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URBAN HOMESTEADING PROGRAM

Senate Bill 346 (Substitute H-1)

Sponsor: Sen. Virgil Smith

Senate Bill 343 (Substitute H-2)

Sponsor: Sen. Bill Schuette

Senate Bill 348 as passed by the Senate

Sponsor: Sen. Bev Hammerstrom

Senate Bill 344 (Substitute H-2)

Sponsor: Sen. Ken Sikkema

Senate Bill 345 (Substitute H-2)

Sponsor: Sen. Bill Schuette

Senate Bill 347 as passed by the Senate

Sponsor: Sen. Bob Emerson

**Senate Committee: Economic
Development, International Trade**

House Bill 4491 (Substitute H-3)

Sponsor: Rep. Mark Jansen

House Bill 4492 (Substitute H-4)

Sponsor: Paul DeWeese

House Bill 4493 as introduced

Sponsor: Rep. Lauren Hager

House Bill 4495 (Substitute H-4)

Sponsor: Rep. Janet Kukuk

House Bill 4509 (Substitute H-4)

Sponsor: Rep. Ruth Jamnick

House Bill 4520 (Substitute H-1)

Sponsor: Rep. Triette Reeves

**House Committee: Local Government
and Urban Policy
First Analysis (5-26-99)**

THE APPARENT PROBLEM:

In 1862, the U.S. Congress passed the Homestead Act to provide for the transfer of unoccupied public lands in the West to each homesteader who paid a nominal fee and occupied the land for five years. Men over 21 years of age, unmarried women who were heads of households, and married men under 21, who did not own over 160 acres of land anywhere, and who were U.S. citizens or applicants for citizenship, were eligible to become homesteaders and claim up to 160 acres of land.

The Hudson Institute and others believe that this homestead concept could be applied to an urban housing initiative in order to generate home ownership for low income families and help rebuild Michigan's inner cities. Although many parts of the state are experiencing economic growth, some urban communities in Michigan have not been able to share in this prosperity. Reportedly, in neighborhoods with

many vacant buildings and large parcels of vacant land, the remaining residents have no connection to the economy. In addition, it has been reported that more than half of the homes in the state's urban core are rental housing.

The Hudson Institute (a public policy research organization headquartered in Indianapolis) developed an urban homestead concept patterned after the Homestead Act of 1862. This concept would allow qualified individuals to "homestead", or take over, abandoned homes and bring them up to acceptable standards; allow qualified individuals to develop and construct a home on vacant land and acquire title to the land; and allow qualified individuals and organizations to acquire public housing units they are now renting. Many people believe that increased home ownership is the key to rebuilding urban neighborhoods, increasing economic responsibility, and promoting stability and pride in the communities.

House Bills 4491, 4492, 4493, 4495, 4509 and 4520 and Senate Bills 343-348 (5-26-99)

THE CONTENT OF THE BILL:

As reported from the House Local Government and Urban Affairs Committee, the urban homesteading legislation consists of six House Bills with corresponding identical Senate Bills, as described below.

House Bill 4492 (H-4)/Senate Bill 343 (S-2) would create the "Urban Homestead Act" to provide that a local governmental unit could operate, or contract with a nonprofit community organization or the Michigan State Housing Development Authority (MSHDA) to operate, an urban homestead program that would make property available to eligible buyers to rent at fair market rental value. If a qualified buyer complied with a lease agreement for at least five years, the administrator (the local unit, nonprofit organization, or MSHDA) would have to deed the property to the buyer for \$1.

House Bill 4495 (H-4)/Senate Bill 344 (H-2) would create the "Urban Homesteading in Single-Family Public Housing Act", and House Bill 4509 (H-4)/Senate Bill 345 (H-2) would create the "Urban Homesteading in Multifamily Public Housing Act", to permit local governmental units to authorize a housing commission or a nonprofit community organization to operate an urban homestead program that would make public housing available to qualified buyers and resident organizations. After five years, a qualified buyer or a resident organization could be eligible to acquire the property for \$1 or the amount of federal bonded indebtedness on the property.

