

AN ACT

ENTITLED, An Act to revise and repeal certain provisions relating to the South Dakota Housing Development Authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 11-11-5 be amended to read as follows:

11-11-5. Terms used in this chapter mean:

- (1) "Authority," the South Dakota Housing Development Authority;
- (2) "Bonds," any bonds, notes, debentures, interim certificates, or other evidences of financial indebtedness issued by the authority pursuant to this chapter;
- (2A) "Day-care facilities," a specific work or improvement within this state undertaken primarily to provide facilities for the short-term care and supervision, including day care, adult day care, and respite care, of children, physically or mentally impaired adults, and aged adults, including the acquisition, construction, or rehabilitation of land, buildings, and improvements thereto, and such other facilities as may be incidental or appurtenant thereto;
- (3) "Federal mortgage," a mortgage loan for land development or residential housing made by the United States or an agency or instrumentality thereof or a commitment by the United States or an agency or instrumentality thereof to make such a mortgage loan;
- (4) "Federally insured mortgage," a mortgage loan for land development or residential housing insured or guaranteed by the United States or an agency or instrumentality thereof, or a commitment by the United States or an agency or instrumentality thereof to insure such a mortgage;
- (5) "Governmental agency" or "instrumentality," any department, division, public corporation, public agency, political subdivision, or other public instrumentality of the

state, the federal government, any other state or public agency, or any two or more thereof;

- (6) "Land development," the process of acquiring land primarily for residential housing construction and making, installing or constructing nonresidential housing improvements, including water, sewer, and other utilities, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or works, whether on or off the site, which the authority deems necessary or desirable to prepare such land primarily for residential housing construction within this state;
- (7) "Mortgage," a mortgage deed, deed of trust, or other instrument which shall constitute a lien on real property in fee simple or on a leasehold under a lease having a remaining term, at the time such mortgage is acquired, which does not expire for at least that number of years beyond the maturity date of the obligation secured by such mortgage as is equal to the number of years remaining until the maturity date of such obligation;
- (8) "Mortgage lender," any bank or trust company, federal national mortgage association approved mortgage banker, savings bank, industrial bank, credit union, national or state banking association, federal or state savings and loan association, insurance company or other financial institutions or governmental entities which customarily provide service or otherwise aid in the financing of mortgages on residential housing located in the state;
- (9) "Mortgage loan," an obligation, with or without interest, secured by either a mortgage or note or bond constituting a lien on land and improvements in the state constituting a housing development or housing project;
- (10) "Multifamily residential housing," residential rental housing consisting of two or more dwelling units, and also specifically including congregate housing and assisted living facilities;

- (11) "Municipality," any city, town, county, or other political subdivision of this state;
- (12) "Real property," all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms of years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens;
- (13) "Residential housing," a specific work or improvement within this state whether in single family or multifamily units undertaken primarily to provide dwelling accommodations including the acquisition, construction, or rehabilitation of land, buildings, and improvements thereto, and such other nonhousing facilities as may be incidental or appurtenant thereto, and also including day-care facilities;
- (14) "Single family residential housing," residential housing consisting of not more than four dwelling units, all of which are contained in one structure and one of which is to be occupied by the owner; and
- (15) "State," the State of South Dakota.

Section 2. That § 11-11-5.1 be repealed.

Section 3. That § 11-11-6 be amended to read as follows:

11-11-6. As used in this chapter, housing development, or, housing project, means any work or undertaking, whether new construction or rehabilitation, including single family and multifamily residential housing, which is designed and financed pursuant to the provisions of this chapter for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for persons and families in need of housing and further including day-care facilities. Such undertaking may include any buildings, land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable in connection therewith, such as sewers, utilities, streets, parks, site preparation, landscaping and such stores, offices, and other nonhousing facilities such as

administrative, community, health, recreational, educational, and welfare facilities as the authority determines to be necessary, convenient, or desirable.

