

SENATE BILL NO. 417

June 27, 2023, Introduced by Senator SINGH and referred to the Committee on Housing and Human Services.

A bill to amend 1966 PA 346, entitled
"State housing development authority act of 1966,"
by amending section 44c (MCL 125.1444c), as amended by 2012 PA 345.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 44c. (1) If the resolution authorizing the issuance of
2 notes or bonds provides that the notes or bonds are limited and not
3 general obligations of the authority, are not secured by the
4 capital reserve capital account, and are secured solely by revenues
5 and property derived from or obtained in connection with the

1 housing project, the authority shall use the proceeds of those
2 notes or bonds to make loans directly, or indirectly by a loan
3 through a mortgage lender, to a nonprofit housing corporation,
4 consumer housing cooperative, limited dividend housing corporation,
5 limited dividend housing association, mobile home park corporation,
6 mobile home park association, or public body or agency for the
7 construction, rehabilitation, long-term financing or any
8 combination of construction, rehabilitation, or long-term financing
9 **or financing** of any of the following:

10 (a) Multifamily housing projects for students, ~~or~~ low income
11 or moderate income persons, **or projects with independent living,**
12 **congregate care, or assisted living units for individuals 55 years**
13 **of age or older.**

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

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

25 (2) To qualify as rehabilitation under this section, the
26 rehabilitation expenditures with respect to the project must equal
27 or exceed ~~30%~~ **15%** of the ~~portion of the cost of acquiring the~~
28 ~~building and equipment financed with the proceeds of the~~ **related**
29 notes or bonds. ~~issued to acquire and rehabilitate the project. For~~

~~1 a project located in an eligible distressed area, the amount of~~
~~2 rehabilitation may be less than the 30% requirement if the~~
~~3 authority determines by resolution that the likely benefit to the~~
~~4 community or the proposed residents of the project merits the use~~
~~5 of this financing source. This subsection does not apply to a~~
~~6 project for which the authority has authorized a loan commitment~~
~~7 under this section before December 18, 1985. The authority shall~~
~~8 not provide long term financing for a project under this section~~
~~9 unless the project is constructed or rehabilitated in anticipation~~
~~10 of authority financing, the construction or rehabilitation is~~
~~11 undertaken with authority financing, long term financing is being~~
~~12 provided with respect to a housing project for which regulatory or~~
~~13 contractual restrictions assuring occupancy of some or all of the~~
~~14 units by families or persons of low or moderate income are subject~~
~~15 to termination within a 2 year period following the acquisition of~~
~~16 the housing project, or a housing project which is to be owned and~~
~~17 operated by a nonprofit housing corporation which is qualified~~
~~18 under section 501(c)(3) of the internal revenue code, 26 USC~~
~~19 501(c)(3).~~

20 (3) Notwithstanding the provisions of this section, the
 21 authority ~~shall~~**may** establish by resolution higher income limits
 22 for a housing project financed under either subsection (1)(a) or
 23 (b) if the authority determines all of the following:

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

28 (b) For any annual period after the first tenant has occupied
 29 the housing project, the owner of the housing project has been

1 unable to attain and sustain at least a 95% occupancy level at the
2 housing project.

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

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

11 (a) A description of the proposed credit enhancement **or**
12 **private placement structure**. The proposed credit enhancement may be
13 in the form of a letter of credit, bonding, guarantee, mortgage
14 insurance, **standby purchase agreement**, or other appropriate
15 security in an amount sufficient to assure the authority that
16 repayment of notes or bonds issued by the authority is reasonably
17 secure. **The proposed private placement structure must provide for**
18 **the sale and resale of the notes or bonds consistent with the**
19 **restrictions and limitations established by resolution of the**
20 **authority. If the authority determines that repayment of the notes**
21 **or bonds will be reasonably secure because of the proposed credit**
22 **enhancement or private placement structure, that determination is**
23 **conclusive and must take the place of the authority's normal**
24 **underwriting and feasibility review.**

