



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 1341 (as introduced 8-4-04)
Sponsor: Senator Patricia L. Birkholz
Senate Committee: Local, Urban and State Affairs

Date Completed: 11-3-04

CONTENT

The bill would amend the Michigan State Housing Development Authority (MSHDA) Act to do the following:

- Allow MSHDA to have up to \$4.2 billion in outstanding notes and bonds until November 1, 2007, when the amount would revert to \$3.0 billion, excluding the aggregate principal amount of notes and bonds issued before November 1, 2007, that exceeded \$3 billion.
- Reduce from 120 to 60 days the time during which 50% of the proceeds from a single-family bond issue must be reserved for applicants with incomes below 60% of the statewide median income.
- Allow MSHDA to finance multifamily housing for students, and require the approval of the college or university the students attended for financing.
- Eliminate the required allocation of units under the so-called Multifamily Pass Through Program to people who meet certain income levels.
- Permit nonprofit housing corporations to qualify for long-term financing under the Pass Through Program.
- Expand MSHDA to waive fees for a limited dividend housing association wholly owned by a 501(c)(3) nonprofit organization, and exempt such an association from the \$25 million outstanding loan limitation in the Pass Through Program.
- Allow MSHDA to establish an annual fee and administrative fees in the Pass Through Program.
- Make changes in the loan program for effectively treatable areas (ETAs), including allowing MSHDA to make loans for predevelopment

costs; increasing the number of units in a dwelling that may be financed from 30 to 49; changing the income test; and revising the criteria for the location of an ETA.

The bill is tie-barred to House Bill 6077, which also would amend the MSHDA Act.

Outstanding MSHDA Obligations

Under the Act, until November 1, 2002, MSHDA could have outstanding up to \$4.2 billion in the aggregate principal amount of notes and bonds, excluding:

- The principal amount of bonds and notes issued to refund outstanding bonds and notes.
- The principal amount of bonds and notes that appreciate in principal amount, except to the extent of the principal amount of the bonds and notes payable at such time.
- The principal amount of notes and bonds representing an original issue discount, if any.

On November 1, 2002, this limitation was reduced to \$3.0 billion. The bill would reduce the limitation to \$3.0 billion on November 1, 2007, subject to the same exclusions. The bill also would exclude the aggregate principal amount of bonds and notes issued on or before November 1, 2007, that were outstanding on November 1, 2007, and exceeded \$3.0 billion.

Single-Family Homes

Under the Act, with respect to bonds, other than refunding bonds, issued to finance single-family homes, for the first 120 days following the announcement of a program

funded by the proceeds of those bonds, 50% of the proceeds of the bonds available to make loans must be reserved for applicants with gross annual incomes at or below 60% of the statewide annual income. The Authority may, by resolution, waive this requirement. The Authority must advise the House of Representatives and Senate standing committees with jurisdiction over housing issues five days before adopting a resolution waiving the requirement. The bill would shorten to 60 days the period during which MSHDA must make the proceeds of the bonds available to make loans.

Multifamily Pass Through Loans

Under what is commonly called the Multifamily Pass Through Program, if a MSHDA resolution authorizing the issuance of notes or bonds provides that they are limited and not general obligations of the Authority, are not secured by the capital reserve capital account, and are secured solely by revenue and property derived from or obtained in connection with the housing project, MSHDA must use the proceeds of those notes or bonds to make loans directly, or indirectly by a loan through a mortgage lender, a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, limited dividend housing association, mobile home park corporation, mobile home park association, or public body or agency for the construction, rehabilitation, and/or long-term financing of any of the following:

- Multifamily housing projects for low income or moderate income persons.
- Multifamily housing projects in which at least 20% of the dwelling units are allotted to individuals of low or moderate income (within the meaning of a former section of the Internal Revenue Code); at least 15% of the dwelling units are allotted to people and families whose gross household income does not exceed 125% of the higher of either the median income for a family in the State or the median income for a family within the nonmetropolitan county or metropolitan statistical area (MSA) in which the housing project is located, or to the elderly; at least 15% are allotted to people and families whose gross household income does not exceed 150% of the median family income for a family in the State or the median income for a family within the nonmetropolitan county or MSA in which the housing project is

located, or to the elderly; and not more than 50% of the dwelling units are available for occupancy without regard to income.