House Bill 4491(H-3)/Senate Bill 346(H-1) would create the "Urban Homesteading on Vacant Land Act" to permit a local unit to operate an urban homestead program that would make vacant land available to qualified buyers. If a buyer substantially met the criteria for a qualified buyer and received a commitment to finance construction on the vacant property, then the local unit would have to deed the property to the buyer for \$1.

House Bill 4520(H-1)/Senate Bill 347 would amend the Public Act 18 of the Extra Session of 1933 (MCL 125.694b), which authorizes cities, villages, townships, and counties to purchase, construct, operate, and maintain housing facilities, to provide

that a housing commission created under the act would have to adopt rules establishing the operation of homesteading programs as proposed by House Bill 4495(H-4)/Senate Bill 344(H-2) and House Bill 4509(H-4)/Senate Bill 345(H-2).

House Bill 4493/Senate Bill 348 would amend the State Housing Development Authority Act (MCL 125.1422) to empower MSHDA to operate homesteading programs, make loans to certain qualified buyers and resident organizations, and make grants to resident organizations as proposed by House Bills 4492(H-4), 4495(H-4), 4509(H-4), and 4491(H-3) and their identical counterparts, Senate Bills 343(H-2), 344(H-2), 345(H-2), and 346(H-1).

A more detailed description of House Bills 4492, 4495, 4509, and 4491 and their counterpart bills, an identical set of bills that originated in the Senate, follows.

Urban Homestead Program. Under the bills, a local governmental unit, by resolution, could operate or authorize a nonprofit community organization, MSHDA, or a housing commission to operate and administer an urban homestead program. In the resolution, the local governmental unit also would have to provide an appeals process to applicants and qualified buyers who were adversely affected by a decision of the administrator, housing commission, resident organization, or local unit. ("Local governmental unit" would mean a city, village, township, or county. "Housing commission" would mean a housing commission or housing authority as defined under the Housing Cooperation Law, which defines "housing commission" as any housing commission created under Public Act 18 of the Extra Session of 1933. "Resident organization" would mean a group of residents made up of at least 50 percent of total residents of a specific housing project who contracted with a housing commission to manage that housing project for at least five years with the intent to acquire legal ownership of the project. "Single-family housing" would mean "housing accommodations designed as a residence for not more than 1 family" and "multifamily housing" would mean housing accommodations designed as a residence for more than one family. "Vacant property" would mean surplus vacant residential property owned by the local unit.)

Qualified Buyer Criteria. Under the bills, an applicant (an individual and his or her spouse if the spouse intended to occupy the property with the individual) would be eligible to enter into a homestead agreement as a qualified buyer if he or she met all of the following criteria:

--The applicant was employed and had been employed for the immediately preceding year or was otherwise able to meet the financial commitments.

--The applicant had not been sentenced or imprisoned within the past year for a felony; was not on probation or parole for a felony; and had not been sentenced, imprisoned, or placed on probation or parole within the preceding three years for criminal sexual conduct or a controlled substance offense.

--All school-age children of the applicant who would reside in the property attended school regularly. (A child with more than 10 unexcused absences per semester as determined by the local school or the governing body of a local school would not be considered to be attending school regularly.)

--The applicant had income below the median for the state as determined by the U.S. Department of Housing and Urban Development, for families with the same number of members as the applicant (although the median income requirement would not be used to evaluate the applicant's ongoing eligibility as his or her substantial compliance was evaluated throughout the terms of the lease).

--The applicant was drug-free.

--The applicant met all other criteria as determined by the administrator, housing commission, or local unit.

--The applicant intended to occupy the vacant property by constructing a home on the premises [under House Bill 4491(H-3)/Senate Bill 346(H-1)].

Conditions. The bills would allow the administrator, housing commission, or local unit to require substance abuse testing of an applicant as a condition of entering into a homestead agreement. If the applicant tested positive for substance abuse, then he or she would have to enter into a substance abuse treatment program, as determined by the administrator, housing commission, or local unit. The continuing substance

abuse treatment and successful completion would have to be part of the agreement. The administrator, housing commission, or local unit could contract with and seek assistance from the local unit, the state, the Department of Community Health, or any other entity to implement this provision. The bill would allow the costs of administering the applicant eligibility requirements, including drug abuse screening and treatment, to be borne by deposited rent receipts.

