

Legislative Analysis



COMMUNITY AND HOUSING DEVELOPMENT

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Senate Bill 1243 (Substitute S-2)

Sponsor: Sen. Mark Jansen

House Committee: New Economy and Quality of Life

Senate Committee: Economic Development and Regulatory Reform

Complete to 6-23-08

A SUMMARY OF SENATE BILL 1243 (S-2) AS PASSED BY THE SENATE 5-13-08

The bill would amend the State Housing Development Authority Act (MCL 125.1402 et al.) to do the following:

- Rename the act the "Community and Housing Development Authority Act."
- Rename the Michigan State Housing Development Authority (MSHDA) as the Michigan Community and Housing Development Authority (MCHDA).
- Remove the Michigan Housing and Community Development Fund from the Department of Treasury and establish a separate fund of the same name within MCHDA.
- Require MCHDA to develop a biennial allocation plan for the Fund, rather than an annual allocation plan, as currently required.
- Expand ways to use the Housing and Community Development Fund so as to include funding for projects in downtown areas and adjacent neighborhoods, foreclosure prevention and assistance, assistance with individual development accounts, activities related to combating homelessness, technical assistance to certain entities, and predatory lending prevention and relief.
- Establish an Advisory Committee to recommend allocations for the Fund and monitor the process of awarding grants from it.
- Repeal the Michigan Housing and Community Development Fund Act (since all of the necessary provisions relating to the Fund are contained in the act governing the authority).

[NOTE: Senate Bill 1243 is similar in content to House Bill 4658, which has already been reported from the House Committee on New Economy and Quality of Life and passed by the House.]

Following is a more detailed summary of the bill.

Permitted Uses of the Fund

The act currently provides that the Fund shall be used to make grants, mortgage loans, or other loans to eligible applicants to finance any of a list of specified activities (described

later) for projects for housing or home ownership for low-income, very low income, or extremely low income households.

Loans may be made by MSHDA at no interest or below-market interest rates. A portion of the funds is to be expended for "special needs populations," such as homeless people, people with physical or mental disabilities, and people living in rural or distressed areas.

The bill adds that the Fund is also to be used for projects located in ***a downtown area or an adjacent neighborhood***. The bill defines "downtown area" to mean an area where at least 20 contiguous properties have been planned, zoned, or used for commercial purposes for at least 50 years and where a majority of the buildings are adjacent to each other and abut to the public right-of-way. Further, a downtown area must include "a significant number" of multi-level, mixed-used buildings, and property in the area must be owned by at least three private owners. The bill defines "adjacent neighborhood" as a residential area as determined by MSHDA immediately adjoining or near a downtown area within the same municipality.

The list of permitted activities would be expanded, so that it would include (with proposed changes bolded and italicized): (1) the acquisition of land and buildings; (2) rehabilitation; (3) new construction; (4) development and pre-development costs; (5) preservation of existing housing; (6) ***community development projects, including but not limited to*** infrastructure improvements, economic development projects, ***blight elimination***, or community facilities; (7) insurance; (8) operating and replacement reserves; (9) down payment assistance; (10) security deposit assistance; (11) ***foreclosure prevention and assistance***; (12) ***individual development accounts established under the Individual or Family Development Account Program Act***; (13) ***activities related to ending homelessness***; (14) ***technical assistance to nonprofit organizations, municipalities, and land banks***; and (15) ***predatory lending prevention or relief***. The current reference to "supportive services" would be removed. This list would apply to current projects and projects in downtown neighborhoods and adjacent neighborhoods.

Household Income Definitions

Currently, the term "extremely low income household" refers to a person, family, or unrelated persons living together whose adjusted household income is not more than 25 percent of the median income, as determined by the authority. Under the bill, the term would refer to those whose adjusted household income is not more than 30 percent of the area median income, as determined by the authority.

The term "very low income household" refers currently to those whose adjusted household income is more than 25 percent but not more than 50 percent of median income. The bill would instead refer to an adjusted household income of not more than 50 percent of the area median income.

The term "low income household" refers to those whose adjusted household income is more than 50 percent but not more than 60 percent of the median income, and the bill would refer to the area median income.

Eligible Applicants

Under the act, eligible applicants for funding include nonprofit corporations, for-profit corporations, and partnerships approved by MSHDA and organized for the purpose of developing and supporting affordable housing projects.

The bill would add that eligible applicants include municipalities, land bank fast track authorities organized under the Land Bank Fast Track Act, and partnerships organized for the purpose of developing projects in downtown areas or adjacent neighborhoods.

Allocation Plan

The act requires MSHDA to annually develop a plan of how money in the Fund is to be allocated. The bill would require the plan to be developed on a *biennial* basis, and require the authority to hold public hearings in at least three separate locations in the state concerning the plan's content. Currently under the law, the plan must:

1. Include a formula distributing money based on the number of people experiencing poverty and housing distress in various regions of the state.

The bill adds *economic distress* as a factor in the distribution formula.

2. Identify eligible applicants, preference for special population groups, and preference for geographic areas, including neighborhood preservation areas, renaissance zones, core communities, and federally designated enterprise community or homeownership zones.

The bill deletes the provision requiring MSHDA to identify eligible applicants and preference for geographic areas (leaving only the preference for special populations).

3. Allocate at least 25 percent of the Fund for rental housing projects that do not qualify for a preference stated above.

The bill would leave this provision unchanged, except it would remove the geographic preferences.

4. Allocate at least 30 percent for projects that target extremely low income households that include, at a minimum (1) developing housing for the homeless, transitional housing, and permanent housing; and (2) providing security deposits, supportive services, and technical assistance.

