

HOUSE BILL NO. 5178

June 29, 2021, Introduced by Reps. Bolden and Weiss and referred to the Committee on Tax Policy.

A bill to amend 1966 PA 346, entitled
"State housing development authority act of 1966,"
by amending section 22 (MCL 125.1422), as amended by 2012 PA 327.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

4 (a) To sue and to be sued; to have a seal and to alter the
5 seal at pleasure; to have perpetual succession; to make and execute

1 contracts and other instruments necessary or convenient to the
2 exercise of the powers of the authority; and to make, amend, and
3 repeal bylaws and rules.

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

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

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

21 (e) To establish and collect fees and charges in connection
22 with the sale of the authority's publications and the authority's
23 loans, commitments, and servicing, including, but not limited to,
24 the reimbursement of costs of financing by the authority, service
25 charges, and insurance premiums as the authority determines to be
26 reasonable and as approved by the authority. Fees and charges ~~shall~~
27 **must** be determined by the authority and ~~shall~~**must** not be
28 considered to be interest. The authority may use any accumulated
29 fees and charges and interest income for achieving any of the

1 corporate purposes of the authority, to the extent that the fees,
2 charges, and interest income are not pledged to the repayment of
3 bonds and notes of the authority or the interest on those bonds and
4 notes.

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

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

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

20 (i) To make or purchase loans, including loans for condominium
21 units as defined in section 4 of the condominium act, 1978 PA 59,
22 MCL 559.104, and including loans to mortgage lenders, ~~which~~**that**
23 are unsecured or the repayments of which are secured by mortgages,
24 security interests, or other forms of security; to purchase and
25 enter into commitments for the purchase of securities, certificates
26 of deposits, time deposits, or mortgage loans from mortgage
27 lenders; to participate in the making or purchasing of unsecured or
28 secured loans and undertake commitments to make or purchase
29 unsecured or secured loans; to sell mortgages, security interests,

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

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

1 authority and the mobile home commission, created in section 3 of
2 the mobile home commission act, 1987 PA 96, MCL 125.2303. However,
3 financing standards ~~shall~~**must** be established solely by the
4 authority.

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

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

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

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

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

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

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

28 (i) The nonprofit housing corporation, consumer housing
29 cooperative, limited dividend housing corporation, mobile home park

1 corporation, or mobile home park association has received a loan or
2 advance, as provided for in this act, and the authority determines
3 that the loan or advance is in jeopardy of not being repaid.

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

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

22 (iv) The authority determines that the nonprofit corporation or
23 consumer housing cooperative is in some manner controlled by, under
24 the direction of, or acting in the substantial interest of a
25 private individual, firm, corporation, partnership, or association
26 seeking to derive benefit or gain from, or seeking to eliminate or
27 minimize losses in any dealings or transactions with, the nonprofit
28 corporation or consumer housing cooperative. However, this
29 subparagraph ~~shall apply~~ **applies** to individual cooperators in

1 consumer housing cooperatives only in circumstances defined by the
2 authority in its rules.

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

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

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

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

1 and advice.

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

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

10 (v) To set forth in the various loan documents of the
11 authority those restrictions on the sale, conveyance by land
12 contract, or transfer of residential real property, housing
13 projects, or housing units for which a note is held by the
14 authority and restrictions on the assumption by subsequent
15 purchasers of loans originated by and held by, or originated for
16 purchase by and held by, the authority as the authority determines
17 to be necessary in order to comply with requirements of federal
18 statutes, federal rules or regulations promulgated under 5 USC 551
19 to 559, state statutes, or state rules promulgated under the
20 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
21 24.328, or to obtain and maintain the tax exempt status of
22 authority bonds and notes. However, the authority shall not use a
23 due on sale or acceleration clause solely for the purpose of
24 renegotiating the interest rate on a loan made with respect to an
25 owner-occupied single-family housing unit. Without limiting the
26 authority's power to establish other restrictions, as provided in
27 this section, on the sale, conveyance by land contract, or transfer
28 of residential real property, housing projects, or housing units
29 for which a note is held by the authority and the assumption by

