The authority may participate or cooperate with a governing body, or a subdivision or agency or instrumentality of a governing body, or any other private or public organization in planning or implementing programs of residential rehabilitation involving the purchase, making, or participation in loans, grants, or deferred payment loans to persons and families of low and moderate income. The participation or cooperation may involve a concentration of loan, grant, and deferred payment loan activity in particular neighborhoods. Before engaging in that participation or cooperation with a governing body or a subdivision or agency or instrumentality of a governing body, the authority shall receive from the governing body to be involved in the program a plan embracing the entire geographical area of the governing body. The plan shall do the following:

- (a) Address by neighborhood the need for housing conservation, rehabilitation, and redevelopment.
- (b) Indicate a substantial degree of coordination between the program to be instituted pursuant to this section and other governmental and private programs then in operation which may assist in conserving, rehabilitating, or redeveloping neighborhoods.
- (c) Indicate to the extent possible the nature and source of revenues which are or are projected to be available to implement the plan.
- (d) Indicate priorities in implementing the plan.
- (5) Neighborhoods selected for housing conservation and rehabilitation under this section shall be determined upon mutual agreement of the authority and the governing body involved.

**History:** Add. 1977, Act 130, Imd. Eff. Oct. 25, 1977;—Am. 1978, Act 192, Imd. Eff. June 4, 1978;—Am. 1982, Act 506, Imd. Eff. Dec. 31, 1982.

**125.1422b Designation of authority as housing credit agency; purpose; amount of housing credit ceiling; qualification of applicant; allocation plan; distribution; setting aside allocable amounts; reapportionment of unallocated credit amounts; applications for low income housing tax credit; fees; “rural housing projects” defined.**

Sec. 22b. (1) The authority is designated as the housing credit agency for the state for the purpose of allocating and administering the low income housing credit established under section 42 of the internal revenue code of 1986.

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

(a) One dollar and twenty-five cents multiplied by the state's population, unless a different amount is authorized by section 42 of the internal revenue code of 1986. The state's population shall be determined by the most recent census estimates of the state's population published by the United States bureau of census before the beginning of the calendar year or by another method as authorized by the internal revenue code of 1986.

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

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

(d) The amount, if any, allocated to the state under section 42(h)(3)(D) of the internal revenue code of 1986.

(3) An applicant for an allocation of low income housing tax credit shall be qualified to receive the credit pursuant to the requirements of the internal revenue code of 1986 and the regulations, guidelines, rulings, and interpretations issued by the United States treasury department or the internal revenue service, that controls in the event of conflict with a requirement of this section.

(4) The state's low income housing tax credit is allocable pursuant to a qualified allocation plan prepared by the authority, submitted to the legislature, and approved by the governor after notice to the public and

public hearing. The plan shall set forth criteria to be used to determine housing priorities of the state, and shall give the highest priority to those projects in which the highest percentage of the housing credit dollar amount is to be used for project costs other than the cost of intermediaries, unless granting such priority would impede the development of projects in hard-to-develop areas. In allocating low income housing tax credit dollar amounts among selected projects, the allocation plan shall give preference to projects serving the lowest income tenants and projects obligated to serve qualified tenants for the longest periods, and shall provide a procedure that the authority will follow in notifying the internal revenue service of noncompliance with the provisions of section 42 of the internal revenue code of 1986 of which the authority becomes aware. The plan shall set forth the process for selecting eligible projects and may be amended from time to time in accordance with its terms and the requirements of section 42 of the internal revenue code of 1986. The selection criteria in the qualified allocation plan shall include those set forth in section 42 of the internal revenue code of 1986.

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

(a) Qualified nonprofit organizations as required by section 42 of the internal revenue code of 1986 - not less than 10%.

(b) Rural housing projects - not less than 5%.

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

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

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

(7) All applications for low income housing tax credit shall be on the authority's prescribed forms and shall include information necessary pursuant to the qualified allocation plan and section 42 of the internal revenue code of 1986.

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

(9) For the purposes of this section, "rural housing projects" means proposed or existing housing projects that fall into 1 or more of the following categories:

(a) Located in an area other than a metropolitan county.

(b) Funded by a federal program for the development of rural housing.

(c) Financed by a loan guaranteed by rural housing services or a successor agency.

**History:** Add. 1987, Act 86, Imd. Eff. June 30, 1987;—Am. 1989, Act 281, Imd. Eff. Dec. 26, 1989;—Am. 1991, Act 137, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 2000, Act 257, Imd. Eff. June 29, 2000.

### **125.1422c Subsidiary nonprofit housing corporation.**

Sec. 22c. (1) The authority may incorporate 1 or more nonprofit housing corporations for 1 or more of the following purposes:

(a) Owning, holding, maintaining, improving, completing, receiving subsidy payments for, or transferring ownership of a housing project or housing unit either acquired through foreclosure or deed in lieu of foreclosure or over which the authority has, following a declaration of default, otherwise obtained control.

(b) Acquiring housing projects or an interest in the ownership of 1 or more housing projects and owning, holding, maintaining, or improving the housing projects, if regulatory or contractual restrictions assuring occupancy of some or all of the units in 1 or more of the housing projects by families and persons of low or moderate income are subject to termination within a 2-year period following the acquisition of the housing project. A nonprofit housing corporation incorporated under this subsection may acquire a housing project only if all of the following requirements are met:

(i) At least 6 months have passed since the eighteenth anniversary of the commencement of amortization of the project's permanent mortgage loan on the housing project.

(ii) The authority by resolution determines all of the following:

(A) The tenants residing in the housing project have been notified of the opportunity to acquire the housing project in accordance with the Cranston-Gonzalez national affordable housing act, Public Law 101-625, 104 Stat. 4079.

(B) No tenant organization that the authority determines to have the legal, financial, and managerial capabilities to acquire the housing project has developed and submitted to the housing project owners an acquisition proposal with respect to which negotiations are ongoing.

(C) No local or statewide nonprofit housing corporation that the authority determines to have the legal,



financial, and managerial capabilities to acquire the project has submitted to the housing project owners an acquisition proposal with respect to which negotiations are ongoing.

(iii) The nonprofit housing corporation incorporated pursuant to this section contracts with a private firm for the management of the housing project.

(c) Carrying out programs and oversight responsibilities on behalf of or in conjunction with the United States department of housing and urban development with respect to federal housing programs.

(2) A subsidiary nonprofit housing corporation may sue and be sued in its own name, and the circuit court of Ingham county has exclusive jurisdiction over all actions brought against a subsidiary nonprofit housing corporation, except if jurisdiction over the action is in the supreme court, the court of appeals, or the court of claims.

(3) A subsidiary nonprofit housing corporation is a separate legal entity. The authority is not liable for the debts or obligations or for any actions or inactions of the subsidiary nonprofit housing corporation unless it expressly agrees otherwise. A member, officer, or employee of a subsidiary nonprofit housing corporation is not individually liable for actions undertaken or failure to act on behalf of the subsidiary nonprofit housing corporation so long as the individual is acting or reasonably believes he or she is acting within the scope of his or her authority as a member, officer, or employee of the subsidiary nonprofit housing corporation.

(4) The authority may make loans or grants to a subsidiary nonprofit housing corporation to enable the subsidiary nonprofit housing corporation to carry out any of its purposes.

**History:** Add. 1987, Act 180, Imd. Eff. Nov. 25, 1987;—Am. 1991, Act 138, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 2000, Act 257, Imd. Eff. June 29, 2000.

### **125.1422d Investments.**

Sec. 22d. (1) In addition to the powers described in section 22(n), the authority may, in its discretion, invest money held in reserve or sinking funds, or money not required for immediate use or disbursement, in entities, including limited partnerships and limited liability companies, whose primary purpose is, directly or indirectly, to acquire ownership interests in multifamily housing projects in this state or to make or purchase loans with respect to such projects, or both. The authority shall not make an investment authorized by this subsection unless the authority determines that the return on the investment is reasonably expected to be equal to or greater than the return the authority is then receiving on investments authorized under section 22(n). The authority shall use earnings returned to the authority on investments authorized by this subsection solely for purposes authorized by this act. The authority shall allocate not less than 10% of the earnings returned to the authority on investments authorized by this subsection to the housing development fund created in section 23.

(2) The authority shall possess all powers necessary or incidental to make the investments authorized in subsection (1), including, but not limited to, the power to establish any of the following:

(a) Limited partnerships, limited liability companies, nonprofit corporations, and other entities.

(b) The conditions under which the entities described in subdivision (a) may acquire ownership interests in or make or purchase loans with respect to multifamily housing projects as provided in subsection (1).

(3) As used in this section, "multifamily housing project" means a housing project that includes multiple dwellings and in which a minimum of 50% of the square footage of floor space is used primarily for residential purposes.

**History:** Add. 2013, Act 116, Imd. Eff. Sept. 24, 2013.

### **125.1423 Housing development fund; creation; payments into fund.**

Sec. 23. (1) There is created and established under the jurisdiction and control of the authority a revolving fund to be known as the "housing development fund".

(2) There shall be paid into the housing development fund (a) any moneys appropriated and made available by the state for the purposes of the fund; (b) any moneys which the authority receives in repayment of advances made from the fund, and (c) any other moneys which may be made available to the authority for the purpose of the fund from any other source or sources.

**History:** 1966, Act 346, Eff. Mar. 10, 1967.

### **125.1424 Housing development fund; advances; grants; transfer of moneys.**

Sec. 24. (1) The authority may use the moneys held in the fund to make interest-bearing or noninterest-bearing advances, in compliance with this act, to nonprofit housing corporations and consumer housing cooperatives for development costs of proposed housing projects. Advances may not be made unless the authority reasonably anticipates that a federally-aided or authority-aided mortgage may be obtained by the nonprofit housing corporation or consumer housing cooperative for the permanent financing of a housing project pursuant to section 44.

(2) The proceeds of the advance may be used only to defray the development costs of the housing project. Each advance shall be repaid in full to the authority by the nonprofit housing corporation or consumer housing cooperative concurrent with receipt of the portion of the mortgage loan paid under the initial indorsement of the federally-aided or authority-aided mortgage or construction loan, unless the authority extends the period for the repayment of the advances. The time of repayment shall not be extended later than the date of receipt of the portion of the mortgage loan paid on final indorsement of the federally-aided or authority-aided mortgage or construction loan.

(3) The authority may use the moneys held in the fund to make grants to local communities, as defined by the authority in rules promulgated under this act, the office of services to the aging established in section 5 of the older Michiganians act, Act No. 180 of the Public Acts of 1981, being section 400.585 of the Michigan Compiled Laws, or public or private nonprofit organizations or local governmental agencies organized to provide assistance to persons and families of low or moderate income. The grants may be in any amounts as the authority determines, not to exceed the net costs, exclusive of any federal aid or assistance, incurred by the recipient in planning for or implementing housing assistance or community or housing development. Examples of permissible community or housing development include land and building acquisition; housing rehabilitation; capital improvements or modifications, including streets, open space, utilities, recreation or community centers, and parking facilities; and the provision of necessary supportive services.

(4) The authority may transfer the moneys held in the housing development fund to the land acquisition and development fund or to the rehabilitation fund in amounts which the authority determines necessary.

**History:** 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1977, Act 130, Imd. Eff. Oct. 25, 1977;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1984, Act 363, Eff. Mar. 29, 1985.

**Administrative rules:** R 125.101 et seq. of the Michigan Administrative Code.

#### **125.1424a Land acquisition and development fund; creation; payment of moneys into fund.**

Sec. 24a. (1) A fund to be known as the "land acquisition and development fund" is created and established under the jurisdiction and control of the authority.

(2) There shall be paid into the land acquisition and development fund: any moneys appropriated and made available by the state for the purposes of this fund; any moneys which the authority receives from the sale or rental of real property purchased by the authority with moneys from this fund; and any other moneys which may be made available to or by the authority and designated by the authority for the purpose of this fund from any other source including unpledged accumulated fees and charges and unpledged interest income of the authority. As used in this section, "real property" means an interest, including fee or leasehold interest, in land or improvements to land or a portion thereof.

**History:** Add. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977.

#### **125.1424b Land acquisition and development fund; use of moneys; acquisition and exchange of real property; improvements to real property; costs; conveyance of real property.**

Sec. 24b. (1) The authority may use the money held in the land acquisition and development fund to lease, acquire, or contract to acquire real property by grant, purchase, or otherwise from any person, firm, partnership, corporation, municipality, county, or federal or state agency, upon determining that the real property may be suitable for a future housing development or housing project; or is located in a residential area where the authority has financed or has planned to finance housing and the proposed use of the real property will improve the quality of the residential area by eliminating blight or provide needed public or commercial facilities; or is so situated that the present or future use of the real property, if not acquired by the authority, will adversely affect the value or marketability of the authority financed housing project. The authority may acquire real property in its own name or through and in the name of an agent by means of land contract, option, or other form of deferred payment agreement, or subject to mortgages or other encumbrances, if the authority reserves money in this fund or authorization to issue notes and bonds, the aggregate amount of which equals the unpaid principal balance on the land contracts, options, mortgages, or other encumbrances or deferred payment agreements plus any anticipated carrying charges, including insurance premiums, interest, maintenance expenses, and property taxes. The authority may exchange real property purchased with money from this fund for other real property, if the authority determines that the real property will be acquired for a purpose for which real property can be purchased with money from this fund. Money received by the authority in connection with the exchange and any money received from the sale or rental of the real property shall be deposited in the land acquisition and development fund.

(2) The authority may contract for and use money held in the land acquisition and development fund for

the following types of improvements to real property purchased or otherwise acquired for the purposes of this fund:

(a) Improvements that are necessary to place the real property in a safe, sanitary, and decent condition, including demolition, excavation, and landscaping.

(b) Improvements to real property which is to be dedicated for the public use and enjoyment, including the installation of recreational facilities, benches, shelters, lighting, and walkways.

(c) Improvements that are necessary to insure the planned development of the real property, including the installation of roads, sidewalks, sewers, and utilities. The authority may contract for and use money held in the land acquisition and development fund for services needed in connection with the acquisition, disposition, planning, development, and maintenance of real property.

(3) The authority may use the money held in the land acquisition and development fund to pay the following costs on real property purchased or being purchased with money from this fund or acquired by gift, grant, or exchange for the purposes of this fund:

(a) The costs of property taxes, insurance premiums, interest, maintenance expenses, and other carrying charges on real property notwithstanding the provisions of section 42, during the period when real property is owned or is being purchased by the authority or its agent, the authority shall pay all property taxes levied against the real property unless a taxing jurisdiction exempts the real property from property taxes. The assessed valuation of the real property while it is owned or being purchased by the authority or its agent shall not be increased by any taxing jurisdiction, except to reflect the state equalization valuation process.

