Citizens Research Council of Michigan

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Housing Trust Funds: Barriers and Opportunities

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This report was prepared at the request of the Northwest Michigan Council of Governments and was funded in part by the Northwest Michigan Council of Governments and the Community Economic Development Association of Michigan.

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Housing Trust Funds: Barriers and Opportunities

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Executive Summary

Housing trusts are legal entities established to receive dedicated public funds to support affordable housing. They may receive public (and solicit private) funds for the production, preservation, or rehabilitation of rental or for-sale housing and for a number of related activities, and they are generally located in an existing local or state agency.

An analysis of state and local government revenues and of possible private sources of funding for housing trusts reveals a host of obstacles: constitutionally mandated rates and dedication of revenues; the need for enabling statutes; and the requirement for authorizing votes in affected locales. It also identifies potential opportunities: credits against existing taxes; use of existing authorities; and statutes that could be amended. Potential sources of revenue include development impact fees, density bonuses, fees and fines on blighted property, rental inspection fees, sale of surplus public property, support from MSHDA, a Metropolitan Council property tax or fee, donations, or arbitrage of funds on loan from socially conscious investors.

Revenues from existing state and local taxes reflect the depressed state of the Michigan economy, but the tax structure is the framework for identifying possible public funding options. The state imposes a personal income tax of 4.35 percent; the rate is scheduled to decline, beginning in 2011, to a rate of 3.9 percent in 2015. State statute specifies the disposition of revenues: 23.3 percent to the State School Aid Fund and the remainder to the state's general fund. A number of credits are allowed, including for contributions to Michigan colleges and universities and various nonprofit organizations. PA 133 of 2007 created a state income tax check off for individual taxpayers making a minimum donation of $5 to the Michigan Housing and Community Development Fund. (In addition to the state income tax, 22 cities impose a municipal income tax.) Implementation of a regional or county income tax to support a housing trust would require statutory authority and a vote of the people in the affected area. Provision of an income tax credit for donations to a regional or county housing trust would require amending the existing act.

The Michigan Business Tax and surcharge is levied on business income and modified gross receipts. The enabling legislation provides for credits for a large number of activities that the state is trying to encourage. PA 36 of 2007 allows businesses to claim a tax credit equal to 50 percent of the total amount donated during the year to the Michigan Housing and Community Development Fund. Provision of a business tax credit for donations to a regional or county housing trust would require amending the existing act.

The state imposes nine other specific business taxes and specifies the disposition of those revenues. The only sub-state business privilege tax in Michigan is the authorization for Detroit to levy a local casino gaming tax.

The maximum rate of the sales tax and the distribution of revenues from the sales and use tax to specific state funds are established in the Michigan Constitution. In 1970, the state Attorney General ruled that local sales taxes are not allowed under the constitution. Excise taxes, which include "sin taxes" on alcoholic beverages and tobacco products, are paid on the sale of a specific product. Excise taxes also include taxes on hotel and motel accommodations and rental cars, and utility taxes. With enabling legislation and an affirmative vote of the people in the affected area, one or more excise taxes could be used to support a county or regional housing trust.

Property taxes are the traditional way of funding local governments in Michigan. Both the property tax rate and growth in the base are limited by the state constitution, but state constitutional limits on total millage do not apply to property taxes imposed by those districts or authorities established under enabling legislation that contains separate property tax limits. Use of a property tax to support a county or regional housing trust would require enabling legislation and a vote of the people. A number of revenues related to the property tax, such a fees and fines on delinquent taxes or revenues from related tax rolls, could be appropriated by local governments to a housing trust.

Real estate transfer taxes are imposed by both the State of Michigan and county governments. Real estate transfer taxes are a popular funding source for housing trusts in other states, and have been the basis for legislative bills that would establish and fund county housing trusts for the homeless in Michigan. Thus far, those legislative efforts have failed. Although the real estate market is currently depressed, it will presumably recover in the future, and real estate transfer taxes remain a potential source of funding for county or regional housing trust funds.

In Michigan, transportation related taxes are earmarked for transportation. This dedication is unlikely to be challenged successfully.

Income Metrics

Housing trusts are one of a number of strategies that seek to meet the housing needs of families and individuals who meet a defined measure of need, which is usually defined in terms of income. Housing programs usually target individuals and families with income below a standard that is measured against the area median family income. Area median family income varies by family size and location: the 2009 median family income for the U. S. is $64,000; for Michigan as a whole it is $63,800 ($67,300 in metro areas, $52,700 in non-metro areas). Family median income is calculated by the federal government for all metropolitan areas and non-metropolitan counties. The 2009 amounts in Michigan vary from $39,300 in Lake County to $89,900 in Livingston County. While conditions vary across the different regions of the state, the number of individuals and families requiring assistance has been increased by the loss of high wage, low skill jobs; the impact of the credit crisis and the recession; the foreclosure crisis; the growing senior population; and other factors.

The generally accepted definition of housing affordability is for a household to pay no more than 30 percent of its annual income on housing. Beginning July 1, 2008, Michigan employers with two or more employees who are at least 16 years of age are required to pay at least the Michigan minimum wage of $7.40 per hour (the federal minimum wage is $7.25 per hour). Although the Michigan minimum wage is higher than the federal minimum wage, and housing prices are lower in Michigan than in many other parts of the U.S., there are no metro or non-metro areas in Michigan where fair market rent for a one bedroom apartment is affordable to a household supported by one full-time worker earning the Michigan minimum wage. And, while the glut of foreclosed houses on the market has driven down the sale price of all housing, the tightening of credit has made homeownership unattainable for most low income families.

Federal Housing Programs

The U.S. Department of Housing and Urban Development (HUD), established in 1965, administers federal programs that direct payments to low income families, communities, or developers of affordable housing. Major federal programs include housing choice vouchers, public housing projects, Section 8 project based rental assistance, Section 515 rural rental program and Section 521 rural rental assistance program, Section 202 and Section 811 supportive housing programs, HOME investment partnerships program, McKinney-Vento homeless assistance program, and low income housing tax credits. Since 2000, most low income housing production has been funded by local communities using Community Development Block Grant and housing (HOME) block grants. The American Recovery and Reinvestment Act of 2009 includes $13.6 billion for projects and programs administered by HUD.

Michigan Housing Programs

State efforts to increase the supply of affordable housing have been linked to the internal improvements clause in the state constitution. The 1963 Michigan Constitution allows public internal improvements that are specifically allowed in statute, and a state Supreme Court advisory opinion issued in 1966 validated the constitutionality of the law that created the Michigan State Housing Development Authority (MSHDA), the state's housing finance authority. MSHDA is funded by state appropriations, sale of tax exempt bonds, federal grant programs, and other sources.

In Michigan, interest in creating a state housing trust was renewed after 2003, and the decision was made to broaden the appeal of a housing trust by including community development focused on downtowns and adjacent neighborhoods. PA 480 of 2004 charges MSHDA with creating the Michigan Housing and Community Development Trust Fund for the purpose of developing and coordinating public and private resources to meet the housing needs of low income households and to revitalize downtowns. A fiscal year 2008 state general fund appropriation of $2.162 million supported Michigan Housing and Community Development Trust Fund awards to 18 nonprofit organizations.

Although fiscal pressures on the state make it highly unlikely that state general fund resources will be made available to the state housing trust in the foreseeable future, there are other affordable housing and supportive housing organizations that operate on a statewide basis. Furthermore, there are other approaches to increasing the supply of affordable housing that have been tested by communities in Michigan.

Other Structures

Community land trusts are private nonprofit corporations created to acquire and hold land for the benefit of the community and provide secure, affordable access to land and housing for community residents. They may acquire land and arrange for the development of housing on that land, or may acquire land and housing together, but the key concept is that they treat the land and building differently: the land is held by the trust, while the housing may be owned by those who live there. There are four land trusts in Michigan (in Grand Rapids, Ann Arbor, Traverse City, and Boyne City).

Land banks are public authorities created to hold and redevelop tax foreclosed property. Because county land banks may acquire, rehabilitate, and dispose of housing units at less than market rate, there is potential for mutually supportive cooperation between land banks and housing trusts. The state, the City of Detroit, and 24 counties have established land banks.

Two Michigan cities have initiated housing trusts. The City of Ann Arbor Housing Trust Fund was created in 1999 and is administered by the city's Community Development Department. It is primarily funded by fees from developers who take advantage of density bonuses offered by the city that allow additional density if a certain amount of affordable units are included or if the developer makes a contribution to the housing trust. This Housing Trust Fund also receives some funding from the Washtenaw County Housing Contingency Fund, and the city's general fund.

The City of Kalamazoo in 2003 committed $250,000 to establish a housing trust fund and invited participation from other units of government. Kalamazoo County matched the city's donation in 2006, committing $500,000 over two years. The $500,000 from the city and county was matched by MSHDA. The Local Housing Assistance Fund is administered by the Kalamazoo County Public Housing Commission.

County or Regional Housing Trusts

Michigan is a state that contains very diverse regions, and the needs for low income housing vary across those regions. Interests that previously advocated for a state housing trust are now interested in sub-state structures that respond to those varying needs. Advocates of housing trusts emphasize the need for a dedicated source of public funding for housing trust programs, which provide a predictable, on-going revenue stream that allows for multi-year planning and commitments. Many public officials, however, oppose dedicating revenues to any single purpose. Dedicated revenues are not available for the general appropriation process that allocates resources to a range of public needs. Eliminating a potential source of general revenues through dedication to a particular purpose reduces the ability of elected officials to meet emerging or higher priority needs. Further, the current fiscal stresses on Michigan state and local governments make it highly unlikely that any of those governments would be willing to forego an existing or potential revenue.

Because the ability of the state government to fund the Michigan Housing and Community Development Trust is limited, and the need for affordable housing exceeds the ability of MSHDA to provide funding, the state should consider empowering county and regional authorities to use local resources and expertise to create and support housing trusts. These sub-state housing trusts could address regional needs, help to build a special sense of place, and foster competitive, diverse, unique communities where people want to work, live, and invest. Facilitating county or regional housing trusts could allow counties and regions to complement and supplement state efforts in ways that are innovative and entrepreneurial, and that reflect the special assets and challenges of those areas.

Housing Trust Funds: Barriers and Opportunities

This report was prepared at the request of the Northwest Michigan Council of Governments and was funded in part by the Northwest Michigan Council of Governments and the Community Economic Development Association of Michigan.

Introduction

The need for safe, decent rental and for-sale housing that is affordable to lower income individuals and families is characterized differently by various stakeholders. Low wage workers generally want to be able to live near the places where jobs are available; their employers often share this perspective. Seniors with reduced incomes want decent housing in safe neighborhoods. Elected officials in communities with poor quality housing want resources to improve that housing. Elected officials and residents in higher income communities, however, often do not want housing that is affordable to low income individuals and families. This long standing challenge has been exacerbated by the national recession that began officially in December, 2007; by high rates of home foreclosures; by reduced availability of credit; by the restructuring of the automobile industry; and by Michigan's highest in the nation unemployment rate.

Michigan is struggling to recreate an economic base that is more creative, innovative, and diverse. Providing assistance to low income, but essential, workers to access affordable housing can strengthen communities and local economies. Increasing access to safe, decent housing for low income families can also improve educational outcomes for the children in those families. Providing structures and financing to assist communities and developers to create affordable worker housing attractive to creative class workers, immigrants, students, and others, could become part of the strategy to attract the new economy work force to Michigan.

A number of government programs attempt to address the gap between what the private market provides and what low income families can afford to pay for housing. Various strategies have been proposed and implemented at the federal, state, and local levels to increase the supply of adequate housing that is affordable for low income people. This paper will review income and housing cost data, survey federal and state housing programs for low income and special needs populations, and focus specifically on the challenging issue of providing funding for regional housing trusts.

Housing Trusts

Housing trusts are legal entities established to receive dedicated public funds to support affordable housing. They may receive public (and solicit private) funds for the production, preservation, or rehabilitation of for-sale housing; the production, preservation, rehabilitation, or operation of rental housing; and a number of related activities. Depending on the needs and preferences of the area being served, housing trust funds may provide loans and/or grants for a one or more of variety of affordable and market rate housing needs:

- Workforce housing
- Preservation of existing affordable housing
- Construction of new affordable housing
- Foreclosure prevention
- Lease-purchase programs
- Down payment assistance
- Homeownership education and counseling
- Employer assisted housing
- Emergency shelters
- Transitional housing
- Permanent supportive housing
- Tenant based rental assistance
- Project based rental assistance
- Repair/rehabilitation of affordable housing
- Land trusts
- Individual development accounts
- Elderly housing
- Matching funds for federal or state programs
- Predevelopment activities

- Emergency rental assistance
- Weatherization
- Homeless services
- Capacity building for nonprofit housing development organizations
- Lead hazard control

Housing programs have been designed to achieve various goals, from providing financing assistance for low-moderate income families; to stabilizing neighborhoods; to providing housing for seniors or veterans; to rapid rehousing of those who become homeless due to foreclosure; to providing housing with supportive services for those with developmental disabilities or drug and alcohol addition, the chronically homeless, etc.; to providing housing for those recently released from jail or prison. Various objectives encompass different challenges. For example, a housing program may be designed to provide financing assistance to middle class families with one or two full-time employed workers with combined incomes below some defined threshold. The factors associated with that program are very different from those encountered when the program is intended to provide housing for the most needy, which may necessitate intensive case management, addressing the perception and/or reality of economic and other impacts on neighborhoods, and other factors.

The housing trust fund movement began about 30 years ago, and is championed by the Center for Community Change, which reports that housing trust funds in 43 states generate more than $1.6 billion annually to support critical housing needs.[1]

[1] Mary E. Brooks, Center for Community Change, Housing Trust Fund Progress Report, 2007.

Some 600 housing trust funds have been established in U.S. cities, counties, and states. They may be located in an existing local or state government agency, may be located in a private, non-profit organization, or may be established as an independent entity.[2] Locating the trust in an existing agency may save administrative costs and ensure coordination with other programs.

Public funds may come from annual appropriations made by one or more governmental units, or from a dedicated source of funds such as real estate transfer taxes, hotel-motel taxes, building inspection fees, or other taxes or fees.

Income and Housing

Poverty Threshold and Poverty Guidelines

Housing programs target families and individuals who meet a defined measure of need. This is usually defined in terms of income.

The Census Bureau calculates the poverty threshold, a statistical yardstick that is used to estimate the number of Americans in poverty each year. The U.S. Census Bureau estimates that in 2007, there were 1,370,287 Michigan residents in poverty (Michigan's 13.6 percent poverty rate was higher than the national average of 12.5 percent); 22 counties had more than 10,000 residents in poverty and seven counties had more than 20 percent of residents in poverty (Wayne and Isabella counties had both). Fourteen counties had less than 10 percent of residents in poverty, with the lowest proportion being Livingston County's 5.5 percent. Grand Traverse County had 7,343 residents (8.8 percent) in poverty. (See **Table 1**.)

[2] Mary E. Brooks, Center for Community Change, Housing Trust Fund Progress Report, 2007.

Table 1
Poverty and Income in Select Michigan Counties, 2007

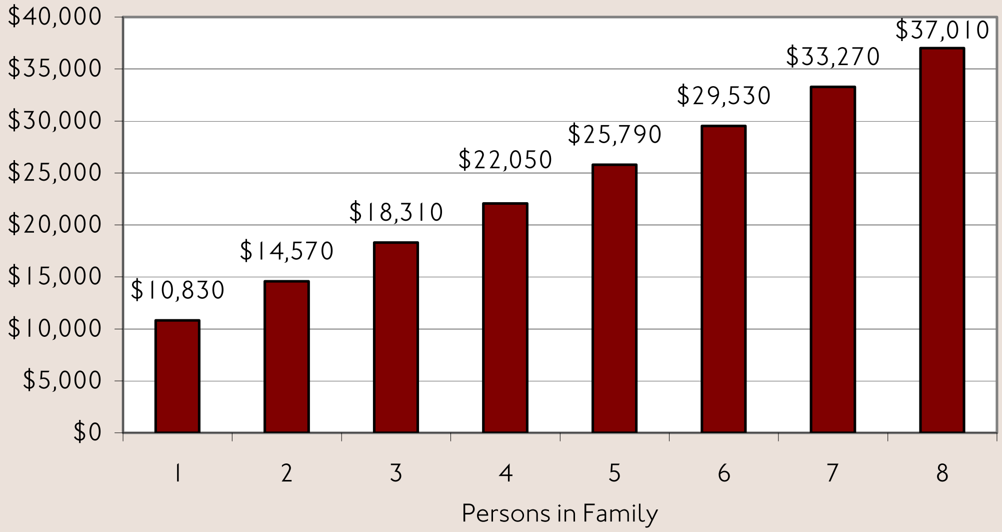
County	Residents in Poverty Number	Residents in Poverty Percent	Median Household Income
Isabella	14,390	23.9%	$39,261
Mecosta	8,480	22.0	37,301
Oscoda	1,916	21.6	31,385
Wayne	407,333	20.8	42,529
Roscommon	5,163	20.5	31,676
Lake	2,183	20.3	31,195
Clare	6,054	20.1	33,639
Ingham	47,616	18.1	45,415
Montcalm	10,670	17.8	40,145
Saginaw	33,514	17.0	42,877
Calhoun	22,257	16.8	41,580
Genesee	72,146	16.8	43,518
Van Buren	12,878	16.8	44,832
Kalamazoo	38,252	16.2	44,324
Muskegon	26,398	15.7	40,110
Berrien	24,054	15.4	42,338
Jackson	21,932	14.4	44,436
Kent	77,496	13.1	49,703
Washtenaw	41,852	12.7	61,152
St Clair	19,952	11.9	48,026
Bay	12,457	11.7	42,688
Allegan	11,883	10.7	51,233
Lenawee	10,285	10.6	50,997
Oakland	102,228	8.6	66,641
Macomb	68,633	8.3	55,265
Monroe	11,850	7.8	54,813
Ottawa	17,829	7.1	55,088

Source: Census Bureau (www.census.gov/cgi-bin/saipe/saipe.cgi)

Poverty guidelines, a simplified version of the poverty threshold, are issued annually by the U.S. Department of Health and Human Services for administrative purposes (See **Chart 1**). The poverty guidelines are the same across the continental United States (guidelines are different for Alaska and Hawaii), and amounts vary according to family size and ages of family members.

A number of federal programs including Head Start, food stamps, the national school lunch program, low income home energy assistance program, and children's health insurance program, use percentage multiples (for example, 125 percent or 185 percent), of the poverty guidelines to determine eligibility.

Chart 1
Poverty Guidelines for the Continental U.S. for 2009



Source: Department of Health and Human Services, The 2009 HHS Poverty Guidelines, aspe.hhs.gov/poverty/09poverty.shtml)

Area Median Family Income

Rather than using the poverty guidelines, housing assistance programs generally target individuals and families with income below a standard that is measured against the area median family income. "Area median family income" means that half of families in the area have income below that level, and half have income above that level. Area median income varies by family size and location. The 2009 median family income for the United States is $64,000; for Michigan as a whole it is $63,800 ($67,300 in metro areas; $52,700 in non-metro areas). Housing program income limits may be low income, very low income, 30 percent of median, or some other standard based on median family income (See **Table 2**).

Table 2
2009 Median Family Income- Michigan

	Number of People in Family						
Program	1	2	3	4	5	6	7
30% of Median	$13,400	$15,300	$17,250	$19,150	$20,650	$22,200	$23,750
Very Low Income	22,350	25,500	28,700	31,900	34,450	37,000	39,550
Low Income	35,750	40,850	45,950	51,050	55,100	59,200	63,300

Source: U.S. Department of Housing and Urban Development (HUD)

Family median income is calculated by the federal government for each metropolitan area and non-metropolitan county. The 2009 area median income amounts in Michigan regions vary widely, from $38,300 in Lake County to $89,900 in Livingston County. Median family income figures by area are shown in **Figure 1**.

