Legislative Analysis

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HOUSING OPPORTUNITY TAX CREDIT

Senate Bill 966 as enrolled
Sponsor: Sen. Jeff Irwin

House Bill 5806 as enrolled
Sponsor: Rep. Kristian C. Grant

(Enacted as Public Acts 23, 30, and 31 of 2026)

House Bill 5807 as enrolled
Sponsor: Rep. Joseph A. Aragona

House Committee: Regulatory Reform [SB 966 discharged]
Senate Committee (HBs 5806 and 5807): Committee of the Whole
Senate Committee (SB 966): Housing and Human Services
Complete to 7-6-26

SUMMARY:

Senate Bill 966 would amend the State Housing Development Authority Act to require the Michigan State Housing Development Authority (MSHDA), in coordination with the Department of Treasury, to establish, implement, and administer a housing opportunity tax credit program to encourage the development of ***qualified projects*** in Michigan.

> ***Qualified project*** would mean a qualified low-income building as defined in section 42(c) of the federal Internal Revenue Code[1] that is located in Michigan, eligible for the federal Low Income Housing Tax Credit (LIHTC),[2] and placed in service after January 1, 2027.

The bill would require MSHDA to begin accepting applications for the credit beginning with the January 1, 2027 award cycle (i.e., each calendar year). The applications would have to be accepted in conjunction with applications for the LIHTC. Credits could not be issued for any qualified project that exceeds either of the following:

- The amount necessary for the financial feasibility of the qualified project.
- The ***adjusted annual federal credit amount*** for the qualified project.

> ***Adjusted annual federal credit amount*** would mean 1/6 of the aggregate amount of the federal credit allocated to a qualified project on federal income tax form 8609 over its federal credit period (i.e., the 10-year period described in federal law).

Application process

Under the bill, a ***person*** would have to submit an application for a credit in a form and manner prescribed by MSHDA. The authority would review applications for ***4% qualified projects*** on a first-come, first-served basis. Applications received on the same day would be considered to have been received simultaneously.

[1] https://www.law.cornell.edu/uscode/text/26/42
[2] https://www.michigan.gov/mshda/developers/lihtc/lihtc/low-income-housing-tax-credit-lihtc

Person would mean an individual, bank, financial institution, insurance company, association, corporation, flow-through entity, receiver, estate, trust, or any other group or combination of groups acting as a unit.

4% qualified project would mean a qualified project that is eligible for both a LIHTC and a bond under section 44c of the act in which MSHDA is not the bondholder with respect to bond proceeds.

If applications for 4% qualified projects exceed the award cap for that award cycle, MSHDA would have to establish an evaluation methodology to determine which of the qualified project applications are approved and issued an ***approval notice*** for a credit. Except as described below, the methodology would have to be limited to factors that maximize efficient unit production, including each of the following:

- The amount of the housing opportunity tax credit requested for each unit under the proposed qualified project.
- The number of units to be preserved or created under the proposed qualified project.
- The estimated development period of the proposed qualified project from the initial approval notice to placing the proposed qualified project in service.

Approval notice would mean a binding reservation letter issued by the authority for a housing opportunity tax credit attributable to a qualified project during an award cycle, setting forth the amount of the housing opportunity tax credit to be claimed in each year of the credit period.

MSHDA would be required to give preference to qualified projects that use construction or rehabilitation components ***manufactured in Michigan*** in a process determined by the authority that considers the impact on total development costs.

Manufactured in Michigan would mean the following:

- For iron or steel products, all manufacturing processes, from the initial melting stage through the application of coatings, occurred in Michigan.
- For manufactured products, the final point of manufacture for the finished product is a facility physically located within the borders of Michigan, regardless of the origin of the subcomponents or raw materials used to assemble or produce the product.
- For construction materials, all manufacturing processes for the construction material occurred in Michigan.

If MSHDA approves an application, it would have to send an approval notice to the applicant that states the amount of the credit approved for each year of the qualified project's ***credit period*** and clearly stipulates that the credit is contingent on the authority's approval of a final cost certification and the issuance of an ***eligibility statement***, and that certain federal limitations on the aggregate amount of state and federal low-income housing tax credits do not apply.[3] The bill would require MSHDA and the owner of a qualified project to use regulatory agreements that give preference to maximizing long-term affordability.

