




Senate Fiscal Agency
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 BILL ANALYSIS

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Senate Bills 1020 and 1636 (as enacted)

House Bill 6549 (as enacted)

Sponsor: Senator Tupac A. Hunter (S.B. 1020)

Senator Mark C. Jansen (S.B. 1636)

Representative Andy Coulouris (H.B. 6649)

Senate Committee: Families and Human Services (S.B. 1636 & H.B. 6549)

Finance (S.B. 1020)

House Committee: Banking and Financial Services

PUBLIC ACTS 451 & 450 of 2008

PUBLIC ACT 449 of 2008

Date Completed: 7-28-09

RATIONALE

The Individual or Family Development Account Program Act was enacted in 2006 to give low-income earners an opportunity to save for a home purchase, postsecondary education, or business capitalization, and receive matching funds from public or private sources. The Act established the Program in the Michigan State Housing Development Authority (MSHDA), which is part of the Department of Energy, Labor, and Economic Growth (DELEG). This Program was modeled upon an individual development account (IDA) program created in the Department of Human Services in 1998 for public assistance recipients, who may contribute to accounts and receive matching funds for the same purposes. Reportedly, nearly 80% of the participants in both programs plan to use their savings to buy a home. It was suggested that participants in the MSHDA program also should be allowed to save for the purchase of energy-efficient home improvements and appliances. Also, since MDHSA was established to help people afford homes, while the Individual or Family Development Account Program is designed to help participants save for higher education and business start-up costs, as well, it was suggested that the statute should make DELEG responsible for those aspects of the Program.

In addition, when the Individual or Family Development Account Program Act was enacted, legislation amended the Income

Tax Act to allow individuals who are not account holders under the Program to claim a tax credit for contributions made to reserve funds (accounts at financial institutions that hold Program participants' savings). It was suggested that a similar credit also should be available to taxpayers under the Michigan Business Tax Act.

CONTENT

Senate Bill 1020 amended the Michigan Business Tax (MBT) Act to allow a qualified financial institution or taxpayer to claim a credit against the MBT for contributions made to a reserve fund under the Individual or Family Development Account Program Act.

Senate Bill 1636 amended the Individual or Family Development Account Program Act to do the following:

- **Allow an account to be established for a qualified home improvement (the purchase and installation of a qualified Energy Star product).**
- **Revise requirements for fiduciary organizations selected to administer a program.**
- **Specify responsibilities of the Department of Energy, Labor, and Economic Growth.**
- **Extend tax credit provisions to credits against the MBT.**

- **Allow MSHDA to delegate tax credit certification responsibilities to fiduciary organizations.**

House Bill 6549 amended the State Housing Development Authority Act to authorize MSHDA to implement, administer, or execute administrative, substantive, or supervisory powers pursuant to the Individual or Family Development Account Program Act.

All of the bills took effect on January 9, 2009. The Senate bills are described in detail below.

Senate Bill 1020

The bill allows a qualified financial institution or taxpayer, for the 2009 tax year and each subsequent tax year, to claim a credit against the MBT equal to 75% of the contributions made by the qualified financial institution or by the taxpayer in the tax year to the reserve fund of a fiduciary organization pursuant to the Individual or Family Development Account Program Act.

If the credit for the tax year and any unused carryforward of the credit exceed the tax liability of the qualified financial institution or taxpayer for the tax year, the excess may not be refunded, but may be carried forward as an offset to the tax liability in subsequent tax years for 10 years or until the excess credit is used up, whichever comes first.

The credits under the bill and Section 276 of the Income Tax Act may not exceed an annual cumulative maximum amount of \$1.0 million. The determination of the maximum must be made as provided in the Individual or Family Development Account Program Act. (Under Section 276 of the Income Tax Act, a taxpayer who is not an account holder may claim a credit against the income tax equal to 75% of the contributions made in the tax year by the taxpayer to the reserve fund of a fiduciary organization pursuant to the Individual or Family Development Account Program Act.)

Under the bill, "qualified financial institution" means a financial institution as defined in the Individual or Family Development Account Program Act (i.e., a State chartered bank, State chartered savings bank, savings and loan association, credit union, or trust company; or a national banking association

or Federal savings and loan association or credit union).