Section 4. That § 11-11-7 be amended to read as follows:

11-11-7. As used in this chapter, housing sponsor, or, sponsor, means individuals, joint ventures, partnerships, limited partnerships, trusts, firms, associations, governmental agencies, or other legal entities or any combination thereof, corporations, cooperatives, and condominiums, approved by the authority as qualified either to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development or housing project, whether for profit, nonprofit, or organized for limited profit subject to the regulatory powers of the authority and other terms and conditions set forth in this chapter.

Section 5. That § 11-11-16 be amended to read as follows:

11-11-16. Before entering into a commissioner's duties, each commissioner of the authority shall execute a surety bond in the penal sum of fifty thousand dollars and the executive director shall execute a surety bond in the penal sum of one hundred thousand dollars or, in lieu thereof, the chair of the authority shall execute a blanket bond or obtain an insurance policy covering each member, the executive director, and the employees or other officers of the authority, each surety bond and insurance policy to be conditioned upon the faithful performance of the duties of the office or offices covered, to be executed by a surety company or insurance company authorized to transact business in this state and to be approved by the attorney general and filed in the office of the secretary of state. The cost of each such bond or insurance policy shall be paid by the authority.

Section 6. That § 11-11-21 be amended to read as follows:

11-11-21. The Governor shall appoint an executive director of the authority. The executive director shall serve at the pleasure of the Governor. The executive director is the secretary of the authority and shall administer, manage, and direct the affairs and business of the authority, subject

to the policies, control, and direction of the commissioners. The commissioners may employ technical experts and such other officers, agents, and employees and fix their qualifications and duties. The commissioners may delegate to the executive director or to one or more of the authority's agents or employees such powers and duties as may be proper.

Section 7. That § 11-11-22 be amended to read as follows:

11-11-22. The Governor shall set the salary of the executive director, who shall be paid from funds provided by the authority. The salaries of the other employees shall be approved by the executive director.

Section 8. That § 11-11-23 be amended to read as follows:

11-11-23. The executive director and employees of the authority shall be provided comparable employee benefits offered to state employees by chapters 3-6, 3-10, 3-11, 3-12, and 3-12A and for purposes of administration of this section, the executive director and employees of the authority shall be offered no other employee benefits. The compensation paid for terminated employees is limited to accrued vacation pay and sick leave as provided in chapter 3-6.

For purposes of implementation of this section, the authority may grant a maximum of the vacation pay and sick pay consistent with what the employee would have earned had he been covered by chapter 3-6 since the start of employment with the authority.

Section 9. That § 11-11-25 be amended to read as follows:

11-11-25. The authority shall, notwithstanding any section of chapter 11-7, act as a housing and redevelopment commission for the state and be granted the same functions, rights, powers, duties, privileges, immunities, and limitations as conferred upon housing and redevelopment commissions and their commissioners by chapter 11-7. However, the authority may operate as a housing and redevelopment commission in any municipality or county of the state, only on the condition that prior written approval of the governing body of the affected jurisdiction has been acquired. The

authority may also cooperate with any existing municipal or county housing and redevelopment commission in securing additional housing through such means as each shall agree to be proper.

Section 10. That § 11-11-26 be amended to read as follows:

11-11-26. The authority may carry out and effectuate the purposes and provisions of this chapter.

Section 11. That § 11-11-27 be amended to read as follows:

11-11-27. The authority may:

- (1) Sue and be sued in its own name;
- (2) Have an official seal and alter the same at pleasure;
- (3) Have perpetual succession; and
- (4) Maintain an office at such place or places within this state as it may designate.

Section 12. That § 11-11-28 be amended to read as follows:

11-11-28. The authority may provide, contract, or arrange for consolidated processing of any aspect of a housing development or housing project in order to avoid duplication thereof by either undertaking such processing in whole or in part on behalf of any department, agency, or instrumentality of the United States or of this state, or, in the alternative, may delegate such processing in whole or in part to any such department, agency, or instrumentality of the United States or of this state.

Section 13. That § 11-11-30 be amended to read as follows:

11-11-30. The authority may adopt and from time to time amend and repeal bylaws, rules, and regulations, not inconsistent with this chapter, to carry into effect the powers and purposes of the authority and the conduct of its business.

