

## CHAPTER 234

## WISCONSIN HOUSING FINANCE AUTHORITY

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**234.01 Definitions.** In this chapter:

(1) "Authority" means the Wisconsin housing finance authority.

(1m) "Authority cost" means any costs incurred by the authority in carrying out and administering any of its powers, duties and functions including, but not limited to, costs of financing by the authority, service charges, insurance premiums and administrative and operating costs of the authority.

(2) "Development costs" mean the costs which have been approved by the authority as appropriate expenditures including but not limited to:

(a) Payments for options to purchase properties on the proposed housing project site, deposits on contracts of purchase, or with the prior approval of the authority, payments for the purchase of such properties;

(b) Legal, organizational and marketing expenses, including payment of attorneys' fees, project manager and clerical staff salaries, office rent and other incidental expenses;

(c) Payment of fees and preliminary feasibility studies and advances for planning, engineering and architectural work;

(d) Expenses for surveys as to need and market analyses;

(e) Necessary application and other fees to federal and other government agencies; and

(f) Such other expenses incurred by the eligible sponsor as the authority deems appropriate to effectuate the purposes of this chapter.

(3) "Eligible sponsor" means any housing corporation, limited-profit entity or nonprofit corporation or any other entity meeting criteria established by the authority and which is organized to provide housing for persons and families of low and moderate income.

(4) "Housing corporation" means a corporation organized under s. 182.004 and whose articles of incorporation, in addition to other requirements of law, provide that:

(a) If the corporation receives any loan or advance from the authority under this chapter, it may enter into an agreement with the authority providing for regulation with respect to rents, profits, dividends and disposition of property or franchises; and

(b) If the corporation receives a loan or advance under this chapter, the chairman of the authority, acting with the prior approval of the majority of the members of the authority, may, if he determines that any such loan or advance is in jeopardy of not being repaid, that the proposed development for which such loan or advance was made is in jeopardy of not being constructed or that the corporation is not carrying out the intent and purposes of this chapter, appoint to the board of directors of such corporation a number of new directors, which number shall be sufficient to constitute a majority of such board, notwithstanding any other provision of such articles of incorporation or of any other provision of law.

(5) "Housing project" means a specific work or improvement within this state undertaken

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primarily to provide dwelling accommodations, including land development and the acquisition, construction or rehabilitation of buildings and improvements thereto, for residential housing, and such other nonhousing facilities as may be incidental or appurtenant thereto.

(6) "Limited-profit entity" means any person or trust which, in its articles of incorporation or comparable documents of organization, or by written agreement with the authority, provides that:

(a) As a condition of acceptance of a loan or advance under this chapter, the limited-profit entity shall enter into an agreement with the authority providing for limitations of rents, profits, dividends and disposition of property or franchises; and

(b) If the limited-profit entity receives a loan or advance under this chapter, the chairman of the authority, acting with the prior approval of the majority of members of the authority, may, if he determines that any such loan or advance is in jeopardy of not being repaid, that the proposed development for which such loan or advance was made is in jeopardy of not being constructed or that the limited-profit entity is otherwise not carrying out the intent and purposes of this chapter, appoint to the board of directors or other comparable controlling body of such limited-profit entity a number of new directors or persons, which number shall be sufficient to constitute a voting majority of such board or controlling body, notwithstanding any other provisions of the limited-profit entity's articles of incorporation or other documents of organization, or of any other provisions of law.

(7) "Nonprofit corporation" means a nonprofit corporation incorporated under ch. 181 whose articles of incorporation, in addition to other requirements of law, provide that:

(a) The corporation has as its major purpose the providing of housing facilities for persons and families of low and moderate income;

(b) All income and earnings of the corporation shall be used exclusively for corporation purposes and no part of the net income or net earnings of the corporation shall inure to the benefit or profit of any private person;

(c) The corporation is in no manner controlled or under the direction or acting in the substantial interest of private persons seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in any dealing or transactions therewith;

(d) If the corporation receives any loan or advance from the authority, it shall enter into an agreement with the authority, providing for limitations on rents, profits, dividends and disposition of property or franchises; and

(e) That if the corporation receives a loan or advance under this chapter, the chairman of the authority, acting with the prior approval of the majority of the members of the authority, may, if he determines that any such loan or advance is in jeopardy of not being repaid, that the proposed development for which such loan or advance was made is in jeopardy of not being constructed, that some part of the net income or net earnings of the corporation is inuring to the benefit of any private person, that the corporation is in some manner controlled or under the direction of or acting in the substantial interest of any private person seeking to derive benefit or gain therefrom or seeking to eliminate or minimize losses in any dealings or transactions therewith or that the corporation is not carrying out the intent and purposes of this chapter, appoint to the board of directors of such corporation a number of new directors, which number shall be sufficient to constitute a majority of such board, notwithstanding any other provisions of such articles of incorporation or of any other provisions of law.

