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AFFORDABLE HOUSING

House Bill 4682 (Substitute H-1)
Sponsor: Rep. Patricia Birkholz

House Bill 4684 (Substitute H-1)
Sponsor: Rep. Jerry O. Kooiman

Committee: Local Government and Urban Policy
First Analysis (3-21-02)

THE APPARENT PROBLEM:

Despite the massive economic growth of the 1990s, many people's incomes rose less dramatically than their housing costs. According to the federal Department of Housing and Urban Development (HUD), housing is *affordable* if it costs 30 percent of a household's income or less. Judging by this standard, almost 750,000 Michigan residents are living in housing that they cannot really afford. In only two of Michigan's 83 counties is it the case that 70 percent or more of renters occupy affordable housing. And in four counties, over 50 percent of the renters are, literally, living beyond their means. Such figures may be slightly misleading, since they do not distinguish between households that have chosen to rent housing that exceeds 30 percent of their income and those households that lack (meaningful) access to such housing. However, there are other indications that access to affordable housing is a serious problem. HUD reports, for instance, that "a family with one full-time worker earning the minimum wage cannot afford the local fair-market rent for a two-bedroom apartment anywhere in the United States." Equally disturbing is "Investing in Affordable Housing in Michigan," a report drafted by Public Sector Consultants, which finds that "In the United States, and Michigan in particular, almost all new or existing privately produced housing is unaffordable to many middle- and most low-income households." The affordable housing problem—a "crisis" according to some—is not limited to poor, urban-core renters; homeowners and renters throughout the state, including suburban and rural areas, often face difficulties finding housing within their means.

Low income households that pay more than they can afford for housing often have little left over to cover costs for other necessities, such as food, clothing, health care, and transportation to and from work. Often, in trying to provide these necessities for their households, persons with low incomes settle on sub-standard housing, which may pose serious health and safety risks. Some of these risks may be obvious to the eye—a rotted or loose floorboard and exposed nails and wires, for instance. However, other risks may not be so obvious and may not present immediate dangers. These risks can be especially harmful to children. For instance, children who are exposed to chipped paint can develop lead poisoning, and children whose parents or guardians scrimp on food because they have to pay the rent may develop anemia. Also, many low income households must move frequently thus creating a climate of instability for children, who may as a result develop emotional problems and have difficulties in school. For renters, in particular, saving and investing money may be virtually impossible, leaving them living from month to month with no real hope of escaping from poverty. Areas without quality, affordable housing are unattractive locations for businesses and make it difficult to maintain a talented, stable workforce for the jobs that do exist. In short, the lack of affordable housing in an area may not only reflect existing problems—it may create new ones. By contrast, developing quality, affordable housing in a blighted area may be just the boost that individuals and families need to create a community that they are proud, and others would be proud, to call their home.

HUD funds several affordable housing programs for renters and homeowners, including public housing, "Section 8" vouchers and project-development subsidies, TANF (Temporary Assistance for Needy Family) funds, low income housing tax credits, and community block development grants. Each of these programs helps mitigate housing problems to some extent, and while affordable housing advocates appreciate every dollar that the federal government puts toward affordable housing, they suggest that they need more money and more flexibility in spending the money. Federal funds are generally made available for low income households but do not necessarily focus on what many people consider to be the "real" affordable housing problem—that is, the lack of options for households at or below 25 percent of the area median income. Some federal funds cannot be used for "bricks and mortar" but must instead be used on housing rental. Affordable housing advocates also suggest that federal funds are often easiest to attain in areas where there is a high density of poor people and for projects that exclusively focus on housing poor people. They argue that it can be difficult to fund projects in areas of the state where there may not be a large population of poor people but where a considerable portion of the middle- to low-income population is struggling to meet housing costs. Restrictions on federal funds also leave gaps in funding for mixed-income projects and projects that emphasize the need to create a healthy, vibrant community with commercial development and jobs in addition to houses. Further, advocates argue, the federal government has demolished many public housing units and has tightened restrictions on certain contracts with landlords, leaving many landlords with little incentive to renew their commitment to providing affordable housing. Many local governments also help the affordable housing cause, by offering tax abatements or utility credits or by creating their own housing trust funds, for instance. However, other local units cannot or do not make such commitments, and local decisions to fund or not to fund leave considerable gaps in the state's affordable housing supply.