(b) The costs of planning the development of the real property, including, but not limited to, the costs of economic feasibility studies, land use studies, site development planning, architectural and engineering design, market analysis and all related analyses, studies and planning services.

(c) The costs incurred in the transfer of real property, including brokerage and appraisal fees, recording expenses, and the costs of surveys and title insurance.

(d) The costs of the improvements to real property permitted by subsection (2).

(4) Real property may be conveyed by the authority to a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, limited dividend housing association, mobile home park corporation, mobile home park association, or municipality for the purpose of constructing housing projects at such price and on such terms and conditions as shall be determined by the authority. Real property may be conveyed by the authority to the state or federal government, or any county or municipality for the use and enjoyment of the public upon such terms and conditions as shall be determined by the authority. Real property may be sold by the authority to an individual, firm, partnership, corporation, county, municipality, authority, or federal or state agency for any purpose at a price, equal to or greater than the lesser of the fair market value of the property at the time of sale or the price paid by the authority to acquire, hold, and improve the real property, which conveyance shall be subject to terms and conditions determined by the authority. In conjunction with a sale or conveyance of real property, the authority may enter into agreements which regulate all aspects of the development of the real property, including, but not limited to, land use planning, site development, construction, architectural and engineering design, marketing, management, occupancy, operation, and all factors related to the foregoing.

**History:** Add. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983.

#### **125.1424c Transfer of moneys to housing development fund or rehabilitation fund.**

Sec. 24c. The authority may transfer the moneys held in the land acquisition and development fund to the housing development fund or to the rehabilitation fund in amounts the authority determines necessary.

**History:** Add. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1977, Act 130, Imd. Eff. Oct. 25, 1977.

#### **125.1424d Rehabilitation fund; creation; jurisdiction; payments.**

Sec. 24d. (1) A fund to be known as the "rehabilitation fund" is created and established under the jurisdiction and control of the authority.

(2) The following shall be paid into the rehabilitation fund:

(a) Moneys appropriated and made available by the state for the purposes of the rehabilitation fund.

(b) Other moneys which may be made available to or by the authority and designated by the authority for the purposes of the rehabilitation fund.

**History:** Add. 1977, Act 130, Imd. Eff. Oct. 25, 1977.

#### **125.1424e Rehabilitation fund; use of moneys; allocations or pledges to holders of bonds.**

Sec. 24e. (1) The authority may use moneys in the rehabilitation fund either separately or in conjunction

with other moneys available to the authority to make, purchase, or otherwise participate in loans, grants, or deferred payment loans authorized pursuant to section 44a.

(2) The authority may use the moneys in the rehabilitation fund to make loans or grants to local communities in amounts the authority determines are necessary for planning for or implementing programs of residential rehabilitation involving loans, grants, or deferred payment loans to persons and families of low and moderate income.

(3) The authority may use money in the rehabilitation fund to pay for costs incurred by the authority in planning for or implementing a program of residential rehabilitation.

(4) Money in the rehabilitation fund and money received in repayment of loans, grants, and deferred payment loans made from the rehabilitation fund may be allocated or pledged to the holders of bonds and notes issued in connection with a rehabilitation loan program of the authority.

**History:** Add. 1977, Act 130, Imd. Eff. Oct. 25, 1977;—Am. 1978, Act 192, Imd. Eff. June 4, 1978.

#### **125.1424f Recapture tax fund; creation; establishment; payment; use.**

Sec. 24f. (1) There is created and established under the jurisdiction and control of the authority a fund to be known as the recapture tax fund.

(2) There may be paid into the recapture tax fund any money available to the authority from any source or sources, including, but not limited to, funds held by the authority. The authority is under no obligation to maintain a balance of money in the fund.

(3) The authority may use the money held in the fund to reimburse individual borrowers for any taxes the borrowers paid and for which they were liable under section 143(m) of the internal revenue code, or any similar recapture taxes applicable to programs the authority administers.

**History:** Add. 2008, Act 55, Imd. Eff. Apr. 3, 2008.

**Compiler's note:** Former MCL 125.1424f, which pertained to conversion condominium fund, was repealed by Act 183 of 1985, Imd. Eff. Dec. 18, 1985.

#### **125.1424g Repealed. 1985, Act 183, Imd. Eff. Dec. 18, 1985.**

**Compiler's note:** The repealed section pertained to conversion condominium loans and funds.

#### **125.1425 Bonds and notes; issuance; purposes; issuing renewal notes, bonds to pay notes and refunding bonds; notes or bonds as general obligations and negotiable instruments; revised municipal finance act inapplicable; issuance subject to agency financing reporting act.**

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

(2) The authority may issue renewal notes, issue bonds to pay notes, and when it determines refunding expedient, refund bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded. The authority may issue instruments separate from the obligations described in this section that establish a contractual right in the holder of the instrument to require mandatory tender for purchase of the obligations to which the instrument applies for such period of time and subject to such provisions as the authority may determine.

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

(4) Whether or not the notes or bonds are of a form or character as to be negotiable instruments under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, the notes or bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial

code, 1962 PA 174, MCL 440.1101 to 440.11102, subject only to the provisions of the notes or bonds for registration.

(5) A bond issued by the authority is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(6) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

**History:** 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1977, Act 130, Imd. Eff. Oct. 25, 1977;—Am. 1978, Act 192, Imd. Eff. June 4, 1978;—Am. 1983, Act 49, Imd. Eff. May 16, 1983;—Am. 1991, Act 137, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993;—Am. 2002, Act 385, Imd. Eff. May 30, 2002.

#### **125.1426 Bonds and notes; authorization; terms.**

Sec. 26. The notes and bonds shall be authorized by resolution of the members of the authority; shall bear such date or dates, and shall mature at such time or times, in the case of any note, or any renewal thereof, not exceeding 20 years, from the date of issue of such original note, and in the case of any bond not exceeding 50 years from the date of issue, as the resolution may provide. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption as such resolution or resolutions may provide. The notes and bonds of the authority may be sold by the authority, at public or private sale, at such price or prices as the authority shall determine.

**History:** 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1982, Act 506, Imd. Eff. Dec. 31, 1982.

#### **125.1427 Notes or bonds; resolution authorizing issuance; contents.**

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

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

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

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

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

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

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

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

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

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

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

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

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



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

**History:** 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993.

#### **125.1428 Notes and bonds; validity and effect of pledge.**

Sec. 28. Any pledge made by the authority shall be valid and binding from the time when the pledge is made; the moneys or property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

**History:** 1966, Act 346, Eff. Mar. 10, 1967.

#### **125.1429 Notes and bonds; personal liability of members of authority.**

Sec. 29. Neither the members of the authority nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

**History:** 1966, Act 346, Eff. Mar. 10, 1967.

#### **125.1430 Notes and bonds; purchase for cancellation; price.**

Sec. 30. (1) Except as provided in subsection (2), and subject to an agreement with a noteholder or bondholder as may then exist, the authority shall have power out of any funds available to purchase notes or bonds of the authority. The notes or bonds purchased by the authority pursuant to this section may be canceled, at a price not exceeding any of the following:

(a) If the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date.

(b) If the notes or bonds are not then redeemable, the redemption price applicable on the first date after the purchase upon which the notes or bonds become subject to redemption plus accrued interest to that date.

(2) If the authority determines that the payment of a higher price than that determined under subsection (1) is in the best interests of the authority, it may by resolution authorize the purchase at a higher price.

**History:** 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1982, Act 506, Imd. Eff. Dec. 31, 1982;—Am. 2024, Act 191, Eff. Apr. 2, 2025.

#### **125.1431 Notes and bonds; liability of state.**

Sec. 31. The state shall not be liable on notes or bonds of the authority and such notes and bonds shall not be a debt of the state. The notes and bonds shall contain on the face thereof a statement to such effect.

**History:** 1966, Act 346, Eff. Mar. 10, 1967.

#### **125.1432 Capital reserve fund; definitions; federal housing subsidy programs; recommendations; priority; program of loans for mobile homes; program of loans for consumer housing cooperatives; notice of public hearing or proposed rule change; rules; identification of housing production goals; report to governor and committees; confidentiality.**

Sec. 32. (1) The authority may create and establish 1 or more special funds called capital reserve funds to secure notes and bonds of the authority. The authority shall pay into a capital reserve fund money appropriated and made available by this state for the purposes of the fund, the proceeds of the sale of notes or bonds to the extent provided in the resolution of the authority authorizing the issuance of the notes or bonds, and other money that is made available to the authority for the purpose of a fund from any other source. In addition to, or in lieu of, depositing money in a capital reserve fund, the authority may obtain and pledge letters of credit and, effective retroactively as of June 1, 1993, insurance policies, surety bonds, guarantees, or

other security arrangements if those other security arrangements are approved by the state treasurer, for the purposes of the capital reserve fund. The amount available under letters of credit, insurance policies, surety bonds, guarantees, or other security arrangements pledged to a capital reserve fund must be credited toward the satisfaction of a capital reserve fund requirement. All money and proceeds under letters of credit, insurance policies, surety bonds, guarantees, or other security arrangements held in a capital reserve fund, except as specifically provided, must be used as required solely for the payment of the principal of notes or bonds of the authority secured in whole or in part by the capital reserve fund, for the purchase or redemption of notes or bonds, for the payment of interest on the notes or bonds, or for the payment of a redemption premium required to be paid when the notes or bonds are redeemed prior to maturity. However, the authority shall not use the capital reserve fund for an optional purchase or optional redemption of notes or bonds if the use would reduce the total of the money on deposit in the capital reserve fund and amounts available under a letter of credit, insurance policy, surety bond, guarantee, or other security arrangement pledged to a capital reserve fund to less than the capital reserve fund requirement established for the fund. Income or interest earned by, or increment to, a capital reserve fund from the investment of the money in the capital reserve fund may be transferred by the authority to other funds or accounts of the authority to the extent that the transfer does not reduce the total of the amount of money in a capital reserve fund and amounts available under a letter of credit, insurance policy, surety bond, guarantee, or other security arrangement pledged to the capital reserve fund below the capital reserve fund requirement for the fund.

(2) The authority shall not issue notes or bonds secured in whole or in part by a capital reserve fund if, upon the issuance of the notes or bonds, the amount in the capital reserve fund, including the amounts available under a letter of credit, insurance policy, surety bond, guarantee, or other security arrangement pledged to the capital reserve fund, would be less than the capital reserve fund requirement for the fund, unless the authority, at the time of issuance of the notes or bonds, deposits in the fund from the proceeds of the notes or bonds to be issued, or from other sources, an amount that, together with the amount then in the fund, is not less than the capital reserve fund requirement for the fund, or obtains a letter of credit, insurance policy, surety bond, guarantee, or other security arrangement in an amount that, together with the amount then in the fund, is not less than the capital reserve fund requirement for the fund. For the purposes of this section, "capital reserve fund requirement" means the amount required in the resolution of the authority authorizing the notes or bonds with respect to which the fund is established, which amount must not exceed the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the notes or bonds of the authority secured in whole or part by the fund.

(3) The authority has, before January 9, 1977, in connection with its housing development bonds issued pursuant to a bond resolution dated June 10, 1971, established within the capital reserve fund relating to housing development bonds, a capital reserve account and a capital reserve capital account. This capital reserve account constitutes a capital reserve fund under this act. Money in this capital reserve account must secure only housing development bonds issued pursuant to the June 10, 1971 bond resolution. Unless otherwise provided by the authority, money in the capital reserve capital account must secure all bonds and notes of the authority. In determining whether the capital reserve fund requirement established for a capital reserve fund has been met, the authority shall not include or take into account money in the capital reserve capital account.

(4) The authority has, before January 9, 1977, in connection with its insured mortgage revenue bonds issued pursuant to a bond resolution dated May 11, 1976, established a bond reserve fund. This bond reserve fund constitutes a capital reserve fund under this act.

(5) The authority shall not have outstanding at any time bonds and notes for any of its corporate purposes in an aggregate principal amount exceeding \$10,000,000,000.00, excluding all of the following:

(a) The principal amount of bonds and notes issued to refund outstanding bonds and notes.

(b) The principal amount of bonds and notes that appreciate in principal amount, except to the extent of the principal amount of these bonds and notes payable at such time.

(c) The principal amount of notes and bonds representing original issue discount, if any.

(6) Subject to the limitation in subsection (5), that portion of the state ceiling to be used for qualified mortgage bonds, mortgage credit certificates, or bonds to finance qualified residential rental projects must be allocated to the authority unless the authority elects by resolution to allow another issuer to issue qualified mortgage bonds, mortgage credit certificates, or bonds to finance qualified residential rental projects. As used in this subsection:

(a) "Mortgage credit certificate" means that term as defined in section 25 of the internal revenue code of 1986, 26 USC 25.

(b) "Qualified mortgage bond" means that term as defined in section 143 of the internal revenue code of 1986, 26 USC 143.

(c) "Qualified residential rental project" means that term as defined in section 142 of the internal revenue code of 1986, 26 USC 142.

(d) "State ceiling" means the aggregate amount of certain private activity bonds, including qualified mortgage bonds, that may be issued in any calendar year in this state pursuant to section 146 of the internal revenue code of 1986, 26 USC 146.

(7) To ensure the continued operation and solvency of the authority for the carrying out of the public purposes of this act, the authority shall accumulate in each capital reserve fund an amount equal to the capital reserve fund requirement for that fund. If at any time the capital reserve fund requirement for a capital reserve fund exceeds the amount of the capital reserve fund, the authority shall transfer to this fund from the capital reserve capital account established by the authority's June 10, 1971 bond resolution the amount necessary to restore the capital reserve fund to an amount equal to the capital reserve fund requirement. If a deficiency exists in more than 1 capital reserve fund and the amount in the capital reserve capital account is not sufficient to fully restore the capital reserve funds, the money in the capital reserve capital account must be allocated between the deficient capital reserve funds pro rata according to the amounts of the deficiencies. If at any time the capital reserve capital account has been exhausted and the capital reserve fund requirement for a capital reserve fund exceeds the amount of the capital reserve fund, the chairperson of the authority on or before September 1 shall certify to the governor and budget director the amount, if any, necessary to restore a capital reserve fund to an amount equal to the capital reserve fund requirement. The governor and the budget director shall include in the annual budget the amount certified by the chairperson of the authority.

(8) In computing the amount of a capital reserve fund for the purposes of this section, securities in which all or a portion of the fund is invested must be valued at par. If the securities are purchased at other than par, the securities may be valued at their cost to the authority, as adjusted by amortization of the discount or premium paid upon purchase of the securities on a pro rata basis to the maturity date of the securities.

(9) To the extent possible and consistent with sound fiscal management and good housing development planning, the authority shall make full use of available federal housing subsidy programs. The authority shall recommend programs and legislation to better maintain and improve existing housing stock.