(8) "Persons and families of low and moderate income" means persons and families who cannot afford to pay the amounts at which private enterprise, without federally-aided mortgages or loans from the authority, can provide a substantial supply of decent, safe and sanitary housing and who fall within income limitations set by the authority in its rules. In determining such income limitations the authority shall consider the amounts of the total income of such persons available for housing needs, the size of the family, the cost and condition of available housing facilities, standards established for various federal programs and any other factors determined by the authority to be appropriate in arriving at such limitations. Among low- or moderate-income persons and families, preference shall be given to those displaced by governmental action.

History: 1971 c. 287.

**234.02 Wisconsin housing finance authority: creation; membership; appointment and tenure; meetings; chairman and vice-chairman.** (1) There is created a public body corporate and politic to be known as the "Wisconsin housing finance authority". The members of the authority shall be the secretary of local affairs and development, and 6 public members appointed by the governor by and with the advice and consent of the senate for staggered 4-year terms commencing on the dates their predecessors' terms expire. At least one such public member shall be a person recommended by the commissioner of savings and loan, at least one a person recommended by the

commissioner of banking, and at least one a person recommended by the executive director of the investment board. Of the first 6 public members, 2 shall serve terms expiring on January 1, 1974, 2 terms expiring January 1, 1975, and 2 terms expiring January 1, 1976. In addition, the chairman of the assembly committee on municipalities and the chairman of the senate committee on housing and urban development shall serve as ex-officio members of the authority. A member of the authority shall receive no compensation for his services but shall be reimbursed for necessary expenses, including travel expenses, incurred in the discharge of his duties. Each member shall hold office until his successor has been appointed and has qualified. A certificate of appointment or reappointment of any member shall be filed with the authority and the certificate shall be conclusive evidence of the due and proper appointment of the members.

(2) The powers of the authority shall be vested in the members thereof in office. A majority of the members of the authority constitutes a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the authority upon a vote of a majority of the members present, unless the bylaws of the authority require a larger number. Meetings of the members of the authority may be held anywhere within or without the state.

(3) The authority shall elect a chairman and vice-chairman. The authority shall employ an executive director, legal and technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation, all notwithstanding subch. II of ch. 16, except that s. 16.35 shall apply. The authority may delegate to its agents or employees any of its powers or duties.

(4) The authority shall continue in existence until terminated by law, but no such law shall take effect while the authority has obligations outstanding.

History: 1971 c. 287; 1973 c. 12.

The Housing Authority Act, except for 234.15 (4), Stats. 1971, is constitutional. State ex rel. Warren v. Nusbaum, 59 W. (2d) 391, 208 NW (2d) 780.

**234.03 Powers of authority.** The authority shall have all the powers necessary or convenient to implement this chapter, including the following powers in addition to all other powers granted by this chapter:

(1) To sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual existence; to make and execute contracts and other instruments necessary or convenient to the

exercise of the powers of the authority; and to make, amend and repeal bylaws and rules.

(2) To accept gifts, loans or other aid.

(2m) To issue notes and bonds in accordance with ss. 234.08 and 234.40.

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

(4) To employ such agents, employees and special advisors as it finds necessary and to fix their compensation.

(5) To study and analyze housing needs within the state and ways of meeting such needs, including data with respect to population and family groups and the distribution thereof according to income groups, the amount and quality of available housing and its distribution according to rentals and sales prices, employment, wages and other factors affecting housing needs and the meeting thereof; to make the results of such studies and analyses available to the public and the housing and supply industries; and to engage in research and disseminate information on housing.

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

(7) To encourage research in, and demonstration projects to develop, new and better techniques and methods for increasing the supply of housing for families and persons of low and moderate income.

(8) To cooperate with and encourage cooperation among all federal, state and municipal agencies, sponsors and local authorities in the planning for and financing and construction of housing for persons and families of low and moderate income.

(9) To encourage community organizations to assist in initiating housing projects for persons and families of low and moderate income as provided in this chapter.

(10) To provide technical assistance in the development of housing projects for persons and families of low and moderate income, and for programs to improve the quality of rural and urban life for all the people of the state.

(11) To collect fees and charges on mortgage loans for the purpose of paying all or a portion of authority costs as the authority determines are reasonable and as approved by the authority.

(12) To set standards for housing projects which receive loans under this chapter and to provide for inspections to determine compliance with such standards.