Senate Bill 1636

Qualified Home Improvements

The Individual or Family Development Account Program Act requires the Program to give eligible individuals and families an opportunity to establish accounts for one or more of the following purposes:

- To pay educational expenses for the individual account holder who will be 17 years of age or older when the funds in the account will be used.
- For the first-time purchase of a primary residence by the individual account holder.
- For start-up capitalization of a business for the individual account holder who is at least 18 years old.

Under the bill, an account also may be established for qualified home improvements. The bill defines "qualified home improvement" as the purchase and installation of any qualified Energy Star product intended for residential or noncommercial use that meets or exceeds the applicable Energy Star energy-efficiency guidelines developed by the U.S. Environmental Protection Agency and the U.S. Department of Energy, including windows, doors, insulation, high-efficiency heating and cooling equipment, and any appliances such as dishwashers, clothes washers, and refrigerators.

Fiduciary Organizations; DELEG Responsibilities

The Act requires MSHDA to establish policies and procedures for the program taking into consideration the policies and procedures adopted by the Department of Human Services to implement the IDA program. Under the bill, MSHDA must establish these policies and procedures in consultation with DELEG. The bill specifies that MSHDA is responsible for approving fiduciary organizations and program sites and for all activities related to the Program, except DELEG is responsible for all activities related to those programs that relate solely to accounts to be used for education or business capitalization.

Under the Act, MSHDA must select program sites to administer the Program and fiduciary organizations to assist program sites. Previously, fiduciary organizations also were responsible for establishing and overseeing reserve accounts (accounts at financial institution that hold participants' savings and money that is used to match those savings). Under the bill, fiduciary organizations are responsible for overseeing program sites' reserve accounts. (Fiduciary organizations and program sites must be charitable organizations exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.)

Under the bill, MSHDA must work cooperatively with financial institutions, fiduciary organizations, program sites, and DELEG to implement the programs under the Act. Previously, MSHDA had to work with contributors, rather than DELEG.

The Act previously required a program site to provide matching funds for contributions to an account by an account holder pursuant to a participant savings plan agreement. Under the bill, a fiduciary organization must provide the matching funds upon request from a program site. Also, only the fiduciary organization may spend funds to provide matching funds or for account holder support services.

The Act requires a fiduciary organization selected to administer an individual or family development account program to file with MSHDA an annual report of the program activity. The bill refers to program activity related to accounts established for the first-time purchase of a primary residence or for qualified home improvements. In addition to other information, the report must include the number of IDAs administered by the organization. The bill refers to the number of IDAs established for the first-time purchase of a primary residence and for qualified home improvements.

Under the bill, a fiduciary organization selected to administer an individual or family development account program must file with DELEG an annual report of the organization's program activity related to accounts established either for educational purposes or for capitalization of a business. The report must be filed by September 30 each year, and include all of the following:

- The number of IDAs established either for educational purposes or for capitalization of a business and administered by the organization.
- The amount of deposits and matching deposits for each account.
- The purpose of each account.
- The number of withdrawals made.
- The number of terminated accounts and the reasons for termination.
- Any other information DELEG requires for the purpose of making a return on investment analysis.

The bill requires MSHDA and DELEG jointly to file an annual report with the Secretary of the Senate and the Clerk of the House of Representatives. The report must include the information reported by fiduciary organizations. Previously, MSHDA had to file this report.

The bill authorizes MSHDA and DLEG, in consultation with one another, to promulgate rules needed to implement their respective responsibilities under the Act. Previously, MSHDA could promulgate rules needed to implement the Act.

Tax Credit

The Act allows an individual who is not an account holder to claim an income tax credit equal to 75% of the contributions made to the reserve fund of a fiduciary organization. Under the bill, a taxpayer that is subject to the Michigan Business Tax also may claim a credit against the MBT equal to 75% of the contributions made to the reserve fund of a fiduciary organization.

Originally, the total of all income tax credits could not exceed \$1.0 million per calendar year. Under the bill, this limit applies to the total of all income tax credits and MBT credits.

