House Legislative Analysis Section
Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

MSHDA AMENDMENTS

House Bill 4810 (Substitute H-1)
Sponsor: Rep. Sandra Hill

House Bill 4813 (Substitute H-1)
Sponsor: Rep. Rep. Nelson Saunders

First Analysis (6-3-93)
Committee: Housing & Urban Affairs

THE APPARENT PROBLEM:

The Michigan State Housing Development Authority (MSHDA) works to improve housing opportunities for people with low and moderate incomes by selling debt instruments in order to finance its various programs. The agency also administers federal programs that provide financial assistance for housing for low-income persons. The authority is widely recognized for its innovative programs and its success in providing housing for low-income individuals and families. In 1990, Public Act 330 increased MSHDA's debt ceiling from $3.2 billion to $3.4 billion, and set higher maximum purchase price and gross income limits in order for persons to qualify under MSHDA's subsidized housing programs. In addition, Public Act 138 of 1991 extended the sunset date on the debt ceiling for two additional years, from November 1, 1991, to November 1, 1993. These changes allowed more people to qualify, and encouraged a greater number of requests for financing through MSHDA. As MSHDA is now close to the new debt limit, it has suggested various amendments to enable it to continue fulfilling its purpose, including raising the ceiling again, from $3.4 billion to $4.2 billion; extending the sunset date on several of its programs; changing certain definitions to comply with new federal and state laws -- such as adding a category for mortgages on projects which receive federal low income housing tax credits but which do not receive MSHDA financing, so that these projects would be eligible for tax abatements; and permitting MSHDA to build its own office buildings.

THE CONTENT OF THE BILLS:

House Bills 4810 and 4813 would amend State Housing Development Act to raise the Michigan State Housing Development Authority's debt ceiling by $800 million; to alter the act's definition of "elderly"; and to specify that MSHDA could build or own its own office space. In addition, the bills would increase the eligible income and price limits for housing under the authority's multifamily and mortgage credit certificate programs; and would extend the sunset date on these and other of the authority's various programs for three years.

Debt Ceiling. The bills would raise MSHDA's debt capacity from $3.4 billion to $4.2 billion, and would extend the sunset on MSHDA's statutory debt ceiling for three additional years, from November 1, 1993, to November 1, 1996.

Bond Proceeds. The bills would increase MSHDA's debt capacity, from $1.6 billion to $2.4 billion. Under this provision, the amount that could be used to finance home improvement loans and single family homes would be increased from $900 million to $1.3 billion; and the amount that could be used to finance multifamily housing projects would be increased from $400 million to $800 million. Half of the total increase -- $400 million -- would be allocated for single family and home improvement loans (the act specifies that for the first 120 days following the announcement of a program funded by new bonds issued to finance single family homes after November 1, 1989, 50 percent of the bond proceeds would have to be reserved for applicants with gross annual incomes at or below 55 percent of the statewide median gross income). The other $400 million would be allocated to the authority's pass-through program (whereby developers of multifamily rental housing may make use of MSHDA's ability to issue tax-exempt bonds by supplying a "credit enhancement" to back the bonds; the act specifies that not more than 75 percent of this amount shall be used for housing projects located in areas other than eligible distressed areas.)

Office Facilities. The bills would add a provision to specify that MSHDA had the authority to acquire, rehabilitate, own, operate, and develop office space for its own use. MSHDA could also enter into leases with respect to facilities not immediately necessary for its activities. The bills would also permit the authority to issue bonds to develop or acquire office space and to allow it to use a new bonding technique. The new process would allow MSHDA to establish a contractual right to require mandatory tender for purchase of the notes or bonds in an instrument that was separate from the notes or bonds, and which could be issued or sold by the authority to investors. (This technique is said to allow cost savings.) The bills would also specify that the previously authorized bond cap could be used to issue debt to acquire or build MSHDA office facilities.

