

HOUSE BILL NO. 5033

September 20, 2023, Introduced by Reps. McKinney, Coffia, Edwards, Brabec, Wilson, Rheingans, Bruck, Scott, Liberati, Brixie, Skaggs, O'Neal, Young, Hope, Martus, Hill, Roth, Schmaltz and Aiyash and referred to the Committee on Economic Development and Small Business.

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
6 contracts and other instruments necessary or convenient to the
7 exercise of the powers of the authority; and to make, amend, and

1 repeal bylaws and rules.

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

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

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

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

1 notes of the authority or the interest on those bonds and notes.

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

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

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

17 (i) To make or purchase loans, including loans for condominium
18 units as **that term is** defined in section 4 of the condominium act,
19 1978 PA 59, MCL 559.104, and ~~including~~ loans to mortgage lenders ~~7~~
20 ~~which~~**that** are unsecured or the repayments of which are secured by
21 mortgages, security interests, or other forms of security; to
22 purchase and enter into commitments for the purchase of securities,
23 certificates of deposits, time deposits, or mortgage loans from
24 mortgage lenders; to participate in the making or purchasing of
25 unsecured or secured loans and undertake commitments to make or
26 purchase unsecured or secured loans; to sell mortgages, security
27 interests, notes, and other instruments or obligations evidencing
28 or securing loans, including certificates evidencing interests in 1
29 or more loans, at public or private sale; in connection with the

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

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

1 the authority.

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

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

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

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

27 (o) To promulgate rules necessary to carry out the purposes of
28 this act and to exercise the powers expressly granted in this act
29 ~~pursuant to~~**under** the administrative procedures act of 1969, 1969

1 PA 306, MCL 24.201 to 24.328.

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

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

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

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

7 (iii) The authority determines that ~~some~~ **any of the following**
8 **apply:**

9 **(A) Some** part of the net income or net earnings of the
10 nonprofit housing corporation is inuring to the benefit of a
11 private individual, firm, corporation, partnership, or association.
12 ~~; the authority determines that an~~

13 **(B) An** unreasonable part of the net income or net earnings of
14 the consumer housing cooperative is inuring to the benefit of a
15 private individual, firm, corporation, partnership, or association.
16 ~~; or the authority determines that some~~

17 **(C) Some** part of the net income or net earnings of the limited
18 dividend housing corporation, in excess of that permitted by other
19 provisions of this act, is inuring to the benefit of a private
20 individual, firm, corporation, partnership, or association.

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

1 authority in its rules.

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

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

18 (r) To ~~give approval~~ **approve** or consent to ~~the~~ **any of the**
19 **following:**

20 (i) **The** articles of incorporation submitted to the authority by
21 a corporation seeking approval as a nonprofit housing corporation,
22 consumer housing cooperative, limited dividend housing corporation,
23 or mobile home park corporation under chapter 4, 5, 6, or 8. ~~to~~
24 ~~give approval or consent to the~~

25 (ii) **The** partnership agreement, joint venture agreement, trust
26 agreement, or other document of basic organization of a limited
27 dividend housing association under chapter 7 or mobile home park
28 association under chapter 9.

29 (s) To engage the services of private consultants on a

1 contract basis for rendering professional and technical assistance
2 and advice.

3 (t) To lease real or personal property; ~~and~~ to accept federal
4 funds for, and participate in, federal programs of housing
5 assistance; **to be the sole statewide public housing agency as that**
6 **term is defined under 42 USC 1473a with authority throughout this**
7 **state and be authorized to enter statewide or regional multi-state**
8 **contracts for the administration of housing subsidies and other**
9 **federal housing assistance under 42 USC 1437 to 1437z; and to**
10 **subcontract, in its discretion, the activities described under this**
11 **subdivision.**

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

18 (v) To set forth in the various loan documents of the
19 authority those restrictions on the sale, conveyance by land
20 contract, or transfer of residential real property, housing
21 projects, or housing units for which a note is held by the
22 authority and restrictions on the assumption by subsequent
23 purchasers of loans originated by and held by, or originated for
24 purchase by and held by, the authority as the authority determines
25 to be necessary in order to comply with requirements of federal
26 statutes, federal rules or regulations promulgated under 5 USC 551
27 to 559, state statutes, or state rules promulgated under the
28 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
29 24.328, or to obtain and maintain the tax exempt status of

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

1 enforceable in any court of competent jurisdiction. This
2 subdivision ~~is applicable~~ **applies** to secured and unsecured loans ~~-~~
3 ~~This subdivision is also applicable to~~ **and** loan documents utilized
4 in conjunction with an authority-operated program of residential
5 rehabilitation by an entity cooperating or participating with the
6 authority under section 22a(4), if the loans are originated with
7 the intent to sell those loans to the authority.