[3] See section 42(h)(6)(E)(i)(II): https://www.law.cornell.edu/uscode/text/26/42#h_6_E

Credit period would mean the period of six calendar years beginning with the calendar year in which a building that is part of a qualified project is placed in service. If a qualified project consisted of more than one building, the owner could elect to treat all buildings as one project and begin the credit period when the last building is placed in service or treat each building's credit period independently on a building-by-building basis. The special rule for the first year of the credit period established by federal law would not apply for purposes of the housing opportunity tax credit.

Eligibility statement would mean a statement issued by MSHDA to the owner of a qualified project certifying that the project is a qualified project and specifying the amount of the housing opportunity tax credit that may be claimed each year of the credit period; the years making up the credit period; the owner's name, address, and taxpayer identification number; the date of issuance; and any additional information MSHDA prescribes.

Upon completion of the project, as determined by MSHDA, the owner would have to submit a final cost certification and a request for the issuance of an eligibility statement to the authority, to be issued upon approval of the final cost certification. The eligibility statement would need to include the amount of the credit that can be claimed against an ***applicable tax*** each year of the credit period. Owners of qualified projects would, except as otherwise provided by the Income Tax Act or Insurance Code (as amended by House Bills 5806 and 5807), be required to claim the credit for each calendar year of the credit period for the owner's tax year beginning with or within that calendar year.

Applicable tax would mean a tax imposed under the Income Tax Act or under section 476a of the Insurance Code.

Award cycle cap

The bill would set the base cap of total credits for the 2027 ***award cycle*** at $42.0 million. For each subsequent award cycle, the base cap would be adjusted for using the annual percentage increase in the United States Consumer Price Index for all urban consumers for the immediately preceding calendar year. The base cap would then be added to the amount by which the credits for the previous award cycle fell short of the cycle's cap and the amount of credits recaptured or disallowed or otherwise returned to MSHDA during the previous award cycle to calculate the total cap for each award cycle.

Award cycle would mean each calendar year for which the authority approves and issues approval notices for housing opportunity tax credits for qualified projects.

The bill would require that MSHDA allocate at least 45% of the award cap for each ***application window*** to qualified projects, to the extent that sufficient applications are received. Further, the cap for each award cycle would need to be made available as follows, if enough applications are received:

- Up to 50% to any qualified project at the authority's discretion.
- At least 25% to 4 % qualified projects that are ***new construction***.
- At least 25% to 4% qualified projects that are ***preservation***.
- To the extent enough applications are received for relevant projects, at least 30% of the amounts set aside above to qualified projects that are located in a ***rural area***.

Application window would mean the first quarter, January 1 through March 31, or the third quarter, July 1 through September 30, of the award cycle. If the first or last day of the application window falls on a nonbusiness day, the starting or ending date would be moved to the next business day.

New construction would mean newly constructed housing units and would not include the rehabilitation or acquisition of existing buildings or adaptive reuse projects. It would include the demolition necessary for the construction of new housing units.

Preservation would mean projects that involve rehabilitation of existing housing units or the adaptive re-use of an existing building.

Rural area would mean a city, village, or township with a population of 35,000 or less, or an area designated as rural as defined by the United States Department of Agriculture or the United States Census Bureau.

If, after the final application window of an award cycle, insufficient applications are received to allocate along the above guidelines, MSHDA could reapportion the unallocated credit amounts for new construction and preservation to other qualified projects in accordance with the qualified allocation plan or an alternative competitive processes described above.

Flow-through entities

If the owner of a project granted a credit is a ***flow-through entity***, the owner could allocate all or some of the credit for that project to some or all of its ***members*** in any manner agreed to by its members, regardless of any of the following:

- Whether that member is allocated or allowed any portion of any LIHTC with respect to the same qualified project.
- Whether the allocation of the housing opportunity tax credit under the terms of the agreement has substantial economic effect within the meaning of section 704(b) of the federal Internal Revenue Code.
- Whether the member is deemed a partner for federal income tax purposes.

Flow-through entity would mean an entity that for the relevant tax year is treated as a subchapter S corporation under section 1362(a) of the Internal Revenue Code, a general partnership, a trust, a limited partnership, a limited liability partnership, or a limited liability company, and that for the tax year is not taxed as a corporation for federal income tax purposes. It would not include an entity treated as a corporation under section 699 of the Income Tax Act.

Member would mean a shareholder of a subchapter S corporation, a partner in a general partnership, a limited partnership, or a limited liability partnership, a member of a limited liability company, or a beneficiary of a trust that is a flow-through entity, as long as the shareholder, partner, member, or beneficiary, as applicable, is considered a shareholder, partner, member, or beneficiary under applicable state law governing such flow-through entity.

