

Act No. 326
Public Acts of 2012
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**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senator Jansen

ENROLLED SENATE BILL No. 1123

AN ACT to amend 1966 PA 346, entitled "An act to create a state housing development authority; to define the powers and duties of the authority; to establish a housing development revolving fund; to establish a land acquisition and development fund; to establish a rehabilitation fund; to establish a conversion condominium fund; to create certain other funds and provide for the expenditure of certain funds; to authorize the making and purchase of loans, deferred payment loans, and grants to qualified developers, sponsors, individuals, mortgage lenders, and municipalities; to establish and provide acceleration and foreclosure procedures; to provide tax exemption; to authorize payments instead of taxes by nonprofit housing corporations, consumer housing cooperatives, limited dividend housing corporations, mobile home park corporations, and mobile home park associations; and to prescribe criminal penalties for violations of this act," by amending section 44 (MCL 125.1444), as amended by 2008 PA 58.

The People of the State of Michigan enact:

Sec. 44. (1)(a) 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, or mobile home park association or to a public body or agency for the construction or rehabilitation, and for the long-term financing, of the following:

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

(ii) 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 subparagraph 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.

(iii) 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.

(iv) 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, 26 USC 142, and, in addition, in which the remaining dwelling units are available for occupancy without regard to income.

(v) 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.

(b) Notwithstanding the other provisions of this subsection, the authority may establish by resolution higher income limits that it considers necessary to achieve sustained occupancy of a housing project financed under subdivision (a) if the authority determines both of the following:

(i) 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.

(ii) 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.

(c) A loan under this subsection shall 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, 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 shall not be made under this section unless a market analysis has been conducted that demonstrates a sufficient market exists for the housing project.

(d) 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)(a)(ii) or (iii) or (1)(b), 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 shall 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.

(e) Notwithstanding the expiration of lending authority under subsection (1)(a)(ii), (iii), (iv), or (v), multifamily housing projects financed under those subparagraphs may continue to remain eligible for occupancy by persons and families whose incomes do not exceed the limits provided in those subparagraphs or subsection (1)(b).

(f) For purposes of this subsection:

(i) "Gross household income" means gross income of a household as those terms are defined in rules of the authority.

(ii) "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.

(2)(a) 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 as condominium unit is defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104, 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 shall not exceed 100% of the project cost as approved by the authority in the case of a nonprofit housing corporation or individual purchaser, and shall 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.

(b) While a loan under this subsection 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 shall 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 shall be sold under terms that provide for monthly payments including principal, interest, taxes, and insurance.

(c) While a loan under this subsection 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.

(3) 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 as condominium unit is defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104. All of the following apply to making, purchasing, or participating in a loan under this subsection:

(a) The borrower's family income shall not exceed the income requirements established in section 143 of the internal revenue code, 26 USC 143. If those income requirements are repealed, the borrower's family income shall 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 shall not exceed the following:

(i) With respect to a 1- or 2-family unit, \$224,500.00.

(ii) With respect to a 3-family unit, \$261,625.00.

(iii) With respect to a 4-family unit, \$299,000.00.

(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 \$3,500.00.

(d) If a purchase price limit prescribed by this subsection exceeds an applicable limit prescribed by the internal revenue code, the internal revenue code 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 made is a loan for refinancing of a 1- to 4-unit housing unit, including a residential condominium unit as condominium unit is defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104, the authority shall determine that 1 of the units is occupied by the borrower.

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

(5) A person 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.

(6) With regard to refinancing, the authority shall not make, purchase, or commence participation in loans to individual purchasers pursuant to subsection (3) after April 3, 2011.

(7)(a) The authority may make, purchase, or participate in a loan for acquisition and long-term financing of 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, if all of the following requirements are met:

(i) 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, 26 USC 143. If those income requirements are repealed, the borrower's family income shall not exceed the income requirements that were in effect immediately before the repeal.

(ii) 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.

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

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

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

(c) For purposes of this subsection:

(i) "Fannie Mae" means the federal national mortgage association established under authority of the federal national mortgage association charter act, 12 USC 1716 to 1723i.

(ii) "Freddie Mac" means the federal home loan mortgage corporation established under authority of the federal home loan mortgage corporation act, 12 USC 1451 to 1459.

(iii) "Ginnie Mae" means the government national mortgage association established under authority of the federal national mortgage association charter act, 12 USC 1716 to 1723i.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Gay E. Randall

Clerk of the House of Representatives

Approved

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Governor