Section 14. That § 11-11-31 be amended to read as follows:

11-11-31. The authority may conduct research and promote development in housing, building technology, and related fields.

Section 15. That § 11-11-32 be repealed.

Section 16. That § 11-11-33 be amended to read as follows:

11-11-33. The authority may provide advice, technical information, training and educational services, including assistance in obtaining federal and state aid, to assist the planning, construction, rehabilitation, and operation of housing developments and housing projects, including assistance in community development and organization, home management and advisory services for the residents of housing developments and housing projects and to encourage community organizations to assist in developing same.

Section 17. That § 11-11-34 be amended to read as follows:

11-11-34. The authority may enter into agreements or other transactions with, administer programs of, and accept grants and the cooperation of, the United States or any agency or instrumentality thereof or of the state or any agency or instrumentality thereof in furtherance of the purposes of this chapter and to do any and all things necessary in order to avail itself of such aid and cooperation.

Section 18. That § 11-11-35 be repealed.

Section 19. That § 11-11-36 be amended to read as follows:

11-11-36. The authority may make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter.

Section 20. That § 11-11-37 be amended to read as follows:

11-11-37. The authority may accept such moneys as may be appropriated from time to time by the Legislature for effectuating its corporate purposes including, without limitation, the payment of the expenses of administration and operation and the establishment of reserves or contingency funds to be available for the payment of the principal of and the interest on any bonds, notes, or other obligations of the authority.

Section 21. That § 11-11-39 be amended to read as follows:

11-11-39. The authority may receive and accept aid or contributions, from any source, of money, property, labor, or other things of value, to be held, used, and applied to carry out the purposes of this chapter subject to such conditions upon which such grants and contributions may be made, including gifts or grants from any agency or instrumentality of the United States or of this state for payment of rent supplements to eligible persons or families or for the payment in whole or in part of the interest expense for a housing development or housing project or for any other purpose consistent with this chapter.

Section 22. That § 11-11-41 be amended to read as follows:

11-11-41. The authority may borrow money and issue bonds and notes or other evidences of indebtedness as provided in this chapter.

Section 23. That § 11-11-42 be amended to read as follows:

11-11-42. The authority may include in any borrowing such amounts as may be deemed necessary by the authority to establish reserves and to pay financing charges, interest on the obligations for a period not exceeding three years from their date, consultant advisory and legal fees, and such other expenses as are necessary or incident to such borrowing.

Section 24. That § 11-11-44 be repealed.

Section 25. That § 11-11-45 be amended to read as follows:

11-11-45. The authority may issue qualified private activity bonds at any time during a fiscal year in the aggregate principal amount as determined by the authority, and (except for bonds issued for the purpose of renewing, paying, or refunding outstanding bonds and interest pursuant to § 11-11-50) as approved by the Governor. However, the aggregate principal amount of qualified private activity bonds issued in or with respect to any calendar year under § 11-11-47 may not exceed the principal amount of the state ceiling for qualified private activity bonds applicable to the State of South

Dakota for any calendar year and allocated to the authority for any such calendar year pursuant to § 1-7-8 and the applicable executive order of the Governor.

Section 26. That § 11-11-47 be amended to read as follows:

11-11-47. The authority is an agency of the state which is an issuing authority within the meaning of § 146 of the Internal Revenue Code of 1986 and the State Housing Credit Agency within the meaning of § 42(h)(7)(A) of the Internal Revenue Code of 1986. The authority may administer the provisions of § 42 of the Internal Revenue Code of 1986.

Section 27. That § 11-11-48 be amended to read as follows:

11-11-48. The authority may enter into all agreements and take any actions necessary to comply with all conditions set forth in § 143 of the Internal Revenue Code of 1986, for the issuance of qualified mortgage bonds as therein defined.

Section 28. That § 11-11-52 be amended to read as follows:

11-11-52. The notes and bonds shall be authorized by resolutions of the authority, and shall bear such dates and shall mature at such times as such resolutions may provide. However, no bond may mature more than fifty years from the date of its issue. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination thereof. The notes and bonds shall bear interest at such rates, be in such denominations, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such places within or without the state, and be subject to such terms of redemption as such resolutions may provide. The notes and bonds of the authority may be sold by the authority, at public or private sale, at such prices as the authority shall determine.

