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BILL ANALYSIS

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Senate Bill 1243 (Substitute S-2)
Sponsor: Senator Mark C. Jansen
Committee: Economic Development and Regulatory Reform

Date Completed: 4-30-08

CONTENT

The bill would amend the State Housing Development Authority Act to do the following:

- **Rename the Act the "Community and Housing Development Authority Act".**
- **Replace the Michigan State Housing Development Authority (MSHDA) with the Michigan Community and Housing Development Authority (MCHDA).**
- **Remove the Michigan Housing and Community Development Fund from the Department of Treasury and establish a 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 the Housing and Community Development Program to include the financing of development in a downtown area or adjacent neighborhood.**
- **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.**

Fund

Currently, the Michigan Housing and Community Development Fund is established under the State housing Development Authority Act within the Department of Treasury. The Fund is administered by MSHDA, and money in the

Fund may be spent only as provided under the Act. The State Treasurer must credit to the Fund all of the following:

- All receipts, including dividends and interest on the investment of money in the Fund and principal and interest payments from loans or agreements made from it.
- All proceeds of assets received by MSHDA as a result of the default of loans or agreements made under the Chapter 3A of the Act (which deals with the Housing and Community Development Fund).
- All appropriations, grants, or gifts of money or property made to the Fund.
- All fees or charges collected by MSHDA under activities authorized under Chapter 3A.
- Other revenue as provided by law.

All balances in the Fund at the end of a fiscal year must be carried over as a part of the Fund and may not revert to the State General Fund.

The bill would remove those provisions, and would create the Community and Housing Development Fund as a separate fund within MSHDA, which the bill would rename as the Michigan Housing and Community Development Authority. The Fund would have to be administered by MCHDA, and money in the Fund would have to be spent only as provided under the Act.

The Housing and Community Development Authority would have to credit to the Fund all amounts appropriated to the Fund or to MCHDA for the Fund and any other money

made available to it for the Fund from any other source for the purposes under the Act. The Authority, on behalf of the Fund, could solicit and accept gifts, grants, labor, loans, and other aid from any person, government, or entity. The Authority could receive money or other assets from any source, including Federal funds, gifts, bequests, and donations, for deposit into the Fund.

The Authority would have to invest the money and credit the earnings from the investments to the Fund in accordance with its powers under the Act.

Money appropriated to the Fund or to MCHDA for the Fund would be available for disbursement upon appropriation. Money in the Fund at the end of the fiscal year would have to be carried over as part of the Fund and not lapse to the General Fund.

Housing & Community Dev't Program

Under the Act, MSHDA must create and implement the Michigan Housing and Community Development Program for the purpose of developing and coordinating public and private resources to meet the affordable housing needs of low income, very low income, and extremely low income households in the State.

The Authority must identify, select, and make financing available to eligible applicants from money in the Fund or secured by the Fund for affordable housing for low income, very low income, and extremely low income households.

The bill would include in the purpose of the Program the financing of projects located in a downtown area or adjacent neighborhood. The bill also would remove the reference to affordable housing, instead referring to housing.

Under the bill, "downtown area" would mean an area where 20 or more contiguous properties have been planned, zoned, or used for commercial purposes for 50 or more years and where a majority of the buildings are built adjacent to each other, as determined by MCHDA, and up to the public right-of-way. In order to be a downtown area, the area would have to contain a significant number of multilevel, mixed use buildings, and property in the downtown

area would have to be owned by more than three private owners.

"Adjacent neighborhood" would mean a residential area as determined by MCHDA immediately adjoining or near a downtown area within the same municipality. "Mixed use buildings" would mean buildings that can be used for more than one purpose, and in any combination, including residential housing combined with either commercial or retail space.

Under the Act, "low income household", "very low income household", and "extremely low income household" mean a person, a family, or unrelated people living together whose adjusted household income is the following percentage of the median income, as determined by MSHDA:

Household	More Than	Not More Than
Low income	50%	60%
Very low income	25%	50%
Extremely low income		25%

The bill would revise those definitions to include the following percentages of the "area" median income:

Household	More Than	Not More Than
Low income	50%	60%
Very low income		50%
Extremely low income		30%

The Act gives MSHDA all powers necessary or convenient to carry out the Act, including certain specified powers. Under the bill, the Authority also would have the power to implement and administer a housing and community development program as described in the Act.

Allocation Plan

Currently, MSHDA must develop an annual plan for the allocation of money from the Fund, according to specific requirements. The bill would require a biennial allocation plan.

Under the Act, the plan must contain a formula for distributing money throughout the State based on the number of people experiencing poverty and housing distress in various regions of the State. The bill also would include economic distress.

The allocation plan must identify eligible applicants, preference for certain special population groups, and preference for geographic targeting in designated revitalization areas including neighborhood preservation areas, State renaissance zones, core communities, and federally designated enterprise community or home ownership zones.

