

[No. 46]**(SB 273)**

AN ACT to amend 1975 PA 238, entitled “An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts,” by amending section 8 (MCL 722.628), as amended by 2006 PA 630.

The People of the State of Michigan enact:

722.628 Referring report or commencing investigation; informing parent or legal guardian of investigation; duties of department; assistance of and cooperation with law enforcement officials; procedures; procedures by prosecuting attorney; cooperation of school or other institution; information as to disposition of report; exception to reporting requirement; surrender of newborn; training of employees in rights of children and families.

Sec. 8. (1) Within 24 hours after receiving a report made under this act, the department shall refer the report to the prosecuting attorney and the local law enforcement agency if the report meets the requirements of subsection (3)(a), (b), or (c) or section 3(6) or (9) or shall commence an investigation of the child suspected of being abused or neglected. Within 24 hours after receiving a report whether from the reporting person or from the department under subsection (3)(a), (b), or (c) or section 3(6) or (9), the local law enforcement agency shall refer the report to the department if the report meets the requirements of section 3(7) or shall commence an investigation of the child suspected of being abused or neglected or exposed to or who has had contact with methamphetamine production. If the child suspected of being abused or exposed to or who has had contact with methamphetamine production is not in the physical custody of the parent or legal guardian and informing the parent or legal guardian would not endanger the child’s health or welfare, the agency or the department shall inform the child’s parent or legal guardian of the investigation as soon as the agency or the department discovers the identity of the child’s parent or legal guardian.

(2) In the course of its investigation, the department shall determine if the child is abused or neglected. The department shall cooperate with law enforcement officials, courts of competent jurisdiction, and appropriate state agencies providing human services in relation to preventing, identifying, and treating child abuse and neglect; shall provide, enlist, and coordinate the necessary services, directly or through the purchase of services from other agencies and professions; and shall take necessary action to prevent further abuses, to safeguard and enhance the child’s welfare, and to preserve family life where possible. In the course of an investigation, at the time that a department investigator contacts an individual about whom a report has been made under this act or contacts an individual responsible for the health or welfare of a child about whom a report has been made under this act, the department investigator shall advise that individual of the department investigator’s name, whom the department investigator represents, and the specific complaints or allegations made against

the individual. The department shall ensure that its policies, procedures, and administrative rules ensure compliance with the provisions of this act.

(3) In conducting its investigation, the department shall seek the assistance of and cooperate with law enforcement officials within 24 hours after becoming aware that 1 or more of the following conditions exist:

(a) Abuse or neglect is the suspected cause of a child's death.

(b) The child is the victim of suspected sexual abuse or sexual exploitation.

(c) Abuse or neglect resulting in severe physical injury to the child. For purposes of this subdivision and section 17, "severe physical injury" means an injury to the child that requires medical treatment or hospitalization and that seriously impairs the child's health or physical well-being.

(d) Law enforcement intervention is necessary for the protection of the child, a department employee, or another person involved in the investigation.

(e) The alleged perpetrator of the child's injury is not a person responsible for the child's health or welfare.

(f) The child has been exposed to or had contact with methamphetamine production.

(4) Law enforcement officials shall cooperate with the department in conducting investigations under subsections (1) and (3) and shall comply with sections 5 and 7. The department and law enforcement officials shall conduct investigations in compliance with the protocols adopted and implemented as required by subsection (6).

(5) Involvement of law enforcement officials under this section does not relieve or prevent the department from proceeding with its investigation or treatment if there is reasonable cause to suspect that the child abuse or neglect was committed by a person responsible for the child's health or welfare.

(6) In each county, the prosecuting attorney and the department shall develop and establish procedures for involving law enforcement officials as provided in this section. In each county, the prosecuting attorney and the department shall adopt and implement standard child abuse and neglect investigation and interview protocols using as a model the protocols developed by the governor's task force on children's justice as published in FIA Publication 794 (revised 8-98) and FIA Publication 779 (8-98), or an updated version of those publications.

(7) If there is reasonable cause to suspect that a child in the care of or under the control of a public or private agency, institution, or facility is an abused or neglected child, the agency, institution, or facility shall be investigated by an agency administratively independent of the agency, institution, or facility being investigated. If the investigation produces evidence of a violation of section 145c or sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.145c and 750.520b to 750.520g, the investigating agency shall transmit a copy of the results of the investigation to the prosecuting attorney of the county in which the agency, institution, or facility is located.

(8) A school or other institution shall cooperate with the department during an investigation of a report of child abuse or neglect. Cooperation includes allowing access to the child without parental consent if access is determined by the department to be necessary to complete the investigation or to prevent abuse or neglect of the child. The department shall notify the person responsible for the child's health or welfare about the department's contact with the child at the time or as soon afterward as the person can be reached. The department may delay the notice if the notice would compromise the safety of the child or child's siblings or the integrity of the investigation, but only for the time 1 of those conditions exists.

(9) If the department has contact with a child in a school, all of the following apply:

(a) Before contact with the child, the department investigator shall review with the designated school staff person the department's responsibilities under this act and the investigation procedure.

(b) After contact with the child, the department investigator shall meet with the designated school staff person and the child about the response the department will take as a result of contact with the child. The department may also meet with the designated school staff person without the child present and share additional information the investigator determines may be shared subject to the confidentiality provisions of this act.

(c) Lack of cooperation by the school does not relieve or prevent the department from proceeding with its responsibilities under this act.

(10) A child shall not be subjected to a search at a school that requires the child to remove his or her clothing to expose his buttocks or genitalia or her breasts, buttocks, or genitalia unless the department has obtained an order from a court of competent jurisdiction permitting such a search. If the access occurs within a hospital, the investigation shall be conducted so as not to interfere with the medical treatment of the child or other patients.

(11) The department shall enter each report made under this act that is the subject of a field investigation into the CPSI system. The department shall maintain a report entered on the CPSI system as required by this subsection until the child about whom the investigation is made is 18 years old or until 10 years after the investigation is commenced, whichever is later, or, if the case is classified as a central registry case, until the department receives reliable information that the perpetrator of the abuse or neglect is dead. Unless made public as specified information released under section 7d, a report that is maintained on the CPSI system is confidential and is not subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(12) After completing a field investigation and based on its results, the department shall determine in which single category, prescribed by section 8d, to classify the allegation of child abuse or neglect.

(13) Except as provided in subsection (14), upon completion of the investigation by the local law enforcement agency or the department, the law enforcement agency or department may inform the person who made the report as to the disposition of the report.

(14) If the person who made the report is mandated to report under section 3, upon completion of the investigation by the department, the department shall inform the person in writing as to the disposition of the case and shall include in the information at least all of the following:

(a) What determination the department made under subsection (12) and the rationale for that decision.

(b) Whether legal action was commenced and, if so, the nature of that action.

(c) Notification that the information being conveyed is confidential.

(15) Information sent under subsection (14) shall not include personally identifying information for a person named in a report or record made under this act.

(16) Unless section 5 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.5, requires a physician to report to the department, the surrender of a newborn in compliance with chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is not reasonable cause to suspect child abuse or neglect and is not subject to the section 3 reporting requirement. This subsection does not apply to circumstances that arise on or after the date that chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is repealed. This subsection applies to a newborn whose birth is described in the born alive

infant protection act, 2002 PA 687, MCL 333.1071 to 333.1073, and who is considered to be a newborn surrendered under the safe delivery of newborns law as provided in section 3 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.3.

(17) All department employees involved in investigating child abuse or child neglect cases shall be trained in the legal duties to protect the state and federal constitutional and statutory rights of children and families from the initial contact of an investigation through the time services are provided.

This act is ordered to take immediate effect.

Approved March 27, 2008.

Filed with Secretary of State March 27, 2008.

[No. 47]

(SB 667)

AN ACT to amend 1846 RS 83, entitled "Of marriage and the solemnization thereof," by amending section 7 (MCL 551.7), as amended by 2006 PA 613.

The People of the State of Michigan enact:

551.7 Persons authorized to solemnize marriage; records; returns; disposition of fees charged by mayor or county clerk.

Sec. 7. (1) Marriages may be solemnized by any of the following:

- (a) A judge of the district court, in the district in which the judge is serving.
- (b) A district court magistrate, in the district in which the magistrate serves.
- (c) A municipal judge, in the city in which the judge is serving or in a township over which a municipal court has jurisdiction under section 9928 of the revised judicature act of 1961, 1961 PA 236, MCL 600.9928.
- (d) A judge of probate, in the county or probate court district in which the judge is serving.
- (e) A judge of a federal court.
- (f) A mayor of a city, anywhere in a county in which that city is located.
- (g) A county clerk in the county in which the clerk serves, or in another county with the written authorization of the clerk of the other county.
- (h) For a county having more than 2,000,000 inhabitants, an employee of the county clerk's office designated by the county clerk, in the county in which the clerk serves.
- (i) A minister of the gospel or cleric or religious practitioner, anywhere in the state, if the minister or cleric or religious practitioner is ordained or authorized to solemnize marriages according to the usages of the denomination.
- (j) A minister of the gospel or cleric or religious practitioner, anywhere in the state, if the minister or cleric or religious practitioner is not a resident of this state but is authorized to solemnize marriages under the laws of the state in which the minister or cleric or religious practitioner resides.

(2) A person authorized by this act to solemnize a marriage shall keep proper records and make returns as required by section 4 of 1887 PA 128, MCL 551.104.

(3) If a mayor of a city solemnizes a marriage, the mayor shall charge and collect a fee to be determined by the council of that city, which shall be paid to the city treasurer and deposited in the general fund of the city at the end of the month.

(4) If the county clerk or, in a county having more than 2,000,000 inhabitants, an employee of the clerk's office designated by the county clerk solemnizes a marriage, the county clerk shall charge and collect a fee to be determined by the commissioners of the county in which the clerk serves. The fee shall be paid to the treasurer for the county in which the clerk serves and deposited in the general fund of that county at the end of the month.

This act is ordered to take immediate effect.

Approved March 27, 2008.

Filed with Secretary of State March 27, 2008.

[No. 48]

(SB 815)

AN ACT to amend 1986 PA 32, entitled "An act to provide for the establishment of emergency 9-1-1 districts; to provide for the installation, operation, modification, and maintenance of universal emergency 9-1-1 service systems; to provide for the imposition and collection of certain charges; to provide the powers and duties of certain state agencies, local units of government, public officers, service suppliers, and others; to create an emergency 9-1-1 service committee; to provide remedies and penalties; and to repeal acts and parts of acts," by amending sections 401 and 408 (MCL 484.1401 and 484.1408), section 401 as amended by 2007 PA 164 and section 408 as amended by 2007 PA 165.

The People of the State of Michigan enact:

484.1401 Agreement; emergency telephone technical charge and emergency telephone operational charge; billing and collection service; computation; monthly charge for recurring costs and charges; ballot question; annual accounting; distribution of operational charge; limitation on levy and collection; applicability of subsections (3) through (13) after June 30, 2008.

Sec. 401. (1) An emergency 9-1-1 district board, a 9-1-1 service district as defined in section 102 and created under section 201b, or a county on behalf of a 9-1-1 service area created by the county may enter into an agreement with a public agency that does either of the following:

(a) Grants a specific pledge or assignment of a lien on or a security interest in any money received by a 9-1-1 service district for the benefit of qualified obligations.

(b) Provides for payment directly to the public entity issuing qualified obligations of a portion of the county 9-1-1 charge or state 9-1-1 charge sufficient to pay when due principal of and interest on qualified obligations.