Section 29. That § 11-11-54 be amended to read as follows:

11-11-54. Any resolutions authorizing any bonds or any issue thereof may contain any of the following provisions, each of which shall be a part of the contracts with the holders thereof:

- (1) Pledging all or any part of the revenues of the authority to secure the payment of the bonds or of any issue thereof, subject to such agreements with bondholders as may then exist;
- (2) Pledging all or any part of the assets of the authority, including mortgages and obligations securing the same, to secure the payment of the bonds or of any issue of bonds, subject to such agreements with bondholders as may then exist;
- (3) Limiting the purpose to which the proceeds of sale of bonds may be applied and pledging such proceeds to secure the payment of the bonds or of any issue thereof;
- (4) Limiting the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; and the refunding of outstanding or other bonds;
- (5) Regarding the use and disposition of the gross income from mortgages owned by the authority and payment of principal of mortgages owned by the authority;
- (6) Limiting the amount of moneys to be expended by the authority for operating expenses of the authority;
- (7) Regarding the setting aside of reserves or sinking funds and the regulation and disposition thereof;
- (8) Regarding the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto; and the manner in which such consent may be given;
- (9) Vesting in a trustee such property, rights, powers, and duties in trust as the authority may determine, which may include any or all of the rights, powers, and duties of the trustee appointed by the bondholders pursuant to this chapter and limiting or abrogating the right of the bondholders to appoint a trustee under this chapter or limiting the rights, powers, and duties of such trustee;

- (10) Defining the acts or omissions to act which constitute a default in the obligations and duties of the authority to the holders of the bonds and providing for the rights and remedies of the holders of the bonds in the event of such default, including as a matter of right the appointment of a receiver. However, the rights and remedies may not be inconsistent with the general laws of the state and the other provisions of this chapter; and
- (12) Any other matters, of like or different character, which in any way affect the security or protection of the holders of the bonds.

Section 30. That § 11-11-55 be repealed.

Section 31. That § 11-11-56 be repealed.

Section 32. That § 11-11-57 be repealed.

Section 33. That § 11-11-58 be repealed.

Section 34. That § 11-11-59 be repealed.

Section 35. That § 11-11-60 be repealed.

Section 36. That § 11-11-61 be repealed.

Section 37. That § 11-11-62 be repealed.

Section 38. That § 11-11-63 be repealed.

Section 39. That § 11-11-64 be repealed.

Section 40. That § 11-11-67 be amended to read as follows:

11-11-67. If any of the commissioners, executive director, or officers of the authority whose signatures appear on any bonds ceases to be such commissioners, executive director, or officers before the delivery of such bonds, such signatures are, nevertheless, valid and sufficient for all purposes, the same as if such directors or officers had remained in office until such delivery.

Section 41. That § 11-11-68 be repealed.

Section 42. That § 11-11-70 be amended to read as follows:

11-11-70. The authority shall create and establish one or more special funds to be referred to in this chapter as capital reserve funds, and shall pay into each such capital reserve fund:

- (1) Any moneys appropriated and made available by the state for the purpose of such fund;
- (2) Any proceeds of sale of bonds, to the extent provided in the resolutions of the authority authorizing the issuance thereof; and
- (3) Any other moneys which may be made available to the authority for the purpose of such fund from any other source or sources.

Section 43. That § 11-11-78 be amended to read as follows:

11-11-78. The authority may, subject to any agreement with bondholders, purchase bonds of the authority out of any funds or money of the authority available therefor, and hold, cancel, or resell such bonds.

Section 44. That § 11-11-79 be amended to read as follows:

11-11-79. The authority, subject to such agreements with bondholders as may then exist, may, out of any funds available therefor, purchase bonds of the authority for cancellation. Upon such purchase the bonds shall be canceled, at a price not exceeding:

- (1) If the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment thereon; or
- (2) If the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to such date.