A taxpayer who makes a contribution to a reserve fund must apply to MSHDA for certification that the contribution qualifies for an income tax credit or an MBT credit. Previously, this applied only to an income tax credit.

The Act requires MSHDA to approve or deny an application within 45 days after receiving it, and to consider specific criteria in reviewing applications. If an application is not approved or denied within 45 days, or if

it is approved, MSHDA must issue a certification stating that the taxpayer is eligible to claim a credit based on the contribution and the amount of the credit. Under the bill, MSHDA may delegate these responsibilities to fiduciary organizations.

Previously, the administrator of a fiduciary organization that administered one or more reserve funds had to submit to MSHDA the names of contributors and the total amount that each contributed to an individual or family development account reserve fund for each calendar year. The bill deleted this requirement.

MCL 208.1426 (S.B. 1020)
206.702 et al. (S.B. 1636)
125.1422 (H.B. 6549)

BACKGROUND

Under the Individual or Family Development Account Program Act, an individual or family whose household income is 200% of the Federal poverty level or less may apply to a program site to establish an individual or family development account. If the application is approved, the person must establish an account with a financial institution and enter into a participant savings plan agreement with the program site.

The program site must provide matching funds for contributions to the account by the participant. Matching fund distributions must be made at the time the participant withdraws money for qualified expenses. Distributions must be a match of at least \$1 for every \$1 withdrawn by the participant.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Individual development accounts are an innovative way to help low-income earners save toward home ownership, educational advancement, or small business start-up. The provision of funds matching the amounts saved by account holders gives eligible participants incentive to set aside money. The IDA programs operated by the Department of Human Services (DHS) and MSHDA have been highly successful: According to the Michigan IDA Partnership,

as of June 2008, 1,900 IDAs had been funded since 2001; this included 500 new accounts set up in 2007 thanks to the DHS, MSHDA, several banks, and private contributors. The Michigan IDA Partnership also reported that nearly 80% of all participants plan to purchase a home.

Senate Bill 1020 strengthens the MSHDA-operated program by allowing businesses to claim an MBT credit for contributions to reserve funds, which match program participants' savings dollar for dollar. Despite the success of the program, it has faces serious financial challenges, and needs additional funding in order to open more individual development accounts. The MBT credit has the potential to generate much-needed private sector contributions.

In addition, expanding the purpose of IDAs to include the purchase and installation of an Energy Star product is consistent with the goal of promoting home ownership. A joint program of the U.S. Department of Energy and the U.S. Environmental Protection Agency, Energy Star is a voluntary labeling program designed to identify and promote energy-efficient products in more than 50 categories, including refrigerators, clothes washers, insulation, furnaces, windows, doors, and roofing material. By allowing account holders to save toward and receive matching funds for energy-efficient products, Senate Bill 1636 enables participants to reduce their energy costs and enhance the value of their home, while protecting the environment and conserving natural resources.

Supporting Argument

Under House Bill 6549, DELEG is statutorily responsible for aspects of the IDA program that involve activities related to higher education and business capitalization, while MSHDA continues to be responsible for activities related to home purchases. This is consistent with the Authority's mission to create and preserve affordable housing for Michigan residents. At the same time, MSHDA remains the lead agency under the Individual or Family Development Account Program Act, and House Bill 6549 gives MSHDA clear authority to oversee the Program in the statute governing the Authority—something that was not done when provisions for the Program were enacted several years ago.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 1020

The new Michigan Business Tax credit created under this bill, together with the existing income tax credit for contributions to a reserve fund (MCL 206.276), may not reduce Michigan Business Tax and individual income tax revenue by a total of more than \$1.0 million annually beginning in FY 2009-10. The loss in revenue due to this new Michigan Business Tax credit will reduce the General Fund. Local governments will not be directly affected by this bill.

Senate Bill 1636

The bill will have no fiscal impact on the Department of Energy, Labor, and Economic Growth, which includes the Michigan State Housing Development Authority. Staff from the Department indicated that the bill's changes will not affect staffing or costs.

House Bill 6549

The bill will have no fiscal impact on State or local government.

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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.