Figure 1
Median Family Income by Michigan Areas, 2009

Area	Median Family Income	Area	Median Family Income
Livingston County HMFA	$89,900	Newaygo County HMFA	$51,200
Ann Arbor MSA	85,200	Benzie County	51,000
Holland-Grand Haven MSA	71,100	Baraga County	50,800
Detroit-Warren-Livonia HMFA	71,000	Menominee County	50,500
Monroe MSA	70,300	Sanilac County	50,400
Lansing-East Lansing MSA	67,000	Alger County	50,200
Midland County	65,500	Alpena County	49,900
Leelanau County	64,500	Mason County	49,700
Grand Traverse County	63,300	Montcalm County	49,700
Lenawee County	63,300	Chippewa County	49,500
Grand Rapids-Wyoming HMFA	63,100	Mecosta County	49,500
Kalamazoo-Portage MSA	62,900	Manistee County	49,200
Barry County HMFA	61,700	Wexford County	47,800
Allegan County	61,200	Kalkaska County	47,700
Jackson MSA	59,400	Mackinac County	47,700
Ionia County HMFA	58,700	Oceana County	47,300
Marquette County	58,600	Missaukee County	46,700
Flint MSA	58,500	Arenac County	46,600
Emmet County	58,100	Houghton County	46,100
Shiawassee County	58,100	Cheboygan County	45,900
Charlevoix County	57,000	Osceola County	45,100
Isabella County	56,700	Presque Isle County	44,700
Bay City MSA	56,500	Crawford County	44,200
Niles-Benton Harbor MSA	56,000	Iron County	44,200
Battle Creek MSA	55,700	Schoolcraft County	44,000
Otsego County	55,700	Keweenaw County	43,900
Saginaw-Saginaw Township MSA	55,500	Gladwin County	43,800
Cass County HMFA	55,300	Ontonagon County	43,800
Muskegon-Norton Shores MSA	54,800	Iosco County	43,500
Branch County	54,400	Luce County	43,400
St. Joseph County	54,100	Gobebic County	42,700
Tuscola County	53,900	Alcona County	42,600
Dickinson County	53,600	Clare County	42,500
Hillsdale County	53,500	Ogema County	41,900
Delta County	52,800	Roscommon County	41,800
Antrim County	52,300	Montmorency County	41,500
Gratiot County	52,000	Oscoda County	38,500
Huron County	51,800	Lake County	38,300

Source: Department of Housing and Urban Development

HUD publishes income limits for extremely low income, very low income, and low income families of from one person to eight people for each area. As would be expected, these limits vary considerably, based on area median income (See **Table 3**).

Table 3
Limits for Income Categories, Highest and Lowest Michigan Areas, 2009

	Number of People in Family					
	1	2	3	4	5	6
Livingston County HMFA						
30% of Median	$18,850	$21,550	$24,250	$26,950	$29,100	$31,250
Very low income	31,450	35,950	40,450	44,950	48,550	52,150
Low income	44,800	51,200	57,600	64,000	69,100	74,250
Lake County						
30% of Median	$11,050	$12,650	$14,200	$15,800	$17,050	$18,350
Very low income	18,450	21,100	23,700	26,350	28,450	30,550
Low income	29,500	33,700	37,950	42,150	45,500	48,900

Source: Department of Housing and Urban Development

Homelessness

While conditions vary dramatically across the different regions of the state, the number of individuals and families requiring assistance has been increased by the loss of high wage, low skill jobs; the impact of the credit crisis and the recession; the foreclosure crisis; the growing senior population; the budget driven release of prisoners from state and local facilities; and other factors. One example of increased needs was quantified in MSHDA's *The State of Homelessness in Michigan 2008 Annual Summary*, which noted that there were an estimated 86,189 homeless people in the state in 2008, an increase of 10.1 percent from 2007 (See Table **4**).[3]

Table 4
Homeless Management Information System Estimates, 2008

Adult Singles	32,934
Unaccompanied Youth	912
Adults in Families	15,122
Children in Families	17,576
Total Family Households	11,776
Chronically Homeless	7,630

Source: The State of Homelessness in Michigan 2008 Annual Summary

In Michigan, 50 percent of the homeless are families; 77 percent of the adults in those families are women with young children, and 30 percent of homeless families are working poor. Some 19 percent of homeless adults reported a disability, and of those, 35 percent reported chronic physical illness; 47 percent reported mental illness; 17 percent reported drug or alcohol abuse; 11 percent reported both mental illness and substance abuse; and 11 percent reported physical or mobility issues.

[3] Michigan State Housing Development Authority, The State of Homelessness in Michigan, 2008 Annual Summary.

Minimum Wage and Fair Market Rent

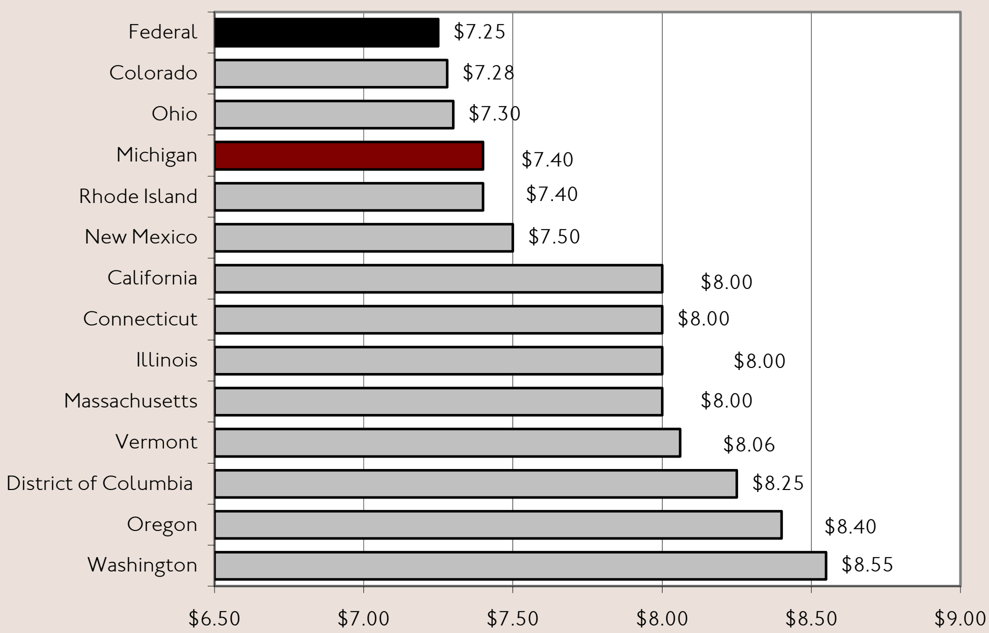
Effective July 24, 2009, the federal minimum hourly wage increased from $6.55 to $7.25. Michigan is one of 12 states that have set state minimum wages at rates higher than the federal minimum. Employers must comply with both state and federal minimums (See **Chart 2**).

Beginning July 1, 2008, Michigan employers with two or more employees who are at least 16 years old are required to pay the Michigan minimum wage of $7.40 per hour. Tipped employees may be paid $2.65 per hour provided they receive and report tips that when combined with their hourly rate equals or exceeds the minimum hourly wage rate. A minimum wage employee working 40 hours a week would gross $296 for the week, approximately $1,273 for a month, and $15,392 for working 40 hours a week for 52 weeks. A full time, Michigan minimum wage would place an individual, with no dependents, in the very low income category (less than $22,350 based on the statewide, but not area, median family income), though not in the poverty category ($10,830 for a single person).

Section 215(a)(1)(A) of Title II of the Cranston-Gonzalez National Affordable Housing Act (t42 U.S.C. 12745) defines affordable rental housing in part as that which bear rents that do not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the area median income. The U.S. Department of Housing and Urban Development website states:

> The generally accepted definition of affordability is for a household to pay no more than 30 percent of its annual income on housing. Families who pay more than 30 percent of their income for housing are considered cost burdened and may have difficulty affording necessities such as food, clothing, transportation and medical care. An estimated 12 million renter and homeowner households now pay more than 50 percent of their annual incomes for housing, and a family with one full-time worker

Chart 2
States with Minimum Wage Rates Higher than the Federal Rate



Source: LaborLawCenter

> earning the minimum wage cannot afford the local fair-market rent for a two-bedroom apartment anywhere in the United States. The lack of affordable housing is a significant hardship for low-income households preventing them from meeting their other basic needs, such as nutrition and healthcare, or saving for their future and that of their families.[4]

According to the 30 percent standard, and ignoring taxes, a household supported by a single worker paid the Michigan minimum wage could afford to pay $384.80 per month for housing.

The U.S. Department of Housing and Urban Development, Office of Policy Development and Research, annually publishes data on fair market rents (FMR) for privately owned, safe, decent, modest, non luxury housing units for metropolitan areas and non-metropolitan counties. HUD calculates FMR from Census and American Community Survey data, updated by telephone rent surveys, and uses FMR to determine the payment standards for some federal housing assistance programs. According to the HUD website,

> FMRs are gross rent estimates. They include the shelter rent plus the cost of all tenant-paid utilities, except telephones, cable or satellite television service, and internet service. HUD sets FMRs to assure that a sufficient supply of rental housing is available to program participants. To accomplish this objective, FMRs must be both high enough to permit a selection of units and neighborhoods and low enough to serve as many low-income families as possible. The level at which FMRs is set is expressed as a percentile point within the rent distribution of standard-quality rental housing units. The current definition used is the 40th percentile rent, the dollar amount below which 40 percent of the standard-quality rental housing units are rented.[5]

According to the generally accepted definition of affordable housing, and ignoring taxes, a single individual earning the Michigan minimum wage could afford to pay up to $384.80 per month for housing. There are no Michigan MSAs, and very few non-metropolitan counties, in which $384.80 is adequate to pay fair market rent for an efficiency apartment. There are no metropolitan or non-metropolitan areas in Michigan where fair market rent for a one bedroom apartment is affordable to someone earning the Michigan minimum wage.

In Michigan metropolitan areas in 2009, fair market rent for an efficiency apartment varied from a low of $432 in Barry County to a high of $721 in Livingston County. Fair market rent for a four bedroom unit varied from $803 in Flint to $1,569 in Livingston County (See **Table 5**).

[4] www.hud.gov/offices/cpd/affordablehousing/.

[5] www.huduser.org/datasets/fmr/fmrover_071710R2.doc#_Toc172438367.

Table 5
Fair Market Rent in Michigan MSAs and HMFAs in 2009 by Unit Bedrooms

	Efficiency	1	2	3	4
Barry County	$432	$545	$666	$960	$1,056
Bay City (Bay County)	445	497	604	806	830
Muskegon-Norton Shores (Muskegon County)	448	467	607	802	826
Ionia County	460	534	651	779	868
Saginaw-Saginaw Township North (Saginaw County)	465	532	672	805	827
Niles-Benton Harbor (Berrien County)	472	529	645	789	1,012
Cass County	473	541	598	792	920
Battle Creek (Calhoun County)	481	552	676	823	848
Flint (Genesee County)	495	523	628	778	803
Jackson (Jackson County)	503	561	670	833	858
Newaygo County	508	537	613	829	853
Kalamazoo-Portage (Kalamazoo, Van Buren counties)	520	555	674	896	935
Grand Rapids-Wyoming (Kent County)	543	581	698	879	905
Lansing-East Lansing (Clinton, Eaton Ingham counties)	558	606	750	950	1,031
Detroit-Warren-Livonia (Lapeer, Macomb, Oakland, St. Clair, Wayne counties)	594	676	809	968	997
Holland-Grand Haven (Ottawa County)	605	615	738	1,021	1,103
Monroe (Monroe County)	643	646	777	1,015	1,117
Ann Arbor (Washtenaw County)	689	773	940	1,183	1,217
Livingston County	721	760	894	1,289	1,569

Source: U.S. Department of Housing and Urban Development, Office of Policy Development and Research, Schedule B – FY Final Fair Market Rents for Existing Housing

In counties classified as non-metropolitan, the fair market rent for an efficiency apartment is $375 or less in three counties (Dickinson, Marquette, and Mason) and more than $600 in three counties (Benzie, Grand Traverse, and Leelanau). In Michigan non-metropolitan counties, the fair market rent for all sized units is highest in Grand Traverse County (See **Table 6**).

Table 6
Fair Market Rent in Michigan Non-metropolitan Counties in 2009 by Unit Bedrooms

	Efficiency	1	2	3	4
Marquette	$374	$485	$577	$726	$789
Dickinson	375	456	577	696	948
Mason	375	441	577	755	830
Alger	381	484	577	711	801
Baraga	381	484	577	711	801
Chippewa	381	475	586	710	796
Mackinac	382	474	587	708	771
Gogebic	398	476	577	706	839
Iron	398	476	577	706	839
Keweenaw	398	476	577	706	839
Luce	398	486	577	757	825
Ontonagon	398	476	577	706	839
Schoolcraft	398	486	577	757	825
Delta	400	477	577	759	805
Wexford	403	533	621	822	905
Cheboygan	404	469	579	778	817
Crawford	404	470	586	773	819
Hillsdale	404	498	593	834	911
Montmorency	404	469	586	772	817
Alcona	407	471	577	777	823
Oscoda	407	471	577	777	823
Presque Isle	407	471	577	777	823
Houghton	410	480	577	750	860
Shiawassee	412	507	631	869	969
Tuscola	415	474	602	722	864
Oceana	418	484	577	698	744
Mecosta	421	501	607	807	1,064
Claire	423	439	577	777	801
Emmet	439	541	674	909	961
Lake	442	483	577	755	909
Missaukee	444	533	629	827	908
Ogemaw	444	466	577	745	825
Montcalm	446	517	591	798	823
Lenawee	450	565	693	884	965
Alpena	456	518	577	797	881
Arenac	459	484	577	772	855
Gladwin	459	484	577	772	855
Manistee	460	476	625	748	839
Midland	469	534	659	908	970
Iosco	471	499	577	839	871
Otsego	472	551	725	869	914
St. Joseph	477	532	627	774	868
Branch	479	511	673	807	830
Huron	479	482	577	765	929
Isabella	479	518	577	830	906
Menominee	479	481	577	761	1,015
Osceola	479	480	577	790	995
Roscommon	479	481	577	750	923
Allegan	481	580	695	871	934
Gratiot	481	482	577	769	859
Sanilac	481	518	577	812	835
Kalkaska	496	539	598	726	749
Antrim	500	501	604	840	1,059
Charlevoix	525	567	629	905	933
Benzie	618	619	750	937	964
Leelanau	618	619	750	937	964
Grand Traverse	632	634	794	1,039	1,072

Source: U.S. Department of Housing and Urban Development, Office of Policy Development and Research, Schedule B – FY Final Fair Market Rents for Existing Housing

In some cases, fair market rent has increased relatively rapidly in recent years. For example, FMR for an efficiency apartment in Grand Traverse County was $632 in 2009, an increase of 65 percent from the 2000 value of $384 (See **Table 7**).

Table 7
Fair Market Rent in Grand Traverse County by Unit Bedrooms

FMR Year	Efficiency	1	2	3	4
2000	$384	$411	$549	$686	$770
2001	388	416	555	694	779
2002	404	433	577	722	810
2003	408	438	584	730	820
2004	408	438	584	730	820
2005	544	545	683	894	922
2006	556	557	698	914	942
2007	572	574	719	941	971
2008	618	619	776	1,016	1,048
2009	632	634	794	1,039	1,072

Source: U.S. Department of Housing and Urban Development, Office of Policy Development and Research, www.huduser.org/datasets/fmr/fmrs/histsummary

Nationally during the past six years, about 3 million affordable apartments were either converted to for-sale condos or upgraded to higher priced rental units. While these conversions may have been hailed locally for their impact on revitalizing some neighborhoods, they also reduced the availability of housing for low income individuals and families.

Most recently, however, developers and owners of unsold condo units have offered those units for rent, though not, as a rule, at rates affordable to low income individuals and families. A recent article in *The Detroit News* reported that nationally, apartment vacancies have risen to the highest level in 22 years. The 7.5 percent vacancy rate in the second quarter of 2009 was attributed to job losses and more units coming into the market, and has resulted in a reduction in effective rents.[6]

It is interesting to note that while fair market rents continued to increase in Grand Traverse County, the average price of homes sold in the period from January 1 through April 30, 2009, declined by 19 percent from the same period a year earlier.

For Sale Housing

Nationally, the glut of foreclosed homes on the market has driven down the sale price of all housing. Housing affordability is at its highest level in at least the 18 years that the National Association of Home Builders has tracked the numbers. The association's Housing Opportunity Index showed that 72.3 percent of all homes sold in the second quarter of 2009 were affordable to families earning the national median income of $64,000, up from 55.1 percent during the second quarter of 2008, and 40.6 percent in the second quarter of 2007 (See **Table 8**).[7]

[6] The Detroit News, July 9, 2009, Apartment Vacancies Highest Since 1987.

[7] National Association of Home Builders at www.nahb.org/news_details.aspx?sectionID=135&newsID=9250.

Table 8
Housing Opportunity Index (HOI)

Second Quarter Year	Housing Opportunity Index	National Median Price ($1,000)
2000	58.4%	$147
2001	63.4	156
2002*	63.7	164
2003*	63.7	176
2004	55.6	204
2005	45.9	241
2006	40.6	250
2007	43.1	240
2008	55.0	215
2009	72.3	177

*Annual number, second quarter not available

Source: National Association of Home Builders

Housing prices in the Midwest are more affordable than those in other parts of the United States. According to the National Association of Realtors Housing Affordability Index, in April 2009, the median price of an existing single family home in the Midwest was $137,600. With a 5.05 percent interest rate, the monthly principal and interest payment on that median priced house would be $594, about half of that in the Northwest (See **Table 9**).

The cost of housing varies across regions within Michigan. The Michigan Association of Realtors publishes information on the number of residential sales and the average price of those homes by 41 local realtor association areas. **Table 10** reflects the average price of

Table 9
Housing Affordability Index, April 2009

	Median Priced Existing Single Family Home	Mortgage Rate	P & I Payment	Monthly Qualifying Income
Northwest	$241,800	4.97%	$1,035	$49,680
Midwest	137,600	5.05	594	28,512
South	149,900	4.88	635	30,480
West	227,200	4.96	971	46,608

Source: National Association of Realtors, Housing Affordability Index

Table 10
Average Price for Residential Sales

	2001	2003	2005	2007	YTD Apr 2009
Detroit	$84,109	$97,847	$73,307	$37,955	$11,533
Bay County	98,447	99,914	106,850	92,627	56,328
Clare-Gladwin	86,842	94,232	108,158	92,312	58,075
Saginaw	98,352	107,124	112,914	94,697	58,886
Hillsdale County	96,131	106,545	99,915	101,622	60,030
Jackson Area	128,516	133,090	142,447	111,920	61,169
Paul Bunyan	96,495	107,884	112,196	107,634	62,129
Down River	138,047	128,585	146,066	120,657	62,506
West Central	91,484	106,288	109,973	102,762	64,403
Shiawassee	105,617	117,323	118,166	98,297	66,333
Flint Area	124,967	125,075	129,867	107,586	66,407
Northeastern Michigan	91,234	96,534	100,189	100,154	67,247
Lapeer & Upper Thumb	112,679	142,762	156,460	131,498	68,125
Central Michigan	95,846	103,780	107,088	100,970	69,494
Dearborn	152,089	157,276	167,961	134,705	70,224
St. Joseph County	97,052	107,580	119,683	120,542	71,624
Branch County	100,452	109,881	122,141	99,223	72,259
Eastern U.P.	82,604	103,746	104,780	193,295	73,350
Water Wonderland	118,666	132,869	138,798	132,712	74,972
Eastern Thumb	141,743	149,458	151,634	138,200	76,293
Battle Creek Area	109,461	117,636	125,543	115,936	76,652
Lenawee County	132,931	137,735	144,564	134,319	76,733
Greater Lansing	135,032	153,357	152,805	141,022	83,797
Alpena, Alcona, Presque Is	99,978	102,978	123,359	111,565	85,167
Upper Peninsula	86,502	87,804	100,691	107,187	86,602
Grand Rapids	135,997	145,912	161,851	146,425	97,212
Macomb	162,522	170,917	173,759	136,868	90,306
Mason-Oceana-Manistee	119,307	130,690	133,510	125,642	90,376
West Michigan Lakeshore	135,239	151,847	164,641	154,869	100,281
Monroe County	155,888	151,733	177,763	162,762	103,789
BBRSOAR/Oakland	**249,487**	252,933	239,417	203,482	105,650
North Oakland County	193,764	210,116	207,575	191,027	106,126
Southwestern Michigan	144,916	165,865	193,414	198,216	113,568
Western Wayne Oakland	214,969	219,825	227,663	203,142	114,404
Midland		143,649	144,317	157,246	117,349
Greater Kalamazoo	133,865	143,301	156,347	152,383	119,129
Antrim, Charlevoix, Kalkaska/ Emmet (combined)	217,120	**268,908**	**270,762**		
Antrim, Charlevoix, Kalkaska				222,275	123,509
Emmet				**296,185**	155,196
Livingston County	245,478	232,786	241,853	206,688	143,833
Ann Arbor Area	237,449	258,926	267,253	247,462	151,783

residential properties sold from the beginning of 2009 through the end of April, 2009.