(13) To purchase and enter into commitments for the purchase of mortgages and

securities if the authority shall first determine that the proceeds of the sale of such mortgages and securities to the authority will be utilized for the purpose of residential housing for occupancy by persons or families of low and moderate income and to enter into agreements with eligible sponsors, mortgagors or issuers of securities for the purpose of regulating the planning, development and management of housing projects financed in whole or in part by the proceeds of the mortgages or securities purchased by the authority.

**(13m)** To purchase and enter into commitments for the purchase of veterans housing loans made pursuant to s. 45.79.

**(14)** To sell mortgages and security interests at public or private sale, to modify or alter mortgages and security interests, to foreclose on any such mortgage or security interest or commence any action to protect or enforce any right conferred upon it by any law, mortgage, security agreement, contract or other agreement, and to bid for and purchase property which was the subject of such mortgage or security interest, at any foreclosure or at any other sale, to acquire and to take possession of any such property; and in such event the authority may complete, administer, pay the principal and interest on any obligations incurred in connection with such property, dispose of and otherwise deal with, such property, in such manner as may be necessary or desirable to protect the interests of the authority therein.

**(15)** To acquire or contract to acquire from any person by grant, purchase or otherwise, leaseholds, real or personal property or any interest therein, only when the authority finds that low- or moderate-income housing cannot be developed privately without an acquisition by the authority, or when the authority acquires property by reason of default by an eligible sponsor; to own, hold, clear, improve and rehabilitate and to sell, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber the same. Nothing in this chapter shall be deemed to impede the operation and effect of local zoning, building and housing ordinances or ordinances relating to subdivision control, land development, fire prevention or other ordinances having to do with housing or housing development.

**(16)** To lease real or personal property and to accept federal funds for and participate in programs of leased housing pursuant to section 10 or 23 of the United States housing act of 1937, as now or hereafter amended by the housing and urban development act of 1965 or other amendments.

**(17)** To procure insurance against any loss in connection with its property and other assets and to procure insurance on its debt obligations.

**(18)** To invest any funds held in reserve or sinking funds or any moneys not required for immediate use or disbursement at the discretion of the authority in such investments as may be lawful for fiduciaries in the state, if at least 50% of any funds held in any reserve or sinking fund be invested in obligations of the state or of the United States or agencies or instrumentalities of the United States or obligations, the principal and interest of which are guaranteed by the United States or agencies or instrumentalities of the United States.

**(19)** To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purpose, to the modification of the rate of interest, time of payment or any instalment of principal or interest, or any other term, of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract or agreement of any kind to which the authority is a party.

**(20)** To adopt such rules and set such standards as are necessary to effectuate its corporate purpose with respect to mortgage lending, construction lending and temporary lending.

History: 1971 c. 287; 1973 c. 208, 333

#### **234.04 Loans to eligible sponsors of housing projects and to persons and families of low and moderate income.**

**(1)** The authority may make or participate in the making of construction loans to eligible sponsors of housing projects for the construction or rehabilitation of housing for persons and families of low and moderate income. Such loans shall be made only upon the determination by the authority that construction loans are not otherwise available from private lenders upon reasonably equivalent terms and conditions.

**(2)** The authority may make or participate in the making and enter into commitments for the making of long-term mortgage loans to eligible sponsors of housing projects for occupancy by persons and families of low and moderate income, or for the making of long-term mortgage loans to persons and families of low and moderate income. Such loans may be made only upon the determination by the authority that long-term mortgage loans are not otherwise available from private lenders upon reasonably equivalent terms and conditions. The authority may employ, for such compensation as it determines, the services of any savings and loan association or banking institution in connection with any such long-term mortgage loan.

(3) A loan shall be secured in such manner and be repaid in such a period, not exceeding 50 years, as may be determined by the authority; and shall bear interest at a rate determined by the authority.

History: 1971 c. 287.

**234.05 Housing development fund; establishment; payments into fund.** (1) There is established under the jurisdiction and control of the authority a revolving fund to be known as the "housing development fund".

(2) There shall be paid into the housing development fund:

(a) Any moneys which the authority receives as interest on or in repayment of temporary loans made from the housing development fund;

(b) Any moneys transferred by the authority to the housing development fund from other funds or sources; and

(c) Any other moneys which may be made available to the authority for the purpose of the housing development fund from any other source.

History: 1971 c. 287.

**234.06 Use of moneys held in housing development fund; temporary loans; grants.** (1) The authority may use the moneys held in the housing development fund to make temporary loans to eligible sponsors, with or without interest, and with such security for repayment, if any, as the authority determines reasonably necessary and practicable, solely from the housing development fund, to defray development costs for the construction of proposed housing projects for occupancy by persons and families of low and moderate income. No temporary loan may be made unless the authority may reasonably anticipate that satisfactory financing may be obtained by the eligible sponsor for the permanent financing of the housing project.