(10) The authority shall require that not less than 15% of the multifamily dwelling units financed by mortgage loans from the authority in a calendar year under federal government subsidy programs, subject to applicable federal regulations, be offered on a priority basis to low income families and persons receiving their primary incomes from social security programs or state and federal public assistance programs.

(11) The authority shall implement a program of loans for mobile homes as soon as is reasonably feasible. The authority shall develop a program for financing the construction or rehabilitation of mobile home parks and mobile home condominium projects within 24 months after December 31, 1982, subject to a determination of feasibility by the authority and the authority's ability to sell bonds.

(12) The authority shall implement a program of loans for consumer housing cooperatives as soon as is reasonably feasible. The authority shall develop a program for financing the construction or rehabilitation of consumer housing cooperative projects within 12 months after July 10, 1984, subject to a determination of feasibility by the authority and the authority's ability to sell bonds.

(13) When processing rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the authority shall furnish to each member of the legislature a copy of a notice of a public hearing or proposed rule change at least 10 days before the public hearing and at least 20 days before the adoption of the rule.

(14) Before October 1 of each year, the authority shall identify housing production goals for housing projects financed with bonds and notes issued under the limitations provided in section 32a. The authority shall identify a goal for the authority as a whole and a specific goal for each program. The authority shall submit those goals in an annual report to the governor and to the house committee on urban affairs and the senate committee on finance, or their successor committees.

(15) Within 6 months after the legislature enacts or the authority adopts a new program, the authority shall submit an interim report to the same persons to whom an annual report is submitted. If both the legislature and the authority establish a program, the authority shall submit the interim report within 6 months after the effective date of the act establishing the program. The authority shall include in an interim report all of the information required in an annual report that is specific to that program.

(16) After the initial or an interim report, the authority shall include in an annual report all of the following for each program:

(a) Whether the production goals for the previous 12-month period have been met. If those production goals have not been met, the authority shall explain in the report the reasons why those production goals have not been met.

(b) Any significant obstacles to the development of housing for low and moderate income persons that

have been encountered by the authority.

(c) The estimated economic and social benefits of these housing projects to the immediate neighborhoods in which the housing projects have been constructed.

(d) The estimated economic and social benefits of these housing projects to the municipalities in which the housing projects have been constructed.

(e) The extent of displacement, direct and indirect, of lower income persons caused by these housing projects, and steps taken by the authority and other governmental and private parties to ameliorate the displacement, and the results of those efforts.

(f) The estimated extent of additional reinvestment activities by private lenders attributable to the authority's financing of these housing projects.

(g) The age, race, family size, median income, and average income of the tenants of these housing projects.

(h) The estimated economic impact of these housing projects, including the number of construction jobs created, wages paid, and taxes and payments in lieu of taxes paid.

(i) The progress in developing mobile home parks and mobile home condominium projects, in financing the construction or rehabilitation of consumer housing cooperative projects, and in financing the construction or rehabilitation of nonprofit housing corporation projects.

(j) A report on the neighborhood preservation program under section 44f. The report must include information about the progress in developing the program, the neighborhoods identified as eligible for the program, the neighborhoods or municipalities that have applied for the program, the neighborhoods that have received funds from the program, and the reasons that neighborhoods or municipalities have been denied funds from the program.

(k) A report on the status of federal programs that provide assistance to low income tenants displaced as the result of prepayments of federally and authority assisted loans.

(l) A report on the low income housing tax credit program under section 22b. The report must include information regarding the amount of tax credits allocated to the state under each of the subdivisions of section 22b(2); the projects that have received tax credits; and the reasons why projects have been denied tax credits under the program; a geographical description of the distribution of those tax credits; and a description of amendments to the allocation plan made during that year.

(m) A report on education and training opportunities provided by the authority under section 17. The report must indicate the types of education and training opportunities made available and the amount of funding committed to these activities.

(n) For any programs or projects involving refinancings, the number of refinancings undertaken by the authority and the total dollar amount of all refinancings undertaken by the authority.

(17) The authority shall ensure that the income characteristics of individuals served by an authority program are provided in a manner that ensures each individual's confidentiality. The authority shall also ensure that proprietary information in its reports under this section concerning an individual, corporation, cooperative, or association is not released without the permission of that individual, corporation, cooperative, or association.

**History:** 1966, Act 346, Imd. Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 27, Imd. Eff. June 2, 1970;—Am. 1972, Act 310, Imd. Eff. Dec. 28, 1972;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1980, Act 472, Imd. Eff. Jan. 17, 1981;—Am. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 73, Imd. Eff. June 6, 1983;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983;—Am. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1985, Act 2, Imd. Eff. Mar. 14, 1985;—Am. 1985, Act 183, Imd. Eff. Dec. 18, 1985;—Am. 1987, Act 86, Imd. Eff. June 30, 1987;—Am. 1987, Act 180, Imd. Eff. Nov. 25, 1987;—Am. 1989, Act 220, Imd. Eff. Dec. 11, 1989;—Am. 1989, Act 281, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 330, Imd. Eff. Dec. 21, 1990;—Am. 1991, Act 138, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993;—Am. 1995, Act 186, Imd. Eff. Oct. 23, 1995;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 2000, Act 257, Imd. Eff. June 29, 2000;—Am. 2004, Act 535, Imd. Eff. Jan. 3, 2005;—Am. 2008, Act 56, Imd. Eff. Apr. 3, 2008;—Am. 2012, Act 328, Imd. Eff. Oct. 9, 2012;—Am. 2020, Act 73, Imd. Eff. Apr. 2, 2020;—Am. 2023, Act 169, Imd. Eff. Oct. 19, 2023.

**Administrative rules:** R 125.101 et seq. of the Michigan Administrative Code.

**Compiler's note:** For transfer of Michigan state housing development authority from Michigan strategic fund to department of talent and economic development, see E.R.O. No. 2014-6, compiled at MCL 125.1995.

## **125.1432a Issuance of bonds to finance single family homes; previous ownership interest; publicizing program; report to legislature; section inapplicable to refinancing single family homes.**

Sec. 32a. With respect to bonds, other than refunding bonds, issued to finance single family homes after November 1, 1989, for the first 60 days following the announcement of a program funded by the proceeds of those bonds, 50% of the proceeds of those bonds available to make loans, as determined by the preliminary

information obtained by originating lenders at the time a reservation is submitted, shall be reserved for applicants with gross annual incomes at or below 60% of the statewide median gross income. The authority may, by resolution, waive this requirement. The authority shall advise the house of representatives and senate standing committees with jurisdiction over housing issues 5 days prior to adopting a resolution waiving this requirement. With respect to bonds, other than refunding bonds, issued to finance single family homes after November 1, 1989, not more than 50% of the proceeds of those bonds may be used to finance single family homes for homebuyers who previously have had an ownership interest in a residence. For purposes of this section, a previous ownership interest in a mobile home shall not be considered to be an ownership interest in a residence. The authority may rely on the applicant's affidavit to determine whether or not the applicant has had a prior ownership interest in a residence. The authority shall publicize the programs funded under this section by using all reasonable means available, including, but not limited to, public interest announcements in the media, and announcements to lending institutions, community groups, and real estate organizations. The authority shall submit a report annually to the legislature containing all statistics necessary to indicate its compliance with this section. This section does not apply to bonds issued to refinance single family homes.

**History:** Add. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1985, Act 2, Imd. Eff. Mar. 14, 1985;—Am. 1985, Act 183, Imd. Eff. Dec. 18, 1985;—Am. 1989, Act 220, Imd. Eff. Dec. 11, 1989;—Am. 1989, Act 281, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 330, Imd. Eff. Dec. 21, 1990;—Am. 1991, Act 137, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 2000, Act 257, Imd. Eff. June 29, 2000;—Am. 2004, Act 535, Imd. Eff. Jan. 3, 2005;—Am. 2008, Act 53, Imd. Eff. Apr. 3, 2008.

**125.1432b Mortgage credit certificate program; authority designated as administrator; guidelines; qualifying for receipt of mortgage credit certificate; adaptation of property for use by disabled individuals; family income limits; applicability of internal revenue code; exception; retroactive effect of changes in subsections (3) and (4).**

Sec. 32b. (1) The authority is designated as the administrator of the mortgage credit certificate program for this state permitted under section 25 of the internal revenue code, 26 USC 25.

(2) The authority shall prepare guidelines that would allow for the implementation of a mortgage credit certificate program through mortgage lenders.

(3) For a borrower to qualify for receipt of a mortgage credit certificate with respect to the acquisition of a new or existing housing unit, including a residential condominium or mobile home, both of the following requirements shall be met:

(a) The purchase price with respect to the new or existing unit shall not exceed the limits established in section 44 for newly rehabilitated, newly constructed, or existing 1- to 4-unit housing units, including a residential condominium unit as condominium unit is defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104, for which the authority may make loans to individual purchasers for acquisition and long-term financing or refinancing.

(b) The borrower's family income does not exceed the following, as applicable:

(i) The limits established in section 44 for individual purchasers to whom the authority may make loans for the acquisition and long-term financing or refinancing of newly rehabilitated, newly constructed, or existing 1- to 4-unit housing units.

(ii) For eligible distressed areas, \$69,800.00 until June 1, 2006, \$72,250.00 until November 1, 2007, and \$74,750.00 on and after November 1, 2007 but before the effective date of the 2012 amendatory act that amended this section.

(iii) For any other area, \$60,700.00 until June 1, 2006, \$62,800.00 until November 1, 2007, and \$65,000.00 on and after November 1, 2007 but before the effective date of the 2012 amendatory act that amended this section.

(4) The authority may increase the purchase price limit in subsection (3) to cover the cost of improvements to adapt the property for use by disabled individuals or unexpected cost increases during construction. The amount of the increase shall be the amount of the costs described in this subsection or \$3,500.00, whichever is less.

(5) To qualify for receipt of a mortgage credit certificate with respect to the improvement or rehabilitation of an existing housing unit, including a residential condominium or mobile home, the borrower's family income shall not exceed the limits established in section 44a for persons and families of low and moderate income.

(6) If an income or purchase price limit prescribed by subsection (3), (4), or (5) exceeds an applicable limit prescribed by the internal revenue code, 26 USC 1 to 9834, the internal revenue code limit applies. Except with respect to newly constructed housing units, the authority may at any time by resolution establish, for a length of time it considers appropriate, maximum borrower income or purchase price limits more restrictive



than those maximum limitations set forth in this section. The authority shall advise the appropriate house and senate standing committees 5 days prior to the adoption of a resolution establishing more restrictive income or purchase price limits.

(7) The changes made by 1995 PA 186 to purchase price limits in the subsections that at the time were designated subsections (3) and (4) were retroactive, effective as of October 29, 1993.

**History:** Add. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1985, Act 183, Imd. Eff. Dec. 18, 1985;—Am. 1987, Act 179, Imd. Eff. Nov. 25, 1987;—Am. 1989, Act 220, Imd. Eff. Dec. 11, 1989;—Am. 1991, Act 137, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993;—Am. 1995, Act 186, Imd. Eff. Oct. 23, 1995;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 1998, Act 33, Imd. Eff. Mar. 18, 1998;—Am. 2000, Act 257, Imd. Eff. June 29, 2000;—Am. 2004, Act 549, Imd. Eff. Jan. 3, 2005;—Am. 2012, Act 346, Imd. Eff. Nov. 7, 2012.

#### **125.1432c Repealed. 1988, Act 496, Eff. Mar. 30, 1989.**

**Compiler's note:** The repealed section pertained to allocation to authority from state's unified volume limitation and to reallocation to municipalities.

#### **125.1432d Legislative intent.**

Sec. 32d. The legislature intends that the authority explore the possibility of reducing the cost of financing multifamily housing projects through the issuance of variable rate obligations that could be converted to long-term fixed-rate obligations. The authority is authorized to make fixed-rate mortgages with the proceeds of these obligations. The legislature also intends that the authority explore the possibility of providing subsidies to projects to assist owners in meeting the 20-50 test established in section 142 of the internal revenue code.

**History:** Add. 1987, Act 179, Imd. Eff. Nov. 25, 1987.

#### **125.1433 General reserve fund; creation; payments into fund; use of fund.**

Sec. 33. The authority shall create and establish a special fund, referred to as general reserve fund, and, subject to agreements with bondholders and noteholders, shall pay into the fund all fees and charges collected by the authority on loans made from and residential mortgages acquired with the proceeds of the sale of bonds and any moneys which the authority shall transfer from the capital reserve fund. Such moneys and any other moneys paid into the general reserve fund, in the discretion of the authority but subject to agreements with bondholders and noteholders, may be used by the authority (a) for the repayment of advances from the state in accordance with the provisions of repayment agreements between the authority and the director of the budget, (b) to pay all costs, expenses, and charges of financing, including fees and expenses of trustees and paying agents, (c) for transfers to the capital reserve fund, (d) for the payment of the principal of and interest on bonds or notes issued by the authority when they shall become due whether at maturity or on call for redemption and for the payment of any redemption premium required to be paid where the bonds or notes are redeemed prior to their stated maturities, and to purchase bonds or notes, or (e) for such other corporate purposes of the authority as the authority in its discretion shall determine and provide.

**History:** 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977.

#### **125.1434 Notes and bonds; pledge and agreement of state.**

Sec. 34. The state pledges and agrees with the holders of any notes or bonds issued under this act, that the state will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of the holders until the notes or bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

**History:** 1966, Act 346, Eff. Mar. 10, 1967.

#### **125.1435 Trustee; default; powers and duties.**

Sec. 35. (1) If the authority defaults in the payment of principal of or interest on any issue of notes or bonds after the same shall become due, whether at maturity or upon call for redemption, and such default continues for a period of 30 days, or if the authority fails or refuses to comply with the provisions of this act, or defaults in any agreement made with the holders of any issue of notes or bonds, the holders of 25% in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Ingham and approved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

(2) The trustee may, and upon written request of the holders of 25% in principal amount of such notes or bonds then outstanding shall, in his own name; (a) by action or proceeding, enforce all rights of the noteholders or bondholders, including the right to require the authority to collect fees and charges and interest and amortization payments on mortgage loans made by it adequate to carry out any agreement as to, or pledge of, such fees and charges and interest and amortization payments on such mortgages, and other properties and to require the authority to carry out any other agreements with the holders of such notes or bonds and to perform its duties under this act; (b) bring suit upon such notes or bonds; (c) by action, require the authority to account as if it were the trustee of an express trust for the holders of such notes or bonds; (d) by action, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes or bonds; (e) declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of 25% of the principal amount of such notes or bonds then outstanding, to annul such declaration and its consequences.

**History:** 1966, Act 346, Eff. Mar. 10, 1967.

#### **125.1436 Trustee; additional powers.**

Sec. 36. The trustee, in addition to the powers granted in section 35, shall have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

**History:** 1966, Act 346, Eff. Mar. 10, 1967.

#### **125.1437 Venue.**

Sec. 37. The venue of any such action or proceeding shall be in the county of Ingham.