Section 45. That § 11-11-82 be amended to read as follows:

11-11-82. The issuance of bonds and the refunding of bonds under the provisions of this chapter need not comply with the requirements of any other state law applicable to the issuance of bonds or other obligations. Contracts for the construction and acquisition of any housing developments

undertaken pursuant to this chapter need not comply with the provisions of any other state law applicable to contracts for the construction and acquisition of state owned property. No proceedings, notice, or approval are required for the issuance of any bonds or any instrument as security therefor, except as provided in this chapter.

Section 46. That § 11-11-83 be amended to read as follows:

11-11-83. If the authority defaults in the payment of principal or of interest on any bonds issued under this chapter after the bonds become due, whether at maturity or upon call for redemption, and such default continues for a period of thirty days, or if the authority fails or refuses to comply with the provisions of this chapter, or defaults in any agreement made with the holders of an issue of bonds of the authority, the holders of twenty-five percent in aggregate principal amount of the bonds of such issue then outstanding, by instruments filed in the Office of the Secretary of State and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes provided in § 11-11-84.

Section 47. That § 11-11-84 be amended to read as follows:

11-11-84. A trustee appointed pursuant to § 11-11-83 may, and upon written request of the holders of fifty percent in principal amount of such bonds then outstanding shall, in the holder's own name, enforce all rights of the bondholders, including the right to:

- (1) Require the authority to collect interest and amortization payments on the mortgages held by it adequate to carry out any agreement as to, or pledge of, such interest and amortization payments;
- (2) Require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this chapter;
- (3) Collect and enforce the payment of principal of and interest due or becoming due on loans to mortgage lenders and collect and enforce any collateral securing such loans or sell such

collateral;

- (4) Declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of fifty percent of the principal amount of such bonds then outstanding, annul such declaration and its consequences, provided that before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the Governor, to the authority, and to the attorney general of the state;
- (5) Bring suit upon all or any part of such bonds;
- (6) By action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds, and require the authority to account as if it were the trustee of an express trust for the holders of such bonds; and
- (7) In addition to the foregoing subdivisions, have and possess all the powers necessary or appropriate for the exercise of any functions specifically set forth in this section or incident to the general representation of bondholders in the enforcement and protection of their rights.

Section 48. That § 11-11-85 be repealed.

Section 49. That § 11-11-86 be repealed.

Section 50. That § 11-11-87 be repealed.

Section 51. That § 11-11-88 be repealed.

Section 52. That § 11-11-89 be repealed.

Section 53. That § 11-11-90 be repealed.

Section 54. That § 11-11-91 be amended to read as follows:

11-11-91. The circuit court has jurisdiction of any suit, action, or proceeding by the trustee on behalf of bondholders.

Section 55. That § 11-11-92 be repealed.

Section 56. That § 11-11-93 be amended to read as follows:

11-11-93. The state hereby pledges to and agrees with the holders of any bonds issued under this chapter that the state will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with the holders thereof or in any way impair the rights and remedies of the holders until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority may include this pledge and agreement of the state in any agreement with the holders of the bonds.

Section 57. That § 11-11-94 be amended to read as follows:

11-11-94. Neither the commissioners or executive director of the authority nor any other person executing such bonds is subject to any personal liability or accountability by reason of the issuance of such bonds.

Section 58. That § 11-11-95 be amended to read as follows:

11-11-95. Whether or not the bonds are of the form and character as to be negotiable instruments under the terms of the South Dakota Uniform Commercial Code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the South Dakota Uniform Commercial Code, subject only to the provisions of the bonds for registration.

Section 59. That § 11-11-97 be amended to read as follows:

11-11-97. The state and all counties, municipalities, villages, and other municipal corporations, political subdivisions and public bodies, and public officers of any thereof, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, and all personal representative, guardians, trustees, and other fiduciaries may legally invest any debt service funds, moneys or other funds belonging to them or within their control in any bonds issued pursuant to this chapter. The bonds may be deposited or segregated in lieu of surety

bonds to secure deposits of any public funds, as provided in § 4-6A-3 and any other law relating to the securing of public deposits.

