

SENATE BILL NO. 361

April 15, 2021, Introduced by Senators VICTORY, HORN, BRINKS, DALEY, SANTANA, WOJNO, OUTMAN, LASATA, IRWIN, CHANG, MOSS, ZORN, VANDERWALL, BAYER, GEISS, POLEHANKI, ALEXANDER, BULLOCK, HOLLIER and SCHMIDT and referred to the Committee on Economic and Small Business Development.

A bill to amend 1966 PA 346, entitled "State housing development authority act of 1966," by amending the title and section 22 (MCL 125.1422), the title as amended by 2004 PA 280 and section 22 as amended by 2012 PA 327, and by adding section 22e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 TITLE
- 2 An act to create a state housing development authority; to
- 3 define the powers and duties of the authority; to establish a

1 housing development revolving fund; to establish a land acquisition
2 and development fund; to establish a rehabilitation fund; to
3 establish a conversion condominium fund; to create certain other
4 funds and provide for the expenditure of certain funds; to
5 authorize the making and purchase of loans, deferred payment loans,
6 and grants to qualified developers, sponsors, individuals, mortgage
7 lenders, and municipalities; to establish and provide acceleration
8 and foreclosure procedures; to provide tax exemption; to authorize
9 payments instead of taxes by nonprofit housing corporations,
10 consumer housing cooperatives, limited dividend housing
11 corporations, mobile home park corporations, and mobile home park
12 associations; **to determine eligibility for income tax credits**; and
13 to prescribe criminal penalties for violations of this act.

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

17 (a) To sue and to be sued; to have a seal and to alter the
18 seal at pleasure; to have perpetual succession; to make and execute
19 contracts and other instruments necessary or convenient to the
20 exercise of the powers of the authority; and to make, amend, and
21 repeal bylaws and rules.

22 (b) To undertake and carry out studies and analyses of housing
23 needs within this state and ways of meeting those needs, including
24 data with respect to population and family groups, the distribution
25 of population and family groups according to income, and the amount
26 and quality of available housing and its distribution according to
27 rentals and sales prices, employment, wages, and other factors
28 affecting housing needs and the meeting of housing needs; to make
29 the results of those studies and analyses available to the public

1 and the housing and supply industries; and to engage in research
2 and disseminate information on housing.

3 (c) To agree and comply with conditions attached to federal
4 financial assistance.

5 (d) To survey and investigate housing conditions and needs,
6 both urban and rural, throughout this state and make
7 recommendations to the governor and the legislature regarding
8 legislation and other measures necessary or advisable to alleviate
9 any existing housing shortage in this state.

10 (e) To establish and collect fees and charges in connection
11 with the sale of the authority's publications and the authority's
12 loans, commitments, and servicing, including, but not limited to,
13 the reimbursement of costs of financing by the authority, service
14 charges, and insurance premiums as the authority determines to be
15 reasonable and as approved by the authority. Fees and charges ~~shall~~
16 **must** be determined by the authority and ~~shall~~**must** not be
17 considered to be interest. The authority may use any accumulated
18 fees and charges and interest income for achieving any of the
19 corporate purposes of the authority, to the extent that the fees,
20 charges, and interest income are not pledged to the repayment of
21 bonds and notes of the authority or the interest on those bonds and
22 notes.

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

25 (g) To encourage the salvage of all possible usable housing
26 scheduled for demolition because of highway, school, urban renewal,
27 or other programs by seeking authority for the sponsors of the
28 programs to use funds provided for the demolition of the buildings,
29 to be allocated to those sponsors approved by the authority to

1 defray moving and rehabilitation costs of the buildings.

2 (h) To engage and encourage research in, and to formulate
3 demonstration projects to develop, new and better techniques and
4 methods for increasing the supply of housing for persons eligible
5 for assistance as provided in this act; and to provide technical
6 assistance in the development of housing projects and in the
7 development of programs to improve the quality of life for all the
8 people of this state.

