Legislative Analysis

HOUSE FISCAL AGENCY
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MSHDA "SAVE THE DREAM" PROGRAM

House Bill 5443 (Substitute H-1)
Sponsor: Rep. Steve Tobocman

House Bill 5444 (Substitute H-1)
Sponsor: Rep. Michael Lahti

House Bill 5445 (Substitute H-1)
Sponsor: Rep. Mike Simpson

House Bill 5446 as introduced
Sponsor: Rep. Bettie Cook Scott

House Bill 5447 as introduced
Sponsor: Rep. Joel Sheltrown

Committee: Banking and Financial Services

First Analysis (12-4-07)

BRIEF SUMMARY: The bills would allow MSHDA to implement its Save the Dream Program, programs allowing homeowners with adjustable rate mortgages, and those who had missed a payment, to refinance with a fixed-rate loan.

FISCAL IMPACT: The bills will have no direct fiscal impact on the State of Michigan or its local units of government. This is because MSHDA finances its loans and operating expenses though the sale of tax-exempt and taxable bonds to private investors, rather than from State of Michigan revenues. Further, these bonds are solely a direct obligation of MSHDA and are not a debt of the State of Michigan. Therefore, the State's bond ratings for various types of bonding are not affected by the issuance of MSHDA bonds. MSHDA will be able to finance the creation of the Recapture Tax Fund from its internal resources rather than a State of Michigan revenue source.

THE APPARENT PROBLEM:

Anyone reading a paper, listening to radio or television news programs, or taking a walk through the neighborhood is aware that many people are losing their homes through foreclosures. The problem exists nationwide, but is particularly acute in the Midwest, where Michigan (at fourth), Ohio, and Indiana rank in the top 10 hardest hit states. Most of the foreclosure filings within the state has been in metro Detroit, where subprime mortgages (for example, adjustable rate mortgages or high-rate loans) account for up to 40 percent of home loans.

Factors creating the foreclosure crisis are varied and complex, but the result has been that many homeowners are having difficulties making their mortgage payments each month. Some, because they did not understand the nature of the loan, unwittingly entered into adjustable rate mortgages with low teaser rates for a few years that were scheduled to reset into a much higher payment than they could afford. Others were tricked into such loans, relying on verbal agreements that they had affordable fixed rate loans, only to find later (sometimes not until the higher rate went into effect) that the terms had been switched in the paperwork. Still others have fallen behind in their house payments due to unexpected medical expenses, unemployment, or under-employment.

The impact of the rising foreclosure crisis goes beyond the individuals or families who are losing their homes. According to some industry members, a single foreclosure reduces the property value of surrounding homes (a one-block area) by .9 percent, and can result in significant direct costs to a local government (hundreds to thousands of dollars) in terms of lost property taxes, increased crime, blight, and so forth. Just this week, the *Detroit Free Press* reported that the state may lose an estimated $125 million in reduced property tax collections in 2008 because of the foreclosure crisis, which will reduce the amount of money local governmental units will have to provide services to their residents.

Many proposals to find a fix or fixes are under discussion at both the state and federal level. One proposal put forth by MSHDA (the Michigan State Housing Development Authority) promises to provide immediate relief to some beleaguered homeowners at risk for foreclosure. MSHDA provides loans financed through the sale of tax-exempt and taxable bonds and notes to private investors. Recent federal regulations prohibit revenue from tax-exempt bonds from being used for refinancing home loans, but the Save the Dream program proposed by MSHDA would combine revenue from taxable bonds and revenues from tax-exempt bonds sold prior to the ban to provide funds for two new refinancing programs that would enable at-risk homeowners to secure affordable fixed-rate mortgages. One program would be available for individuals with an adjustable rate mortgage that is increasing or projected to increase. The other program would assist individuals who have been late on no more than three mortgage payments in the previous year, but who are now current, to refinance with a fixed rate lower than what they would otherwise qualify for.

However, MSHDA has statutory authority to finance only new single-family home loans, not to refinance existing loans. The MSHDA Act would need amendments to several provisions before the Authority could implement these new programs.

THE CONTENT OF THE BILLS:

The bills would make revisions to various sections of the State Housing Development Authority Act (MSHDA) as follows:

<u>House Bill 5447</u> would amend the Section 1 of the act (MCL 125.1401), which contains several legislative "determinations" related to need to provide assistance with financing purchases of existing single-family residences for low and moderate income families and assistance with financing the rehabilitation of existing residential rental properties. <u>The bill</u> would include in the list of legislative determinations the need to provide assistance with <u>refinancing</u>.

The bill would add a new legislative determination that there is a pressing need for the creation of programs to assist low and moderate income individuals and families with the refinancing of single-family mortgages in order to prevent families from losing their homes and to help stabilize the housing market in the state. The bill says that "economic conditions and single-family home mortgage market standards, activities, and practices, including forms of predatory and abusive mortgage loan financing, have resulted in an increase in the incidence of mortgage loan default and mortgage foreclosure in the state" (giving rise to the need for the refinancing programs).

House Bill 5443 would amend Section 32a (MCL 125.1432a) to provide an exception for bonds issued to refinance single family homes from the provision's requirement that a certain percentage of the proceeds of a bond program be used to finance single family homes for qualifying homebuyers.