Section 60. That § 11-11-98 be amended to read as follows:

11-11-98. The authority may, subject to any agreement with bondholders, invest moneys of the authority, including proceeds from the sale of any bonds, in:

- (1) Direct obligations of or obligations guaranteed as to principal and interest by the United States of America or the State of South Dakota;
- (2) Bonds, notes, or other obligations issued by the government national mortgage association, any federal land bank, bank for cooperatives, federal intermediate credit banks, or any or all of the federal farm credit banks, the federal home loan bank system, the federal home loan mortgage corporation, or the federal national mortgage association, or any other federal entity to which similar powers have been granted;
- (3) Negotiable or nonnegotiable certificates of deposit issued by any bank as defined in subdivision 51A-1-2(2) or any federally chartered bank located within the state which is insured by the Federal Deposit Insurance Corporation, if then in existence;
- (4) Any other obligations of the state or of the United States of America or any agency or instrumentality of either thereof which may then be purchased with funds belonging to the state or held in the state treasury; or
- (5) Such securities and deposit accounts as are permissible for the investment of state public funds by the state investment officer under the provisions of § 4-5-26.

Section 61. That § 11-11-99 be repealed.

Section 62. That § 11-11-100 be amended to read as follows:

11-11-100. The authority may acquire real or personal property, or any interest therein, on either a temporary or long-term basis in the authority's own name by gift, purchase, transfer, foreclosure,

lease, or otherwise, including rights or easements in real property; hold, sell, assign, lease, encumber, mortgage, or otherwise dispose of any real or personal property or any interest therein; hold, sell, assign, or otherwise dispose of any mortgage lien interest owned by the authority or under the authority's control, custody, or in the authority's possession; and release or relinquish any right, title, claim, lien, interest, easement, or demand however acquired, including any equity or right of redemption in property foreclosed by the authority and do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law.

Section 63. That § 11-11-102 be amended to read as follows:

11-11-102. The authority, to carry out and effectuate the purposes and provisions of this chapter, may:

- (1) Contract for services with architects, engineers, attorneys, accountants, housing construction and financial experts, and other advisers, consultants, and agents and to fix their compensation;
- (2) Renegotiate, refinance or foreclose, or contract for the foreclosure of, any mortgage in default; waive any default or consent to the modification of the terms of any mortgage; commence any action to protect or enforce any right conferred upon the authority by any law, mortgage, contract, or other agreement, and bid for and purchase such property at any foreclosure or at any other sale, or acquire or take possession of any such property; operate, manage, lease, dispose of, and otherwise deal with such property, in such manner as may be necessary to protect the interests of the authority and the holders of its bonds;
- (3) Make and execute contracts with mortgage bankers or other financial institutions in this state, or outside this state if none are located within this state, for the servicing of mortgages acquired by the authority pursuant to this chapter, and pay the reasonable value of services rendered to the authority pursuant to those contracts;

- (4) Consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security, or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract, or agreement of any kind to which the authority is a party, subject to any agreement with bondholders;
- (5) Insure or guarantee mortgage loans made by federally or state chartered banks or savings and loan associations or other mortgage lenders approved by the authority to eligible housing sponsors upon such terms and conditions as the authority deems necessary, including without limitation the maximum amount which may be insured or guaranteed, maximum interest rates, down payment requirements, refinancing terms, insurance or guaranty premium requirements, and remedies on default or foreclosure;
- (6) Procure insurance against any loss in connection with the authority's property and other assets, including mortgages and mortgage loans, in such amounts and from such insurers as the authority deems desirable;
- (7) Make and undertake to make any and all contracts and agreements, including the payment of fees, with mortgage bankers and other financial institutions in this state for assistance rendered the authority in the location of eligible mortgagees and other sponsors of housing developments;
- (8) Make, undertake commitments to make, and participate in the making of mortgage loans, including without limitation federally insured mortgage loans and to make temporary mortgage loans and advances in anticipation of permanent mortgage loans to be made by the authority or other mortgage lenders to housing sponsors; and
- (9) Make, undertake commitments to make, and participate in the making of mortgage loans to persons who may purchase residential housing, including without limitation persons and families who are eligible or potentially eligible for federally insured mortgaged loans

or federal mortgage loans. The loans shall be made only after a determination by the authority that mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions. However, such determination does not require that persons or families receiving such loans have been refused a loan by a private mortgage lender.