According to Governing magazine's 2001 State and Local Sourcebook, Michigan ranks 48th among the 50 states in state and local government spending on housing, when calculated per capita. In fact, in Michigan the state and local governments spend 20 times less than those in California and 15 times less than those in New York. Although the state does administer affordable rental and homeownership programs, much of the funding from such programs comes from federal resources. Some people believe that the state needs to make more funding available for comprehensive affordable housing solutions. Legislation has been introduced to create a state housing trust fund focused on the needs of low income, very low income, and extremely low income households.

THE CONTENT OF THE BILLS:

House Bill 4682 would create the Michigan Affordable Housing Fund Act and House Bill 4684 would amend the State Housing Development Authority Act of 1966 to create the Michigan Affordable Housing Program and the Michigan Affordable Housing Fund. House Bill 4682 is tie-barred to House Bill 4684. Many of the provisions contained in the two bills are very similar, so the bills are discussed together in the following summary. (Each of the bills states that fund money may only be expended as provided in that bill, which may be a concern to the extent that some expenditures would only be expressly allowed in one of the bills.) House Bill 4683, which is tie-barred to House Bill 4682, would establish a single business tax credit for businesses that made contributions to the fund; House Bill 4683 remains under consideration by the House Tax Policy Committee.

House Bill 4684 would direct the Michigan State Housing Development Authority (MSHDA) to establish and implement the Michigan Affordable Housing 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. Together, the bills would create the Michigan Affordable Housing Fund in the Department of Treasury, and MSHDA would administer the fund. Money in the fund could be allocated to an "eligible applicant" for housing projects, if the applicant had conducted a market study (or a review) in order to ensure that there was a need for the proposed project. ("Eligible applicant" would be defined as a not-for-profit corporation, a for-profit corporation, or a partnership that was approved by the authority and that was organized for the purpose of developing and supporting "affordable housing" for "low income", "very low income," or "extremely low income households." These terms are defined below.) Housing developed with money from the fund would have to be "consistent in nature" with housing already provided in the area, and MSHDA would have to encourage housing projects that were part of a planned community revitalization strategy. (MSHDA could use other resources in conjunction with the fund for a purpose authorized under the bills.) MSHDA would have to promulgate rules for the implementation of the program according to the Administrative Procedures Act. More specifically, the bills would do the following:

Definitions. The bills would define "affordable housing" as "residential housing that is occupied by low income, very low income, or extremely low income households, and results in monthly housing costs equal to no more than approximately 1/3 of the adjusted household income of the occupying household." A "low income household" would mean a person, family, or unrelated persons living together whose adjusted household income was more than 50 percent and up to 60 percent of the median income, as determined by MSHDA. Persons, families, or unrelated persons living together whose adjusted household income was more than 25 percent and up to 50 percent of median income would be considered very low income households and 25 percent of median income or less would be considered extremely low income households.

Fund. The Michigan Affordable Housing Fund, as well as any money secured by the fund for affordable housing, would be used for grants, mortgage loans, and other loans (e.g., construction loans, bridge loans, and predevelopment loans) to provide housing for (and satisfy related needs of) low income, very low income, and extremely low income households. MSHDA could make a loan to an eligible applicant from the fund at no interest or at or below market interest rates, with or without security. In general, the fund could be used to provide both single-family and multifamily housing and it could be used to support rental housing as well as homeownership activities. Specifically, the money could be used for: a) land and building acquisition; b) rehabilitation of existing buildings; c) construction of new buildings; d) predevelopment and development costs; e) costs to preserve existing housing units; f) infrastructure improvements, economic development projects and community facilities that directly supported housing development; g) insurance; h) operating and replacement reserves; i) down payment assistance; j) security deposit assistance; and k) supportive services.

