

(p) The requirement that amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection.

(q) Other material that the authority, local public agency, or governing body considers pertinent.

125.2861 Development plan; public hearing; notice; record.

Sec. 21. (1) The governing body, before adoption of an ordinance approving a development plan or tax increment financing plan, shall hold a public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall be not less than 20 days before the date set for the hearing. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the development area not less than 20 days before the hearing. Notice shall also be mailed to all property taxpayers of record in the development area and to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the tax increment financing plan is approved not less than 20 days before the hearing.

(2) Notice of the time and place of hearing on a development plan shall contain all of the following:

(a) A description of the proposed development area in relation to highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice.

(c) A statement that all aspects of the development plan will be open for discussion at the public hearing.

(d) Other information that the governing body considers appropriate.

(3) At the time set for the hearing, the governing body shall provide an opportunity for interested persons to speak and shall receive and consider communications in writing. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for consideration of documentary evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented at the hearing.

125.2862 Approval or rejection of plan based on public purpose; considerations.

Sec. 22. The governing body after a public hearing on the development plan or the tax increment financing plan, or both, with notice given under section 21, shall determine whether the development plan or tax increment financing plan constitutes a public purpose. If it determines that the development plan or tax increment financing plan constitutes a public purpose, it shall by ordinance approve or reject the plan, or approve it with modification, based on the following considerations:

(a) The findings and recommendations of a development area citizens council, if a development area citizens council was formed.

(b) The plan meets the requirements under section 20(2).

(c) The proposed method of financing the development is feasible and the authority has the ability to arrange the financing.

(d) The development is reasonable and necessary to carry out the purposes of this act.

(e) The land included within the development area to be acquired is reasonably necessary to carry out the purposes of the plan and of this act in an efficient and economically satisfactory manner.

(f) The development plan is in reasonable accord with the land use plan of the municipality.

(g) Public services, such as fire and police protection and utilities, are or will be adequate to service the project area.

(h) Changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

125.2863 Notice to vacate; issuance; hearing.

Sec. 23. A person to be relocated under this act shall be given not less than 90 days' written notice to vacate unless modified by court order issued for good cause and after a hearing.

125.2864 Budget.

Sec. 24. (1) The director of the authority shall submit a budget to the board for the operation of the authority for each fiscal year before the beginning of the fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. After review by the board, the budget shall be submitted to the governing body. The governing body must approve the budget before the board may adopt the budget. Unless authorized by the governing body or this act, funds of the municipality shall not be included in the budget of the authority.

(2) The governing body of the municipality may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed, which shall be paid annually by the board pursuant to an appropriate item in its budget.

125.2865 Dissolution.

Sec. 25. An authority that has completed the purposes for which it was organized shall be dissolved by ordinance of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority belong to the municipality.

125.2866 Enforcement of act; rules.

Sec. 26. (1) The state tax commission may institute proceedings to compel enforcement of this act.

(2) The state tax commission may promulgate rules necessary for the administration of this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

This act is ordered to take immediate effect.

Approved January 3, 2005.

Filed with Secretary of State January 3, 2005.

[No. 531]

(SB 1344)

AN ACT to amend 1973 PA 116, entitled "An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the

establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts,” (MCL 722.111 to 722.128) by adding sections 2b, 2c, 2d, and 2e.

The People of the State of Michigan enact:

722.112b Definitions; scope.

Sec. 2b. (1) As used in this section and sections 2c, 2d, and 2e, unless the context requires otherwise:

(a) “Adaptive device” means a mechanical device incorporated in the individual plan of services that is intended to provide anatomical support or to assist the minor child with adaptive skills.

(b) “Chemical restraint” means a drug that meets all of the following criteria:

(i) Is administered to manage a minor child’s behavior in a way that reduces the safety risk to the minor child or others.

(ii) Has the temporary effect of restricting the minor child’s freedom of movement.

(iii) Is not a standard treatment for the minor child’s medical or psychiatric condition.

(c) “Emergency safety intervention” means use of personal restraint or seclusion as an immediate response to an emergency safety situation.

(d) “Emergency safety situation” means the onset of an unanticipated, severely aggressive, or destructive behavior that places the minor child or others at serious threat of violence or injury if no intervention occurs and that calls for an emergency safety intervention.

(e) “Individual plan of services” means that term as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

(f) “Licensed practitioner” means an individual who has been trained in the use of personal restraint and seclusion, who is knowledgeable of the risks inherent in the implementation of personal restraint and seclusion, and who is 1 of the following:

(i) A physician licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(ii) An individual who has been issued a specialty certification as a nurse practitioner under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(iii) A physician’s assistant licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(iv) A registered nurse licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(v) A psychologist and a limited licensed psychologist licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(vi) A counselor and a limited licensed counselor licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(vii) Until July 1, 2005, a certified social worker registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838. Beginning July 1, 2005, a licensed master’s social worker licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(g) “Mechanical restraint” means a device attached or adjacent to the minor child’s body that he or she cannot easily remove and that restricts freedom of movement or normal

access to his or her body. Mechanical restraint does not include the use of a protective or adaptive device or a device primarily intended to provide anatomical support. Mechanical restraint does not include use of a mechanical device to ensure security precautions appropriate to the condition and circumstances of a minor child placed in the child caring institution as a result of an order of the family division of circuit court under section 2(a) of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(h) “Personal restraint” means the application of physical force without the use of a device, for the purpose of restraining the free movement of a minor child’s body. Personal restraint does not include:

(i) The use of a protective or adaptive device.

(ii) Briefly holding a minor child without undue force in order to calm or comfort him or her.

(iii) Holding a minor child’s hand, wrist, shoulder, or arm to safely escort him or her from 1 area to another.

(iv) The use of a protective or adaptive device or a device primarily intended to provide anatomical support.

(i) “Protective device” means an individually fabricated mechanical device or physical barrier, the use of which is incorporated in the individualized written plan of service. The use of a protective device is intended to prevent the minor child from causing serious self-injury associated with documented, frequent, and unavoidable hazardous events.

(j) “Seclusion” means the involuntary placement of a minor child in a room alone, where the minor child is prevented from exiting by any means, including the physical presence of a staff person if the sole purpose of that staff person’s presence is to prevent the minor child from exiting the room. Seclusion does not include the use of a sleeping room during regular sleeping hours to ensure security precautions appropriate to the condition and circumstances of a minor child placed in the child caring institution as a result of an order of the family division of circuit court under section 2(a) and (b) of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, if the minor child’s individual case treatment plan indicates that the security precautions would be in the minor child’s best interest.

(k) “Serious injury” means any significant impairment of the physical condition of the minor child as determined by qualified medical personnel that results from an emergency safety intervention. This includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, and injuries to internal organs, whether self-inflicted or inflicted by someone else.

(2) The provisions of this section and sections 2c, 2d, and 2e only apply to a child caring institution that contracts with or receives payment from a community mental health services program or prepaid inpatient health plan for the care, treatment, maintenance, and supervision of a minor child in that child caring institution.

722.112c Personal restraint and seclusion; use in child caring institution contracting with community mental health services program or prepaid inpatient health plan; education, training, and knowledge.

Sec. 2c. (1) If a child caring institution contracts with and receives payment from a community mental health services program or prepaid inpatient health plan for the care, treatment, maintenance, and supervision of a minor child in a child caring institution, the child caring institution may place a minor child in personal restraint or seclusion only as

provided in this section and sections 2d and 2e but shall not use mechanical restraint or chemical restraint.

(2) Not later than 180 days after the effective date of the amendatory act that added this section, a child caring institution shall require its staff to have ongoing education, training, and demonstrated knowledge of all of the following:

(a) Techniques to identify minor children's behaviors, events, and environmental factors that may trigger emergency safety situations.

(b) The use of nonphysical intervention skills, such as de-escalation, mediation conflict resolution, active listening, and verbal and observational methods to prevent emergency safety situations.

(c) The safe use of personal restraint or seclusion, including the ability to recognize and respond to signs of physical distress in minor children who are in personal restraint or seclusion or who are being placed in personal restraint or seclusion.

(3) A child caring institution's staff shall be trained in the use of personal restraint and seclusion, shall be knowledgeable of the risks inherent in the implementation of personal restraint and seclusion, and shall demonstrate competency regarding personal restraint or seclusion before participating in the implementation of personal restraint or seclusion. A child caring institution's staff shall demonstrate their competencies in these areas on a semiannual basis. The state agency licensing child caring institutions shall review and determine the acceptability of the child caring institutions' staff education, training, knowledge, and competency requirements required by this subsection and the training and knowledge required of a licensed practitioner in the use of personal restraint and seclusion.

722.112d Personal restraint or seclusion; use; limitations; requirements.

Sec. 2d. (1) Personal restraint or seclusion shall not be imposed as a means of coercion, discipline, convenience, or retaliation by a child caring institution's staff.

(2) An order for personal restraint or seclusion shall not be written as a standing order or on an as-needed basis.

(3) Personal restraint or seclusion must not result in harm or injury to the minor child and shall be used only to ensure the minor child's safety or the safety of others during an emergency safety situation. Personal restraint or seclusion shall only be used until the emergency safety situation has ceased and the minor child's safety and the safety of others can be ensured even if the order for personal restraint or seclusion has not expired. Personal restraint and seclusion of a minor child shall not be used simultaneously.

(4) Personal restraint or seclusion shall be performed in a manner that is safe, appropriate, and proportionate to the severity of the minor child's behavior, chronological and developmental age, size, gender, physical condition, medical condition, psychiatric condition, and personal history, including any history of physical or sexual abuse.

(5) Except as provided in subsection (6), at the time a minor child is admitted to a child caring institution, the child caring institution shall do all of the following:

(a) Inform the minor child and his or her parent or legal guardian of the provider's policy regarding the use of personal restraint or seclusion during an emergency safety situation that may occur while the minor child is under the care of the child caring institution.

(b) Communicate the provider's personal restraint and seclusion policy in a language that the minor child or his or her parent or legal guardian will understand, including American

sign language, if appropriate. The provider shall procure an interpreter or translator, if necessary to fulfill the requirement of this subdivision.

(c) Obtain a written acknowledgment from the minor child's parent or legal guardian that he or she has been informed of the provider's policy on the use of personal restraint and seclusion during an emergency safety situation. The child caring institution's staff shall file the acknowledgment in the minor child's records.

(d) Provide a copy of the policy to the minor child's parent or legal guardian.

(6) The child caring institution is not required to inform, communicate, and obtain the written acknowledgment from a minor child's parent or legal guardian as specified in subsection (5) if the minor child is within the care and supervision of the child caring institution as a result of an order of commitment of the family division of circuit court to a state institution, state agency, or otherwise, and has been adjudicated to be a dependent, neglected, or delinquent under chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, if the minor child's individual case treatment plan indicates that notice would not be in the minor child's best interest.

(7) An order for personal restraint or seclusion shall only be written by a licensed practitioner.

(8) A licensed practitioner shall order the least restrictive emergency safety intervention measure that is most likely to be effective in resolving the emergency safety situation based on consultation with staff. Consideration of less restrictive emergency safety intervention measures shall be documented in the minor child's record.

(9) If the order for personal restraint or seclusion is verbal, it must be received by a child caring institution staff member who is 1 of the following:

(a) A licensed practitioner.

(b) A social services supervisor as described in R 400.4118 of the Michigan administrative code.

(c) A supervisor of direct care workers as described in R 400.4120 of the Michigan administrative code.

(d) A practical nurse licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(10) A verbal order must be received while personal restraint or seclusion is being initiated by child caring institution staff or immediately after the emergency safety situation begins. The licensed practitioner shall be available to staff for consultation, at least by telephone, throughout the period of personal restraint or seclusion. The licensed practitioner shall verify the verbal order in signed written form in the minor child's record.

(11) An order for personal restraint or seclusion shall meet both of the following criteria:

(a) Be limited to no longer than the duration of the emergency safety situation.