In addition, the bills provide that an agreement would terminate automatically within 60 days after a qualified buyer was convicted of a felony during the term of the agreement.

As a condition of receiving ownership of the property, the bills would require the qualified buyer to maintain and regularly fund an escrow account with the administrator, resident organization, or local unit for the payment of property taxes and insurance on the property.

Homestead Agreement. House Bill 4492 and Senate Bill 343 would allow a qualified buyer to apply to the administrator to rent certain property in the local unit. If the application were approved, the qualified buyer and the administrator would have to enter into a lease agreement for the premises. The administrator would be prohibited from charging more than 90 percent of the fair market rental value for the premises, and would have the authority to determine rent based on factors such as income, number of dependents, and the condition of the property. The qualified buyer would be responsible for all utilities and costs of improvements to the premises. If the qualified buyer were in substantial compliance with the lease for at least five years and continued to meet the criteria for a qualified buyer, and the premises substantially complied with all building and housing codes, the administrator would have to deed that property to the qualified buyer for \$1.

House Bill 4495/Senate Bill 344 and House Bill 4509/Senate Bill 345 provide that a qualified buyer could apply to the administrator, or to the resident organization or successor entity, to acquire single-family public housing or a public housing unit. If the application were approved, the qualified buyer and the administrator or organization would have to enter into a homestead agreement for the property. The administrator or organization would have to transfer

legal ownership of that public housing property to the qualified buyer for \$1 if he or she were in substantial compliance with the agreement for at least five years, or had resided in the public housing property before the administrator adopted the program or before the organization took ownership, resided there for at least five years, met the criteria in the agreement, continued to meet the criteria for a qualified buyer, and had otherwise substantially met his or her financial obligations with the commission or organization.

If the housing commission received federal funds for which bonds or notes had been issued and were outstanding or paid off by the resident organization when it acquired legal ownership, the qualified buyer could acquire legal ownership only upon payment of the pro rata share of the bonded debt on that specific property.

House Bill 4491/Senate Bill 346 would require the local unit to deed property to an applicant for \$1 if he or she substantially met the criteria for a qualified buyer and received a commitment to finance construction on vacant property. The applicant would have to agree to deed the property back to the local unit if a home were not constructed or not in the process of construction within one year from the date of the transfer. The local unit could enforce this provision with the use of a deed restriction or other restriction in the chain of title.

Before placing vacant property into the program, the local unit first would have to offer the property to owners who occupied adjacent and contiguous property, and if they did not purchase it, the local unit could sell it to neighborhood resident organizations or other community groups. The local unit would be required to determine the sale price for any sale under this provision.

Loans. House Bill 4492/Senate Bill 343 provide that rental receipts would have to be used to make loans to qualified buyers in that local governmental unit for improvement, repair, or rehabilitation of property in the urban homestead program. Loans would have to be made for a term not to exceed 10 years and at a rate of interest not to exceed the qualified loan rate (the adjusted prime rate determined in the revenue act minus one percentage point). The administrator could determine the terms and conditions of the loan agreement.

If the local governmental unit acted as the administrator under the bill, the rental receipts would have to be deposited in a separate fund within the local unit's general fund. If the local unit contracted with a nonprofit community organization to act as the

administrator, the rental receipts would have to be deposited in a segregated escrow account in a financial institution located in Michigan. If the local unit contracted with MSHDA to act as the administrator, the rental receipts would have to be deposited in a restricted account in the state general fund.

House Bill 4495/Senate Bill 344 and House Bill 4509/Senate Bill 345 would allow MSHDA to provide loans to qualified buyers who were required to pay the pro rata share of the bonded debt on the single-family public housing, or pay for their multifamily unit. The rate of interest on these loans could not exceed the qualified rate. The authority would have to determine the terms and conditions of the loan agreement. Loans made by MSHDA could be prepaid or paid off at any time without penalty. If a waiver of federal law, rule, or policy were needed to implement either of these bills, the housing commission and MSHDA [and the resident organization as provided in House Bill 4509/Senate Bill 345] would be required to work together to obtain the appropriate waivers from the appropriate federal authorities.