**History:** 1966, Act 346, Eff. Mar. 10, 1967.

#### **125.1438 Notes and bonds; notice; declaration, due and payable.**

Sec. 38. Before declaring the principal of notes or bonds due and payable, the trustee shall first give 30 days' notice in writing to the governor, to the authority, and to the attorney general of the state.

**History:** 1966, Act 346, Eff. Mar. 10, 1967.

#### **125.1439 Money of authority; deposit; security for deposits; contracts with holders of notes or bonds; security for money held in trust; system of accounts; spending for operating purposes; periodic audits; copies.**

Sec. 39. (1) Money of the authority shall be held by the authority and deposited in a bank, national banking association, or a savings and loan association approved by the state treasurer. All deposits of money which are not fully insured by an agency of the United States shall, if required by the state treasurer or the authority, be secured by obligations of the United States, agencies of the United States, or of the state or of municipalities within the state, of a market value equal at all times to the uninsured amount of the deposit. All banks, national banking associations, and savings and loan associations may give security for the deposits.

(2) The authority may, subject to the approval of the state treasurer, contract with the holders of any of its notes or bonds as to the custody, collection, securing, investment, and payment of moneys of the authority, of any moneys held in trust or otherwise for the payment of notes or bonds, and to carry out the contract. Money held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of money may be secured in the same manner as money of the authority, and all banks and trust companies may give security for the deposits.

(3) Subject to agreements with noteholders and bondholders and to the approval of the auditor general, the authority shall prescribe a system of accounts.

(4) The authority may spend for operating purposes the funds appropriated to it annually by the legislature for operating purposes or funds otherwise authorized. The auditor general shall make periodic audits of the books and records of the authority at least every 3 years and submit copies of those audits to the legislature.

**History:** 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1972, Act 310, Imd. Eff. Dec. 28, 1972;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1980, Act 472, Imd. Eff. Jan. 17, 1981;—Am. 1985, Act 183, Imd. Eff. Dec. 18, 1985.

#### **125.1440 Notes and bonds; legal investment.**

Sec. 40. The notes and bonds of the authority are securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on an insurance business, all banks, trust companies, savings banks and savings associations, savings and loan associations, investment companies, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in

bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

**History:** 1966, Act 346, Eff. Mar. 10, 1967.

#### **125.1441 Faith and credit bonds.**

Sec. 41. The authority from time to time at its discretion may recommend an issuance of faith and credit bonds to the legislature for a vote of the people.

**History:** 1966, Act 346, Eff. Mar. 10, 1967.

#### **125.1442 Property of authority; exempt from taxation.**

Sec. 42. The property of the authority and its income and operation shall be exempt from all taxation by the state or any of its political subdivisions and all bonds and notes of the authority shall be exempt from all taxation by the state or any of its political subdivisions.

**History:** 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. June 19, 1968.

#### **125.1443 Notes and bonds; exemption from taxation.**

Sec. 43. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the authority, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the authority, issued pursuant to this act and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received or to be received, pledged to pay or secure the payment of such notes or bonds shall at all times be free and exempt from all state, city, county or other taxation provided by the laws of the state, except for estate and gift taxes and taxes on transfers.

**History:** 1966, Act 346, Eff. Mar. 10, 1967.

#### **125.1443a Authorization of covenant and consent.**

Sec. 43a. The authority may covenant and consent in any resolution authorizing the issuance of notes or bonds that such notes or bonds shall be treated as an obligation not described in section 103(a) of the internal revenue code or any successor provision. This section shall not be construed to covenant or consent or to authorize any covenant or consent to the application of any other provision of any other laws, federal or state, to the authority or its obligations or to the elimination or modification in any way of any other exemption, privilege, or immunity of the authority or its obligations.

**History:** Add. 1984, Act 215, Imd. Eff. July 10, 1984.

#### **125.1444 Loans; purposes; conditions; amount; eligibility; sales and resales; long-term financing or refinancing; securing and repaying loans; interest rate; misrepresentation of income; loans for newly rehabilitated, newly constructed, or existing 1- to 4-unit housing units; definitions.**

Sec. 44. (1) The authority may make loans to a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, limited dividend housing association, mobile home park corporation, mobile home park association, or public body or agency for the construction or rehabilitation, and for the long-term financing, of any of the following:

(a) Housing for low income or moderate income persons.

(b) For the period beginning May 1, 1984, and ending November 1, 1987, housing projects in which not less than 20% of the dwelling units are allotted to individuals of low or moderate income within the meaning of former section 103(b)(4)(A) of the internal revenue code of 1954; not less than 60% of the dwelling units are available to persons and families whose gross household income does not exceed 125% of the higher of either the median income for a family in this state or the median income for a family within the nonmetropolitan county or metropolitan statistical area in which the housing project is located, as determined by the authority; and not more than 20% of the dwelling units are available for occupancy without regard to income. The enactment of this subdivision or the expiration of the authority granted by it does not affect rules in effect before July 10, 1984, or promulgated after July 9, 1984, to define low or moderate income persons.

(c) For the period of time beginning May 1, 1984, and ending November 1, 1987, housing projects in eligible distressed areas in which housing projects not less than 20% of the dwelling units are allotted to individuals of low or moderate income within the meaning of former section 103(b)(4)(A) of the internal revenue code of 1954, not less than 60% of the dwelling units are available to persons and families whose gross household income does not exceed 150% of the higher of either the median income for a family in this state or the median income for a family within the nonmetropolitan county or metropolitan statistical area in which the housing project is located, as determined by the authority, and not more than 20% of the dwelling

units are available for occupancy without regard to income.

(d) Beginning November 1, 1987, multifamily housing projects that meet the 20-50 or 40-60 test established in section 142 of the internal revenue code of 1986, 26 USC 142, and in which the remaining dwelling units are available for occupancy without regard to income.

(e) Social, recreational, commercial, or communal facilities necessary to serve and improve the residential area in which an authority-financed housing project is located or is planned to be located thereby enhancing the viability of the housing.

(2) Notwithstanding subsections (1), (3), (4), and (5), the authority may establish by resolution higher income limits that it considers necessary to achieve sustained occupancy of a housing project financed under subsection (1) if the authority determines both of the following:

(a) The owner of the housing project exercised reasonable efforts to rent the dwelling units to persons and families whose incomes did not exceed the income limitations originally applicable.

(b) For an annual period after the first tenant has occupied the housing project, the owner of the housing project has been unable to attain and sustain at least a 95% occupancy level at the housing project.

(3) A loan under this subsection and subsections (1), (2), (4), and (5) must not exceed 90% of the project cost as approved by the authority. For purposes of this section, the term "project cost" includes all items included in the definition of a project cost in section 11 and also includes a builder's fee equal to an amount up to 5% of the amount of the construction contract, a developer overhead allowance and fee of 5% of the amount of the project cost, the cost of furnishings, and a sponsor's risk allowance equal to 10% of the project cost. A loan must not be made under this section unless a market analysis has been conducted that demonstrates a sufficient market exists for the housing project.

(4) After November 1, 1987, the authority may continue to finance multifamily housing projects for families or persons whose incomes do not exceed the limits provided in subsection (1)(b) or (c) or subsection (2), until funds derived from the proceeds of bonds or notes issued before November 2, 1987, for that purpose, including the proceeds of prepayments or recovery payments with respect to these multifamily housing projects, have been expended. Multifamily housing projects or single family housing units in an eligible distressed area that are financed by proceeds of notes or bonds issued before June 30, 1984, and that the authority has designated for occupancy by persons and families without regard to income pursuant to this act must remain eligible for occupancy by families and persons without regard to income until the authority's mortgage loan issued with respect to these multifamily housing projects is fully repaid.

(5) Notwithstanding the expiration of lending authority under subsection (1)(b), (c), (d), or (e), multifamily housing projects financed under those subdivisions may continue to remain eligible for occupancy by persons and families whose incomes do not exceed the limits provided in those subdivisions or subsection (2).

(6) The authority may make loans to a nonprofit housing corporation, limited dividend housing corporation, mobile home park corporation, or mobile home park association for the construction or rehabilitation of housing units, including residential condominium units for sale to individual purchasers of low or moderate income or to individual purchasers without regard to income when the housing units are located in an eligible distressed area. A loan under this subsection and subsections (7) and (8) must not exceed 100% of the project cost as approved by the authority in the case of a nonprofit housing corporation or individual purchaser, and must not exceed 90% of the project cost as approved by the authority in the case of a limited dividend housing corporation, mobile home park corporation, or mobile home park association.

(7) While a loan under this subsection and subsections (6) and (8) is outstanding, a sale by a nonprofit housing corporation or limited dividend housing corporation or a subsequent resale is subject to approval by the authority. The authority may provide in its rules concerning these sales and resales that the price of the housing unit sold, the method of making payments after the sale, the security afforded, and the interest rate, fees, and charges to be paid must at all times be sufficient to permit the authority to make the payments on its bonds and notes and to meet administrative or other costs of the authority in connection with the transactions. Housing units must be sold under terms that provide for monthly payments including principal, interest, taxes, and insurance.

(8) While a loan under this subsection and subsections (6) and (7) is outstanding, the authority, before the approval of sale by a nonprofit housing corporation, limited dividend housing corporation, mobile home park corporation, or mobile home park association, shall determine that the sale is to persons of low or moderate income if the housing unit is not located in an eligible distressed area, or to persons without regard to income if the housing unit is located in an eligible distressed area.

(9) The authority may make, purchase, or participate in loans made to individual purchasers for acquisition and long-term financing or refinancing of newly rehabilitated, newly constructed, or existing 1- to 4-unit housing units, including a residential condominium unit. All of the following apply to making, purchasing, or participating in a loan under this subsection:

(a) The borrower's family income must not exceed the income requirements established in section 143 of the internal revenue code of 1986, 26 USC 143. If those income requirements are repealed, the borrower's family income must not exceed the income requirements that were in effect immediately before the repeal.

(b) The purchase price or, in the case of a refinancing, the appraised value must not exceed 90% of the average area purchase price applicable to the housing unit. For purposes of this subdivision, the average area purchase price must be determined in accordance with section 143(e) of the internal revenue code of 1986, 26 USC 143, or any regulations promulgated pursuant to section 143(e) of the internal revenue code of 1986, 26 USC 143.

(c) For unexpected cost increases during construction or improvements to adapt new or existing property for use by disabled individuals, the authority may increase the purchase price limit by an amount sufficient to cover these cost increases, but not to exceed \$10,000.00.

(d) If a purchase price limit prescribed by this subsection exceeds an applicable limit prescribed by the internal revenue code of 1986, the internal revenue code of 1986 limit applies if the loan will be financed with the proceeds of a tax-exempt bond.

(e) Except with respect to newly constructed housing units, the authority may by resolution establish, for a length of time the authority considers appropriate, maximum borrower income or purchase price limits more restrictive than those maximum limitations set forth in this subsection. The authority shall advise the appropriate house and senate standing committees 5 days prior to adopting a resolution establishing more restrictive maximum borrower income or purchase price limits.

(f) Before the authority makes a loan under this section, authority staff shall determine that the borrower has the ability to repay the loan.

(g) A loan made or purchased to finance the acquisition of an existing housing unit may include funds for rehabilitation.

(h) If the loan is for refinancing a 1- to 4-unit housing unit, including a residential condominium unit, the authority shall determine that 1 of the units is occupied by the borrower.

(10) A loan under this section must be secured in a manner and be repaid in a period, not exceeding 50 years, as may be determined by the authority. A loan must bear interest at a rate determined by the authority.

(11) An individual who, for purposes of securing a loan under this act, misrepresents his or her income, including taking a leave of absence from his or her employment for purposes of diminishing his or her income, is not eligible for a loan under this act.

(12) The authority may make, purchase, or participate in a loan for acquisition and long-term financing or refinancing of newly rehabilitated, newly constructed, or existing 1- to 4-unit housing units, including a residential condominium unit if all of the following requirements are met:

(a) The loan is made to an individual purchaser or purchasers, whose income does not exceed the income requirements established in section 143 of the internal revenue code of 1986, 26 USC 143. If those income requirements are repealed, the borrower's family income must not exceed the income requirements that were in effect immediately before the repeal.

(b) The purchase price of the housing unit does not exceed the greatest of purchase price limits established for similar housing units by Fannie Mae, Freddie Mac, and Ginnie Mae.

(c) At least 1 of the dwelling units is owned and occupied by the individual purchaser or purchasers to whom the loan is made.

(d) Authority staff determine that the individual purchaser or purchasers receiving the loan have the ability to repay the loan.

(13) If the authority makes, purchases, or participates in a loan under this subsection or subsection (12), the loan may be securitized by the authority and may either be sold to investors or held by the authority.

(14) As used in this section:

(a) "Condominium unit" means that term as defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104.

(b) "Fannie Mae" means the Federal National Mortgage Association established under authority of the federal national mortgage association charter act, 12 USC 1716 to 1749aaa-5.

(c) "Freddie Mac" means the Federal Home Loan Mortgage Corporation established under authority of the federal home loan mortgage corporation act, title III of Public Law 91-351.

(d) "Ginnie Mae" means the Government National Mortgage Association established under authority of the federal national mortgage association charter act, 12 USC 1716 to 1749aaa-5.

(e) "Gross household income" means gross income of a household as that term is defined in rules of the authority.

(f) "Median income for a family in this state" and "median income for a family within the nonmetropolitan county or metropolitan statistical area" mean those income levels as determined by the authority.



**History:** 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1970, Act 129, Imd. Eff. July 29, 1970;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1979, Act 49, Imd. Eff. July 7, 1979;—Am. 1982, Act 506, Imd. Eff. Dec. 31, 1982;—Am. 1982, Act 534, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983;—Am. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1985, Act 183, Imd. Eff. Dec. 18, 1985;—Am. 1987, Act 86, Imd. Eff. June 30, 1987;—Am. 1987, Act 179, Imd. Eff. Nov. 25, 1987;—Am. 1989, Act 220, Imd. Eff. Dec. 11, 1989;—Am. 1989, Act 281, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 330, Imd. Eff. Dec. 21, 1990;—Am. 1991, Act 137, Imd. Eff. Nov. 22, 1991;—Am. 1991, Act 138, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993;—Am. 1995, Act 186, Imd. Eff. Oct. 23, 1995;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 1998, Act 33, Imd. Eff. Mar. 18, 1998;—Am. 2000, Act 257, Imd. Eff. June 29, 2000;—Am. 2004, Act 549, Imd. Eff. Jan. 3, 2005;—Am. 2008, Act 57, Imd. Eff. Apr. 3, 2008;—Am. 2008, Act 58, Imd. Eff. Apr. 3, 2008;—Am. 2012, Act 326, Imd. Eff. Oct. 9, 2012;—Am. 2017, Act 127, Eff. Jan. 15, 2018;—Am. 2024, Act 193, Eff. Apr. 2, 2025.

