

SENATE BILL No. 408

April 19, 2001, Introduced by Senator BULLARD and referred to the Committee on Judiciary.

A bill to amend 1966 PA 346, entitled
"State housing development authority act of 1966,"
by amending section 47 (MCL 125.1447).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 47. (1) A person who, with intent to defraud or cheat,
2 designedly by false pretense, including ANY false statement or
3 representation, obtains money, real or personal property, or the
4 use of an instrument, facility, article, or other valuable thing
5 or service, including without limitation ~~—~~ participation in
6 programs initiated pursuant to this act ~~—if~~ IS GUILTY OF A
7 CRIME AS FOLLOWS:

8 (A) IF the value of the land, money, personal property, or
9 use of an instrument, facility, article, or other valuable thing
10 or service is ~~—\$100.00 or~~ less THAN \$200.00, THE PERSON is

1 guilty of a misdemeanor PUNISHABLE BY IMPRISONMENT FOR NOT MORE
2 THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3 TIMES THE
3 VALUE OF THE LAND, MONEY, OR PERSONAL PROPERTY, OR USE OF AN
4 INSTRUMENT, FACILITY, ARTICLE, OR OTHER VALUABLE THING OR SERV-
5 ICE, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE. ~~If~~
6 ~~the land, money, personal property, or use of an instrument,~~
7 ~~facility, article, or other valuable thing or service is more~~
8 ~~than \$100.00 in value,~~

9 (B) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A
10 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR
11 OR A FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE VALUE OF THE
12 LAND, MONEY, PERSONAL PROPERTY, OR USE OF AN INSTRUMENT, FACILI-
13 TY, ARTICLE, OR OTHER VALUABLE THING OR SERVICE, WHICHEVER IS
14 GREATER, OR BOTH IMPRISONMENT AND A FINE:

15 (i) THE VALUE OF THE LAND, MONEY, PERSONAL PROPERTY, OR USE
16 OF AN INSTRUMENT, FACILITY, ARTICLE, OR OTHER VALUABLE THING OR
17 SERVICE IS \$200.00 OR MORE BUT LESS THAN \$1,000.00.

18 (ii) THE PERSON VIOLATES SUBDIVISION (A) AND HAS 1 OR MORE
19 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
20 OFFENSE UNDER THIS SECTION OR A LOCAL ORDINANCE SUBSTANTIALLY
21 CORRESPONDING TO THIS SECTION.

22 (C) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A
23 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A
24 FINE OF NOT MORE THAN \$10,000.00 OR 3 TIMES THE VALUE OF THE
25 LAND, MONEY, PERSONAL PROPERTY, OR USE OF AN INSTRUMENT, FACILI-
26 TY, ARTICLE, OR OTHER VALUABLE THING OR SERVICE, WHICHEVER IS
27 GREATER, OR BOTH IMPRISONMENT AND A FINE:

1 (i) THE VALUE OF THE LAND, MONEY, PERSONAL PROPERTY, OR USE
2 OF AN INSTRUMENT, FACILITY, ARTICLE, OR OTHER VALUABLE THING OR
3 SERVICE IS \$1,000.00 OR MORE BUT LESS THAN \$20,000.00.

4 (ii) THE PERSON VIOLATES SUBDIVISION (B)(i) AND HAS 1 OR
5 MORE PRIOR CONVICTIONS FOR VIOLATING OR ATTEMPTING TO VIOLATE
6 THIS SECTION. FOR PURPOSES OF THIS SUBPARAGRAPH, HOWEVER, A
7 PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR A VIOLATION OR
8 ATTEMPTED VIOLATION OF SUBDIVISION (A) OR (B)(ii).

9 (D) IF ANY OF THE FOLLOWING APPLY, the person is guilty of a
10 felony ~~—,~~ punishable by imprisonment for not more than 10 years
11 ~~—,~~ or ~~by~~ a fine of not more than ~~—\$5,000.00.—~~ \$15,000.00 OR 3
12 TIMES THE VALUE OF THE LAND, MONEY, PERSONAL PROPERTY, OR USE OF
13 AN INSTRUMENT, FACILITY, ARTICLE, OR OTHER VALUABLE THING OR
14 SERVICE, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE:

15 (i) THE LAND, MONEY, PERSONAL PROPERTY, OR USE OF AN INSTRU-
16 MENT, FACILITY, ARTICLE, OR OTHER VALUABLE THING OR SERVICE HAS A
17 VALUE OF \$20,000.00 OR MORE.

18 (ii) THE PERSON VIOLATES SUBDIVISION (C)(i) AND HAS 2 OR
19 MORE PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
20 OFFENSE UNDER THIS SECTION. FOR PURPOSES OF THIS SUBPARAGRAPH,
21 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR A
22 VIOLATION OR ATTEMPTED VIOLATION OF SUBDIVISION (A) OR (B)(ii).

23 ~~This section will not take effect until January 1, 1980.~~

24 (2) THE VALUES OF THE LAND, MONEY, PERSONAL PROPERTY, OR USE
25 OF AN INSTRUMENT, FACILITY, ARTICLE, OR OTHER VALUABLE THING OR
26 SERVICE OBTAINED IN SEPARATE INCIDENTS PURSUANT TO A SCHEME OR
27 COURSE OF CONDUCT WITHIN ANY 12-MONTH PERIOD MAY BE AGGREGATED TO

1 DETERMINE THE TOTAL VALUE OF THE LAND, MONEY, PERSONAL PROPERTY,
2 OR USE OF AN INSTRUMENT, FACILITY, ARTICLE, OR OTHER VALUABLE
3 THING OR SERVICE.

4 (3) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED
5 SENTENCE BASED UPON THE DEFENDANT HAVING 1 OR MORE PRIOR CONVIC-
6 TIONS, THE PROSECUTING ATTORNEY SHALL INCLUDE ON THE COMPLAINT
7 AND INFORMATION A STATEMENT LISTING THE PRIOR CONVICTION OR
8 CONVICTIONS. THE EXISTENCE OF THE DEFENDANT'S PRIOR CONVICTION
9 OR CONVICTIONS SHALL BE DETERMINED BY THE COURT, WITHOUT A JURY,
10 AT SENTENCING OR AT A SEPARATE HEARING FOR THAT PURPOSE BEFORE
11 SENTENCING. THE EXISTENCE OF A PRIOR CONVICTION MAY BE ESTAB-
12 LISHED BY ANY EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING, BUT
13 NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

14 (A) A COPY OF THE JUDGMENT OF CONVICTION.

15 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR
16 SENTENCING.

17 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

18 (D) THE DEFENDANT'S STATEMENT.

19 (4) IF THE SENTENCE FOR A CONVICTION UNDER THIS SECTION IS
20 ENHANCED BY 1 OR MORE PRIOR CONVICTIONS, THOSE PRIOR CONVICTIONS
21 SHALL NOT BE USED TO FURTHER ENHANCE THE SENTENCE FOR THE CONVIC-
22 TION UNDER SECTION 10, 11, OR 12 OF CHAPTER IX OF THE CODE OF
23 CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.10, 769.11, AND 769.12.