(b) Not exceed 4 hours for a minor child 18 years of age or older; 2 hours for a minor child 9 to 17 years of age; or 1 hour for a minor child under 9 years of age.

(12) If more than 2 orders for personal restraint or seclusion are ordered for a minor child within a 24-hour period, the director of the child caring institution or his or her designated management staff shall be notified to determine whether additional measures should be taken to facilitate discontinuation of personal restraint or seclusion.

(13) If personal restraint continues for less than 15 minutes or seclusion continues for less than 30 minutes from the onset of the emergency safety intervention, the child caring

institution staff qualified to receive a verbal order for personal restraint or seclusion, in consultation with the licensed practitioner, shall evaluate the minor child's psychological well-being immediately after the minor child is removed from seclusion or personal restraint. Staff shall also evaluate the minor child's physical well-being or determine if an evaluation is needed by a licensed practitioner authorized to conduct a face-to-face assessment under subsection (14).

(14) A face-to-face assessment shall be conducted if the personal restraint continues for 15 minutes or more from the onset of the emergency safety intervention or if seclusion continues for 30 minutes or more from the onset of the emergency safety intervention. This face-to-face assessment shall be conducted by a licensed practitioner who is 1 of the following:

(a) A physician licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(b) An individual who has been issued a speciality certification as a nurse practitioner under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(c) A physician's assistant licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(d) A registered nurse licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(15) The face-to-face assessment shall be conducted within 1 hour of the onset of the emergency safety intervention and immediately after the minor child is removed from personal restraint or seclusion. The face-to-face assessment of the physical and psychological well-being of the minor child shall include, but is not limited to, all of the following:

(a) The minor child's physical and psychological status.

(b) The minor child's behavior.

(c) The appropriateness of the intervention measures.

(d) Any complications resulting from the intervention.

722.112e Personal restraint or seclusion; release; documentation; record; notification; debriefing; report of serious occurrence; annual report.

Sec. 2e. (1) A minor child shall be released from personal restraint or seclusion whenever the circumstance that justified the use of personal restraint or seclusion no longer exists.

(2) Each instance of personal restraint or seclusion requires full justification for its use, and the results of the evaluation immediately following the use of personal restraint or seclusion shall be placed in the minor child's record.

(3) Each order for personal restraint or seclusion shall include all of the following:

(a) The name of the licensed practitioner ordering personal restraint or seclusion.

(b) The date and time the order was obtained.

(c) The personal restraint or seclusion ordered, including the length of time for which the licensed practitioner ordered its use.

(4) The child caring institution staff shall document the use of the personal restraint or seclusion in the minor child's record. That documentation shall be completed by the end of the shift in which the personal restraint or seclusion occurred. If the personal restraint or

seclusion does not end during the shift in which it began, documentation shall be completed during the shift in which the personal restraint or seclusion ends. Documentation shall include all of the following:

- (a) Each order for personal restraint or seclusion.
 - (b) The time the personal restraint or seclusion actually began and ended.
 - (c) The time and results of the 1-hour assessment.
 - (d) The emergency safety situation that required the resident to be personally restrained or secluded.
 - (e) The name of the staff involved in the personal restraint or seclusion.
- (5) The child caring institution staff trained in the use of personal restraint shall continually assess and monitor the physical and psychological well-being of the minor child and the safe use of personal restraint throughout the duration of its implementation.
- (6) The child caring institution staff trained in the use of seclusion shall be physically present in or immediately outside the seclusion room, continually assessing, monitoring, and evaluating the physical and psychological well-being of the minor. Video monitoring shall not be exclusively used to meet this requirement.
- (7) The child caring institution staff shall ensure that documentation of staff monitoring and observation is entered into the minor child's record.
- (8) If the emergency safety intervention continues beyond the time limit of the order for use of personal restraint or seclusion, child caring institution staff authorized to receive verbal orders for personal restraint or seclusion shall immediately contact the licensed practitioner to receive further instructions.
- (9) The child caring institution staff shall notify the minor child's parent or legal guardian and the appropriate state or local government agency that has responsibility for the minor child if the minor child is under the supervision of the child caring institution as a result of an order of commitment by the family division of circuit court to a state institution or otherwise as soon as possible after the initiation of personal restraint or seclusion. This notification shall be documented in the minor child's record, including the date and time of the notification, the name of the staff person providing the notification, and the name of the person to whom notification of the incident was reported. The child caring institution is not required to notify the parent or legal guardian as provided in this subsection if the minor child is within the care and supervision of the child caring institution as a result of an order of commitment of the family division of circuit court to a state institution, state agency, or otherwise, and has been adjudged to be dependent, neglected, or delinquent under chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, if the minor child's individual case treatment plan indicates that the notice would not be in the minor child's best interest.
- (10) Within 24 hours after the use of personal restraint or seclusion, child caring institution staff involved in the emergency safety intervention and the minor child shall have a face-to-face debriefing session. The debriefing shall include all staff involved in the seclusion or personal restraint except if the presence of a particular staff person may jeopardize the well-being of the minor child. Other staff members and the minor child's parent or legal guardian may participate in the debriefing if it is considered appropriate by the child caring institution.
- (11) The child caring institution shall conduct a debriefing in a language that is understood by the minor child. The debriefing shall provide both the minor child and the staff opportunity to discuss the circumstances resulting in the use of personal restraint or

seclusion and strategies to be used by staff, the minor child, or others that could prevent the future use of personal restraint or seclusion.

(12) Within 24 hours after the use of personal restraint or seclusion, all child caring institution staff involved in the emergency safety intervention, and appropriate supervisory and administrative staff, shall conduct a debriefing session that includes, at a minimum, all of the following:

(a) Discussion of the emergency safety situation that required personal restraint or seclusion, including a discussion of precipitating factors that led up to the situation.

(b) Alternative techniques that might have prevented the use of personal restraint or seclusion.

(c) The procedures, if any, that child caring institution staff are to implement to prevent a recurrence of the use of personal restraint or seclusion.

(d) The outcome of the emergency safety intervention, including any injury that may have resulted from the use of personal restraint or seclusion.

(13) The child caring institution staff shall document in the minor child's record that both debriefing sessions took place and shall include the names of staff who were present for the debriefings, names of staff that were excused from the debriefings, and changes to the minor child's treatment plan that result from the debriefings.

(14) Each child caring institution subject to this section and sections 2c and 2d shall report each serious occurrence to the state agency licensing the child caring institution. The state agency licensing the child caring institution shall make the reports available to the designated state protection and advocacy system upon request of the designated state protection and advocacy system. Serious occurrences to be reported include a minor child's death, a serious injury to a minor child, and a minor child's suicide attempt. Staff shall report any serious occurrence involving a minor child by no later than close of business of the next business day after a serious occurrence. The report shall include the name of the minor child involved in the serious occurrence, a description of the occurrence, and the name, street address, and telephone number of the child caring institution. The child caring institution shall notify the minor child's parent or legal guardian and the appropriate state or local government agency that has responsibility for the minor child if the minor child is under the supervision of the child caring institution as a result of an order of commitment by the family division of circuit court to a state institution or otherwise as soon as possible and not later than 24 hours after the serious occurrence. Staff shall document in the minor child's record that the serious occurrence was reported to both the state agency licensing the child caring institution and the state-designated protection and advocacy system, including the name of the person to whom notification of the incident was reported. A copy of the report shall be maintained in the minor child's record, as well as in the incident and accident report logs kept by the child caring institution.

(15) Each child caring institution subject to this section and sections 2c and 2d shall maintain a record of the incidences in which personal restraint or seclusion was used for all minor children. The record shall include all of the following information:

(a) Whether personal restraint or seclusion was used.

(b) The setting, unit, or location in which personal restraint or seclusion was used.

(c) Staff who initiated the process.

(d) The duration of each use of personal restraint or seclusion.

(e) The date, time, and day of the week restraint or seclusion was initiated.

- (f) Whether injuries were sustained by the minor child or staff.
- (g) The age and gender of the minor child.

(16) Each child caring institution subject to this section and sections 2c and 2d shall submit a report annually to the state agency that licenses the child caring institution containing the aggregate data from the record of incidences for each 12-month period as directed by the state licensing agency. The state licensing agency shall prepare reporting forms to be used by the child caring institution, shall aggregate the data collected from each child caring institution, and shall annually report the data to each child caring institution and the state-designated protection and advocacy system.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 231 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
 Approved December 30, 2004.
 Filed with Secretary of State January 3, 2005.

Compiler's note: Senate Bill No. 231, referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 527, Imd. Eff. Jan. 3, 2005.

[No. 532]

(SB 1464)

AN ACT to amend 1998 PA 386, entitled “An act to codify, revise, consolidate, and classify aspects of the law relating to wills and intestacy, relating to the administration and distribution of estates of certain individuals, relating to trusts, and relating to the affairs of certain individuals under legal incapacity; to provide for the powers and procedures of the court that has jurisdiction over these matters; to provide for the validity and effect of certain transfers, contracts, and deposits that relate to death; to provide procedures to facilitate enforcement of certain trusts; and to repeal acts and parts of acts,” by amending sections 1106, 5306, 5506, 5507, 5508, 5509, 5510, 5511, 5512, and 5520 (MCL 700.1106, 700.5306, 700.5506, 700.5507, 700.5508, 700.5509, 700.5510, 700.5511, 700.5512, and 700.5520), sections 1106, 5506, 5507, 5508, and 5510 as amended by 2003 PA 63, section 5306 as amended and section 5520 as added by 2000 PA 312, and section 5509 as amended by 1999 PA 52, and by adding section 5515; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

700.1106 Definitions; M to P.

Sec. 1106. As used in this act:

(a) “Mental health professional” means an individual who is trained and experienced in the area of mental illness or developmental disabilities and who is 1 of the following:

(i) A physician who is licensed to practice medicine or osteopathic medicine and surgery in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(ii) A psychologist licensed to practice in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(iii) A registered professional nurse licensed to practice in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(iv) Until July 1, 2005, a social worker registered as a certified social worker under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838. Beginning July 1, 2005, a licensed master's social worker licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(v) A physician's assistant licensed to practice in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(vi) A licensed professional counselor licensed under part 181 of the public health code, 1978 PA 368, MCL 333.18101 to 333.18117.

(b) "Michigan prudent investor rule" means the fiduciary investment and management rule prescribed by part 5 of this article.

(c) "Minor" means an individual who is less than 18 years of age.

(d) "Minor ward" means a minor for whom a guardian is appointed solely because of minority.

(e) "Money" means legal tender or a note, draft, certificate of deposit, stock, bond, check, or credit card.

(f) "Mortgage" means a conveyance, agreement, or arrangement in which property is encumbered or used as security.

(g) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of his or her death.

(h) "Organization" means a corporation, business trust, estate, trust, partnership, joint venture, association, limited liability company, government, governmental subdivision or agency, or another legal or commercial entity.

(i) "Parent" includes, but is not limited to, an individual entitled to take, or who would be entitled to take, as a parent under this act by intestate succession from a child who dies without a will and whose relationship is in question. Parent does not include an individual who is only a stepparent, foster parent, or grandparent.

(j) "Patient advocate" means an individual designated to exercise powers concerning another individual's care, custody, and medical or mental health treatment or authorized to make an anatomical gift on behalf of another individual, or both, as provided in section 5506.

(k) "Patient advocate designation" means the written document executed and with the effect as described in sections 5506 to 5515.

(l) "Payor" means a trustee, insurer, business entity, employer, government, governmental subdivision or agency, or other person authorized or obligated by law or a governing instrument to make payments.

(m) "Person" means an individual or an organization.

(n) "Personal representative" includes, but is not limited to, an executor, administrator, successor personal representative, and special personal representative, and any other person who performs substantially the same function under the law governing that person's status.

(o) "Petition" means a written request to the court for an order after notice.

(p) "Proceeding" includes an application and a petition, and may be an action at law or a suit in equity. A proceeding may be denominated a civil action under court rules.

(q) “Professional conservator” means a person that provides conservatorship services for a fee. Professional conservator does not include a person who is an individual who is related to all but 2 of the protected individuals for whom he or she is appointed as conservator.