**125.1444a Rehabilitation loans, grants, or deferred payment loans; eligibility; secured or unsecured loans or grants; insurance; reserve; interest; terms and conditions; rules; persons and families of low and moderate income; maximum principal loan amounts; minimum age of structure.**

Sec. 44a. (1) The authority may make, purchase, or participate in loans, grants, or deferred payment loans to persons and families of low and moderate income to finance the rehabilitation of residential real property designed for occupancy by not more than 24 families that is owned or is being purchased by 1 or more persons or families of low and moderate income and that is for occupancy by persons or families of low and moderate income.

(2) The authority, without regard to the income of the owners or occupants of residential rental property, may make, purchase, or participate in loans, grants, or deferred payment loans for the rehabilitation of residential rental property to persons or entities owning residential rental property located in areas of chronic economic distress or moderate cost residential rental property located elsewhere in this state.

(3) A loan under this section may be secured or unsecured as determined by the authority. If the loan is unsecured, it shall be accepted for insurance under title 1 of the national housing act, 12 USC 1702 to 1706f, or another federal or private insurance program providing coverage at least equal to that provided by that title, or the authority shall establish a reserve for losses on uninsured loans made under this section and shall deposit into that reserve an amount equal to 5% of the principal amount of each such uninsured loan on or before the making of the loan. Money may be withdrawn by the authority from this reserve for application as loan repayments in connection with loans that are delinquent. In addition, upon repayment of a loan made, purchased, or participated in under this section, the authority may withdraw the amount deposited in the reserve in connection with that loan, reduced by amounts withdrawn as loan repayments in connection with the loan, and may apply the amounts to any of the authority's corporate purposes. Income or interest earned by or increment to the reserve due to the investment of the money in the reserve may, at the times determined by the authority, be transferred by the authority to other funds or accounts of the authority and applied to any of the authority's corporate purposes. A loan under this section shall bear interest at a rate and be repaid in the period, not exceeding 30 years, as determined by the authority and under additional terms and conditions as determined by the authority.

(4) A deferred payment loan or grant may be secured or unsecured as determined by the authority, and shall be made under additional terms and conditions determined by the authority.

(5) The authority shall promulgate rules that provide for the availability of loans, grants, and deferred payment loans on an equitable basis to qualified applicants in all geographic areas of this state. With respect to loans, grants, and deferred payment loans made pursuant to this section that are not based on residency in a neighborhood selected pursuant to section 22a(5), eligibility for loans, grants, or deferred payment loans shall not be based upon the number of qualified applicants in the geographic area in which the individual resides.

(6) For purposes of this section, persons and families of low and moderate income means persons and families whose family income does not exceed 175% of the statewide median gross income as determined under section 143 of the internal revenue code, 26 USC 143.

(7) The maximum principal loan amounts for residential property rehabilitation loans, exclusive of finance charges, are as follows:

(a) \$50,000.00 for a residential structure containing 1 dwelling unit.

(b) \$25,000.00 per dwelling unit for a residential structure containing 2 to 24 dwelling units.

(8) A structure is not required to be of a minimum age to be eligible for rehabilitation under this section.

**History:** Add. 1977, Act 130, Imd. Eff. Oct. 25, 1977;—Am. 1978, Act 192, Imd. Eff. June 4, 1978;—Am. 1982, Act 506, Imd. Eff. Dec. 31, 1982;—Am. 1989, Act 220, Imd. Eff. Dec. 11, 1989;—Am. 1991, Act 138, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 2000, Act 257, Imd. Eff. June 29, 2000;—Am. 2004, Act 549, Imd. Eff. Jan. 3, 2005;—Am. 2012, Act 344, Imd. Eff. Nov. 7, 2012.

**125.1444b Loans to mortgage lenders; authorized purchases and commitments; requirements and conditions; report.**

Sec. 44b. (1) The authority may make and contract to make loans to mortgage lenders, and may purchase and enter into commitments for the purchase of securities, certificates of deposit, time deposits, or mortgage loans from mortgage lenders, on terms and conditions it determines are reasonably related to protecting the security of the authority's investment and to implementing the purposes of financing housing projects. Mortgage lenders are authorized to borrow from the authority pursuant to this section.

(2) The authority shall require as a condition of a loan to a mortgage lender that, within a reasonable period after receipt of the loan proceeds as the authority determines, the mortgage lender enter into written commitments to make new mortgage or secured loans and, within a reasonable period after entering into those commitments as the authority determines, disburse the loan proceeds in new mortgage or secured loans to borrowers eligible under this act in an aggregate principal amount of not less than the amount of the loan to the mortgage lender.

(3) To assure compliance with this section, the authority, through its members, employees, or agents, may inspect the books and records of a mortgage lender. As a condition of a loan to a mortgage lender, the authority may require agreement by the mortgage lender to the payment of penalties to the authority for violation by the mortgage lender of its agreement with the authority.

(4) The authority shall require that a mortgage lender receiving a loan pursuant to this section shall issue and deliver to the authority evidence of its indebtedness to the authority which evidence shall constitute a general obligation of the mortgage lender and shall bear a date, mature at a time, be subject to prepayment, and contain other provisions consistent with this section and related to protecting the security of the authority's investment, as the authority determines.

(5) The authority may require that the interest rate and other terms of loans to mortgage lenders made from the proceeds of an issue of bonds or notes of the authority shall be at least sufficient to assure the payment of the bonds or notes and the interest on them as they become due. In addition, the authority may require that loans to mortgage lenders are additionally secured as to payment of both principal and interest by a pledge of and lien upon collateral security by special escrow funds or other forms of guarantees and in amounts and forms as the authority determines by resolution to be necessary to assure the payment of the loans and the interest as they become due.

(6) The authority may establish additional requirements it considers necessary with respect to the pledging, assigning, setting aside, or holding of collateral; the making of substitutions for or additions to the collateral; and the disposition of income and receipts from the collateral.

(7) The authority may require as a condition of a loan to a mortgage lender any representations and warranties it determines are necessary to secure the loans and carry out the purposes of this section.

(8) The authority may make loans to mortgage lenders under this section to finance loans for the construction of housing projects or rehabilitation of existing structures for housing projects and for social, recreational, commercial, or communal facilities necessary to serve and improve the residential area in which a housing project is located or is planned to be located thereby enhancing the viability of such housing project.

(9) The authority shall require that any housing project assisted under this section comply with the income limitations established under section 44, 44a, or 44c together with any additional income limitations required to maintain the tax exemption of notes or bonds issued to provide the financing.

(10) The authority may require additional conditions regarding the planning, development, and management of projects to be financed by the mortgage lender from the proceeds of the authority notes or bonds and may provide for the disposition of the property and franchises of the borrower.

(11) The authority shall submit a report to the governor and the legislature on its progress in implementing loans to mortgage lenders pursuant to section 44b at 6-month intervals from the effective date of this subsection.

**History:** Add. 1984, Act 215, Imd. Eff. July 10, 1984.

**125.1444c Use of proceeds of notes or bonds; qualification as rehabilitation; establishment of higher income limits; eligibility for occupancy; application; issuance of 6-month commitment to loan funds; limitation on outstanding loan commitments; fees; direct or indirect loan; sale, refinancing, or resyndication; allowable distributions; report to authority; authority-aided mortgage; monitoring compliance; remedies; regulation; liability; priority consideration; unified volume cap not as impairment; student housing**

**project.**

Sec. 44c. (1) If the resolution authorizing the issuance of notes or bonds provides that the notes or bonds are limited and not general obligations of the authority, are not secured by the capital reserve capital account, and are secured solely by revenues and property derived from or obtained in connection with the housing project, the authority shall use the proceeds of those notes or bonds to make loans directly, or indirectly by a loan through a mortgage lender, to a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, limited dividend housing association, mobile home park corporation, mobile home park association, or public body or agency for the construction, rehabilitation, long-term financing or any combination of construction, rehabilitation, or long-term financing or financing of any of the following:

(a) Multifamily housing projects for students, low income or moderate income persons, or projects with independent living, congregate care, or assisted living units for individuals 55 years of age or older.

(b) Multifamily housing projects in which not less than 20% of the dwelling units are allotted to individuals of low or moderate income within the meaning of former section 103(b)(4)(A) of the internal revenue code of 1954 and in which not more than 80% of the dwelling units are available for occupancy without regard to income.

(c) Social, recreational, commercial, supporting, or communal facilities to serve and improve the residential area in which an authority-financed multifamily housing project is located or is planned to be located, thereby enhancing the viability of such housing.

(2) To qualify as rehabilitation under this section, the rehabilitation expenditures with respect to the project must equal or exceed 15% of the proceeds of the related notes or bonds.

(3) Notwithstanding the provisions of this section, the authority may establish by resolution higher income limits for a housing project financed under either subsection (1)(a) or (b) if the authority determines all of the following:

(a) The owner of the housing project exercised reasonable efforts to rent the dwelling units to persons and families whose incomes did not exceed the originally applicable income limitations.

(b) For any annual period after the first tenant has occupied the housing project, the owner of the housing project has been unable to attain and sustain at least a 95% occupancy level at the housing project.

(4) Notwithstanding the expiration of lending authority under this section, multifamily housing projects financed under this section may continue to remain eligible for occupancy by persons and families whose incomes do not exceed the limits provided in subsection (1) or (3).

(5) A borrower seeking to qualify for a loan under this section shall file an application with the authority that includes the following:

(a) A description of the proposed credit enhancement or private placement structure. The proposed credit enhancement may be in the form of a letter of credit, bonding, guarantee, mortgage insurance, standby purchase agreement, or other appropriate security in an amount sufficient to assure the authority that repayment of notes or bonds issued by the authority is reasonably secure. The proposed private placement structure must provide for the sale and resale of the notes or bonds consistent with the restrictions and limitations established by resolution of the authority. If the authority determines that repayment of the notes or bonds will be reasonably secure because of the proposed credit enhancement or private placement structure, that determination is conclusive and must take the place of the authority's normal underwriting and feasibility review.

(b) An undertaking to pay all costs of issuing the notes or bonds and to provide compensation for, as considered appropriate by the borrower and at no cost to the authority, any underwriters, trustees, counsel, and other professionals as are necessary to complete the financing.

(c) An application fee equal to 0.0001 multiplied by the principal amount of notes or bonds for which issuance is requested. For a project located in an eligible distressed area, the fee required by this subdivision is refundable if the notes or bonds are not delivered or may be waived by the authority if the owner of the housing project is or will be a nonprofit housing corporation qualified under section 501(c)(3) of the internal revenue code, 26 USC 501(c)(3), or a limited dividend housing association wholly owned and controlled by 1 or more nonprofit corporations qualified under section 501(c)(3) of the internal revenue code, 26 USC 501(c)(3). In all other cases, the fee is nonrefundable.

(6) So long as there is uncommitted bonding capability under the limitations of section 32, the authority may issue a 6-month commitment to loan funds, subject to sale by the authority of its notes and bonds in compliance with applicable law and pursuant to terms and conditions that permit the funding of such loan, either directly or indirectly by a loan through a mortgage lender, to the borrower, upon the determination by the authority of all of the following:

(a) The housing project is eligible for financing under this section.

(b) The borrower is an eligible borrower under this act.

(c) The requirements of subsection (5) have been met.

(d) The borrower has provided acceptable evidence of a commitment to issue the proposed credit enhancement or privately purchase the notes or bonds, as referenced in the borrower's application and approved by the authority.

(e) If the loan is made indirectly by a loan through a mortgage lender, the requirements of section 44b have been met.

(7) Unless a borrower is either a nonprofit housing corporation qualified under section 501(c)(3) of the internal revenue code, 26 USC 501(c)(3), or a limited dividend housing association that is wholly owned and controlled by 1 or more nonprofit corporations qualified under section 501(c)(3) of the internal revenue code, 26 USC 501(c)(3), and may borrow money from the authority without an allocation of the state volume limitation, a borrower and any individual who is a related person to the borrower as defined in section 144(a)(3) of the internal revenue code, 26 USC 144(a)(3), shall not have outstanding loan commitments under this section that total more than the greater of \$100,000,000.00 or the amount of financing approved for a single project under subsection (6). Once a loan has been made under this section, the commitment made with respect to the loan must no longer be considered to be outstanding.

(8) Simultaneously with the issuance of the loan commitment by the authority, the borrower shall pay a commitment fee established by the authority in the amount of not more than 0.1% of the principal amount of notes or bonds to be issued. The authority shall credit the amount paid by the borrower as an application fee under subsection (5) against this commitment fee. The authority may extend a 6-month loan commitment issued under subsection (6) for an additional 6 months upon payment by the borrower of a nonrefundable extension fee of \$5,000.00. The nonrefundable extension fee under this subsection must not be credited against any other fee or payment to the authority.

(9) Within the period during which the commitment is effective, the authority, upon a determination that the terms and conditions of the commitment have been satisfied, shall make its loan directly, or indirectly through a loan to a mortgage lender, to the borrower.

(10) Except as otherwise provided in this subsection, upon issuance of any notes or bonds to finance a housing project under this section, the borrower shall pay when the notes or bonds are issued, in addition to any commitment or extension fee paid under subsection (8), a fee established by the authority of not more than 1.9% of the principal amount of the notes or bonds for a loan made for a project. In addition to the fee to be paid to the authority when notes or bonds are issued under this section, the authority may, at its sole discretion, establish an annual fee, or other administrative fees, to be paid by the borrower during the term of the loan or the applicable compliance monitoring period. All or any portion of the fees due to the authority under this subsection must be paid by the borrower to the authority in annual or semiannual installments, as the authority shall determine, after the date on which notes or bonds are issued to finance the related housing project.

(11) Subject to any rights of the holders of any notes or bonds issued to finance a multifamily housing project under this section, if the owner of a multifamily housing project financed under this section provides evidence satisfactory to the authority that a prospective new owner of the multifamily housing project is an eligible borrower under this act and the exemption from federal income taxation of interest on the notes or bonds issued to finance the multifamily housing project will not be impaired as a result of a sale, refinancing, or resyndication, the borrower may sell, refinance from a source other than the authority, or resyndicate that housing project at any time. A prepayment penalty or fee is not required for the sale, refinancing, or resyndication other than any prepayment penalty or fee owing to a mortgage lender, a credit enhancer, or the holders of notes or bonds issued to finance a housing project under this section, except that the owner shall pay all fees of the authority described in subsection (10) before or concurrent with the sale, refinancing, or resyndication. For student housing, a transfer of ownership must be approved by a resolution of the college or university board of trustees for the college or university that approved the initial financing under this section.