The Department of Treasury would be required to credit to the fund all amounts appropriated for the purposes of the bills, all contributions for the bills' purposes, any investment earnings and loan repayments on these moneys, and the proceeds of assets received by the authority as the result of the default on loans made from the fund. The treasurer would be responsible for investing the money in the fund and crediting the earnings from the investments to the fund. Money appropriated or money received as a contribution to the fund would have to be available for disbursement upon appropriation. Despite any other allocation or disbursement, an amount equal to the cumulative contribution made to the fund, less any amount appropriated to the department for the purpose of implementing the act, would have to be deposited in the fund and would have to be appropriated annually solely for the purpose of the fund. Any balance remaining in the fund at the end of any fiscal year would not revert to the general fund but would remain in the fund and continue to be available for the purposes authorized under the bills.

Allocation plan. Each year, MSHDA would have to develop an allocation plan that was based on its annual priorities and that contained a formula for distributing money throughout the state based on the number of persons experiencing poverty and housing distress in various regions of the state and any other factor that supported the need for affordable housing. The plan would have to state how MSHDA would allocate money to provide technical assistance to eligible applicants. The plan would have to identify eligible applicants, preference for "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 homeownership zones. ("Special population groups" would include the homeless, persons with disabilities, and persons living in rural or distressed areas.) The plan would have to earmark at least 25 percent of the fund for rental housing projects that did not qualify under preferences for special population groups, geographic preferences, or other preferences contained in the allocation plan. The plan would also have to earmark at least 30 percent of the fund for projects that targeted extremely low income households and included (at a minimum) both of the following: a) housing development for the homeless, transitional housing, and permanent housing; and b) security deposits, supportive services, and technical assistance to eligible applicants. The bills would state that rental housing projects and homeownership projects assisted by the fund "must provide affordable housing for households earning no more than 60 percent of the median income." Money that had not been committed by the end of a fiscal year would not be carried over in the specific category to which the money had been allocated during that fiscal year; instead it would be reallocated for the next fiscal year according to the next fiscal year's allocation plan.

Annual priorities and public hearings. MSHDA would have to develop annual priorities based on the allowable purposes for the fund (listed above), and allocate the money in the fund based upon those priorities. Each year, MSHDA would have to hold public hearings in at least three separate locations throughout the state on the priorities and the proposed allocations for the upcoming year. After the public hearings, MSHDA could make minor modifications to its "allocation plan" necessary to facilitate the administration of the program or to address unforeseen circumstances.

Actual allocation. MSHDA would be required to expend a portion of the fund for housing for the special needs populations identified above. MSHDA could provide assistance for housing units for very low income or extremely low income households within multifamily housing occupied partly by very low income or extremely low income households, and partly by households that did not qualify as very low income or extremely low income housing, subject to rules promulgated by the authority. MSHDA could also provide funding for projects with 50 units or less, and provide incentives to encourage project feasibility and mixed income housing projects that responded to community priorities.

Restrictions on assistance. MSHDA would be prohibited from providing assistance for housing under the bills unless both of the following circumstances existed: a) if the housing was multifamily housing, the owner or manager agreed in writing not to evict tenants without just cause; and b) the housing would be sold or rented with a deed restriction, agreement, or other legal document that provided for the recapture of some or all of the assistance, upon terms and conditions specified in the rules of the authority promulgated under the bills.

Report to the governor and legislature. MSHDA would have to issue an annual report to the governor and the legislature, summarizing the expenditures of the fund for the previous fiscal year, including at a minimum a description of the eligible applicants that received funding, the number of housing units that were produced, and the income levels of the households that were served.

BACKGROUND INFORMATION:

At the national level, the National Low Income Coalition has actively promoted a national affordable housing trust fund with the goal of producing, rehabilitating, and preserving 1.5 million units of housing by 2010. According to the coalition, there are at least 150 housing trust funds throughout the country, including 36 state trust funds, and at any given time, up to 50 other jurisdictions are considering creating trust funds. In its May 14, 2001 proposal for legislation, the coalition states that the fund should be used primarily for rental housing, but that it would support using between 15 and 25 percent of available funds for "homeownership activities, so long as low income people are served." The coalition's proposal also states that at least 75 percent of the funds should be targeted at extremely low income households and that the housing should be produced and financed "in a way that assures that extremely low income households are not segregated from other groups." The coalition also states that "existing federal tenant protections and rights to participate in decision making about their homes should be extended to tenants in" funded homes and that housing funded through the trust fund should have to "remain affordable for the useful life of the property."