House Bill 5444 would amend Section 44 of the act (MCL 125.1444). Currently, Section 44 allows MSHDA, among other things, to make, purchase, or participate in loans made to individual purchasers for acquisition and long-term financing of newly rehabilitated, newly constructed, or existing 1- to 4-unit housing units. The bill would allow MSHDA to refinance these projects. In addition, to qualify under this provision, the purchase price of the unit must be under the cap established in the act. The bill would specify that in the case of a refinancing, the appraised value could not exceed the listed caps.

House Bill 5445 would add a new section to the act (MCL 125.1424f) to create the Recapture Tax Fund. The fund would be under the jurisdiction and control of MSHDA. Money in the fund could be used to reimburse individual borrowers for any taxes the borrowers paid and for which they were liable under Section 143(m) of the Internal Revenue Code. Money in the fund could also be used for any similar recapture taxes applicable to programs that MSHDA administers.

Any money available to MSHDA from any source or sources, including funds held by MSHDA, could be paid into the fund. There would be no obligation for the authority to maintain a balance of money in the fund.

House Bill 5446 would amend Section 32 of the act (MCL 125.1432) to keep the current $4.2 billion limit on outstanding bonds and notes in place until November 1, 2011 (for four additional years). Otherwise, it would revert to $3.0 billion (subject to certain exclusions) after November 1, 2007. MSHDA finances below-market loans to rental housing developers and home buyers through the sale of tax-exempt and taxable bonds and notes to private investors.

BACKGROUND INFORMATION:

More information about the Save the Dream Program proposed by MSHDA can be found at www.michigan.gov/mshda (click on the "Save the Dream" icon) or by calling 1-866-946-7432 (toll free).

ARGUMENTS:

For:

According to MSHDA, 17.7 percent of the mortgage delinquencies in the state involve subprime adjustable-rate mortgages, even though federal data reveal that 30 to 50 percent of borrowers with subprime loans could have qualified for more affordable mortgages. The reasons for why people accepted such risky loans range from not understanding the inherent risks of such loans to blatant fraud on the part of unscrupulous loan officers and mortgage brokers who collected higher fees when they steered their prey into more expensive loans. Others have fallen behind in mortgage payments due to job loss or medical bills. Regardless of the reasons, and regardless of "who" is at fault, many homeowners are desperate for a way to refinance their mortgages in the hope of retaining possession of their homes.

To that end, MSHDA has developed two new programs. One, the ARM Assist Refinance Program, would assist those who currently have an adjustable rate mortgage to obtain a fixed-rate mortgage. The MSHDA Rescue Refinance Program would assist homeowners who have missed or been late for a few payments, and who have been unable to work out an affordable loan restructure with their current lender, to obtain a more affordable fixed-rate mortgage. Current MSHDA income limits would apply, as well as other eligibility criteria such as having an overall good credit history. The programs would work similarly to other MSHDA programs: a bank would offer an individual a refinance loan, the bank would approve it, and, if the borrower would likely fit the qualifications for a MSHDA loan (meaning, low- to moderate-income level), the bank would send the loan to MSHDA for review and approval, the bank would close on the loan, and MSHDA would purchase the loan. Since these programs would be financed by the proceeds of selling taxable bonds, along with some revenue generated by the sale of non-taxable bonds that predate the change in federal regulations banning the use of non-taxable bond revenue from loan refinancing, there would be no cost to taxpayers.

In order to implement the new programs, however, the MSHDA act needs to be amended to grant statutory authority to allow for mortgage refinancing activities. As a whole, the package would provide adequate public purpose backing to the refinance programs (HB 5447), ensure adequate financial resources by keeping the current limit on outstanding bonds and notes for several more years (HB 5446), explicitly provide MSHDA with the statutory authority to engage in refinancing single-family homes (HB 5443 and 5444), and, since in certain situations, the refinancing of MSHDA mortgages by other lenders can result in a tax liability for the borrower, create a Recapture Tax Fund to compensate the borrower for this tax liability (HB 5445).

The proposed programs will not help all those at risk of losing their homes, nor will they address other issues such as predatory lending practices that contributed to the crisis. They will, however, provide immediate help to low- and moderate-income individuals who could not otherwise refinance their homes at payments they can afford. Every home that can be saved from foreclosure helps not only the family involved, but has economic implications for the neighborhood, the community, and the state.

Response:

MSHDA primarily is a loan program for first-time home buyers with low to moderate incomes. Yet, House Bills 5444 and 5447 appear to include refinancing for multi-family dwellings used as rental properties for low- and moderate-income families. Perhaps the bills should be restricted to helping individual families keep their homes, since they make up the largest number of foreclosures, rather than spreading available funds to owners of rental properties who may have other options not available to homeowners.

Rebuttal:

Reportedly, the programs were meant only to apply to individual homeowners who lived in the property at risk for foreclosure. Floor amendments to correct the error are expected.

Against:

According to committee testimony, the MSHDA programs would be administered on a first come, first served basis, rather than targeting the neediest or those who were the victims of predatory or fraudulent lending practices.

Response:

MSHDA does not actually loan particular individuals money, but buys the mortgage loan from the lending institution that provided the mortgage. The new programs would therefore mirror the system in place now. As stated earlier, the new programs will not help everyone in danger of losing his or her home. But, if enacted promptly, will provide an option that could prevent many eminent foreclosures that is not currently available.

POSITIONS:

The Michigan State Housing Development Authority (MSHDA) supports the bills. (11-28-07)

The Michigan Advocacy Project supports the bills. (11-28-07)

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