While Oakland and Emmet counties previously reported the highest average sale prices, after the collapse of housing values reflected in the April, 2009 numbers, the highest average sale price was for the 129 residential properties reported sold in the January through April period by the Traverse Area Association of Realtors.

Reasons for the dramatic decline in housing prices include the increasing number of bank foreclosures resulting from the resetting of various mortgage product rates and the inability to refinance those mortgages, the decisions of homeowners to abandon homes that are worth less than the outstanding mortgage, and the loss of employment.

According to RealtyTrac, a private firm that provides information on foreclosed property to prospective purchasers, there were 22,369 foreclosures in Michigan in 2005; 56,228 in 2006; and 103,829 in 2007. In 2008, 106,058 properties in Michigan had foreclosure filings.

The Department of Housing and Urban Development has collected data and developed a methodology to estimate foreclosure rates for states and counties for all of 2007 and the first six months of 2008. HUD estimates that in Michigan there were 163,106 foreclosure starts in those 18 months, that 38,965 home loans were 60 to 90 days delinquent, and that 58,793 home loans were in default. The foreclosure crisis has affected counties in very different ways (See **Table 11**).

Of Michigan's 83 counties, seven, including Grand Traverse County, had estimated foreclosure start rates of less than 4.5 percent. The estimated foreclosure start rate in Wayne County was 11.2 percent; the next highest estimated foreclosure start rate was 8.9 percent in Lake County.

The measure of price decline in home values uses data from the Office of Federal Housing Enterprise Oversight Housing Price Index to calculate price decline from the peak value in the second quarter of any year between 2000 and 2008 and the second quarter home price in 2008. No county in the state registered an increase in home values, although Berrien and Cass counties were estimated to have had no change. The change was reported to be between -0.1 and -1.0 percent in 57 counties. Home values were estimated to have declined by 16.3 percent in Wayne County, and by more than 10.0 percent in eight counties (including Wayne).

Table 11
Michigan Counties with Over 500 Estimated Foreclosure Starts in the 18 Months Ending June 2008

County	Number of Mortgages	Number of Foreclosure Starts	Foreclosure Rate	Price Decline
Ottawa	59,501	2,226	3.7%	-1.3%
Clinton	19,662	817	4.2	-4.1
Grand Traverse	17,155	730	4.3	-0.4
Allegan	23,867	1,119	4.7	-0.4
Washtenaw	85,070	4,250	5.0	-13.5
Barry	14,840	755	5.1	-2.9
Cass	9,921	507	5.1	0.0
Kalamazoo	49,690	2,518	5.1	-3.0
Eaton	27,754	1,496	5.4	-4.1
Kent	141,712	7,957	5.6	-2.9
Livingston	63,050	3,515	5.6	-13.3
Bay	20,381	1,161	5.7	-5.4
Berrien	31,348	1,778	5.7	0.0
Lenawee	23,189	1,397	6.0	-0.4
Van Buren	14,199	857	6.0	-3.0
Oakland	382,030	24,109	6.3	-13.3
Ionia	13,398	875	6.5	-2.9
Monroe	36,685	2,398	6.5	-11.9
Newaygo	8,564	556	6.5	-2.9
Saginaw	36,461	2,461	6.7	-3.5
Shiawassee	15,048	1,003	6.7	-0.4
Calhoun	28,746	1,975	6.9	-1.6
Ingham	63,999	4,409	6.9	-4.1
Tuscola	9,326	647	6.9	-0.4
Hillsdale	8,799	620	7.0	-0.4
St Joseph	9,222	657	7.1	-0.4
Muskegon	36,219	2,646	7.3	-2.3
Macomb	239,320	18,681	7.8	-13.3
Jackson	37,355	2,940	7.9	-5.8
Lapeer	23,574	1,851	7.9	-13.3
Genesee	101,902	8,727	8.6	-9.8
Montcalm	11,476	920	8.0	-0.4
St Clair	41,434	3,386	8.2	-13.3
Wayne	438,261	48,944	11.2	-16.3

Source: Department of Housing and Urban Development (www.huduser.org/datasets/nsp.html)

High Cost Mortgages

The foreclosure crisis that has decimated some neighborhoods and has affected most housing values, is linked to practices associated with subprime mortgages. Of the 2,305,616 mortgages in Michigan, HUD estimates that 305,209 (13.2 percent) were subprime loans.

HUD has published estimates by county of the total number of conventional loans made between 2004 and 2006 and the proportion of those loans that are high cost, which is defined as those in which the rate spread is three percentage points above the Treasury security of comparable maturity. The percentage of high cost loans made between 2004 and 2006 varied from 15.2 percent in Washtenaw County to 39.4 percent in Wayne County and 40.0 percent in Lake County. Counties with the lowest and highest proportions of high cost mortgages made between 2004 and 2006 are shown in **Table 12**.

Vacant Housing Units

Foreclosures generally result in homes becoming vacant, which may cause a host of problems for the community. There were an estimated 105,427 vacant addresses in census tracts with 40 percent or more high cost loans in June, 2008. HUD collected information from the U.S. Postal Service on residential addresses that were vacant 90 days or longer from June 2008 (See **Table 13**).

Table 12
Michigan Counties with the Lowest and Highest Proportions of High Cost Mortgages Made in 2004-2006

County	Conventional Mortgages	High Cost Mortgages Number	High Cost Mortgages Percent
Washtenaw	41,778	6,345	15.2%
Midland	7,607	1,161	15.3
Leelanau	2,011	312	15.5
Livingston	30,964	4,795	15.5
Ottawa	29,221	4,622	15.8
Houghton	1,280	212	16.6
Oakland	187,615	34,177	18.2
Clinton	9,656	1,808	18.7
Keweenaw	88	17	19.3
Schoolcraft	339	70	20.6
Isabella	3,323	682	20.5
Grand Traverse	8,425	1,770	21.0
Mackinac	452	151	33.4
Cheboygan	1,422	476	33.5
St Joseph	4,529	1,535	33.9
Chippewa	1,256	427	34.0
Gratiot	2,510	856	34.1
Ogemaw	1,238	424	34.2
Kalkaska	1,285	441	34.3
Montcalm	5,636	1,965	34.9
Oscoda	544	202	37.1
Luce	238	89	37.4
Wayne	215,230	84,858	39.4
Lake	605	242	40.0

Source: Department of Housing and Urban Development

Table 13
Michigan Counties with Over 500 Estimated Foreclosure Starts in the 18 Months Ending June 2008

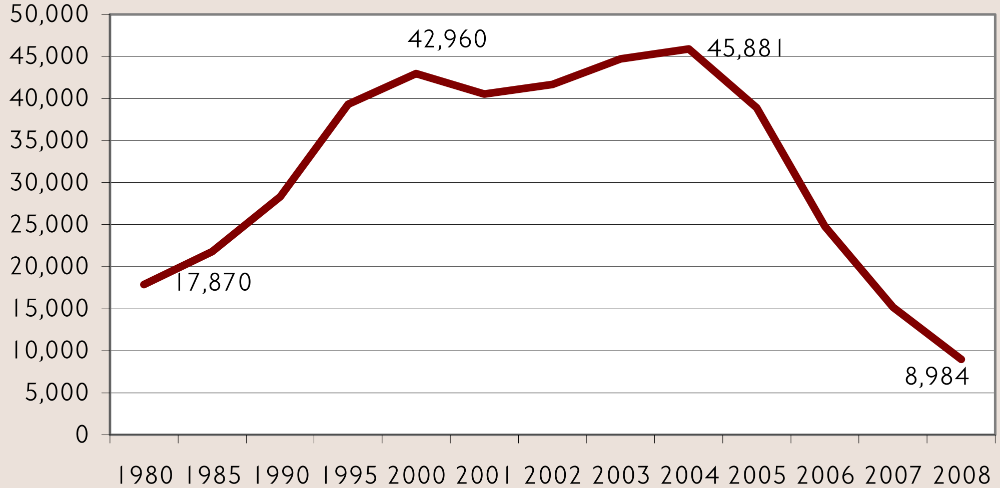
County	Homes Vacant for 90 Days	90 Day Vacancy Rate
Newaygo	82	0.4
Barry	143	0.6
Allegan	397	0.9
Cass	265	1.2
Clinton	350	1.2
Grand Traverse	471	1.3
Van Buren	409	1.3
Livingston	926	1.4
Tuscola	328	1.5
Ottawa	1,552	1.6
Montcalm	429	1.8
St Joseph	513	2.1
Eaton	1,095	2.5
Kent	6,769	2.8
Bay	1,426	3.0
Macomb	10,589	3.0
Oakland	16,423	3.1
Washtenaw	4,717	3.3
Lapeer	1,174	3.4
Kalamazoo	3,711	3.5
Shiawassee	978	3.5
Berrien	2,526	3.6
Ionia	857	3.7
Ingham	4,613	3.8
Monroe	2,484	4.0
Muskegon	2,941	4.1
St Clair	3,528	5.0
Calhoun	3,151	5.3
Hillsdale	1,186	6.2
Jackson	4,446	6.7
Lenawee	2,750	6.7
Saginaw	5,917	6.9
Genesee	15,445	8.0
Wayne	81,905	10.0

Source: Department of Housing and Urban Development (www.huduser.org/datasets/nsp.html)

New Home Construction

The decline in housing values attributable to foreclosures and the tightening of credit have contributed to a precipitous decline in the construction of new housing units. Construction of single family homes peaked at 45,881 in 2004 and fell to 8,984 in 2008 (See **Chart 3**).

Chart 3
New Construction, Single Family Homes in Michigan



Source: Census Bureau

The decline in construction of multi-unit buildings, which includes both condominiums and rental units, has been particularly steep (See **Table 14**).

The collapse of the housing market is revealed in the U.S. Commerce Department's most recent survey of sales of privately financed, nonsubsidized, unfurnished units, which showed no activity at all in the Detroit-Warren-Livonia statistical area (the only Michigan area reported).

Migration

The demand for rental and for sale housing reflects both the economy and population pressures. According the U.S. Census Bureau, the population of Michigan peaked at 10,093,266 in 2005, and declined to 10,003,422 by mid 2008. From July 2007 to July 2008, only two states, Michigan and Rhode Island, lost population, and Michigan's estimated loss of 46,368 was 0.5 percent of its population. However, in July 2008, Michigan still had 64,930 more residents than it had in July 2000.

United Van Lines tracks where its customers moved from and where they moved to, and publishes this information twice a year. Since 2006, the largest proportion of outbound moves has come from Michigan, and in the first half of 2009, a record 70 percent of Michigan moves were outbound.

In our system of representative democracy, loss of population translates directly into loss of political power. Improved access to worker housing may assist the state in efforts to retain and attract residents.

Table 14
New Construction, Housing Units and Buildings in Michigan
Multi-Unit Buildings

	2 Unit Buildings		3-4 Unit Buildings		5 or More Units		Total Multi Unit	
Year	Number of Buildings	Number of Units	Number of Buildings	Number of Units	Number of Buildings	Number of Units	Number of Buildings	Number of Units
1980	390	780	255	999	508	9,327	1,153	11,106
1985	211	422	428	1,655	1,047	13,723	1,686	15,800
1990	320	640	242	924	581	9,008	1,143	10,573
1995	399	798	213	800	409	6,339	1,021	7,937
2000	351	702	255	957	584	7,870	1,190	9,529
2001	317	634	210	792	665	8,196	1,192	9,622
2002	420	840	228	825	535	6,647	1,183	8,312
2003	350	700	267	965	613	7,522	1,230	9,187
2004	351	702	257	917	584	7,221	1,192	8,840
2005	232	464	144	525	441	5,464	817	6,453
2006	185	370	109	396	249	3,643	543	4,409
2007	130	260	45	160	174	2,152	349	2,572
2008	71	142	64	233	126	1,552	261	1,927

Source: Census Bureau

Federal Housing Programs

A number of federal, state, and local programs have been designed to address the problem of housing for poor and special needs populations. A very brief summary of these programs provides a context for housing trusts.

Department of Housing and Urban Development

The federal agency with primary responsibility for housing is the Department of Housing and Urban Development, established in 1965 to include the Federal Housing Administration, urban renewal, and public housing programs. The Housing and Community Development Act of 1974 consolidated urban renewal and Model Cities into the Community Development Block Grant (CDBG) Program and initiated the Section 8 program of housing allowance. This allowed private developers to expand the supply of privately owned multi-family rental housing. After 1980, HUD began to phase out public housing projects; the HOPE VI program provided federal funds for demolition. By 2000, most low income housing production was subsidized by local communities using CDBG and housing (HOME) block grants.

Federal programs to promote and support low income housing can be classified as on-going (pre-stimulus), or as stimulus, i.e. part of the extraordinary response to the recession that began in December, 2007. The recession is rooted in a housing crisis that is characterized by an increased number of foreclosures, reduced value of real estate, and tightened credit standards.

Federal housing program payments may be directed to low income families, to communities, or to developers of housing. Federal rental assistance programs are funded at a level that can assist 4.9 million low income families, about one-fourth of eligible households (See **Table 15**).

Following are very brief descriptions of major federal programs:

<u>Housing choice vouchers (formerly Section 8)</u>
Housing choice vouchers provide about 2 million very low income families with vouchers to help pay for privately owned rental housing that those families find in the private market. Housing choice vouchers were funded at $15.7 billion in 2008. A 2002 U.S. General Accountability Office report found that housing vouchers are more cost effective than federal programs that build affordable housing for low income households in areas where there is an adequate supply of rental housing for which housing vouchers may be used.

<u>Public housing projects</u>
Public housing was established to provide decent and safe housing for eligible low income families, the elderly, and persons with disabilities. Public housing comes in a variety of forms, from scattered single family housing to high rise apartments for the elderly. HUD

Table 15
Federal Rental Assistance Programs

Program	Number of Units	Families with Children	Elderly	People with Disabilities	Other Households
Housing Choice Vouchers	2,015,000	54%	17%	19%	9%
Public Housing	1,161,000	41	29	16	14
Section 8	1,275,000	33	49	17	1
Other Programs	443,000	N/A	N/A	N/A	N/A
Total	4,893,000				

Source: Douglas Rice and Barbara Sard, Center on Budget and Policy Priorities, Decade of Neglect Has Weakened Federal Low-Income Housing Programs, February 24, 2009 administers federal aid to local housing authorities that manage the housing, and provides technical and professional assistance in planning, developing, and managing public housing. Although 165,000 units of public housing have been lost since 1995, the remaining units in 14,000 public housing projects in more than 3,500 communities provide housing for 1.2 million families. The program was funded at $8.7 billion in 2008.

Section 8 project based rental assistance

In this program, HUD contracts with for-profit owners of private multi-family housing, to make specific housing units available to qualified low-income households. The subsidy paid by HUD typically pays the difference between 30 percent of the household's income and the contract rent. Some 360,000 units of Section 8 housing have been lost since 1995, mostly as owners have left the program because the Section 8 contract rents were below the prevailing market rents for comparable units. About 1.3 million low income families receive Section 8 project based rental assistance. The program was funded at $7.5 billion in 2008.

Section 515 Rural Rental Program and Section 521 Rural Rental Assistance Program

These programs are administered by the Department of Agriculture and provided $45 million in Section 515 loans and $1.3 billion in Section 521 rental assistance in 2008.

Section 202 and Section 811 Supportive Housing Programs

These programs provide grants and rental assistance to nonprofit developers of affordable housing for the elderly and disabled, and were funded at $1.3 billion in 2008.

HOME Investment Partnerships Program

The HOME Investment Partnerships Program provides to states and localities block grants that may be used for acquisition, rehabilitation, and new construction of rental and homeownership units and rental assistance. The program was funded at $2.0 billion in 2008.

McKinney-Vento Homeless Assistance Program

This program, funded at $1.4 billion, provides transitional and permanent housing and emergency shelter programs.

Low income housing tax credits

Low income housing tax credits (LIHTC, also known as Section 42 credits in reference to the applicable section of the Internal Revenue Code) to developers were created under the Tax Reform Act of 1986. These credits are allocated by the federal Internal Revenue Service to state housing agencies based on state population. Tax credits may be used for new construction, rehabilitation, or acquisition and rehabilitation, and are determined by the development cost. At least 20 percent of the units in the project must be rent restricted and rented to individuals at or below 50 percent of area median income or at least 40 percent of the units must be rent restricted and rented to individuals at or below 60 percent of area median income. Properties were originally required to stay eligible for 15 years; they are now required to stay eligible for 30 years.

For profit or nonprofit developers apply to the state agency that administers the LIHTC program, which screens the project and determines the "qualified basis" of the project according to federal requirements. The qualified basis is multiplied by the federal tax credit rate to determine the maximum allowable tax credit allocation. The project must have at least eight tax credit assisted units to qualify.

From 1987 through 2007, the federal government allocated $8.3 billion of low income housing tax credits which resulted in production of 1.6 million units of housing. In 2007, $790.3 million was allocated and produced 74,663 units of housing. Nationally, an average

Table 16
Low Income Housing Tax Credits in Michigan
Average Allocation Per Unit

2003	$8,636
2004	10,320
2005	8,729
2006	7,972
2007	8,055

of $10,586 in tax credits was allocated for each unit produced in 2007, though in Michigan the average allocation per unit was $8,055 (See **Table 16**).

Generally, the developer syndicates the tax credits and uses the cash paid for the credits to fund the project. The developer becomes the general partner in the investment partnership and solicits investors (generally corporations and often banks) to invest cash in the project in return for assignment of the tax credits, which reduce federal income tax obligations over a ten-year period. This process worked well until last year. When the economic environment shifted radically and losses increased at the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), which together had previously purchased about 30 percent of all low income housing tax credits, and at banks and other corporations, they stopped buying tax credits. Many LIHTC projects were unable to continue. LIHTC were worth an estimated $5.4 billion in tax expenditures in 2008.

Two temporary remedies included in the $787 billion stimulus package will give states $2.25 billion to distribute to developers to fill the gap left by falling tax credit prices and will allow states to exchange unused tax credits for cash from the federal government. The state has published a preliminary implementation plan for the tax credit exchange program.

American Recovery and Reinvestment Act of 2009 (ARRA)

ARRA includes $13.6 billion for projects and programs administered by HUD. Nearly 75 percent of that amount was allocated to states and localities on February 25, 2009, and the remaining funds will be awarded on a competitive basis. According to the HUD website (HUD.GOV/Recovery), these stimulus programs include the following:

- **Public Housing Capital Fund**: $4 billion for energy efficiency modernization and renovation of public housing.
- **Native American Housing Block Grants**: $510 million for energy efficient modernization and renovation of housing maintained by Native American housing programs, development of new housing, and housing-related services .
- **Assisted Housing Energy Retrofit**: $250 million invested in energy efficiency modernization and renovation of housing for low-income, elderly, and disabled persons.
- **Lead Hazard Reduction**: $100 million invested in lead based paint reduction and abatement activities.
- **Tax Credit Assistance Program**: $2.25 billion invested in a special allocation of HOME funds to accelerate the production and preservation of tens of thousands of units of affordable housing.
- **Project-Based Rental Assistance**: $2 billion invested in full 12-month funding for Section 8 project based housing contracts. This funding will enable owners to undertake much needed project improvements to maintain the quality of affordable housing.
- **Neighborhood Stabilization Program (NSP2)**: $2 billion invested in mitigating the impact of foreclosures through the purchase and rehabilitation of foreclosed, vacant properties in order to create more affordable housing and renew neighborhoods devastated by the economic crisis.
- **Homelessness Prevention:** $1.5 billion invested in preventing homelessness and enabling the rapid re-housing of homeless families and individuals, helping them reenter the labor market more quickly and preventing further destabilization of neighborhoods. Funds are distributed based on the formula used for the Emergency Shelter Grants program.
- **Community Development Block Grants**: $1 billion for approximately 1,200 state and local governments to invest in their own community development priorities. Most local governments use this investment to rehabilitate affordable housing and improve public facilities, thereby stabilizing communities and creating jobs locally.

