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Senate Bill 1243 (as enacted)

PUBLIC ACT 244 of 2008

Sponsor: Senator Mark C. Jansen

Senate Committee: Economic Development and Regulatory Reform

House Committee: New Economy and Quality of Life

Date Completed: 3-26-09

CONTENT

The bill amended the State Housing Development Authority Act to:

- **Expand the Housing and Community Development Program to include the financing of projects in a downtown area or adjacent neighborhood.**
- **Establish an advisory committee to recommend allocations from the Michigan Housing and Community Development Fund and monitor the process of awarding grants from it.**
- **Require the Michigan State Housing Development Authority (MSHDA) to develop a biennial allocation plan for the Fund, rather than an annual allocation plan.**
- **Modify some of the Fund earmarks.**

The bill also repealed the Michigan Housing and Community Development Fund Act.

The bill took effect on July 17, 2008.

Housing & Community Dev't Program

Under Chapter 3A of the Act, MSHDA must create and implement the Michigan Housing and Community Development Program for the purpose of developing and coordinating public and private resources to meet the housing needs of low income, very low income, and extremely low income households in the State.

The Authority must identify, select, and make financing available to eligible applicants from money in the Fund or

secured by the Fund for housing for these households.

The bill includes in the purpose of the Program the financing of projects located in a downtown area or adjacent neighborhood.

(The Act defines "downtown area" as an area where 20 or more contiguous properties have been planned, zoned, or used for commercial purposes for 50 or more years and where a majority of the buildings are built adjacent to each other, as determined by MSHDA, and up to the public right-of-way. In order to be a downtown area, the area must contain a significant number of multilevel, mixed use buildings, and property in the downtown area must be owned by more than three private owners.

"Adjacent neighborhood" means a residential area as determined by MSHDA immediately adjoining or near a downtown area within the same municipality. "Mixed use buildings" means buildings that can be used for more than one purpose, and in any combination, including residential housing combined with either commercial or retail space.)

Allocation Plan

The bill requires MSHDA to develop a biennial plan for the allocation of money from the Michigan Housing and Community Development Fund, according to specific requirements. Previously, MSHDA had to develop an annual allocation plan for this purpose.

Under the Act, the plan must contain a formula for distributing money throughout the State based on the number of people experiencing poverty and housing distress in various regions of the State. The bill also refers to economic distress.

Previously, the allocation plan had to identify eligible applicants, preference for certain special population groups, and preference for geographic targeting in designated revitalization areas including neighborhood preservation areas, State renaissance zones, core communities, and federally designated enterprise community or home ownership zones.

The bill deleted that provision, instead requiring the plan to include a preference for special population groups described in Section 58c(2). (That section requires MSHDA to spend a portion of the Fund for housing for people with physical or mental handicaps and people living in eligible distressed areas.)

The bill retains a requirement that at least 25% of the Fund be earmarked for rental housing projects that do not qualify under preferences for special population groups or other preferences contained in the allocation plan. The bill deleted a reference to geographic preferences.

The bill also continues to require at least 30% of the Fund to be earmarked for projects that target extremely low income households. Previously, these had to include at least both of the following activities:

- Developing housing for the homeless, transitional housing, and permanent housing.
- Providing security deposits, supportive services, and technical assistance to eligible applicants.

The bill, instead, requires those projects to include at least developing housing for the homeless, supportive housing, transitional housing, and permanent housing.

(The Act defines "supportive housing" as a rental housing project in which some or all of the units are targeted to people with household incomes at or below 30% of area median income and that provide services, either directly or contracted for, to those

people that include mental health, substance abuse, and counseling services, and assistance with daily living.)

Previously, a rental housing project or home ownership project assisted by the Fund had to provide affordable housing for households earning not more than 60% of the median income. The bill, instead, requires such a project to set aside at least 20% of the rental units included in the project for those households.

Public Hearings

The Act previously required MSHDA to hold public hearings each year in at least three separate locations throughout the State on the priorities and draft allocation plan for the upcoming year.

The bill instead requires MSHDA, before developing the biennial allocation plan, to hold public hearings in at least three separate locations in the State regarding the content of the plan.

The bill allows MSHDA to make modifications to the allocation plan necessary to facilitate the administration of the program or to address unforeseen circumstances. Previously, MSHDA could make "minor" adjustments after the public hearings.