- Multifamily housing projects in eligible distressed areas in which at least 20% of the dwelling units are allotted to individuals of low or moderate income (within the meaning of a former section of the Internal Revenue Code) and in which not more than 80% of the dwelling units are available for occupancy without regard to income.
- Social, recreational, commercial, or communal facilities to serve and improve the residential area in which a MSHDA-financed multifamily housing project is located or is planned to be located.

Under the bill, MSHDA could use Pass Through Program funds to finance multifamily housing projects either for students or for low or moderate income persons. The bill would delete the category in which specific percentages of the dwelling units must be allotted to people with certain income levels or the elderly and up to 50% may be available without regard to income.

Rehabilitation Projects

For a rehabilitation project to qualify for the Pass Through Program, the rehabilitation expenditures with respect to the project must equal or exceed 30% of the portion of the cost of acquiring the building and equipment financed with the proceeds of the notes or bonds issued to acquire or rehabilitate the project. For a project located in an eligible distressed area, the amount of rehabilitation may be less than 30% if MSHDA determines that the likely benefit to the community or the proposed residents of the project merits the use of this financing source. The Authority may not provide long-term financing for a project with Program funds unless the project is constructed or rehabilitated in anticipation of MSHDA financing, the construction or rehabilitation is undertaken with Authority financing, or long-term financing is being provided with respect to a housing project for which regulatory or contractual restrictions assuring occupancy for some or all of the units by families or people of low or moderate income are subject to termination within a two-year period following the acquisition of the housing project.

The bill also would allow MSHDA to provide long-term financing with Program funds for a housing project that would be owned and operated by a nonprofit housing corporation qualified under Section 501(c)(3) of the Internal Revenue Code (IRC).

Fees & Qualifications

A borrower seeking to qualify for a Pass Through Program loan from MSHDA must file an application and include an application fee equal to the greater of \$4,000 or 0.0005 multiplied by the principal amount of the notes or bonds being requested. The Authority may waive the fee when the owner of a housing project is or will be a 501(c)(3) nonprofit housing corporation in an eligible distressed area. Under the bill, the Authority also could waive the fee for a limited dividend housing association wholly owned and controlled by one or more nonprofit corporations qualified under Section 501(c)(3).

Unless a borrower is a nonprofit housing corporation qualified under Section 501(c)(3), a borrower and any person related to the borrower as defined in Section 144(a)(3) of the IRC may not have outstanding loan commitments under the Program that total more than \$25.0 million or the amount of financing approved for a single multifamily housing project, whichever is greater. The bill also would allow a limited dividend housing association that was wholly owned and controlled by one or more 501(c)(3) nonprofit corporations to have outstanding loans exceeding this limit. Either a nonprofit housing corporation or a limited dividend housing association could borrow money from MSHDA without an allocation of the State volume limitation.

The Act requires a borrower to pay a fee, expressed as a percentage of the principal, upon the issuance of any notes or bonds to finance a housing project. Under the bill, the fees would have to be established by the Authority, subject to the current limits.

The bill also would allow MSHDA, at its sole discretion, to establish an annual fee, or other administrative fees, to be paid by the borrower during the term of the loan. All or any portion of the fees due to the Authority would have to be paid in annual or semiannual installments, as determined by MSHDA, after the date upon which the notes

and bonds were issued to finance the related housing project.

