



**House  
Legislative  
Analysis  
Section**

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**MSHDA; AUTHORIZE SUBSIDIARIES**

House Bill 4505 (Substitute H-1)  
First Analysis (5-20-87)

05 1987

Sponsor: Rep. Nelson W. Saunders  
Committee: Urban Affairs

**THE APPARENT PROBLEM:**

Prior to 1984, the Michigan State Housing Development Authority (MSHDA) financed low income, multifamily rental developments through federal "Section 3" construction programs, in conjunction with tax-exempt bonds and other private financing mechanisms. When the Section 8 program was terminated in 1984, legislation was passed establishing a new, limited obligation, "pass through" rental housing loan program. The legislation also set a limit on the amount of bonds that could be issued to finance authority programs, and set a time frame, within which the bonds must be issued, of June 30, 1987. In addition, the legislation permitted the authority to temporarily increase tenant income limits for MSHDA-financed housing developments. This provision also expires June 30, 1987.

The 1986 tax reform act passed by Congress eliminated many of the tax incentives for private developers, who have traditionally invested in housing for tax shelter, cash flow, and capital appreciation purposes. In low-income housing without federal rent subsidies cash flow is minimal and appreciation of the property may not be as great as in market-rate developments. Although a tax credit is provided, it seems doubtful that it will be enough of an incentive to induce developers to work with the authority. Tax reform has also imposed new restraints on the authority's ability to sell tax-exempt notes and bonds for housing. However if MSHDA were the developer/owner of new housing developments, it would not be subject to many of the restraints of the new tax reform legislation imposed on these "private activity" bonds.

**THE CONTENT OF THE BILL:**

The bill would amend the State Housing Development Authority Act to extend the June 30, 1987 sunsets on Michigan State Housing Development Authority (MSHDA) "multifamily direct" and "pass through" loan programs until June 30, 1989, and allow MSHDA to develop and own low and moderate income housing. The bill would also allow MSHDA to incorporate subsidiary authorities for the purpose of owning, holding, maintaining, improving, or completing a housing project or housing unit over which MSHDA has obtained control, either through foreclosure, deed in lieu of foreclosure, or other circumstances following declaration of default.

The articles of incorporation for subsidiaries would define each subsidiary authority as a public body corporate and a separate legal entity, with the capacity to sue and be sued in its own name. Each would be under the jurisdiction of Ingham County Circuit Court, except where the jurisdiction lay with the Supreme Court, the Court of Appeals, or the Court of Claims. Subsidiaries would be able — either on their own or in participation with MSHDA — to acquire, own, construct, rehabilitate, operate, or sell land and housing projects for low and moderate income people who met certain eligibility criteria. The bill would also give subsidiaries the authority to invest funds in direct obligations of the United States, the state, or any political

subdivision of the state; allow them to receive loans from the authority; and would require them to conform with the Open Meetings Act. The powers of subsidiaries would not be considered limited to those enumerated.

The authority would not be legally liable for the debts or actions of subsidiaries unless expressly agreed upon. The act would be liberally construed in order to effect its purpose.

Under the bill, MSHDA would be able — either on its own or in participation with others — to acquire, own, construct, rehabilitate, operate, or sell land and housing projects for low and moderate income people who met certain eligibility criteria. The authority for MSHDA or its subsidiaries to participate in these projects would sunset June 30, 1989.

MSHDA would be required, prior to funding a housing project, to give public notice in a newspaper of general circulation in the area not less than six months before funding. The notice would state that the authority would proceed to implement the proposed housing project if no other project, similar in nature, were proposed. The authority, or its subsidiary, could proceed with the housing project only if no other entity received a feasibility determination from the authority within six months after the date of the public notice. MSHDA would also be required to obtain approval from the highest legislative body (or the mayor, if the municipal charter provided the mayor higher legislative powers) of the municipality in which the proposed housing project was located, and would not be able to proceed with development until the municipality had notified each public housing authority operating a housing project located in the municipality. The approval would be in the form of a resolution adopted by the highest legislative body of the municipality, or a written communication from the mayor. Housing projects built by the authority would also be required to conform to local building codes, fire codes and zoning ordinances.

In order to ascertain that housing projects were operated in a cost efficient manner, the authority, its subsidiary, or an agent of either, would be required under the bill to implement reasonable tenant selection criteria, including an analysis of the prospective tenant's past credit history, rental history, and ability to pay rent or occupancy charges. Action would be brought against a tenant who violated the terms of the lease or broke the law.