(2) The proceeds of the temporary loan may be used only to defray the development costs of the housing project. Each temporary loan shall be repaid in full by the eligible sponsor to the authority concurrent with the receipt by the eligible sponsor of the proceeds of the permanent financing.

(3) The authority may use the moneys held in the housing development fund to make grants to counties, cities, villages and towns and eligible sponsors, in such amounts as the authority determines, not to exceed the net costs, exclusive of any federal aid or assistance, as are incurred by the counties, cities, villages or towns or eligible sponsors in a plan of land and building acquisition, improvements, renewal, relocation or conservation, for the purpose of providing

housing or facilities reasonably related to such housing.

History: 1971 c. 287.

**234.07 Limited-profit entity; distributions.** A limited-profit entity which receives loans from the authority may not make distributions, other than from funds contributed to the limited-profit entity by stockholders, partners, members or holders of beneficial interest in the limited-profit entity, in any one year with respect to a project financed by the authority in excess of 6% of its equity in such project on a cumulative basis. The equity in a project shall consist of the difference between the amount of the mortgage loan and the total project cost. Total project cost shall include construction or rehabilitation costs including job overhead and a builder's and sponsor's profit and risk fee, architectural, engineering, legal and accounting costs, organizational expenses, land value, interest and financing charges paid during construction, the cost of landscaping and off-site improvements, whether or not such costs have been paid in cash or in a form other than cash. With respect to every project the authority shall, pursuant to rules adopted by it, establish the entity's equity at the time of making of the final mortgage advance and, for purposes of this section, that figure shall remain constant during the life of the authority's loan with respect to such project. Upon the dissolution of the limited-profit entity any surplus in excess of the distributions allowed by this section shall be paid to the authority. For this purpose surplus shall not be deemed to include any increase in net worth of any limited-profit entity by reason of a reduction of mortgage indebtedness, by amortization or similar payments or by reason of the sale or disposition of any assets of a limited-profit entity to the extent such surplus can be attributed to any increase in market value of any real or tangible personal property accruing during the period the assets were owned and held by the limited-profit entity.

History: 1971 c. 287.

**234.08 Notes and bonds; issuance; status.** (1) The authority may issue its negotiable notes and bonds in such principal amount, as, in the opinion of the authority, is necessary to provide sufficient funds for achieving its corporate purposes, including the purchase of certain mortgages and securities and the making of secured loans for low- and moderate-income housing, for the rehabilitation of existing structures and for the construction of facilities appurtenant thereto as provided in this chapter; for the payment of interest on notes and bonds of the authority during construction; for

the establishment of reserves to secure such notes and bonds; for the provision of moneys for the housing development fund in order to make temporary loans to sponsors of housing projects as provided in this chapter; and for all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(2) The authority may issue renewal notes, issue bonds to pay notes and whenever it deems refunding expedient, refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded.

(3) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of any revenues or moneys of the authority, subject only to any agreements with the holders of particular notes or bonds pledging any particular receipts or revenues.

(4) All notes or bonds shall be negotiable investment securities under ch. 408.

History: 1971 c. 287

**234.09 Same; authorization; terms.** The notes and bonds shall be authorized by resolution of the members of the authority; shall bear such date or dates, and shall mature at such time or times, in the case of any note, or any renewal thereof, not exceeding 5 years, from the date of issue of such original note, and in the case of any bond not exceeding 50 years from the date of issue, as the resolution provides. The notes and bonds shall bear interest at such rate or rates, be in such denominations of \$1,000 or more, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place and be subject to such terms of redemption as the resolution provides. The bonds may be issued as serial bonds payable in annual instalments or as term bonds or as a combination thereof. The notes and bonds of the authority may be sold by the authority, at public or private sale, at the price determined by the authority.

History: 1971 c. 287

**234.10 Same; resolution authorizing issuance, contents.** Any resolution authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(1) Pledging all or any part of the fees and charges made or received by the authority, and all or any part of the moneys received in payment

of mortgage loans and interest thereon, and other moneys received or to be received, to secure the payment of the notes or bonds or of any issue thereof, and subject to such agreements with bondholders or noteholders 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 notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist.

(3) Pledging of any loan, grant or contribution from the federal or state government, any political subdivision of the state or source in aid of such development as provided for in this chapter.

(4) The use and disposition of the gross income from mortgages owned by the authority and payment of principal of mortgages owned by the authority.

(5) The setting aside of reserves or sinking funds and the regulation and disposition thereof.

(6) Limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof.

(7) Limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; the refunding of outstanding or other notes or bonds.