(2) A pledge, assignment, lien, or security interest for the benefit of qualified obligations is valid and binding from the time the qualified obligations are issued without a physical delivery or further act. A pledge, assignment, lien, or security interest is valid and binding and has priority over any other claim against the emergency 9-1-1 district board, the 9-1-1 service district, or any other person with or without notice of the pledge, assignment, lien, or security interest.

(3) Except as provided in sections 407 to 412, each service supplier within a 9-1-1 service district shall provide a billing and collection service for an emergency telephone technical charge and emergency telephone operational charge from all service users of the service supplier within the geographical boundaries of the emergency telephone or 9-1-1 service district. The billing and collection of the emergency telephone operational charge and that portion of the technical charge used for billing cost shall begin as soon as feasible after the final 9-1-1 service plan has been approved. The billing and collection of the emergency telephone technical charge not already collected for billing costs shall begin as soon as feasible after installation and operation of the 9-1-1 system. The emergency telephone technical charge and emergency telephone operational charge shall be uniform per each exchange access facility within the 9-1-1 service district. The portion of the emergency telephone technical charge that represents start-up costs, nonrecurring billing, installation, service, and equipment charges of the service supplier, including the costs of updating equipment necessary for conversion to 9-1-1 service, shall be amortized at the prime rate plus 1% over a period not to exceed 10 years and shall be billed and collected from all service users only until those amounts are fully recouped by the service supplier. The prime rate to be used for amortization shall be set before the first assessment of nonrecurring charges and remain at that rate for 5 years, at which time a new rate may be set for the remaining amortization period. Recurring costs and charges included in the emergency telephone technical charge and emergency telephone operational charge shall continue to be billed to the service user.

(4) Except as provided in sections 407 to 412 and subject to the limitation provided by this section, the amount of the emergency telephone technical charge and emergency telephone operational charge to be billed to the service user shall be computed by dividing the total emergency telephone technical charge and emergency telephone operational charge by the number of exchange access facilities within the 9-1-1 service district.

(5) Except as provided in subsection (7) and sections 407 to 412, the amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges shall not exceed 2% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district. The amount of emergency telephone technical charge payable monthly by a service user for nonrecurring costs and charges shall not exceed 5% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district. With the approval of the county board of commissioners, a county may assess an amount for recurring emergency telephone operational costs and charges that shall not exceed 4% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the geographical boundaries of the assessing county. The percentage to be set for the emergency telephone operational charge shall be established by the county board of commissioners under section 312. A change to the percentage set for the emergency telephone operational charge may be made only by the county board of commissioners. The difference, if any, between the amount of the emergency telephone technical charge computed under subsection (4) and the maximum permitted under this section shall be paid by the county from funds available to the county or through cooperative arrangements with public agencies within the 9-1-1 service district.

(6) Except as provided in sections 407 to 412, the emergency telephone technical charge and emergency telephone operational charge shall be collected in accordance with the regular

billings of the service supplier. The amount collected for emergency telephone operational charge shall be paid by the service supplier to the county that authorized the collection. The emergency telephone technical charge and emergency telephone operational charge payable by service users pursuant to this act shall be added to and shall be stated separately in the billings to service users.

(7) Except as provided in sections 407 to 412, for a 9-1-1 service district created or enhanced after June 27, 1991, the amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges shall not exceed 4% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district.

(8) Except as provided in sections 407 to 412, a county may, with the approval of the voters in the county, assess up to 16% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the geographical boundaries of the assessing county or assess a millage or combination of the 2 to cover emergency telephone operational costs. In a ballot question under this subsection, the board of commissioners shall specifically identify how the collected money is to be distributed. An affirmative vote on a ballot question under this subsection shall be considered an amendment to the 9-1-1 service plan pursuant to section 312. Not more than 1 ballot question under this subsection may be submitted to the voters within any 12-month period. An assessment approved under this subsection shall be for a period not greater than 5 years.

(9) The total emergency telephone operational charge as prescribed in subsections (5) and (8) shall not exceed 20% of the lesser of \$20.00 or the highest monthly flat rate charged for primary basic service by a service supplier for a 1-party access line.

(10) Except as provided in sections 407 to 412, if the voters approve the charge to be assessed on the service user's telephone bill on a ballot question under subsection (8), the service provider's bill shall state the following:

"This amount is for your 9-1-1 service which has been approved by the voters on (DATE OF VOTER APPROVAL). This is not a charge assessed by your telephone carrier. If you have questions concerning your 9-1-1 service, you may call (INCLUDE APPROPRIATE TELEPHONE NUMBER)."

(11) Except as provided in sections 407 to 412, an annual accounting shall be made of the emergency telephone operational charge approved under this act in the same manner as the annual accounting required by section 405.

(12) Except as otherwise provided in subsection (13), or as provided in sections 407 to 412, the emergency telephone operational charge collected under this section shall be distributed by the county or the counties to the primary PSAPs by 1 of the following methods:

(a) As provided in the final 9-1-1 service plan.

(b) If distribution is not provided for in the plan, then according to any agreement for distribution between the county and public agencies.

(c) If distribution is not provided in the plan or by agreement, then according to the distribution of access lines within the primary PSAPs.

(13) Except as provided in sections 407 to 412, if a county had multiple emergency telephone districts before March 2, 1994, then the emergency telephone operational charge collected under this section shall be distributed in proportion to the amount of access lines within the primary PSAPs.

(14) This act does not preclude the distribution of funding to secondary PSAPs if the distribution is determined by the primary PSAPs within the emergency 9-1-1 district to be the most effective method for dispatching of fire or emergency medical services and the distribution is approved within the final 9-1-1 service plan.

(15) Notwithstanding any other provision of this act, the emergency telephone technical charge collected under this section and the emergency telephone operational charge shall not be levied or collected after June 30, 2008. If all or a portion of the emergency telephone operational charge has been pledged as security for the payment of qualified obligations, the emergency telephone operational charge shall be levied and collected only to the extent required to pay the qualified obligations or satisfy the pledge.

(16) Subsections (3) through (13) do not apply after June 30, 2008.

484.1408 Collection of service charge by CMRS supplier; state 9-1-1 service charge by service supplier; retention of percentage to cover supplier's costs; deposit of money in emergency 9-1-1 fund; collection, deposit, and distribution of money; feasibility study of IP-based 9-1-1 system; methods of distribution to primary PSAPs by county; rules to establish standards for receipt and expenditure of funds.

Sec. 408. (1) Beginning January 1, 2008, a CMRS supplier or reseller shall, until July 1, 2008, for each CMRS connection that has a billing address in this state, continue to collect the service charge that the CMRS supplier or reseller was authorized to collect by this section prior to December 21, 2007. Except as otherwise provided under this act, starting July 1, 2008, a service supplier shall include a state 9-1-1 service charge per month as determined under section 401a. The service supplier shall list the state 9-1-1 service charge authorized under this act as a separate line item on each bill. The service charge shall be listed on the bill as the "state 9-1-1 charge".

(2) Each service supplier may retain 2% of the state 9-1-1 charge collected under this act to cover the supplier's costs for billing and collection.

(3) Except as otherwise provided under subsection (2), the money collected as the state 9-1-1 charge under subsection (1) shall be deposited in the emergency 9-1-1 fund created in section 407 no later than 30 days after the end of the quarter in which the state 9-1-1 charge was collected.

(4) Except as otherwise provided under section 401a(5), all money collected and deposited in the emergency 9-1-1 fund created in section 407 shall be distributed as follows:

(a) 82.5% shall be disbursed to each county that has a final 9-1-1 plan in place. Forty percent of the 82.5% shall be distributed quarterly on an equal basis to each county, and 60% of the 82.5% shall be distributed quarterly based on a population per capita basis. Money received by a county under this subdivision shall only be used for 9-1-1 services as allowed under this act. Money expended under this subdivision for a purpose considered unnecessary or unreasonable by the committee or the auditor general shall be repaid to the fund.

(b) 7.75% shall be available to reimburse local exchange providers for the costs related to wireless emergency service. Any cost reimbursement allowed under this subdivision shall not include a cost that is not related to wireless emergency service. A local exchange provider may submit an invoice to the commission for reimbursement from the emergency 9-1-1 fund for allowed costs. Within 45 days after the date an invoice is submitted to the commission, the commission shall approve, either in whole or in part, or deny the invoice.

(c) 6.0% shall be available to PSAPs for training personnel assigned to 9-1-1 centers. A written request for money from the fund shall be made by a public safety agency or county to the committee. The committee shall semiannually authorize distribution of money from

the fund to eligible public safety agencies or counties. A public safety agency or county that receives money under this subdivision shall create, maintain, and make available to the committee upon request a detailed record of expenditures relating to the preparation, administration, and carrying out of activities of its 9-1-1 training program. Money expended by an eligible public safety agency or county for a purpose considered unnecessary or unreasonable by the committee or the auditor general shall be repaid to the fund. The commission shall consult with and consider the recommendations of the committee in the promulgation of rules under section 413 establishing training standards for 9-1-1 system personnel. Money shall be disbursed on a biannual basis to an eligible public safety agency or county for training of PSAP personnel through courses certified by the committee only for either of the following purposes:

(i) To provide basic 9-1-1 operations training.

(ii) To provide in-service training to employees engaged in 9-1-1 service.

(d) 1.88% credited to the department of state police to operate a regional dispatch center that receives and dispatches 9-1-1 calls, and 1.87% credited to the department of state police for costs to administer this act and to maintain the office of the state 9-1-1 coordinator.

(5) For fiscal year 2007-2008 only, an amount not to exceed \$500,000.00 to the department of state police to study the feasibility of an IP-based 9-1-1 system in this state.

(6) Money received by a county under subsection (4)(a) shall be distributed by the county to the primary PSAPs geographically located within the 9-1-1 service district by 1 of the following methods:

(a) As provided in the final 9-1-1 service plan.

(b) If distribution is not provided for in the 9-1-1 service plan under subdivision (a), then according to any agreement for distribution between a county and a public agency.

(c) If distribution is not provided for in the 9-1-1 service plan under subdivision (a) or by agreement between the county and public agency under subdivision (b), then according to the population within the geographic area for which the PSAP serves as primary PSAP.

(d) If a county has multiple emergency 9-1-1 districts, money for that county shall be distributed as provided in the emergency 9-1-1 districts' final 9-1-1 service plans.

(7) The commission shall consult with and consider recommendations of the committee in the promulgation of rules under section 413 establishing the standards for the receipt and expenditures of 9-1-1 funds under this act. Receipt of 9-1-1 funds under this act is dependent on compliance with the standards established under this subsection.

Effective date as retroactive.

Enacting section 1. This amendatory act is retroactive and is effective January 1, 2008.

This act is ordered to take immediate effect.

Approved March 27, 2008.

Filed with Secretary of State March 27, 2008.

[No. 49]

(SB 1135)

AN ACT to provide for the establishment of zoological authorities; to provide powers and duties of a zoological authority; to authorize the levy of a property tax by a zoological authority; and to provide for the powers and duties of certain government officials.

The People of the State of Michigan enact:

123.1161 Short title.

Sec. 1. This act shall be known and may be cited as the “zoological authorities act”.

123.1163 Definitions.

Sec. 3. As used in this act:

- (a) “Accredited zoological institution” means an institution located in this state that is accredited by the association of zoos and aquariums.
- (b) “Articles” means the articles of incorporation of an authority.
- (c) “Authority” means a zoological authority established under section 5.
- (d) “Board” means the board of directors of the authority.
- (e) “Electors of the authority” means the qualified and registered electors of the county.
- (f) “Zoological services” means the operation of an accredited zoological institution that is open to the general public.