Under House Bill 4509 and Senate Bill 345, a resident organization could apply to MSHDA for grant funds for management training and counseling, which could be provided by nonprofit community organizations and similar organizations. Also, MSHDA could make mortgage loans to resident organizations that qualified to acquire multifamily public housing of up to 95 percent of the bonded indebtedness of the housing project. The organization would have to pay the remaining portion of the indebtedness from any legal source.

Housing Projects. Under House Bill 4509 and Senate Bill 345, if a resident organization contracted with a housing commission to manage a housing project, the commission would have to pay all management fees and operation subsidies that it received for the housing project to the resident organization.

If a resident organization successfully managed a housing project and each member of the organization met the criteria for a qualified buyer, the resident organization could acquire the project for \$1 after at least five years. If the housing commission received federal funds for which bonds or notes had been issued and were outstanding, the resident organization could acquire legal ownership only upon payment of the bonded debt. The commission would have to obtain the appropriate releases from the holders of the bonds or notes. The organization would have to hold legal ownership of the housing project in the form of a cooperative housing corporation or a condominium association.

For five years after a qualified buyer took ownership of a unit, the resident organization would have a right of first refusal if the buyer wanted to sell the unit. During the five-year period, the resident organization could repurchase the unit at the fair market price if the qualified buyer sold it. Also, during that period, the qualified buyer could not rent out or lease his or her unit or allow any other nonfamily member to reside in it.

Residents of a housing project who resided there before a resident organization took legal ownership could continue to reside in the premises under the same terms and conditions as when the property was owned by the housing commission. The Michigan State Housing Development Authority would have to request the federal government to provide housing vouchers for residents who did not become owners.

Other Provisions. The powers of a local governmental unit prescribed in each bill would be in addition to any other powers provided by law or charter.

At least every two years, the administrator, housing commission, nonprofit community organization, local unit, or resident organization would have to hire an independent auditor to audit the books and accounts of the urban homestead program or of the resident organization. The bill would require that the cost of the audit be borne by deposited rent receipts. Upon completion, the audit report would have to be made available to the public.

Any resident eligible for and participating in the urban homestead program would have to be allowed the opportunity to make up any late or delinquent rent due. The administrator would have to notify the individual of the arrearage and determine a payment schedule to make up past due rent. Past due rent could not affect the qualification of the individual to purchase the homestead property.

HOUSE COMMITTEE ACTION:

The six-bill Urban Homesteading Program was proposed in legislation that originated in the Michigan Senate. After the bills passed the Senate, they were referred to the House Committee on Local Government and Urban Affairs where a second and substantially similar set of bills already was under consideration. The House committee reported two identical sets of bills, and in doing so, amended the Senate-passed versions of the bills in the following ways:

-to allow all program audits to be at least biennial, but to require that audits be paid for from deposited rent receipts;

-to allow the costs of administering the applicant eligibility requirements (including drug abuse screening and treatment), to be borne by deposited rent receipts;

-to remove the statement "It is the intent of the legislature that substance abuse testing be instituted no later than April 1, 2003";

-to retain the requirement that a program administrator charge the fair market rental value for the premises, but to delete the requirement that the value be determined by an independent appraiser paid by the administrator;

-to require that the administrator charge not more than 90 percent of the fair market rental value, and to specify that the administrator has the authority to determine rent based on factors such as income, number of dependents, and the condition of the property;

-to require that an applicant have income below the median for the state of Michigan, as determined by the U.S. Department of Housing and Urban Development, but in order to allow economic improvement, eliminate the median income requirement from the criteria that are used to determine the applicant's ongoing and substantial compliance throughout the terms of the lease;

-to require that all applicants' school-age children attend school regularly by providing that their absences be limited each semester as determined by the local school or appropriate governing body; and,

-to allow but not require the Michigan State Housing Development Authority to determine the terms and conditions of its loan agreements with qualified buyers.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, House Bill 4492 would create the Urban Homestead Act to provide that a local governmental unit could operate, or contract with a nonprofit community organization or the Michigan State Housing Development Authority (MSHDA) to operate, an urban homestead program that would make property available to eligible buyers to rent, at up to 90 percent of fair market value. If a qualified buyer complied with a lease agreement for at least five years, the administrator (the local unit, nonprofit organization, or MSHDA) would have to deed the property to the buyer for \$1. House Bill 4492 would generate some administrative costs for local units participating in the program, as well as some rent and interest on loans.