(8) The procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or 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 determines, which may include any or all of the rights, powers and duties of the trustee appointed by the noteholders or bondholders pursuant to s. 234.20 and limiting or abrogating the right of the noteholders or bondholders to appoint a trustee under s. 234.20 or limiting the rights, powers and duties of such trustee, in which event s. 234.20 shall not apply.

(10) Any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

History: 1971 c. 287

**234.11 Same; validity and effect of pledge.** Any pledge made by the authority shall be valid and binding from the time when the pledge is made; the moneys or property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall

be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

History: 1971 c. 287

**234.12 Same; personal liability of members of authority.** Neither the members of the authority nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

History: 1971 c. 287

**234.13 Same; purchase for cancellation.** The authority, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the authority, which shall thereupon be cancelled, at a price not exceeding:

(1) If the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon; or

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

History: 1971 c. 287

**234.14 Same; liability of state.** The state shall not be liable on notes or bonds of the authority and such notes and bonds shall not be a debt of the state. All notes and bonds of the authority shall contain on the face thereof a statement to such effect.

History: 1971 c. 287

**234.15 Capital reserve fund.** (1) The authority shall establish a special fund to secure the notes and bonds, referred to in this chapter as capital reserve fund, and shall pay into the capital reserve fund any moneys appropriated and made available by the state for the purposes of such fund, any proceeds of sale of notes or bonds, to the extent provided in the resolution of the authority authorizing the issuance thereof and any other moneys which are made available to the authority for the purpose of such fund from any other source.

(2) All moneys held in the capital reserve fund, except as otherwise specifically provided, shall be used solely for the payment of the principal of bonds of the authority as the same mature, the making of sinking fund payments with respect to bonds of the authority, the

purchase of bonds of the authority, the payment of interest on bonds of the authority or the payment of any redemption premium required to be paid when bonds are redeemed prior to maturity. Except for the purpose of paying principal of and interest on bonds of the authority maturing and becoming due and for the payment of which other moneys of the authority are not available, and except for making sinking fund payments with respect to bonds of the authority and for the payment of which other moneys of the authority are not available, moneys in the capital reserve fund shall not be withdrawn at any time in such amount as would reduce the fund to less than an amount, called in this chapter "capital reserve fund requirement", equal to the maximum amount, in any succeeding year, of principal and interest, other than principal and interest for which sinking fund payments are specified in any resolution of the authority authorizing bonds of the authority then outstanding, maturing and becoming due in such year on all bonds of the authority then outstanding (other than bonds due in such year issued to provide funds for mortgage loans through the purchase of mortgages or mortgage-backed securities guaranteed by the United States or an agency or instrumentality of the United States) plus all amounts specified, in any resolution of the authority authorizing bonds of the authority then outstanding, as payable as a sinking fund payment in such year. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may be transferred by the authority to the general reserve fund or other fund of the authority to the extent it does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(3) The authority shall not issue bonds at any time, other than bonds issued to provide funds for mortgage loans through the purchase of mortgages or mortgage-backed securities guaranteed by the United States or an agency or instrumentality of the United States, if the capital reserve fund requirement, after such issuance, will exceed the amount of the capital reserve fund at the time of issuance unless the authority, at the time of issuance of such bonds, shall deposit in the capital reserve fund from the proceeds of the bonds so to be issued, or from another available source, an amount which, together with the amount then in the capital reserve fund, will be not less than the capital reserve fund requirement after such issuance.

(4) To assure the continued operation and solvency of the authority for the carrying out of the public purposes of this chapter, the authority shall accumulate in the capital reserve fund an amount equal to the capital reserve fund

requirement. If at any time the capital reserve fund requirement exceeds the amount of the capital reserve fund, the chairman of the authority shall certify to the secretary of administration, the governor and the joint committee on finance the amount necessary to restore the capital reserve fund to an amount equal to the capital reserve fund requirement. If such certification is received by the secretary of administration in an even-numbered year prior to the completion of the budget compilation under s. 16.43, the secretary shall include the certified amount in the budget compilation. In any case, the joint committee on finance shall introduce in either house, in bill form, an appropriation of the amount so certified to the capital reserve fund of the authority. Recognizing its moral obligation to do so, the legislature hereby expresses its expectation and aspiration that, if ever called upon to do so, it shall make such appropriation.

(5) In computing the amount of the capital reserve fund for the purposes of this section, securities in which all or a portion of the capital reserve fund is invested shall be valued at par, or if purchased at less than par, at their cost to the authority.