123.1165 Formation; authority as public corporate body; powers; limitation.

Sec. 5. (1) Any county may form a zoological authority.

(2) A zoological authority is an authority under section 6 of article IX of the state constitution of 1963. A zoological authority is a public corporate body with the power to sue and be sued in any court of this state.

(3) A zoological authority possesses all the powers necessary for carrying out the purposes of its formation. The enumeration of specific powers in this act shall not be construed as a limitation on the general powers of an authority, consistent with its articles.

(4) An authority shall not obtain an interest in real property or participate in the governance of an accredited zoological institution.

123.1167 Articles of incorporation; preparation; contents; adoption; publication; filing; effect upon filing.

Sec. 7. (1) To initiate the establishment of an authority, articles of incorporation shall be prepared by a majority of the members of the county board of commissioners of the county establishing the authority. The articles of incorporation shall include all of the following:

- (a) The name of the authority.
 - (b) The size of the board of the authority, which shall be composed of an odd number of members and shall not exceed 15 members; the qualifications and terms of office of board members; the manner of appointing the members of the board of the authority; and the filling of vacancies in the office of board member.
 - (c) The purpose of the authority.
 - (d) The method of dissolution of the authority.
 - (e) Any other matters considered advisable.
- (2) The articles shall be adopted and may be amended by an affirmative vote of a majority of the members of the county board of commissioners of the county establishing the authority.

(3) Before the articles or amendments to the articles are adopted, the articles or amendments to the articles shall be published not less than once in a newspaper generally circulated

within the county. The adoption of articles or amendments to the articles by the county shall be evidenced by an endorsement on the articles or amendments by the clerk of the county.

(4) Upon adoption of the articles or amendments to the articles by the county, a printed copy of the articles or the amended articles shall be filed with the secretary of state by the clerk of the county.

(5) The authority's articles of incorporation, or amendments to the articles, take effect upon filing with the secretary of state.

123.1169 Vacancy; removal; quorum; compensation; business conducted at public meeting; notice; availability of writings; election of officers; adoption of bylaws.

Sec. 9. (1) A vacancy occurs on the board on the happening of any of the events set forth in section 3 of 1846 RS 15, MCL 201.3. Members of the board may be removed by the county board of commissioners for good cause after a public hearing. Vacancies shall be filled in the manner as provided for in the authority's articles of incorporation.

(2) A majority of the members of the board constitute a quorum for the purpose of conducting business and exercising the powers of an authority. Official action may be taken by an authority upon the vote of a majority of the board members present, unless the authority adopts bylaws requiring a larger number.

(3) A member of the board shall not receive compensation for services as a member of the board but is entitled to reimbursement for reasonable expenses, including expenses for travel previously authorized by the board, incurred in the discharge of his or her duties.

(4) The business that an authority may perform shall 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 shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(5) A writing prepared, owned, or used by an authority in the performance of an official function shall be made available in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(6) At its first meeting, a board shall elect a chairperson, a secretary, a treasurer, and any other officers it considers necessary.

(7) A board may adopt bylaws to govern its procedures.

123.1171 Authority; powers.

Sec. 11. An authority may do 1 or more of the following:

- (a) Contract for zoological services with an accredited zoological institution.
- (b) Levy a tax as provided in section 13.
- (c) Enter into contracts incidental or necessary for the accomplishment of this act.
- (d) Contract for or retain professional services.

123.1171a Contract; time for entering.

Sec. 11a. An authority and an accredited zoological institution shall enter into a contract for zoological services before the vote for a tax levy under section 13 occurs.

123.1172 Contract; preferences or benefits for residents.

Sec. 12. If a majority of electors in the county voting on the question of a tax as provided in section 13 approve the tax, the contract for zoological services between the authority and

an accredited zoological institution shall include preferences or benefits for the residents of the county that may include, but are not limited to, any of the following:

- (a) Discounted admission fees.
- (b) Discounted membership fees.
- (c) Discounts for schoolchildren.
- (d) Access to educational programs.

123.1173 Tax levy; limitation; submission of tax proposal to electors; ballot proposal; authorization.

Sec. 13. (1) An authority may levy a tax of not more than 0.1 mill for a period of not more than 20 years on all of the taxable property within the county for the purpose of providing revenue to an accredited zoological institution that is an accredited zoological institution as of the date of the electors' approval of the levy. The authority may levy the tax only if a majority of the electors in the county voting on the tax at a statewide general or primary election approve the tax. The proposal for a tax shall be submitted to a vote of the electors of the authority by resolution of the board.

(2) A ballot proposal for a tax shall comply with the requirements of section 24f of the general property tax act, 1893 PA 206, MCL 211.24f. A proposal for a tax shall not be placed on the ballot unless the proposal is adopted by a resolution of the board and certified by the board not later than 60 days before the election to the county clerk of the county for inclusion on the ballot. The proposal shall be certified for inclusion on the ballot at the next eligible election, as specified by the board's resolution.

(3) If a majority of the electors in the county voting on the question of a tax approve the proposal as provided under subsection (1), the tax levy is authorized. Not more than 2 elections may be held in a calendar year on a proposal for a tax authorized under this act.

123.1175 Ballots to be provided by county election commission; conduct of election.

Sec. 15. (1) The county election commission of the county shall provide ballots for an election for a tax under section 13.

(2) An election for a tax shall be conducted by the city and township clerks and election officials of the municipalities located within the county.

123.1177 Notice of close of registration and election; final canvass by board of county canvassers; certification.

Sec. 17. (1) If an election for a tax under section 13 is to be held in conjunction with a general election or a state primary election, the notices of close of registration and election shall be published as provided for by the state election laws. Otherwise, the county clerk of the county shall publish the notices of close of registration and election. The notice of close of registration shall include the ballot language of the proposal.

(2) The results of an election for a tax shall be canvassed by the board of county canvassers of the county. The board of county canvassers of the county shall make the final canvass of an election for a tax based on the returns of the election inspectors of the municipalities in that county. The board of county canvassers of the county shall certify the results of the election to the board of the authority.

123.1179 Tax levy and collection.

Sec. 19. A tax authorized to be levied by an authority under this act shall be levied and collected at the same time and in the same manner as provided by the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

123.1180 Transfer of funds to accredited zoological institution; requirements.

Sec. 20. Within 10 business days of the receipt of the funds from the local property tax collecting unit for the tax levied under this act, the authority is required to transfer the funds to an accredited zoological institution.

123.1181 Election costs; reimbursement to county or municipality.

Sec. 21. (1) If a majority of the electors in the county voting on the question of a tax as provided in section 13 approve the tax, the county clerk of the county shall charge the authority and the authority shall reimburse the county for the actual costs the county incurs in the election for the tax under section 13.

(2) If a municipality conducts the election and a majority of the electors in the county voting on the question of a tax as provided in section 13 approve the tax, the clerk of that municipality shall charge the authority and the authority shall reimburse the municipality for the actual costs the municipality incurs in conducting the election if the election is not held in conjunction with a regularly scheduled election in that municipality.

(3) If a majority of the electors in the county voting on the question of a tax as provided in section 13 approve the tax, in addition to costs reimbursed under subsection (1) or (2), a county or municipality shall charge the authority and the authority shall reimburse the county or municipality for actual costs that the county or municipality incurs and that are exclusively attributable to an election for a tax authorized under this act.

(4) The actual costs that a county or municipality incurs shall be based on the number of hours of work done in conducting the election, the rates of compensation of the workers, and the cost of materials supplied in the election.

123.1183 Annual audit; preparation of budgets and appropriations acts; immunities; filing financial plan to correct deficit condition; investment or deposit of funds.

Sec. 23. (1) A board shall obtain an annual audit of the authority, and report on the audit and auditing procedures, in the manner provided by sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit shall also be in accordance with generally accepted government auditing standards as promulgated by the United States general accounting office and shall satisfy federal regulations relating to federal grant compliance audit requirements.

(2) An authority shall prepare budgets and appropriations acts in the manner provided by sections 14 to 19 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.434 to 141.439.

(3) The state treasurer, the attorney general, a prosecuting attorney, bank, certified public accountant, certified public accounting firm, or other person shall have the same powers, duties, and immunities with respect to the authority as provided for local units in sections 6 to 20 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.440.

(4) If an authority ends a fiscal year in a deficit condition, the authority shall file a financial plan to correct the deficit condition in the same manner as provided in section 21(2) of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.921.

(5) The board may authorize funds of the authority to be invested or deposited in any investment or depository authorized under section 1 of 1943 PA 20, MCL 129.91.

This act is ordered to take immediate effect.

Approved March 27, 2008.

Filed with Secretary of State March 27, 2008.

[No. 50]**(HB 5319)**

AN ACT to amend 1917 PA 167, entitled “An act to promote the health, safety and welfare of the people by regulating the maintenance, alteration, health, safety, and improvement of dwellings; to define the classes of dwellings affected by the act, and to establish administrative requirements; to prescribe procedures for the maintenance, improvement, or demolition of certain commercial buildings; to establish remedies; to provide for enforcement; to provide for the demolition of certain dwellings; and to fix penalties for the violation of this act,” by amending section 141b (MCL 125.541b), as added by 1992 PA 144.

The People of the State of Michigan enact:

125.541b Noncompliance with order as misdemeanor; penalties; designation of blight violation by municipality.

Sec. 141b. (1) Except as otherwise provided under subsection (2), a person who fails or refuses to comply with an order approved or modified by the legislative body or board of appeals under section 141 within the time prescribed by that section is guilty of a misdemeanor punishable by imprisonment for not more than 120 days or a fine of not more than \$1,000.00, or both.

(2) If a legislative body of a municipality formed under the home rule city act, 1909 PA 279, MCL 117.1 to 117.38, has enacted an ordinance that is substantially the same as sections 138 to 142, the municipality may designate the violation of its ordinance as a blight violation in accordance with section 4q of the home rule city act, 1909 PA 279, MCL 117.4q.

This act is ordered to take immediate effect.

Approved March 27, 2008.

Filed with Secretary of State March 28, 2008.

[No. 51]**(HB 4868)**

AN ACT to amend 1909 PA 279, entitled “An act to provide for the incorporation of cities and for revising and amending their charters; to provide for certain powers and duties; to provide for the levy and collection of taxes by cities, borrowing of money, and issuance of bonds or other evidences of indebtedness; to validate actions taken, bonds issued, and obligations heretofore incurred; to prescribe penalties and provide remedies; and to repeal acts and parts of acts on specific dates,” by amending sections 4q and 4r (MCL 117.4q and 117.4r), section 4q as added by 2003 PA 316 and section 4r as added by 2003 PA 317.

The People of the State of Michigan enact:

117.4q Administrative hearings bureau; establishment; administrative hearings; procedures.

Sec. 4q. (1) A city that has a population of 7,500 or more and is located in any county, or a city that has a population of 3,300 or more and is located in a county that has a population of 2,000,000 or more, may establish an administrative hearings bureau to adjudicate and impose sanctions for violations of the charter or ordinances designated in the charter or ordinance as

a blight violation. The bureau may accept admissions of responsibility for blight violations. Pursuant to a schedule of civil fines and costs, the bureau may collect civil fines and costs for blight violations.

(2) The expense of the operation of an administrative hearings bureau shall be borne by the city establishing the bureau.