(12) A borrower is allowed distributions equal to a 12% return on the borrower's investment in a multifamily housing project financed under this section for the first 12 months of operation of the housing project following substantial completion. The allowable return must be increased by 1% for each 12-month period after the first 12 months. The maximum allowable return for a housing project located in other than an eligible distressed area is 25%. Any return less than the allowable rate in any preceding period may be received in any subsequent period on a cumulative basis.

(13) Before September 1 of each year, the owner of a housing project financed under this section shall report to the authority all of the following, which the authority shall include in the report required by section 32(14):

(a) The incomes of the tenants residing in that housing project in a manner that preserves the anonymity of

those tenants.

(b) The estimated economic and social benefits of that housing project to the immediate neighborhoods in which it has been constructed.

(c) The estimated economic and social benefits of that housing project to the city in which it has been constructed.

(d) Information requested by the authority about that housing project that is needed so that the authority can report the extent of displacement, direct and indirect, of lower income persons caused by housing projects financed under this section, the steps taken by governmental and private parties to ameliorate the displacement, and the results of those efforts.

(e) Information requested by the authority about that housing project that is needed so that the authority can report the estimated extent of additional reinvestment activities by private lenders attributable to the authority's financing of housing projects financed under this section.

(f) Except for housing for students, the age, race, family size, and average income of the tenants of these housing projects.

(g) The estimated economic impact of these housing projects, including the number of construction jobs created, wages paid, and taxes and payments in lieu of taxes paid.

(14) Mortgages securing loans made under this section are authority-aided mortgages.

(15) The authority may inspect and audit projects and records of projects financed under this section in order to monitor compliance with the requirements of this section. If there is noncompliance, the authority, pursuant to the provisions of the financing and organizational documents applicable to the transaction, may pursue the remedies that the authority considers appropriate. Except as is required to ensure compliance with this section or section 46 or otherwise required by purchasers of, or a third party credit enhancement provider with respect to, notes or bonds issued to finance a multifamily housing project under this section, the authority shall not regulate, in any manner, a multifamily housing project financed under this section. This section does not preclude the authority from regulating a multifamily housing project in consideration for other types of program benefits, incentives, or concessions provided by the authority in addition to the financing made available under this section.

(16) Notwithstanding any other provision of this section, there is no liability on the part of the authority or its members, officers, employees, or agents, and the assets of the authority must not be subject to any liability, as a result of any act or failure to act under this section on the part of the authority or its members, officers, employees, or agents.

(17) If notes or bonds have been issued under this section for a project located in an eligible distressed area within 180 days before the submission, by the same borrower or a borrower having the same general partners, of a commitment for credit enhancement, that borrower's application must be given priority over the other applications submitted under this section to finance projects located in other than eligible distressed areas, except for projects for which the authority has authorized loan commitments. The principal amount of notes or bonds issued to finance a project given priority under this subsection must not exceed 10 times the principal amount of the notes or bonds issued to finance the distressed area project that qualifies the borrower for priority consideration.

(18) Loans must not be made under this section unless the authority determines that use of this state's unified volume cap for a project will not impair the ability of the authority to carry out programs or finance housing developments or housing units that are targeted to lower income persons.

(19) A person or entity that proposes a student housing project shall cooperate with the college or university from which the majority of tenants are proposed to be drawn by using its best efforts to communicate with the college or university regarding the location of and the need for the project. If, in the judgment of the authority, the person or entity proposing the project does not communicate with the college or university and the unit of local government where the project is located regarding the location of and need for the project, the authority may deny financing for the project. The authority shall not make a financing commitment for a housing project unless the board of trustees of the college or university from which a majority of students are anticipated to be residents of the housing project adopts a resolution in support of the proposed development.

**History:** Add. 1984, Act 215, Imd. Eff. July 10, 1984;—Am. 1985, Act 183, Imd. Eff. Dec. 18, 1985;—Am. 1987, Act 86, Imd. Eff. June 30, 1987;—Am. 1987, Act 179, Imd. Eff. Nov. 25, 1987;—Am. 1989, Act 281, Imd. Eff. Dec. 26, 1989;—Am. 1991, Act 138, Imd. Eff. Nov. 22, 1991;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993;—Am. 1996, Act 475, Imd. Eff. Dec. 26, 1996;—Am. 2004, Act 535, Imd. Eff. Jan. 3, 2005;—Am. 2012, Act 345, Imd. Eff. Nov. 7, 2012;—Am. 2024, Act 71, Imd. Eff. July 8, 2024.

## **125.1444d Authorized loans; purpose; criteria.**

Sec. 44d. (1) The authority may make loans to any nonprofit housing corporation, consumer housing



cooperative, limited dividend housing corporation, limited dividend housing association, mobile home park association, or mobile home park corporation, or to any public body or agency for the construction or rehabilitation, and for the long-term financing, of housing projects that meet the following criteria:

(a) The housing project provides a system of support services that promote and preserve the independent living of persons with disabilities, the elderly, or other persons at risk of institutionalization.

(b) Social, recreational, medical, and shopping facilities are readily accessible to the residents who cannot provide their own transportation.

(c) An affordable, daily demand actuated transportation system is integrated into the project for elderly and residents with disabilities who are unable to transport themselves.

**History:** Add. 1987, Act 86, Imd. Eff. June 30, 1987;—Am. 1998, Act 33, Imd. Eff. Mar. 18, 1998.

#### **125.1444e Income eligibility standards applicable to tenant of housing project.**

Sec. 44e. Income eligibility standards applicable to a tenant of a housing project financed under this act shall be complied with at the time of the initial occupancy of the tenant. The authority shall require subsequent compliance with income eligibility standards by an initially eligible tenant only to the extent that the authority determines that compliance is necessary or desirable to effectuate the purposes of this act or applicable federal law.

**History:** Add. 1987, Act 179, Imd. Eff. Nov. 25, 1987.

#### **125.1444f Loan for housing project in effectively treatable area; demonstration of community support; return on investment.**

Sec. 44f. (1) The authority may make a loan to any person or entity, whether for profit or not for profit, for predevelopment costs, or for the construction or rehabilitation, and for the long-term financing, of a 2 to 49 unit housing project located in an effectively treatable area, which project meets the 20-50 or 40-60 test established in section 142 of the internal revenue code, 26 USC 142. For rehabilitation of a housing project in an effectively treatable area by more than 1 owner, the 20-50 or 40-60 test may be met on an aggregate basis.

(2) For purposes of this section, an effectively treatable area is an area that includes or is in close proximity to a downtown or traditional commercial center and for which the authority has received a plan, to be known as a neighborhood partnership plan, from a municipality or neighborhood organization, or both. The plan shall establish as a goal that at least 75% of the property in the area will be brought to a safe and sanitary condition and shall enable the authority to determine that available private, public, and authority resources will be combined in such a manner as to assure that a majority of the housing in the area will be brought to a safe and sanitary condition. To qualify as an effectively treatable area, the area shall be in a qualified local governmental unit as defined in section 2 of the obsolete properties rehabilitation act, 2000 PA 146, MCL 125.2782, or a county seat and either be within a census tract having a serious housing need or in an area that meets all of the following criteria:

(a) The increase in the state equalized value of real and personal property in the area is less than the increase in the municipality-wide or statewide average, whichever is the lesser increase.

(b) The poverty rate in the area is greater than the statewide average as determined by the most recent federal decennial census.

(c) The average income of the area is less than 80% of the statewide or area median, whichever is greater, as determined using the most recent federal decennial census.

(d) The percentage of overcrowded or underutilized housing units in the area is greater than the municipality-wide average.

(3) The authority shall provide technical assistance to help develop neighborhood partnership plans. The municipality or neighborhood organization that submits the plan shall demonstrate that community support exists and that the provision of a loan under this section will contribute to the larger effort to revitalize the area.

(4) The return on investment to the owner of a project financed under this section is not restricted as long as the housing remains in compliance with all applicable state and local codes and ordinances.

**History:** Add. 1987, Act 180, Imd. Eff. Nov. 25, 1987;—Am. 2004, Act 535, Imd. Eff. Jan. 3, 2005.

#### **125.1444g Enforcement of promises or commitments; action to be brought against authority.**

Sec. 44g. An action shall not be brought against the authority to enforce any of the following promises or commitments of the authority unless the promise or commitment is in writing and signed with an authorized signature by the authority:

(a) A promise or commitment to lend money, grant or extend credit, or make any other financial accommodation.

(b) A promise or commitment to renew, extend, modify, or permit a delay in repayment or performance of a loan, extension of credit, or other financial accommodation.

(c) A promise or commitment to waive a provision of a loan, extension of credit, or other financial accommodation.

**History:** Add. 1996, Act 475, Imd. Eff. Dec. 26, 1996.

#### **125.1445 Preference to displaced persons.**

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

**History:** 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1968, Act 343, Imd. Eff. July 19, 1968;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993.

#### **125.1446 Discrimination.**

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

**History:** 1966, Act 346, Eff. Mar. 10, 1967;—Am. 1976, Act 410, Imd. Eff. Jan. 9, 1977;—Am. 1985, Act 183, Imd. Eff. Dec. 18, 1985;—Am. 1993, Act 220, Imd. Eff. Oct. 29, 1993;—Am. 2000, Act 257, Imd. Eff. June 29, 2000.

#### **125.1447 Obtaining money, property, or service with intent to defraud or cheat; penalty; determination of total value; prior convictions; prohibited use.**

Sec. 47. (1) A person who, with intent to defraud or cheat, designedly by false pretense, including any false statement or representation, obtains money, real or personal property, or the use of an instrument, facility, article, or other valuable thing or service, including without limitation participation in programs initiated pursuant to this act is guilty of a crime as follows:

(a) If the value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service is less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the land, money, or personal property, or use of an instrument, facility, article, or other valuable thing or service, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service, whichever is greater, or both imprisonment and a fine:

(i) The value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service is \$200.00 or more but less than \$1,000.00.

(ii) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service, whichever is greater, or both imprisonment and a fine:

(i) The value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service is \$1,000.00 or more but less than \$20,000.00.

(ii) The person violates subdivision (b)(i) and has 1 or more prior convictions for violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service, whichever is greater, or both imprisonment and a fine:

(i) The land, money, personal property, or use of an instrument, facility, article, or other valuable thing or

service has a value of \$20,000.00 or more.

(ii) The person violates subdivision (c)(i) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(2) The values of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service obtained in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

**History:** Add. 1979, Act 49, Eff. Jan. 1, 1980;—Am. 2001, Act 153, Eff. Jan. 1, 2002.

#### **125.1448 Foreclosure procedures applicable to authority.**

Sec. 48. In addition to other procedures and remedies which may otherwise be available to the authority, the foreclosure procedures set forth in sections 48a to 49u shall be applicable to the authority for the foreclosure of a mortgage or land contract held by the authority and commenced after the effective date of this section.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

#### **125.1448a Jurisdiction to foreclose mortgages and land contracts held by authority.**

Sec. 48a. The circuit court has jurisdiction to foreclose mortgages of real estate and land contracts held by the authority.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

#### **125.1448b Other civil actions.**

Sec. 48b. (1) If a judgment has been obtained in any other civil action for the money, or part thereof, demanded in the complaint in an action to foreclose a mortgage on real estate or a land contract held by the authority, no proceeding shall be had in the action to foreclose unless the sheriff or other proper officer has returned an execution as unsatisfied, in whole or in part, and certified that he or she can find no property of the defendant out of which to satisfy the execution except the mortgaged premises.

(2) After a complaint has been filed to foreclose a mortgage on real estate or land contract held by the authority, while it is pending, and after a judgment has been rendered upon it, no separate proceeding shall be had for the recovery of the debt secured by the mortgage, or any part of it, unless authorized by the court.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

#### **125.1448c Bringing amount due into court before judgment of sale; dismissal of complaint.**

Sec. 48c. Whenever a complaint is filed for the satisfaction or foreclosure of any mortgage on real estate or land contract held by the authority, upon which there is due any interest or any portion or installment of the principal and there are other portions or installments to become due subsequently, the complaint shall be dismissed upon the defendant's bringing into court, at any time before the judgment of sale, the principal and interest due, with costs.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

#### **125.1448d Sale of premises pursuant to circuit court order.**

Sec. 48d. Whenever a complaint is filed for the foreclosure or satisfaction of any mortgage on real estate or land contract held by the authority, the court has power to order a sale of the premises which are the subject of the mortgage on real estate or land contract held by the authority, or of that part of the premises which is sufficient to discharge the amount due on the mortgage on real estate or land contract held by the authority,

plus costs. But the circuit judge shall not order that the lands subject to the mortgage be sold within 6 months after the filing of the complaint for foreclosure of the mortgage or that the lands which are the subject of the land contract be sold within 3 months after the filing of the complaint for foreclosure of the land contract.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

**125.1448e Bringing amount due into court after judgment of sale; stay of proceedings; subsequent default.**

Sec. 48e. If, after a judgment of sale is entered against him or her, the defendant brings into court the principal and interest due with costs, the proceedings in the action shall be stayed; but the court shall enter a judgment of foreclosure and sale to be enforced by a further order of the court upon a subsequent default in the payment of any portion or installment of the principal, or of any interest thereafter to become due.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

**125.1448f Public sale of land by county clerk, deputy county clerk, or other authorized person; hours; location; sale subject to MCL 600.6091.**

Sec. 48f. All sales of land on foreclosure of a land contract or mortgage on real estate held by the authority shall be made by the county clerk of the county in which the judgment was rendered or of the county where the land or some part of the land is situated, by a deputy county clerk, or by some other person duly authorized by the order of the court. These sales shall be at public sale between the hours of 9 a.m. and 4 p.m. and shall take place at the courthouse or place of holding of the circuit court for the county in which the land or some part of it is situated or at any other place the court directs. The sale is subject to section 6091 of Act No. 236 of the Public Acts of 1961, as amended, being section 600.6091 of the Michigan Compiled Laws.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

**125.1448g Deed of sale; execution; operation; right, title, and interest vested in grantee; recordation; redemption of premises.**

Sec. 48g. (1) The person making the sale shall execute deeds specifying the names of the parties in the action, the date of the land contract or mortgage held by the authority, when and where it was recorded, a description of the premises sold, and the amount for which each parcel of land described in the deed was sold; and shall indorse upon each deed the time it becomes operative if the premises are not redeemed according to law. Unless the premises or any parcel of them are redeemed within the time limited for redemption the deed shall become operative as to all parcels not redeemed, and shall vest in the grantee named in the deed or his or her heirs or assigns all the right, title, and interest which the mortgagor had at the time of the execution of the mortgage or at any time thereafter.