History: 1971 c. 287; 1973 c. 208

(4) [Stats 1971] is unconstitutional as an encroachment upon the power of the governor and as to limiting the authority of future legislatures. *State ex rel. Warren v. Nusbaum*, 59 W (2d) 391, 208 NW (2d) 780

**234.16 General reserve fund.** The authority shall establish a special fund, referred to in this chapter as general reserve fund, and shall pay into such fund all fees and charges collected by the authority and any moneys which the authority transfers from the capital reserve fund. Such moneys and any other moneys paid into the general reserve fund, in the discretion of the authority but subject to agreements with bondholders and noteholders, may be used by the authority:

(1) For the repayment of advances from the state in accordance with the repayment agreements between the authority and the secretary of administration;

(2) To pay all costs, expenses and charges of financing, including fees and expenses of trustees and paying agents;

(3) For transfers to the capital reserve fund;

(4) For the payment of the principal of and interest on notes or bonds issued by the authority when the same become due whether at maturity or on call for redemption and for the payment of any redemption premium required to be paid where such bonds or notes are redeemed prior to their stated maturities, and to purchase notes or bonds; or

(5) For such other corporate purposes of the authority as the authority in its discretion determines.

History: 1971 c. 287.

**234.17 Repayment to general fund.** The authority shall repay the amounts appropriated under s. 20.143 (1) (a) to the general fund from that portion of the authority's surplus, if any, as is determined pursuant to agreement between the authority and the secretary of administration.

History: 1971 c. 287.

**234.18 Limit on amount of outstanding bonds and notes.** The authority shall not have outstanding at any one time notes and bonds for any of its corporate purposes in an aggregate principal amount exceeding \$150,000,000, excluding bonds and notes being issued to refund outstanding notes and bonds. The authority shall not have outstanding more than \$100,000,000 in bonds prior to July 1, 1973, and the authority shall consult with and coordinate the issuance of bonds with the state bond board prior to the issuance of any bonds.

History: 1971 c. 287.

**234.19 Notes and bonds; pledge and agreement of state.** The state pledges and agrees with the holders of any notes or bonds issued under this chapter, that the state will not limit or alter the rights 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 notes or bonds, together with the interest thereon, with interest on any unpaid instalments 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 is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

History: 1971 c. 287.

**234.20 Default; trustee.** (1) If the authority defaults in the payment of principal of or interest on any issue of notes or bonds after the same become due, whether at maturity or upon call for redemption, and such default continues for a period of 30 days or if the authority fails or refuses to comply with this chapter or defaults in any agreement made with the holders of any issue of notes or bonds, the holders of 25% in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the register of deeds of Dane county and approved or acknowledged in the same manner as a deed to be



recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes otherwise specifically provided.

(2) The trustee may, and upon written request of the holders of 25% in principal amount of such notes or bonds then outstanding shall, in his own name:

(a) By action or proceeding, enforce all rights of the noteholders or bondholders, including the right to require the authority to collect fees and charges and interest and amortization payments on mortgage loans made by it adequate to carry out any agreement as to, or pledge of, such fees and charges and interest and amortization payments on such mortgages, and other properties and to require the authority to carry out any other agreements with the holders of such notes or bonds and to perform its duties under this chapter;

(b) Bring suit upon such notes or bonds;

(c) By action, require the authority to account as if it were the trustee of an express trust for the holders of such notes or bonds;

(d) By action, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes or bonds; and

(e) Declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of 25% of the principal amount of such notes or bonds then outstanding, to annul such declaration and its consequences.

History: 1971 c. 287.

**234.21 Trustee; additional powers.** The trustee, in addition to the powers granted in s. 234.20 shall have all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this chapter or incident to the general representation of noteholders or bondholders in the enforcement and protection of their rights.

History: 1971 c. 287.

**234.22 Venue.** The venue of any action or proceeding by the trustee under ss. 234.19, 234.20 and 234.21 shall be in Dane county.

History: 1971 c. 287.

**234.23 Notice before declaration that notes or bonds are due and payable.** Before declaring the principal of notes or bonds due and payable, the trustee shall first give 30 days' notice in writing to the governor, the authority and the attorney general.

History: 1971 c. 287.

**234.24 System of accounts.** Subject to agreements with noteholders and bondholders

and the approval of the secretary of administration, the authority shall prescribe a system of accounts.

History: 1971 c. 287.

**234.25 Annual report.** The authority shall submit to the governor, the chairman of the joint committee on finance, the senate committee on housing and urban development, the assembly committee on municipalities, such other committees as the legislature by joint resolution may determine, and the secretary of administration within 6 months after the end of its fiscal year a complete and detailed report setting forth:

(1) Its operations, accomplishments, goals and objectives;

(2) A statement of income and expenses for such fiscal year in accordance with the categories or classifications established by the authority for its operating and capital outlay purposes;

(3) Its assets and liabilities at the end of its fiscal year, including a schedule of its leases and mortgages and the status of reserve, special or other funds; and

(4) A schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year.

