

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 343 (Substitute S-3 as reported)
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Senate Bill 347 (as reported without amendment)
Senate Bill 348 (as reported without amendment)
Sponsor: Senator Bill Schuette (S.B. 343 & 345)
Senator Ken Sikkema (S.B. 344)
Senator Virgil C. Smith, Jr. (S.B. 346)
Senator Bob Emerson (S.B. 347)
Senator Bev Hammerstrom (S.B. 348)

Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 3-25-99

RATIONALE

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 homeownership 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 homeownership is the key to

rebuilding urban neighborhoods, increasing economic responsibility, and promoting stability and pride in the communities.

CONTENT

Senate Bill 343 (S-3) 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.

Senate Bill 344 (S-3) would create the "Urban Homesteading in Single-Family Public Housing Act", and **Senate Bill 345 (S-3)** 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.

Senate Bill 346 (S-3) 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.

Senate Bill 347 would amend the Public Act 18 of the Extra Session of 1933 (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 under the Acts proposed by Senate Bills 344 and 345.

Senate Bill 348 would amend the State Housing Development Authority Act to empower MSHDA to operate homesteading programs, make loans to certain qualified buyers and resident organizations, and make grants to resident organizations as provided in the Acts proposed by Senate Bills 343 (S-3) through 346 (S-3).

A more detailed description of Senate Bills 343 (S-3), 344 (S-3), 345 (S-3), and 346 (S-3) 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% 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 district 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.
- 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 Senate Bill 346).

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.

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

Senate Bill 343 (S-3) 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 have to charge the fair market rental value for the premises, as determined by an independent appraiser, who would have to be paid by the administrator. 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.

Senate Bills 344 (S-3) and 345 (S-3) 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.

Senate Bill 346 (S-3) 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

Senate Bill 343 (S-3) provides 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.

Senate Bills 344 (S-3) and 345 (S-3) 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.

Under Senate Bill 345 (S-3), 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% 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 Senate Bill 345 (S-3), 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 for 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 under Senate Bill 345 (S-3), 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

If a waiver of Federal law, rule, or policy were needed to implement any of the bills, the housing commission and MSHDA would be required to work together to obtain the appropriate waivers from the appropriate Federal authorities.

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

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. 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.

MCL 125.694b (S.B. 347)
125.1422 (S.B. 348)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

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 less likely to put up with crime and drugs.

Supporting Argument

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 *DET* (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 proposed Acts, 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.

Opposing Argument

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 **D E B** (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.

Opposing Argument

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) in the final year of the lease. If good-faith efforts were made by the occupants, flexible repayment opportunities or compensation for efforts made 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.

Legislative Analyst: N. Nagata

FISCAL IMPACT

Senate Bill 343 (S-3)

This bill would allow a local unit of government to contract with MSHDA to administer the urban homestead program. Although this would increase the administrative responsibility of the Authority, including possibly drug testing and background checks for criminal records, the revenue generated from the interest on any loans and through the rent payment would most likely offset any fiscal impact this program would have.

Senate Bill 344 (S-3)

Local units that participated in an urban homesteading program would incur administrative costs and would receive rent.

Senate Bill 345 (S-3)

This bill would require MSHDA to request housing vouchers from the Federal government for residents who did not become owners. This could result in the administration of a separate voucher system for individuals residing in these units.

Local units that participated in an urban homesteading program would incur administrative costs and would receive rent.

Senate Bill 346 (S-3)

Local units that participated in an urban homesteading program for vacant land would incur administrative costs and would receive rent.

Senate Bill 347

The bill would have no fiscal impact on State or local government.

Senate Bill 348

The fiscal impact of Senate Bill 348 would depend on the fiscal impact of Senate Bills 343, 344, 345, and 346.

Fiscal Analyst: M. Tyszkiewicz
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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.