Transfer of Ownership

The Act allows a borrower to sell, refinance from a source other than MSHDA, or resyndicate a housing project at any time, subject to any rights of holders of any notes or bonds issued to finance a multifamily housing project under the Pass Through Program, if the owner of a multifamily housing project financed by MSHDA notes or bonds provides evidence that the new owner of the multifamily housing project is an eligible borrower under the Act and the exemption from Federal income taxation of interest on the notes or bonds issued to finance the multifamily housing project will not be impaired as the result of a sale, refinancing, or resyndication. There may not be a prepayment penalty or fee required for the sale, refinancing, or resyndication in addition to any prepayment penalty or fee owing to the holders of notes or bonds issued by MSHDA to finance a multifamily housing project.

The bill would require the owner to pay all MSHDA fees before or concurrently with the sale, refinancing, or resyndication.

Student Housing

Under the bill, a transfer of student housing ownership would have to be approved by a resolution of the board of trustees for the college or university that approved the initial financing. The Authority could not make a financing commitment for a housing project unless the board of trustees of the college or university from which a majority of students were anticipated to be residents of the housing project adopted a resolution.

The Act requires that the owner of a housing project financed by MSHDA report to the Authority the age, race, family size, and average income of tenants (as well as other information). Under the bill, this would not apply to student housing.

Beginning on the bill's effective date, a person or entity who proposed a student housing project would have to cooperate with the college or university from which the majority of the tenants were proposed to be drawn, by using its best efforts to communicate with the college or university regarding the location of and the need for the project. If, in MSHDA's judgment, the

person or entity proposing the project did not communicate with the college or university regarding location and need, the Authority could deny financing for the project.

Effectively Treatable Area

The Act allows MSHDA to make a loan to any person or entity, whether for profit or not for profit, for the construction or rehabilitation, and for the long-term financing, of a four- to 30-unit housing project located in an ETA, if the project meets the 20-50 test established by Section 142 of the IRC. Under the bill, the Authority could make a loan to any person or entity, whether for profit or not for profit, for redevelopment costs, or for the construction or rehabilitation and for the long-term financing of a two- to 49-unit housing project located in an effectively treatable area, if the project met the 20-50 or 40-60 test established in Section 142 of the IRC. For rehabilitation of a housing project in an ETA by more than one owner, the 20-50 or 40-60 test could be met on an aggregate basis. (Under the IRC, the 20-50 test is satisfied when at least 20% of residents earn less than 50% of area median gross income. The 40-60 test is satisfied when 40% of residents earn less than 60% of the area median gross income.)

Currently, an ETA is an area for which MSHDA has received a neighborhood partnership plan from a municipality or neighborhood organization, or both. The plan must establish as a goal that at least 75% of the property in the area will be brought to safe and sanitary condition, and enable MSHDA to determine that available private, public, and Authority resources will be combined in such a manner as to assure that a majority of the housing in the area will be brought to safe and sanitary condition. Under the bill, an ETA would be an area that included or was in close proximity to a downtown or traditional commercial center and for which the Authority had received a neighborhood partnership plan from a municipality and/or a neighborhood organization.

Presently, to qualify as an ETA, an area must be in a city or township with a population of at least 10,000 and either be within a census tract having a serious housing need or an area that meets specific criteria regarding State equalized valuation, poverty rate, average income, and

overcrowded or underutilized housing units. The bill would remove the requirement that an area be in a city or township with a population of at least 10,000, and would require that it be a "qualified local governmental unit" as defined in Section 2 of the Obsolete Properties Rehabilitation Act (which lists the criteria for eligibility under that Act) or a county seat.

MCL 125.1432 et al.

BACKGROUND

The Michigan State Housing Development Authority was established in 1966 to provide financial and technical assistance through public and private partnerships to create and preserve decent, affordable housing for low- and moderate-income Michigan residents.

The Authority's loans and operating expenses are financed through the sale of tax-exempt and taxable bonds and notes to private investors. Proceeds of the bonds and notes are loaned at below-market interest rates to developers of rental housing, and also fund home mortgages and home improvement loans. The Authority also administers various Federal housing programs.

Legislative Analyst: J.P. Finet

FISCAL IMPACT

The extension of the sunset on the bonds would have no fiscal impact on the Michigan State Housing Development Authority.

Fiscal Analyst: Maria 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.