In 2009, Michigan was awarded on a formula basis $263.5 million in federal Recovery Act neighborhood stabilization funds (only Florida and California received more). The State of Michigan received $98.7 million from the Neighborhood Stabilization Program 1 (NSP1) to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight. The remainder was granted directly to communities that had high foreclosure rates for acquisition, rehabilitation, demolition, and redevelopment. A second round (NSP2) is to be awarded on a competitive basis; the deadline for applications was July 17, 2009.

MSHDA has announced that it plans to receive $300 million from ARRA, allowing it to create 12,000 jobs and renovate 16,000 housing units across Michigan.[8] This includes $22.1 million from the Homeless Prevention and Rapid Re-Housing Program, also part of ARRA, for individuals who are homeless or at risk of becoming homeless.

Other ARRA program specific resources include:

- **Education for Homeless Children and Youth**, $70 million, in the Department of Education, through states to local school districts, to ensure that homeless children and youth are able to enroll in, attend, and succeed in school.
- **Emergency Food and Shelter Program**, $100 million, in the Federal Emergency Management Agency, to local communities for one-time monetary grants to families whose short term crisis places them at risk of becoming homeless.
- **Transitional Housing Assistance Grants**, $50 million, in the Office of Violence Against Women, to help victims who are in need of transitional housing, short-term housing assistance, and related support services.
- **Community Services Block Grant**, $1 billion, in the Administration for Children and Families, to alleviate the causes and conditions of poverty by providing a range of programs and activities to assist low income individuals.
- **Temporary Assistance for Needy Families (TANF) Emergency Contingency Fund,** $5 billion, in the Administration for Children and Families. States will be eligible to receive up to 50 percent of their annual TANF allocation in 2009 and 2010 for increased expenditures caused by more families requiring services due to the recession.

[8] Gongwer News Service, June 2, 2009, M.S.H.D.A. Readies Plan for First Stimulus Spending.

In addition, the Homebuyer Tax Credit, a Recovery Act program in the Federal Housing Administration, allows first-time homebuyers to apply an $8,000 tax credit toward the purchase of an FHA-insured home. This tax credit can be monetized and used for a down payment in excess of the FHA-required 3.5 percent down payment, or for other closing costs.

National Affordable Housing Trust Fund

On July 30, 2008, then-President George W. Bush signed the American Housing Rescue and Foreclosure Prevention Act of 2008 which, among other provisions, directed the Secretary of HUD to establish a National Housing Trust Fund. This fund was originally envisioned as a project that would encourage developers to build 1.5 million affordable housing units in mixed income developments.

Dedicated funding for this permanent national housing trust fund was to come from annual contributions from Fannie Mae and Freddie Mac. The amount dedicated was to be based on 4.2 basis points for each dollar of the unpaid principal balance of total new business purchases, of which 25 percent would be directed to a reserve fund in Treasury and 75 percent would be divided with 65 percent going to the National Housing Trust Fund and 35 percent going to a new Capital Magnet Fund. In the first year, however, all dedicated funds would be used to cover losses incurred by the Federal Housing Administration in refinancing troubled mortgages through the HOPE for Homeowners program. In the second year, half the funds were to be so diverted; in the third year one-fourth of fund were to be diverted. Thus, the National Housing Trust Fund was scheduled to receive partial funding beginning in 2010 and full funding in 2012. However, both Fannie Mae and Freddie Mac were near insolvency and placed in federal conservatorship five weeks after the bill creating the national housing trust was signed. The bill provides that Congress may appropriate other funds to the national Housing Trust Fund, but that has not happened.

The Housing Trust Fund was supposed to provide grants to states for the production, rehabilitation, preservation, and operation of rental housing that is affordable for low income families. Funding would be administered by HUD and would go to states based on a formula to be developed by HUD based on five factors contained in the law. No state would receive less than $3 million. At least 90 percent of the funds had to be used for rental housing for very low income people, and up to 10 percent could be used for homeownership activities for very low income people. At least 75 percent of funds had to be used for rental housing for extremely low income households (at or below 30 percent of area median income) or households below the poverty line. Governors were to designate an agency to administer the state program; that agency was to develop a state allocation plan based on factors contained in the federal law. States were to spend the allotted funds within two years or the funds were to be returned to HUD.

The Capital Magnet Fund, scheduled to receive 35 percent of 75 percent of the dedicated revenues, and any other amounts that were appropriated, transferred, or credited to the fund by law, was to be an account in the Community Development Financial Institutions Fund at the Department of Treasury. Funds in this account would have been available for competitive grants to certified Community Development Financial Institutions and non-profits that develop and manage affordable housing. The Capital Magnet Fund could have been used to capitalize a revolving loan fund or an affordable housing fund, or for risk sharing loans. Eligible recipients would apply for a grant to help develop, preserve, purchase, and rehabilitate affordable housing for mostly extremely low, very low, and low income families. Grants could also have been used for economic development or community service facilities in conjunction with affordable housing to help stabilize a low-income or rural area. Criteria would have included the following:

- The percentage of low income families or the extent of poverty
- The rate of unemployment or underemployment
- The extent of blight and disinvestment
- Projects targeting extremely low, very low, and low income families in or outside an area of economic distress
- Any other criteria chosen by the Treasury Secretary

It appears very unlikely that any funding will be provided from Fannie Mae or Freddie Mac for the National Housing Trust Fund or the Capital Magnet Fund, but President Obama's recent budget includes $1 billion for the National Housing Trust Fund and $1.6 billion for 200,000 new housing vouchers. In June, 2009, HR 3766, the Main Street TARP Act of 2009, was introduced in the U.S. House. This bill would provide $1 billion of unspent funds from the Troubled Asset Relief Program (TARP) to the National Housing Trust Fund. In September, 2009, S 1731, the Preserving Homes and Communities Act, was introduced in the U.S. Senate. This bill would provide $1 billion from the sale of warrants acquired by the federal government under the TARP program to the National Housing Trust Fund.

The $300 billion HOPE for Homeowners program, established in 2008 and set to expire in 2011, was intended to encourage lenders to write down an individual's high interest rate mortgage for a 30-year fixed loan backed by the Federal Housing Administration, if the homeowner agreed to pay an insurance premium. Originally estimated to help 400,000 homeowners, as of May 2009, only one homeowner had completed the process and 51 applications were pending. President Obama signed a law modifying the program on May 20, 2009. The Helping Families Save Their Homes Act included additional compensation for lien holders, incentive payments for loan servicers and new loan originators, and reduced costs for consumers.

(The National Housing Trust is a national non-profit organization whose name creates confusion with the national fund established by the American Housing Rescue and Foreclosure Prevention Act of 2008. The National Housing Trust is engaged in housing preservation through real estate development, lending, and public policy advocacy, which preserves and revitalizes affordable apartments with the goal of improving the quality of life for families and the elderly.)

Michigan State Constitutional Issues

In Michigan, a number of state constitutional provisions relate to the structure and funding of state and local government programs that seek to address the need for affordable housing. Chief among these is Article III, Section 6, of the 1963 Constitution, the internal improvements clause.

The Internal Improvements Clause

Michigan is one of many states with constitutions that include an internal improvements clause, which limits the state's ability to engage in capital projects. In the 19th Century, many states had provided state funds for the construction of privately owned infrastructure, or had incurred considerable debt in constructing toll roads, canals, and railroads, and had been accused of corrupt practices or had problems repaying the debt. Judicial interpretations of states' internal improvements clauses are based on "essential" government purposes, "predominantly" governmental purposes, or other defining terms.

The 1963 Michigan Constitution is the fourth constitution this state has had. The 1835, 1850, 1908, and 1963 Constitutions all addressed the issue of internal improvements, but in very different ways. This history is explained in *A Comparative Analysis of the Michigan Constitution*, a Citizens Research Council analysis of state constitutional provisions written in 1961, to assist the constitutional convention that developed the 1963 Constitution.

"The constitutional history of Michigan in the matter of internal improvements is the story of extreme changes in position. The 1835 constitution contained the following provision:

> Internal improvement shall be encouraged by the government of this state; and it shall be the duty of the legislature, as soon as may be, to make provision by law for ascertaining the proper objects of improvement in relation to roads, canals and navigable waters; and it shall also be their duty to provide by law for an equal, systematic, economical application of the funds which may be appropriated to these objects. (1835 Constitution, Article XII, Section 3)

As originally adopted, the 1850 constitution provided:

> The state shall not be a party to, or interested in any work of internal improvement, nor engaged in carrying on any such work, except in the expenditure of grants to the state of lands or other property. (1850 Constitution, Article XIV, Section 9)

After two amendments adopted in 1893 and 1905, this provision of the 1850 constitution read as follows:

> The state shall not be a party to, nor interested in, any work or internal improvement, nor engaged in carrying on any such work, except in the improvement of or aiding in the improvement of the public wagon roads and in the expenditure of grants to the state of land or other property: PROVIDED, HOWEVER, That the legislature of the state, by appropriate legislation, may authorize the city of Grand Rapids to issue its bonds for the improvement of Grand River. (1850 Constitution, Article XIV, Section 9)

The constitution of 1908 contained a revised statement of the section on internal improvements which provoked surprisingly little debate in the convention and was adopted as follows:

> The state shall not be a party to, nor be interested in any work of internal improvement, nor engage in carrying on any such work, except in the improvement of, or aiding in the improvement of the public wagon roads, in the reforestation and protection of lands owned by the state and in the expenditure of grants to the state of land or other property. (1908 Constitution, Article X, Section 14)

The original version of Section 14 was amended in 1945 and 1946 as follows:

> The state shall not be a party to, nor be interested in, any work of internal improvement, nor engage in carrying on any such work, except:
>
> 1. In the development, improvement and control of or aiding in the development, improvement and control of public roads, harbors of refuge, waterways, airways, airports, landing fields and aeronautical facilities;
> 2. In the development, improvement and control of or aiding in the development, improvement and control of rivers, streams, lakes and water levels, for purposes of drainage, public health, control of flood waters and soil erosion;
> 3. In reforestation, protection and improvement of lands in the state of Michigan;
> 4. In the expenditure of grants to the state of land or other property. (Constitution of 1908, Article X: Section 14.)

The major amendments were in broadening the exceptions to the prohibition against internal improvements.

Judicial Interpretation (reminder: this analysis was written in 1961)

This provision has been the subject of extensive litigation relating essentially to two basic questions: (1) authority of local governments to engage in public improvements or to be delegated such authority by the state and (2) definition of internal improvements which are permitted and those which are prohibited. Michigan courts have established that the state has no authority to delegate powers it does not have for its own purposes and that local governments, as instrumentalities of the state, can engage in no improvements forbidden to the state. The courts have tended to decide each question concerning definition of public improvements in terms of particular circumstances as presented in each case. It has been determined that a self-liquidating project is not a work of internal improvement within the constitutional prohibition of Section 14. In general, such public facilities as parks, waterworks, sewers and lighting have been found not in violation of the constitutional prohibition. (Note: A self liquidating project is one that produces a return equal to the amount needed to create it; in the strictest sense, self liquidating could refer to projects financed by revenue bonds secured by the earnings of the project.)

Comment

Section 14 is another provision of the Michigan constitution which has its roots in the state's unfortunate experience with excessive involvement in internal improvements during its first years of existence. Its principal function is to keep the state and its subdivisions out of business and to protect the public purse against burdens of ill-advised ventures. In most instances the restriction has been applied in a manner to permit public facilities commonly associated with governmental services and wholly owned by government. Other states have managed with more or less success to accomplish the same purpose without such a prohibition by relying upon such other constitutional restrictions as those relating to stock ownership, appropriations for private purposes, debt and credit restrictions, etc."

Article III, Section 6 of the 1963 Michigan Constitution states:

> The state shall not be a party to, nor be financially interested in, any work of internal improvements, nor engage in carrying on any such work, except for public internal improvements provided by law.

Thus, the current Michigan Constitution allows public internal improvements that are specifically authorized in state statute.

The traditional way that states have circumvented internal improvements clauses has been to create dummy corporations or independent public bodies to administer funds for private projects.

State Credit

Article IX, Section 18 of the current Michigan Constitution states:

> The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.
>
> This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees, as provided by law.

The analysis of this section in the CRC publication, *A Comparative Analysis of the Michigan Constitution*, was prepared by Stratton S. Brown of Miller, Canfield, Paddock & Stone.

There was no provision similar to Article IX, Section 18, in the 1835 constitution, although a provision similar to Section 18 was included in the 1850 constitution (Article XIV, Section 6).

Constitution of 1908

The 1908 constitution added the words "public or private" to the 1850 provision.

> 1908 Constitution Article X: Section 12: The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private.

The section was not amended.

Judicial Interpretation

This section is somewhat similar to Article VIII, Section 25, of the state constitution which prohibits cities and villages from loaning their credit, or collecting any tax "for other than a public purpose." The Michigan supreme court and several attorney general's opinions have held that Section 12, Article X, of the Michigan constitution applies not only to the state but to its several political subdivisions such as counties, cities, villages and school districts. (*Detroit Art Museum v. Engle*, 187 Mich. 432)

Comment

It is believed that the prohibition in Article X, Section 12, of the state constitution against lending of credit should be clarified with respect to its application to the investment of public funds. This constitutional provision has been variously interpreted by municipal attorneys in permitting investment of public funds only in United States obligations, only in bonds of federal and state agencies or subdivisions, and in some situations in any securities other than corporate stocks, which is specifically prohibited by Article X, Section 13, of the 1908 constitution.

The background of Article X, Section 12, which involved proprietary participation by the state in the construction of railroads and canals, indicates that perhaps the intention and purpose of this constitutional provision is to prohibit the state or its political subdivisions from participating in a proprietary manner or in various enterprises normally carried on by private enterprise. Since 1908, retirement systems and pension funds have become common things with the state and with its political subdivisions. A narrow interpretation of the subject constitutional provision would seriously hamstring prudent investment of public funds. Moreover, it would seem that over a long period of time better management of public funds could be accomplished by legislative regulation of investment rather than a constitutional prohibition. In any event, Article X, Section 12, of the state constitution should be changed in such a way as to make certain that it does not limit the investment of public funds.

City or Village Lending of Credit

The 1963 Constitution contains a similar prohibition on the loan of credit by cities and villages in Article VII, Section 26:

> Except as otherwise provided in this constitution, no city or village shall have the power to loan its credit for any private purpose or, except as provided by law, for any public purpose.
>
> This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees, as provided by law.

This statement was an elaboration on a portion of Article VIII, Section 25 of the 1908 Constitution that prohibited cities and villages from lending their credit for other than a public purpose. Relative to that prohibition, courts indicated that the term "public purpose" cannot be given a definite meaning that would be applicable under all circumstances.

No comparable prohibition is placed on county governments in the state constitution.

County government traditionally had the responsibility of providing housing for the indigent. Article VIII, Section 11 of the 1908 Constitution stated:

> Any county of this state, either separately or in conjunction with other counties, may appropriate money for the construction and maintenance or assistance of public and charitable hospitals, sanatoria or other institutions for the treatment of persons suffering from contagious or infectious diseases. Each county may also maintain an infirmary for the care and support of its indigent poor and unfortunate, and all county poor houses shall hereafter be designated and maintained as county infirmaries.

No comparable provision was included in the 1963 constitution.

Supreme Court Advisory Opinion

Then-Governor George Romney requested an advisory opinion from the state Supreme Court as to the constitutionality of the law that created the Michigan State Housing Development Authority (MSHDA) in 1966. Advisory Opinion re Constitutionality of PA 1966, No 346 addresses three constitutional provisions: the internal improvements clause; the prohibition on the lending of state credit; and the requirement in Article 4, Section 30, which states: "The assent of two-thirds of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes."

The summary of that opinion contains eight parts:

1. PA 1966, No 346, is not unconstitutional.
2. The bonds of the State housing development authority are not obligations of the State.
3. The encouragement of housing construction is a proper public purpose for the creation of a State agency.
4. The State may not directly engage in the financing or construction of private housing.
5. The funds of the State housing development authority are not State funds.
6. An appropriation to the State housing development authority for the purpose of administration is a proper public function.
7. An appropriation to the housing development fund, or the capital reserve fund of the State housing development authority is not a proper public purpose.
8. An appropriation to the housing development fund or the capital reserve fund of the State housing development authority may be made upon the assent of two-thirds of the members elected to and serving in each house of the legislature.

As to the internal improvements clause:

> Moneys of the State housing development authority are not moneys of the State. The funds to be established under the act are trust funds to be administered by the State housing development authority. The State has no beneficial interest in such funds, and when such funds are used to finance the construction of housing, the State cannot be said to be financially interested in such construction. We conclude, therefore, that while the construction of private housing is not a public work of internal improvement, the act does not make the State a party to, financially interested in, or engaged in carrying on such work, and the act does not therefore offend against Constitution 1963, art3, S6.

Headlee Amendment

The Headlee Amendment approved by voters on November 7, 1978, grew out of the spirit of tax revolt. The amendment added several provisions to the 1963 constitution, including a limit on the revenue collected by the state, a prohibition on unfunded state mandates, a requirement establishing minimum state payments to local governments, and a requirement for voter approval of any new local tax or of an increase in an existing local tax.

> 1963 Constitution, Article IX, Section 31: Units of Local Government are hereby prohibited from levying any tax not authorized by law or charter when this section is ratified or from increasing the rate of an existing tax above that rate authorized by law or charter when this section is ratified, without the approval of a majority of the qualified electors of that unit of Local Government voting thereon. If the definition of the base of an existing tax is broadened, the maximum authorized rate of taxation on the new base in each unit of Local Government shall be reduced to yield the same estimated gross revenue as on the prior base. If the assessed valuation of property as finally equalized, excluding the value of new construction and improvements, increases by a larger percentage than the increase in the General Price Level from the previous year, the maximum authorized rate applied thereto in each unit of Local Government shall be reduced to yield the same gross revenue from existing property, adjusted for changes in the General Price Level, as could have been collected at the existing authorized rate on the prior assessed value.
>
> The limitations of this section shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments on contract obligations in anticipation of which bonds are issued which were authorized prior to the effective date of this amendment.

If a countywide or multi-county regional trust were established under new enabling legislation that allowed the creation of a taxing authority, a vote of the people would be required to approve that new tax.

Other state constitutional provisions that could affect the funding of a county or regional housing trust include the distribution of the proceeds of the sales tax and limitations on county property tax rates.

Michigan Housing and Community Development Trust

State housing trusts generally are administered by a government agency that awards grants and loans to local governments, nonprofit developers, for profit developers, service providers, and in some cases individuals for a variety of low and moderate income housing activities. According to the 2007 Housing Trust Fund Progress Report,[9] 26 state housing trust funds are administered by a state housing finance agency or its equivalent; 21 are administered by another state agency or department; and two are administered by an independent board.

Michigan State Housing Development Authority (MSHDA)

MSHDA, created by PA 346 of 1966, is Michigan's housing finance agency. Michigan Compiled Laws 125.1401 is the legislative determinations and findings section of the State Housing Development Authority Act. That lengthy section contains eight subsections that set forth the findings that the following goals are valid public purposes that cannot be met by the ordinary operation of private enterprise:

- increasing the supply of safe and sanitary housing for people of low and moderate income, persons with disabilities, certain elderly persons;
- preserving and improving the housing stock;
- preserving and creating jobs;
- diversifying the economy; and
- refinancing single-family mortgages.

Thus the law both creates an independent authority, to be funded through sale of tax exempt bonds, state appropriations, and other moneys; and establishes that creation of affordable housing is a valid pubic purpose.

MSHDA helps nonprofit organizations and local units of government implement local initiatives to improve Michigan's affordable housing stock, to promote self-sufficiency among persons at risk of homelessness, and to enhance the quality of life in communities throughout the state.[10]

MSHDA provides assistance through three funding mechanisms, complemented by the technical assistance program:

- Housing Resource Fund
- County Allocation Program
- Emergency Shelter Grants

MSHDA's loans and operating expenses are financed primarily 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 rate to developers of rental housing and also fund home mortgages and home improvement loans. MSHDA also administers various federal housing programs.