Eligible Distressed Area. Currently, under the act, an "eligible distressed area" includes an area that is eligible for the federal Urban Development Action Grant (UDAG) program, and a downtown development area in a city with a population of more than 20,000. The bills would delete these references and would instead include an area certified by the Michigan Enterprise Zone Authority as having met the following criteria, as required under the Neighborhood Enterprise Zone Act:

1) A city that: had an area with a population of 10,000 or more; had an average unemployment rate of 8.0 percent or more, or had levied a total property tax millage rate of 84 or more mills; had levied a total property tax millage rate of 63.3 mills or more or a city income tax; had a housing stock of which 60 percent or more units were built before 1960; had a percentage increase in state equalized valuation (SEV) between 1970 and 1990, or had a decline in population of more than 5 percent between 1970 and 1990.

2) A village or township that: had a population of 5,000 or more; an average unemployment rate of 17 percent or more; a total property tax millage rate of 65 mills or more; and a decline in population of more than 20 percent between 1970 and 1990.

Preference to the Elderly. Currently, the act requires that, among persons of low or moderate income, preference be given to the elderly and those displaced by urban renewal, slum clearance, or other governmental action. The bills would delete the "elderly" from this requirement. The act also requires that occupancy of housing projects be open to all, regardless of sex, race, religion, color, national origin, age, or marital status, with the exception of the sale, rental, or lease of housing that meets federal, state, or local housing requirements for senior citizens, or accommodations otherwise intended to provide housing for persons 50 years of age or older. The bills would increase the age limit, from 50 to 55 years of age or older, under this provision.

Multifamily Housing. Currently, under the act, the head of a household must be 62 years old to qualify as "elderly" under MSHDA's multifamily loan programs. The bills would amend the act to define "elderly" to mean a single person of 55 years of age or older, or a family in which at least one member was 55 or older and all other members of the family were 50 years or older. Under the act, MSHDA may make loans to housing groups -- such as nonprofit housing corporations, consumer housing cooperatives, and mobile home park associations -- for the construction, rehabilitation and long-term financing of low or moderate income housing, and multifamily housing projects that meet the "20-50" requirement of the Internal Revenue Code (under which 20 percent or more of the units must be occupied by persons whose income does not exceed 50 percent of the median gross income in an area). To qualify for a loan for a new house, a persons's income cannot exceed $36,500 and the purchase price of the house may not exceed $80,000. The bills would increase the limit to $41,700 on or before May 1, 1995, and $43,575 after that date; and the purchase price to the lesser of $99,000, or 90 percent of the average area purchase price for new housing. To qualify for a loan for an existing housing unit, a person's income cannot exceed $36,500 and the purchase price of the unit may not exceed $60,000. Under the bill, the income limit would be $41,700 on or before May 1, 1995, and $43,575 after that date; and the purchase price of the unit would be the lesser of $80,000, or 90 percent of the average area purchase price for existing housing. The bills would also extend, from November 1, 1993, to November 1, 1996, the sunset date on the income limits for these programs, and the sunset date by which the authority may establish by resolution more restrictive borrower income or purchase price limits for housing other than newly constructed units.

"Pass-through" Program. Currently, MSHDA administers a "pass-through" multifamily housing project, under which the interest rate is determined by the market, and twenty percent of the units are allotted to individuals of low or moderate income. It is different from the authority's role of direct lending, in that the obligations issued are limited rather than general obligations of the agency, are not secured by the authority's capital reserve account, and therefore are not backed by the moral obligation of the state. Instead, these bonds or notes are secured solely by the properties being financed and by some form of credit enhancement provided by the borrower. The bills would amend this provision of the act to extend the current income limits in the program from their scheduled expiration date of November 1, 1993, to November 1, 1996.

Mortgage Credit Certificate Program - Income and Price Limits. Currently, MSHDA may administer a mortgage credit certificate program, under which qualified individuals can receive mortgage credit certificates for the purchase or rehabilitation of housing. To qualify a person's income and the price of the housing cannot exceed certain limits. The act currently specifies that the purchase price of a unit for housing in an eligible distressed area may not exceed $60,000. The bills would increase the limit to the lesser of $80,000, or 90 percent of the average area purchase price for existing housing. For a new housing unit, the bills would increase the limit, from $80,000, to the lesser of $99,000 or 90 percent of the average area purchase price for new housing.