(3) An administrative hearings bureau shall not have jurisdiction over criminal offenses, traffic civil infractions, municipal civil infractions, or state civil infractions. The bureau and its hearing officers shall not have the authority to impose a penalty of incarceration and may not impose a civil fine in excess of \$10,000.00. This section does not authorize a proceeding against a foreclosing governmental unit as defined under section 78 of the general property tax act, 1893 PA 206, MCL 211.78, or an authority created under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774. The city may waive a fine for a blight violation at an owner-occupied dwelling for a first time offender of a blight ordinance, if the offender has corrected the circumstances for the violation.

(4) A city that establishes an administrative hearings bureau under this section shall establish by ordinance the jurisdiction of the bureau for adjudicating alleged blight violations, making determinations of responsibility, and imposing sanctions upon those found responsible for a violation. The city may designate only a violation of any of the following types of ordinances as a blight violation:

(a) Zoning.

(b) Building or property maintenance.

(c) Solid waste and illegal dumping.

(d) Disease and sanitation.

(e) Noxious weeds.

(f) Vehicle abandonment, inoperative vehicles, vehicle impoundment, and municipal vehicle licensing.

(g) Right-of-way signage. For purposes of this subdivision, right-of-way signage violation means the placement of signage in a right-of-way without a proper permit from the city.

(h) An ordinance that is substantially the same as sections 138 to 142 of the housing law of Michigan, 1917 PA 167, MCL 125.538 to 125.542.

(5) To initiate a proceeding for a blight violation, the city shall issue and serve upon an alleged violator a written violation notice on which an authorized local official records the occurrence or existence of 1 or more blight violations by the person cited and which directs the named person to pay a civil fine for the violation or appear at the administrative hearings bureau as provided in this section. A violation notice to appear at an administrative hearings bureau shall be treated as made under oath if the violation alleged in the notice occurred in the presence of the authorized local official signing the violation notice and if the notice contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief." An authorized local official may issue a violation notice to appear if, based upon investigation, the official has reasonable cause to believe that the person is responsible for a blight violation and if the city attorney or an assistant city attorney approves in writing the issuance of the violation notice.

(6) If a city has a rental inspection program with which a landlord must register in order to rent premises for residential purposes and if a landlord of premises rented in the city for residential purposes is registered with the city's rental inspection program, the city shall

not issue a blight violation notice during an inspection of the premises unless either of the following occurs:

(a) The landlord is given a written correction notice of the violation and a reasonable opportunity to correct the circumstances before a reinspection of the premises or a date specified in the notice.

(b) The violation is a direct result of the landlord's action or inaction and creates an emergency that presents an immediate risk of harm to people or damage to property including, but not limited to, a flooded basement or premises without heat.

(7) A city that does not have a rental inspection program, or does not require a landlord to register as part of a rental inspection program, shall not issue a blight violation notice to a landlord of premises rented in the city for residential purposes during an inspection of the premises unless either of the following occurs:

(a) The landlord is given a written correction notice of the violation and a reasonable opportunity to correct the circumstances before a reinspection of the premises or a date specified in the notice.

(b) The violation is a direct result of the landlord's action or inaction and creates an emergency that presents an immediate risk of harm to people or damage to property, including, but not limited to, a flooded basement or premises without heat.

(8) The person named in the violation notice shall appear on or before the time specified in the violation notice and may respond to the allegations in the notice, as follows:

(a) If the alleged violator wishes to admit responsibility for the blight violation, the person may do so by appearing in person, by representation, or by mail. If appearance is made by representation or mail, the administrative hearings bureau may accept the admission as though the person personally appeared. Upon acceptance of the admission, a hearing officer may order any of the sanctions permitted under this section.

(b) If the alleged violator wishes to deny responsibility for the blight violation, or admit responsibility with an explanation, the person may do so by appearing in person on the date scheduled for the administrative hearing for the purpose of adjudicating the alleged violation.

(c) If the alleged violator fails to appear, a decision and order of default may be entered.

(9) If an admission of responsibility is not made and the civil fine and costs, if any, prescribed by charter or ordinance for the violation are not paid at the administrative hearings bureau, and the alleged violator fails to appear at a hearing scheduled in accordance with this section, a final decision and order of responsibility in the amount of the prescribed civil fine and costs may be issued by the administrative hearings bureau.

(10) The city establishing an administrative hearings bureau shall establish rules and procedures for an alleged violator to set aside the entry of a decision and order of default.

(11) The ordinance establishing the bureau shall provide for adjudicatory hearings by hearing officers. Each hearing officer shall be an attorney licensed to practice law in this state for at least 5 years. Hearing officers shall be appointed in a manner consistent with the charter of the city for the appointment of other municipal officers or employees and shall only be removed for reasonable cause. Before conducting administrative adjudication proceedings, administrative hearing officers shall successfully complete a formal training program which includes all of the following:

(a) Instruction on the rules of procedure of the administrative hearings that they will conduct.

(b) Orientation to each subject area of the ordinance violations that they will adjudicate.

(c) Observation of administrative hearings.

(d) Participation in hypothetical cases, including ruling on evidence and issuing final orders.

(e) The importance of impartiality in the conduct of the administrative hearing and adjudication of the violation.

(f) Instructions on the preparation of a record that is adequate for judicial review.

(12) The authority and duties of a hearing officer shall include all of the following:

(a) Hearing testimony and accepting evidence that is relevant to the existence of the blight violation.

(b) Issuing subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon request of a party or a party's attorney.

(c) Preserving and authenticating the record of the hearing and all exhibits and evidence introduced at the hearing.

(d) Issuing a determination, based upon the evidence presented at the hearing, whether a blight violation exists. The determination shall be in writing and shall include written findings of fact, a decision, and an order. The city shall have the burden of establishing the responsibility of the alleged violator by a preponderance of the evidence. Unless the burden is met, the matter shall be dismissed. A decision and an order shall not be made except upon consideration of the record as a whole or a portion of the record as may be cited by any party to the proceeding and as supported by and in accordance with the competent, material, and substantial evidence. A decision and order finding the alleged violator responsible for the violation shall include the civil fine, if any, or any action with which the violator must comply, or both.

(e) Imposing reasonable and proportionate sanctions consistent with applicable ordinance provisions and assessing costs upon a finding that the alleged violator is responsible for the alleged violation. The maximum monetary civil fine allowed under this section excludes costs of enforcement or costs imposed to secure compliance with the city's ordinances and is not applicable to enforce the collection of any tax imposed and collected by the city.

(13) In addition to fines and costs imposed under subsection (12), the hearing officer shall impose a justice system assessment of \$10.00 for each blight violation determination. Upon payment of the assessment, the city shall transmit the assessment collected to the state treasury to be deposited into the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181.

(14) A party shall be provided with the opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross-examine witnesses. A party may request the hearing officer to issue subpoenas to direct the attendance and testimony of relevant witnesses and the production of relevant documents. Hearings shall be scheduled with reasonable promptness, except that for hearings scheduled in all nonemergency situations the alleged violator if he or she requests shall have at least 14 days after service of process to prepare for the hearing. For purposes of this subsection, "nonemergency situation" means any situation that does not reasonably constitute a threat to the public interest, safety, or welfare. If service is provided by first-class mail, the 14-day period begins to run on the day that the notice is deposited in the mail.

(15) In an administrative hearing under this section, the rules of evidence as applied in a nonjury civil case in circuit court shall be followed as far as practicable, but the hearing officer may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege

recognized by law. Objections to offers of evidence may be made and shall be noted in the record. Subject to these requirements, the hearing officer, for the purpose of expediting hearings and when the interests of the parties will not be substantially prejudiced thereby, may provide in an administrative hearing or by rule for submission of all or part of the evidence in written form.

(16) Any final decision by a hearing officer that a blight violation does or does not exist constitutes a final decision and order for purposes of judicial review and may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

(17) A party may file an appeal within 28 days after entry of the decision and order by the hearing officer. An appeal of a final decision and order of an administrative hearing officer is to the circuit court.

(18) An alleged violator who appeals a final decision and order to circuit court shall post with the administrative hearings bureau, at the time the appeal is taken, a bond equal to the fine and costs imposed. A party who has paid the fine and costs is not required to post a bond. If a party who has posted a bond fails to comply with the requirements of supreme court rules for an appeal to the circuit court, the appeal may be considered abandoned, and the bureau may dismiss the appeal on 7 days' notice to the parties. The administrative hearings bureau must promptly notify the circuit court of a dismissal, and the circuit court shall dismiss the claim of appeal. If the appeal is dismissed or the decision and order are affirmed, the administrative hearings bureau may apply the bond to the fine and costs. An appeal by the city must be asserted by the city's attorney and a bond is not required.

(19) An appeal to circuit court shall be a review by the court of the certified record provided by the administrative hearings bureau. Pending appeal, and subject to the bond requirement under subsection (18), the hearing officer may stay the order and any sanctions or costs imposed. Once an appeal is filed, and subject to the bond requirement under subsection (18), the court may stay the order and any sanctions or costs imposed. The court, as appropriate, may affirm, reverse, or modify the decision or order, or remand the matter for further proceedings. The court shall hold unlawful and set aside a decision or order of the hearing officer if substantial rights of an alleged violator have been prejudiced because the decision or order is any of the following:

- (a) In violation of the constitution or a statute, charter, or ordinance.
- (b) In excess of the authority or jurisdiction of the agency as conferred by statute, charter, or ordinance.
- (c) Made upon unlawful procedure resulting in material prejudice to a party.
- (d) Not supported by competent, material, and substantial evidence on the whole record.
- (e) Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion.
- (f) Affected by other substantial and material error of law.

117.4r Nonpayment of civil fine or costs or installment payment by defendant; lien; recording; enforcement; priority; collection of judgment; duration of lien; default.

Sec. 4r. (1) If a defendant does not pay a civil fine or costs or an installment payment ordered by a hearing officer under section 4q within 30 days after the date on which payment is due for a blight violation involving the use or occupation of land or a building or other structure, the city may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the final decision and order requiring payment of the fines and costs with the register of deeds for the county in which the land, building, or structure

is located. The order shall not be recorded unless a legal description of the property is incorporated in or attached to the order. The lien is effective immediately upon recording of the order with the register of deeds.

(2) The order recorded under subsection (1) with the register of deeds shall constitute notice of the pendency of the lien. In addition, a written notice of the lien shall be sent by the city by first-class mail to the owner of record of the land, building, or structure at the owner's last known address.

(3) The lien may be enforced and discharged by the city in the manner prescribed by its charter, by the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, or by an ordinance duly passed by the governing body of the city. However, property is not subject to forfeiture, foreclosure, and sale under sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a, for nonpayment of a civil fine or costs or an installment ordered under section 4q unless the property is also subject to forfeiture, foreclosure, and sale under sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a, for delinquent property taxes.

(4) A lien created under this section has priority over any other lien unless 1 or more of the following apply:

- (a) The other lien is a lien for taxes or special assessments.
- (b) The other lien is created before May 1, 1994.
- (c) Federal law provides that the other lien has priority.
- (d) The other lien is recorded before the lien under this section is recorded.

(5) The city may institute an action in circuit court for the collection of the judgment imposed by an order under section 4q for a blight violation. However, an attempt by the city to collect the judgment by any process does not invalidate or waive the lien upon the land, building, or structure.

(6) A lien provided for by this section shall not continue for a period longer than 10 years after a copy of the order imposing a fine or costs, or both, is recorded, unless within that time an action to enforce the lien is commenced.