(2) The deed of sale as soon as practicable, and within 20 days after the sale, shall be deposited with the register of deeds of the county in which the land described in the deed of sale is situated, and the register shall indorse upon the deed the time it was received and shall record the deed at length in a book to be provided in his or her office for that purpose and shall index the deed in the regular index of deeds, and the fee for recording the deed shall be included among the other costs and expenses allowed by law. If the premises or any parcel of them are redeemed the register of deeds shall write on the face of the record the word "redeemed" and shall write at what date the entry is made and sign the entry with his or her official signature.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

**125.1448h Sale proceeds; application to discharge of debt; surplus; interest.**

Sec. 48h. (1) The proceeds of every sale under a judgment shall be applied to the discharge of the debt adjudged by the court to be due and of the costs awarded. If there is any surplus, it shall be brought into court for the use of the defendant, or of the person entitled to it, subject to the order of the court.

(2) If the surplus or any part of it remains in the court for the term of 3 months without being applied for, the circuit court may direct that it be put out at interest under the direction of the court for the benefit of the defendant or his or her representatives, or assigns to be paid to them by the order of the court.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

**125.1448i Redemption of premises; effect on deed of sale; affidavit.**

Sec. 48i. (1) The mortgagor, the mortgagor's heirs, executors, administrators, or any person lawfully claiming under the mortgagor or the mortgagor's heirs, executors, or administrators may redeem the entire premises sold by paying, within 6 months from the date of the sale, to the purchaser or the purchaser's executors, administrators, or assigns, or to the register of deeds in whose office the deed of sale is deposited as provided in the court rules, for the benefit of the purchaser, the sum which was bid with interest from the

date of the sale at the interest rate provided for by the mortgage.

(2) The vendee of a land contract, the vendee's heirs, executors, administrators, or any person lawfully claiming under the vendee of a land contract or the vendee's heirs, executors, or administrators of a land contract may redeem the entire premises sold within 6 months from the date of the sale by paying to the purchaser or the purchaser's executors, administrators, or assigns, or to the register of deeds in whose office the deed of sale is deposited as provided in the court rules, for the benefit of the purchaser, the sum which was bid with interest from the date of the sale at the interest rate provided for by the land contract. In case the sum is paid to the register of deeds, the sum of \$5.00 shall be paid to the register of deeds as a fee for the care and custody of the redemption money.

(3) Upon the payment of sums required under this section, the deed of sale is void. If a distinct lot or parcel separately sold is redeemed, leaving a portion of the premises unredeemed, then the deed of sale is void only as to the portion or portions of the premises which are redeemed. The register of deeds shall not determine the amount necessary for redemption. The purchaser shall attach an affidavit with the deed to be recorded that states the exact amount required to redeem the property, including any daily per diem amounts, and the date by which the property must be redeemed shall be stated in the certificate of sale. The purchaser may include in the affidavit the name of a designee responsible on behalf of the purchaser to assist the person redeeming the property in computing the exact amount required to redeem the property. The designee may charge a fee as stated in the affidavit and may be authorized by the purchaser to receive redemption funds. The purchaser shall accept the amount computed by the designee.

(4) The amount stated in any affidavits recorded under this section shall be the amount necessary to satisfy the requirements for redemption under this section.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 2004, Act 540, Eff. Mar. 30, 2005.

#### **125.1448j Adding property tax and insurance premium payments made after foreclosure to amount due in judgment; determination of additional liability; affidavits; receipt; redemption.**

Sec. 48j. The court may make provision in any judgment of foreclosure for the adding to the amount determined in the judgment to be due, any sum or sums paid at any time after the foreclosure and prior to the expiration of the period of redemption, as taxes assessed against the property or the portion of the premium of any insurance policy covering any buildings located on the premises as is required to keep the policy in force until the expiration of the period of redemption or both the taxes assessed the property and the portion of the premium of any insurance policy covering any buildings located on the premises as is required to keep the policy in force until the expiration of the period of redemption, if under the terms of the mortgage it would have been the duty of the defendants determined to be personally liable to have paid the taxes or insurance premium had the mortgage not been foreclosed. In case of any such payment which is made prior to the entry of the order confirming the report of sale by the person making the sale, determination of the additional liability shall be made in the order. In case of any such payment made after the entry of the order, proof of the payment may be made by filing with the register of deeds with whom the deed of sale is deposited, an affidavit of payment by the purchaser or someone in his or her behalf having knowledge of the facts together with a receipt evidencing the payment of the taxes, or, in case of insurance premiums, an affidavit of an agent of the insurance company stating the making of the payment and also what portion of the payment covers the premium for the period prior to the expiration of the period of redemption. Redemption shall not be effected after the determination, or filing of affidavit and receipt, or affidavits, as the case may be, except upon payment of the additional sum or sums. In case the property is not redeemed, the taxes or premiums paid after the confirmation of sale shall not be added to or included in the deficiency judgment.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

#### **125.1448k Personal liability on land contract or for mortgage debt; original judgment; deficiency; delivery of premises to purchaser; order.**

Sec. 48k. In the original judgment in foreclosure cases the court shall determine and adjudge which defendants, if any, are personally liable on the land contract or for the mortgage debt. The judgment shall provide that upon the confirmation of the report of sale that if either the principal, interest, or costs ordered to be paid, is left unpaid after applying the amount received upon the sale of the premises, the clerk of the court shall issue execution for the amount of the deficiency, upon the application of the attorney for the authority without notice to the defendant or his or her attorney. The court may order and compel the delivery of the possession of the premises to the purchaser at the sale.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.



**125.1448/ Forfeiture, foreclosure, or specific performance proceedings; minimum price.**

Sec. 48l. In any forfeiture, foreclosure, or specific performance case based upon a mortgage on real estate or land contract held by the authority, the court may fix and determine the minimum price at which the real property covered by the mortgage or land contract may be sold at the sale under the forfeiture, foreclosure, or specific performance proceedings.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

**125.1448m Land contract or mortgage debt secured by evidence of debt of person other than vendee or mortgagor; party; court order.**

Sec. 48m. If the land contract or mortgage debt is secured by the obligation or other evidence of debt of any other person besides the vendee or mortgagor, the authority may make that person a party to the action, and the court may order payment of the balance of the debt remaining unsatisfied, after a sale of the mortgaged premises, against this other person as well as against the vendee or mortgagor, and may enforce this judgment as in other cases.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

**125.1448n Sale of premises; default subsequent to judgment.**

Sec. 48n. (1) If the defendant does not bring into the court the amount due, with costs, or if for any other cause a judgment is entered for the authority, and if it appears that the premises can be sold, in parcels, without injury to the interests of the parties, the judgment shall direct as much of the premises subject to the mortgage or land contract held by the authority to be sold as is sufficient to pay the amount then due on the mortgage or land contract, with costs, and the judgment shall remain as security for any subsequent default.

(2) If there is any default subsequent to the judgment, in the payment of any portion or installment of the principal or of any interest due upon the mortgage or land contract held by the authority, the court may, upon the petition of the authority, by a further order founded upon the first judgment, direct a sale to be made of as much of the premises subject to the mortgage or land contract as is sufficient to satisfy the amount due, with costs of the petition and subsequent proceedings on it, and the same proceedings may be had as often as a default happens.

(3) If it appears to the court that the premises subject to the mortgage or land contract held by the authority are so situated that a sale of the whole premises will be most beneficial to the parties, the judgment shall be entered for the sale of the whole premises in the first instance. In this case the proceeds of the sale shall be applied to the interest and each portion or installment of the principal due as well as towards the whole or residue of the sum secured by the mortgage or land contract and not due and payable at the time of the sale. If the residue does not bear interest, the court may direct that the residue be paid with a rebate of the legal interest for the time during which the residue will not be due and payable; or the court may direct that the balance of the proceeds of the sale, after paying the sum due with costs, be put out at interest for the benefit of the authority, to be paid to the authority as the installments or portions of the principal, or the interest become due, and the surplus for the benefit of the defendant or his or her representatives or assigns, to be paid to the defendant or his or her representatives on the order of the court.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

**125.1448o Action to discharge mortgage or land contract; judgment entered by court; contents; minutes; delivery of judgment to authority; recordation of judgment.**

Sec. 48o. (1) When a recorded mortgage on real property or land contract held by the authority has been paid or satisfied or when 15 years have elapsed since the debt secured by the mortgage or land contract became due and payable or since the last payment made upon it, and no civil action or proceedings have been commenced to collect the same, the owner of the land or property may institute an action in the circuit court to discharge the mortgage or land contract.

(2) If it appears to the court at the trial, either by the production in evidence of the original mortgage, land contract, or note to secure the payment of which the mortgage was given, or by any other competent evidence, that the debt secured by the mortgage or land contract has been fully paid both in principal and interest; or if it appears to the court by competent evidence that the debt has been past due for 15 years, or that 15 years have elapsed since the last payment was made on the debt and that no action or proceeding has been commenced to foreclose or perfect the mortgage or land contract, the court shall enter judgment to that effect which contains within it the names of the witnesses and the nature of the evidence by which the facts have been made to appear. A minute of this shall be entered in the court's journal. A copy of the judgment, signed by the judge or the court and attested by the clerk of the court under the seal of the court shall be delivered to the authority

and may be recorded in the office of the register of deeds of the county or counties in which the mortgage or land contract is recorded in the same manner and with the same effects in all respects as if it were a formal discharge of the mortgage or land contract duly executed by the authority.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

#### **125.1448p Equitable actions.**

Sec. 48p. Actions under sections 48a to 48o are equitable in nature.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

#### **125.1449 Foreclosure by advertisement.**

Sec. 49. Every mortgage of real estate held by the authority which contains a power of sale, upon default being made in any condition of such mortgage, may be foreclosed by advertisement, in the cases and in the manner specified in sections 49a to 49v, including the giving of a notice as described in sections 49b and 49c.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993.

#### **125.1449a Right of authority to give notice and make foreclosure; conditions; mortgage securing payment of money by installments; installment as separate and independent mortgage; foreclosure and redemption.**

Sec. 49a. (1) To entitle the authority to give a notice as prescribed in sections 49b and 49c, and to make such foreclosure, all of the following are required:

(a) That some default in a condition of such mortgage shall have occurred, by which the power to sell became operative.

(b) That no suit or proceeding shall have been instituted, at law, to recover the debt then remaining secured by such mortgage, or any part thereof; or if any suit or proceeding has been instituted, that the suit or proceeding has been discontinued, or that an execution upon the judgment rendered therein has been returned unsatisfied, in whole or in part.

(c) That the mortgage containing such power of sale has been duly recorded; and if it shall have been assigned, that all the assignments thereof have been recorded.

(2) In cases of mortgages given to secure the payment of money by installments, each of the installments mentioned in such mortgage after the first, shall be taken and deemed to be, a separate and independent mortgage, and such mortgage for each of such installments may be foreclosed in the same manner and with the identical effect as if such separate mortgages were given for each of such subsequent installments and a redemption of any such sale by the mortgagor shall have the identical effect as if the sale for such installments had been made upon an independent prior mortgage.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

#### **125.1449b Notice of sale; publication; posting of notice upon premises.**

Sec. 49b. Notice that the mortgage held by the authority will be foreclosed by a sale of the mortgaged premises, or some part of them, shall be given by publishing the same for 4 successive weeks at least once in each week, in a newspaper published in the county where the premises included in the mortgage and intended to be sold, or some part of them, are situated. If no newspaper is published in the county, the notice shall be published in a newspaper published in an adjacent county. In every case within 15 days after the first publication of the notice, a true copy shall be posted in a conspicuous place upon any part of the premises described in the notice.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

#### **125.1449c Notice of sale; contents.**

Sec. 49c. Every notice required under section 49 shall specify all of the following:

(a) The names of the mortgagor and of the mortgagee, and the assignee of the mortgage, if any.

(b) The date of the mortgage, and when recorded.

(c) The amount claimed to be due on the mortgage at the date of the notice.

(d) A description of the mortgaged premises, conforming substantially with that contained in the mortgage.

(e) The length of the redemption period as determined under section 49j.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

#### **125.1449d Sale of premises at public sale; hours; location; appointed person; highest bidder.**

Sec. 49d. The sale shall be at public sale, between the hours of 9 a.m. and 4 p.m., at the place of holding the circuit court for the county in which the premises to be sold, or some part of them, are situated, and shall

be made by the person appointed for that purpose in the mortgage, or by the sheriff, undersheriff, or a deputy sheriff of the county, to the highest bidder.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

**125.1449e Adjournment of sale; request; notice; oral announcement unnecessary.**

Sec. 49e. The sale may be adjourned from time to time, by the sheriff or other officer or person appointed to make such sale at the request of the party in whose name the notice of sale is published by posting a notice of such adjournment before or at the time of and at the place where the sale is to be made, and if any adjournment be for more than 1 week, at 1 time, the notice of the adjournment, appended to the original notice of sale, shall also be published in the newspaper in which the original notice was published, the first publication to be within 10 days of the date from which the sale was adjourned and thereafter once in each full calendar week during the time for which such sale shall be adjourned. No oral announcement of any adjournment shall be necessary.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

**125.1449f Sale of distinct farms, tracts, or lots separately or together.**

Sec. 49f. If the mortgaged premises consist of distinct farms, tracts, or lots not occupied as 1 parcel, they shall be sold separately, and no more farms, tracts, or lots shall be sold than shall be necessary to satisfy the amount due on such mortgage at the date of the notice of sale, with interest and the cost and expenses allowed by law but if distinct lots be occupied as 1 parcel, they may in such case be sold together.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

**125.1449g Purchase of premises by authority or its successor or assign permitted.**

Sec. 49g. The authority or its successor or assign, may fairly and in good faith, purchase the premises so advertised, or any part thereof, at such sale.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

**125.1449h Deed; execution, acknowledgment, and delivery by officer or person making sale; separate deeds where lands situated in several counties; endorsement, recordation, and indexation of deed by register of deeds; redemption.**

Sec. 49h. The officer or person making the sale shall forthwith execute, acknowledge, and deliver, to each purchaser a deed of the premises bid off by the officer or person making the sale; and if the lands are situated in several counties, the officer or person making the sale shall make separate deeds of the lands in each county, and specify in each deed the precise amount for which each parcel of land described in the deed was sold. The officer or person making the sale shall endorse upon each deed the time when the deed becomes operative, if the premises are not redeemed according to law. Each deed shall, as soon as practicable, and within 20 days after such sale, be deposited with the register of deeds of the county in which the land described in the deed is situated, and the register shall endorse on the deed the time the deed was received, and for the better preservation thereof, shall record the deed at length in a book to be provided in his or her office for that purpose; and shall index the deed in the regular index of deeds. The fee for recording the deed shall be included among the other costs and expenses allowed by law. In case such premises shall be redeemed, the register of deeds shall, at the time of destroying the deed, as provided in section 49i, write on the face of the record the word "redeemed", stating at what date the entry is made, and signing the entry with his or her official signature.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

**125.1449i Deed; right, title, and interest vested in grantee; record of deed valid without re-recordation; effect of sale on valid subsisting lien created before mortgage lien took effect.**

Sec. 49i. Unless the premises described in such deed shall be redeemed within the time limited for such redemption as provided in section 49j, such deed shall thereupon become operative, and shall vest in the grantee therein named or his or her heirs or assigns, all the right, title, and interest which the mortgagor had at the time of the execution of the mortgage, or at any time thereafter, except as to any parcel or parcels which may have been redeemed and canceled, as provided in sections 49j to 49u; and the record thereof shall thereafter, for all purposes be deemed a valid record of the deed without being re-recorded, but no person having any valid subsisting lien upon the mortgaged premises or any part thereof, created before the lien of such mortgage took effect, shall be prejudiced by any such sale, nor shall his or her rights or interests be in any way affected thereby.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

**125.1449j Redemption of premises; payment of taxes or insurance premiums; redemption period; fees or charges.**

Sec. 49j. (1) If the mortgagor, the mortgagor's heirs, executors, administrators, or any person lawfully claiming under the mortgagor or the mortgagor's heirs, executors, or administrators, redeems the entire premises sold within the time prescribed in this section by paying to the purchaser or the purchaser's executors, administrators, or assigns, or to the register of deeds in whose office the deed is deposited for the benefit of the purchaser, the sum which was bid for the premises, with interest from the date of the sale at the interest rate provided for by the mortgage, and in case the payment is made to the register of deeds, the sum of \$5.00 as a fee for the care and custody of the redemption money, then the deed is void. If a distinct lot or parcel separately sold is redeemed, leaving a portion of the premises unredeemed, then the deed is void only as to the parcel or parcels redeemed. The register of deeds shall not determine the amount necessary for redemption. The purchaser shall attach an affidavit with the deed to be recorded that states the exact amount required to redeem the property, including any daily per diem amounts, and the date by which the property must be redeemed shall be stated in the certificate of sale. The purchaser may include in the affidavit the name of a designee responsible on behalf of the purchaser to assist the person redeeming the property in computing the exact amount required to redeem the property. The designee may charge a fee as stated in the affidavit and may be authorized by the purchaser to receive redemption funds. The purchaser shall accept the amount computed by the designee.