Section 64. That § 11-11-103 be repealed.

Section 65. That § 11-11-104 be repealed.

Section 66. That § 11-11-105 be repealed.

Section 67. That § 11-11-106 be repealed.

Section 68. That § 11-11-107 be repealed.

Section 69. That § 11-11-108 be repealed.

Section 70. That § 11-11-110 be repealed.

Section 71. That § 11-11-111 be repealed.

Section 72. That § 11-11-112 be repealed.

Section 73. That § 11-11-116 be repealed.

Section 74. That § 11-11-119 be amended to read as follows:

11-11-119. The authority may invest in, purchase or make commitments to purchase, and take assignments from mortgage lenders, of notes and mortgages evidencing loans for the construction, rehabilitation, purchase, leasing, or refinancing of housing in this state.

Section 75. That § 11-11-121 be repealed.

Section 76. That § 11-11-122 be amended to read as follows:

11-11-122. The authority may make loans to mortgage lenders under terms and conditions requiring the proceeds to be used by such mortgage lenders for the making of new residential mortgages.

Section 77. That § 11-11-126 be repealed.

Section 78. That § 11-11-127 be repealed.

Section 79. That § 11-11-128 be repealed.

Section 80. That § 11-11-129 be repealed.

Section 81. That § 11-11-130 be repealed.

Section 82. That § 11-11-131 be repealed.

Section 83. That § 11-11-132 be repealed.

Section 84. That § 11-11-133 be repealed.

Section 85. That § 11-11-134 be amended to read as follows:

11-11-134. The authority may make commitments to purchase, and purchase, service, and sell federally insured mortgages and make loans directly upon the security of any such mortgage, if the underlying mortgage loans have been made and continue to be used solely to finance or refinance the construction, rehabilitation, purchase, or leasing of residential housing in this state.

Section 86. That § 11-11-135 be amended to read as follows:

11-11-135. The authority may sell or otherwise dispose of, at public or private sale, with or without public bidding, or assign or transfer, any mortgage loan or other obligation held by the authority, including, without limitation, the transfer of a mortgage loan or other obligation to any trust or other legal entity and the receipt of ownership interests therein.

Section 87. That § 11-11-136 be repealed.

Section 88. That § 11-11-137 be amended to read as follows:

11-11-137. The authority may institute any action or proceeding against any housing sponsor or persons and families receiving a loan pursuant to the provisions of this chapter, or owning any housing development or housing project pursuant to the provisions of this chapter in any court of competent jurisdiction in order to enforce the provisions of this chapter or the terms and provisions

of any agreement or contract between the authority and such recipients of loans under the provisions of this chapter, or to foreclose its mortgage, or to protect the public interest, the occupants of the housing development, or the stockholders or creditors of such sponsor.

Section 89. That § 11-11-141 be amended to read as follows:

11-11-141. The authority may promulgate rules pursuant to this chapter, regarding the definition of persons and families of low and moderate income, the regulation of borrowers, the admission of occupants to housing developments pursuant to this chapter, and the construction of ancillary commercial facilities.

Section 90. That § 11-11-142 be repealed.

Section 91. That § 11-11-143 be repealed.

Section 92. That § 11-11-145 be repealed.

Section 93. That § 11-11-146 be repealed.

Section 94. That § 11-11-146.1 be repealed.

Section 95. That § 11-11-147 be repealed.

Section 96. That § 11-11-151 be amended to read as follows:

11-11-151. Each mortgage loan made or other financing provided by the authority shall contain such terms and provisions and be in such form as approved by the authority. With respect to multifamily residential housing projects and day-care facilities, the authority may also assist the development of such housing projects and day-care facilities by investing as a limited partner or shareholder in the housing sponsor upon such terms and conditions as the authority determines.