(r) “Professional guardian” means a person that provides guardianship services for a fee. Professional guardian does not include a person who is an individual who is related to all but 2 of the wards for whom he or she is appointed as guardian.

(s) “Property” means anything that may be the subject of ownership, and includes both real and personal property or an interest in real or personal property.

(t) “Protected individual” means a minor or other individual for whom a conservator has been appointed or other protective order has been made as provided in part 4 of article V.

(u) “Protective proceeding” means a proceeding under the provisions of part 4 of article V.

700.5306 Court appointment of guardian of incapacitated person; findings; appointment of limited guardian; effect of patient advocate designation.

Sec. 5306. (1) The court may appoint a guardian if the court finds by clear and convincing evidence both that the individual for whom a guardian is sought is an incapacitated individual and that the appointment is necessary as a means of providing continuing care and supervision of the incapacitated individual, with each finding supported separately on the record. Alternately, the court may dismiss the proceeding or enter another appropriate order.

(2) The court shall grant a guardian only those powers and only for that period of time as is necessary to provide for the demonstrated need of the incapacitated individual. The court shall design the guardianship to encourage the development of maximum self-reliance and independence in the individual. If the court is aware that an individual has executed a patient advocate designation under section 5506, the court shall not grant a guardian any of the same powers that are held by the patient advocate. A court order establishing a guardianship shall specify any limitations on the guardian’s powers and any time limits on the guardianship.

(3) If the court finds by clear and convincing evidence that an individual is incapacitated and lacks the capacity to do some, but not all, of the tasks necessary to care for himself or herself, the court may appoint a limited guardian to provide guardianship services to the individual, but the court shall not appoint a full guardian.

(4) If the court finds by clear and convincing evidence that the individual is incapacitated and is totally without capacity to care for himself or herself, the court shall specify that finding of fact in an order and may appoint a full guardian.

(5) If an individual executed a patient advocate designation under section 5506 before the time the court determines that he or she became a legally incapacitated individual, a guardian does not have and shall not exercise the power or duty of making medical or mental health treatment decisions that the patient advocate is designated to make. If, however, a petition for guardianship or for modification under section 5310 alleges and the court finds that the patient advocate designation was not executed in compliance with section 5506, that the patient advocate is not complying with the terms of the designation or with the applicable provisions of sections 5506 to 5515, or that the patient advocate is not acting consistent with the ward’s best interests, the court may modify the guardianship’s terms to grant those powers to the guardian.

700.5506 Designation of patient advocate; “community mental health services program or hospital” defined.

Sec. 5506. (1) An individual 18 years of age or older who is of sound mind at the time a patient advocate designation is made may designate in writing another individual who is 18 years of age or older to exercise powers concerning care, custody, and medical or mental health treatment decisions for the individual making the patient advocate designation. An individual making a patient advocate designation under this subsection may include in the patient advocate designation the authority for the designated individual to make an anatomical gift of all or part of the individual's body in accordance with this act and section 10102 of the public health code, 1978 PA 368, MCL 333.10102.

(2) For purposes of this section and sections 5507 to 5515, an individual who is named in a patient advocate designation to exercise powers concerning care, custody, and medical or mental health treatment decisions is known as a patient advocate and an individual who makes a patient advocate designation is known as a patient.

(3) A patient advocate designation under this section must be in writing, signed, witnessed as provided in subsection (4), dated, executed voluntarily, and, before its implementation, made part of the patient's medical record with, as applicable, the patient's attending physician, the mental health professional providing treatment to the patient, the facility where the patient is located, or the community mental health services program or hospital that is providing mental health services to the patient. The patient advocate designation must include a statement that the authority conferred under this section is exercisable only when the patient is unable to participate in medical or mental health treatment decisions, as applicable, and, in the case of the authority to make an anatomical gift as described in subsection (1), a statement that the authority remains exercisable after the patient's death.

(4) A patient advocate designation under this section must be executed in the presence of and signed by 2 witnesses. A witness under this section shall not be the patient's spouse, parent, child, grandchild, sibling, presumptive heir, known devisee at the time of the witnessing, physician, or patient advocate or an employee of a life or health insurance provider for the patient, of a health facility that is treating the patient, or of a home for the aged as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106, where the patient resides, or of a community mental health services program or hospital that is providing mental health services to the patient. A witness shall not sign the patient advocate designation unless the patient appears to be of sound mind and under no duress, fraud, or undue influence.

(5) As used in this section, “community mental health services program or hospital” means a community mental health services program as that term is defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, or a hospital as that term is defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

700.5507 Patient advocate designation; statement; acceptance.

Sec. 5507. (1) A patient advocate designation may include a statement of the patient's desires on care, custody, and medical treatment or mental health treatment, or both. A patient advocate designation may also include a statement of the patient's desires on the making of an anatomical gift of all or part of the patient's body under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109. The patient may authorize the patient advocate to exercise 1 or more powers concerning the patient's care, custody, medical treatment, mental health treatment, or the making of an anatomical gift that the patient could have exercised on his or her own behalf.

(2) A patient may designate in the patient advocate designation a successor individual as a patient advocate who may exercise powers concerning care, custody, and medical or

mental health treatment decisions or concerning the making of an anatomical gift for the patient if the first individual named as patient advocate does not accept, is incapacitated, resigns, or is removed.

(3) Before a patient advocate designation is implemented, a copy of the patient advocate designation must be given to the proposed patient advocate and must be given to a successor patient advocate before the successor acts as patient advocate. Before acting as a patient advocate, the proposed patient advocate must sign an acceptance of the patient advocate designation.

(4) The acceptance of a designation as a patient advocate must include substantially all of the following statements:

1. This patient advocate designation is not effective unless the patient is unable to participate in decisions regarding the patient's medical or mental health, as applicable. If this patient advocate designation includes the authority to make an anatomical gift as described in section 5506, the authority remains exercisable after the patient's death.

2. A patient advocate shall not exercise powers concerning the patient's care, custody, and medical or mental health treatment that the patient, if the patient were able to participate in the decision, could not have exercised on his or her own behalf.

3. This patient advocate designation cannot be used to make a medical treatment decision to withhold or withdraw treatment from a patient who is pregnant that would result in the pregnant patient's death.

4. A patient advocate may make a decision to withhold or withdraw treatment that would allow a patient to die only if the patient has expressed in a clear and convincing manner that the patient advocate is authorized to make such a decision, and that the patient acknowledges that such a decision could or would allow the patient's death.

5. A patient advocate shall not receive compensation for the performance of his or her authority, rights, and responsibilities, but a patient advocate may be reimbursed for actual and necessary expenses incurred in the performance of his or her authority, rights, and responsibilities.

6. A patient advocate shall act in accordance with the standards of care applicable to fiduciaries when acting for the patient and shall act consistent with the patient's best interests. The known desires of the patient expressed or evidenced while the patient is able to participate in medical or mental health treatment decisions are presumed to be in the patient's best interests.

7. A patient may revoke his or her patient advocate designation at any time and in any manner sufficient to communicate an intent to revoke.

8. A patient may waive his or her right to revoke the patient advocate designation as to the power to make mental health treatment decisions, and if such a waiver is made, his or her ability to revoke as to certain treatment will be delayed for 30 days after the patient communicates his or her intent to revoke.

9. A patient advocate may revoke his or her acceptance of the patient advocate designation at any time and in any manner sufficient to communicate an intent to revoke.

10. A patient admitted to a health facility or agency has the rights enumerated in section 20201 of the public health code, 1978 PA 368, MCL 333.20201.

700.5508 Determination of advocate's authority to act.

Sec. 5508. (1) Except as provided under subsection (3), the authority under a patient advocate designation is exercisable by a patient advocate only when the patient is unable

to participate in medical treatment or, as applicable, mental health treatment decisions. The patient's attending physician and another physician or licensed psychologist shall determine upon examination of the patient whether the patient is unable to participate in medical treatment decisions, shall put the determination in writing, shall make the determination part of the patient's medical record, and shall review the determination not less than annually. If the patient's religious beliefs prohibit an examination and this is stated in the designation, the patient must indicate in the designation how the determination under this subsection shall be made. The determination of the patient's ability to make mental health treatment decisions shall be made under section 5515.

(2) If a dispute arises as to whether the patient is unable to participate in medical or mental health treatment decisions, a petition may be filed with the court in the county in which the patient resides or is located requesting the court's determination as to whether the patient is unable to participate in decisions regarding medical treatment or mental health treatment, as applicable. If a petition is filed under this subsection, the court shall appoint a guardian ad litem to represent the patient for the purposes of this subsection. The court shall conduct a hearing on a petition under this subsection as soon as possible and not later than 7 days after the court receives the petition. As soon as possible and not later than 7 days after the hearing, the court shall determine whether or not the patient is able to participate in decisions regarding medical treatment or mental health treatment, as applicable. If the court determines that the patient is unable to participate in the decisions, the patient advocate's authority, rights, and responsibilities are effective. If the court determines that the patient is able to participate in the decisions, the patient advocate's authority, rights, and responsibilities are not effective.

(3) In the case of a patient advocate designation that authorizes a patient advocate to make an anatomical gift of all or part of the patient's body, the patient advocate shall act on the patient's behalf in accordance with section 10102 of the public health code, 1978 PA 368, MCL 333.10102, and may do so only after the patient has been declared unable to participate in medical treatment decisions as provided in subsection (1) or declared dead by a licensed physician. The patient advocate's authority to make an anatomical gift remains exercisable after the patient's death.

700.5509 Authority and responsibilities of patient advocate; suspension.

Sec. 5509. (1) An individual designated as a patient advocate has the following authority, rights, responsibilities, and limitations:

(a) A patient advocate shall act in accordance with the standards of care applicable to fiduciaries in exercising his or her powers.

(b) A patient advocate shall take reasonable steps to follow the desires, instructions, or guidelines given by the patient while the patient was able to participate in decisions regarding care, custody, medical treatment, or mental health treatment, as applicable, whether given orally or as written in the designation.

(c) A patient advocate shall not exercise powers concerning the patient's care, custody, and medical or mental health treatment that the patient, if the patient were able to participate in the decision, could not have exercised on his or her own behalf.

(d) The designation cannot be used to make a medical treatment decision to withhold or withdraw treatment from a patient who is pregnant that would result in the pregnant patient's death.

(e) A patient advocate may make a decision to withhold or withdraw treatment that would allow a patient to die only if the patient has expressed in a clear and convincing

manner that the patient advocate is authorized to make such a decision, and that the patient acknowledges that such a decision could or would allow the patient's death.

(f) A patient advocate may choose to have the patient placed under hospice care.

(g) A patient advocate under this section shall not delegate his or her powers to another individual without prior authorization by the patient.

(h) With regard to mental health treatment decisions, the patient advocate shall only consent to the forced administration of medication or to inpatient hospitalization, other than hospitalization as a formal voluntary patient under section 415 of the mental health code, 1974 PA 258, MCL 330.1415, if the patient has expressed in a clear and convincing manner that the patient advocate is authorized to consent to that treatment. If a patient is hospitalized as a formal voluntary patient under an application executed by his or her patient advocate, the patient retains the right to terminate the hospitalization under section 419 of the mental health code, 1974 PA 258, MCL 330.1419.

(2) A patient advocate designation is suspended when the patient regains the ability to participate in decisions regarding medical treatment or mental health treatment, as applicable. The suspension is effective as long as the patient is able to participate in those decisions. If the patient subsequently is determined under section 5508 or 5515 to be unable to participate in decisions regarding medical treatment or mental health treatment, as applicable, the patient advocate's authority, rights, responsibilities, and limitations are again effective.

700.5510 Revocation of patient advocate designation.

Sec. 5510. (1) A patient advocate designation is revoked by 1 or more of the following:

(a) The patient's death, except that part of the patient advocate designation, if any, that authorizes the patient advocate to make an anatomical gift of all or part of the deceased patient's body in accordance with this act and section 10102 of the public health code, 1978 PA 368, MCL 333.10102.