The bill modifies this provision, adding *supportive housing* to the earmarking. That term refers to a rental housing project where some or all of the units are targeted to people

with household incomes at or below 30 percent of area median income and that provide services that include mental health, substance abuse, counseling, and assistance with daily living.

5. If it is a rental housing project assisted by the Fund, provide affordable housing to households earning no more than 60 percent of the median income.

The bill instead would require rental housing projects assisted by the Fund to set aside at least 20 percent of the rental units included in the project for households earning no more than 60 percent of the area median income.

6. If it is a home ownership project, provide affordable housing for households earning no more than 60 percent of the median income.

The bill would require home ownership projects to set aside at least 20 percent of the housing units in the project for households earning no more than 60 percent of the area median income.

Advisory Committee

The bill would create a 10-member Michigan Housing and Community Development Fund Advisory Committee. The committee would include the executive director of the authority (as a non-voting member), and nine members appointed by the Governor, as follows:

- A person representing housing lenders, developers, or builders appointed by the Governor from a list of three or more individuals nominated by the Speaker of the House of Representatives.
- A person representing housing lenders, developers, or builders appointed by the Governor from a list of three or more nominated by the Senate Majority Leader.
- A person representing cities, villages, or townships.
- A person representing local housing organizations.
- A person representing nonprofit organizations.
- A person representing a local economic development corporation, a downtown development authority, a corridor improvement authority, a business improvement district, or a principal shopping district.
- A person representing a local neighborhood association or neighborhood improvement authority.
- Two other residents of Michigan.

The advisory committee members' terms of office would be four years in length, and their terms of office would end on November 30. The terms of initial members would be staggered.

Committee members would serve without compensation, except that they would be reimbursed for necessary and necessary expenses while attending meetings or performing other authorized official business of the committee, subject to the availability of funding.

The Governor would designate the chairperson of the committee, while the members would elect a vice-chairperson, and other officers, as appropriate.

The committee could advise the authority on recommendations concerning the biennial allocation plan; and expenditures from the Fund, including whether they are distributed fairly and equitably, whether they satisfy housing needs and priorities, and whether they satisfy the economic needs and priorities of communities benefiting from the expenditures. The bill specifies that the committee could meet with representatives of the authority, and that the authority could provide the committee with meeting space, supplies, and staff.

The committee's meetings would be conducted in public in compliance with the Open Meetings Act; a majority would constitute a quorum; and business would be conducted by a majority vote of the serving members.

A member of the committee could not use, for personal gain, information obtained while performing business of the committee, nor could a member disclose confidential information. The committee would be required to adopt a code of ethics, and establish policies and procedures requiring the disclosure of relationships that could give rise to conflicts of interest. Those with direct or indirect interests would be required to disclose their interests to the committee before action is taken.

Rights of Holders of Bonds and Notes

The bill requires that while performing their duties, the authority and the Advisor Committee remain mindful of the rights of the holders of authority bonds or notes, and the extent to which certain authority contracts may require the authority to either maintain sufficient personnel or contract for services to plan authority programs, and to supervise enforcement and, where necessary, foreclosure of authority mortgage agreements.

Finally, the bill notes that nothing the law should be construed to affect the status of money of the authority. (Under law, state funds appropriated to the authority lose their identity as state funds upon payment to the authority, and become public funds of the authority solely under the control of the authority.) The bill also specifies that nothing in this chapter should be construed to impair the obligation of any bond or note issued by the authority. Bonds and notes issued by the authority are obligations of the authority and not obligations of the state of Michigan.

FISCAL IMPACT:

The bills would have no material impact on the potential revenue for the Housing and Community Development Fund. The Fund could receive appropriations and other money, including contributions and investment earnings. The Michigan State Housing Development Authority would incur additional administrative costs relative to the investment of money in the Housing and Community Development Fund under Section 22 of the act. These costs are not likely to be significant. The authority would also incur additional costs to reimburse advisory committee members for the necessary and reasonable costs in carrying out their duties as committee members, although such costs are not likely to be significant.

House Bill 4658 would also alter the distribution of money available from the Housing and Community Development Fund. From the standpoint of local government, the bill makes funding available from the Fund to cities, villages, and townships for community development projects in downtown areas and adjacent neighborhoods, and also makes funds available to land bank authorities, which could use funds for a variety of activities, including blight elimination. Funding would also be available to the State Land Bank Authority.

To date, the legislature has provided two appropriations totaling \$4.2 million to the Housing and Community Development Fund. In FY 2004-05, the Human Services budget included an appropriation of \$2.0 million in federal TANF funds, which were later eliminated with Executive Order 2005-3. The FY 2007-08 DLEG budget (2007 PA 118) appropriated \$2.2 million GF/GP to the Fund. (These funds have not yet been expended pending the promulgation of rules by the department.) The FY 2008-09 Executive Recommendation and House-passed version of the DLEG budget bill (HB 5809) continue this \$2.1 million GF/GP appropriation to the Fund.

In addition to the legislative appropriations, two recent tax law changes have the potential to increase revenue in the Fund. Beginning in the 2008 tax year, personal income taxpayers are provided a check-off allowing for contributions of at least \$5 to the Fund. (This was added with the enactment of 2007 PA 133, SB 257). Additionally, Michigan Business Tax taxpayers are permitted a credit against their MBT liability equal to half of any contribution to the Fund (combined with contributions to public libraries, public broadcast stations, colleges, and universities) equal to five percent of tax liability or \$5,000, whichever is less.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.