Section 97. That § 11-11-154 be repealed.

Section 98. That § 11-11-155 be amended to read as follows:

11-11-155. If the authority is providing mortgage financing, the authority shall require the housing sponsor receiving a loan or its contractor to post surety bonds or other assurances of

payment of labor and materials, and construction performance in such amounts as the authority may deem necessary and to execute such other assurances and guarantees as the authority may deem necessary.

Section 99. That § 11-11-156 be repealed.

Section 100. That § 11-11-157 be repealed.

Section 101. That § 11-11-158 be repealed.

Section 102. That § 11-11-159 be repealed.

Section 103. That § 11-11-160 be repealed.

Section 104. That § 11-11-161 be amended to read as follows:

11-11-161. As a condition of a mortgage loan or other financing, the authority may, at all times during the construction or rehabilitation of a housing development or housing project by a housing sponsor and the operation thereof:

- (1) Order such alterations, changes, or repairs as may be necessary to protect the security of the authority's investment in a housing development or the health, safety, and welfare of the occupants thereof and ensure that the housing development is or has been constructed or rehabilitated in conformity with all applicable federal, state, and local building codes; and
- (2) Order any managing agent, housing development manager, or owner of a housing development to do such acts as may be necessary to comply with the provisions of all applicable laws, ordinances or building codes or any rule or regulation of the authority or the terms of any agreement concerning the development or refrain from doing any acts in violation thereof and in this regard the authority is a proper party to file a complaint and to prosecute on the complaint for any violations of laws, ordinances, or building codes as set forth in this section.

Section 105. That § 11-11-162 be repealed.

Section 106. That § 11-11-163 be amended to read as follows:

11-11-163. The authority, in the supervision of housing sponsors of multifamily residential housing units and day-care facilities and their real and personal property, may:

- (1) Prescribe uniform systems of accounts and records for housing sponsors;
- (2) Require housing sponsors to make reports and give answers to specific questions on such forms and at such times as may be prescribed by the authority;
- (3) Examine all books and records with reference to capital structure, income, expenditures, and other payments of a housing sponsor;
- (4) Pay to the authority such fees as the authority may prescribe in connection with the examination, inspection, supervision, auditing, or other regulation of the housing sponsor;
- (5) Enter upon and inspect the lands, buildings, and equipment of a housing sponsor, including all parts thereof;
- (6) Supervise the operation and maintenance of any such housing development or housing project and order such repairs as may be necessary to protect the public interest or the health, welfare, or safety of the occupants;
- (7) Fix and alter from time to time a schedule of rents and charges for any such housing development; and
- (8) Require any housing sponsor to pay to the authority such fees as it may prescribe in connection with the examination, inspection, supervision, auditing, or other regulation of the housing sponsor.

Section 107. That § 11-11-164 be repealed.

Section 108. That § 11-11-165 be repealed.

Section 109. That § 11-11-166 be repealed.

Section 110. That § 11-11-168 be repealed.

Section 111. That § 11-11-169 be repealed.

Section 112. That § 11-11-175 be repealed.

Section 113. That § 11-11-176 be repealed.

Section 114. That § 11-11-177 be repealed.

Section 115. That § 11-11-178 be repealed.

Section 116. That § 11-11-182 be amended to read as follows:

11-11-182. Notwithstanding any other provision of law, the authority shall be audited annually by a certified public accountant approved by, and under the direction of, the auditor general and any such private audit shall be filed with the Department of Legislative Audit upon completion.

Section 117. That § 11-11-186 be repealed.

Section 118. That § 11-11-187 be repealed.

Section 119. That § 11-11-188 be repealed.

An Act to revise and repeal certain provisions relating to the South Dakota Housing Development Authority.

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I certify that the attached Act originated in the SENATE as Bill No. 56

Secretary of the Senate
=====

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 56
File No. _____
Chapter No. _____

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Received at this Executive Office this ____ day of _____, 20__ at _____ M.

By _____
for the Governor
=====

The attached Act is hereby approved this ____ day of _____, A.D., 20__

Governor

=====
STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State