9 (i) To make or purchase loans, including loans for condominium
10 units as defined in section 4 of the condominium act, 1978 PA 59,
11 MCL 559.104, and including loans to mortgage lenders, ~~which~~**that**
12 are unsecured or the repayments of which are secured by mortgages,
13 security interests, or other forms of security; to purchase and
14 enter into commitments for the purchase of securities, certificates
15 of deposits, time deposits, or mortgage loans from mortgage
16 lenders; to participate in the making or purchasing of unsecured or
17 secured loans and undertake commitments to make or purchase
18 unsecured or secured loans; to sell mortgages, security interests,
19 notes, and other instruments or obligations evidencing or securing
20 loans, including certificates evidencing interests in 1 or more
21 loans, at public or private sale; in connection with the sale of an
22 instrument or obligation evidencing or securing 1 or more loans, to
23 service, guarantee payment on, or repurchase the instrument or
24 obligation, whether or not it is in default; to modify or alter
25 mortgages and security interests; to foreclose on any mortgage,
26 security interest, or other form of security; to finance housing
27 units; to commence an action to protect or enforce a right
28 conferred upon the authority by law, mortgage, security agreement,
29 contract, or other agreement; to bid for and purchase property that

1 was the subject of the mortgage, security interest, or other form
2 of security, at a foreclosure or at any other sale, and to acquire
3 or take possession of the property. Upon acquiring or taking
4 possession of the property, the authority may complete, administer,
5 and pay the principal and interest of obligations incurred in
6 connection with the property, and may dispose of and otherwise deal
7 with the property in any manner necessary or desirable to protect
8 the interests of the authority in the property. If the authority or
9 an entity that provides mortgage insurance to the authority
10 acquires property upon the default of a borrower, the authority may
11 make a mortgage loan to a subsequent purchaser of that property
12 even if the purchaser does not meet otherwise applicable income
13 limitations and purchase price limits.

14 (j) To set standards for housing projects that receive loans
15 under this act and to provide for inspections to determine
16 compliance with those standards. The standards for construction and
17 rehabilitation of mobile homes, mobile home parks, and mobile home
18 condominium projects ~~shall~~**must** be established jointly by the
19 authority and the mobile home commission, created in section 3 of
20 the mobile home commission act, 1987 PA 96, MCL 125.2303. However,
21 financing standards ~~shall~~**must** be established solely by the
22 authority.

23 (k) To accept gifts, grants, loans, appropriations, or other
24 aid from the federal, state, or local government, from a
25 subdivision, agency, or instrumentality of a federal, state, or
26 local government, or from a person, corporation, firm, or other
27 organization.

28 (l) To acquire or contract to acquire from a person, firm,
29 corporation, municipality, or federal or state agency, by grant,

1 purchase, or otherwise, leaseholds or real or personal property, or
2 any interest in a leasehold or real or personal property; to own,
3 hold, clear, improve, and rehabilitate and to sell, assign,
4 exchange, transfer, convey, lease, mortgage, or otherwise dispose
5 of or encumber any interest in a leasehold or real or personal
6 property. This act ~~shall~~**does** not impede the operation and effect
7 of local zoning, building, and housing ordinances, ordinances
8 relating to subdivision control, land development, or fire
9 prevention, or other ordinances having to do with housing or the
10 development of housing.

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

13 (n) To invest, at the discretion of the authority, funds held
14 in reserve or sinking funds, or money not required for immediate
15 use or disbursement, in obligations of this state or of the United
16 States, in obligations the principal and interest of which are
17 guaranteed by this state or the United States, or in other
18 obligations as may be approved by the state treasurer.

19 (o) To promulgate rules necessary to carry out the purposes of
20 this act and to exercise the powers expressly granted in this act
21 ~~pursuant to~~**under** the administrative procedures act of 1969, 1969
22 PA 306, MCL 24.201 to 24.328.

23 (p) To enter into agreements with nonprofit housing
24 corporations, consumer housing cooperatives, limited dividend
25 housing corporations, mobile home park corporations, and mobile
26 home park associations that provide for regulation by the authority
27 of the planning, development, and management of any housing project
28 undertaken by nonprofit housing corporations, consumer housing
29 cooperatives, limited dividend housing corporations, mobile home

1 park corporations, and mobile home park associations and that
2 provide for the disposition of the property and franchises of those
3 corporations, cooperatives, and associations.