State Housing Trust

In Michigan, state interest in creating a housing trust was renewed after 2003, and the decision was made to broaden the appeal of a housing trust by including community development focused on downtowns and adjacent neighborhoods. The Living in Michigan Coalition, which eventually included 35 statewide organizations including the Community Development Association of Michigan, Detroit Economic Growth Corporation, Genesee County Land Bank, Michigan Association of Counties, Michigan Association of Realtors, Michigan Municipal League, and Southeast Michigan Council of Governments, was formed to lead efforts to establish a statewide housing trust and continues to lead advocacy efforts to obtain ongoing funding for the Michigan Housing and Community Development Trust Fund.

According to the Living in Michigan coalition website,

> "The mission of the program is to provide housing opportunities for all Michigan residents, and to help transform our economy by improving the quality

[9] Mary E. Brooks, Housing Trust Fund Project, Center for Community Change.

[10] For the powers and responsibilities of MSHDA, please see MCL 125.1422.

of life in Michigan cities, towns, and villages – especially those with high concentrations of poverty – to create vibrant communities where people want to live, work, and retire. Building and sustaining vibrant cities is central to any plan to revitalize Michigan. Michigan's Housing and Community Development Fund will accomplish its mission by:

- Financing downtown and neighborhood improvements to make them attractive places to live and do business.
- Financing affordable and market rate housing for young people, knowledge workers, immigrants, early retirees, and people with low and moderate incomes.
- Financing supportive housing for the homeless and people with disabilities."[ii]

In addition to documenting the need for affordable housing, the coalition has provided policy arguments for public funding that included the following:

- **Workforce Development and Welfare Reform:** The success of Michigan's Work First campaign demonstrates the need for affordable housing opportunities to sustain the transition to self-sufficiency.
- **Job Creation and Economic Development:** The availability of affordable housing is key in attracting a talented work force and new business to the state.
- **Quality of Life and Community Building:** The development of quality housing opportunities is often the catalyst for comprehensive neighborhood and community revitalization – transforming once blighted areas into communities of choice.

PA 480 of 2004 (MCL 125.1458b) charges MSHDA with creating the Michigan housing and community development trust fund 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 and to revitalize downtowns.

[ii] www.livinginmichigan.org/about/index.php

The FY2008 state general fund appropriation for the Michigan Housing and Economic Development Fund administered by MSHDA, and subsequent grants of that money to Habitat for Humanity and other private organizations, demonstrates the authority of the state to appropriate general funds to a separate legal entity to be used for low income housing programs, consistent with the Michigan Supreme Court advisory opinion.

Potential Funding Sources

The Holy Grail of supporters of housing trust funds is a dedicated revenue source to support the activities of the trust fund and to remove decisions on funding from the normal governmental appropriation process.

In May, 2001, Public Sector Consultants, Inc. delivered a report, *Investing in Affordable Housing in Michigan*, to the Community Economic Development Association of Michigan. That report included a statement of the problem; described housing trust funds, low income housing tax credits, and Michigan housing programs; and provided various rationales for addressing the problem of insufficient affordable housing in Michigan. That report also noted that the then-current political climate, at the end of the longest economic growth period in American history (1992-2000), was not conducive to new funding measures, but that further review of three potential funding sources was warranted. Those potential funding sources were:

- The Single Business Tax
- The Budget Stabilization Fund
- An additional .03 cent cigarette tax

These three potential funding sources were selected from nine options that were explored:

Single Business Tax PSC recommended that after the SBT was phased out, $25 million could be allocated annually to a state housing trust fund from the State Education Property Tax, with the state General Fund reimbursing the School Aid Fund. Thus, the General Fund would be the ultimate source of funds.

Real Estate Transfer Tax Increasing the Real Estate Transfer Tax by .075 cents per $1,000 (10 percent) would generate the targeted $25 million, but revenues from the tax were statutorily dedicated to the Michigan

School Aid Fund, and the tax was created to replace property taxes that had previously funded public schools. This was recommended as a realistic option, even though significant opposition from school and real estate organizations was expected.

Tobacco Settlement Trust Fund or the Michigan Merit Scholarship Trust Fund An annual allocation from either fund and/or interest from both funds could be plausibly justified on the basis that low-income people are more likely to be smokers, and low-income households are the primary targets for affordable housing, according to the report.

Budget Stabilization Fund In 2001, the Budget Stabilization Fund was generating $70 million in interest annually. Although established for financial crises, the fund had been tapped for prison construction and court-ordered settlements, though not to fund any on-going programs.

State Housing Tax Credit The proposed tax credit could be tied to the SBT or state education property tax.

Tax Increment Financing The low-income housing tax credit could be made an element of tax increment financing.

State Cigarette Tax could be increased by .03 cent.

Internet Sales Tax This potential source of funds was dependent on federal guidelines or legislation.

Investments from the state pension funds in housing development mortgage bonds.

It was estimated that each of those potential revenue sources could generate the $25 million annual funding goal for an affordable housing trust set by coalition.

Actual Funding

The Living in Michigan Coalition was successful in obtaining the 2004 legislative authorization for the Michigan State Housing Development Authority to create the fund. Legislative efforts broadened the original purpose to include community development, particularly downtown redevelopment. According to the MSHDA website:

> "The Michigan State Housing Development Authority (MSHDA) Act of 1966, Act 346 of 1966, part 125.1458a (the "Fund") charges MSHDA with creating and implementing the Michigan housing and community development program for the purpose of developing and coordinating public and private resources to meet the affordable housing needs of low income, very low income, and extremely low income households and to revitalize downtown areas in Michigan. The Fund will support projects designed to fuel strategies leveraging public and private resources to meet the affordable housing needs of low income, very low income, and extremely low income households in this state."[12]

In 2007, the initial general fund appropriation was committed to the Michigan Housing and Community Development Fund through an allocation in the Department of Energy, Labor and Economic Growth. While the coalition supporting the state housing trust would have preferred a dedicated revenue source, that effort failed. However, the group did receive a commitment of general fund support for three years. The 2008 state general fund appropriation of $2.162 million to the Department of Energy, Labor, and Economic Growth (DELEG) supported MSHDA awards to the following 18 organizations:

- Avalon Housing - $300,000
- Community Housing Network - $31,800
- Eastside LAND, Inc. - $250,000
- Habitat for Humanity of Bay County - $34,000
- Habitat for Humanity of Detroit - $162,408
- Habitat for Humanity of Genesee County - $60,000
- Habitat for Humanity of Kent County - $60,000
- Habitat for Humanity of Lansing - $24,342
- Habitat for Humanity of Macomb County - $33,000
- Habitat for Humanity of Monroe County - $17,000
- Habitat for Humanity of Muskegon County - $8,350
- Harbor Habitat for Humanity - $100,000

[12] www.michigan.gov/mshda/0,1607,7-141-7559_9643-192363--,00.html.

- Housing Resources, Inc. – $50,000
- Mid Michigan Community Action Agency – $262,800
- Southwest Housing Solutions – $300,000
- Venture, Inc. – Gateway Manor – $119,700
- Village View Housing Partners – $300,000
- West Michigan Therapy – $50,000

The fund lost the $2.163 million allocated in the 2009 budget as part of the $308 million slashed by the Governor in order to reduce the general fund deficit.

PA 133 of 2007 created an income tax check off for individual taxpayers allowing a minimum donation of $5 to the Michigan Housing and Community Development Fund. While this is not expected to generate large amounts of money, it does place the issue in front of the public and thereby serves a promotional purpose. In addition, the Michigan Business Tax (PA 36 of 2007) allows businesses to claim a tax credit equal to 50 percent of the total amount donated during the year to the Michigan Housing and Community Development Fund. The credit for any tax year may not exceed five percent of the tax liability or $5000, whichever is less.

State of Michigan Budget Pressures

A May, 2008 Citizens Research Council of Michigan analysis of State of Michigan revenues and spending pressures[13], based on assumptions made prior to the current "Great Recession," revealed a structural budget deficit that would cause annual deficits averaging more than $500 million even in a much stronger economy. The federally supervised restructuring of Chrysler and General Motors had not been contemplated at the time that analysis was made. The prospects that this state, which has the nation's highest unemployment rate, will be able to balance its budgets without massive annual reductions seem even more remote for the foreseeable future. The bleak fiscal outlook and the need to diversify the economic base are among reasons being suggested for revising the state tax structure.

At the May 15, 2009 state revenue estimating conference, economists projected a $1.7 billion deficit for the state budget in FY2010. It was expected that this shortfall would be eliminated by appropriating federal funds available to Michigan under the provisions of the American Recovery and Reinvestment Act of 2009 (ARRA). That would leave $345.4 million of FY2009 ARRA funds available for the FY2010 general fund budget. That $345.4 million, and all of the $949.0 million expected in FY2010 ARRA funds, would not be sufficient to eliminate the projected $1.6 billion FY2010 general fund deficit. As of July 2009, total fiscal year-to-date state tax collections were 13.0 percent below their level one year ago, which was worse than the May 15 consensus revenue estimate projection of a 11.6 percent reduction.

For the month of July, 2009, total state tax revenues were $1.7 billion, about $50 million less than expected based on the May consensus revenue estimate. According to the Senate Fiscal Agency Monthly Revenue report, nearly all of the major state taxes experienced a decline in collections in July (fiscal year to date, state real estate transfer tax receipts were down 33.6 percent). (See **Table 17**.)

While economic recovery in Michigan is dependent on the uncertain future of the domestic automobile industry and on efforts to diversify the economic base, it is highly unlikely that the State of Michigan will be able to restore funding for the Michigan Housing and Economic Development Fund for the foreseeable future.

[13] CRC Report #349, Michigan's Fiscal Future.

Table 17
Michigan State Revenue
Fiscal Year 2009 through July, 2009
(Dollars in Millions)

Source	Total Collected	Percent Change from Prior Year
Gross Income Tax	$6,249.9	(10.4)%
Refunds	(2,004.3)	19.2
Net Income Tax	$4,245.6	(19.8)%
Sales Tax	4,518.3	(9.9)
Motor Vehicles	599.3	12.7
All Other Sales Tax	3,919.0	(12.6)
Use Tax	811.7	(20.9)
Tobacco Taxes	760.2	(0.8)
Single Business Tax	(131.3)	(119.0)
Michigan Business Tax	1,999.4	—
Insurance Tax	199.0	6.0
State Education Property Tax	447.8	(22.3)
Real Estate Transfer Tax	86.7	(33.6)
Casino Wagering Tax	84.5	(13.2)
Oil & Gas Severance Tax	37.7	(48.8)
Other Taxes	269.0	(13.8)
Total	$13,328.6	(13.0)%
Addendum:		
Gross Lottery Sales	$1,999.8	3.2%
Net to School Aid Fund	$ 607.7	(2.3)%

Source: Senate Fiscal Agency; Monthly Revenue Update; June, 2009

Other Affordable Housing and Supportive Housing Organizations

Michigan Interfaith Trust Fund

This investment vehicle for socially conscious investors has a statewide focus. A $125,600 grant from MSHDA funded planning for the Michigan Housing Trust Fund in 1984. The Fund was incorporated in 1985, received its first loan from the Adrian Dominican Sisters in 1986, and made its first loan to the Salem Housing Task Force in 1987. The Michigan Housing Trust Fund evolved into the Michigan Interfaith Trust Fund, which, according to its website, "fosters economic and social justice by providing loans and technical assistance for affordable housing and economic development throughout Michigan."

This fund lends primarily to nonprofit 501(c)(3) or 501(c)(4) organizations such as housing development corporations, cooperatives, land trusts, community development corporations, faith based institutions, labor unions, credit unions, and social service agencies with a stated mission of creating affordable housing. For profit entities and local units of government may also be eligible. Loans are provided for all phases of affordable housing development including pre-development expenses, construction, rehabilitation, and adaptive reuse projects. Such projects may include the development of single or multi-family rental, lease-purchase, homeownership, and cooperative living units. Loans may be obtained for permanent financing and bridge loans. Generally, the Trust Fund makes short-term loans of six years or less at interest rates of six to nine percent. A two percent origination fee is charged at closing, and may be financed. Security is typically in the form of a real estate mortgage on the project itself, but may be on other property, and generally does not exceed 100 percent of the appraised value of secured property. All collateral must be insured. According to the website, the unique method of underwriting allows the Fund to blend traditional due diligence concerns with an understanding of the atypical difficulties faced by non-profit developers.

The Trust Fund also makes small business loans and loans for mixed use developments that include affordable housing, and provides technical assistance.

Habitat for Humanity

Habitat for Humanity is a nonprofit, ecumenical Christian housing ministry, founded in 1976, that builds houses for families in need. Habitat, which has built over 300,000 safe, decent, affordable homes around the world, operates through affiliates that are independently operated, nonprofit organizations. Using volunteer labor and donated money and materials, Habitat builds and rehabilitates modest homes in partnership with homeowner families who make down payments and monthly mortgage payments, in addition to investing sweat equity in the home. Homes are sold to partner families at no profit and with affordable loans.

There are more than 1,500 Habitat for Humanity affiliates in the United Sates, including 76 in Michigan. Local Habitat for Humanity organizations were beneficiaries of the 2008 Michigan Housing and Community Development Trust Fund grants.

Great Lakes Capital Fund

The Great Lakes Capital Fund (GLCF), which operates in Michigan, Indiana, Wisconsin, and Illinois, is a nonprofit equity investor that offers loans, grants, and technical assistance to housing sponsors. GLCF raises capital from corporations and financial institutions for investment in real estate partnerships that develop affordable housing and commercial developments that generate economic and social benefits for area residents. In addition to placing federal low income housing tax credits, GLCF is certified as a Community Development Financial Institution and serves as a manager for the Michigan Magnet Fund to administer a $60 million allocation of New Market Tax Credits.

Corporation for Supportive Housing

The Corporation for Supportive Housing is a national nonprofit that opened an office in Michigan in 1996. Working with state partners (MSHDA and the Michigan Department of Community Health) and the Great Lakes Capital Fund, CSH launched a program to develop permanent supportive housing in nine Michigan counties. Supportive housing is a combination of housing and services designed to help people with serious, persistent problems to live more stable, productive lives.

Michigan Home Ownership Coalition

Michigan Home Ownership Coalition offers HomeChoice Mortgage and down payment assistance through MSHDA. The HomeChoice Mortgage is a single family mortgage loan for low and moderate income families with a disabled family member who lives with them.

Related Affordable Housing Strategies

Community Land Trusts

Community land trusts are private, nonprofit corporations created to acquire and hold land for the benefit of the community and provide secure affordable access to land and housing for community residents. Community land trusts attempt to meet the needs of those least served by the prevailing market and help communities achieve the following goals:

- Gain control over local land use and reduce absentee ownership
- Provide affordable housing for lower income residents
- Promote resident ownership and control of housing
- Keep housing affordable for future residents
- Capture the value of public investment for long term community benefit
- Build a strong base for community action

Community land trusts may acquire land and arrange for the development of housing on that land, or may acquire land and housing together, but the key concept is that they treat land and building differently. In traditional land trusts, land is held in a permanent land trust; but the housing on it may be owned by those who live there. When a community land trust sells a building, it leases the land under it through a long term (usually 99 years) renewable lease, giving the residents and their descendants the right to live there for as long as they want. When the home owner decides to sell, he can sell the house back to the community land trust or to another low income household for an affordable price. Community land trusts may obtain community development block grant funds, HOME funds, or other grants from local governments.

Community land trusts are controlled by their members, who may be residents of homes on property leased from the trust, or other members of the community. Boards represent residents, others members, and the broader community.

There are four land trusts in Michigan:

- Dwelling Place of Grand Rapids
- HomePlace Community Land Trust (Ann Arbor)
- HomeStretch (Traverse City)
- Northern Homes (Boyne City)

The following excerpt from the HomeStretch website describes the modifications that had to be made to the traditional land trust concept to make it work in Michigan:

REFINING THE LAND TRUST

Being a pioneer sometimes means that you come up against unexpected issues and HomeStretch was no exception. While some were small inconveniences, the issue of property taxes was a much larger problem. Under the Ground Lease, HomeStretch retained ownership of the land itself, yet the owner of the home on the land was required to pay the property taxes for the home and the land. However, as land trusts are new to Michigan, the tax code does not allow the underlying land to be given the Homestead tax rate as the homeowner doesn't also own the land and the owner of the land, HomeStretch, does not reside on the land. Because of variances in assessments across counties and townships, a few of our homebuyers pay much more in property taxes than anyone expected. As we can't change the code, we decided to change our procedure.

Working closely with MSHDA, a different way to preserve future affordability has been devised. Starting with the homes in Ridgewood, HomeStretch no longer uses the Ground Lease to retain ownership of the property, but executes and records a Declaration of Affordability on the property before any homes are sold. This Declaration contains the same provisions that were in the Ground Lease, including the Formula Sale Price and Right of First Purchase. As in the Ground Lease, if the homebuyer wishes to re-sell the home, it must be to an income eligible household.

Since there is no longer a Ground Lease, buyers will no longer pay a monthly Ground Lease Fee. New homebuyers will pay a one-time Land Trust fee of $1,800 at closing. This fee can be rolled into the mortgage as a closing cost just as are done with the fees for title insurance, credit reports, etc. Membership benefits include an invitation to the Annual Meeting, the right to vote for Board Members and to serve on the Board, the HomeStretch newsletter, and technical assistance.

At closing, the new homeowner receives a title to the land as well as the home using a Warranty Deed with deed restrictions. The restrictions are the Declaration of Affordability which was previously recorded by HomeStretch and takes the place of the Ground Lease. In this manner, the homebuyer receives title to the house and the land, allowing the homestead tax rate to be applied to both, while HomeStretch preserves the measures used to balance the homeowner's interest with the future affordability of the home.

As homes currently using the Ground Lease are sold to new owners, the property will be converted to the new model. We also hope to obtain monetary and technical assistance to convert the properties most affected by the tax issue.[14]

Land Banks

Land banks are public authorities created to hold and redevelop tax foreclosed property. PA 123 of 1999 streamlined Michigan's property tax foreclosure process and allowed for a more constructive approach to governments' inventories of tax foreclosed property. PA 258 of 2003 established a state land bank and authorized county and City of Detroit land banks that could receive and manage tax reverted property with the goal of returning those parcels to productive use.

Various county land banks have been established in Michigan to manage and dispose of tax reverted property in those counties' inventories. These entities may be funded by a general fund appropriation and/or by revenues from the sale, lease, or rental of property. PA 260 of 2003, the Tax Reverted Clean Title Act, authorizes a specific tax, in lieu of, but at the same rate as, the general property tax, that may be imposed for five years on property sold by a land bank. One-half of the revenues from this tax are to fund the authority's title clearance and land disposition costs, and the other half is earmarked for state and local property tax collecting units.

Land banks can be used to initiate expedited quiet title and foreclosure actions, to renovate tax reverted residential property and sell that property at market price or less, to assemble land for larger developments (by purchase or gift; land banks do not have the power of eminent domain), and to hold parcels until the market improves. Land banks may dispose of property "for an amount of consideration an authority considers proper, fair, and valuable, including for no monetary consideration…to any public or private person…" (PA 258 of 2003, Sec 7 (1); MCL 124.757)

While PA 258 of 2003 provides for several sources of operating funds and allows land banks to issue bonds and notes, the real challenge has been to develop sufficient financing to support the work of land banks. This is because, in communities such as Detroit and Flint, where a large volume of tax reverted property may be available for a land bank, there is weak demand for that property, which is associated with low prices (in many, if not most, cases, there is no demand for the property at all). In areas where there is stronger demand, tax delinquent properties generally are sold prior to foreclosure, are redeemed, or are sold at the tax sale, and never enter a land bank.

Land banks are created to return tax foreclosed property to productive use; housing trusts are created to fund the development of affordable housing. Although created to address different problems, there is potential for mutually supportive cooperation between housing trusts and land banks, which may acquire, rehabilitate, and dispose of housing units (and other real estate) at less than market rate. Under the economic conditions that have prevailed in Michigan

[14] www.homestretchhousing.org/html/clt_news.html.

for the past decade or more, it seems unlikely that revenue streams established for land banks would be sufficient to do more than cover some of the costs of those organizations.

Local Housing Trusts

Iowa, Massachusetts, New Jersey, Pennsylvania, and Washington have passed legislation that specifically authorizes local jurisdictions to dedicate public funds to housing trusts. Massachusetts allows cities to pass a property tax surcharge of up to three percent. New Jersey allows local housing trusts to use revenues from developer fees including impact fees, residential zoning in-lieu fees, demolition fees, and conversion fees. Pennsylvania legislation allows counties to establish housing trust funds, which may be funded by an increase (double) in their document recording fees. In addition, Arizona and South Carolina have passed legislation enabling the creation of local housing trusts, and Wisconsin adopted legislation enabling local jurisdictions to extend tax increment financing to fund affordable housing.