(7) A default in the payment of a civil fine or costs under section 4q or an installment of the fine or costs may be collected by a means authorized for the enforcement of a court judgment under chapter 40 or 60 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, and MCL 600.6001 to 600.6098.

This act is ordered to take immediate effect.

Approved March 27, 2008.

Filed with Secretary of State March 28, 2008.

[No. 52]

(HB 5665)

AN ACT to amend 1991 PA 179, entitled "An act to regulate and insure the availability of certain telecommunication services; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties; to repeal certain acts and parts of acts; and to repeal this act on a specific date," (MCL 484.2101 to 484.2604) by amending the title; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

TITLE

An act to regulate and insure the availability of certain telecommunication services; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties; and to repeal acts and parts of acts.

Repeal of MCL 484.2604.

Enacting section 1. Section 604 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2604 is repealed.

This act is ordered to take immediate effect.

Approved March 27, 2008.

Filed with Secretary of State March 28, 2008.

[No. 53]

(HB 5443)

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 32a (MCL 125.1432a), as amended by 2004 PA 535.

The People of the State of Michigan enact:

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.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) House Bill No. 5446.
- (b) Senate Bill No. 948.
- (c) Senate Bill No. 950.
- (d) Senate Bill No. 951.
- (e) Senate Bill No. 1133.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 5446 was filed with the Secretary of State April 3, 2008, and became 2008 PA 56, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 948 was filed with the Secretary of State April 3, 2008, and became 2008 PA 57, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 950 was filed with the Secretary of State April 3, 2008, and became 2008 PA 55, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 951 was filed with the Secretary of State April 3, 2008, and became 2008 PA 54, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 1133 was filed with the Secretary of State April 3, 2008, and became 2008 PA 58, Imd. Eff. Apr. 3, 2008.

[No. 54]

(SB 951)

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 1 (MCL 125.1401), as amended by 1998 PA 33.

The People of the State of Michigan enact:

125.1401 Legislative determinations and findings.

Sec. 1. (1) The legislature hereby determines that there exists in the state a seriously inadequate supply of, and a pressing need for, safe and sanitary dwelling accommodations within the financial means of low income or moderate income families or persons, including

those families and persons displaced by the clearing of slums and blighted areas or by other public programs; that there exists in this state a high incidence of residential real property occupied by persons of low and moderate income which is not safe, sanitary, or adequate and that there is a pressing need for rehabilitation of that property; that large areas in municipalities have become blighted or, through programs to remove blight, have become vacant, resulting in the impairment or loss of taxable values upon which municipal revenue largely depends; that large numbers of middle and upper income persons and families have left municipalities which have high concentrations of low income persons and families resulting in a high demand for municipal services notwithstanding a low potential for generating revenues necessary to pay for those services; that the existence of blight, the inability to redevelop cleared areas, and the lack of economic integration is detrimental to the general welfare of the citizens of this state and the economic welfare of municipalities in this state; that the financing of housing for persons and families without regard to income will assist in preserving existing values of property within or adjacent to blighted or cleared areas; that economic integration will promote the financial and social stability of housing for families and persons of low and moderate income; that in order to improve and maintain the general character of municipalities having the aforesaid characteristics, it is necessary to promote the development of housing for persons and families without regard to income; that to increase the availability of safe and sanitary housing generally it is necessary to facilitate the purchase of existing housing by making financing for the purchase of existing housing available at affordable interest rates; that there are inadequate social, recreational, commercial, and communal facilities in residential areas inhabited by low income or moderate income families or persons and in areas blighted or vacant because of slum clearance, and that housing financed pursuant to this act will not be viable without adequate social, recreational, commercial, and communal facilities in the surrounding area; and that it is a valid public purpose to finance the acquisition and rehabilitation of existing housing or the construction of additional housing for those low or moderate income families and persons who would otherwise be unable to obtain adequate and affordable dwellings, to finance the rehabilitation of residential real property occupied or to be occupied by persons and families of low and moderate income who would otherwise be unable to afford the purchase or rehabilitation of residential real property which is safe, sanitary, or adequate, to finance housing for persons and families without regard to income in areas in municipalities which are experiencing blight or inability to redevelop land cleared of blight which are predominately populated by low and moderate income persons and families, to finance social, recreational, commercial, and communal facilities to serve those families or persons, to enhance authority-financed housing, to establish and provide acceleration and foreclosure procedures for authority-financed housing, and to acquire land for present or future development including that housing and social, recreational, commercial, and communal facilities; that it is a valid public purpose to finance safe, sanitary, and adequate mobile homes, mobile home parks, and mobile home condominium projects for persons and families of low and moderate income in order to facilitate the provision of affordable housing for such persons, to finance mobile homes, mobile home parks, and mobile home condominium projects without regard to income in areas in municipalities which are experiencing blight or inability to redevelop land cleared of blight which are predominately populated by low and moderate income persons and families, and to finance social, recreational, commercial, and communal facilities in mobile home parks and mobile home condominium projects, the financing of mobile homes, mobile home parks, and mobile home condominium projects being necessary to fill a gap in the housing market.

(2) It is further determined that the supply of low and moderate cost housing available for occupancy by certain persons with disabilities and certain elderly persons is being eroded through greatly increasing rental rates, and the conversion of low and moderate cost rental

units into condominium units which are then sold at prices and under financing terms which are not affordable to those persons with disabilities and elderly persons. It is further determined that it is a proper public purpose to prevent the erosion of the supply of existing low and moderate cost housing available for occupancy by certain persons with disabilities and elderly persons by taking appropriate action to prevent the displacement of those persons with disabilities and elderly persons from existing low and moderate cost housing, including the making of loans enabling those persons with disabilities and elderly persons to continue to rent the units in which they reside.

(3) It is further determined that to assure an adequate supply of safe and sanitary housing for families of low and moderate income within the financial means of those families, it is necessary to facilitate the purchase of safe and sanitary existing housing by those families; that, in addition, new single-family housing construction is inhibited by the inability of prospective purchasers to sell existing single-family residences, and that those conditions result in the reduction of the number of safe and sanitary dwellings which would otherwise be made available to persons of low and moderate income; and that the depressed economy and decreased employment in this state are detrimental to the general welfare of the citizens of this state. It is further determined that it is necessary in order to alleviate those conditions and is a valid public purpose to provide for the financing or refinancing, with the assistance of the authority, of the purchase of existing single-family residences for occupancy by low and moderate income families and families without regard to income in areas in municipalities which are experiencing blight or inability to redevelop land cleared of blight and which are predominately populated by low and moderate income persons and families.

(4) It is further determined that there exists in this state a high incidence of residential rental property which is not safe, sanitary, adequate, or energy efficient, and that there is a pressing need for the rehabilitation of residential rental property in order to preserve and improve the state's existing housing stock. It is further determined that it is necessary in order to alleviate those conditions and is a valid public purpose to provide for the financing, with the assistance of the authority, of the rehabilitation of existing residential rental property without regard to the income of the persons or entities owning the property or of the tenants of the property.

(5) It is further determined that there is a statewide pressing need for programs to alleviate and prevent conditions of unemployment in the housing industry, to preserve existing jobs and create new jobs to meet the employment demands of population growth, to promote the development of construction related business enterprises, to revitalize and diversify the Michigan economy in general, and to achieve the goals of economic growth and full employment.

(6) It is further determined that the construction and rehabilitation of safe and sanitary dwellings are necessary to the creation and retention of jobs in the state.

(7) It is further determined that the retention, promotion, and development of the housing industry require additional means of financing to help existing business enterprises expand more rapidly, to promote the location of additional business enterprises in this state, and to alleviate and prevent conditions of unemployment.

(8) It is further determined that economic conditions and single-family home mortgage market standards, activities, and practices, including forms of predatory and abusive mortgage loan financing, have resulted in an increase in the incidence of mortgage loan default and mortgage foreclosure in the state, and that there is a pressing need for the creation of programs to assist low and moderate income individuals and families with the refinancing of single-family mortgages in this state, which programs will prevent families from losing their homes and help to stabilize the housing market in this state.

(9) The legislature finds that the conditions described in subsections (1) to (8) cannot be remedied by the ordinary operation of private enterprise without supplementary public participation and that the authority and powers conferred by this act constitute a necessary program and serve a valid public purpose.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 948.
- (b) Senate Bill No. 950.
- (c) Senate Bill No. 1133.
- (d) House Bill No. 5443.
- (e) House Bill No. 5446.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 948 was filed with the Secretary of State April 3, 2008, and became 2008 PA 57, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 950 was filed with the Secretary of State April 3, 2008, and became 2008 PA 55, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 1133 was filed with the Secretary of State April 3, 2008, and became 2008 PA 58, Imd. Eff. Apr. 3, 2008.

House Bill No. 5443 was filed with the Secretary of State April 3, 2008, and became 2008 PA 53, Imd. Eff. Apr. 3, 2008.

House Bill No. 5446 was filed with the Secretary of State April 3, 2008, and became 2008 PA 56, Imd. Eff. Apr. 3, 2008.

[No. 55]

(SB 950)

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,” (MCL 125.1401 to 125.1499c) by adding section 24f.

The People of the State of Michigan enact:

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.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 948.
- (b) Senate Bill No. 951.
- (c) Senate Bill No. 1133.
- (d) House Bill No. 5443.
- (e) House Bill No. 5446.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
 Senate Bill No. 948 was filed with the Secretary of State April 3, 2008, and became 2008 PA 57, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 951 was filed with the Secretary of State April 3, 2008, and became 2008 PA 54, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 1133 was filed with the Secretary of State April 3, 2008, and became 2008 PA 58, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5443 was filed with the Secretary of State April 3, 2008, and became 2008 PA 53, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5446 was filed with the Secretary of State April 3, 2008, and became 2008 PA 56, Imd. Eff. Apr. 3, 2008.

[No. 56]

(HB 5446)

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 32 (MCL 125.1432), as amended by 2004 PA 535.

The People of the State of Michigan enact:

125.1432 Capital reserve fund; 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; review of loans, financial instruments, and lines of credit; 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 shall 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, shall 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 due to 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 a fund.

(2) The authority shall not at any time 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 requirement provided in the resolution of the authority authorizing the notes or bonds with respect to which the fund is established, which amount shall 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 shall 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 shall 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 may issue notes and bonds subject to the following limitations:

(a) The authority shall not have outstanding at any time bonds and notes for any of its corporate purposes in an aggregate principal amount exceeding \$4,200,000,000.00, excluding all of the following:

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

(ii) 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.

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

(b) After November 1, 2011, the limitation on the aggregate principal amount of notes and bonds provided in subdivision (a) is \$3,000,000,000.00, excluding all of the following:

(i) The exclusions provided in subparagraphs (i), (ii), and (iii) of subdivision (a).

(ii) The aggregate principal amount of bonds and notes issued on or before November 1, 2011, that is outstanding on November 1, 2011, and that exceeds \$3,000,000,000.00.

(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 shall 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) “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, 26 USC 146.

(b) “Qualified mortgage bond”, “mortgage credit certificate”, and “qualified residential rental project” mean those terms as defined in section 146 of the internal revenue code, 26 USC 146.

(7) To assure 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 shall 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 shall 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) In addition to the powers granted the authority in this act to promulgate rules in accordance with 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 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 shall include information about the progress in developing the program, the neighborhoods identified as being 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. If the authority determines that federal programs are inadequate for tenants of authority-financed housing projects, the authority will provide recommendations to the legislature as to how to address this problem on or before May 1, 1989.