For each calendar year of the award cycle, a ***designated reporter*** would have to do both of the following:

- Provide an allocation report to the Department of Treasury, in the form prescribed by the department, containing all of the following:
  - The name, address, and taxpayer identification number of the owner of each qualified taxpayer that was allocated a portion of the annual credit on the eligibility statement for that year.
  - The amount of credit retained by or allocated to each qualified taxpayer, the taxpayer's tax year, and the applicable tax against which the credit will be claimed.
  - The total of the amounts listed for each qualified taxpayer, demonstrating the total does not exceed the amount listed on the eligibility statement, or approval notice if applicable, for that year.
  - Any other information required by the Department of Treasury.
- Notify the Department of Treasury of any changes to the above information, including changes resulting from a reduction or increase in the amount of the annual credit approved in the approval notice, in the time and manner prescribed by the department.

Designated reporter would mean the owner of the qualified project or the person designated by the owner to prepare the allocation report for the qualified project.

A member of a flow-through entity that receives a credit allocation, either from the owner of a qualified project or from another flow-through entity, could further allocate the credit among its members in the same manner. Assignees could then further allocate their portion of the credit. Any entity allocating all or a portion of its credit would have to include a copy of the eligibility statement, or the approval notice if the statement is not received, to each assignee. If the eligibility statement is later issued, it would also need to provide a copy to any assignee.

Members that were allocated a portion of the credit would be required to, except as otherwise provided by the Income Tax Act or Insurance Code (as amended by House Bills 5806 and 5807), claim the allocated credit for the tax year beginning with or within the calendar year it was allocated.

Recapture events

The bill would require the owner of any qualified project that is awarded a credit and issued an eligibility statement to report any recapture event, as described in the Income Tax Act or the Insurance Code, to the designated reporter, if applicable, the Department of Treasury, and MSHDA in the same manner required for recapture of LIHTCs.[4] If the owner is not the only ***qualified taxpayer*** that claimed the credit, the designated reporter would have to report the recapture event to each qualified taxpayer that was allocated a credit for that project.

Qualified taxpayer would that term as defined in section 281 or 678 of the Income Tax Act, or in section 476a of the Insurance Code (see bills described below).

[4] https://www.irs.gov/forms-pubs/about-form-8611

Other changes

The bill would amend the powers conveyed to MSHDA to specifically include guaranteeing unsecured or secured loans and operating as the sole statewide ***public housing agency***.

Public housing agency would mean that term as defined in federal law.[5]

MCL 125.1422 and proposed MCL 125.1422e

House Bill 5806 would amend the Income Tax Act to allow, for tax years beginning on or after January 1, 2027, a ***qualified taxpayer*** to claim, in a form and manner prescribed by the Department of Treasury, a housing opportunity credit against the individual or corporate income tax under the act equal to the amount listed on the allocation report for the applicable tax year as required by House Bill 5805. The taxpayer would have to attach a copy of the eligibility statement to their annual tax return. A credit could not be claimed unless the allocation report lists both the qualified taxpayer and their credit amount.

Qualified taxpayer would mean any of the following:

- A taxpayer that is the owner of a qualified project and has received an eligibility statement for that qualified project.
- A taxpayer that is the owner of a qualified project that received an approval notice and has submitted a final cost certification and a request for an eligibility statement to the authority, although the authority has not yet approved the final cost certification and issued the eligibility statement to the owner.
- A taxpayer that owns a direct or indirect, through one or more other flow-through entities, interest in an owner described above and that has been allocated a housing opportunity tax credit at any time prior to filing an annual or amended return on which that credit is claimed.

The owner of a qualified project that has submitted a final cost certification and a request for an eligibility statement to MSHDA, but has not yet received the eligibility statement prior to filing their annual tax return, could claim the credit based on the amount of the credit set forth in the approval notice received from the authority if the letter is attached to the annual return or could wait to claim the credit until the tax year in which the eligibility statement is issued.

If an updated allocation report is issued reducing or increasing the credit amount that was previously claimed, the qualified taxpayer would have to file an amended return for the affected tax year adjusting the credit amount.

Recaptured or disallowed credits

If any portion of a LIHTC for a project for which a housing opportunity credit is also claimed is recaptured or otherwise disallowed, the taxpayer claiming the housing opportunity credit would have to recapture a portion of the credit. Specifically, the percentage of the credit subject to recapture would be equal to the percentage of the LIHTC that was recaptured or disallowed for that tax year.