The House Fiscal Agency also notes that House Bill 4495 would create the Urban Homesteading in Single-Family Public Housing Act, and that House Bill 4509 would create the Urban Homesteading in Multifamily Public Housing Act, to permit local governmental units to authorize a housing commission or a nonprofit community organization to operate an urban homestead program that would make public housing available to qualified buyer and resident organizations. After five years, a qualified buyer or a resident organization could be eligible to acquire the property for \$1 or the amount of federal bonded indebtedness on the property. The bill would generate some administrative costs for local units participating in the program as well as some rent.

About House Bill 4491, the fiscal agency notes that the bill would create the Urban Homesteading on Vacant Land Act to permit a local unit to operate an urban homestead program that would make vacant land available to qualified buyers. If a buyer substantially met the criteria for a qualified buyer and received a commitment to finance construction on the vacant property, then the local unit would have to deed the property to the buyer for \$1. The bill would generate some administrative costs for local units participating in the program as well as some rent.

Finally, the fiscal agency notes that House Bill 4493 would amend the State Housing Development Authority Act to allow an authority to operate homesteading programs and to make loans to certain qualified buyers and resident organizations and to make grants to resident organizations as provided in the various homestead acts [House Bills 4491, 4492, 4509, and 4495]. The fiscal impact would depend on the fiscal impacts of the homestead bills. (5-24-99)

ARGUMENTS:

For:

The bills would promote stability in Michigan cities by giving individuals a stake and sense of pride in their communities. Reportedly, Michigan would be the first state in the nation to implement an urban homesteading program on a statewide basis. Encouraging people to take over public housing units they now rent, rehabilitate abandoned buildings, and construct a home on vacant land, and requiring them to remain drug- and crime-free, would hold the promise of both expanded homeownership and responsible behavior. Homeownership benefits include a healthy thriving neighborhood, family equity-building, economic mobility, personal responsibility, and community involvement. It is an investment because it provides a basis for social and economic advancement, and a step toward economic independence. Homeownership also promotes neighborhood stability and increases community pride since those who own homes are apt to take better care of their neighborhoods and are less likely to put up with crime and drugs.

For:

According to the Hudson Institute, the bills would result in considerable net savings to taxpayers by eliminating the need for costly demolitions and other expenses. An article in the *Detroit News* (2-19-99) reported that Detroit officials recently estimated the city to have 39,000 abandoned homes, including 6,224 homes scheduled for demolition. Under the bills, participation in the urban homesteading program would be strictly voluntary for all local units of government. No municipality would be required to take any action that it considered to be too expensive. The homesteading programs also could increase the tax base of participating local units, since abandoned housing and vacant land produce little property tax revenue.

Against:

There are some concerns that there is a declining ability for the public to succeed in homesteading with the current degree of infrastructure decay and rising construction costs. Some organizations that have participated in local urban homestead programs in the past believe that the programs have been failures

because they were not reality-based. Buyers cannot afford the required tax payments and cannot obtain loans to make the necessary improvements. An article in the *Detroit Free Press* (6-10-98) reported that under affordable housing programs operating in Detroit, such as Nuisance Abatement and Repair to Own, only a tiny fraction of the people who applied successfully turned a vacant house into a home because participants could not afford to make repairs that cost up to 10 times the home's value.

Response:

The bills would provide several avenues to obtain loans through rental receipts and the Michigan State Housing Development Authority for improvement, repair, or rehabilitation of property in the homestead program.

Against:

Eligibility criteria for these programs should provide sufficient flexibility to deal with unique circumstances in individual cases. For example, it is unclear if a lease agreement would be terminated if an occupant had made all payments and abided by all the requirements, but failed to meet an eligibility requirement (such as employment, or a child's school attendance requirement) in the final year of the lease. If good-faith efforts were made by the occupants, flexible repayment opportunities or compensation for those efforts should be addressed.

Response:

The bills would provide the administrator, resident organization, or local unit with the flexibility to decide if a particular occupant were in substantial compliance with the homestead agreement.

POSITIONS:

There are no positions on the bills at this time.

Analyst: J. Hunault

■ 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.