(l) A report on the low income housing tax credit program under section 22b, that shall 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 that will 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 conduct an annual review of all loans, financial instruments that require repayment, or lines of credit with the Michigan broadband development authority. The review shall contain an analysis of the Michigan broadband development authority's ability to repay all loans, financial instruments that require repayment, and lines of credit with the authority and the amount and payment schedule of all current loans, financial instruments that require payment, and lines of credit with the authority. The review shall also contain an analysis of the number of authority-assisted or -financed developments and homes purchasing high-speed internet connections at substantially reduced rates as a direct result of loans from the Michigan broadband development authority, as specified in the memorandum of understanding between the authority and the Michigan broadband development authority.

(18) The authority shall insure that the income characteristics of individuals served by an authority program are provided in a manner that insures each individual's confidentiality. The authority shall also insure 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.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 948.
- (b) Senate Bill No. 950.
- (c) Senate Bill No. 951.
- (d) Senate Bill No. 1133.
- (e) House Bill No. 5443.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 948 was filed with the Secretary of State April 3, 2008, and became 2008 PA 57, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 950 was filed with the Secretary of State April 3, 2008, and became 2008 PA 55, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 951 was filed with the Secretary of State April 3, 2008, and became 2008 PA 54, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 1133 was filed with the Secretary of State April 3, 2008, and became 2008 PA 58, Imd. Eff. Apr. 3, 2008.

House Bill No. 5443 was filed with the Secretary of State April 3, 2008, and became 2008 PA 53, Imd. Eff. Apr. 3, 2008.

[No. 57]

(SB 948)

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 2004 PA 549.

The People of the State of Michigan enact:

125.1444 Loans; purposes; conditions; amount; eligibility; sales and resales; long-term financing or refinancing; securing and repaying loans; interest rate; misrepresentation of income; time period for refinancing.

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 of time 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 provisions of this section, 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)(a)(i), (ii), (iii), (iv), or (v) 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 section may be in an amount not to 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 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 section may be in an amount not to exceed 100% of the project cost as approved by the authority in the case of a nonprofit housing corporation or individual purchaser, and in an amount not to 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 satisfy itself 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 defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104. To qualify, all of the following apply:

(a) The borrower's family income shall not exceed the following:

(i) 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.

(ii) 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.

(b) The purchase price or, in the case of a refinancing, the appraised value does not exceed the following:

(i) With respect to a 1- or 2-family unit, 3 times the income limit, as established pursuant to subdivision (a).

(ii) With respect to a 3-family unit, 3-1/2 times the income limit, as established pursuant to subdivision (a).

(iii) With respect to a 4-family unit, 4 times the income limit, as established pursuant to subdivision (a).

(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 an income or purchase price limit prescribed by this subsection exceeds an application limit prescribed by the internal revenue code, the internal revenue code limit applies.

(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 section. 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 making 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 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 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 to be eligible for a loan under this act.

(6) With regard to refinancing, the authority shall not enter into any new making, purchasing, or participation in loans to individual purchasers pursuant to subsection (3) later than 3 years after the effective date of the amendatory act that added this subsection.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 950.

- (b) Senate Bill No. 951.
- (c) Senate Bill No. 1133.
- (d) House Bill No. 5443.
- (e) House Bill No. 5446.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
 Senate Bill No. 950 was filed with the Secretary of State April 3, 2008, and became 2008 PA 55, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 951 was filed with the Secretary of State April 3, 2008, and became 2008 PA 54, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 1133 was filed with the Secretary of State April 3, 2008, and became 2008 PA 58, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5443 was filed with the Secretary of State April 3, 2008, and became 2008 PA 53, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5446 was filed with the Secretary of State April 3, 2008, and became 2008 PA 56, Imd. Eff. Apr. 3, 2008.

[No. 58]

(SB 1133)

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 2004 PA 549.

The People of the State of Michigan enact:

125.1444 Loans; purposes; conditions; amount; eligibility; sales and resales; long-term financing or refinancing; securing and repaying loans; interest rate; misrepresentation of income; time period for refinancing.

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 of time 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 provisions of this section, 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)(a)(i), (ii), (iii), (iv), or (v) 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 section may be in an amount not to 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 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 section may be in an amount not to exceed 100% of the project cost as approved by the authority in the case of a nonprofit housing corporation or individual purchaser, and in an amount not to 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 satisfy itself 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 defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104. To qualify, all of the following apply:

(a) The borrower’s family income shall not exceed \$108,000.00.

(b) The purchase price or, in the case of a refinancing, the appraised value does 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 an income or 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 section. 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 making 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 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 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 to be eligible for a loan under this act.

(6) With regard to refinancing, the authority shall not enter into any new making, purchasing, or participation in loans to individual purchasers pursuant to subsection (3) later than 3 years after the effective date of the amendatory act that added this subsection.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 948.
- (b) Senate Bill No. 950.
- (c) Senate Bill No. 951.
- (d) House Bill No. 5443.
- (e) House Bill No. 5446.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 948 was filed with the Secretary of State April 3, 2008, and became 2008 PA 57, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 950 was filed with the Secretary of State April 3, 2008, and became 2008 PA 55, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 951 was filed with the Secretary of State April 3, 2008, and became 2008 PA 54, Imd. Eff. Apr. 3, 2008.

House Bill No. 5443 was filed with the Secretary of State April 3, 2008, and became 2008 PA 53, Imd. Eff. Apr. 3, 2008.

House Bill No. 5446 was filed with the Secretary of State April 3, 2008, and became 2008 PA 56, Imd. Eff. Apr. 3, 2008.

[No. 59]**(HB 5287)**

AN ACT to amend 1987 PA 173, entitled “An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties,” by amending section 2 (MCL 445.1652), as amended by 2007 PA 179.

The People of the State of Michigan enact:

445.1652 Mortgage broker, mortgage lender, or mortgage servicer; license or registration required; exemption; “residential mortgage originator” defined; compensation; other remuneration; words contained in name or assumed name; “employee” defined.

Sec. 2. (1) A person shall not act as a mortgage broker, mortgage lender, or mortgage servicer without first obtaining a license or registering under this act, unless 1 or more of the following apply:

(a) The person is solely performing services as an employee of only 1 mortgage broker, mortgage lender, or mortgage servicer. This subdivision does not apply after December 31, 2008.

(b) The person is exempted from the act under section 25.

(c) The person is licensed as a class I licensee under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072.

(d) The individual is an employee of a professional employer organization, as that term is defined in section 113 of the Michigan business tax act, 2007 PA 36, MCL 208.1113, solely acting as a residential mortgage originator of only 1 mortgage broker or mortgage lender. The mortgage broker or mortgage lender shall do all of the following:

(i) Direct and control the activities of the individual under this act.

(ii) Be responsible for all activities of the individual and assume responsibility for the individual’s actions that are covered by the proof of financial responsibility deposit required under section 4.

(2) A person that is licensed to make regulatory loans under the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24, or is licensed to make secondary mortgage loans under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, and is registered with the commissioner shall file with the commissioner an application for a license under section 3(1) or shall discontinue all activities that are subject to this act.

(3) Unless a residential mortgage originator is otherwise licensed or registered under this act, a residential mortgage originator shall not receive directly or indirectly any compensation, commission, fee, points, or other remuneration or benefits from a mortgage broker, mortgage lender, or mortgage servicer other than the employer of the residential mortgage originator. This subsection does not apply after December 31, 2008.

(4) Beginning January 1, 2009, a loan officer shall not directly or indirectly receive any compensation, commission, fee, points, or other remuneration or benefits for originating a mortgage loan unless both of the following are met:

(a) The loan officer is a loan officer registrant.

(b) The compensation, commission, fee, points, or other remuneration or benefits are paid by the licensee or registrant for which the loan officer originated that mortgage loan.

(5) Unless a residential mortgage originator is otherwise licensed or registered under this act, a mortgage broker, mortgage lender, or mortgage servicer shall not pay directly or indirectly any compensation, commission, fee, points, or other remuneration or benefits to a residential mortgage originator other than an employee of the mortgage broker, mortgage lender, or mortgage servicer. As used in this subsection and subsection (3), “residential mortgage originator” means a person who assists another person in obtaining a mortgage loan. This subsection does not apply after December 31, 2008.

(6) Beginning January 1, 2009, a mortgage broker, mortgage lender, or mortgage servicer shall not directly or indirectly pay any compensation, commission, fee, points, or other remuneration or benefits to any of the following:

(a) A loan officer who is not a loan officer registrant.

(b) A loan officer registrant who is not an employee or agent of that mortgage broker, mortgage lender, or mortgage servicer.

(7) A mortgage broker, mortgage lender, or mortgage servicer that is exempt from regulation under this act and is a subsidiary or affiliate of a depository financial institution or a depository financial institution holding company that does not maintain a main office or branch office in this state, shall register under section 6 or shall discontinue all activities subject to this act.

(8) Except for a state or nationally chartered bank, savings bank, or an affiliate of a bank or savings bank, the person subject to this act shall not include in its name or assumed name, the words “bank”, “banker”, “banking”, “banc”, “bankcorp”, “bancorp”, or any other words or phrases that would imply that the person is a bank, is engaged in the business of banking, or is affiliated with a bank or savings bank. It is not a violation of this subsection for a licensee or registrant to use the term “mortgage banker” or “mortgage banking” in its name or assumed name. A person subject to this act whose name or assumed name on January 1, 1995 contained a word prohibited by this section may continue to use the name or assumed name.

(9) As used in this section, “employee” means that term as defined in section 3401 of the internal revenue code, 26 USC 3401.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 826.
- (b) Senate Bill No. 827.
- (c) Senate Bill No. 828.
- (d) Senate Bill No. 829.
- (e) Senate Bill No. 830.
- (f) Senate Bill No. 831.
- (g) Senate Bill No. 832.
- (h) Senate Bill No. 833.
- (i) House Bill No. 5288.
- (j) House Bill No. 5289.

(k) House Bill No. 5290.

(l) House Bill No. 5291.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 826 was filed with the Secretary of State April 3, 2008, and became 2008 PA 64, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 827 was filed with the Secretary of State April 3, 2008, and became 2008 PA 65, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 828 was filed with the Secretary of State April 3, 2008, and became 2008 PA 66, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 829 was filed with the Secretary of State April 3, 2008, and became 2008 PA 67, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 830 was filed with the Secretary of State April 3, 2008, and became 2008 PA 68, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 831 was filed with the Secretary of State April 3, 2008, and became 2008 PA 69, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 832 was filed with the Secretary of State April 3, 2008, and became 2008 PA 70, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 833 was filed with the Secretary of State April 3, 2008, and became 2008 PA 71, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5288 was filed with the Secretary of State April 3, 2008, and became 2008 PA 60, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5289 was filed with the Secretary of State April 3, 2008, and became 2008 PA 61, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5290 was filed with the Secretary of State April 3, 2008, and became 2008 PA 62, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5291 was filed with the Secretary of State April 3, 2008, and became 2008 PA 63, Imd. Eff. Apr. 3, 2008.

[No. 60]

(HB 5288)

AN ACT to amend 1987 PA 173, entitled “An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties,” (MCL 445.1651 to 445.1684) by adding section 2a.

The People of the State of Michigan enact:

445.1652a Performance of services by employee or agent of licensee or registrant; registration or compliance with section required; criminal records check; application for loan officer registration; form; performance of services while application pending; issuance of registration prohibited; conditions; registration of loan officer; requirements; employee or agent of mortgage broker, mortgage lender, or mortgage servicer; waiver; disclosure of information; use of certain titles or designations.