(b) An order of removal by the probate court under section 5511(5).

(c) The patient advocate's resignation or removal by the court, unless a successor patient advocate has been designated.

(d) The patient's revocation of the patient advocate designation. Subject to section 5515, even if the patient is unable to participate in medical treatment decisions, a patient may revoke a patient advocate designation at any time and in any manner by which he or she is able to communicate an intent to revoke the patient advocate designation. If there is a dispute as to the intent of the patient to revoke the patient advocate designation, the court may make a determination on the patient's intent to revoke the patient advocate designation. If the revocation is not in writing, an individual who witnesses a revocation of a patient advocate designation shall describe in writing the circumstances of the revocation, must sign the writing, and shall notify, if possible, the patient advocate of the revocation. If the patient's physician, mental health professional, or health facility has notice of the patient's revocation of a patient advocate designation, the physician, mental health professional, or health facility shall note the revocation in the patient's records and bedside chart and shall notify the patient advocate.

(e) A subsequent patient advocate designation that revokes the prior patient advocate designation either expressly or by inconsistency.

(f) The occurrence of a provision for revocation contained in the patient advocate designation.

(g) If a patient advocate designation is executed during a patient's marriage naming the patient's spouse as the patient advocate, the patient advocate designation is suspended

during the pendency of an action for separate maintenance, annulment, or divorce and is revoked upon the entry of a judgment of separate maintenance, annulment, or divorce, unless the patient has named a successor individual to serve as a patient advocate. If a successor patient advocate is named, that individual acts as the patient advocate.

(2) The revocation of a patient advocate designation under subsection (1) does not revoke or terminate the agency as to the patient advocate or other person who acts in good faith under the patient advocate designation and without actual knowledge of the revocation. Unless the action is otherwise invalid or unenforceable, an action taken without knowledge of the revocation binds the patient and his or her heirs, devisees, and personal representatives. A sworn statement executed by the patient advocate stating that, at the time of doing an act in accordance with the patient advocate designation, he or she did not have actual knowledge of the revocation of the patient advocate designation is, in the absence of fraud, conclusive proof that the patient advocate did not have actual knowledge of the revocation at the time of the act.

700.5511 Binding effect; liability of provider; exception; dispute.

Sec. 5511. (1) Irrespective of a previously expressed or evidenced desire, a current desire by a patient to have provided, and not withheld or withdrawn, a specific life-extending care, custody, or medical treatment is binding on the patient advocate, if known by the patient advocate, regardless of the then ability or inability of the patient to participate in care, custody, or medical treatment decisions or the patient's competency.

(2) A person providing, performing, withholding, or withdrawing care, custody, or medical or mental health treatment as a result of the decision of an individual who is reasonably believed to be a patient advocate and who is reasonably believed to be acting within the authority granted by the designation is liable in the same manner and to the same extent as if the patient had made the decision on his or her own behalf.

(3) A person providing care, custody, or medical or mental health treatment to a patient is bound by sound medical or, if applicable, mental health treatment practice and by a patient advocate's instructions if the patient advocate complies with sections 5506 to 5515, but is not bound by the patient advocate's instructions if the patient advocate does not comply with these sections.

(4) A mental health professional who provides mental health treatment to a patient shall comply with the desires of the patient as expressed in the designation. If 1 or more of the following apply to a desire of the patient as expressed in the designation, the mental health professional is not bound to follow that desire, but shall follow the patient's other desires as expressed in the designation:

(a) In the opinion of the mental health professional, compliance is not consistent with generally accepted community practice standards of treatment.

(b) The treatment requested is not reasonably available.

(c) Compliance is not consistent with applicable law.

(d) Compliance is not consistent with court-ordered treatment.

(e) In the opinion of the mental health professional, there is a psychiatric emergency endangering the life of the patient or another individual and compliance is not appropriate under the circumstances.

(5) If a dispute arises as to whether a patient advocate is acting consistent with the patient's best interests or is not complying with sections 5506 to 5515, a petition may be filed with the court in the county in which the patient resides or is located requesting the

court's determination as to the continuation of the designation or the removal of the patient advocate.

700.5512 Restrictions.

Sec. 5512. (1) A patient advocate cannot make a medical treatment decision under the authority of or under the process created by this section and sections 5506 to 5511 to withhold or withdraw treatment from a pregnant patient that would result in the pregnant patient's death.

(2) A health care provider shall not require a patient advocate designation to be executed as a condition of providing, withholding, or withdrawing care, custody, or medical or mental health treatment.

(3) A life or health insurer shall not do any of the following because of the execution or implementation of a patient advocate designation or because of the failure or refusal to execute or implement such a designation:

(a) Refuse to provide or continue coverage to the patient.

(b) Limit the amount of coverage available to a patient.

(c) Charge a patient a different rate.

(d) Consider the terms of an existing policy of life or health insurance to have been breached or modified.

(e) Invoke a suicide or intentional death exemption or exclusion in a policy covering the patient.

(4) A patient advocate designation shall not be construed to condone, allow, permit, authorize, or approve suicide or homicide.

(5) Except as provided in subsections (2) and (3), sections 5506 to 5515 only apply to or affect an individual who has executed a patient advocate designation or an individual acting for or on behalf of another individual who has executed a patient advocate designation.

(6) Nothing in sections 5506 to 5515 shall be considered to authorize or compel care, custody, or medical or mental health treatment decisions for a patient who objects on religious grounds.

(7) A designation executed before the effective date of this section with the intent of accomplishing a similar purpose as this section is valid but is subject to section 5506(1) and sections 5507 to 5515; must be in writing, signed, witnessed or notarized, dated, and executed voluntarily; and, before its implementation, must be made part of the patient's medical or, as applicable, mental health treatment record.

700.5515 Revocation of patient advocate designation; waiver; exercise of power by patient advocate; conditions.

Sec. 5515. (1) A patient may waive the right to revoke a patient advocate designation as to the power to exercise mental health treatment decisions by making the waiver as part of the document containing the designation. However, mental health treatment provided to a patient who has communicated his or her intent to revoke a designation in which the patient has waived his or her right to revoke shall not continue for more than 30 consecutive days, and the waiver does not affect the patient's rights under section 419 of the mental health code, 1974 PA 258, MCL 330.1419.

(2) A patient advocate may exercise the power to make mental health treatment decisions only if a physician and a mental health practitioner both certify, in writing and after examination of the patient, that the patient is unable to give informed consent to

mental health treatment. The patient may, in the document containing the patient advocate designation, designate a physician, a mental health practitioner, or both, to make the determination under this subsection. If a physician or mental health practitioner designated by the patient is unable or unwilling to conduct the examination and make the determination required by this subsection within a reasonable time, the examination and determination shall be made by another physician or mental health practitioner, as applicable.

700.5520 Guardian making medical or mental health decisions; designation of another individual prohibited.

Sec. 5520. A legally incapacitated individual who has a guardian with responsibility for making medical or mental health treatment decisions cannot then designate another individual to make medical or mental health treatment decisions for the legally incapacitated individual.

Repeal of MCL 700.5513.

Enacting section 1. Section 5513 of the estates and protected individuals code, 1998 PA 386, MCL 700.5513, is repealed.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

- (a) Senate Bill No. 1465.
- (b) Senate Bill No. 1466.
- (c) Senate Bill No. 1467.
- (d) Senate Bill No. 1468.
- (e) Senate Bill No. 1469.
- (f) Senate Bill No. 1470.
- (g) Senate Bill No. 1471.
- (h) Senate Bill No. 1472.

This act is ordered to take immediate effect.

Approved December 30, 2004.

Filed with Secretary of State January 3, 2005.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:

Senate Bill No. 1465 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 551, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1466 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 559, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1467 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 552, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1468 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 553, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1469 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 554, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1470 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 555, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1471 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 556, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1472 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 557, Imd. Eff. Jan. 3, 2005.

[No. 533]

(SB 850)

AN ACT to amend 1984 PA 431, entitled "An act to prescribe the powers and duties of the department of management and budget; to define the authority and functions of its

director and its organizational entities; to authorize the department to issue directives; to provide for the capital outlay program; to provide for the leasing, planning, constructing, maintaining, altering, renovating, demolishing, conveying of lands and facilities; to provide for centralized administrative services such as purchasing, payroll, record retention, data processing, and publishing and for access to certain services; to provide for a system of internal accounting and administrative control for certain principal departments; to provide for an internal auditor in certain principal departments; to provide for certain powers and duties of certain state officers and agencies; to codify, revise, consolidate, classify, and add to the powers, duties, and laws relative to budgeting, accounting, and the regulating of appropriations; to provide for the implementation of certain constitutional provisions; to create funds and accounts; to make appropriations; to prescribe remedies and penalties; to rescind certain executive reorganization orders; to prescribe penalties; and to repeal certain acts and parts of acts,” (MCL 18.1101 to 18.1594) by adding section 283a.

The People of the State of Michigan enact:

18.1283a Payroll and payments by electronic funds transfer; implementation.

Sec. 283a. (1) Except as otherwise provided in this subsection, beginning October 1, 2005, all nonclassified state government employees payroll and payments and all elected and appointed state officials payroll and payments shall be paid by electronic funds transfer. The department of community health and the family independence agency shall implement this section October 1, 2006.

(2) Except as otherwise provided in this subsection, beginning October 1, 2005, all contracts that this state enters into for the purchase of goods or services shall provide that payment shall be made by electronic funds transfer. The department of community health and the family independence agency shall implement this section October 1, 2006.

(3) The department is encouraged to implement this section before October 1, 2005.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 851 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 3, 2005.

Filed with Secretary of State January 3, 2005.

Compiler's note: Senate Bill No. 851, referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 534, Imd. Eff. Jan. 3, 2005.

[No. 534]

(SB 851)

AN ACT to amend 1978 PA 390, entitled “An act to regulate the time and manner of payment of wages and fringe benefits to employees; to prescribe rights and responsibilities of employers and employees, and the powers and duties of the department of labor; to require keeping of records; to provide for settlement of disputes regarding wages and fringe benefits; to prohibit certain practices by employers; to prescribe penalties and remedies; and to repeal certain acts and parts of acts,” by amending section 6 (MCL 408.476).

The People of the State of Michigan enact:

408.476 Wages; payment methods; deposit of employee's wages in bank, credit union, or savings and loan association; issuance of payroll debit card; consent; fees or costs.

Sec. 6. (1) An employer or agent of an employer may pay wages to an employee by any of the following methods:

(a) Payment in United States currency.

(b) Payment by a negotiable check or draft payable on presentation at a financial institution or other established place of business without discount in United States currency.

(c) Direct deposit or electronic transfer to the employee's account at a financial institution.

(d) Issuance of a payroll debit card to the employee. As used in this section, "payroll debit card" means a stored-value debit card that provides an employee access to his or her wages, for withdrawal or transfer by the employee, through a network of automatic teller machines. The term includes cards commonly known as payroll debit cards, payroll cards, and paycards.

(2) Except as provided in section 283a of the management and budget act, 1984 PA 431, MCL 18.1283a, an employer or agent of an employer shall not deposit an employee's wages in a bank, credit union, or savings and loan association without the full, free, and written consent of the employee, obtained without intimidation, coercion, or fear of discharge or reprisal for refusal to permit the deposit.

(3) An employer or agent of an employer shall not issue a payroll debit card to an employee under subsection (1)(d) without the full, free, and written consent of the employee, obtained without intimidation, coercion, or fear of discharge or reprisal for refusal to accept the payroll debit card. However, an employer paying wages by payroll debit card to 1 or more of its employees as of January 1, 2005 may pay wages to any of its employees by payroll debit card without obtaining the consent described in this subsection.

(4) An employer shall not require an employee to pay any fees or costs incurred by the employer in connection with paying wages or establishing a process for paying wages under subsection (1)(c) or (d).

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 850 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 3, 2005.

Filed with Secretary of State January 3, 2005.

Compiler's note: Senate Bill No. 850, referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 533, Imd. Eff. Jan. 3, 2005.