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the public hearings and drafting of the allocation plan required under the bills would impose an indeterminate level of costs on MSHDA each year, but it is likely that these costs would be covered by existing resources. (3-20-02)

ARGUMENTS:

For:

Michigan has a severe affordable housing problem, and the state currently lacks a comprehensive long-term solution. By creating a housing trust fund, the bills would help nonprofit and for-profit housing developers fill the gaps left by federal, local government, and private sources of funding in several ways. First, the creation of such a fund would represent an increase in the state's direct financial contribution to addressing the problem. Second, by creating the fund the state would leverage additional money from other sources, which often agree to provide funds on a matching basis. According to the National Low Income Housing Coalition, "On average, for every $1 committed to a housing project by a housing trust fund, another $5-$10 is leveraged in other public and private resources." Third, by overseeing the program, the state would help ensure that affordable housing was developed responsibly and targeted at those who most need it. As important as the money is, it is no less important that the state ensure that money spent on affordable housing be used in a sound manner. MSHDA would make grants and loans to developers only if the developers could prove that there was a genuine demand and need for a proposed project. The trust fund would be focused on the needs of low income, very low income, and especially on extremely low income households, with 30 percent of the fund to be earmarked for such households, and the bills clearly emphasize the needs of special populations, including the homeless, persons with disabilities, and persons living in rural or distressed areas. Money could be used to help finance "bricks and mortar," but it could also be used to cover a range of other costs, such as insurance, down payment and security deposit assistance, and supportive services to help individuals develop skills necessary to become responsible renters and successful homeowners. Moreover, MSHDA would be required to encourage projects that were part of a wider strategy to revitalize the community, and the fund could be used to finance community facility projects as well as economic development projects, which would help promote commercial growth and therefore jobs in areas where affordable housing was developed. Overall, the bills promote a sound, comprehensive approach to the affordable housing problem by creating more options for developers seeking to create affordable housing options and by emphasizing not only the need for livable dwellings but also the need for livable communities.

Response:

In addition to supporting the production of new housing and rehabilitation of existing housing, an affordable housing trust fund should ensure that the housing initially supported by the fund remains affordable over the long term. Also, the bills should ensure that no money "escapes from the system." By making for-profit developers eligible to receive money from the fund, the bills could allow money that initially went to support affordable housing programs to escape. Whereas nonprofits reinvest their returns back into affordable housing, a for-profit company could use fund money to build and sell housing and then use the profits, however modest they may be, for other "non-affordable" housing projects.

Reply:

The bills are clearly focused on the importance of providing affordable housing to people with low incomes. The state's resources would be used largely in conjunction with money provided by other sources that do require that the affordability of housing is guaranteed in the long run. As for allowing money to escape from the system, the truth is that there is not much competition between for-profits and nonprofits in affordable housing. For-profit developers are often able to construct housing—especially larger developments—far more efficiently than nonprofit organizations. Even if some money does "escape" into profits, many low income people who are currently struggling to find affordable housing will be far better off than they would be if for-profit developers were simply declared ineligible to apply for funding. By including for-profit developers, the bills would result in the production of far more affordable housing units than nonprofits could efficiently build on their own.

POSITIONS:

The Michigan Association of Home Builders supports the bills. (3-14-02)

The Community Economic Development Association of Michigan supports the bills. (3-15-02)

Habitat for Humanity of Michigan supports the bills. (3-15-02)

The Michigan Capital Fund for Housing supports the bills. (3-18-02)

The Michigan Coalition Against Homelessness supports the bills. (3-18-02)

Community Development Advocates of Detroit supports the bills. (3-18-02)

The Michigan Advocacy Project supports the bills. (3-20-02)

Analyst: J. Caver

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