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SFA BILL ANALYSIS

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House Bill 4509 (Substitute H-5 as reported by the Committee of the Whole)
House Bill 4520 (Substitute H-1 as passed by the House)
Sponsor: Representative Ruth Ann Jamnick (H.B. 4509)
Representative Triette Reeves (H.B. 4520)
House Committee: Local Government and Urban Policy

Date Completed: 6-9-99

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, many residents have no connection to the economy because 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

House Bill 4509 (H-5) would create the "Urban Homesteading in Multifamily Public Housing Act", to permit local governmental units to authorize a housing commission to operate an urban homestead program that would make multifamily 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 4520 (H-1) 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 House Bills 4495 (Urban Homesteading in Single-Family Public Housing Act) and 4509.

A more detailed description of House Bill 4509 (H-5) follows.

Urban Homestead Program

Under the bill, a local governmental unit, by resolution, authorize 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 housing commission or resident organization.

A resident organization in a housing project that contracted with a housing commission to manage the housing project would acquire the project after at least five years if the organization successfully managed the project and each member of the organization met the criteria for a qualified buyer.

("Local governmental unit" would mean a county, city, village, or township. "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. "Multifamily housing" would mean housing accommodations designed as a residence for more than one family.)

Qualified Buyer Criteria

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 one-year period or was otherwise able to meet the financial commitments.
-- The applicant had not been sentenced or imprisoned within the past one-year period 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 immediately preceding five-year period for a controlled substance offense.
-- The applicant had not been convicted of a violation or attempted violation of any criminal sexual conduct 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 appropriate governing body would not be considered to be attending school regularly. An applicant with one or more school age children would have to provide verification of school attendance each semester.)
-- 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 as determined by the resident organization.
-- The applicant agreed to file an affidavit each year certifying that he or she met all the criteria, except for the income provision.
-- The applicant met all other criteria as determined by the housing commission.

Conditions

The bill would allow the housing commission 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 housing commission. The continuing substance abuse treatment and successful completion would have to be part of the agreement. The housing commission 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, an agreement would terminate automatically 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, a qualified buyer would have to maintain and regularly fund an escrow account with the resident organization for the payment of property taxes and insurance on the property.

Homestead Agreement

The bill provides that a qualified buyer could apply to the resident organization or successor entity to acquire a public housing unit. If the application were approved, the qualified buyer and the organization or successor entity would have to enter into a homestead agreement for the property. The organization or successor entity would have to transfer legal ownership of that public housing unit 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 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 organization or successor entity.

If the housing commission received Federal funds for which bonds or notes had been issued and were paid off by the resident organization when it acquired legal ownership, the qualified buyer would acquire legal ownership within 60 days of paying the pro rata share of the bonded debt on that specific property.

Loans

The bill would allow the Michigan State Housing Development Authority (MSHDA) to provide mortgage loans to qualified buyers who were required to pay for their multifamily unit. The rate of interest on these loans could not exceed the qualified rate (a rate that could not exceed the adjusted prime rate minus one percentage point). 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.

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

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 would acquire legal ownership within 60 days of paying 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 or successor entity would have a right of first refusal if the buyer wanted to sell the unit. During the five-year period, the resident organization or successor entity 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 or successor entity 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 could 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 the bill, the housing commission, MSHDA, and the resident organization could work together to obtain the appropriate waivers from the appropriate Federal authorities.

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

At least every two years, a housing commission would have to hire an independent auditor to audit the books and accounts of a resident organization under a management contract to the housing commission. In addition, at least every two years, a resident organization that had taken legal ownership of a housing project or property that previously was a housing project would have to hire an independent auditor to audit the books and accounts of the resident organization. Upon completion, the audit reports would have to be made available to the public.

A qualified buyer 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.

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
House Bill 4509 (H-5) 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 and to grant public housing residents home ownership. Encouraging people to take over public housing units they now rent and requiring them to remain drug- and crime-free, would hold the promise of both expanded home ownership and responsible behavior. Home ownership 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. Home ownership also promotes neighborhood stability and increases community pride since those who own homes are apt to take care of their neighborhoods and unlikely to put up with crime and drugs.

Supporting Argument
Under the proposed Act, 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. In addition, a person who did not wish to purchase his or her individual unit would not be forced out of the unit.

Opposing Argument
There are some concerns that the effort to expand the opportunity for home ownership should not result in the loss of Federally-held, subsidized rental housing, which is already in very short supply, and is often the only alternative for very low income families. House Bill 4509 (H-5) should require that the urban homestead program be coordinated with similar Federal programs to protect the availability of this housing and ensure that the State did not pass up available Federal housing funds.

Legislative Analyst: N. Nagata

FISCAL IMPACT

House Bill 4509 (H-5)

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

House Bill 4520 (H-1)

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

Fiscal Analyst: R. Ross

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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.