[No. 535]

(SB 1341)

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 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 in lieu 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 sections 32, 32a, 44c, and 44f (MCL 125.1432, 125.1432a, 125.1444c, and 125.1444f), sections 32 and 32a as amended by 2000 PA 257, section 44c as amended by 1996 PA 475, and section 44f as added by 1987 PA 180.

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; 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, 2007, 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, 2007, that is outstanding on November 1, 2007, 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 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.

(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.

125.1432a Issuance of bonds to finance single family homes; previous ownership interest; publicizing program; report to legislature.

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.

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

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

(a) Multifamily housing projects for students or low income or moderate income persons.

(b) Beginning May 1, 1984, multifamily housing projects in eligible distressed areas in which not less than 20% of the dwelling units are allotted to individuals of low or moderate income within the meaning of former section 103(b)(4)(A) of the internal revenue code of 1954 and in which not more than 80% of the dwelling units are available for occupancy without regard to income.

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

(2) To qualify as rehabilitation under this section, the rehabilitation expenditures with respect to the project must equal or exceed 30% of the portion of the cost of acquiring the building and equipment financed with the proceeds of the notes or bonds issued to acquire and rehabilitate the project. For a project located in an eligible distressed area, the amount of rehabilitation may be less than the 30% requirement if the authority determines and expresses by resolution that the likely benefit to the community or the proposed residents of the project merits the use of this financing source. This subsection does not apply to a project for which the authority has authorized a loan commitment under this section before December 18, 1985. The authority shall not provide long-term financing for a project under this section unless the project is constructed or rehabilitated in anticipation of authority financing, the construction or rehabilitation is undertaken with authority financing, long-term financing is being provided with respect to a housing project for which regulatory or contractual restrictions assuring occupancy of some or all of the units by families or persons of low or moderate income are subject to termination within a 2-year period following the acquisition of the housing project, or a housing project which is to be owned and operated by a nonprofit housing corporation which is qualified under section 501(c)(3) of the internal revenue code, 26 USC 501(c)(3).

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

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

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

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

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

(a) A description of the proposed credit enhancement. The proposed credit enhancement may be in the form of a letter of credit, bonding, guarantee, mortgage insurance, or other appropriate security in an amount sufficient to assure the authority that repayment of notes or bonds issued by the authority is reasonably secure.

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

(c) An application fee equal to the greater of \$4,000.00 or 0.0005 multiplied by the principal amount of notes or bonds for which issuance is requested. For a project located in an eligible distressed area, the fee required by this subdivision shall be refundable if the notes or bonds are not delivered or may be waived by the authority in the event the owner of the housing project is or will be a nonprofit housing corporation qualified under section 501(c)(3) of the internal revenue code, 26 USC 501(c)(3), or a limited dividend housing association wholly owned and controlled by 1 or more nonprofit corporations qualified under section 501(c)(3) of the internal revenue code, 26 USC 501(c)(3). In all other cases, the fee is nonrefundable.

(6) So long as there is uncommitted bonding capability under the limitations of section 32, the authority shall issue a 6-month commitment to loan funds, subject to sale by the authority of its notes and bonds in compliance with applicable law and pursuant to terms and conditions which permit the funding of such loan, either directly or indirectly by a loan through a mortgage lender, to the borrower in the amount of the total development cost of the proposed multifamily housing project or \$25,000,000.00, whichever is less, or if the proposed multifamily housing project is located in an eligible distressed area, in the amount of the total development cost of the proposed project or \$50,000,000.00, whichever is less, upon the determination by the authority of all of the following:

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

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

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

(d) The borrower has provided evidence of a commitment to issue a credit enhancement in the form of a letter of credit, bonding, guarantee, mortgage insurance, or other appropriate security in a form and amount sufficient to assure the authority that the repayment of notes or bonds issued by the authority for purposes of making a loan to the borrower is reasonably secure. If the authority determines that repayment of the notes or

bonds will be reasonably secure, the authority's review of the credit enhancement shall take the place of the authority's normal underwriting and feasibility review.

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

(7) Unless a borrower is either a nonprofit housing corporation qualified under section 501(c)(3) of the internal revenue code, 26 USC 501(c)(3), or a limited dividend housing association that is wholly owned and controlled by 1 or more nonprofit corporations qualified under section 501(c)(3) of the internal revenue code, 26 USC 501(c)(3), and may borrow money from the authority without an allocation of the state volume limitation, a borrower and any person who is a related person to the borrower as defined in section 144(a)(3) of the internal revenue code, 26 USC 144(a)(3), shall not have outstanding loan commitments under this section which total more than the greater of \$25,000,000.00 or the amount of financing approved for a single project under subsection (6). Once a loan has been made under this section, the commitment made with respect to the loan shall no longer be considered to be outstanding.

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

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

(10) Except as otherwise provided in this subsection, upon issuance of any notes or bonds to finance a housing project under this section, the borrower shall pay at the time the notes or bonds are issued, in addition to any commitment or extension fee paid under subsection (8), a fee established by the authority of either not more than 0.9% of the principal amount of the notes or bonds for a loan made for a project located in an eligible distressed area or not more than 1.9% of the principal amount of the notes or bonds for a loan made for a project located in other than an eligible distressed area. If notes or bonds have been issued under this section for a project owned by the borrower located in an eligible distressed area within 180 days before the issuance of notes or bonds for the next project financed by that borrower, which next project is located in other than an eligible distressed area, the fee under this subsection shall be not more than 0.9% of the principal amount of the notes or bonds. If notes or bonds have been issued under this section for a project located in other than an eligible distressed area and the borrower has paid the 1.9% fee, the authority shall not charge a fee under this subsection for the next project financed by that borrower if that next project is located in an eligible distressed area and if the notes or bonds are issued within 180 days after the notes or bonds were issued for the project located in other than an eligible distressed area. In addition to the fee to be paid to the authority at the time notes or bonds are issued under this section, the authority may, at its sole discretion, establish an annual fee, or other administrative fees, to be paid by the borrower during the term of the loan. All or any portion of the fees due to the authority under this subsection shall be paid by the borrower to the authority in annual or semiannual installments, as the authority shall determine, after the date on which notes or bonds are issued to finance the related housing project.

(11) Subject to any rights of the holders of any notes or bonds issued to finance a multifamily housing project under this section, if the owner of a multifamily housing

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

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

(13) Before September 1 of each year after 1984, the owner of a housing project financed under this section shall report to the authority all of the following which the authority shall include in the report required by section 32(14):

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

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

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

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

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

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

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

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

(15) The authority may inspect and audit projects and records of projects financed under this section in order to monitor compliance with the requirements of this section. If there is noncompliance, the authority, pursuant to the provisions of the financing and organizational documents applicable to the transaction, may pursue the remedies that the authority considers appropriate. Except as is required to assure compliance with this section or section 46 or otherwise required by purchasers of, or a third party credit enhancement

provider with respect to, notes or bonds issued to finance a multifamily housing project under this section, the authority shall not regulate, in any manner, a multifamily housing project financed under this section. This section does not preclude the authority from regulating a multifamily housing project in consideration for other types of program benefits, incentives, or concessions provided by the authority over and above the financing made available under this section.

(16) Notwithstanding any other provision of this section, there shall not be any liability on the part of the authority or its members, officers, employees, or agents, and the assets of the authority shall not be subject to any liability, as a result of any act or failure to act under this section on the part of the authority or its members, officers, employees, or agents.

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

(18) Except for housing projects for which the authority has adopted an inducement resolution on or before April 1, 1991, loans shall not be made under this section unless the authority determines that use of the state's unified volume cap for a project will not impair the ability of the authority to carry out programs or finance housing developments or housing units which are targeted to lower income persons.

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

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

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

(2) For purposes of this section, an effectively treatable area is an area that includes or is in close proximity to a downtown or traditional commercial center and for which the authority has received a plan, to be known as a neighborhood partnership plan, from a municipality or neighborhood organization, or both. The plan shall establish as a goal that

at least 75% of the property in the area will be brought to a safe and sanitary condition and shall enable the authority to determine that available private, public, and authority resources will be combined in such a manner as to assure that a majority of the housing in the area will be brought to a safe and sanitary condition. To qualify as an effectively treatable area, the area shall be in a qualified local governmental unit as defined in section 2 of the obsolete properties rehabilitation act, 2000 PA 146, MCL 125.2782, or a county seat and either be within a census tract having a serious housing need or in an area that meets all of the following criteria:

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

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

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

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

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

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

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6077 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved December 30, 2004.

Filed with Secretary of State January 3, 2005.

Compiler's note: House Bill No. 6077, referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 549, Imd. Eff. Jan. 3, 2005.

[No. 536]

(SB 908)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes

against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 7405 and 17763 (MCL 333.7405 and 333.17763), section 7405 as amended by 1997 PA 153 and section 17763 as amended by 2004 PA 214.

The People of the State of Michigan enact:

333.7405 Prohibited conduct generally; penalties.

Sec. 7405. (1) A person:

(a) Who is licensed by the administrator under this article shall not distribute, prescribe, or dispense a controlled substance in violation of section 7333.

(b) Who is a licensee shall not manufacture a controlled substance not authorized by his or her license or distribute, prescribe, or dispense a controlled substance not authorized by his or her license to another licensee or other authorized person, except as authorized by rules promulgated by the administrator.

(c) Shall not refuse an entry into any premises for an inspection authorized by this article.

(d) Shall not knowingly keep or maintain a store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, that is frequented by persons using controlled substances in violation of this article for the purpose of using controlled substances, or that is used for keeping or selling controlled substances in violation of this article.

(e) Who is a practitioner shall not dispense a prescription for a controlled substance written and signed or transmitted by a physician prescriber licensed to practice in a state other than Michigan, unless the prescription is issued by a physician prescriber who resides adjacent to the land border between this state and an adjoining state or resides in Illinois or Minnesota and who is authorized under the laws of that state to practice medicine or osteopathic medicine and surgery and to prescribe controlled substances and whose practice may extend into this state, but who does not maintain an office or designate a place to meet patients or receive calls in this state.

(2) A person who violates subsection (1) is subject to the penalties prescribed in section 7406.

333.17763 Grounds for fine, reprimand, or probation; grounds for denying, limiting, suspending, or revoking license.

Sec. 17763. In addition to the grounds set forth in part 161, the disciplinary subcommittee may fine, reprimand, or place a pharmacist licensee on probation, or deny, limit, suspend, or revoke the license of a pharmacist or order restitution or community service for a violation or abetting in a violation of this part or rules promulgated under this part, or for 1 or more of the following grounds:

(a) Employing the mail to sell, distribute, or deliver a drug that requires a prescription when the prescription for the drug is received by mail.

(b) Permitting the dispensing of prescriptions by an individual who is not a pharmacist, pharmacist intern, or dispensing prescriber.

(c) Permitting the dispensing of prescriptions by a pharmacist intern, except in the presence and under the personal charge of a pharmacist.

(d) Selling at auction drugs in bulk or in open packages unless the sale has been approved in accordance with rules of the board.

(e) Promoting a prescription drug to the public in any manner.

(f) In addition to the prohibition contained in section 7405(1)(e), dispensing a prescription for a controlled substance as defined in section 7104 that is written and signed or transmitted by a physician prescriber in a state other than Michigan, unless the prescription is issued by a physician prescriber who resides adjacent to the land border between this state and an adjoining state or resides in Illinois or Minnesota and who is authorized under the laws of that state to practice medicine or osteopathic medicine and surgery and to prescribe controlled substances and whose practice may extend into this state, but who does not maintain an office or designate a place to meet patients or receive calls in this state.

This act is ordered to take immediate effect.

Approved December 30, 2004.

Filed with Secretary of State January 3, 2005.

[No. 537]

(SB 926)

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending sections 40111a and 42702 (MCL 324.40111a and 324.42702), section 40111a as added by 1999 PA 66 and section 42702 as amended by 2004 PA 325; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

324.40111a Deer and elk feeding; order; criteria; baiting; repeal of section.