Advisory Committee

The bill creates the Michigan Housing and Community Development Fund Advisory Committee within MSHDA. The committee must have 10 members, including the executive director of MSHDA, who is to serve as a nonvoting ex officio member, and the following nine members appointed by the Governor, with the advice and consent of the Senate:

- An individual representing housing lenders, developers, or builders appointed by the Governor from a list of three or more individuals nominated by the Speaker of the House of Representatives.
- An individual representing housing lenders, developers, or builders appointed by the Governor from a list of three or more individuals nominated by the Senate Majority Leader.
- An individual representing cities, villages, or townships.

- An individual representing local housing organizations.
- An individual representing nonprofit organizations.
- An individual representing a local economic development corporation, a downtown development authority, a business improvement district, or a principal shopping district.
- An individual representing a local neighborhood association or neighborhood improvement authority.
- Two other residents of the State.

The committee may advise MSHDA on recommendations for the biennial allocation plan. The committee also may advise MSHDA on expenditures from the Fund, including whether expenditures are distributed fairly and equitably, whether expenditures satisfy housing needs and priorities in the State, and whether expenditures satisfy the economic needs and priorities of communities benefiting from the expenditures.

The committee may meet with representatives of MSHDA, including MSHDA employers and members of the MSHDA board of directors, to discuss and provide advice on matters relating to the Fund.

Except as follows, the term of a committee member must be four years. Of the members initially appointed by the Governor, two had to be appointed for a term expiring on November 30, 2008, two for a term expiring on November 30, 2009, three for a term expiring on November 30, 2010, and two for a term expiring on November 30, 2011.

A vacancy on the committee arising for a reason other than the expiration of a term must be filled in the same manner as the original appointment for the remainder of the unexpired term.

Committee members must serve without compensation but, subject to available funding, may receive reimbursement for their actual and necessary expenses while attending meetings or performing other authorized official business of the committee.

The Governor must designate one member to serve as chairperson of the committee at the pleasure of the Governor. The

committee members may elect a member to serve as vice-chairperson and may elect other members as officers of the committee as it considers appropriate.

The Authority may provide the committee with meeting space, supplies, and staff to support its functions.

The committee is subject to the Open Meetings Act.

A committee member may not use for personal gain information he or she obtained while performing committee business, or disclose confidential information he or she obtained while performing committee business, except as necessary to perform committee business. The committee must adopt a code of ethics for its members and establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of interest. The committee must require any member with a direct or indirect interest in any matter before the committee to disclose his or her interest to the committee before it takes any action on the matter.

Reporting Requirement

The Act requires MSHDA to issue to the Governor and the Legislature an annual report summarizing the Fund's expenditures for the prior fiscal year, including a description of the eligible applicants that received funding, the number of household units produced, and the income levels of the households served. The bill also requires the report to include the number of homeless people served and the number of downtown areas and adjacent neighborhoods that receive financing.

Authority Bonds & Notes; Money

The bill requires MSHDA and the committee, when performing duties under Chapter 3A, to remain aware of the rights of the holders of Authority bonds or notes, and the extent to which certain bond and note contracts may require MSHDA to maintain sufficient personnel or contract for services to plan MSHDA programs and to supervise enforcement and, as necessary, foreclosure of MSHDA mortgage agreements.

The bill specifies that nothing in the chapter may be construed to affect the status of

money of MSHDA controlled by the Authority, "as state funds appropriated to the authority lose their identity as state funds upon payment to the authority and become public funds of the authority solely under control of the authority and funds established by or within the authority and are public trust funds administered by the authority".

Further, the bill provides that nothing in Chapter 3A may be construed to impair the obligation of any bond or note issued by MSHDA. Bonds and notes issued by MSHDA are obligations of the Authority and not obligations of the State.

Rules

The bill permits MSHDA to promulgate rules to implement Chapter 3A. Previously, MSHDA was required to promulgate those rules.

In addition, the bill deleted a requirement that MSHDA promulgate rules to provide for the terms and conditions under which assistance made under Chapter 3A will be recaptured.

Repeal

The bill repealed the Michigan Housing and Community Development Fund Act. (That Act was enacted in 2004 to create the Michigan Housing and Community Development Fund and require MSHDA to spend money in the Fund for grants and loans to corporations and partnerships organized for the purpose of developing and supporting affordable housing for low income, very low income, and extremely low income households.)

MCL 125.1458b et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill will increase the operational costs of the Michigan State Housing Development Authority by an unknown amount. The Authority will incur minimal additional costs to staff and pay the necessary expenses of the Michigan Community and Housing Development Fund Advisory Committee. The administrative expenses of MSHDA are paid entirely by State restricted funds

generated by the Authority during the course of its regular operations.

The Michigan Community and Housing Development Fund was funded for the first time in FY 2007-08 with a General Fund appropriation of \$2,163,400.

Fiscal Analyst: Elizabeth Pratt
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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.