The bill would remove those provisions, instead requiring the plan to include a preference for certain special population groups (which, under the bill, would include people with physical or mental handicaps and people living in eligible distressed areas).

The bill also would revise the definition of "eligible applicant", which currently means a nonprofit corporation, a for-profit corporation, or a partnership that is approved by MSHDA and that is organized for the purpose of developing and supporting affordable housing for low income, very low income, or extremely low income households. The bill also would include a municipality or a land bank fast track authority organized under the Land Bank Fast Track Act, and would include a partnership that was organized for the purpose of developing and supporting projects located in a downtown area or adjacent neighborhood.

The Act requires at least 25% of the Fund to be earmarked for rental housing projects that do not qualify under preferences for special population groups, geographic preferences, or other preferences contained in the allocation plan. The bill would remove the reference to geographic preferences.

The Act requires at least 30% of the Fund to be earmarked for projects that target extremely low income households and include at least both of the following activities:

- Developing housing for the homeless, transitional housing, and permanent housing.
- Providing security deposits, supportive services, and technical assistance to eligible applicants.

The bill, instead, would require those projects to include at least developing housing for the homeless, supportive

housing, transitional housing and permanent housing. The bill would delete the requirement for the provision of security deposits, supportive services, and technical assistance.

Under the bill, "supportive housing" would mean a rental housing project in which some or all of the units are targeted to people with household incomes at or below 30% of area median income and that provide services, either directly or contracted for, to those people that include mental health, substance abuse, counseling, and assistance with daily living.

Currently, a rental housing project or home ownership project assisted by the Fund must provide affordable housing for households earning not more than 60% of the median income. The bill, instead, would require such a project to set aside at least 20% of the rental units included in the project for those households.

Public Hearings

The Act requires MSHDA to hold public hearings each year in at least three separate locations throughout the State on the priorities and draft allocation plan for the upcoming year.

The bill instead would require MCHDA, before developing the biennial allocation plan, to hold public hearings in at least three separate locations in the State regarding the content of the plan.

Currently, after the public hearings, MSHDA may make minor modifications to the allocation plan necessary to facilitate the administration of the program or to address unforeseen circumstances. Under the bill, the Authority would not be restricted to making the adjustments after the public hearings, and the changes would not have to be "minor".

Fund Expenditures

The Act requires MSHDA to spend money in the Fund to make grants, mortgage loans, or other loans to eligible applicants to enable them to finance certain activities with respect to housing or home ownership for low income, very low income, and extremely low income households. Under the bill, the Authority also could make these

expenditures with respect to projects located in a downtown area or adjacent neighborhood.

Currently, the grants, mortgage loans, or other loans may be used to finance the following:

- Acquisition of land and buildings.
- Rehabilitation.
- New construction.
- Development and predevelopment costs.
- Preservation of existing housing.
- Insurance.
- Operating and replacement reserves.
- Down payment assistance.
- Security deposit assistance.
- Supportive services.
- Infrastructure improvements, economic development projects, or community facilities that support housing development.

The bill would remove the reference to supportive services, and would revise the last item to specify community development projects, including infrastructure improvements, economic development projects, blight elimination, or community facilities.

In addition, the bill would permit the Fund to be used for the following:

- Foreclosure prevention and assistance.
- Individual development accounts established under the Individual or Family Development Account Program Act.
- Activities related to ending homelessness.
- Assistance to nonprofit organizations, municipalities, and land bank fast track authorities.
- Predatory lending prevention and relief.

Under the Act, MSHDA must spend a portion of the Fund for housing for special needs populations, including the homeless, people with physical or mental handicaps, and people living in rural or distressed areas. The bill instead would require a portion of the Fund to be spent for housing for people with physical or mental handicaps and people living in eligible distressed areas.

In addition, MSHDA may provide assistance for housing units for very low income or extremely low income households within multifamily housing that is occupied partly by very low income or extremely low income

households and partly by households that do not fall under those categories, subject to rules promulgated by MSHDA. Under the bill, the Authority could provide assistance to eligible applicants for these housing units.

The Act also allows MSHDA to provide funding for projects with 50 units or less and provide incentives to encourage project feasibility and mixed income housing projects that respond to community priorities. The bill would remove that provision.

The bill would permit MCHDA to spend money in the Fund for all other things necessary to achieve the objectives and purposes of the Fund or Chapter 3A.

The bill would require MCHDA, when performing functions under the chapter, to consider advice provided by the proposed advisory committee.

Advisory Committee

The bill would create the Michigan Housing and Community Development Fund Advisory Committee within MCHDA. The committee would have 10 members, including the executive director of MCHDA, who would serve as a nonvoting ex officio member, and the following nine members appointed by the Governor, with the advice and consent of the Senate:

- An individual 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.
- An individual representing housing lenders, developers, or builders appointed by the Governor from a list of three or more individuals nominated by the Senate Majority Leader.
- An individual representing cities, villages, or townships.
- An individual representing local housing organizations.
- An individual representing nonprofit organizations.
- An individual representing a local economic development corporation, a downtown development authority, a business improvement district, or a principal shopping district.