Sec. 40111a. (1) By September 1, 1999, the commission, after consultation with the commission of agriculture, shall issue in the manner provided in section 40113a an order concerning deer and elk feeding. The order shall take effect October 1, 1999 and shall do all of the following in the lower peninsula:

(a) Prohibit a person from engaging in deer or elk feeding unless the deer or elk feeding is for recreational viewing purposes.

(b) Require that the feed be deposited or distributed not more than 100 yards from the residence of the person engaged in deer or elk feeding for recreational viewing purposes on land owned or possessed by that person.

(c) Establish any other reasonable conditions for deer and elk feeding for recreational viewing purposes that are consistent with the requirements of this section.

(2) The order issued under subsection (1) shall also establish criteria for deer feeding in the Upper Peninsula.

(3) Notwithstanding subsections (1) and (2), the commission, after consultation with the commission of agriculture, may issue in the manner provided in section 40113a an order that prohibits all deer and elk feeding in all or part of this state if the commission considers the prohibition to be necessary to properly manage wildlife populations or to control or eradicate disease.

(4) An order under this part concerning baiting to take deer or elk or concerning deer or elk feeding shall not make a distinction between the depositing or distributing of feed by hand and the depositing or distributing of feed by a mechanical device, whether the mechanical device is operated by human power or otherwise.

(5) This section is repealed effective January 1, 2010.

324.42702 License; issuance; requirements; transfer; validity.

Sec. 42702. The department may, pursuant to part 13, issue licenses to authorize the possession for propagation, and for dealing in and selling game. A license shall not be granted to an applicant who is not the owner or lessee of the premises to be used for the purposes designated by the license. A license issued pursuant to this part is nontransferable and is valid from July 1 to June 30 of the third license year.

Repeal of enacting section 1 of 2000 PA 191.

Enacting section 1. Enacting section 1 of 2000 PA 191 is repealed.

This act is ordered to take immediate effect.

Approved December 30, 2004.

Filed with Secretary of State January 3, 2005.

Compiler's note: MCL 324.40111a, as added by Act 66 of 1999, is amended by Act 537 of 2004, Eff. Jan. 3, 2005. However, MCL 324.40111a was previously repealed by enacting section 1 of Act 191 of 2004, Eff. Dec. 31, 2004.

[No. 538]

(SB 929)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 2567, 3140, 3240, 6062, and 6066 (MCL 600.2567, 600.3140, 600.3240,

600.6062, and 600.6066), section 2567 as amended by 2002 PA 698 and section 3240 as amended by 2000 PA 380; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

600.2567 Fees of register of deeds; imposition of fee by charter county; “page” defined.

Sec. 2567. (1) Except as provided in subsection (3), a register of deeds is entitled to the following fees, which are not taxable as costs except as indicated:

(a) For entering and recording a deed, mortgage, certified copy of an attachment, notice of the pendency of a suit, or other instrument, \$8.00 for the first page and \$3.00 for each additional and succeeding page. The fee shall be paid when the deed, mortgage, certified copy of an attachment, notice of the pendency of a suit, or other instrument is left for record. The register of deeds shall deposit \$5.00 of the total fee collected for each recording into the automation fund if a fund has been established under section 2568. For any document that assigns or discharges more than 1 instrument, \$3.00 shall be added to the recording fee for each additional instrument assigned or discharged.

(b) For copies of any records or papers, if required, \$1.00 per page, taxable as costs if otherwise allowed.

(c) For a seal to exemplification, \$1.00.

(d) For searching the records and files, on request, by the office of the register of deeds, 50 cents for each year for which grantor/grantee searches are made, with a minimum fee of \$5.00, except that the fee for tract index searches shall be based upon the cost of establishing and maintaining a tract index.

(e) For filing every other paper, and making an entry of it, if necessary, \$1.00, unless otherwise specifically provided for.

(f) For searching for every other paper, on request, by the office of the register of deeds, \$1.00 for each paper examined.

(2) In addition to any other fees prescribed in subsection (1) or (3), a register of deeds shall collect a fee of \$2.00 for entering and recording a deed, mortgage, certified copy of an attachment, notice of the pendency of a suit, or other instrument. The fee shall be paid when the deed, mortgage, certified copy of an attachment, notice of the pendency of a suit, or other instrument is left for record.

(3) A charter county may impose a fee schedule by ordinance or resolution with different amounts than the amounts prescribed by subsection (1). A charter county shall not impose a fee that is greater than the cost of the service for which the fee is charged.

(4) As used in this section, “page” means 1 side of a single sheet of paper at least 8-1/2 inches by 11 inches in length and not exceeding 8-1/2 inches by 14 inches in length and not less than 20-pound weight.

600.3140 Mortgage foreclosure sale; redemption; amount stated in recorded affidavit; portions of premises.

Sec. 3140. (1) The mortgagor, the mortgagor’s heirs, executors, or administrators, or any person lawfully claiming from or under the mortgagor or the mortgagor’s heirs, executors, or administrators may redeem the entire premises sold by paying, within 6 months from the time of the sale, to the purchaser or the purchaser’s executors, administrators, or assigns, or to the register of deeds in whose office the deed of sale is deposited as

provided in the court rules, for the benefit of the purchaser, the sum which was bid with interest from the date of the sale at the interest rate provided for by the mortgage.

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

(3) The register of deeds shall not determine the amount necessary for redemption. The purchaser shall attach an affidavit with the deed to be recorded under this section that states the exact amount required to redeem the property, including any daily per diem amounts, and the date by which the property must be redeemed shall be stated on the certificate of auctioneer. The purchaser may include in the affidavit the name of a designee responsible on behalf of the purchaser to assist the person redeeming the property in computing the exact amount required to redeem the property. The designee may charge a fee as stated in the affidavit and may be authorized by the purchaser to receive redemption funds. The purchaser shall accept the amount computed by the designee.

(4) If the sum for redemption is paid to the register of deeds, a fee of \$5.00 shall be paid for the care and custody of the redemption money.

(5) If payments are made as provided under this section, the deed of sale is void. If a distinct lot or parcel separately sold is redeemed, leaving a portion of the premises unredeemed, then the deed of sale is void only as to the portion or portions of the premises which are redeemed.

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

600.3240 Redemption of premises; payment; redemption of senior lien; defenses; recordation; redemption periods; amount stated in recorded affidavit.

Sec. 3240. (1) A purchaser's deed is void if the mortgagor, the mortgagor's heirs, executors, or administrators, or any person lawfully claiming under the mortgagor or the mortgagor's heirs, executors, or administrators redeems the entire premises sold by paying the amount required under subsection (2), within the applicable time limit prescribed in subsections (7) to (12), to the purchaser or the purchaser's executors, administrators, or assigns, or to the register of deeds in whose office the deed is deposited for the benefit of the purchaser.

(2) The amount required to be paid under subsection (1) is the sum that was bid for the entire premises sold, with interest from the date of the sale at the interest rate provided for by the mortgage, together with the amount of the sheriff's fee paid by the purchaser under section 2558(2)(q), and an additional \$5.00 as a fee for the care and custody of the redemption money if the payment is made to the register of deeds. The register of deeds shall not determine the amount necessary for redemption. The purchaser shall attach an affidavit with the deed to be recorded under this section that states the exact amount required to redeem the property under this subsection, including any daily per diem amounts, and the date by which the property must be redeemed shall be stated on the certificate of sale. The purchaser may include in the affidavit the name of a designee responsible on behalf of the purchaser to assist the person redeeming the property in computing the exact amount required to redeem the property. The designee may charge

a fee as stated in the affidavit and may be authorized by the purchaser to receive redemption funds. The purchaser shall accept the amount computed by the designee.

(3) If a distinct lot or parcel separately sold is redeemed, leaving a portion of the premises unredeemed, the deed shall be void only to the redeemed parcel or parcels.

(4) If after the sale the purchaser, the purchaser's heirs, executors, or administrators, or any person lawfully claiming under the purchaser or the purchaser's heirs, executors, or administrators pays taxes assessed against the property, amounts necessary to redeem senior liens from foreclosure, condominium assessments, homeowner association assessments, community association assessments, or premiums on an insurance policy covering any buildings located on the property that under the terms of the mortgage it would have been the duty of the mortgagor to pay if the mortgage had not been foreclosed and that are necessary to keep the policy in force until the expiration of the period of redemption, redemption shall be made only upon payment of the sum specified in subsection (2) plus the amounts specified in this subsection with interest on the amounts specified in this subsection from the date of the payment to the date of redemption at the interest rate specified in the mortgage, if all of the following are filed with the register of deeds with whom the deed is deposited:

(a) An affidavit by the purchaser or someone in his or her behalf who has knowledge of the facts of the payment showing the amount and items paid.

(b) The receipt or copy of the canceled check evidencing the payment of the taxes, amounts necessary to redeem senior liens from foreclosure, condominium assessments, homeowner association assessments, community association assessments, or insurance premiums.

(c) An affidavit of an insurance agent of the insurance company stating that the payment was made and what portion of the payment covers the premium for the period before the expiration of the period of redemption.

(5) If the redemption payment in subsection (4) includes an amount used to redeem a senior lien from a nonjudicial foreclosure, the mortgagor shall have the same defenses against the purchaser with respect to the amount used to redeem the senior lien as the mortgagor would have had against the senior lien.

(6) The register of deeds shall indorse on the documents filed under subsection (4) the time they are received. The register of deeds shall record the affidavit of the purchaser only and shall preserve in his or her files the recorded affidavit, receipts, insurance receipts, and insurance agent's affidavit until expiration of the period of redemption.

(7) For a mortgage executed on or after January 1, 1965, on commercial or industrial property, or multifamily residential property in excess of 4 units, the redemption period is 6 months from the date of the sale.

(8) For a mortgage executed on or after January 1, 1965, on residential property not exceeding 4 units and not more than 3 acres in size, if the amount claimed to be due on the mortgage at the date of the notice of foreclosure is more than 66-2/3% of the original indebtedness secured by the mortgage, the redemption period is 6 months.

(9) For a mortgage on residential property not exceeding 4 units and not more than 3 acres in size, if the property is abandoned as determined under section 3241, the redemption period is 3 months.

(10) For a mortgage on residential property not exceeding 4 units and not more than 3 acres in size, if the amount claimed to be due on the mortgage at the date of the notice of foreclosure is more than 66-2/3% of the original indebtedness secured by the mortgage and the property is abandoned as determined under section 3241, the redemption period is 1 month.

(11) If the property is abandoned as determined under section 3241a, the redemption period is 30 days.

(12) In any other case, the redemption period is 1 year from the date of the sale.

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

600.6062 Redemption of real estate; time; persons entitled to make; effect on sale and certificate; amount stated in recorded affidavit.

Sec. 6062. (1) Not later than 1 year from the date when sale on execution is made, the real estate sold or any distinct lot, tract, or portion that is separately sold or the interest in real estate so sold may be redeemed by payment to the purchaser, to the purchaser's personal representatives or assigns, or to the officer who makes the sale, or to the register of deeds in whose office such certificate is recorded, for the use of the purchaser, of the sum of money bid on the sale of the lot or tract, together with the interest on that sum from the date of sale, computed at the interest rate provided for by the judgment under which the sale was made. The register of deeds shall not determine the amount necessary for redemption. The purchaser shall attach an affidavit with the deed to be recorded under this section that states the exact amount required to redeem the property, including any daily per diem amounts, and the date by which the property must be redeemed shall be stated in the certificate of sale. The purchaser may include in the affidavit the name of a designee responsible on behalf of the purchaser to assist the person redeeming the property in computing the exact amount required to redeem the property. The designee may charge a fee as stated in the affidavit and may be authorized by the purchaser to receive redemption funds. The purchaser shall accept the amount computed by the designee.

(2) Redemption may be made by any of the following:

(a) The person against whom the execution is issued and whose right and title are sold in pursuance of the execution.

(b) If the person is dead, by his or her devisee of the premises sold, and if there is no devisee, by the executor or administrator with the approval of the judge of probate, or by the person's heirs.