Sec. 2a. (1) Beginning January 1, 2009, an employee or agent of a licensee or registrant shall not perform services of a loan officer unless he or she registers or otherwise complies with this section.

(2) Beginning January 1, 2009, a licensee or registrant that employs or offers to employ, or engages or offers to engage as an agent, an individual to originate mortgage loans shall conduct a criminal records check of that individual and submit the results of the criminal records check to the commissioner. A criminal records check under this subsection shall include a check of the individual's fingerprints, taken by a law enforcement agency or other person determined by the commissioner to be qualified to take fingerprints.

(3) Beginning January 1, 2009, if an individual is employed or engaged as an agent to originate mortgage loans by a licensee or registrant, that individual shall apply for loan officer registration under this section within 90 days after he or she begins providing services as an employee or agent of the licensee or registrant, by submitting the application

described in subsection (4), in writing, and including with the application the annual operating fee established under section 8(3).

(4) The commissioner shall prescribe the form of application for registration as a loan officer. Subject to subsection (9), the application form shall require that an applicant provide at least all of the following to the commissioner:

(a) The name and home address of the applicant.

(b) A statement as to whether the applicant has ever been convicted of, or pled no contest to, any of the following:

(i) A misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(ii) A felony.

(c) A statement as to whether the applicant has had an application denied, or a license, registration, or similar authority revoked or suspended, to practice any profession or occupation in any jurisdiction, including, but not limited to, licensure or registration as a mortgage broker, mortgage lender, or mortgage servicer in which the applicant held more than 25% of the ownership interest or as a loan officer.

(d) Except for an application described in subsection (7), proof in the form of a certificate of completion or other evidence acceptable to the commissioner that the applicant has completed at least 24 hours of live professional classroom instruction in this state in an introductory course in residential mortgage lending that is sponsored or provided by a person, and taught by an instructor, approved by the commissioner. The 24 hours of instruction shall include at least 3 hours of live classroom instruction concerning state and federal laws and regulations governing residential mortgage lending, the content of which has been approved by the commissioner.

(e) Evidence acceptable to the commissioner that the applicant correctly answered at least 75% of the questions on an examination approved by the commissioner that tests an applicant's knowledge of the contents of the introductory course in residential mortgage lending described in subdivision (d).

(f) A copy of the results of the criminal records check described in subsection (2).

(g) Any other information required by the commissioner.

(5) Beginning January 1, 2009, an applicant for loan officer registration may perform services as a loan officer while his or her application is pending if all of the following are met:

(a) The licensee or registrant that is the employer or principal of the applicant has completed the criminal records check of the applicant described in subsection (2) and submitted the results of that criminal records check to the commissioner.

(b) The criminal records check described in subdivision (a) does not disclose that the applicant has been convicted of, or pled no contest to, any of the following:

(i) A felony or misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(ii) Within the 10-year period preceding the date of the application, a felony other than a felony described in subparagraph (i).

(c) The licensee or registrant that is the employer or principal of the applicant has provided the commissioner with written notice that the applicant is beginning to provide services as a loan officer for the licensee or registrant.

(6) The commissioner shall not issue a registration to any of the following:

(a) An applicant who has been convicted of, or pled no contest to, any of the following:

(i) A felony or misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(i) Within the 10-year period preceding the date of the application, a felony other than a felony described in subparagraph (i).

(b) An applicant against whom the commissioner has issued a prohibition order under section 18a.

(c) An applicant for whom the commissioner has not received the results of the criminal records check described in subsection (2).

(7) The commissioner must register a loan officer who meets all of the following:

(a) For the 5-year period immediately preceding the effective date of the amendatory act that added this section, he or she was employed or engaged as a loan officer for at least 4-1/2 years by 1 or more licensees, registrants, or persons exempt from this act under section 25.

(b) He or she was not the subject of any prohibition orders issued by the commissioner under section 18a in the 5-year period immediately preceding the effective date of the amendatory act that added this section.

(c) Within 8 months after the effective date of the amendatory act that added this section, he or she takes the examination described in subsection (4)(e) and correctly answers at least 75% of the questions on the examination.

(d) Within 8 months after the effective date of the amendatory act that added this section, he or she submits an application under subsection (4). However, the applicant is not required to complete or submit proof of completion of the instruction described in subsection (4)(d).

(e) He or she is not an applicant described in subsection (6).

(8) An employee or agent of a mortgage broker, mortgage lender, or mortgage servicer that is exempt from licensing or registration under this act may apply to be a loan officer registrant under this section.

(9) The commissioner may waive any of the requirements of this section for loan officer registration if the applicant has a valid, similar license or registration from another state that has a reciprocal agreement with the commissioner, except subsection (6)(a) and (c).

(10) The commissioner may disclose, provide, or make available to the public the names, business addresses, and business telephone numbers of loan officer registrants. The commissioner shall not disclose, provide, or make available to the public any other personal identifying information about loan officer registrants or applicants for loan officer registration.

(11) Beginning January 1, 2009, an individual employed or engaged as an agent by a licensee or registrant as a loan officer shall not use the title or designation “loan officer”, “loan originator”, “mortgage loan officer”, or “mortgage loan originator” if he or she is not a loan officer registrant. A loan officer registrant and the employer or principal of a loan officer registrant shall not use the word “registered”, “certified”, or any word of similar import in his or her title or designation to identify him or her as an individual who has met the registration requirements of this act unless use of that word is approved by the office of financial and insurance services.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 826.

(b) Senate Bill No. 827.

(c) Senate Bill No. 828.

- (d) Senate Bill No. 829.
- (e) Senate Bill No. 830.
- (f) Senate Bill No. 831.
- (g) Senate Bill No. 832.
- (h) Senate Bill No. 833.
- (i) House Bill No. 5287.
- (j) House Bill No. 5289.
- (k) House Bill No. 5290.
- (l) House Bill No. 5291.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 826 was filed with the Secretary of State April 3, 2008, and became 2008 PA 64, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 827 was filed with the Secretary of State April 3, 2008, and became 2008 PA 65, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 828 was filed with the Secretary of State April 3, 2008, and became 2008 PA 66, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 829 was filed with the Secretary of State April 3, 2008, and became 2008 PA 67, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 830 was filed with the Secretary of State April 3, 2008, and became 2008 PA 68, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 831 was filed with the Secretary of State April 3, 2008, and became 2008 PA 69, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 832 was filed with the Secretary of State April 3, 2008, and became 2008 PA 70, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 833 was filed with the Secretary of State April 3, 2008, and became 2008 PA 71, Imd. Eff. Apr. 3, 2008.

House Bill No. 5287 was filed with the Secretary of State April 3, 2008, and became 2008 PA 59, Imd. Eff. Apr. 3, 2008.

House Bill No. 5289 was filed with the Secretary of State April 3, 2008, and became 2008 PA 61, Imd. Eff. Apr. 3, 2008.

House Bill No. 5290 was filed with the Secretary of State April 3, 2008, and became 2008 PA 62, Imd. Eff. Apr. 3, 2008.

House Bill No. 5291 was filed with the Secretary of State April 3, 2008, and became 2008 PA 63, Imd. Eff. Apr. 3, 2008.

[No. 61]

(HB 5289)

AN ACT to amend 1987 PA 173, entitled "An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties," (MCL 445.1651 to 445.1684) by adding section 2c.

The People of the State of Michigan enact:

445.1652c Written notice to be provided to commissioner by loan officer registrant; conditions.

Sec. 2c. (1) A loan officer registrant shall provide written notice to the commissioner within 10 days after any of the following occur:

(a) His or her employment or agency relationship with a licensee or registrant is terminated.

(b) He or she begins employment or an agency relationship with a licensee or registrant.

(c) There is a change in the home address or any personal telephone number or personal electronic mail address he or she previously provided to the commissioner.

(d) He or she is convicted of or pleads guilty or no contest to any of the following:

(i) A misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(ii) A felony.

(2) A licensee or registrant shall provide written notice to the commissioner within 20 days after hiring or engaging an individual as a loan officer or terminating the employment of or agency relationship with a loan officer.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 826.
- (b) Senate Bill No. 827.
- (c) Senate Bill No. 828.
- (d) Senate Bill No. 829.
- (e) Senate Bill No. 830.
- (f) Senate Bill No. 831.
- (g) Senate Bill No. 832.
- (h) Senate Bill No. 833.
- (i) House Bill No. 5287.
- (j) House Bill No. 5288.
- (k) House Bill No. 5290.
- (l) House Bill No. 5291.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 826 was filed with the Secretary of State April 3, 2008, and became 2008 PA 64, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 827 was filed with the Secretary of State April 3, 2008, and became 2008 PA 65, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 828 was filed with the Secretary of State April 3, 2008, and became 2008 PA 66, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 829 was filed with the Secretary of State April 3, 2008, and became 2008 PA 67, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 830 was filed with the Secretary of State April 3, 2008, and became 2008 PA 68, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 831 was filed with the Secretary of State April 3, 2008, and became 2008 PA 69, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 832 was filed with the Secretary of State April 3, 2008, and became 2008 PA 70, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 833 was filed with the Secretary of State April 3, 2008, and became 2008 PA 71, Imd. Eff. Apr. 3, 2008.
House Bill No. 5287 was filed with the Secretary of State April 3, 2008, and became 2008 PA 59, Imd. Eff. Apr. 3, 2008.
House Bill No. 5288 was filed with the Secretary of State April 3, 2008, and became 2008 PA 60, Imd. Eff. Apr. 3, 2008.
House Bill No. 5290 was filed with the Secretary of State April 3, 2008, and became 2008 PA 62, Imd. Eff. Apr. 3, 2008.
House Bill No. 5291 was filed with the Secretary of State April 3, 2008, and became 2008 PA 63, Imd. Eff. Apr. 3, 2008.

[No. 62]

(HB 5290)

AN ACT to amend 1987 PA 173, entitled "An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties," by amending sections 11 and 12 (MCL 445.1661 and 445.1662), section 11 as amended by 2002 PA 391.

The People of the State of Michigan enact:

445.1661 Powers of commissioner generally.

Sec. 11. (1) The commissioner shall exercise general supervision and control over mortgage brokers, mortgage lenders, and mortgage servicers doing business in this state and loan officers originating mortgage loans in this state.

(2) In addition to the other powers granted to the commissioner by this act, the commissioner shall have all of the following powers:

(a) To promulgate reasonable rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as necessary to implement and administer this act.

(b) To deny an application for a license, registration, or loan officer registration.

(c) To conduct examinations and investigations of any person as necessary for the efficient enforcement of this act and the rules promulgated under this act.

(d) To advise the attorney general or the prosecuting attorney of a county in which a mortgage broker, mortgage lender, or mortgage servicer is conducting business or in which a loan officer resides that the commissioner believes a licensee, registrant, loan officer registrant, or other person is violating this act. The attorney general or prosecuting attorney may take appropriate legal action to enjoin the operation of the business of the mortgage broker, mortgage lender, or mortgage servicer or the originating of mortgages by the loan officer or prosecute violations of this act.

(e) To bring an action in the Ingham county circuit court in the name and on behalf of this state against a licensee, registrant, loan officer registrant, or any other person who is participating in, or about to participate in, any unsafe or injurious practice or act in violation of this act or a rule promulgated under this act, to enjoin the person from participating in or continuing the practice or engaging in the act.