Iowa and Massachusetts use part of their state housing trust fund to match local housing trust fund efforts. California voters in 2002 passed a bond proposal that earmarked $24 million for matching grants to local housing trusts.

According to a 2006 survey by the Center for Community Change, there are 432 city housing trusts. Revenue sources include property taxes, developer fees, redevelopment tax increment fees (tax increment revenues in excess of debt service needs), hotel/motel taxes, document recording fees, bond revenues, lease revenues, use taxes, and general fund revenues.

In 2006, there were 122 county housing trust funds in the U.S. Revenues were derived from document recording fees, developer impact fees, residential inclusionary zoning in-lieu fees, conversion fees, real estate transfer taxes, sales taxes, property taxes, food and beverage taxes, parking garage revenues, condominium conversion fees, bond revenues, general fund appropriations, and private donations.

The State of Washington imposes a $10 real property document recording fee, with five percent of revenues allocated for county retention for administration of the fee, and the remainder split 40 percent to the state to use for extremely low income housing and 60 percent for the county of origin to use for very low income housing. A separate $10 surcharge on documents recorded by county auditors and affecting primarily the recording of deeds, is also split 40 percent to the state and 60 percent for the county of origin to be used for activities in the county's plan to end homelessness.

Two Michigan cities have initiated housing trusts:

The City of Ann Arbor Housing Trust Fund was created in 1999 and is administered by the city's Community Development Department. It is primarily funded by fees from developers who take advantage of density bonuses offered by the city that allow additional density if a certain amount of affordable units are included or if the developer makes a contribution to the housing trust. This Housing Trust Fund also receives some funding from the Washtenaw County Housing Contingency Fund, and the city's general fund.

The City of Kalamazoo in 2003 committed $250,000 to establish a housing trust fund and invited participation from other units of government. Kalamazoo County matched the city's donation in 2006, committing $500,000 over two years. The $500,000 from the city and county was matched by MSHDA. The Local Housing Assistance Fund is administered by the Kalamazoo County Public Housing Commission.

Housing trusts that have been created in Michigan have not required approval by the voters because they have not been funded by new taxes. If a new local tax to fund a housing trust were authorized by state enabling legislation, that new tax would have to be approved by the voters of the affected communities, as required by the Headlee Amendment to the Michigan Constitution.

Regional Authorities in Michigan

Constitutional and Statutory Provisions

Article VII, Section 28 of the 1963 Michigan Constitution incorporated provisions of a 1951 statute that allowed local governments to do jointly anything that each could do individually:

> The legislature by general law shall authorize two or more counties, townships, cities, villages or districts, or any combination thereof among other things to: enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government; lend their credit to one another or any combination thereof as provided by law in connection with any authorized publicly owned undertaking.

In April, 2007, the Citizens Research Council of Michigan published Report 346, *Authorization for Interlocal Agreements and Intergovernmental Cooperation in Michigan*, a reference to state laws authorizing intergovernmental cooperation. According to that report,

> Specific enabling legislation is still necessary in those instances when one or more of the governmental units involved do not themselves have the power to perform a function. Since home rule cities, villages, and counties have broad home rule powers, they do not usually require such specific authorization. However, since counties, townships, school districts and special authorities/districts have only those powers specifically provided by law (and in the case of counties and townships those fairly implied), it is necessary to be able to point to statutory authorization for a particular kind of unit to perform the function before it can perform it on a cooperative basis. For this reason, many of the statutes…authorizing cooperation in specific functions are still necessary, even though Public Act 35 of 1951 and the Michigan Constitution provide broad authorization for cooperation. Also, many of these specific statutes are important because of their fiscal or other provisions.

There are a number of statutes that allow voluntary associations of local governmental units to accomplish various goals. Most of these are for specific purposes (planning, libraries, utilities, public safety, parks and recreation, health and hospitals, transportation, water, sewer, waste disposal), and do not confer any additional taxing authority. For example, the Urban Cooperation Act provides that an interlocal contract may be used for a joint exercise of power that each participating unit already has, and provides that a separate legal or administrative entity may administer or execute the agreement, but does not provide any additional taxing power. The establishment of a regional authority with taxing power would require state enabling legislation, followed by a vote of the people.

The Challenge of Regional Cooperation

One of the most significant obstacles to effective regional cooperation is the issue of transfer of resources among participants. Leaders in units of government with more resources and less need may be less likely to willingly cooperate in regional initiatives in which their government's or taxpayers' resources will be transferred to or used in other areas, even if those areas demonstrably have greater need. Units of government with greater need and fewer resources generally are happy to cooperate with wealthier units of government that could provide resources. The inequality of resources and needs, and the issue of donor status, has been difficult for some regions to overcome, and may argue for single county administration of housing trusts in those regions of the state.

In addition to the issue of donor status, the definition of the targeted beneficiaries of a housing strategy will affect the willingness of officials and communities to participate in the effort. Proposals for affordable worker housing, senior housing, and supportive housing will elicit very different responses.

Substate Housing Trusts

Structure

The structure of a housing trust will reflect and accommodate the revenue base that has been developed by the single or multiple public and private members, and by any relevant enabling legislation. Among the possible structures are the following:

- Independent regional authority with taxing capacity and an elected or appointed chief executive officer and board and its own staff.
- Independent authority with dedicated revenue, but operating through an existing governmental or non-profit organization which serves as fiduciary to administer the funds, serves as lead agency, and staffs the effort, thereby avoiding the creation of a new operating organization and hiring of new staff.
- Regional agreement among units of government, using an intergovernmental contract to establish a public authority, funded by appropriations from member governments. Appropriations may be one or a combination of:
    - o General fund appropriations determined annually,
    - o All or part of revenues from an identified revenue source, committed on a long term basis, and
    - o Donations from foundations, corporations, and individuals.
- Private, nonprofit organization with no taxing authority, but commitment from local governments, community foundation or other foundation, or other entities, to share a particular revenue stream.
- A division or unit established in an existing public organization, such as a county government or metro council, or in an existing private organization, such as a community foundation.

Depending on the structure employed, housing trusts could have boards of directors with more or less authority to determine policy and exercise oversight. Boards could include people from the community to ensure that the housing trust is in touch with the community. Consideration could be given to requiring that regional housing trusts have advisory boards of experts from the housing industry and from universities whose role would be to bring innovation and new ideas to the table.

Dedicated Revenues

Advocates of housing trusts emphasize the desirability of establishing a dedicated source of public funding for those programs. Dedicated revenues demonstrate a commitment on the part of voters and/or public officials to address the problem, or to achieve the goals, for which revenues are dedicated. Dedicated revenues provide a predictable, on-going revenue stream that allows multi-year planning and commitments. According to the Center for Community Change[15], a dedicated revenue stream is the preferred method of sustaining housing trust funds:

> Housing trust funds are established by elected government bodies – at the city, county or state level – when a source or sources of public revenue are dedicated, by ordinance or law, to a distinct fund with the express and limited purpose of providing affordable housing. Ideally the funds are transferred automatically each and every year into the housing trust fund account providing a continuous stream of funding, without going through an appropriation or budgeting process. Ideally, the funds can be used only in accordance with the enabling legislation or ordinance establishing the fund, targeted to serve those housing needs that are most critical. But these ideals are not possible in every situation, legally or politically.
>
> The Housing Trust Fund Project advances the concept that a housing trust fund is created when public revenue sources are dedicated to this distinct fund. States may have constitutional or procedural issues that impact both whether and how this can be done – at the

[15] www.communitychange.org/our-projects/htf/housing-trust-funds.

state level and at the city or county level. Where legal barriers exist to dedicating public funds to a housing trust fund, housing advocates have worked around this in a variety of ways. In such circumstances, a housing trust fund may be implemented with appropriated funds, or funds that do not go through a budget process (such as state housing finance agency reserve funds or something structured as part of a bond package).

The housing trust fund model is just that – a model that defines a new objective for funding affordable housing, enabling the support of needed housing to be a fundamental part of what government does. Some thirty years after the idea formed, the model of dedicating public revenues to create a distinct fund supporting affordable housing has taken many forms, adjusting to unique opportunities, working with restrictive fiscal laws, reaching to show what is possible.

The impact of housing trust funds can be felt in 43 states throughout this country. Nearly 600 housing trust funds in cities, counties and states generate more than $1.6 billion a year to support critical housing needs, underscoring the integral role these funds play in the world of affordable housing. They exist because community organizers, housing advocates and elected officials alike have agreed that a permanent stream of revenues for affordable housing should be a public priority.

A dedicated revenue may also allow the sale of revenue bonds, with all or part of the dedicated revenue used to pay the principal and interest on the outstanding debt. In Michigan, the sale of revenue bonds by an authorized public entity does not require a vote of the people, as does the sale of unlimited debt bonds.

There are, however, serious reasons why many public officials oppose dedicating the revenues from particular sources to specific programs. Revenues dedicated for one function or program may not be allocated to another function or program, and are not subject to the consideration that occurs in the general appropriation process. Elected officials are required to make decisions allocating public resources to meet a range of public needs; dedicated revenues are not available to meet other needs. Governmental needs and priorities change from year to year, as do the amounts generated by different revenue sources. Eliminating a potential source of general revenues through dedication to a particular purpose reduces the ability of elected officials to meet emerging or higher priority needs. Dedicating revenues to particular functions reduces flexibility and the ability of government to meet emergency needs. It may also result in overfunding one function while equally important functions are not adequately funded. Dedicated funding may protect politically popular functions while equally, or more, important functions must compete for limited general funds.

In Michigan, the only dependable method of dedicating a revenue is through passage of enabling legislation and/or voter approval of a ballot proposal that authorizes a legal dedication. While elected officials may promise future revenues from an existing revenue source, public funds are budgeted annually, and current officials cannot bind future decisions.

Revenue Criteria

For the purposes of this analysis, potential revenue sources will be judged by the following criteria:

- Capacity to generate sufficient funds at a reasonable rate
- Nexus to housing, i.e. a logical relationship of the revenue source to the intended use
- Flexibility and ease of collection, administration, and distribution of funds
- Whether it is constitutional, even though it may require enabling legislation
- Progressive, not regressive
- Effect of the tax or tax increase on the activity being taxed

Revenue sources that have been used or considered by other housing trusts, or proposed by advocates, include the following:

- Appropriation from county tax foreclosure auction proceeds

- Bond proceeds
- Condominium conversion tax
- Credit enhancement program revenues
- Developer approval fees
- Developer impact fees
- Document recording fee –per document or per page or value of transaction
- Eviction court fees
- Food and beverage tax
- General fund appropriations
- Grants and donations
- Half of revenues from expired tax increment financing
- Hotel/motel tax
- Indian casino payments above a specified amount
- Interest on real estate escrow accounts
- Interest on state funds
- Interest on tenant security deposits
- Parking garage revenues
- Penalties on late real estate excise payments
- Real estate transfer tax
- Regional authority property tax
- Revenues from settlements of state lawsuits
- Roof top fees
- Sales tax
- Tax on foods containing trans fat
- Tax on smokeless tobacco
- Unclaimed property funds
- Unspent reserves
- Unclaimed lottery earnings

Some of these revenue sources, such as the sales tax, are not available in Michigan without a change in the state constitution. The political challenges and revenue raising potential of other possible revenue sources vary from county to county and from region to region. In relatively high growth areas such as Traverse City, impact fees may have greater potential than in low or no growth areas. In tourist areas (Traverse City), taxes and fees that fall most heavily on tourists may be more attractive to voters. Some counties (Wayne, Genesee) have large numbers of tax foreclosures; others do not. Regardless, the willingness of elected officials to divert existing revenues, or to champion tax or fee increases to fund a housing trust, is critically important.

While advocating for a state housing trust, the Community Economic Development Association of Michigan (CEDAM) engaged Dykema to review all state revenues to determine the most appropriate source of dedicated revenue for the state fund. Dykema recommended a state single business tax credit for donations to the fund (the single business tax has since been replaced with the Michigan business tax) and annual general fund appropriations.

Local governments in Michigan are under extreme financial pressure as a result of the economic restructuring of the automobile industry, the housing crisis, and the recession, which have resulted in reduced property tax revenues, reduced municipal income tax revenues for those cities that impose an income tax, reduced state revenue sharing payments, and other impacts. No unit of government, program, or facility that now receives tax revenue can be expected to willingly relinquish that revenue; all can be expected to fight any suggestion that would further reduce their already reduced revenues. Furthermore, it must be recognized that it is easier politically to block passage of a proposal than to pursue it to a successful conclusion.

Therefore, a new revenue, or an increase in an existing tax, fee, fine, or other revenue, must be considered. Imposition of a new or increased revenue is extremely difficult, but there are a number of ways a new local tax, fee, fine, or other revenue may be established:

1. Those that require amending the state constitution are the most difficult. (This would include the sales tax.)
2. Those that require passage of new state enabling legislation, adoption of local ordinances, and a vote of the people who are to be taxed.
3. Those that require passage of new state enabling legislation, adoption of local ordinances, and a vote of the people who are able to pass the tax on to other payers, such as tourists.
4. Those that require passage of new state enabling legislation, adoption of local ordinances, but no vote of the people.

5. Those that require amending existing legislation, adoption of local ordinances, and a vote of the people who are to be taxed (a county-wide income tax).
6. Those that require amending existing legislation, adoption of local ordinances, and a vote of the people who are able to pass the tax on to other payers, such as tourists.
7. Those that require amending existing legislation, adoption of local ordinances, and no vote of the people (accommodations tax).
8. Those that are already authorized in state law, require adoption of local ordinances, and a vote of the people who are to be taxed.
9. Those that are already authorized in state law, required adoption of local ordinances, and a vote of the people who are able to pass the tax on to other payers, such as tourists.
10. Those that are already authorized in state law, required adoption of local ordinances, and no vote of the people (development fees).

In general, it is easier to amend an existing statute that authorizes a tax or fee than to obtain legislative passage of a new tax or fee.

In general, it is easier to obtain approval of a statute or amendment that allows local voters to determine whether they want to impose a tax or fee.

In general, it is easier to obtain voter approval of a tax that falls on people other than the voters, although hotel, motel, car rental, and restaurant owners may be expected to work to protect their customers from higher prices.

In general, winning a vote of the people requires a compelling reason and, often, an expensive ballot campaign.

In general, it is more difficult to redirect a tax that is already dedicated to a popular purpose, such as education (the state real estate transfer tax is an example).

There is no good time to ask voters to approve a tax increase.

State and Local Taxes in Michigan

In the *Outline of the Michigan Tax System*, the Citizens Research Council of Michigan groups the 52 taxes levied by state and local governments in Michigan in the following categories:

Income
Business privilege
Sales-related
Property
Transportation

If all required authorizations were granted to a housing trust to levy a particular tax, the trust could levy and collect the tax directly, or could use a "piggyback" approach for collections. Because a variety of taxes are being levied by the state and/or local governments, the potential exists that an increase in a particular tax could be piggybacked on the existing tax, collected by the current taxing authority, and remitted to the housing trust, thereby saving the trust the costs associated with billing and collecting the tax. A county-wide property tax imposed for a housing trust, for example, would be collected by the county and remitted to the housing trust by the county.

Using the June, 2008 *Outline* as a reference, this section examines each of the existing state and local taxes in terms of its potential relevance to a county or regional housing trust.

Income Taxes

State Personal Income Tax

While the 1963 Michigan Constitution in Article IX, Section 7 prohibits the imposition of a graduated income tax by the state or any of its subdivision, state statute imposes a state personal income tax and specifies the disposition of those tax revenues (23.3 percent of gross collections to the School Aid Fund; the remainder to the General Fund). State income taxes are based on federal adjusted gross income, with certain adjustments. In 2011, rates are scheduled to begin declining from the current 4.35 percent to 3.9 percent in 2015.

A number of credits are allowed against state income tax liability:

- Homestead property taxes
- Property taxes on rented homesteads
- Farmland property taxes
- City income taxes
- Earned income
- Contributions to Michigan colleges, universities, public broadcast stations, public libraries, state museums or archives, community foundations, food banks, and shelters for homeless persons
- Expenditures for rehabilitation of historic resource
- Income tax paid to another state
- Home heating cost for low income families
- Donated automobiles
- College tuition
- Adoption expenses
- The difference between the amount repaid by the Michigan Early Stage Venture Capital Investment Fund and the negotiated repayment amount
- Stillbirth
- Individual or Family Development Account

<u>Municipal Income Tax</u>

PA 284 of 1964 authorizes cities to adopt income taxes by ordinance, subject to a vote of the people. Only 22 cities have adopted the uniform city income tax, which is generally one percent on residents and corporations and 0.5 percent on non-residents who work in the city, although the city council in certain cities may impose rates of two percent on residents and corporations and one percent on non-residents. Special statutory provisions apply to the City of Detroit, which in 2009 levies municipal income taxes at the rate of 2.5 percent on residents, 1.25 percent on nonresidents, and one percent on corporations. Non-resident taxes are based on earnings in the taxing city. Revenues support the general fund of the city.

Potential as a Housing Trust Funding Source. A county or regional income tax dedicated to a housing trust would require adoption of new enabling legislation, or amendment of the Uniform City Income Tax Act (PA 284 of 1964) by the state legislature, adoption of local ordinance(s) on a county-wide or multi-county, region-wide basis, and a vote of the people. The simplest administration would piggyback collection of the county or regional tax on the state income tax. This tax would place the funding burden on resident individuals and businesses, rather than exporting the funding burden to tourists. There is no direct nexus to housing. Using federal adjusted gross income introduces some progressivity.

Because there is currently provision for a number of state income tax credits, it may be that amending the state statute to provide a state income tax credit for donations to a county or regional housing trust would be feasible.

There has been discussion of amending the state constitution to eliminate the prohibition on a graduated income tax.

Business Privilege Taxes

<u>Michigan Business Tax</u>

Business privilege taxes are levied on firms that do business in the state or that do a particular kind of business. In 2007, the state legislature approved a citizen petition repealing the Single Business Tax and replaced it with the Michigan Business Tax (PA 36 of 2007), revenues from which are dedicated to the state general fund and the School Aid Fund. The Michigan Business Tax is levied on income and modified gross receipts. PA 145 of 2007 created the Michigan Business Tax surcharge to meet the need for more state revenue.

The law provides Michigan Business Tax credits for a large number of activities that the state is trying to encourage. Among these are:

- Compensation paid in Michigan
- New capital assets
- Research and development
- Michigan International Speedway infrastructure
- Certain sports stadia
- Industrial personal property
- Telephone personal property
- Natural gas pipeline property
- Small business
- Contributions to art, historical, and zoological institutes
- Entrepreneurial employment increase
- Motor vehicle dealers to acquire inventory
- Large retailer

- A facility in Troy engaged in research and development of a two-mode hybrid car engine
- Bottle deposit compliance
- Private equity funds
- Start up businesses
- Difference between the negotiated rate of return on an investment in the Michigan Early State Venture Capital Fund and the actual repayment
- Charitable contributions
- Workers disability compensation
- Contributions to food banks and homeless shelters
- Research, development or manufacture of an alternative energy system, alternative energy vehicle, alternative energy technology, or alternative fuel based vehicle
- Amounts certified by the Michigan Economic Growth Authority
- Business activity conducted in a renaissance zone
- Historic preservation projects
- Brownfield projects
- Consumption of hematite ore
- Motion picture production

Some of these credits relate to business expenses, but many relate to economic activity the state wishes to promote (research and development, private equity funds, the Michigan Early Stage Venture Capital Fund, alternative energy, film production). Also included are credits for philanthropy: 50 percent, up to $100,000, of contributions of $50,000 or more to art, historical, or zoological institutes; 50 percent of charitable contributions; 50 percent of contributions to food bank and homeless shelter up to $5,000 or five percent of the liability; 25 percent of expenditures for historic preservation projects.

Potential as a Housing Trust Funding Source. Because the primary state business tax includes an extensive array of activities for which tax credits are granted, it is reasonable to propose that MBT credits be granted for contributions of money or materials to a county or regional housing trust. This would require amending the existing statute.