For housing projects which were not located in an "eligible distressed area," the units would be allotted as follows: at least 20 percent to households with gross incomes not in excess of 50 percent of the statewide median gross income; at least 50 percent to households with gross incomes not in excess of 80 percent of the statewide median gross income; and at least 80 percent to households with gross incomes not in excess of 100 percent of the statewide median gross income. No household could have a gross income in excess of 125 percent of the statewide

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median gross income or the area median gross income. The area median gross income and the definition of income required for qualification in each case would have to be consistent with Section 8 of the United States Housing Act of 1937, and include adjustments for family size.

For housing projects located in an eligible distressed area, the units would be allotted as follows: at least 20 percent to households with gross incomes not in excess of 50 percent of the greater of the statewide median gross income or the area median gross income; at least 50 percent to households with gross incomes not in excess of 80 percent of the greater of the statewide median gross income or the area median gross income; and at least 80 percent to households with gross incomes not in excess of 100 percent of the greater of the statewide median gross income or the area median gross income. No household could have an income in excess of 125 percent of the greater of the statewide median gross income or the area median gross income. As with households which are not in distressed areas, income qualifications and area median gross income would be determined in compliance with Section 8 of the United States Housing Act of 1937.

(An "eligible distressed area" is defined in the act as: 1) an area located in a city with a population of at least 10,000 which is either designated as a "blighted area" or as vacant because of clearance of blight; and where market demand has outstripped the supply of safe housing and the city has received approval for elimination of income limits for authority loans; or 2) a municipality that had a negative population change from 1970 to 1980, an overall increase in the state equalized value of real and personal property of less than the statewide average increase since 1972, a poverty rate greater than the statewide average, was eligible for the federal urban development action grant program, and has had an unemployment rate higher than the statewide average for three of the last five years; or 3) an area in a city of more than 20,000 population which is located within the boundaries of a downtown development authority created before May, 1984.)

In addition, household assets (excluding furniture, automobiles, and irrevocable trusts) for qualifying families could not exceed \$40,000 if a member of the household was 62 or older, and \$10,000 in other cases. Income and asset eligibility standards would have to be complied with at the time of initial occupancy, or at the expiration of a lease for housing projects which were occupied at the time of purchase. Subsequent eligibility would be determined by the authority.

The bill would also extend from June 30, 1987 to June 30, 1989, the deadline for extending loans to nonprofit housing corporations, consumer housing cooperatives, limited dividend housing corporations and associations, mobile home park corporations and associations, and public bodies or agencies who construct or rehabilitate certain types of low and moderate income housing. Housing projects owned by the authority or a subsidiary of the authority would retain the tax exempt status presently granted to the above entities. The tax exemption would remain in effect while the housing project was owned by the authority or its subsidiary. If the authority were to transfer ownership to another entity, otherwise eligible to receive a tax exemption, the limitations for housing projects not owned by the authority or its subsidiary would apply; that is, the tax exemption would remain in effect for as long as the federally-aided or authority-aided mortgage, advance or grant from the authority were outstanding, up to a period of 50 years.

The deadline reducing the limitation on the aggregate principal amount of notes and bonds in the capital reserve fund from \$3 billion to \$1.8 billion would similarly be extended from June 30, 1987 to June 30, 1989. MSHDA would retain its capacity as the sole issuer of qualified mortgage bonds, unless it elected to designate another issuer.

MCL 125.1401 et al.

## **BACKGROUND:**

### Multifamily Direct Loan Program

The Michigan State Housing Development Authority was established by the State Housing Development Authority Act of 1966 to address the housing needs of Michigan's low and moderate income citizens. The authority's loans and operating expenses are financed through the sale of tax exempt bonds and notes to private investors. Proceeds of bond and note sales are loaned at below-market interest rates to developers of rental housing, to qualified buyers of single family homes, and for home improvement loans. With the loss of federally funded rental subsidy programs, under Public Act 215 of 1984 MSHDA devised and made available a multifamily lending program which continues to finance needed rental housing.

### "Pass Through" Loan Program

The 1984 act also allowed MSHDA to issue up to \$400 million of bonds to finance a new multifamily program. At least 25 percent of the amount authorized was required to be used in eligible distressed areas. This program is referred to as the "pass-through" program. It is different from the authority's historic role of direct lending, in that the obligations issued are limited rather than general obligations of the agency, are not secured by the authority's capital reserve account, and therefore are not backed by the moral obligation of the state. Instead, these bonds or notes are secured solely by the properties being financed and by some form of credit enhancement provided by the borrower. The program was authorized for the period May 1, 1984 through June 30, 1987.