To qualify for a loan for the purchase or rehabilitation of housing, a borrower's income currently may not exceed $42,000 on or before November 1, 1993, and $36,500 after that date. The bills would increase these limits to $47,900 and $50,055, respectively, and would retain the income limits until November 1, 1995. The bills would delete the current provision which holds that mortgage credit certificate commitments issued on or before November 1, 1993, for persons with incomes between $36,500 and $42,000 are in compliance with the act even if the closing occurred and the mortgage credit certificate was issued after November 1, 1993. (Currently, if housing is not in an eligible distressed area, the limit is $36,500. The bills would increase the limit to $41,700 on or before May 1, 1995, and $43,575 after that date).

Covenants. Currently, under the act, MSHDA may impose "covenants running with the land" in order to satisfy federal laws that govern housing assisted, or to be assisted, by the federal low income housing tax credit program, by executing and recording regulatory agreements between MSHDA and the persons or entities to be bound. The bills would amend this provision to specify that, in addition, MSHDA could impose "covenants running with the lands" to satisfy federal laws that govern housing assisted through the Home Investment Partnerships Program, and that the covenants could be effectuated by the authority or by a municipality or other entity designated by the authority.

Acquisition of Low and Moderate Income Housing. Currently, in order to preserve housing for low and moderate income persons, the authority may -- until November 1, 1993 -- incorporate one or more nonprofit housing corporations for the purpose of acquiring housing projects, or an interest in the ownership of one or more housing projects. However, restrictions that require occupancy by low or moderate income tenants must be subject to termination within two years after the project is acquired. The bills would extend the sunset date for three years, until November 1, 1996.

Low Income Housing Tax Credit Programs. Under the low income housing tax credit program, developers of qualifying low income multifamily housing receive tax credits according to Internal Revenue Code guidelines. The credit is allocated according to a qualified allocation plan that gives the highest priority to projects in which the highest percentage of the housing credit dollar amount is to be used for project costs other than the cost of intermediaries, and that gives priority among selected projects to those serving the lowest income tenants. The bills would amend the State Housing Development Act to delete the November 1, 1993, sunset date of this provision, and to include a mortgage that had been allocated low income housing tax credits by MSHDA under the category of "federally-aided mortgage."

Foreclosures. Currently, under the act, the authority may foreclose on a mortgage by selling the premises when a borrower defaults on a loan. The mortgagor, or his or her heirs or executors, may redeem the premises by paying the sum that was bid for the premises within a certain period of time after the sale. The bills would amend the act to incorporate current foreclosure procedures from the Revised Judicature Act regarding abandoned property. The provisions would apply to a foreclosure proceeding filed or pending after the effective date of the bill. Under the bill, foreclosure proceedings against residential property not exceeding four units, and not more than three acres in size, would conclusively presumed upon satisfaction of the following requirements:

**That the mortgagee had made a personal inspection of the premises, and the inspection did not reveal that the mortgagor occupied the premises.

**The mortgagee posted a notice when making the personal inspection, and notified the mortgagor that he or she would lose all rights of ownership 30 days after the foreclosure sale unless within 15 days after receiving the notice the mortgagor gave written notice that the premises were not abandoned.

Rehabilitation Loans. Currently, MSHDA may make loans to persons of low and moderate income to rehabilitate housing. The bills would extend the borrower income restrictions for these loans from $36,500 to $41,700 until May 1, 1995, and to $43,575 after that date. The act also permits MSHDA to establish more restrictive maximum borrower income or purchase price limits. The bills would extend this provision, from November 1, 1993, to November 1, 1996.

Annual Report. Under the act, the authority must submit an annual report to the governor and to the House Committee on Housing and Urban Affairs and the Senate Committee on Finance, or their successor committees. The bills would require that the report contain information about any significant obstacles to the development of housing for low and moderate income persons that the authority has encountered, and a report indicating the type of, and the amount of funding it has committed to, education and training opportunities.