At the present time, however, many Michigan businesses are struggling to survive, and have eliminated or drastically reduced corporate contributions. It is unlikely, therefore, that an MBT credit would prompt the donation of a significant amount of revenue for a substate housing trust, at least until the economy improves.

<u>Other Business Taxes</u>

In addition to the Michigan Business Tax, the state is authorized to levy nine other business taxes. Revenues from these state taxes are allocated as follows:

- Unemployment Insurance Tax on the first $9,000 of each employee's wages, for unemployment insurance benefits.
- Quality Assurance Assessment Fees on health care facilities participating in Medicaid, for the Medicaid program.
- Foreign Insurance Company Retaliatory Tax on out-of-state insurance companies, to the state general fund.
- Oil and Gas Severance Tax on oil and gas produced, to the general fund and Orphan Well Fund.
- State Casino Gaming Tax on casino adjusted gross receipts, to the School Aid Fund, general fund, and Michigan Agriculture Equine Industry Development Fund.
- 9-1-1 Service Tax on communication service that can access 911 service, to counties, providers, and State Police.
- Corporate Organization Tax on incorporations, to the state general fund.
- Horse Race Wagering Tax on amounts wagered, to the Michigan Agriculture Equine Industry Development Fund.
- Captive Insurance Company Tax on insurance premiums written in Michigan, to the Captive Insurance Regulatory and Supervision Fund.

<u>Local Business Taxes</u>

The only sub-state business privilege tax in Michigan is the authorization for Detroit to levy a local casino gaming tax. Revenues from that tax support the city's general fund.

The state and local casino wagering taxes were authorized by Initiated Law 1 of 1996, which allowed three non-Indian casinos in Detroit. Other casinos in Michigan are owned and operated by Indian tribes and are not subject to state and local taxation.

Potential as a Housing Trust Funding Source. There is no precedence for a countywide or regional business tax in Michigan, but also no constitutional prohibition on such a tax. In the current economic environment, special consideration should be given to the impact of any potential county or regional business tax on the competitiveness of that county or region. If, however, a new activity were authorized on a county or regional level, a tax on that activity could be devoted to a housing trust. One such activity could be currently prohibited forms of gaming, which could also be an attraction in tourist regions. This would, however, require both a statewide vote and a local vote, according to Article IV, Section 41 of the Michigan Constitution, which was amended effective December 18, 2004. That constitutional provision states:

> The legislature may authorize lotteries and permit the sale of lottery tickets in the manner provided by law. No law enacted after January 1, 2004, that authorizes any form of gambling shall be effective, nor after January 1, 2004, shall any new state lottery games utilizing table games or player operated mechanical or electronic devices be established, without the approval of a majority of electors voting in a statewide general election and a majority of the electors voting in the township or city where gambling will take place. This section shall not apply to gambling in up to three casinos in the City of Detroit or to Indian tribal gaming.

Sales Related Taxes

Sales and Use Taxes

Sales related taxes include sales and use taxes which are imposed as a percentage of the price and dedicated by the state constitution to fund specific state purposes, including the State School Aid Fund and state revenue sharing. The sales tax is imposed on the retail sale of tangible personal property, and receipts are distributed to the School Aid Fund, state revenue sharing, general fund, and Comprehensive Transportation Fund. The use tax is imposed on the use, storage, and consumption of certain tangible personal property and certain services, and receipts are distributed to the general fund and School Aid Fund.

In 2007, in response to a $1.8 billion state budget deficit, the legislature extended the use tax to a number of services effective December 1, 2007. Criticisms of the expansion of the use tax resulted in repeal before it took effect. While the process used to determine which services were to be taxed was opaque, and while the services proposed to be taxed and those which were not to be taxed were difficult to justify, the aborted 2007 effort will undoubtedly be followed by future efforts to extend the use tax to services.

Potential as a Housing Trust Funding Source. Because the maximum rate of the sales tax and the distribution of the revenues from the sales and use tax to specific state funds are established in the state constitution, state sales taxes are not an option for funding a housing trust.

Although the constitution does not specifically prohibit a local sales tax, the state Attorney General in 1970 ruled that local sales taxes are not allowed under the Michigan Constitution. Imposition of a sales tax for local or regional purposes would, therefore, very probably require amending the state constitution.

Excise Taxes

Excise taxes are paid on the sale of a specific product. The state imposes "sin taxes" on tobacco products, beer and wine, and liquor, and an excise tax for parking at the Detroit Wayne County Metropolitan Airport. The legislature has authorized certain local units of government to impose local excise taxes on utility bills, restaurants, hotels, and automobile rental companies.

A number of state and local taxes that are related to the sales tax are of interest:

State Excise Taxes and Liquor Markup

- Tobacco products tax, dedicated to School Aid Fund, general fund, Healthy Michigan Fund, Health and Safety Fund, Wayne County Indigent Health Care, and Medicaid Benefits Trust Fund (Six percent of the proceeds of the tax on tobacco products is constitutionally dedicated to improving the quality of health care to the residents of the state, Art. IX, Sec. 36)
- Liquor markup, to the state's general fund

- Liquor taxes, dedicated to the general fund, School Aid Fund, Liquor Purchase Revolving Fund, Convention Facility Development Fund
- Beer tax, to the state's general fund
- Wine tax, to the state's general fund
- Mixed spirits tax, to the state's general fund
- Airport parking excise tax, $6 million to the state aeronautics fund; $1.5 million to the City of Romulus; balance to Wayne County for indigent care

Sin Taxes

A local tax of a fixed amount on a particular amount of a particular product, such as a pack of cigarettes, is not a sales tax and is outside the Attorney General's 1970 ruling. Discouraging the consumption of tobacco products and alcoholic beverages may be attractive to state legislators who would have to pass enabling legislation, to county commissioners or other elected officials who would have to place the issue on the local ballot, and to voters who would have to approve the new tax. There is no logical nexus to housing. In a tourist area, it may be expected that a significant proportion of these excise taxes would be paid by nonresidents.

Local Excise Taxes

- Accommodations taxes, in counties under 600,000 population, to a special fund for use by a county or an authority organized under state law; in counties over 750,000 population, to a Convention Facility Development Fund for distribution to units of local government with excess to the general fund for distribution to qualified units of local government
- Convention and tourism marketing fees, to convention bureaus
- Stadium and convention facility taxes, to a special fund of the municipality
- Uniform city utility users' excise tax, to hire or retain police officers

Accommodations Taxes

PA 263 of 1974 allows counties under 600,000 population with a city over 40,000 to levy up to 5 percent on the amount charged transient guests for lodging in any hotel or motel. The tax may be adopted by ordinance passed by the county board of commissioners. As of 2006, Calhoun, Genesee, Ingham, Kalamazoo, Kent, Muskegon, Saginaw, and Washtenaw counties levied this tax. The revenues from the accommodations tax may be used only for the following:

- The cost of administration and enforcement of the ordinance
- Financing the acquisition, construction, improvement, enlargement, repair or maintenance of convention and entertainment facilities
- Annual rent payable to an authority organized to acquire, construct, improve, enlarge, repair, or maintain convention and entertainment facilities and lease them to the county
- Promotion and encouragement of tourist and convention business in the county
- Payment on bonds issued by or on behalf of the county to finance construction of a museum, or rent payable to an authority organized to construct a museum and lease it to the county, only if the museum is in a city with a population of 180,000 or more (Grand Rapids qualifies)

In counties over 750,000 population, the hotel-motel tax authorized by PA 106 of 1985 allows different rates on different sized hotels in different locations (See **Figure 2**).

Revenues from this tax have been used to repay Cobo Hall expansion bonds.

Potential as a Housing Trust Revenue Source An accommodations tax has the advantage, from a local resident's perspective, of falling almost exclusively on

Figure 2
Authorized Accommodation Tax Rates by Jurisdiction and Facility Size

Number of Rooms	Rate in Detroit	Rate in Out-Wayne, Oakland, and Macomb
81-160	3%	1.5%
161 or more	6%	5.0%

non-residents. Because a law already exists, an amendment could be proposed to allow a narrowly defined class of counties, or any county, or group of counties, to impose an accommodations tax by adoption of an ordinance by the county commission and affirmative vote of the people, and to dedicate the revenues to a housing trust.

There is no particular nexus to housing. In a tourist area, this tax would fall primarily on non-residents.

Stadium and Convention Facility Tax The stadium and convention facility tax (PA 180 of 1991) is an optional tax, available to select cities and counties, on the privilege of operating restaurants, hotels, and automobile leasing companies. The tax, adopted by ordinance and approved by the voters, may not exceed one percent of the gross receipts of hotels and restaurants and two percent of automobile leasing companies. Wayne County voters approved this tax on hotels and automobile leasing companies only, in 1996; it produced $6,053,309 in 2006-07.

Potential as a Housing Trust Revenue Source The Stadia or Convention Facility Development Act (PA 180 of 1991) could be amended to allow the same tax rate and base—not to exceed one percent on the gross receipts of restaurants and hotels and not to exceed two percent on the gross receipts of automobile leasing companies—to be adopted by counties or groups of counties, for funding a housing trust instead of for stadia or convention facilities. Obviously, the name of the tax, as well as the taxing authority and disposition, would have to be modified.

Uniform City Utility Users' Excise Tax The uniform city utility users' excise tax is limited to Detroit, which imposes the maximum five percent rate. This tax is imposed on telephone, electric, steam, and gas usage and revenues must be used to hire or retain police officers. This is a regressive tax, but somewhat related to housing. It is paid by resident individuals and businesses, but is easy to collect, being included on monthly utility bills and collected by utility companies and then paid by the companies to the city. Detroit collected about $51 million from this tax in FY2007.

Use of this revenue source would require adoption of state enabling legislation, adoption of local ordinances, and a vote of the people.

Property Taxes

State Property Taxes

In Michigan, property taxes are imposed by both the state and local governments. The state imposes a 6-mill state education tax and a real estate transfer tax.

The state utility property tax is levied in lieu of other general property taxes on the taxable value of all property of telephone and telegraph, railroad car, car loaning, sleeping car, and express car companies in Michigan.

The estate tax is no longer in effect.

Local Property Taxes

Property taxes are the traditional way of funding local government in Michigan. Counties, cities, villages, townships, and school districts, as well as some special authorities, are authorized to levy general property taxes on real and personal property. According to the state constitution, the property tax rate may not exceed 15 mills, or 18 mills in counties with separate, voter-fixed allocations, without voter approval (these limitations were reduced by the number of mills allocated to school districts in 1993). The limitation may be increased up to 50 mills with voter approval, with the following exclusions:

- Debt services for all faith and credit obligations of local units
- Taxes imposed by units having separate tax limitations provided by charter of general law (cities, villages, charter townships, charter counties)
- Taxes imposed by certain districts or authorities having separate limits (charter water authorities, port districts, metropolitan districts, downtown development districts)
- Certain taxes imposed by municipalities for special purposes (garbage services, library services, services to the aged, police and fire pension funding)

The property tax rate is further limited by the Headlee Amendment; growth in the property tax base, on a parcel basis, is limited by Proposal A.

Other revenues related to property taxes include:

- Ad valorem special assessments
- Mobile home trailer coach tax
- Commercial forest tax
- Private forest tax
- Industrial facilities tax
- Obsolete properties tax
- Neighborhood enterprise zone facilities tax
- Enterprise zone facilities tax
- Commercial rehabilitation tax
- Low grade iron ore specific tax
- County real estate transfer tax

Potential as a Housing Trust Funding Source. Property taxes are a familiar and traditional funding source for local government. There is clear nexus to housing. Collection can be administered easily by cities and townships. The tax burden is on property owners, and the electors would have to approve any increase in the existing authorization.

The most direct and traditional way to fund a housing trust in Michigan would be to obtain state enabling legislation that defines and designates countywide or multi-county housing trusts as taxing authorities with a maximum property tax rate contained in the statute. This tax would be outside the constitutional 50-mill limitation. After the legislation became effective, the regional authority or county commissioners (depending on the provisions of the statute) would have to place the issue on the ballot in the affected counties. An affirmative vote of the people would be required for the new, dedicated property tax.

The attraction of a property-related tax for financing a housing trust includes nexus and, if it can be piggybacked on an existing tax, ease of collection. The challenge is the potential for strong, organized opposition by those who believe property taxes are already too high. Many of the taxes in the above list were adopted to provide property tax relief to businesses or neighborhoods.

Creation of a regional or county affordable housing trust with independent property taxing authority would require enabling legislation, followed by a vote of the people to approve the tax. Neither of these requirements is likely to be met.

Counties could agree to allocate a portion of their existing property tax revenues to a housing trust. At the present time, however, the extreme fiscal pressures on local governments and on residents, as well as the unpopularity of the property tax, diminish the probability that a new or redirected property tax would be made available.

Cities, villages, and townships "sell" their delinquent property tax rolls to the county, which manages the delinquent collection and tax sale process. It may be worth investigating the possibility that counties participating in a housing trust would be willing to dedicate delinquent property tax fees and charges in excess of county costs to the housing trust. Fees and charges could be increased specifically to accommodate the new funding.

<u>**Real Estate Transfer Taxes**</u>

Real estate transfer taxes are a popular revenue source for land trusts across the country. These taxes are imposed on written instruments that convey any interest in real property, whether commercial or residential, with some exemptions. In Michigan, real estate transfer taxes are currently imposed by both the state and by counties. The state rate is $3.75 per $500 or fraction thereof of total value, and revenues are deposited to the State School Aid Fund. The county rate, other than Wayne County, is 55 cents per $500 or fraction thereof of total value and revenues are deposited to the general fund of the county. In Wayne County, the rate is no more than 75 cents per $500 or fraction thereof of total value.

Potential as a Housing Trust Funding Source. In 2001, the state-imposed portion of the real estate transfer tax was considered as a possible dedicated funding source by advocates for the proposed state housing fund. Because the revenues from the state real estate transfer tax are statutorily earmarked for the State School Aid Fund, and because the enabling act was promulgated as part of Proposal A, specifically to fund the State School Aid Fund, it was recommended that other options be explored.

A county-wide or multi-county housing trust could target the county portion of the real estate transfer tax. This could be done in one of several ways:

- Amend the enabling legislation to allow counties to increase the rate of the tax (perhaps up to the rate allowed in counties of over two million population) and dedicate the additional revenues generated by the increase in the rate to a housing trust.

- Amend the enabling legislation to require the dedication of all or a portion of the existing county tax to a housing trust, if the county supports or participates with other counties to support, a housing trust.

- Annual allocation by the County Commission of all or a portion of the existing tax revenues to a housing trust. Without a permanent commitment, this budget allocation would have to be repeated annually.

The real estate transfer tax is related to housing, and the tax burden is on property sellers. County collection is administered by the county treasurer. State enabling legislation would be required for an additional charge that was dedicated to a housing trust, but counties could voluntarily agree to allocate a portion of their existing real estate transfer tax revenues to a housing trust.

In February, 2009, State Rep. Robert Jones (D-Kalamazoo) reintroduced a bill that would require that counties that establish a housing trust fund for the homeless, increase the real estate transfer tax by 25 cents for each $500 of value, and earmark the revenues to fund the county housing trust fund. The text of that bill is as follows:

House Bill No. 4171

February 5, 2009, Introduced by Reps. Robert Jones, Melton, Bettie Scott, Donigan, Espinoza, Haugh, Meadows and Stanley and referred to the Committee on Intergovernmental and Regional Affairs.

A bill to amend 1966 PA 134, entitled "An act to impose a tax upon written instruments which transfer any interest in real property; to provide for the administration of this act; and to provide penalties for violations of this act," by amending sections 4 and 9 (MCL 207.504 and 207.509), section 4 as amended by 1980 PA 413.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 4. **(1)** The tax shall be at the rate of 55 cents in a county with a population of less than 2,000,000 and not more than 75 cents as authorized by the county board of commissioners in a county with a population of 2,000,000 or more for each $500.00 or fraction thereof of the total value.

(2) IF A COUNTY ESTABLISHES A HOUSING TRUST FUND FOR THE HOMELESS UNDER SECTION 58E OF THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966, 1966 PA 346, MCL 125.1458E, BY RESOLUTION, THEN THE TAX RATE DESCRIBED IN SUBSECTION (1) SHALL BE INCREASED BY 25 CENTS FOR EACH $500.00 OR FRACTION THEREOF OF THE TOTAL VALUE FOR AS LONG AS THE HOUSING TRUST FUND FOR THE HOMELESS IS IN EXISTENCE.

(3) A written instrument subject to the tax imposed by this act shall state on its face the total value of the real property or there shall be attached to the instrument an affidavit declaring the total value of the real property. The form of the affidavit shall be prescribed by the state tax commission. In the case of the sale or transfer of a combination of real and personal property the tax shall be imposed only upon the transfer of the real property, if the values of the real and personal property are stated separately on the face of the instrument or if an affidavit is attached to the instrument setting forth the respective values of the real and personal property.

Sec. 9. **(1)** ~~All~~ **EXCEPT AS PROVIDED IN SUBSECTION (2), ALL** revenue received under this act shall be deposited in the treasury of the county where the tax is collected to the credit of the general fund.

(2) THE ADDITIONAL TAXES LEVIED AND COLLECTED UNDER SECTION 4(2) SHALL BE USED ONLY TO FUND THE HOUSING TRUST FUND FOR THE HOMELESS ESTABLISHED UNDER SECTION 58E OF THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966, 1966 PA 346, MCL 125.1458E.

A very similar bill was introduced by Rep. Jones in 2008 and failed to make it out of committee. While supported by homeless advocacy groups, the bill was opposed by lawmakers who characterized it as a tax increase and an added burden on home sales and home building. Further, the bill as introduced would not be applicable to housing trusts that are established to increase the supply of affordable housing for the working poor, seniors, students, or others.

At the present time, the extreme fiscal pressures on local governments and on residents diminish the probability that all or a portion of the existing real estate transfer tax would be made available for a housing trust. An increase in the tax rate, with the resulting revenue dedicated to a county or regional housing trust, could be authorized by amending the state enabling act. This is the approach attempted by HB 4171, which would restrict the revenue raised to housing trusts for the homeless.

The steep decline in the number of real estate sales and in the value of properties has, temporarily at least, diminished the productivity of this potential revenue source in many regions of the state.

Ad valorem special assessments A special assessment is a specific levy designed to recover the cost of improvements that confer local and peculiar benefits on a property within a defined area. Ad valorem special assessments, assessments based on the value of property, may be imposed for a number of purposes, including public improvements and street lighting, police and fire equipment and operations, and storm water retention basins. The rate of a special assessment is determined by dividing the cost of the public improvement or service being financed by the taxable value of the special assessment district, within constraints set by law. Special assessments conventionally are used for infrastructure improvements such as streets, street lighting, sidewalks, and sewers. PA 197 of 1975 (MCL 125.1662) provides that special assessments are one of the financing tools that may be used by downtown development authorities for the construction or renovation of facilities, existing buildings and multi-family dwellings. Thus, there may be some potential for limited use of this tool to develop affordable housing in very special cases, such as the construction and renovation of dwellings, but it is not suitable for the operating cost of a housing trust nor for county- wide or multi-county support of a housing trust.

Transportation Taxes

Transportation taxes are levied on items used for transportation, such as gasoline, and are earmarked for transportation. Transportation related taxes include the following state revenue sources:

- Motor vehicle registration tax, to the Michigan Transportation Fund
- Gasoline tax, to the Michigan Transportation Fund
- Diesel fuel tax, to the Michigan Transportation Fund
- Liquefied Petroleum gas tax, to the Michigan Transportation Fund
- Motor carrier fuel tax, to the Michigan Transportation Fund
- Watercraft registration tax, to the Michigan Conservation and Legacy Fund, Waterways Account
- Aviation gasoline tax, to the State Aeronautics Fund
- Motor carrier single state registration tax, to the Michigan Transportation Fund and Truck Safety Fund

- Snowmobile registration tax, to the Michigan Conservation and Legacy Fund, Snowmobile Account
- Aircraft weight tax, to the State Aeronautics Fund

Potential as a Housing Trust Funding Source. Article IX, Section 9 of the 1962 Michigan Constitution dedicates transportation taxes to transportation uses. It is very unlikely that the dedication of state transportation taxes exclusively to transportation purposes could be challenged successfully by a proposal to use a transportation tax for housing purposes.

There are no local transportation taxes in Michigan. If there were local taxes associated with transportation, they would be used to fund road repairs or for other transportation purposes.

