

# Legislative Analysis



## EXEMPT MSHDA RESTRICTIONS FROM MARKETABLE RECORD TITLE ACT AND CLARIFY MSHDA POWERS

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bills 5029 and 5033 as introduced**

**Sponsor: Rep. Donovan McKinney**

**Committee: Economic Development and Small Business  
Housing Subcommittee**

**Complete to 10-12-23**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bills 5029 and 5033 would amend the marketable record title act and the State Housing Development Authority Act, respectively, to exempt land use restrictions imposed by the Michigan State Housing Development Authority (MSHDA) from the marketable record title act and to clarify MSHDA's authority under federal law. The bills are tie-barred together, meaning that neither would go into effect unless both were enacted.

**House Bill 5029** would amend 1945 PA 200, known as the marketable record title act, to exempt MSHDA land use restrictions from the act's provisions.

Marketable record title generally refers to an ownership interest in land that can be transferred to a new owner without the likelihood that another person can claim an interest in the property. Under the act, a person possesses a marketable record title to an interest in land if the person had an unbroken chain of title to the interest for 40 years or, for mineral interests, 20 years. In other words, a document creating that person's interest has been recorded, and nothing that would conflict with or deny the person's interest (or "purport to divest" the interest) has been recorded within that period.

Subject to exceptions, the act extinguishes a claim that may affect the person's interest if the claim depends on an event or transaction preceding the 40- or 20-year period, unless, within that period, a notice of claim has been recorded. One of those exceptions is that the act cannot be used to bar or extinguish any land and resource use restriction, whether or not the restriction was required by a state or federal agency, including a restricted covenant.

The bill would provide that such a land and resource use restriction includes restrictive covenants recorded by MSHDA, meaning that the act could not be used to bar or extinguish one of those covenants.

MCL 565.104

**House Bill 5033** would amend the State Housing Development Authority Act to specify that MSHDA has the power to be the sole statewide public housing agency under federal law and the power to enter statewide or regional multistate contracts for administering housing subsidies or other federal housing assistance programs. It would also authorize MSHDA to subcontract those activities, in addition to the leasing of real and personal property, the acceptance of federal funds for federal housing programs, and the participation in those federal programs, to its discretion.

The bill would also specify that the covenants that MSHDA is currently allowed to impose to satisfy certain federal and state requirements include at least covenants that restrict income or rent, easements, or any other restrictions imposed by MSHDA by regulatory agreement, deed, declaration of covenants, declaration of easement, or any other legitimate means. The covenants would be explicitly designated as land use restrictions that are exempt from the marketable title act, as would be provided for by House Bill 5029.

MCL 125.1422

**FISCAL IMPACT:**

A fiscal analysis is in progress.

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