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

17 (i) The nonprofit housing corporation, consumer housing
18 cooperative, limited dividend housing corporation, mobile home park
19 corporation, or mobile home park association has received a loan or
20 advance, as provided for in this act, and the authority determines
21 that the loan or advance is in jeopardy of not being repaid.

22 (ii) The nonprofit housing corporation, consumer housing
23 cooperative, limited dividend housing corporation, mobile home park
24 corporation, or mobile home park association received a loan or
25 advance as provided for in this act and the authority determines
26 that the proposed housing project for which the loan or advance was
27 made is in jeopardy of not being constructed.

28 (iii) The authority determines that some part of the net income
29 or net earnings of the nonprofit housing corporation is inuring to

1 the benefit of a private individual, firm, corporation,
2 partnership, or association; the authority determines that an
3 unreasonable part of the net income or net earnings of the consumer
4 housing cooperative is inuring to the benefit of a private
5 individual, firm, corporation, partnership, or association; or the
6 authority determines that some part of the net income or net
7 earnings of the limited dividend housing corporation, in excess of
8 that permitted by other provisions of this act, is inuring to the
9 benefit of a private individual, firm, corporation, partnership, or
10 association.

11 (iv) The authority determines that the nonprofit corporation or
12 consumer housing cooperative is in some manner controlled by, under
13 the direction of, or acting in the substantial interest of a
14 private individual, firm, corporation, partnership, or association
15 seeking to derive benefit or gain from, or seeking to eliminate or
16 minimize losses in any dealings or transactions with, the nonprofit
17 corporation or consumer housing cooperative. However, this
18 subparagraph ~~shall apply~~ **applies** to individual cooperators in
19 consumer housing cooperatives only in circumstances defined by the
20 authority in its rules.

21 (v) The authority determines that the nonprofit housing
22 corporation, consumer housing cooperative, limited dividend housing
23 corporation, mobile home park corporation, or mobile home park
24 association is in violation of the rules promulgated under this
25 section.

26 (vi) The authority determines that the nonprofit housing
27 corporation, consumer housing cooperative, limited dividend housing
28 corporation, mobile home park corporation, or mobile home park
29 association is in violation of 1 or more agreements entered into

1 with the authority that provide for regulation by the authority of
2 the planning, development, and management of a housing project
3 undertaken by the nonprofit housing corporation, consumer housing
4 cooperative, limited dividend housing corporation, mobile home park
5 corporation, or mobile home park association or that provide for
6 the disposition of the property and franchises of the corporation,
7 cooperative, or association.

8 (r) To give approval or consent to the articles of
9 incorporation submitted to the authority by a corporation seeking
10 approval as a nonprofit housing corporation, consumer housing
11 cooperative, limited dividend housing corporation, or mobile home
12 park corporation under chapter 4, 5, 6, or 8; to give approval or
13 consent to the partnership agreement, joint venture agreement,
14 trust agreement, or other document of basic organization of a
15 limited dividend housing association under chapter 7 or mobile home
16 park association under chapter 9.

17 (s) To engage the services of private consultants on a
18 contract basis for rendering professional and technical assistance
19 and advice.

20 (t) To lease real or personal property and to accept federal
21 funds for, and participate in, federal programs of housing
22 assistance.

23 (u) To review and approve rental charges for authority-
24 financed housing projects and require whatever changes the
25 authority determines to be necessary. The changes ~~shall become~~ **are**
26 effective after not less than 30 days' written notice is given to
27 the residents of the affected authority-financed housing projects.

28 (v) To set forth in the various loan documents of the
29 authority those restrictions on the sale, conveyance by land