Other Potential Public Sources of Revenue for a Housing Trust

Development Impact Fees

In New Jersey, local governments have been able to create local affordable housing trusts funded by the collection of impact fees on developers.

Traditionally, impact fees are one-time fees levied by a local government on new residential, commercial, and/or industrial development to help pay for new or expanded infrastructure (water and sewer facilities, roads, parks, schools, police and fire buildings, libraries, etc.) required by the development. These impact fees may not be used for operations and cannot be added to general revenues. A series of court cases have established that the fees must be applied to all parties on the same basis, that there must be a reasonable connection between the fee charged to the developer, the needs generated by the development, and the benefits produced for the development.

Michigan PA 451 of 1994 allows municipalities to use impact fees to increase the costs of landfills. The act authorizes a municipality to impose an impact fee of not more than 10 cents per cubic yard on solid waste that is disposed of in a landfill located in the municipality, that is used by the public, and that is used to dispose of solid waste collected from two or more persons. A municipality may also impose an impact fee of not more than 10 cents per cubic yard on municipal solid waste incinerator ash that is disposed of in a landfill located in the municipality. The revenue collected may be deposited in the municipality's general fund to be used for any purpose that promotes the public health, safety, or welfare of citizens, or may be deposited into a trust fund and used for any purpose that promotes the public health, safety, or welfare of citizens.

In Michigan, PA 110 of 2006 allows local government to impose fees for zoning permits:

> "The legislative body (of the local unit of government) may require the payment of reasonable fees for zoning permits as a condition to the granting of authority to use, erect, alter, or locate dwellings, buildings, and structures, including tents and recreational vehicles, within a zoning district established under this act."

An argument could be made that construction or renovation of affordable worker housing is part of the infrastructure necessary to support new development. Local units of government could then agree to include a housing trust funding fee in the development impact fees and dedicate the revenue from that portion of the fee to the housing trust.

Development fees are clearly related to housing, and the collection process does not present problems. Impact fees are usually effective where there is demand for additional development, and may not be a reasonable funding source in many areas where affordable housing is needed. Further, obtaining agreement among all local units of government could be a significant challenge, especially if one or more units discerned a competitive advantage in not charging the fee.

Impact fees raise the cost of development, and can affect location decisions for new development. At the present time, construction of new homes, offices, and factories has been curtailed, little impact fee revenue is being generated, and local governments in Florida and Arizona are considering reducing or suspending impact fees to stimulate development.

Density Bonuses

In areas where demand for development is strong, and where local officials are committed to the mission of a housing trust, density bonuses can be used. As noted previously, the City of Ann Arbor Housing Trust Fund is primarily funded by fees from developers who take advantage of density bonuses that allow additional density if a certain amount of affordable units are included or if the developer makes a contribution to the housing trust.

There is strong nexus to housing. No enabling legislation is required; no vote of the people is required. This could be a reasonable source of funding in areas with strong housing demand.

Fines

Population loss has resulted in vacant housing units across the state. Further, in some areas of the state, the mortgage foreclosure crisis has resulted in a significant number of bank owned properties. Many of these properties are being purchased in bulk by investors. It is in the community's interest to ensure that these foreclosed properties, as well as other vacant properties, be maintained in a condition that is safe and that does not adversely affect the neighborhood. Fines on owners of blighted property could be set at an amount that offsets the cost of inspections, hearings, and administration of the process, and that includes a portion that is dedicated to a housing trust.

Communities could also adopt rental unit inspection requirements, with fines on owners of properties that fail to meet minimum standards. Fines could be set at an amount that offsets the cost of inspections, hearings, and administration of the process, and includes a portion that is dedicated to a housing trust. Revenue from this source could be used by a housing trust for operations, grants, and loans.

In communities with large numbers of vacant housing units and large numbers of rental properties, inspection and enforcement costs may be significant. Particularly in the current fiscal environment, strong political will and public support would be needed to dedicate a portion of fee and fine revenues from a community's general fund to a housing trust.

Sale of Public Property

Although the real estate market is now very weak, demand will, at some time, strengthen. At that time, an inventory of state, county, or local government owned property may identify some that is not required for government purposes. The proceeds from the sale of excess property, or from property held by a land bank, could be used to fund a land trust.

County Debt

Local governments in Michigan may sell limited tax bonds, which are repaid from existing general revenues. These bonds do not require voter approval, because they are not repaid from an unlimited property tax. However, because they are repaid from existing revenue streams, limited tax bonds reduce resources available for general county services.

Local governments in Michigan may sell unlimited tax bonds with voter approval. These bonds are repaid from a property tax that is in addition to the county's operating levy, and must be within the county's 10 percent debt limit.

PA 18 of 1933 (Ex. Sess.) is "An act to authorize any city, village, township, or county to purchase, acquire, construct, maintain, operate, improve, extend, and repair housing facilities; to eliminate housing conditions which are detrimental to the public peace, health, safety, morals, or welfare; and for any such purposes to authorize any such city, village, township, or county to create a commission with power to effectuate such purposes, and to prescribe the powers and duties of such commission and of such city, village, township, or county; and for any such purposes to authorize any such commission, city, village, township, or county to issue notes and revenue bonds…to provide for cooperative financing by 2 or more commissions, cities, villages, townships, or counties or any combination thereof…"

Counties may establish housing commissions, but in the incorporated areas of a county that commission has only the functions, rights, powers, duties, and liabilities that are provided in a contractual agreement between the county and the incorporated area. Funds for the operation of the commission may be granted or loaned by the county. Housing commissions established under this statute own and operate housing projects, and may sell revenue bonds that are repaid from the revenues from the operation of the housing project or combined projects. Multiple counties may establish a cooperatively financed housing commission which may sell revenue bonds.

PA 18 of 1933 (Ex. Sess.) may provide the basis for a new approach to affordable housing based on a multi-county structure that has the authority to sell revenue bonds and that contracts with a housing trust to increase the number of affordable housing units.

Metropolitan Council Property Tax or Fee

The Metropolitan Councils Act, PA 292 of 1989, allows a voluntary association of counties, townships, cities, or villages to plan for growth and development, improve the quality of the communities' life, and coordinate governmental services. A Metropolitan Council may plan, promote, finance, issue bonds for, acquire, improve, enlarge, extend, own, construct, replace, or contract for public improvements and services, including but not limited to, the following:

- Water and sewer
- Solid waste collection, recycling, and disposal
- Parks, museums, zoos, wildlife sanctuaries, and recreational facilities
- Special use facilities
- Ground and air transportation and facilities
- Economic development and planning
- Higher education
- Community foundations

A Metropolitan Council may require each participating local government to contribute annually an amount up to 0.2 mills of the taxable value in that unit, may levy a tax in the council area of not more than 0.5 mills, and may issue bonds.

Revenues from the tax levy and membership fees may be used for the operation of the council and/or may be pledged to the repayment of bonds. Although it has not been done, a Metropolitan Council that obtained voter approval of the legislatively authorized 0.5 mill could dedicate all or part of the revenues to a housing trust. Alternatively, the Metro Council could dedicate all or part of its revenues to a Community Foundation in which a housing trust was established. The Community Foundation could also solicit tax advantaged donations to a housing trust endowment fund. The revenues from the 0.5 mill tax and the interest from the endowment fund, as well as other revenues, could be used for the operations of the housing trust, for grants, and/or for a revolving loan fund to support affordable housing.

Alternatively, a Metropolitan Council could dedicate all or part of the 0.2 mill membership fee to a housing trust, or to a Community Foundation for the operation of a housing trust.

If maximum authorized metro council revenues were pledged to debt repayment and operations, or if the use of funds for a housing trust were challenged, consideration could be given to amending the enabling act. PA 292 of 1989 could be amended to specifically allow the use of all or part of the tax to support a metropolitan housing trust, and/or increase the maximum potential tax rate with the incremental amount to be available for, or dedicated to, a metropolitan housing trust. If an increase were authorized by state law, voter approval would be required to impose the increase in the metropolitan council region.

Revenues that flowed from this source could be used for operations, grants, and loans.

MSHDA

State and local governments may issue tax exempt bonds for public, and limited private, purposes. Because the interest earned on this debt is not taxed, the interest rate paid can be lower than the interest rate on taxable debt.

Each state's annual issuance of housing bonds and other qualified private activity bonds is limited: the 2009 limit is $90 times the state population, with a state minimum of $273,270,000. The proceeds from tax exempt housing bonds (mortgage revenue bonds and multi-family housing bonds) finance low interest mortgages for lower income first time home buyers and production of apartments that are affordable for lower income families. MSHDA's operating expenses and loans to private developers are financed primarily through the sale of tax exempt housing bonds (MSHDA also manages a number of federally funded housing programs). The 400 multi-family developments that MSHDA has financed since 1970 are privately owned and privately managed within MSHDA guidelines.

MSHDA also provides grants to community-based nonprofits and local governments for programs that promote homeownership for low income families. MSHDA, which contributed funding for the Kalamazoo Housing Trust, could be a source of funding for other county or regional housing trusts, perhaps on a matching basis. This would allow the state agency to leverage state resources by matching those funds generated by local housing trusts, as Iowa and Massachusetts do, and would address concerns that scarce state resources would be diverted to support another layer of administration.

State Legal Settlements

The disposition of settlements from successful state lawsuits is now determined by the elected state Attorney General. In some cases, the appropriate beneficiary of a settlement is obvious, as in the $24.5 million settlement against Tyco International, Ltd. In that case, the company was sued for artificially inflating stock prices and subsequently causing the state's pension funds to lose millions of dollars; settlement proceeds will go to the State of Michigan Retirement Systems. In other cases, the settlement may not be in cash, or the state is not the aggrieved party. In the Countrywide Mortgage case, settlement money was sent to the United Way in communities most affected by mortgage foreclosures, to foreclosure workshops, and to people who lost homes as a result of Countrywide's mortgage practices.

Proposed legislation (House Bill 4799) would dictate that settlement receipts be deposited immediately to the state treasury and would not be available for disbursement until appropriated. The Attorney General is opposing the bill.

The proposed legislation could be modified to provide that, in those cases in which the aggrieved party is not obvious, lawsuit settlement receipts would be directed (perhaps through MSHDA) to regional or county housing trusts on a formula basis to support affordable housing programs.

The purpose of the bill is to transfer authority over the decision on disbursement of settlements from the attorney general to the legislature, which would have to approve the appropriation of funds. If it appears at all likely that HB 4799 has a chance of passage, it is expected that numerous potential beneficiaries will be competing for consideration.

Potential Private Sources

Donations

A housing trust established as a 501(c)(3)non-profit organization could solicit tax advantaged donations from individuals, foundations, and corporations. As noted, the Michigan Business Tax and the state Income Tax statutes could be amended to provide additional state tax advantages for donations to a housing trust.

A housing trust located in a community foundation would have an advantage in obtaining private donations due to the state tax credit for donations to community foundations (PA 281 of 1967, Sec. 261; MCL 206.261)). Donated funds could be used for operations, grants, or for loans.

Donations may not, however, constitute a dependable source of long-term financing.

Income Tax Refunds

The State Income Tax Act (PA 281 of 1967) was amended to include a provision that contributions of $5, $10, or more of an individual's tax refund may be credited to the state housing and community development fund. This is not a tax credit, but an individual donation, made from the amount of tax overpayment that would otherwise be refunded to the individual or from the amount owed. The state could allow tax refund donors to designate a regional or county housing trust to receive donations. Revenue from this source, while probably very small, could be used for operations, loans, or grants.

Arbitrage

The Michigan Interfaith Trust Fund solicits funds from socially conscious investors to whom it pays very low rates of interest for the use of those funds. It then lends that money to developers of affordable housing at a higher, but still reasonable, rate. As the developers repay the loans, the Trust Fund is able to repay investors and use the incremental interest payment to support its operation.

In July 1976, valuable oil and gas reserves were discovered on property owned by the Traverse City Rotary

Club and used as a Boy Scout camp. The Rotary Club established a foundation, Rotary Charities, to manage the oil and gas revenues for the benefit of the region. Rotary Charities of Traverse City has as its mission "to improve the well-being of the five-county Grand Traverse region through challenge and matching grants, promoting philanthropy and sustainability while leading pro-active initiatives that demonstrate innovation, collaboration and measurable outcomes." According to their website, only the interest income from the principal of the trust funds is used for grants, and that has averaged about $1 million in recent years.

A housing trust serving all or part of the five-county area could request a loan from Rotary Charities, or from other entities (religious or secular) who may be interested in socially conscious investing, to be repaid at a very low rate of interest. The housing trust could then re-loan those funds for low–income housing at a somewhat higher rate of interest. Repayment of the loans by developers of low income housing would allow payment of the principal and interest due to Rotary Charities or other investors, and, if the volume were sufficient, the spread on the loans could fund the administration of the housing trust. This strategy could be used to increase the amount of low cost loans that are available, but, because of repayment requirements, would probably not provide funding for grants.

Interest from Real Estate Trust Accounts

A fund in the State of Wisconsin is supported by dedicated payments from interest earned on accounts that real estate brokers are required to establish and into which any down payments or other money paid to the broker must be deposited. This program was established in 1993 and is known as the Interest Bearing Real Estate Trust Accounts Program (IBRETA). The state collects between $200,000 and $300,000 annually from this source and uses the proceeds for programs to support homeless people.[16] A similar program could be adopted in Michigan at the state, region, or county level and could be expected to provide increasing revenues as the real estate market recovers. Revenues from this source could be used for operations, loans, or grants.

[16] Victoria Frank, Jennie Mauer, Sean Moran, William Sierzchula, and Kim Zamastil, Robert M. La Follette School of Public Affairs, University of Wisconsin-Madison, Spring 2008, Housing Trust Funds and Wisconsin: Funding for Lead Hazard Control.

Summary and Conclusions

Economies Are Regional

Michigan is a large and complex state, with numerous metropolitan areas that have different strengths and needs. Predominant economic influences include automobile production, furniture production, university and research, government and state institutions (prisons), agriculture, and tourism. Population densities vary; population growth rates vary; population age segments vary. Property values vary. Educational attainment levels vary. Transportation assets vary. Employment opportunities vary. Condition of infrastructure varies. Expectations of government vary. These variations are strengths that increase the attractiveness of different regions to different individuals and businesses. They also establish different contexts and conditions for addressing the need for affordable housing.

Because the ability of the state government to fund the Michigan Housing and Community Development Trust is limited, and the need for affordable housing exceeds the ability of MSHDA to provide funding, the state should consider empowering county and regional authorities to use local resources and expertise to create and support housing trusts. These substate housing trusts could address regional needs, help to build a special sense of place, and foster competitive, diverse, unique communities where people want to work, live, and invest. Facilitating county or regional housing trusts could allow counties and regions to complement and supplement state efforts in ways that are innovative and entrepreneurial, and that reflect the special assets and challenges of those areas.

Because the economic, political, and demographic conditions in Michigan's regions vary so much, state legislation that provides a variety of funding options for housing trusts would increase the probability that counties and groups of counties could select the options that work best for the unique conditions in that area.

A combination of revenue sources may be the best strategy for funding a housing trust. An increase in an existing tax, based on amending an existing statute (and, in some regions, paid primarily by tourists and visitors), may be more palatable to legislators and to voters than an increase in the property tax. Donations and arbitrage can be important sources of operating revenues.

Conclusion

In Michigan, the state and local governments are suffering from the effects of the near decade-long Michigan recession, which has eroded revenues and increased needs. The combined effects of the recession and economic restructuring guarantee that existing state and local revenues will be inadequate to maintain existing services and infrastructure for the foreseeable future, forcing cuts in public services or necessitating tax increases to maintain current service levels. The Michigan Constitution requires voter approval of new local taxes, but extraordinarily high unemployment, reduced asset values, high foreclosure rates, and economic uncertainty make voter approval of any new taxes very unlikely.

Governments at all levels have recognized the need to increase the supply of housing that is affordable for low income families and individuals. While the probability of a voter approved new tax to support a county or regional housing trust seems small, a variety of possible revenue streams has been identified. Some require enabling legislation and a vote of the people; others require political will. Some require nonprofit organizations to act in ways that may be unfamiliar to their directors and trustees.

State concerns may include a desire to retain control of funding for affordable housing, to ensure equitable geographic distribution of funding. At the state level, there may be some concern about regional approaches, in that regions that do not have the greatest need may be best able to develop regional cooperation, while regions with the greatest need will be unable to overcome the reluctance of wealthier communities to share resources with poorer communities. Other concerns may focus on the possibility that some metro regions may find it easier to organize a regional approach than non-metro areas.

At the county or regional level, there may be concern that state resources could be redirected away from regions that are successful in raising additional funds to increase the supply of affordable housing.

In order to ensure cooperative and complementary state and county or regional efforts, the state could initiate a matching program that rewards county or regional housing trust programs that raise public or private funds for low income housing.

Affordable housing can be defended on the bases of regional competitiveness and compassion, but it can also contribute to the retention and attraction of creative class workers needed for economic growth and of immigrants who are needed for population growth and diversity. While state control of major portions of low income housing support can ensure the equitable distribution of limited funds, and while counties and regions have varying capacity to address their own needs, county and regional efforts can be structured and managed to complement and supplement federal and state efforts, and to make the state more competitive.

Figure 3
Regional Housing Trust Fund, Potential Funding Source Matrix

Potential Source	Requires a Nexus to Housing	Requires New Constitutional Amendment?	Requires a Statutory Authority?	Vote of the People?*	Revenue Potential
Income					
Personal Income Tax	no	no	yes	regional	large
Credit for Donation	yes	no	yes	no	small
Designate Refunds	yes	no	yes	no	small
Business Privilege					
Michigan Business Tax	no	no	yes	regional	large
Credit for Donation	yes	no	yes	no	unknown
Casino Gaming Tax #	no	no	yes	yes	Detroit only
Casino Gaming Fee	no	no	no	no	Detroit only
Horse Race Wagering Tax	no	no	yes	regional	limited by location
Oil and Gas Severance	no	no	yes	regional	varies
Sales Related					
Sales and Use Taxes	no	???^	yes	statewide	large
Tobacco Products Tax	no	6% to health care	yes	regional	large
Tobacco Tax	no	no	yes	regional	large
Liquor Taxes	no	no	yes	regional	large
Beer Tax	no	no	yes	regional	large
Wine Tax	no	no	yes	regional	large
Mixed Spirits Tax	no	no	yes	regional	large
Accommodations Tax	yes	no	yes	regional	varies
Utility Users' Tax	no	no	yes	regional	large
Property					
Property Tax	yes	no	yes	regional	large
Metropolitan Council Property Tax or Fee	yes	no	yes	regional	varies
Real Estate Transfer Tax	yes	no	yes	regional	varies
Estate Tax	no	no	yes	regional	unknown
Development Impact Fees	yes	no	no	no	varies
Density Bonuses	yes	no	no	no	varies
Blighted Property Fine	yes	no	no	no	varies
Rental Inspection Fee	yes	no	no	no	varies
Sale of Public Property	no	no	no	no	varies
Interest from Real Estate Trust Accounts	yes	no	yes	no	varies
Transportation					
Gasoline Tax	no	yes	yes	statewide	large
Motor Vehicle Registration	no	yes	yes	statewide	large
Other Transportation Taxes	no	yes	yes	statewide	large
Other					
State General Fund Appropriation	no	no	no	no	currently small
MSHDA Bonds	yes	no	no	no	large
State Legal Settlements	no	no	yes	no	unknown
Donations	yes	no	no	no	unknown
Socially Motivated Investors yes	no	no	no	unknown	

*Amending the state constitution requires a statewide vote of the people; approving a regional tax requires a vote in the geographic area where the tax will be imposed; a revenue that does not require a new or increased tax does not require a vote of the people.

+ For the revenues generated by existing state and local taxes, please refer to the *Outline of the Michigan Tax System* (www.crcmich.orgTaxOutline).

Initiated Law 1 of 1996 allows three non-Indian, taxable casinos in Detroit. Indian casinos are not subject to state and local taxation.

^ The Michigan Constitution does not specifically prohibit a local sales tax, but a 1970 state Attorney General opinion ruled that local sales taxes are prohibited under the state constitution.

Note: selected state taxes (i.e. unemployment insurance, quality assurance assessment) have been excluded from the matrix because they were established to fund a particular service or function, or because they cannot be applied on a substate basis (foreign insurance company retaliatory tax, corporate organization).