

SENATE BILL NO. 422

August 20, 2019, Introduced by Senator MOSS and referred to the Committee on Finance.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (j) To set standards for housing projects that receive loans
25 under this act and to provide for inspections to determine
26 compliance with those standards. The standards for construction and
27 rehabilitation of mobile homes, mobile home parks, and mobile home
28 condominium projects shall be established jointly by the authority
29 and the mobile home commission, created in section 3 of the mobile

1 home commission act, 1987 PA 96, MCL 125.2303. However, financing
2 standards shall be established solely by the authority.

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

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

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

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

28 (o) To promulgate rules necessary to carry out the purposes of
29 this act and to exercise the powers expressly granted in this act

1 pursuant to the administrative procedures act of 1969, 1969 PA 306,
2 MCL 24.201 to 24.328.

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

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

26 (i) The nonprofit housing corporation, consumer housing
27 cooperative, limited dividend housing corporation, mobile home park
28 corporation, or mobile home park association has received a loan or
29 advance, as provided for in this act, and the authority determines

1 that the loan or advance is in jeopardy of not being repaid.

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

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

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

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

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

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

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

29 (t) To lease real or personal property and to accept federal

1 funds for, and participate in, federal programs of housing
2 assistance.

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

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

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

27 (w) To set forth in the various loan documents of the
28 authority remedies for the making of a false statement,
29 representation, or pretense or a material misstatement by a

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

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

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

19 (z) To verify for the state treasurer statements submitted by
20 a city, village, township, or county as to exempt properties under
21 section 7d of the general property tax act, 1893 PA 206, MCL
22 211.7d.

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

28 (bb) To make working capital loans to contractors or
29 subcontractors on housing projects financed by the authority. The

1 authority shall submit an annual report to the legislature
2 containing the amount, recipient, duration, circumstance, and other
3 related statistics for each capital loan made to a contractor or
4 subcontractor under this subdivision. The authority shall include
5 in the report statistics related to the cost of improvements made
6 to adapt property for use by disabled individuals as provided in
7 section 32b or 44.

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

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

26 (ee) To impose covenants running with the land in order to
27 satisfy requirements of applicable state or federal law with
28 respect to housing financed by the authority. These covenants shall
29 be imposed by executing and recording regulatory agreements between

1 the authority and the person or entity to be bound. The covenants
2 shall run with the land and be effective with respect to the
3 parties making the covenants and other intended beneficiaries of
4 the covenants, even though there is no privity of estate or privity
5 of contract between the authority and the persons or entities to be
6 bound. With respect to any applicable environmental laws, this
7 subdivision does not grant to the authority any additional rights,
8 privileges, or immunities not otherwise afforded to a private
9 lender that is not in the chain of title for the land.

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

20 (gg) To invest, under the conditions prescribed in this
21 subdivision and without the consent of the escrow depositors, up to
22 20% of funds held, by or for the authority, in escrow accounts for
23 the benefit of the authority or mortgagors of authority-financed
24 housing. The investments under this subdivision shall be made in
25 loans originated or purchased by the authority for construction or
26 rehabilitation of multifamily housing developments for occupancy by
27 persons or families without regard to income. In connection with
28 loans described in this subdivision, the authority may charge and
29 retain fees in amounts similar to those charged with respect to

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

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

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

27 (hh) To acquire, develop, rehabilitate, own, operate, and
28 enter into contracts with respect to the management and operation
29 of real and personal property to use as office facilities by the

1 authority and to enter into leases with respect to facilities not
2 immediately necessary for the activities of the authority.

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

6 (i) The urban homestead act, 1999 PA 127, MCL 125.2701 to
7 125.2709.

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

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

12 (iv) The urban homesteading in multifamily public housing act,
13 1999 PA 84, MCL 125.2721 to 125.2734.

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

16 (kk) To implement, administer, or execute administrative,
17 substantive, or supervisory powers pursuant to the individual or
18 family development account program act, 2006 PA 513, MCL 206.901 to
19 206.911.

20 **(ll) To determine the eligibility of and issue certificates to**
21 **persons for the basis of an income tax credit allowed under section**
22 **277 of the income tax act of 1967, 1967 PA 281, MCL 206.277.**

23 Enacting section 1. This amendatory act does not take effect
24 unless Senate Bill No. 421 of the 100th Legislature is enacted into
25 law.