- An individual representing a local neighborhood association or neighborhood improvement authority.
- Two other residents of the State.

Except as follows, the term of a committee member would be four years. Of the members initially appointed by the Governor, two would have to be appointed for a term expiring on November 30, 2008, two for a term expiring November 30, 2009, three for a term expiring November 30, 2010, and two for a term expiring November 30, 2011.

A vacancy on the committee arising for a reason other than the expiration of a term would have to be filled in the same manner as the original appointment for the remainder of the unexpired term.

Committee members would have to serve without compensation but, subject to available funding, could receive reimbursement for their actual and necessary expenses while attending meetings or performing other authorized official business of the committee.

The Governor would have to designate one member to serve as chairperson of the committee at the pleasure of the Governor. The committee members could elect a member to serve as vice-chairperson and could elect other members as officers of the committee as it considered appropriate.

The committee could advise MCHDA on all of the following:

- Recommendations for the biennial allocation plan required under the bill.
- Expenditures from the Fund, including whether expenditures were distributed fairly and equitably, whether expenditures satisfied housing needs and priorities in the State, and whether expenditures satisfied the economic needs and priorities of communities benefiting from the expenditures.

The committee could meet with representatives of MCHDA, including MCHDA employers and members of the MCHDA board of directors, to discuss and provide advice on matters relating to the Fund.

The Authority could provide the committee with meeting space, supplies, and staff to support its functions.

The committee would be subject to the Open Meetings Act.

A committee member could not use for personal gain information he or she obtained while performing committee business, or disclose confidential information he or she obtained while performing committee business, except as necessary to perform committee business. The committee would have to adopt a code of ethics for its members and establish policies and procedures requiring the disclosure of relationships that could give rise to a conflict of interest. The committee would have to require that any member with a direct or indirect interest in any matter before the committee disclose his or her interest to the committee before it took any action on the matter.

Authority Bonds & Notes; Money

When performing duties under Chapter 3A, MCHDA and the committee would have to remain aware of the rights of the holders of Authority bonds or notes, and the extent to which certain bond and note contracts could require MCHDA to maintain sufficient personnel or contract for services to plan MCHDA programs and to supervise enforcement and, where necessary, foreclosure of MCHDA mortgage agreements.

The bill specifies that nothing in the chapter could be construed to affect the status of money of MCHDA controlled by the Authority, "as 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 control of the authority and funds established by or within the authority and are public trust funds administered by the authority".

Further, the bill provides that nothing in the chapter could be construed to impair the obligation of any bond or note issued by MCHDA. Bonds and notes issued by MCHDA would be obligations of MCHDA and not obligations of the State.

Rules

The Act requires MSHDA to promulgate rules to implement Chapter 3A. The bill would permit, rather than require, MCHDA to promulgate those rules.

In addition, the Act requires MSHDA to promulgate rules to provide for the terms and conditions under which assistance made under Chapter 3A will be recaptured. The bill would remove that requirement.

Reporting Requirement

The Act requires MSHDA to issue to the Governor and the Legislature an annual report summarizing the Fund's expenditures for the prior fiscal year, including a description of the eligible applicants that received funding, the number of household units produced, and the income levels of the households served. The bill also would require the report to include the number of homeless people served and the number of downtown areas and adjacent neighborhoods that received financing.

Repeal

The bill would repeal the Michigan Housing and Community Development Fund Act. (That Act was enacted in 2004 to create the Michigan Housing and Community Development Fund and require MSHDA to spend money in the Fund for grants and loans to corporations and partnerships organized for the purpose of developing and supporting affordable housing for low income, very low income, and extremely low income households.)

MCL 125.1402 et al.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bill would increase the operational costs of the Michigan State Housing Development Authority by an unknown amount. Changing the name of the Authority to the Michigan Community and Housing Development Authority would require one-time expenditures to convert its forms and stationery. The Authority also would incur minimal additional costs to staff and pay the necessary expenses of the proposed Michigan Community and Housing

Development Fund Advisory Committee. The administrative expenses of the Authority are paid entirely by State restricted funds generated by the Authority during the course of its regular operations.

Under the bill, the Michigan Housing and Community Development Fund could gain access to new sources of funds, including gifts, grants, labor, and loans, potentially increasing the revenue available to the Fund. The bill would permit the Authority to use the Fund in any manner that would achieve its objectives and purposes. The bill also would include municipalities and land bank fast track authorities as eligible applicants for funding from the Michigan Community and Housing Development Fund, allowing them to seek grants and loans from the Fund for many types of housing and community development projects. The Michigan Community and Housing Development Fund was funded for the first time in FY 2007-08 with a General Fund appropriation of \$2,163,400.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.