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House Bill 4505 as enrolled
Third Analysis (7-9-87)

Sponsor: Rep. Nelson W. Saunders
House Committee: Urban Affairs
Senate Committe: Finance

THE APPARENT PROBLEM:

Prior to 1984, the Michigan State Housing Development Authority (MSHDA) financed low income, multifamily rental developments through federal "Section 8" 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 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 November 30, 1987, extend the deadline permitting the authority to temporarily increase tenant income limits for MSHDA-financed housing developments to November 30, 1987 designate MSHDA as the housing credit agency for the state, and establish new guidelines for MSHDA loans. 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 also be extended from June 30, 1987 to November 30, 1987. MSHDA would retain its capacity as the sole issuer of qualified mortgage bonds, unless it elected to designate another issuer.

As the state housing credit agency, MSHDA would allocate and administer low income housing credit. The bill would require MSHDA — within 30 days of the bill's effective date — to provide a form for project applicants to apply for federal low-income housing credits, as authorized under section 42 of the Internal Revenue Code, which allows the state to allocate a certain number of low-income housing credits on a yearly basis. The deadline for filing applications would be December 1 of the calendar year for which the allocation was requested. Within 45 days of receiving an application, MSHDA would allocate the credits to the applicant; however, if it did not allocate the credits, the authority would have to provide the applicant, in writing, with the reasons for denial. The state's credit dollar amount would be allocated on a first-come, first-served, basis in the following manner: qualified nonprofit organizations, not less than ten percent; farmers home projects, not less than ten percent; housing projects in eligible distressed areas, not less than 30 percent. Except for credits allocated to nonprofit organizations, if credits were not allocated before November 1 of the year in which that credit amount was authorized under the Internal Revenue Code, MSHDA could reapportion unallocated credits in "a reasonable manner so as to maximize the allocation of the state low income housing credit dollar amount." An applicant would have to forfeit credits by November 1 of the year allocated unless the applicant verified before November 1 that a housing project would be in service on or before December 31. MSHDA would reallocate forfeited credits to other applicants.

The State Housing Development Authority Act specifies that MSHDA may make loans to nonprofit housing corporations, consumer housing cooperatives, limited dividend housing corporations and associations, mobile home parks associations and corporations, or to any public body or agency, for the construction or rehabilitation, and for the long-term financing of housing projects. The bill would amend the act to specify that, to be financed by MSHDA, a project would have to meet the following criteria: it would have to provide a system of support services that promoted and preserved the independent living of handicappers, the elderly, or other persons at risk of institutionalization; social, recreational, medical, and shopping facilities would have to be readily accessible to the residents who could not provide their own transportation; and an affordable, daily demand actuated transportation system would have to be integrated into the project for elderly and handicapper residents who were unable to transport themselves.

The Internal Revenue Code limits the amount of certain types of bonds that may be issued in a state in a calendar year. The bill would allocate to MSHDA, for calendar year 1988, $150 million of the amount that this state may issue in bonds, and would require that any portion of the MSHDA allocation not issued as "private activity bonds" (as defined in Executive Order 1986-6) by October 15, 1988, be reallocated by the state treasurer to municipalities whose allocation requests had not been fulfilled.

MCL 125.1401 et al.

BACKGROUND INFORMATION:

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

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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.

Eligible Distressed Area
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.

FISCAL IMPLICATIONS:

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

ARGUMENTS:

For:

There is a continuing need for housing for persons with low and moderate incomes. Because recent federal tax changes drastically reduced or eliminated housing subsidies and tax benefits for housing projects, developers and investors in the housing industry have had to re-evaluate the profit potential of proposed housing projects. The authority has reported difficulty lately in getting developers to show solid interest in projects, even when using additional rent subsidies. Because lagging interest in creating low and moderate income housing will only exacerbate an already severe problem by decreasing the number of housing units, something must be done to spur development. The bill would provide significant incentives for private sector development by combining MSHDA's traditional role as low-interest lender with federal housing tax credits.

For:

Extending the sunsets on the authority's debt ceiling and on the income limits in its multi-family direct loan and pass through loan programs would enhance the economic feasibility of development and ensure that there is an increasing supply of affordable rental housing for low and moderate income households, and, at the same time, would stimulate growth. 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.

Against:

Federal tax reform eliminated important financing tools that MSHDA traditionally used to finance multi-family rental developments for low and moderate income households. In an effort to make MSHDA's multi-family 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 would continue to finance developments through its multi-family direct loan and pass through loan programs under the bill; however, the bill should also allow MSHDA to develop and own housing developments (as proposed in an earlier version of the bill). This would create a third multi-family program ensuring continued development of housing for low and moderate income households, while at the same time allowing MSHDA to maintain its economic stability.

Response: The idea of allowing MSHDA to be an owner and developer of projects is a radical departure from its traditional role, and puts it in direct competition with the private sector. The proposal developed in House Bill 4505 brings up a fundamental philosophical question: should private interest or a public entity own and operate a housing project? Many people feel the state has no business directly competing with the private sector. A program allowing a housing authority the power to lend money to itself has been tried before in New York, with disastrous financial results. It is vital the MSHDA remain at arms length from the transaction and be the underwriter and lender and not the developer.

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 well 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 act.