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

1 (c) An application fee equal to ~~the greater of \$4,000.00 or~~
 2 ~~0.0005~~**0.0001** multiplied by the principal amount of notes or bonds
 3 for which issuance is requested. For a project located in an
 4 eligible distressed area, the fee required by this subdivision is
 5 refundable if the notes or bonds are not delivered or may be waived
 6 by the authority if the owner of the housing project is or will be
 7 a nonprofit housing corporation qualified under section 501(c)(3)
 8 of the internal revenue code, 26 USC 501(c)(3), or a limited
 9 dividend housing association wholly owned and controlled by 1 or
 10 more nonprofit corporations qualified under section 501(c)(3) of
 11 the internal revenue code, 26 USC 501(c)(3). In all other cases,
 12 the fee is nonrefundable.

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

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

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

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

1 (d) The borrower has provided **acceptable** evidence of a
2 commitment to issue ~~a~~ **the proposed** credit enhancement ~~in the form~~
3 ~~of a letter of credit, bonding, guarantee, mortgage insurance, or~~
4 ~~other appropriate security in a form and amount sufficient to~~
5 ~~assure the authority that the repayment of notes or bonds issued by~~
6 ~~the authority for purposes of making a loan to the borrower is~~
7 ~~reasonably secure. If the authority determines that repayment of~~ ~~or~~
8 **privately purchase** the notes or bonds, ~~will be reasonably secure,~~
9 ~~the authority's review of the credit enhancement shall take the~~
10 ~~place of the authority's normal underwriting and feasibility~~
11 ~~review.~~ **as referenced in the borrower's application and approved by**
12 **the authority.**

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

15 (7) Unless a borrower is either a nonprofit housing
16 corporation qualified under section 501(c)(3) of the internal
17 revenue code, 26 USC 501(c)(3), or a limited dividend housing
18 association that is wholly owned and controlled by 1 or more
19 nonprofit corporations qualified under section 501(c)(3) of the
20 internal revenue code, 26 USC 501(c)(3), and may borrow money from
21 the authority without an allocation of the state volume limitation,
22 a borrower and any ~~person~~ **individual** who is a related person to the
23 borrower as defined in section 144(a)(3) of the internal revenue
24 code, 26 USC 144(a)(3), shall not have outstanding loan commitments
25 under this section ~~which~~ **that** total more than the greater of
26 ~~\$25,000,000.00~~ **\$100,000,000.00** or the amount of financing approved
27 for a single project under subsection (6). Once a loan has been
28 made under this section, the commitment made with respect to the
29 loan ~~shall~~ **must** no longer be considered to be outstanding.

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

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

17 (10) Except as otherwise provided in this subsection, upon
18 issuance of any notes or bonds to finance a housing project under
19 this section, the borrower shall pay when the notes or bonds are
20 issued, in addition to any commitment or extension fee paid under
21 subsection (8), a fee established by the authority of ~~either not~~
22 ~~more than 0.9% of the principal amount of the notes or bonds for a~~
23 ~~loan made for a project located in an eligible distressed area or~~
24 not more than 1.9% of the principal amount of the notes or bonds
25 for a loan made for a project. ~~located in other than an eligible~~
26 ~~distressed area. If notes or bonds have been issued under this~~
27 ~~section for a project owned by the borrower located in an eligible~~
28 ~~distressed area within 180 days before the issuance of notes or~~
29 ~~bonds for the next project financed by that borrower, which next~~

1 ~~project is located in other than an eligible distressed area, the~~
2 ~~fee under this subsection shall be not more than 0.9% of the~~
3 ~~principal amount of the notes or bonds. If notes or bonds have been~~
4 ~~issued under this section for a project located in other than an~~
5 ~~eligible distressed area and the borrower has paid the 1.9% fee,~~
6 ~~the authority shall not charge a fee under this subsection for the~~
7 ~~next project financed by that borrower if that next project is~~
8 ~~located in an eligible distressed area and if the notes or bonds~~
9 ~~are issued within 180 days after the notes or bonds were issued for~~
10 ~~the project located in other than an eligible distressed area. In~~
11 addition to the fee to be paid to the authority when notes or bonds
12 are issued under this section, the authority may, at its sole
13 discretion, establish an annual fee, or other administrative fees,
14 to be paid by the borrower during the term of the loan **or the**
15 **applicable compliance monitoring period.** All or any portion of the
16 fees due to the authority under this subsection ~~shall~~**must** be paid
17 by the borrower to the authority in annual or semiannual
18 installments, as the authority shall determine, after the date on
19 which notes or bonds are issued to finance the related housing
20 project.