1 subsequent purchasers of loans made or purchased by the authority,
2 the authority shall provide in its loan documents relating to a
3 single family loan that the single family loan may be assumed by a
4 new purchaser only when the new purchaser qualifies under the
5 authority income limitations rules, unless such a restriction
6 diminishes or precludes the insurance or a guarantee by an agency
7 of the federal government with respect to the single family loan. A
8 loan made for a mobile home that the borrower does not intend to
9 permanently affix to real property ~~shall become~~ **is** immediately due
10 and payable if the mobile home is moved out of the state. Any
11 restrictions on conveyance by sale, conveyance by land contract, or
12 transfer that are authorized in this section ~~shall~~ **must** apply only
13 to loans originated by and held by, or originated for purchase by
14 and held by, the authority and may, at the option of the authority,
15 be enforced by accelerating and declaring immediately due and
16 payable all sums evidenced by the note held by the authority. An
17 acceleration and declaration of all sums to be due and payable on
18 conveyance by sale, land contract, or transfer is not an
19 unreasonable restraint on alienation. An acceleration and
20 declaration, unless otherwise prohibited in this subdivision, of
21 all sums to be due and payable under this subdivision is
22 enforceable in any court of competent jurisdiction. This
23 subdivision ~~is applicable~~ **applies** to secured and unsecured loans.
24 This subdivision ~~is also applicable~~ **also applies** to loan documents
25 utilized in conjunction with an authority-operated program of
26 residential rehabilitation by an entity cooperating or
27 participating with the authority under section 22a(4), if the loans
28 are originated with the intent to sell those loans to the
29 authority.

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

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

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

23 (z) To verify for the state treasurer statements submitted by
24 a city, village, township, or county as to exempt properties under
25 section 7d of the general property tax act, 1893 PA 206, MCL
26 211.7d.

27 (aa) For the purpose of more effectively managing its debt
28 service, to enter into an interest rate exchange or swap, hedge, or
29 similar agreement with respect to its bonds or notes on the terms

1 and payable from the sources and with the security, if any, as
2 determined by a resolution of the authority.

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

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

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

1 bound.

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

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

26 (gg) To invest, under the conditions prescribed in this
27 subdivision and without the consent of the escrow depositors, up to
28 20% of funds held, by or for the authority, in escrow accounts for
29 the benefit of the authority or mortgagors of authority-financed

1 housing. The investments under this subdivision ~~shall~~**must** be made
2 in loans originated or purchased by the authority for construction
3 or rehabilitation of multifamily housing developments for occupancy
4 by persons or families without regard to income. In connection with
5 loans described in this subdivision, the authority may charge and
6 retain fees in amounts similar to those charged with respect to
7 similar loans for which the source of funding does not come from
8 escrow accounts. For purposes of this subdivision, "escrow account"
9 means any account or reserve held by the authority and established
10 in a mortgage or a regulatory agreement to which the authority is a
11 party or which has been assigned to the authority. However, for
12 purposes of this subdivision, escrow account does not include any
13 account labeled in the associated regulatory agreement as
14 "development cost escrow principal" or "operating assurance
15 reserve". For purposes of this subdivision, "multifamily housing
16 development" means a development in which not less than 50% of the
17 floor space is used primarily for residential purposes. The
18 investment authorized by this subdivision ~~shall~~**must** not be made
19 unless both of the following requirements are met:

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

23 (ii) The authority agrees to pay with its own funds the
24 principal balance of any loan, made with the escrow funds, that
25 becomes delinquent in excess of 30 days. This subdivision does not
26 obligate the authority to purchase a delinquent loan so long as
27 with respect to that loan the authority pays to the escrow funds
28 from its own funds the amount of the delinquent payments. The
29 authority's election to pay the delinquent payments to the escrow

1 funds does not in any manner abate or cure the delinquency of the
2 loan and the authority may resort to any remedies that would exist
3 in the absence of that payment.

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

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

12 (i) The urban homestead act, 1999 PA 127, MCL 125.2701 to
13 125.2709.

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

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

18 (iv) The urban homesteading in multifamily public housing act,
19 1999 PA 84, MCL 125.2721 to 125.2734.

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

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

26 **(ll) To determine the eligibility of and issue certificates to**
27 **individuals for the basis of an income tax credit allowed under**
28 **section 277 of the income tax act of 1967, 1967 PA 281, MCL**
29 **206.277.**

1 Enacting section 1. This amendatory act does not take effect
2 unless Senate Bill No. _____ or House Bill No. 5177 (request no.
3 01783'21) of the 101st Legislature is enacted into law.