1 contract, or transfer of residential real property, housing
2 projects, or housing units for which a note is held by the
3 authority and restrictions on the assumption by subsequent
4 purchasers of loans originated by and held by, or originated for
5 purchase by and held by, the authority as the authority determines
6 to be necessary in order to comply with requirements of federal
7 statutes, federal rules or regulations promulgated under 5 USC 551
8 to 559, state statutes, or state rules promulgated under the
9 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
10 24.328, or to obtain and maintain the tax exempt status of
11 authority bonds and notes. However, the authority shall not use a
12 due on sale or acceleration clause solely for the purpose of
13 renegotiating the interest rate on a loan made with respect to an
14 owner-occupied single-family housing unit. Without limiting the
15 authority's power to establish other restrictions, as provided in
16 this section, on the sale, conveyance by land contract, or transfer
17 of residential real property, housing projects, or housing units
18 for which a note is held by the authority and the assumption by
19 subsequent purchasers of loans made or purchased by the authority,
20 the authority shall provide in its loan documents relating to a
21 single family loan that the single family loan may be assumed by a
22 new purchaser only when the new purchaser qualifies under the
23 authority income limitations rules, unless such a restriction
24 diminishes or precludes the insurance or a guarantee by an agency
25 of the federal government with respect to the single family loan. A
26 loan made for a mobile home that the borrower does not intend to
27 permanently affix to real property ~~shall become~~ **is** immediately due
28 and payable if the mobile home is moved out of the state. Any
29 restrictions on conveyance by sale, conveyance by land contract, or

1 transfer that are authorized in this section ~~shall~~**must** apply only
2 to loans originated by and held by, or originated for purchase by
3 and held by, the authority and may, at the option of the authority,
4 be enforced by accelerating and declaring immediately due and
5 payable all sums evidenced by the note held by the authority. An
6 acceleration and declaration of all sums to be due and payable on
7 conveyance by sale, land contract, or transfer is not an
8 unreasonable restraint on alienation. An acceleration and
9 declaration, unless otherwise prohibited in this subdivision, of
10 all sums to be due and payable under this subdivision is
11 enforceable in any court of competent jurisdiction. This
12 subdivision ~~is applicable~~**applies** to secured and unsecured loans.
13 This subdivision ~~is also applicable~~**also applies** to loan documents
14 utilized in conjunction with an authority-operated program of
15 residential rehabilitation by an entity cooperating or
16 participating with the authority under section 22a(4), if the loans
17 are originated with the intent to sell those loans to the
18 authority.

19 (w) To set forth in the various loan documents of the
20 authority remedies for the making of a false statement,
21 representation, or pretense or a material misstatement by a
22 borrower during the loan application process. Without limiting the
23 authority's power to pursue other remedies, the authority shall
24 provide in its loan documents that, if a borrower makes a false
25 statement, representation, or pretense or a material misstatement
26 during the loan application process, the authority, at its option,
27 may accelerate and declare immediately due and payable all sums
28 evidenced by the note held by the authority. An acceleration and
29 declaration of all sums to be due and payable as provided in this

1 subdivision is enforceable in any court of competent jurisdiction.
2 This subdivision ~~is applicable~~ **applies** to secured and unsecured
3 loans.

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

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

12 (z) To verify for the state treasurer statements submitted by
13 a city, village, township, or county as to exempt properties under
14 section 7d of the general property tax act, 1893 PA 206, MCL
15 211.7d.

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

21 (bb) To make working capital loans to contractors or
22 subcontractors on housing projects financed by the authority. The
23 authority shall submit an annual report to the legislature
24 containing the amount, recipient, duration, circumstance, and other
25 related statistics for each capital loan made to a contractor or
26 subcontractor under this subdivision. The authority shall include
27 in the report statistics related to the cost of improvements made
28 to adapt property for use by disabled individuals as provided in
29 section 32b or 44.

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

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

20 (ee) To impose covenants running with the land in order to
21 satisfy requirements of applicable state or federal law with
22 respect to housing financed by the authority. These covenants ~~shall~~
23 **must** be imposed by executing and recording regulatory agreements
24 between the authority and the person or entity to be bound. The
25 covenants ~~shall~~**must** run with the land and be effective with
26 respect to the parties making the covenants and other intended
27 beneficiaries of the covenants, even though there is no privity of
28 estate or privity of contract between the authority and the persons
29 or entities to be bound. With respect to any applicable

1 environmental laws, this subdivision does not grant to the
2 authority any additional rights, privileges, or immunities not
3 otherwise afforded to a private lender that is not in the chain of
4 title for the land.