## **FISCAL IMPLICATIONS:**

According to the House Fiscal Agency, the fiscal impact of the bill is unknown at this time. (5-18-87)

## **ARGUMENTS:**

### **For:**

Since federal housing subsidies and tax benefits have been virtually eliminated, the proposed changes are necessary if the MSHDA is to continue to finance rental housing opportunities for low and moderate income households. Extending the sunsets on the authority's debt ceiling and on the income limits in its multifamily direct loan and pass through loan programs would enhance the economic feasibility of development and ensure that there is a supply of affordable rental housing for low and moderate income households.

### **For:**

Every MSHDA development has an economic impact on the community it is located in. Contractors and management companies are engaged to construct and manage these facilities. When the developments are fully operational wages are paid to employees, vendor services are contracted, and taxes or service fees in lieu of taxes, are paid to local governments. A \$5 million mortgage loan from the authority will create approximately 100 jobs and pay \$1.7 million in wages. After completion it will employ at least three people and expend an average of \$145,000 in vendor services per year.

### **For:**

Federal tax reform eliminated important financing tools that MSHDA traditionally used to finance multifamily rental developments for low and moderate income households. In an effort to make MSHDA's multifamily rental programs more attractive, the authority is using additional reserves to subsidize rents. Even with these additional incentives, MSHDA does not believe that there will be a significant resurgence of private sector interest in creating housing for low and moderate income households, and consequently, that there will be a decrease in the number of such units. The authority will continue to finance developments through its multifamily direct loan and pass through loan programs, but the bill also would allow it to develop and own housing developments. This would create a third multifamily program, ensuring continued development of housing for low and moderate income households.

### **Against:**

The bill would allow MSHDA to compete with the private sector by developing and owning multifamily rental developments. A program allowing a housing authority the power to lend money to itself has been tried before — in the state of New York — with disastrous financial results. It is vital that MSHDA remain at arms length from the transaction and be the underwriter and lender and not the developer. There are no provisions in the bill for MSHDA to follow state procurement provisions, e.g. competitive bidding, as in other state construction projects, nor for anyone to oversee the loan process. Existing developers and nonprofit borrowers could achieve the same result if MSHDA would instead adopt a program using the same guidelines as in the past, but mortgaging to fund 100 percent of actual cost, without payment of developer fees, and deferring developer profits until the development operation met MSHDA financial and social objectives.

### **Against:**

Michigan faces a critical housing shortage for low income families. "Low income" is defined by the current MSHDA guideline as 80 percent of the median income for Michigan Households. Using a current figure for the Detroit area median income of \$35,000 for a family of four, "low income" turns out to be \$28,400. There are many families with incomes will below this level who simply cannot find safe and affordable housing in their communities. Statewide, there are about 1.2 million persons who are living in households with incomes of less than half of MSHDA's low income guideline. MSHDA's initiative of providing annual per unit subsidies could make rents more affordable, but this will meet only a small fraction of the poverty level housing needs. The Michigan housing industry is producing four middle income units for every one low income unit built. The bill would only address part of the problem. Other alternatives and possibilities should be examined, including targeting distressed communities in the state to receive housing production/development programs; allowing local public governmental bodies and agencies, i.e., local development authorities and public housing authorities, to use MSHDA financing to develop, own and manage projects targeted to low income, inadequately housed families; and greater use of community based housing providers to fill the gap left by the reduction in the federal commitment to low income housing. Efforts should also be made to establish the percentage of income all low income residents would pay for rent and utilities (suggested at 30 percent of income), and to revise income guidelines for the programs authorized by the bill.

### **POSITIONS:**

The Department of Commerce supports the bill. (5-13-87)

The National Association of Housing Rehabilitation Officials supports the bill. (5-14-87)

The Michigan Housing Directors Authority supports the bill. (5-14-87)

The Michigan Alliance of Cooperatives and the Center for Public Interest Research support the bill, but are concerned that MSHDA will be competing for the same funds that they are competing for. (5-14-87)

The Michigan Municipal League supports the bill with the committee amendments. (5-14-87)

The Southeast Michigan Council of Governments (SEMCOG) supports the bill. (5-14-87)

The Department of Social Services supports the bill. (5-14-87)

The Michigan Community Action Agency Association supports the bill. (5-14-87)

The Apartment Association of Michigan does not support the bill. (5-14-87)

A representative of The Michigan Association of Home Builders testified against the bill. (5-7-87)