History: 1971 c. 287.

**234.26 Notes and bonds as legal investments.** The state, the investment board, all public officers, municipal corporations, political subdivisions and public bodies, all banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance companies, insurance associations and other persons carrying on a banking or insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any notes or bonds issued by the authority. Such notes and bonds shall be authorized security for all public deposits and shall be fully negotiable in this state.

History: 1971 c. 287.

**234.265 Records of the authority.** All records of the authority shall be open to the public, except those records relating to pending housing projects which, in the opinion of the authority, must remain confidential to protect the competitive nature of any such housing project.

History: 1971 c. 287.

**234.28 Notes and bonds; exemption from taxation.** The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the authority, in consideration of the acceptance of any payment for the notes and bonds, that its fees, charges, gifts, grants, revenues, receipts and other moneys received or to be received, pledged to pay or secure the payment of such notes or bonds shall at all times be free and exempt from all state, city, county or other taxation provided by the laws of the state.

History: 1971 c. 287

**234.29 Equality of occupancy and employment.** The authority shall require that occupancy of housing projects assisted under this chapter be open to all regardless of race, religion or creed, and that contractors and subcontractors engaged in the construction of housing projects, shall provide an equal opportunity for employment, without discrimination as to race, religion or creed.

History: 1971 c. 287

**234.30 Cooperation.** The heads of all departments, boards, councils, committees and commissions in the administrative branch, and the heads of the various divisions, sections and departments thereunder, shall extend their full and unlimited cooperation, including but not limited to the providing of personnel and facilities, to the authority.

History: 1971 c. 287

**234.31 Construction of chapter.** This chapter is necessary for the welfare of this state and its inhabitants; therefore, it shall be liberally construed to effect its purpose.

History: 1971 c. 287

**234.40 Bonds for veterans housing loans and other veterans assistance programs; insurance status.** (1) The authority shall issue its negotiable bonds in such principal amount and length of maturity as to provide sufficient funds for veterans housing loans to be made pursuant to s. 45.79.

(2) Bonds issued under the authority of this section are payable out of revenues or moneys received from the repayment of veterans housing loans and related funds made available in ss. 234.42 and 234.43. All assets and liabilities created through the issuance of bonds to purchase mortgage loans representing veterans housing loans are to be separate from all other assets and liabilities of the authority. No funds of the veterans housing loan program may be commingled with any other funds of the authority.

(3) It is the intent of the legislature that the authority be used to finance the veterans housing program. Nothing in this chapter shall be construed to supersede the powers vested by subch. II of ch. 45 in the department of veterans affairs for carrying out program responsibilities for which debt has been incurred by the authority.

(4) Bonds issued pursuant to the authority of this section shall not be considered applicable to the limitations established in s. 234.18. The authority shall not have outstanding at any one time bonds for veterans housing loans in an aggregate principal amount exceeding \$140,000,000, excluding bonds being issued to refund outstanding bonds.

History: 1973 c. 208, 333.

**234.41 Veterans housing loan fund; establishment and use.** (1) There is established under the jurisdiction of the authority a veterans housing loan fund. All moneys resulting from the sale of bonds for the purpose of veterans housing pursuant to s. 45.79, unless credited to the veterans capital reserve fund, shall be credited to the fund.

(2) The authority shall use moneys in the fund for the purpose of purchasing loans representing veterans housing loans pursuant to s. 45.79. All disbursements of funds under this section for purchasing mortgage loans shall be made payable to authorized lenders as defined in s. 45.71 (2) and eligible persons as defined in s. 45.71 (6).

(3) Moneys of the veterans housing loan fund may be invested as provided in s. 234.03 (18). All such investments shall be the exclusive property of the fund. All earnings on or income from such investments shall be credited to the fund and, subject to agreement with bondholders, be paid over upon request to the board of the department of veterans affairs for deposit in the veterans trust fund after payment or repayment of any deficits arising in the veterans capital reserve fund and after payment of expenses contained in sub. (4).

(4) The authority may use moneys in the fund to cover actual and necessary expenses incurred in the sale and investment of bonds and bond revenues.

(5) Any moneys remaining in the veterans housing loan fund and not needed for purposes of the veterans capital reserve fund shall be transferred to the veterans housing bond redemption fund.

History: 1973 c. 208, 333, 336.

**234.42 Veterans capital reserve fund.** (1) The authority shall establish the veterans capital reserve fund to secure the veterans housing

bonds sold pursuant to s. 234.40, and shall pay into the veterans capital reserve fund any moneys appropriated and made available by the state for the purposes of such fund, any proceeds of sale of bonds, to the extent provided in the resolution of the authority authorizing the issuance thereof and any other moneys which are made available to the authority for the purpose of such fund from any other source.