[5] Specifically, in 42 USC 1437a(b)(6): https://www.law.cornell.edu/uscode/text/42/1437a#b_6

Any recaptured or disallowed credits would be added back to the tax liability for the taxpayer and be included on their annual return.

For credits claimed against the corporate income tax by a taxpayer subject to the act's tax on insurance companies, any amount recaptured or disallowed would be added to the tax imposed by that part of the act in the same manner as other taxpayer.

Carryforward

The bill would provide that the credit is nonrefundable and any unused portion, including unused carryforward amounts, could be carried forward for up to 10 subsequent tax years until used up. Carryforward amounts could also be used to reduce a taxpayer's liability in the event of a recaptured or disallowed credit.

The credit would have to be claimed after all other nonrefundable credits allowed under the act.

Proposed MCL 206.281 and 206.678

House Bill 5807 would amend the Insurance Code to allow an alien or foreign insurer that is a qualified taxpayer to subtract the housing opportunity tax credit amount that the insurer is eligible to claim for a qualified project during a given tax year against the corporate income tax under the Income Tax Act, as amended by House Bill 5806, from the tax imposed on insurers from another state or country that imposes taxes or other burdens on Michigan insurers operating in their jurisdiction.

Qualified taxpayer would mean any of the following:

- The owner of a qualified project that has received an eligibility statement for that qualified project.
- The owner of a qualified project that received an approval notice and has submitted a final cost certification and a request for an eligibility statement to the authority but the authority has not yet approved the final cost certification and issued the eligibility statement to the owner.
- An alien or foreign insurer that owns a direct or indirect, through one or more other flow-through entities, interest in an owner described above and that has been allocated a housing opportunity tax credit at any time prior to filing an annual or amended return under the act on which a subtraction for that credit is claimed..

To qualify for the subtraction, the insurer would have to be listed on an allocation report for a qualified project. The insurer would have to attach a copy of the eligibility statement to their annual tax return. The owner of a qualified project that has submitted a final cost certification and a request for an eligibility statement to MSHDA, but has not yet received the eligibility statement prior to filing their annual tax return, could claim the credit based on the amount of the credit set forth in the approval notice received from the authority if the letter is attached to the annual return or could wait to claim the credit until the tax year in which the eligibility statement is issued.

If an updated allocation report is issued reducing or increasing the credit amount that was previously claimed, the qualified taxpayer would have to file an amended return for the affected tax year adjusting the credit amount.

If any portion of a LIHTC for a project for which a housing opportunity credit is also claimed is recaptured or otherwise disallowed, the insurer claiming the housing opportunity credit under the Insurance Code or against the Corporate Income Tax under House Bill 5806 would have to recapture a portion of the credit. Specifically, the percentage of the credit subject to recapture would be equal to the percentage of the LIHTC that was recaptured or disallowed for that tax year.

Any recaptured or disallowed credits would be added back to the tax liability for the insurer and be included on their annual return.

MCL 500.476a and 500.476b

The bills are tie-barred to each other and cannot take effect unless both are enacted.

BRIEF DISCUSSION:

According to committee testimony on House Bills 5806 and 5807, Michigan is the only state without a similar credit. Supporters of the bills argued that the credit is needed to draw developers to Michigan to increase access to affordable housing.

FISCAL IMPACT:

The bills could reduce general fund revenue by up to $42.0 million in the first year in which are they are claimed (likely FY 2029 or FY 2030 because the credits are cannot be claimed until the project is placed into service), with the overall revenue loss potentially growing to a steady state of approximately $252.0 million (plus any inflationary growth in the base annual amount) by year 6, assuming the maximum amount of credits were awarded. For each award cycle there is a six-year credit period. While the bill contains an award cycle cap, the ability to carry forward unused award cycle cap space on the award side and the ability to carry forward that portion of credit that exceeds the qualified taxpayer's liability on the claim side (due to the nonrefundability) could cause some variation in tax credits claimed across fiscal years if those carryforward provisions were utilized.

To the extent that any of the construction activity is net new activity and not displacement of other construction activity that might have occurred in the state of Michigan, some of the revenue loss from the credits could be offset through construction-related income, sales, and use taxes associated with the net new activity. Additionally, any net new construction activity induced by the credit could increase taxable values in the local unit of government where the project occurred.

The bills would impose certain administrative costs on the Michigan State Housing Development Authority and the Department of Treasury. While there is no current estimate, to the extent that those costs exceed current appropriation levels for the agency, any additional expenditures would need additional appropriation authority.

House Bill 5807 would have no fiscal impact on the Department of Insurance and Financial Services.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.