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

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

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

1 (z) To verify for the state treasurer statements submitted by
2 a city, village, township, or county as to exempt properties under
3 section 7d of the general property tax act, 1893 PA 206, MCL
4 211.7d.

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

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

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

25 (dd) To impose covenants running with the land in order to
26 satisfy requirements of applicable federal law with respect to
27 housing assisted or to be assisted through federal programs such as
28 the low income housing tax credit program or the home investment
29 partnerships program. These covenants ~~shall~~**must** be imposed by

1 executing and recording regulatory agreements between the
2 authority, or a municipality or other entity designated by the
3 authority, and the person or entity to be bound. ~~The~~**These**
4 covenants ~~shall~~**must** run with the land and be effective with
5 respect to the parties making the covenants and other intended
6 beneficiaries of the covenants, even though there is no privity of
7 estate or privity of contract between the authority and the persons
8 or entities to be bound. **These covenants are land use restrictions**
9 **that are exempt from 1945 PA 200, MCL 565.101 to 565.108. Covenants**
10 **described under this subdivision include, but are not limited to,**
11 **covenants restricting income or rent, easements, or any other**
12 **restrictions imposed by the Michigan state housing development**
13 **authority by regulatory agreement, deed, declaration of covenants,**
14 **declaration of easement, or any other means through which land**
15 **restrictions may be imposed.**

16 (ee) To impose covenants running with the land in order to
17 satisfy requirements of applicable state or federal law with
18 respect to housing financed by the authority. These covenants ~~shall~~
19 **must** be imposed by executing and recording regulatory agreements
20 between the authority and the person or entity to be bound. ~~The~~
21 **These** covenants ~~shall~~**must** run with the land and be effective with
22 respect to the parties making the covenants and other intended
23 beneficiaries of the covenants, even though there is no privity of
24 estate or privity of contract between the authority and the persons
25 or entities to be bound. **These covenants are land use restrictions**
26 **that are exempt from 1945 PA 200, MCL 565.101 to 565.108. Covenants**
27 **described under this subdivision include, but are not limited to,**
28 **covenants restricting income or rent, easements, or any other**
29 **restrictions imposed by the Michigan state housing development**

1 **authority by regulatory agreement, deed, declaration of covenants,**
2 **declaration of easement, or any other means through which land**
3 **restrictions may be imposed.** With respect to any applicable
4 environmental laws, this subdivision does not grant to the
5 authority any additional rights, privileges, or immunities not
6 otherwise afforded to a private lender that is not in the chain of
7 title for the land.

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

18 (gg) To invest, under the conditions prescribed in this
19 subdivision and without the consent of the escrow depositors, up to
20 20% of funds held, by or for the authority, in escrow accounts for
21 the benefit of the authority or mortgagors of authority-financed
22 housing. The investments under this subdivision ~~shall~~**must** be made
23 in loans originated or purchased by the authority for construction
24 or rehabilitation of multifamily housing developments for occupancy
25 by persons or families without regard to income. In connection with
26 loans described in this subdivision, the authority may charge and
27 retain fees in amounts similar to those charged with respect to
28 similar loans for which the source of funding does not come from
29 escrow accounts. For purposes of this subdivision, "escrow account"

1 means any account or reserve held by the authority and established
2 in a mortgage or a regulatory agreement to which the authority is a
3 party or which has been assigned to the authority. ~~However, for~~ For
4 purposes of this subdivision, escrow account does not include any
5 account labeled in the associated regulatory agreement as
6 "development cost escrow principal" or "operating assurance
7 reserve". For purposes of this subdivision, "multifamily housing
8 development" means a development in which not less than 50% of the
9 floor space is used primarily for residential purposes. The
10 investment authorized by this subdivision ~~shall~~ **must** not be made
11 unless both of the following requirements are met:

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

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

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

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

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

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

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

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

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

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

18 Enacting section 1. This amendatory act does not take effect
19 unless Senate Bill No. ____ or House Bill No. 5029 (request no.
20 03353'23) of the 102nd Legislature is enacted into law.