

Act No. 153
Public Acts of 2001
Approved by the Governor
November 5, 2001
Filed with the Secretary of State
November 5, 2001
EFFECTIVE DATE: January 1, 2002

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

Introduced by Senator Bullard

ENROLLED SENATE BILL No. 408

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 section 47 (MCL 125.1447).

The People of the State of Michigan enact:

Sec. 47. (1) A person who, with intent to defraud or cheat, designedly by false pretense, including any false statement or representation, obtains money, real or personal property, or the use of an instrument, facility, article, or other valuable thing or service, including without limitation participation in programs initiated pursuant to this act is guilty of a crime as follows:

(a) If the value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service is less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the land, money, or personal property, or use of an instrument, facility, article, or other valuable thing or service, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service, whichever is greater, or both imprisonment and a fine:

(i) The value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service is \$200.00 or more but less than \$1,000.00.

(ii) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service, whichever is greater, or both imprisonment and a fine:

(i) The value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service is \$1,000.00 or more but less than \$20,000.00.

(ii) The person violates subdivision (b)(i) and has 1 or more prior convictions for violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service, whichever is greater, or both imprisonment and a fine:

(i) The land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service has a value of \$20,000.00 or more.

(ii) The person violates subdivision (c)(i) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(2) The values of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service obtained in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of the land, money, personal property, or use of an instrument, facility, article, or other valuable thing or service.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

Enacting section 1. This amendatory act takes effect January 1, 2002.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Ray E. Randall

Clerk of the House of Representatives.

Approved

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Governor.