(2) All moneys held in the veterans capital reserve fund, except as otherwise specifically provided, shall be used solely for the payment of the principal of veterans housing bonds of the authority as the same mature, the making of sinking fund payments with respect to veterans housing bonds of the authority, the purchase of veterans housing bonds of the authority, the payment of interest on veterans housing bonds of the authority or the payment of any redemption premium required to be paid when veterans housing bonds are redeemed prior to maturity. Except for the purpose of paying principal of and interest on veterans housing bonds of the authority maturing and becoming due and for the payment of which other moneys of the authority are not available, and except for making sinking fund payments with respect to veterans housing bonds of the authority and for the payment of which other moneys of the authority are not available, moneys in the veterans capital reserve fund shall not be withdrawn at any time in such amount as would reduce the fund to less than an amount, called in this section "veterans capital reserve fund requirement", equal to the maximum amount, in any succeeding year, of principal and interest, other than principal and interest for which sinking fund payments are specified in any resolution of the authority authorizing veterans housing bonds of the authority then outstanding, maturing and becoming due in such year on all veterans housing bonds of the authority then outstanding (other than veterans housing bonds due in such year issued to provide funds for mortgage loans through the purchase of mortgages or mortgage-backed securities guaranteed by the United States or an agency or instrumentality of the United States) plus all amounts specified, in any resolution of the authority authorizing veterans housing bonds of the authority then outstanding, as payable as a sinking fund payment in such year. Any income or interest earned by, or increment to, the veterans capital reserve fund due to the investment thereof may be transferred by the authority to the veterans housing bond redemption fund to the extent it does not reduce the amount of the veterans capital reserve fund below the veterans capital reserve fund requirement.

(3) The authority shall not issue bonds at any time, other than bonds issued to provide funds for mortgage loans through the purchase of mortgages or mortgage-backed securities guaranteed by the United States or an agency or instrumentality of the United States, if the veterans capital reserve fund requirement, after such issuance, will exceed the amount of the veterans capital reserve fund at the time of issuance unless the authority, at the time of issuance of such bonds, shall deposit in the capital reserve fund from the proceeds of the bonds so to be issued, or from another available source, an amount which, together with the amount then in the veterans capital reserve fund, will be not less than the veterans capital reserve fund requirement after such issuance.

(4) To assure the continued operation and solvency of the authority for the carrying out of the veterans housing loan program of this chapter, the authority shall accumulate in the veterans capital reserve fund an amount equal to the veterans capital reserve fund requirement. If at any time the veterans capital reserve fund requirement exceeds the amount of the veterans capital reserve fund, the chairman of the authority shall certify to the secretary of administration, the governor and the joint committee on finance, the amount necessary to restore the veterans capital reserve fund to an amount equal to the veterans capital reserve fund requirement. If such certification is received by the secretary of administration in an even-numbered year prior to the completion of the budget compilation under s. 16.43, the secretary shall include the certified amount in the budget compilation. In any case, the joint committee on finance shall introduce in either house, in bill form, an appropriation of the amount so certified to the veterans capital reserve fund of the authority. Recognizing its moral obligation to do so, the legislature hereby expresses its expectation and aspiration that, if ever called upon to do so, it shall make such appropriation.

(5) In computing the amount of the veterans capital reserve fund for the purposes of this section, securities in which all or a portion of the veterans capital reserve fund is invested shall be valued at par, or if purchased at less than par, at their cost to the authority.

History: 1973 c. 208

**234.43 Veterans housing bond redemption fund.** (1) The authority shall establish the veterans housing bond redemption fund. All mortgages purchased with moneys from the veterans housing loan fund shall be the exclusive property of the bond redemption fund. All moneys received from the department of

veterans affairs from the repayment of veterans housing loans, after deducting costs and fees as set forth in s. 45.79 (4) (a) 2, shall be deposited into such fund to be used for the repayment of veterans housing bonds issued pursuant to s. 234.40.

(2) Subject to agreements with bondholders, disbursements shall be made:

(a) For the payment of the principal of and interest on bonds issued by the authority when the same become due whether at maturity or on call for redemption and for the payment of any redemption premium required to be paid where such bonds are redeemed prior to their stated maturities, and to purchase bonds;

(b) To pay administrative costs, expenses and charges to service outstanding bonds including fees and expenses of trustees and paying agents;

(c) For repayment of advances from the state made through s. 20.485 (3) (a) and (b);

(d) For transfer to the veterans capital reserve fund; and

(e) Any surplus remaining after satisfaction of all obligations of pars. (a) to (d) shall be paid over upon request of the board of the department of veterans affairs for deposit in the veterans trust fund.

History: 1973 c 208.