(c) By any grantee of the person who acquires an absolute title by deed, sale under mortgage, or under an execution, or by any other means, to the premises sold or to any lot, tract, parcel, or portion which is separately sold.

(d) The purchaser of the title and right of redemption of the person against whom the execution issues.

(e) Any heir or devisee of the person, or any grantee of the heir or devisee, who acquires an absolute title to a portion of the estate sold, or to a portion of any lot, tract, or parcel that is separately sold, or the executor or administrator of the person, with the approval of the judge of probate. The person has the same remedy to enforce contribution from those who own the residue of the lot, tract, or parcel as if the sum required to be paid by him or her to effect redemption was collected by a sale of the portion belonging to the grantee.

(f) Each of several persons having undivided shares, as joint tenants or tenants in common, in the premises sold, or in any particular lot or tract sold, by paying to the purchaser or officer a sum that bears the same proportion to the whole sum bid for the premises or for the particular lot or tract as the share proposed to be redeemed bears to

the whole number of shares of the premises, lot, or tract, together with the interest on the sum.

(g) A defendant lessee where the unexpired term of the lease exceeds 3 years at the date of sale on execution. On the redemption, the defendant is entitled to repossess, recover, and enjoy the premises from the execution purchaser or the purchaser's assigns.

(3) Upon payment being made by any person so entitled to redeem any real estate so sold, the sale of the premises so redeemed and the certificate of the sale and deed to the extent of the premises or shares so redeemed are void.

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

600.6066 Acquisition of interest of original purchaser; transfer of title; automation fund.

Sec. 6066. (1) The sums required to be paid under this act, to acquire the title of the original purchaser or to become a purchaser from any creditor, may be paid to the purchaser or creditor, to his or her representatives or assigns, or to the officer who made the sale for the use of the purchaser or creditor entitled to the sums paid.

(2) If the purchaser of any equity of redemption, or any creditor having acquired the rights of the purchaser, shall pay the debt due on the mortgage, or the amount of any sale of said premises sold on execution, or any part of the property, the amount paid on the mortgage or execution sale shall be paid, with interest, to the purchaser or creditor, in redeeming the premises, or purchasing the rights of the purchaser or creditor, as provided under this chapter.

(3) Upon payment being made, the title of the original purchaser shall be transferred to the creditor acquiring title under the foregoing provisions and from the creditor to any other creditor becoming a purchaser of the property.

(4) If an automation fund is created under section 2568, any fees or charges collected by the register of deeds under this section or section 3140, 3240, or 6062 shall be credited to the automation fund.

Repeal of MCL 600.3272 and 600.6058.

Enacting section 1. Sections 3272 and 6058 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3272 and 600.6058, are repealed.

Approved January 3, 2005.

Filed with Secretary of State January 3, 2005.

[No. 539]

(SB 930)

AN ACT to amend 1899 PA 188, entitled "An act to provide for the taxation of estates and generation-skipping transfers of property; to prescribe the powers and duties of certain personal representatives and state departments; to provide for the assessment

and collection of the tax; and to provide for the administration and enforcement of this act,” by amending section 3 (MCL 205.203), as amended by 1993 PA 54.

The People of the State of Michigan enact:

205.203 Tax and interest on tax as lien on property transferred; liability; payment; notice; deferral where decedent professional artist; proceeding to enforce lien; parties; information; evidence of determination and nonpayment of tax; service of process on infant or mentally incompetent person; guardian ad litem; decree; redemption; affidavit; order to sell property; adjournment, publication, and report of sale; deeds; fees.

Sec. 3. (1) The tax and the interest on the tax provided for in this act shall become a lien upon the property transferred until paid, unless payment of the tax has been deferred as permitted by this section or section 2d. If a deferral of payment is granted under this section or section 2d, the lien provided by this section shall attach at the end of the deferral period granted by this section or section 2d.

(2) The person to whom the property is transferred and the administrator, executor, and trustee of every estate transferred, shall be personally liable for the tax until its payments; except that the executor or administrator shall not be personally liable for the tax upon a reversion or remainder consisting of real estate where the election provided for in section 7 or the deferral in this section or section 2d is made. The tax shall be paid to the state.

(3) When the inheritance tax, administration fee, and penalty and interest, if applicable, for the estate are paid, the revenue commissioner shall provide notice, on a form prescribed by the department, to the judge of probate who shall file and preserve it in that office. It shall be a voucher in settlement of the accounts of the executor, administrator, or trustee of the estate upon which the tax is paid. The preparation and mailing of the receipts shall not prejudice the right of the state to a review of the determination fixing the tax. The receipts issued under this section shall show whether the amount paid is a payment of the tax upon any beneficial interest or upon the entire transfer. An executor, administrator, or trustee of an estate, in settlement of which a tax is due under this act, shall not be discharged and the estate or trust closed by a decree of the court, unless there is produced a receipt signed by the revenue commissioner.

(4) All taxes imposed by this act shall accrue and be due and payable at the time of transfer, which is the date of death, except that taxes upon the transfer of any estate, property, or interest limited, conditioned, dependent, or determinable upon the happening of a contingency or future event, by reason of which the clear market value cannot be ascertained at the time of the transfer, shall accrue and become due and payable when the persons or corporations beneficially entitled shall come into actual possession or enjoyment.

(5) The tax and the interest on the tax provided for in this act may be deferred for reasonable cause shown by the executor, administrator, or trustee of the estate of a decedent who was a professional artist at the date of his or her death for not more than 10 years without penalty or interest. The executor, administrator, or trustee of the estate may make the deferral provided by this subsection by filing an affidavit with the judge of probate, which shall be made in the time and manner and with the content prescribed by the judge of probate. The judge of probate shall determine whether there is reasonable cause shown to grant a deferral, the length of time for the deferral, and the manner of payment of the tax.

(6) A proceeding to enforce a lien against any property under this act shall be instituted by information, in the name of the people of this state, addressed to the circuit court for the county in which the property is situated. It shall be signed by the attorney general and need not be otherwise verified. A person owning the property or an interest in the property as shown by the record in the office of the register of deeds, or by the records of the probate court, at the time of the commencement of the proceedings, shall be made a party to the action, and all other persons having a right or interest in the property, may make themselves parties to the proceeding, on motion to the court, and notice to complainant, and may file their intervening or cross-claims, or answers claiming the benefit of cross-claims, and notices of lis pendens therein. Intervening or cross-claims shall be made on oath.

(7) The information shall show the name of the deceased, the date of death, the place of residence at the time of death, the county in which the estate was probated, the description of the property transferred, whether by will or under the intestate laws, and against which the lien exists, the name of the person or persons to whom it was transferred, the amount of taxes determined by the probate court upon the transfer, the date of the determination and whether the property is owned by the person or persons to whom it was transferred by will or under the intestate laws or by a subsequent purchaser, naming that purchaser. The information shall also show that the taxes determined upon the transfer of the property have not been paid and the amount of interest due upon the date of the filing of the information. In those cases in which the property upon which the lien exists is owned by the person or persons to whom it was transferred by will or under the intestate laws, the petition for relief shall be that the court determine the amount due; that the defendant pay to the county treasurer of the county, in which the estate was probated, for and in behalf of this state, whatever sum shall appear to be due, together with the costs of the proceeding, and that in default of that payment the property upon which the lien exists, may be sold in the manner provided in this act, to satisfy the taxes, interest, and cost.

(8) In those cases in which the property upon which the lien exists is owned by a subsequent purchaser, the petition for relief shall be that the court determine the amount due and that the property upon which the lien exists may be sold in the manner provided in this act to satisfy the taxes, interest, and costs of the proceeding.

(9) The information may contain other and further allegations and petitions considered material and permitted by the rules and practice of the court.

(10) A certified copy of the order of determination of the inheritance tax, for which the lien exists, certified by either the judge or register of probate of the court that determined the tax or by the revenue commissioner, may be attached to the information. When attached, the copy shall be considered a part of the information and shall be prima facie evidence of the determination of the inheritance tax and the accruing of the lien against the property. A certificate of the revenue commissioner stating that the inheritance tax, or any part of the tax determined upon the transfer of the property upon which the lien exists, has not been paid, may be attached to the information. When attached, the certificate shall be considered a part of the information and shall be prima facie evidence of the nonpayment of the amount of the tax and interest shown to be unpaid by the certificate.

(11) If an infant, insane, or otherwise mentally incompetent person has an interest in the property upon which the lien exists, service of process shall be made upon that person in the same manner and with the same effect as upon persons not under a disability, whether the infant, insane, or otherwise mentally incompetent person is within or without the jurisdiction.

(12) After the issuing and service of process against the infant, insane, or otherwise incompetent person, a guardian ad litem may be appointed for the infant, insane, or otherwise incompetent person by the court upon motion of the attorney general, or the guardian ad litem may be appointed by the court upon the request of the infant, and in the case of an insane or otherwise incompetent person, at the request of the person's general guardian.

(13) If upon the hearing of the cause it appears that the inheritance taxes or interest, or both, upon the transfer of the property upon which the lien exists have not been paid, the court shall decree the amount of taxes and interest on the taxes found to be due, together with costs to be determined by the court, to be paid by the person or persons owning the property, or any interest in the property, within 3 months after the entry of the decree and that in default of payment that the property upon which the lien exists, be sold to satisfy the taxes, interest, and costs. If it appears that the person or persons to whom was transferred the property by will or under the intestate laws have parted with their interest before the institution of the proceedings provided for in this section, and that the property is owned by a subsequent purchaser, the court shall decree that the property be sold to satisfy the taxes, interest, and costs, unless the owner satisfies the taxes, interest, and costs within 3 months after the entry of the decree.

(14) In cases in which it appears that 2 or more pieces or parcels of land were transferred by will or under the intestate laws to 1 person, and that that person, before the institution of the proceedings provided for in this section, has parted with any or all of the pieces or parcels of land, and that the court can ascertain from the order of determination the amount of inheritance tax determined upon the transfer of each piece or parcel, and that the lien against all of the pieces or parcels is being foreclosed in 1 proceeding, the court may decree the sale of that piece or parcel to satisfy the amount of tax determined upon the transfer of that piece or parcel, together with the interest thereon and pro rata costs of the proceeding. A piece or parcel of property shall not be sold to satisfy taxes, interest, and costs within 3 months after the entry of the decree.

(15) If the person or persons owning the property or an interest in the property, or the person's heirs, executors, administrators, or a person lawfully claiming under that person, within 6 months after the date of the sale redeems the entire premises sold, by paying to the register of deeds in whose office the deed is deposited, as provided by subsection (20), for the benefit of the purchaser, or the purchaser's executors, administrators, or assigns the sum which was bid on the date of sale, with interest, at the rate of 6%, together with the sum of \$1.00 as a fee for the care and custody of the redemption money, and the fee paid by the purchaser for recording his or her deed, then the deed is void. If a distinct lot or parcel separately sold is redeemed leaving a portion of the premises unredeemed, then the deed shall be void only to the parcel or parcels redeemed.

(16) The register of deeds shall not determine the amount necessary for redemption. The purchaser shall attach an affidavit with the deed to be recorded that states the exact amount required to redeem the property under subsection (15), including any daily per diem amounts, and the date by which the property must be redeemed shall be stated in the certificate of the commissioner or other person making the sale. The purchaser may include in the affidavit the name of a designee responsible on behalf of the purchaser to assist the person redeeming the property in computing the exact amount required to redeem the property. The designee may charge a fee as stated in the affidavit and may be authorized by the purchaser to receive redemption funds. The purchaser shall accept the amount computed by the designee.

(17) If it appears to the court after the expiration of 3 months from the date of entry of the decree from a certificate of the state of Michigan to whom the taxes, interest,

penalties, and costs were to be paid, attached to a petition of the attorney general for an order of sale of the property, that the same have not been paid, the court shall enter an order directing the circuit court commissioner, or some other person duly authorized by the order of the court, to sell the property. The sale shall be at public vendue between the hours of 9 a.m. and 6 p.m. at the courthouse or at another place as the court directs, within 60 days after the date of the order and on the date specified on the order. The court may, if necessary, by further order adjourn the sale from time to time. The circuit court commissioner, or other person authorized to make the sale, may, if bids are not received equal to the amount of taxes, interest, and costs, adjourn the sale from time to time, but the sale shall not be adjourned for more than 60 days at any 1 time.