(2) If, following the sale, the purchaser pays any taxes assessed against the property or insurance premiums covering any buildings located on the property which under the terms of the mortgage were the duty of the mortgagor and are necessary to keep the policy in force until the expiration of the period of redemption, and the purchaser or a representative of the purchaser having knowledge of the facts may make an affidavit of the payment showing the amount and items paid, together with the receipt of payment of the taxes or insurance premiums, together with an affidavit of an insurance agent of the insurance company stating the making of the payment and also what portion of the policy covers the premium for the period before the expiration of the period of redemption, the affidavits and the receipt shall be filed with the register of deeds with whom the deed is deposited, who shall endorse on the deed the time the affidavits and receipt were received. The register of deeds shall record the affidavit of the purchaser only and file the recorded affidavit, together with the tax and insurance receipts and insurance agent's affidavit, until expiration of the period of redemption.

(3) After the purchaser's affidavit is recorded under this section, redemption shall only be made upon payment of the sum specified in subsections (1) and (2), with interest on the amount, from the date of the payment to the date of redemption, at the interest rate specified in the mortgage.

(4) In the case of a mortgage executed on commercial or industrial property, or multifamily residential property in excess of 4 units, the redemption period is 6 months from the time of the sale.

(5) In the case of a mortgage executed on residential property not exceeding 4 units and not more than 3 acres in size, if the amount claimed to be due on the mortgage at the date of the notice of foreclosure is more than 66-2/3% of the original indebtedness secured by the mortgage, the redemption period is 6 months.

(6) In the case of a mortgage on residential property not exceeding 4 units and not more than 3 acres in size, if the property is abandoned as determined under section 49k, the redemption period is 3 months.

(7) In the case of any mortgage on residential property not exceeding 4 units and not more than 3 acres in size, if the amount claimed to be due on the mortgage at the date of the notice of foreclosure is more than 66-2/3% of the original indebtedness secured by the mortgage and the property is abandoned as determined under section 49k, the redemption period is 1 month.

(8) If the property is abandoned as determined under section 49v, the redemption period is 30 days.

(9) In any other case not otherwise described in this section, the redemption period is 1 year from the date of the sale.

(10) If an automation fund is established under section 2568 of the revised judicature act of 1961, MCL 600.2568, any fees or charges collected by the register of deeds under this section or section 48i shall be credited to the automation fund.

(11) The amount stated in any affidavits recorded under this section shall be the amount necessary to satisfy the requirements for redemption under this section.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993;—Am. 2004, Act 540, Eff. Mar. 30, 2005.

**125.1449k Abandonment of premises; presumption.**

Sec. 49k. For purposes of sections 49 to 49u, abandonment of premises shall be conclusively presumed

upon satisfaction of all of the following requirements:

(a) Within 30 days before the commencement of foreclosure proceedings under this chapter, the authority mails by certified mail, return receipt requested, to the mortgagor's last known address a notice that the subject mortgage is in default and that the authority intends to foreclose it.

(b) Before commencement of foreclosure proceedings under this chapter, the authority executes and causes to be duly recorded in the county where the premises are located an affidavit that states all of the following:

(i) That the authority has mailed to the last known address of the mortgagor a notice of default and intention to foreclose pursuant to subdivision (a) and that the mortgagor has not responded to the notice.

(ii) That the authority has made a personal inspection of the mortgaged premises and that the inspection does not reveal that the mortgagor or persons claiming under him or her are presently occupying or intend to occupy the premises.

(c) The authority mails by certified mail, return receipt requested, a copy of the affidavit recorded pursuant to subdivision (b) to the mortgagor at his or her last known address before commencement of foreclosure proceedings.

(d) The mortgagor; his or her heirs, executors, or administrators; or any person lawfully claiming from, or under the mortgagor or the mortgagor's heirs, executors, or administrators, before expiration of the period of redemption, does not give a written affidavit to the authority and record a duplicate original in the county where the premises are located stating that the mortgagor or person claiming under him or her is occupying or intends to occupy the premises.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993.

#### **125.1449/ Payment of entire sum bid at sale, interest, and fee, or delivery of certificate of payment to register; destruction of deed; memoranda.**

Sec. 49l. Upon the payment of the entire sum bid at such sale, and interest on the entire sum bid, and the fee of \$5.00 mentioned in section 49j to the register in whose office the deed therefor shall have been deposited, or upon delivering to such register a certificate, signed and acknowledged by the person entitled to receive the certificate, and certified by some officer authorized to take the acknowledgment of deeds, setting forth that such sum, with interest, has been paid to such person, and upon paying to such register a fee of 25 cents, the register shall thereupon destroy such deed, and shall enter in the margin of the record of such mortgage, a memorandum that such mortgage is satisfied; or in case the premises shall have been sold in parcels, and 1 or more of said parcels shall have been redeemed, as provided in section 49j, it shall then be the duty of the register to enter upon the face of the sheriff's deed, and the record thereof, a memorandum that the sheriff's deed is inoperative as to the parcel or parcels so redeemed, and to enter in the margin of the record of such mortgage a memorandum that the mortgage is satisfied as to the parcel or parcels so redeemed.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

#### **125.1449m Refusal to make and acknowledge certificate of payment; liability; damages; civil action.**

Sec. 49m. If any person entitled to receive such redemption moneys, shall, upon payment or tender thereof to him or her, refuse to make and acknowledge such certificate of payment, he or she shall be liable to the person aggrieved thereby, in the sum of \$100.00 damages, over and above all the actual damages sustained, to be recovered in a civil action, except that no damages of any kind may be recovered from any register of deeds who refuses to accept tender of payment after the time indorsed upon the deed when the deed becomes operative in case the premises are not redeemed, and the officer or person making the sale shall be entitled to rely conclusively upon the recital of the length of the redemption period contained in the notice of foreclosure in making such indorsement upon the deed.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

#### **125.1449n Disposition of surplus money remaining after sale of real estate.**

Sec. 49n. If after any sale of real estate, made as prescribed in sections 49 to 49v, the officer or other person making the sale has any surplus money after satisfying the mortgage on which the real estate was sold, and payment of the costs and expenses of the foreclosure and sale, the surplus shall be paid over by the officer or other person on demand, to the mortgagor or his or her legal representatives or assigns, unless at the time of the sale, or before the surplus is paid over, a claimant or claimants file with the person making the sale, a claim or claims, in writing, duly verified by the oath of the claimant or his or her agent or attorney, that the claimant has a subsequent mortgage or lien encumbering the real estate, or some part of the real estate, and stating the amount of the mortgage or lien unpaid, setting forth the facts and nature of the mortgage or lien, in which case the person making the sale shall immediately upon receiving the claim pay the surplus to, and file



the written claim with, the clerk of the circuit court for the county in which the sale is made. A person interested in the surplus may apply to the court for an order to take proofs of the facts and circumstances contained in the claim or claims filed. The court shall summon the claimant or claimants, party, or parties interested in the surplus to appear before the court at a time and place named by the court, and attend the taking of the proof, and the claimant or claimants or party interested who appear may examine witnesses and produce such proof as they see fit. The court shall make an order directing the disposition of the surplus money or payment of the surplus money in accordance with the rights of the claimant or claimants or persons interested.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993.

#### **125.1449o Perpetuating evidence of sale; affidavit; endorsement upon or annexation to instrument; references.**

Sec. 49o. (1) A party desiring to perpetuate the evidence of a sale made pursuant to sections 49 to 49v, may procure 1 or more of the following:

(a) An affidavit of the publication of the notice of sale, and of any notice of postponement, to be made by the publisher of the newspaper in which the notice was inserted, or by a person in the employ of the publisher of the newspaper knowing the facts.

(b) An affidavit of the fact of a sale pursuant to such notice, to be made by the person who acted as auctioneer at the sale, stating the time and place at which the sale took place, the sum bid, and the name of the purchaser.

(c) An affidavit setting forth the time, manner, and place of posting a copy of such notice of sale to be made by the person posting the copy of the notice.

(2) Where any or all of the affidavits described in subsection (1) are endorsed upon or annexed to 1 instrument, a single copy of the notice of sale, and a single copy of any notice of postponement, is sufficient to annex to the instrument, and reference made in any of the affidavits to the copy of notice of sale and to the copy of any notice of postponement of sale as annexed or attached shall be considered to refer to the single copy of notice of sale and to the single copy of any notice of postponement.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993.

#### **125.1449p Taking and certifying affidavits.**

Sec. 49p. The affidavits specified in section 49o may be taken and certified by any officer authorized by law to administer oaths.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

#### **125.1449q Recording affidavits; presumptive evidence of facts.**

Sec. 49q. Such affidavits shall be recorded at length by the register of deeds of the county in which the premises are situated, in a book kept for the record of deeds; and such original affidavits, the record thereof, and certified copies of such record, shall be presumptive evidence of the facts therein contained.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

#### **125.1449r Note recording evidence of sale to be made in margin of mortgage record.**

Sec. 49r. A note referring to the page and book where the evidence of any sale having been made under a mortgage, is recorded, shall be made by the register recording such evidence, in the margin of the record of such mortgage, if such record be in his or her office.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

#### **125.1449s Notice of payment to purchaser, agent, or attorney.**

Sec. 49s. Upon the payment of the entire sum bid at such sale, and the interest thereon and expenses, as mentioned in section 49j, to the register of deeds of the county in whose office the sheriff's deed shall have been deposited, the register of deeds shall give notice of such payment, by mail or otherwise to the purchaser or his or her agent or attorney.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981.

#### **125.1449t Right to enter mortgaged premises to post or serve notices.**

Sec. 49t. Incident to the foreclosure of a mortgage pursuant to sections 49 to 49v, the authority or its agents or assigns may enter the mortgaged premises for the purpose of posting or serving the notices required by sections 49 to 49v.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993.

**125.1449u Action to recover deficiency judgment against mortgagor; defense; applicability of section.**

Sec. 49u. If, in the foreclosure of a mortgage by advertisement under this section and sections 49 to 49v, a sale of real property has been made or is made by the authority, at which the authority has become or becomes the purchaser, or takes or has taken title to the real property at the sale either directly or indirectly, and the authority sues for and undertakes to recover a deficiency judgment against the mortgagor or other maker of the obligation or any other person liable on the obligation, the defendant against whom such deficiency judgment is sought may allege and show, as a matter of defense and set-off to the extent only of the amount of the authority's claim, that the property sold was fairly worth the amount of the debt secured by it at the time and place of sale or that the amount bid was substantially less than its true value. The showing constitutes a defense to the action and defeats the deficiency judgment against the defendant, either in whole or in part to that extent. This section does not affect nor apply to the rights of other purchasers or of innocent third parties, nor shall it be held to affect or defeat the negotiability of any note, or other obligation secured by such mortgage or other instrument. The proceedings described in this section in no way affect the title of the purchaser to the lands acquired by such purchase. This section does not apply to foreclosure sales made pursuant to an order or decree of court nor to any judgment sought or rendered in any foreclosure suit nor to any chancery sale made and confirmed.

**History:** Add. 1981, Act 173, Imd. Eff. Dec. 10, 1981;—Am. 1993, Act 221, Imd. Eff. Oct. 29, 1993.

**125.1449v Foreclosure against residential property not exceeding 4 units and not more than 3 acres; applicability of section.**

Sec. 49v. (1) For purposes of this chapter, if foreclosure proceedings have been commenced under this chapter against residential property not exceeding 4 units and not more than 3 acres in size, abandonment of premises shall be conclusively presumed upon satisfaction of all of the following requirements:

(a) The mortgagee has made a personal inspection of the mortgaged premises and the inspection does not reveal that the mortgagor or persons claiming under the mortgagor are presently occupying or will occupy the premises.

(b) The mortgagee has posted a notice at the time of making the personal inspection and has mailed by certified mail, return receipt requested, a notice to the mortgagor at the mortgagor's last known address, which notices state that the mortgagee considers the premises abandoned and that the mortgagor will lose all rights of ownership 30 days after the foreclosure sale unless the mortgagor; the mortgagor's heirs, executor, or administrator; or a person lawfully claiming from or under 1 of them provides the notice described in subdivision (c).

(c) Within 15 days after receipt of a notice required by subdivision (b), the mortgagor; the mortgagor's heirs, executor, or administrator; or a person lawfully claiming from or under 1 of them does not give written notice by first-class mail to the mortgagee at an address provided by the mortgagee in the notices required by subdivision (b) stating that the premises are not abandoned.

(2) This section applies to a foreclosure proceeding filed or pending after the effective date of the amendatory act that added this section.

**History:** Add. 1993, Act 221, Imd. Eff. Oct. 29, 1993.