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

15 (gg) To invest, under the conditions prescribed in this
16 subdivision and without the consent of the escrow depositors, up to
17 20% of funds held, by or for the authority, in escrow accounts for
18 the benefit of the authority or mortgagors of authority-financed
19 housing. The investments under this subdivision ~~shall~~**must** be made
20 in loans originated or purchased by the authority for construction
21 or rehabilitation of multifamily housing developments for occupancy
22 by persons or families without regard to income. In connection with
23 loans described in this subdivision, the authority may charge and
24 retain fees in amounts similar to those charged with respect to
25 similar loans for which the source of funding does not come from
26 escrow accounts. For purposes of this subdivision, "escrow account"
27 means any account or reserve held by the authority and established
28 in a mortgage or a regulatory agreement to which the authority is a
29 party or which has been assigned to the authority. However, for

1 purposes of this subdivision, escrow account does not include any
2 account labeled in the associated regulatory agreement as
3 "development cost escrow principal" or "operating assurance
4 reserve". For purposes of this subdivision, "multifamily housing
5 development" means a development in which not less than 50% of the
6 floor space is used primarily for residential purposes. The
7 investment authorized by this subdivision ~~shall~~**must** not be made
8 unless both of the following requirements are met:

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

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

22 (hh) To acquire, develop, rehabilitate, own, operate, and
23 enter into contracts with respect to the management and operation
24 of real and personal property to use as office facilities by the
25 authority and to enter into leases with respect to facilities not
26 immediately necessary for the activities of the authority.

27 (ii) To make loans to certain qualified buyers and resident
28 organizations and to make grants to resident organizations as
29 provided in the following:

1 (i) The urban homestead act, 1999 PA 127, MCL 125.2701 to
2 125.2709.

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

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

7 (iv) The urban homesteading in multifamily public housing act,
8 1999 PA 84, MCL 125.2721 to 125.2734.

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

11 (kk) To implement, administer, or execute administrative,
12 substantive, or supervisory powers ~~pursuant to~~**under** the individual
13 or family development account program act, 2006 PA 513, MCL 206.901
14 to 206.911.

15 **(ll) To determine the eligibility of contributions made to**
16 **local impact housing trust funds and employer-assisted housing**
17 **projects offered to employees and issue certificates to persons for**
18 **the basis of an income tax credit under sections 279 and 678 of the**
19 **income tax act of 1967, 1967 PA 281, MCL 206.279 and 206.678.**

20 **Sec. 22e. (1) The authority shall develop an application and**
21 **approval process in order to certify contributions and costs**
22 **incurred by persons for employer-assisted housing projects and**
23 **adopt a program to be used for approving contributions and**
24 **employer-assisted housing projects. A person is eligible for the**
25 **credits provided in sections 279 and 678 of the income tax act of**
26 **1967, 1967 PA 281, MCL 206.679 and 206.678, upon reasonable proof**
27 **of contributions made to a local impact housing trust fund and**
28 **verification that the employer-assisted housing project satisfies**
29 **the requirements established under section 279 or 678 of the income**

1 tax act of 1967, 1967 PA 281, 206.279 and 206.678.

2 (2) The authority shall issue a certificate each year to an
3 eligible person that states the following:

4 (a) The name of the person. If the person is a flow-through
5 entity, the name of the member of the flow-through entity.

6 (b) That the employer-assisted housing project is a qualified
7 employer-assisted housing project and the name of each local impact
8 housing trust fund to which contributions were made.

9 (c) The amount of eligible contributions made to a local
10 impact housing trust fund and the costs incurred to provide and
11 fund a qualified employer-assisted housing project for the
12 designated tax year and the amount of the credit that may be
13 claimed for the designated tax year. For contributions made and
14 costs incurred by an employer that is a flow-through entity, the
15 certificate shall separately state the amount of the credit that
16 each person who is a member of the flow-through entity is allowed
17 to claim for the designated tax year and that amount shall be based
18 on each member's proportionate share of ownership in that flow-
19 through entity or an alternative method approved by the department
20 of treasury.

21 (d) The taxpayer's federal employer identification number or
22 the Michigan department of treasury number assigned to the
23 taxpayer.

24 Enacting section 1. This amendatory act does not take effect
25 unless Senate Bill No. 360 of the 101st Legislature is enacted into
26 law.