Education/Training for MSHDA Participants. Currently, under the act, MSHDA may provide nonprofit housing corporations, consumer housing cooperatives, limited dividend housing corporations, mobile home park corporations, and mobile home park associations with advisory and educational services in the management of housing projects, to assist them to become owners of housing projects, or "in promoting efficient and harmonious management of the housing projects." The bills would delete these provisions, and would specify, instead, that MSHDA could provide to any organization or person participating, or intending to participate, in the development, design, or management of authority-assisted housing, or in the contracting or subcontracting of the construction or rehabilitation of authority-assisted housing, such advisory, consultative, technical, training and educational services as would assist them to more effectively provide authority-assisted housing.

MCL 125.1411 et al.

FISCAL IMPLICATIONS:

According to the Michigan State Housing Development Authority (MSHDA), within the commerce department, the bills would have no fiscal impact on state government. (6-1-93)

ARGUMENTS:

For:

In the 27 years that MSHDA has been in existence, it has helped improve the availability of habitable, affordable housing for low- and moderate-income citizens. The authority's debt ceiling will return to $1.8 billion on November 1 of this year unless the sunset date on this provision is again extended. The bills would extend the sunset date on the authority's statutory debt ceiling, enabling the authority to continue expanding its programs.

For:

The bills would expand the act's definition of "eligible distressed area" to include areas that are now eligible to participate in the recently created Neighborhood Enterprise Zone Program. At present seven municipalities in the state (Burton and Melvindale, and the townships of Carrollton, Eagle Harbor, Genesee, Vernon and Zilwaukee) meet four of the act's five eligibility requirements for Urban Development Action Grants (UDAGs). There are also several communities (for example, Alpena, Battle Creek, Ferndale, Grand Rapids, Kalamazoo, Lansing, Lincoln Park, Oak Park, Wayne, Wyandotte, and Ypsilanti) that might now be eligible to participate under the Neighborhood Enterprise Zone Act of 1992, and that meet all five of the act's criteria for eligibility to receive financial assistance for distressed areas. Since the federal UDAG program has been discontinued, it makes sense to allow these areas to receive financial incentives for development.

For:
In some areas of the state, projects that don't receive MSHDA mortgage loans, but which do receive federal tax credits, do not qualify for tax abatements. By including a category for mortgages on projects that receive federal low income housing tax credits under the category "federally-aided mortgage," the bills would enable municipalities to grant tax abatements to attract low- and moderate-income rental projects.

For:
The bills would eliminate the sunset date on the provision in the act that allows MSHDA to administer the federal low income housing tax credit program. The sunset date was originally enacted to allow the program to be evaluated after the first few years. Since the program has proven successful, the sunset date can now be deleted.

For:
The federal Fair Housing Act has been amended to delete the requirement that, among those of low- and moderate-income, preference be given to the elderly in housing allocations. This enables families -- in situations where an elderly person, or elderly parents, apply for housing for themselves and for their handicapped child -- to qualify for eligibility in housing projects designated as "senior" projects.

For:
The lease on the building that the Michigan State Housing Development Authority (MSHDA) has occupied for several years runs out in 1995, at which time it is expected that the building will be torn down. MSHDA has analyzed its options, and has found that the long-term costs would be lower if a new office were built. In addition, the equity accumulated, and the increase in value of the new building, would provide greater security for future bond issues. MSHDA's preliminary estimate is that the cost of the new building would be $6 million. This cost would be financed through general obligation bonds of the authority; the state would not be fiscally responsible.

Against:
At present, Lansing suffers from an overabundance of office buildings. It would make more sense to buy one of these "white elephants" than to add to the overdevelopment and parking problems in the downtown area.

POSITIONS:

The Michigan State Housing Development Authority (MSHDA), within the commerce department, supports the bill. (6-1-93)

The Michigan Association of Realtors supports the bill. (6-1-93)

The Michigan Association of Home Builders supports the bill. (6-1-93)

The Michigan Bankers Association supports the bill. (6-1-93)