

CHAPTER 960

S.B. No. 437

AN ACT

relating to the authority of the Texas Housing Agency to issue bonds and to enter into certain agreements.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Subsection (d), Section 2, Texas Housing Agency Act (Article 12691-6, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) "Bond" means any type of interest-bearing obligation, including, without limitation, any bond, note, bond anticipation note, or other evidence of indebtedness, whether general or special, whether negotiable or nonnegotiable in form, whether in bearer or registered form, *whether in certificated or book-entry form*, whether in temporary or permanent form, whether with or without interest coupons, and regardless of the source of payment.

SECTION 2. Sections 8 and 13, Texas Housing Agency Act, as amended (Article 12691-6, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 8. GENERAL POWERS OF THE AGENCY. (a) The agency is hereby granted, has, and may exercise all powers necessary or appropriate to carry out, achieve, or effectuate the purposes of this Act, including, without limitation, the following powers:

(1) to sue and be sued, and plead and be impleaded, in its own name; and it is specifically enacted that the agency is and constitutes a separate governmental agency and a body politic and corporate of this state, acting for and on behalf of this state;

(2) to adopt an official seal and alter same when deemed advisable;

(3) to adopt and enforce bylaws and rules for the conduct of its affairs not inconsistent with bylaws and this Act;

(4) to acquire, hold, invest, deposit, use and dispose of its revenues, income, receipts, funds, and money from every source and to select its depository or depositories, subject only to the provisions of this Act and any covenants with respect to the agency's bonds;

(5) to acquire, own, rent, lease, accept, hold, or dispose of any real, personal, or mixed property, or any interest therein, in performing its duties and exercising its powers under this Act, by purchase, exchange, gift, assignment, transfer, foreclosure, sale, lease, or otherwise, including rights or easements and to hold, manage, operate, or improve real, personal, or mixed property, except that:

(A) the agency may not construct or acquire any housing development unless acquired through foreclosure of mortgages or sales under deeds of trust;

(B) the agency shall make a diligent effort to sell a housing development so acquired to a purchaser who will be required to pay ad valorem taxes on the housing development or, if such a purchaser cannot be found, to any other purchaser; and

(C) in any event the agency shall sell a housing development so acquired within three years after the date of acquisition unless the board adopts a resolution stating that a purchaser for the housing development cannot be found after diligent search by the agency, in which case the agency shall continue to try to find a purchaser and shall sell the housing development when a purchaser is found;

(6) to sell, assign, lease, encumber, mortgage, or otherwise dispose of any real, personal, or mixed property, or any interest therein, or any deed of trust or mortgage lien interest owned by it or under its control, custody, or in its 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 it, and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law; and to lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities from private parties to effectuate the purposes of this Act;

(7) to request and accept any appropriations, grants, allocations, subsidies, rent supplements, guaranties, aid, contributions, services, labor, materials, gifts, or donations from the federal government, the state, any public agency, or any other sources;

(8) to maintain an office or offices throughout the state and appoint and determine the duties, tenure, qualifications, and compensation of its officers, employees, agents, professional advisors, and counselors, including, without limitation, financial consultants, accountants, attorneys, architects, engineers, real estate consultants, appraisers, housing construction and financing experts, as are determined necessary or advisable; it is the intention of this Act that the programs of the agency be coordinated with the programs of the Texas Department of Community Affairs with respect to their design and implementation in order to avoid duplication of governmental housing programs;

(9) to make, enter into, and enforce contracts and agreements with the federal government, the state, any public agency, or any person, firm, corporation, or other entity in performing its duties and exercising its powers under this Act; to make and enter into all contracts, agreements, and other arrangements with mortgage lenders; to designate mortgage lenders to act for and in behalf of the agency, with respect to originating, servicing, and processing mortgage loans of the agency, under the terms and conditions agreed on between the parties; and to provide, contract, or arrange for consolidated processing of any aspect of a housing development in order to avoid duplication;

(10) to issue its bonds, to provide for and secure the payment of the bonds, and to provide for the rights of the holders of the bonds, in the manner and to the extent permitted by this Act and the Texas Constitution; and to purchase, hold, cancel, or resell or otherwise dispose of any of its bonds, subject to any restrictions in any resolution authorizing the issuance of its bonds; *and in connection with or incidental to the issuance and sale of its bonds, to enter into any contracts which the board deems to be necessary or appropriate to place the obligation of the agency, as represented by the bonds and the contract or contracts, in whole or in part, on the interest rate, currency, cash flow, or other basis desired by the board, including, without limitation, contracts commonly known as interest rate swap agreements, currency swap agreements, forward payment conversion agreements, or contracts providing for payments based on levels of or changes in interest rates or currency exchange rates, or contracts to exchange cash flows or a series of payments, or contracts including, without limitation, options, puts or calls to hedge payment, currency, rate, spread, or similar exposure, all upon such terms and conditions as may be approved by the board;*

(11) to fix, charge, and collect fees and charges in connection with loans made or other services provided by the agency pursuant to this Act;

(12) to do anything authorized by this Act, through its directors, officers, or employees, or by contracts with the federal government, the state, any public agency, or any person, firm, corporation, or other entity;

(13) to invest its money in any bonds, obligations, or other securities or place such money in demand or time deposits, whether or not evidenced by certificates of deposit unless otherwise provided by this Act or a resolution authorizing the issuance of its bonds;

(14) to do all things necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied by this Act;

(15) to conduct hearings and to take testimony and proof, under oath or affirmation, at public hearings, on any matter necessary to carry out the purposes of this Act;

(16) to procure and pay premiums on insurance of any type whatsoever, in amounts and from insurers as the board deems necessary or advisable;

(17) to encourage individual or cooperative home ownership among persons and families of low income and families of moderate income in this state; and

(18) to investigate housing conditions and the means for improving those conditions and determine where slum or blighted areas exist.

(19) The Texas Housing Agency may target the proceeds from housing bonds issued by it to any geographic area or areas of the state. The Texas Housing Agency is also authorized to make loans to mortgage lenders or to public agencies, the proceeds of which will be used to make loans for multifamily housing developments which will be substantially occupied by persons and families of low income or families of moderate income.

Sec. 23. FORM; DENOMINATION; PLACE OF PAYMENT. (a) The agency's bonds may be issued as serial bonds, or as term bonds, or any combination of each as shall be determined by the board.

(b) The agency's bonds may be issued in coupon form payable to bearer, or in fully registered form, or as coupon bonds payable to bearer but registrable as to principal alone, or as to both principal and interest, or in any other form, *which may include registered uncertificated obligations not represented by written instruments and commonly known as book-entry obligations, the registration of ownership and transfer of which shall be provided for by the agency under a system of books and records maintained by a bank serving as trustee, paying agent, or bond registrar.*

(c) The agency's bonds may be payable at any place or places *within or without the United States, may be made payable in any currency or medium of exchange including United States dollars and currencies of nations other than the United States of America,* may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and shall be executed, all as provided by the board in the resolution authorizing the issuance of said bonds.

(d) The agency's bonds may be sold in such manner, at such price, and under such terms and conditions, as shall be determined by the board.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on March 16, 1987, by the following vote: Yeas 28, Nays 0. Passed the House on May 30, 1987, by the following vote: Yeas 74, Nays 64, one present not voting.

Approved June 20, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.