(18) Upon receipt of a certified copy of the order of sale the circuit court commissioner, or other person duly authorized by the order of the court to conduct the sale, shall publish the sale in some newspaper printed in the county or another paper as the court may direct, once in each week, for 3 weeks in succession. If the sale is adjourned by order of the court, or by the circuit court commissioner, or other person duly authorized by the order of the court, to conduct the sale the same publication shall be had of the order or notice adjourning the sale as is provided in this section for publishing the order of sale. Proof of publication shall be filed with the court before the sale.

(19) The circuit court commissioner, or other person authorized to make the sale shall make and file a report of the sale. The report shall be entitled in the court and cause, and shall be certified and filed with the court.

(20) Deeds shall thereupon be executed by the circuit court commissioner or other person making the sale, specifying the names of the parties in the action, the date of the determination of the inheritance tax, the name of the deceased, the county in which the estate was probated, with a description of the premises and the amount for which each parcel of land described was sold. The commissioner, or other person making the sale, shall indorse upon each deed when the deed shall become operative, if the premises are not redeemed according to law. The deed or deeds, as soon as practicable and within 20 days after the sale, shall be deposited with the register of deeds of the county in which the land described is situated, and the register shall indorse on the deed the time the deed was received, shall record the deed at length in a book to be provided for in his or her office for that purpose, and shall index the deed in the regular index of deeds. The fees for recording the deed shall be paid by the purchaser and be included among the other costs and expenses. If the premises or a parcel of the premises shall be redeemed, the register of deeds shall write on the face of the record the word "Redeemed", stating at what date the entry is made and signing the entry with his or her official signature. Unless the premises described in the deed, or a parcel of the premises, is redeemed within the time limited for redemption, as provided in this section, the deed shall thereupon as to all parcels not redeemed, become operative and shall vest in the grantee named in the deed, the grantee's heirs or assigns all the right, title, and interest therein which the person or persons received either from the deceased by reason of the transfer to them by will or under the intestate laws, or as subsequent purchasers.

(21) The proceeds of each sale provided for in this section shall be paid to the treasurer of the county where the estate was probated, to be applied to the discharge of the tax, interest, penalty, and costs, and if there is any surplus, it shall be brought into court for the use of the defendant, or the person entitled to the money, subject to the order of the court.

(22) The circuit court commissioner, or other person authorized by the court to make the sale, shall be entitled to only the following fees: For attending and adjourning a sale, \$1.00; for attending and making a sale, \$1.50; mileage, 1 way, 10 cents per mile; executing

deed or deeds on real estate sales, 25 cents for each deed necessarily executed; making and filing a report of sale, \$1.00. The cost of publishing any legal notices required to be published shall be at the rate of 70 cents per folio for the first insertion, and 35 cents per folio for each subsequent insertion. The fees which are provided for in this act shall be added by the circuit court commissioner, or other person duly authorized to make the sale, to the tax, interest, penalties, and costs awarded by the court as charges against the land.

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

Approved January 3, 2005.

Filed with Secretary of State January 3, 2005.

[No. 540]

(SB 931)

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 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 in lieu 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 sections 48i and 49j (MCL 125.1448i and 125.1449j), section 48i as added by 1981 PA 173 and section 49j as amended by 1993 PA 221.

The People of the State of Michigan enact:

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

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

(2) The vendee of a land contract, the vendee’s heirs, executors, administrators, or any person lawfully claiming under the vendee of a land contract or the vendee’s heirs, executors, or administrators of a land contract may redeem the entire premises sold within 6 months from the date of the sale by paying to the purchaser or the purchaser’s executors, administrators, or assigns, or to the register of deeds in whose office the deed of sale is deposited as provided in the court rules, for the benefit of the purchaser, the sum which was bid with interest from the date of the sale at the interest rate provided for by the land

contract. In case the sum is paid to the register of deeds, the sum of \$5.00 shall be paid to the register of deeds as a fee for the care and custody of the redemption money.

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

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

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

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

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

received. The register of deeds shall record the affidavit of the purchaser only and file the recorded affidavit, together with the tax and insurance receipts and insurance agent's affidavit, until expiration of the period of redemption.

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

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

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

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

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

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

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

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

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

Approved January 3, 2005.

Filed with Secretary of State January 3, 2005.

[No. 541]

(SB 601)

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 section 3 (MCL 117.3), as amended by 2003 PA 303.

The People of the State of Michigan enact:

117.3 Mandatory charter provisions.

Sec. 3. Each city charter shall provide for all of the following:

(a) The election of a mayor, who shall be the chief executive officer of the city, and of a body vested with legislative power, and for the election or appointment of a clerk, a treasurer, an assessor or board of assessors, a board of review, and other officers considered necessary. The city charter may provide for the selection of the mayor by the legislative body. Elections may be by a partisan, nonpartisan, or preferential ballot, or by any other legal method of voting. Notwithstanding another law or charter provision to the contrary, a city having a 1970 official population of more than 150,000, whose charter provides for terms of office of less than 4 years, and in which the term of office for the mayor and the governing body are of the same length, may provide by ordinance for a term of office of up to 4 years for mayor and other elected city officials. The ordinance shall provide that the ordinance shall take effect 60 days after it is enacted unless within the 60 days a petition is submitted to the city clerk signed by not less than 10% of the registered electors of the city requesting that the question of approval of the ordinance be submitted to the electors at the next regular election or a special election called for the purpose of approving or disapproving the ordinance.

(b) The nomination of elective officers by partisan or nonpartisan primary, by petition, or by convention.

(c) The time, manner, and means of holding elections and the registration of electors, subject to section 26 and other applicable requirements of law.

(d) The qualifications, duties, and compensation of the city's officers. If the city has an appointed chief administrative officer, the legislative body of the city may enter into an employment contract with the chief administrative officer extending beyond the terms of the members of the legislative body unless the employment contract is prohibited by the city charter. An employment contract with a chief administrative officer shall be in writing and shall specify the compensation to be paid to the chief administrative officer, any procedure for changing the compensation, any fringe benefits, and other conditions of employment. The contract shall state if the chief administrative officer serves at the pleasure of the legislative body, and the contract may provide for severance pay or other benefits in the event the chief administrative officer's employment is terminated at the pleasure of the legislative body.

(e) The establishment of 1 or more wards, and if the members of the city's legislative body are chosen by wards, for equal representation for each ward in the legislative body.

(f) That the subjects of taxation for municipal purposes are the same as for state, county, and school purposes under the general law.

(g) The annual laying and collecting taxes in a sum, except as otherwise provided by law, not to exceed 2% of the taxable value of the real and personal property in the city. Unless the charter provides for a different tax rate limitation, the governing body of a city may levy and collect taxes for municipal purposes in a sum not to exceed 1% of the taxable value of the real and personal property in the city. As used in this subdivision, "taxable value" is that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(h) An annual appropriation of money for municipal purposes.

(i) The levy, collection, and return of state, county, and school taxes in conformance with the general laws of this state, except that the preparation of the assessment roll, the meeting of the board of review, and the confirmation of the assessment roll may be at the times provided in the city charter.

(j) The public peace and health and for the safety of persons and property. In providing for the public peace, health, and safety, a city may expend funds or enter into contracts with a private organization, the federal or state government, a county, village, or township, or another city for services considered necessary by the legislative body. Public peace, health, and safety services may include the operation of child guidance and community mental health clinics, the prevention, counseling, and treatment of developmental disabilities, the prevention of drug abuse, and the counseling and treatment of drug abusers.

(k) Adopting, continuing, amending, and repealing the city ordinances and for the publication of each ordinance before it becomes operative. Whether or not provided in its charter, instead of publishing a true copy of an ordinance before it becomes operative, the city may publish a summary of the ordinance. If the city publishes a summary of the ordinance, the city shall include in the publication the designation of a location in the city where a true copy of the ordinance can be inspected or obtained. A charter provision to the contrary notwithstanding, a city may adopt an ordinance punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both, if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days. Whether or not provided in its charter, a city may adopt a provision of a state statute for which the maximum period of imprisonment is 93 days or the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923. Except as otherwise provided under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, a city may adopt a law, code, or rule that has been promulgated and adopted by an authorized agency of this state pertaining to fire, fire hazards, fire prevention, or fire waste, and a fire prevention code, plumbing code, heating code, electrical code, building code, refrigeration machinery code, piping code, boiler code, boiler operation code, elevator machinery code, an international property maintenance code, or a code pertaining to flammable liquids and gases or hazardous chemicals, that has been promulgated or adopted by this state, by a department, board, or other agency of this state, or by an organization or association that is organized and conducted for the purpose of developing the code, by reference to the law, code, or rule in an adopting ordinance and without publishing the law, code, or rule in full. The law, code, or rule shall be clearly identified in the ordinance and its purpose shall be published with the adopting ordinance. Printed copies of the law, code, or rule shall be kept in the office of the city clerk, available for inspection by, and distribution to, the public at all times. The publication shall contain a notice stating that a complete copy of the law, code, or rule is made available to the public at the office of the city clerk in compliance with state law requiring that records of public bodies be made available to the general public. A city shall not enforce a provision adopted by reference for which the maximum period of imprisonment is greater than 93 days.

(l) That the business of the legislative body shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. All records of the municipality shall be made available to the general public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(m) Keeping in the English language a written or printed journal of each session of the legislative body.

(n) A system of accounts that conforms to a uniform system of accounts as required by law.

This act is ordered to take immediate effect.

Approved December 30, 2004.

Filed with Secretary of State January 3, 2005.

[No. 542]**(SB 727)**

AN ACT to amend 1970 PA 91, entitled “An act to declare the inherent rights of minor children; to establish rights and duties to their custody, support, and parenting time in disputed actions; to establish rights and duties to provide support for a child after the child reaches the age of majority under certain circumstances; to provide for certain procedure and appeals; and to repeal certain acts and parts of acts,” by amending sections 2 and 7b (MCL 722.22 and 722.27b), section 2 as amended by 2002 PA 9 and section 7b as amended by 1996 PA 19.

The People of the State of Michigan enact:

722.22 Definitions.

Sec. 2. As used in this act:

(a) “Agency” means a legally authorized public or private organization, or governmental unit or official, whether of this state or of another state or country, concerned in the welfare of minor children, including a licensed child placement agency.

(b) “Attorney” means, if appointed to represent a child under this act, an attorney serving as the child’s legal advocate in a traditional attorney-client relationship with the child, as governed by the Michigan rules of professional conduct. An attorney defined under this subdivision owes the same duties of undivided loyalty, confidentiality, and zealous representation of the child’s expressed wishes as the attorney would to an adult client.

(c) “Child” means minor child and children. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, for purposes of providing support, child includes a child and children who have reached 18 years of age.

(d) “Grandparent” means a natural or adoptive parent of a child’s natural or adoptive parent.

(e) “Guardian ad litem” means an individual whom the court appoints to assist the court in determining the child’s best interests. A guardian ad litem does not need to be an attorney.

(f) “Lawyer-guardian ad litem” means an attorney appointed under section 4. A lawyer-guardian ad litem represents the child, and has the powers and duties, as set forth in section 4.

(g) “Parent” means the natural or adoptive parent of a child.

(h) “State disbursement unit” or “SDU” means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(i) “Third person” means an individual other than a parent.

722.27b Order for grandparenting time; circumstances; acknowledgment of parentage; commencement of action; procedures; affidavit; notice; opposing affidavit; hearing; basis for entry of order; condition; record; court mediation; frequency of filing complaint or motion seeking order; attorney fees; order prohibiting change of domicile of grandchild; effect of entry of order; modifying or terminating order.

Sec. 7b. (1) A child’s grandparent may seek a grandparenting time order under 1 or more of the following circumstances:

(a) An action for divorce, separate maintenance, or annulment involving the child’s parents is pending before the court.