(f) To order a person to cease and desist from a violation of this act or a rule promulgated under this act under section 16.

(g) To suspend or revoke a license, registration, or loan officer registration under section 29.

(h) To require that restitution be made under section 29.

(i) To assess a civil fine under section 29.

(j) To censure a licensee, registrant, or loan officer registrant.

(k) To issue an order to prohibit a person from being employed by, an agent of, or control person of a licensee or registrant under section 18a.

445.1662 Notice of intention to enter order of license or registration, suspension or revocation, or refusal to issue license; hearing; final order.

Sec. 12. (1) The commissioner shall give notice to a licensee, registrant, or loan officer registrant of intention to enter an order suspending or revoking that person's license, registration, or loan officer registration, or notice to an applicant of a refusal to issue a license, registration, or loan officer registration, in writing and served personally or sent by certified mail to the licensee, registrant, loan officer registrant, or applicant.

(2) Within 20 days after the notice of the intention to enter an order suspending or revoking a license, registration, or loan officer registration, or a refusal to issue a license, registration, or loan officer registration under subsection (1), the licensee, registrant, loan officer registrant, or applicant may request a hearing to contest the order or refusal. If a hearing regarding suspension or revocation is not requested, the commissioner shall enter a

final order regarding the suspension or revocation. A hearing shall be conducted under the provisions of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 826.
- (b) Senate Bill No. 827.
- (c) Senate Bill No. 828.
- (d) Senate Bill No. 829.
- (e) Senate Bill No. 830.
- (f) Senate Bill No. 831.
- (g) Senate Bill No. 832.
- (h) Senate Bill No. 833.
- (i) House Bill No. 5287.
- (j) House Bill No. 5288.
- (k) House Bill No. 5289.
- (l) House Bill No. 5291.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 826 was filed with the Secretary of State April 3, 2008, and became 2008 PA 64, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 827 was filed with the Secretary of State April 3, 2008, and became 2008 PA 65, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 828 was filed with the Secretary of State April 3, 2008, and became 2008 PA 66, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 829 was filed with the Secretary of State April 3, 2008, and became 2008 PA 67, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 830 was filed with the Secretary of State April 3, 2008, and became 2008 PA 68, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 831 was filed with the Secretary of State April 3, 2008, and became 2008 PA 69, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 832 was filed with the Secretary of State April 3, 2008, and became 2008 PA 70, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 833 was filed with the Secretary of State April 3, 2008, and became 2008 PA 71, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5287 was filed with the Secretary of State April 3, 2008, and became 2008 PA 59, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5288 was filed with the Secretary of State April 3, 2008, and became 2008 PA 60, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5289 was filed with the Secretary of State April 3, 2008, and became 2008 PA 61, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5291 was filed with the Secretary of State April 3, 2008, and became 2008 PA 63, Imd. Eff. Apr. 3, 2008.

[No. 63]

(HB 5291)

AN ACT to amend 1987 PA 173, entitled "An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties," by amending section 14 (MCL 445.1664).

The People of the State of Michigan enact:

445.1664 Provisions applicable to investigation.

Sec. 14. All of the following shall apply to an investigation conducted under section 13:

- (a) The employees or agents of the office of financial and insurance services shall complete the investigation within a reasonable period of time.

(b) If the investigation does not disclose evidence of a violation of this act or a rule promulgated or an order issued under this act, the commissioner shall not use the complaint in any subsequent decision to issue, renew, suspend, or revoke the license or loan officer registration or suspend or revoke the registration of the person against which the complaint was filed. The commissioner shall forward the results of the investigation to the complainant and the person against whom the complaint was filed.

(c) In addition to any other action authorized by law, if the investigation discloses evidence of a violation of this act or a rule promulgated or an order issued under this act, the commissioner or the attorney general may prepare a formal complaint to be served on the person against which the allegations are made and shall provide a copy of the formal complaint to the complainant.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 828.
- (b) Senate Bill No. 826.
- (c) House Bill No. 5288.
- (d) Senate Bill No. 829.
- (e) House Bill No. 5289.
- (f) Senate Bill No. 830.
- (g) Senate Bill No. 831.
- (h) House Bill No. 5287.
- (i) House Bill No. 5290.
- (j) Senate Bill No. 833.
- (k) Senate Bill No. 832.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 828 was filed with the Secretary of State April 3, 2008, and became 2008 PA 66, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 826 was filed with the Secretary of State April 3, 2008, and became 2008 PA 64, Imd. Eff. Apr. 3, 2008.
House Bill No. 5288 was filed with the Secretary of State April 3, 2008, and became 2008 PA 60, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 829 was filed with the Secretary of State April 3, 2008, and became 2008 PA 67, Imd. Eff. Apr. 3, 2008.
House Bill No. 5289 was filed with the Secretary of State April 3, 2008, and became 2008 PA 61, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 830 was filed with the Secretary of State April 3, 2008, and became 2008 PA 68, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 831 was filed with the Secretary of State April 3, 2008, and became 2008 PA 69, Imd. Eff. Apr. 3, 2008.
House Bill No. 5287 was filed with the Secretary of State April 3, 2008, and became 2008 PA 59, Imd. Eff. Apr. 3, 2008.
House Bill No. 5290 was filed with the Secretary of State April 3, 2008, and became 2008 PA 62, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 833 was filed with the Secretary of State April 3, 2008, and became 2008 PA 71, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 832 was filed with the Secretary of State April 3, 2008, and became 2008 PA 70, Imd. Eff. Apr. 3, 2008.

[No. 64]

(SB 826)

AN ACT to amend 1987 PA 173, entitled "An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties," by amending section 33 (MCL 445.1683).

The People of the State of Michigan enact:

445.1683 Mortgage industry advisory board; creation; requirements; communication of issues to commissioner; recommendations.

Sec. 33. (1) The mortgage industry advisory board is created.

(2) All of the following apply to the board:

(a) The board shall consist of 7 individuals, appointed by the commissioner as follows:

(i) Two individuals who are employees of, are directors of, or have at least a 25% ownership interest in a licensee or registrant, selected by the commissioner from a list of at least 3 nominees provided to the commissioner by the Michigan mortgage brokers association.

(ii) Two individuals who are employees of, are directors of, or have at least a 25% ownership interest in a licensee or registrant, selected by the commissioner from a list of at least 3 nominees provided to the commissioner by the Michigan mortgage lenders association.

(iii) One employee who is an employee of, a director of, or who has at least a 25% ownership interest in a licensee or registrant that is a member of any trade association operating in this state that represents mortgage brokers, mortgage lenders, or mortgage servicers. The trade associations may recommend candidates for this position to the commissioner.

(iv) Two individuals who are employees of, are directors of, or have at least a 25% ownership interest in business entities that provide services to or purchase services from licensees or registrants.

(b) The term of a board member is 4 years, except that for the first board, the commissioner shall appoint 3 individuals for 2-year terms so that the terms of office of board members are staggered.

(c) An individual may not serve more than 2 consecutive 4-year terms, and the commissioner may not reappoint an individual who serves 2 consecutive 4-year terms on the board for at least 12 months after the end of those consecutive terms.

(d) The board shall not include more than 1 member who is employed by, is a director of, or has more than a 1% ownership interest in the same licensee, registrant, affiliate, or other person.

(e) Each member of the board shall serve without compensation. However, the office of financial and insurance services shall reimburse a member of the board for his or her travel and other expenses incurred in the performance of an official board function pursuant to the standard travel regulations of the department of management and budget.

(f) The board shall retain minutes of its meetings and any other records of the board for at least 10 years. The board shall make its minutes and any other records prepared, owned, used, in the possession of, or retained by the board in the performance of an official function available to the commissioner immediately on request and make those minutes and records available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) The board shall communicate to the commissioner issues of concern to the residential mortgage industry and shall review and make recommendations to the commissioner concerning all of the following:

(a) Course sponsors or providers, course instructors, and the content of and materials for courses provided to loan officers and loan officer applicants under section 2a or 2b.

(b) Content and procedures for examinations given to loan officers under section 2a.

(c) Rules proposed under this act.

(d) Procedures to verify attendance at and participation in courses conducted electronically under section 2b(3)(e).

(e) Procedures for maintaining the confidentiality of personal identifying information and other information concerning licensees, registrants, and applicants for license or registration.

(f) Any other issue referred to the board by the commissioner.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 827.
- (b) Senate Bill No. 828.
- (c) Senate Bill No. 829.
- (d) Senate Bill No. 830.
- (e) Senate Bill No. 831.
- (f) Senate Bill No. 832.
- (g) Senate Bill No. 833.
- (h) House Bill No. 5287.
- (i) House Bill No. 5288.
- (j) House Bill No. 5289.
- (k) House Bill No. 5290.
- (l) House Bill No. 5291.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 827 was filed with the Secretary of State April 3, 2008, and became 2008 PA 65, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 828 was filed with the Secretary of State April 3, 2008, and became 2008 PA 66, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 829 was filed with the Secretary of State April 3, 2008, and became 2008 PA 67, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 830 was filed with the Secretary of State April 3, 2008, and became 2008 PA 68, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 831 was filed with the Secretary of State April 3, 2008, and became 2008 PA 69, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 832 was filed with the Secretary of State April 3, 2008, and became 2008 PA 70, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 833 was filed with the Secretary of State April 3, 2008, and became 2008 PA 71, Imd. Eff. Apr. 3, 2008.
House Bill No. 5287 was filed with the Secretary of State April 3, 2008, and became 2008 PA 59, Imd. Eff. Apr. 3, 2008.
House Bill No. 5288 was filed with the Secretary of State April 3, 2008, and became 2008 PA 60, Imd. Eff. Apr. 3, 2008.
House Bill No. 5289 was filed with the Secretary of State April 3, 2008, and became 2008 PA 61, Imd. Eff. Apr. 3, 2008.
House Bill No. 5290 was filed with the Secretary of State April 3, 2008, and became 2008 PA 62, Imd. Eff. Apr. 3, 2008.
House Bill No. 5291 was filed with the Secretary of State April 3, 2008, and became 2008 PA 63, Imd. Eff. Apr. 3, 2008.

[No. 65]

(SB 827)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for

criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 14h of chapter XVII (MCL 777.14h), as amended by 2006 PA 594.

The People of the State of Michigan enact:

CHAPTER XVII

777.14h Applicability of chapter to certain felonies; MCL 445.65 to 445.2507(2).

Sec. 14h. This chapter applies to the following felonies enumerated in chapter 445 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
445.65	Pub ord	E	Identity theft	5
445.67	Pub ord	E	Obtain, possess, sell, or transfer personal identifying information of another or falsify a police report with intent to commit identity theft	5
445.408(2)	Pub ord	F	Buying or selling stolen scrap metal	3
445.408(3)	Pub ord	E	Buying or selling stolen scrap metal removed from a utility pole, telecommunications company property, government property, or utility property or jobsite	5
445.487(2)	Pub ord	H	Precious metal and gem dealer failure to record material matter — subsequent offense	2
445.488(2)	Pub ord	H	Precious metal and gem dealer violations — subsequent offense	2
445.489	Pub ord	H	Precious metal and gem dealer violations	2
445.490	Pub ord	H	Precious metal and gem dealer failure to obtain a certificate of registration	2
445.779	Pub ord	H	Antitrust violation	2
445.1505	Pub trst	G	Franchise investment law — fraudulent filing/offers	7
445.1508	Pub trst	G	Franchise investment law — sale without proper disclosure	7