21 (11) Subject to any rights of the holders of any notes or
22 bonds issued to finance a multifamily housing project under this
23 section, if the owner of a multifamily housing project financed
24 under this section provides evidence satisfactory to the authority
25 that a prospective new owner of the multifamily housing project is
26 an eligible borrower under this act and the exemption from federal
27 income taxation of interest on the notes or bonds issued to finance
28 the multifamily housing project will not be impaired as a result of
29 a sale, refinancing, or resyndication, the borrower may sell,

1 refinance from a source other than the authority, or resyndicate
2 that housing project at any time. A prepayment penalty or fee ~~shall~~
3 **is** not ~~be~~ required for the sale, refinancing, or resyndication
4 other than any prepayment penalty or fee owing to **a mortgage**
5 **lender, a credit enhancer, or** the holders of notes or bonds issued
6 to finance a housing project under this section, except that the
7 owner shall pay all fees of the authority described in subsection
8 (10) before or concurrent with the sale, refinancing, or
9 resyndication. For student housing, a transfer of ownership ~~shall~~
10 **must** be approved by a resolution of the college or university board
11 of trustees for the college or university that approved the initial
12 financing under this section.

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

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

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

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

1 constructed.

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

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

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

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

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

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

22 (15) The authority may inspect and audit projects and records
23 of projects financed under this section in order to monitor
24 compliance with the requirements of this section. If there is
25 noncompliance, the authority, pursuant to the provisions of the
26 financing and organizational documents applicable to the
27 transaction, may pursue the remedies that the authority considers
28 appropriate. Except as is required to ensure compliance with this
29 section or section 46 or otherwise required by purchasers of, or a

1 third party credit enhancement provider with respect to, notes or
2 bonds issued to finance a multifamily housing project under this
3 section, the authority shall not regulate, in any manner, a
4 multifamily housing project financed under this section. This
5 section does not preclude the authority from regulating a
6 multifamily housing project in consideration for other types of
7 program benefits, incentives, or concessions provided by the
8 authority in addition to the financing made available under this
9 section.

10 (16) Notwithstanding any other provision of this section,
11 there ~~shall not be any~~ **is no** liability on the part of the authority
12 or its members, officers, employees, or agents, and the assets of
13 the authority ~~shall~~ **must** not be subject to any liability, as a
14 result of any act or failure to act under this section on the part
15 of the authority or its members, officers, employees, or agents.

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

29 (18) ~~Except for housing projects for which the authority has~~

1 ~~adopted an inducement resolution on or before April 1, 1991, loans~~
2 ~~shall~~ **Loans must** not be made under this section unless the
3 authority determines that use of ~~the~~ **this** state's unified volume
4 cap for a project will not impair the ability of the authority to
5 carry out programs or finance housing developments or housing units
6 ~~which~~ **that** are targeted to lower income persons.

7 (19) ~~Beginning January 3, 2005, a~~ **A** person or entity ~~who~~ **that**
8 proposes a student housing project shall cooperate with the college
9 or university from which the majority of tenants are proposed to be
10 drawn by using its best efforts to communicate with the college or
11 university regarding the location of and the need for the project.
12 If, in the judgment of the authority, the person or entity
13 proposing the project does not communicate with the college or
14 university and the unit of local government where the project is
15 located regarding the location of and need for the project, the
16 authority may deny financing for the project. The authority shall
17 not make a financing commitment for a housing project unless the
18 board of trustees of the college or university from which a
19 majority of students are anticipated to be residents of the housing
20 project adopts a resolution in support of the proposed development.