

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 83 (Chair, Education, Health, and Environmental Affairs
Committee)(By Request - Departmental - Housing and
Community Development)

Education, Health, and Environmental Affairs

Environmental Matters

Affordable Housing Programs - Authority of Local Governments to Support
Programs - Sunset Repeal

This departmental bill repeals the September 30, 2011 termination date for local affordable housing program authorizations, including the waiver or modification of building permit or development impact fees and charges supporting the construction or rehabilitation of lower income housing units.

The bill takes effect June 1, 2011.

Fiscal Summary

State Effect: None.

Local Effect: Any decrease in local revenues associated with the waiver or modification of building permit or development impact fees and charges continues under the bill for those jurisdictions that waived or modified fees in accordance with the authority provided under Chapters 386 and 387 of 2008, which is extended by this bill. Local government revenues may decrease for any other jurisdictions that waive or modify fees under the bill's continued authority.

Small Business Effect: The Department of Housing and Community Development (DHCD) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment as discussed below.

Analysis

Current Law: Chapter 300 of 2007 authorized counties and municipalities to support, foster, and promote affordable housing programs for low- and moderate-income households through various local programs. Prior to that, local governments participated in federal low-income housing programs, and counties were authorized, subject to the land use provisions of Article 66B, to promote affordable housing through an adequate public facilities or inclusionary zoning ordinance.

Chapters 386 and 387 of 2008 authorize local governments to waive or modify building permit or development impact fees and charges for the construction or rehabilitation of lower-income housing units in proportion to the number of lower-income housing units of a development. To qualify, the lower-income housing units must be financed, in whole or in part, by public funding with mortgage or other covenants restricting the rental or sale of the housing units to lower-income residents in accordance with specific government program requirements; or must be developed by a nonprofit organization that has been exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code for at least three years, and that requires the homebuyer to participate in the construction or rehabilitation of the housing unit.

Under current law, Chapters 386 and 387 of 2008 expire on September 30, 2011.

Background:

Use of Fee Waivers and Modifications Authorized by Chapters 386 and 387 of 2008

Pursuant to Chapters 386 and 387, DHCD was required to report to the General Assembly by October 1, 2010, on the counties and municipalities that waived or modified permit or development fees as a result of the legislation; the number and type of housing units for which fees were waived or modified; and the amount of fees waived and collected. The report concluded that Chapters 386 and 387 have had a meaningful impact on numerous projects and that continuing local governments' authority to provide fee waivers for lower income housing is critical.

Currently, 16 counties in Maryland levy an impact fee or excise tax, ranging from \$3,671 per unit in Dorchester County to \$33,331 in Montgomery County, as shown in **Appendix 1**. According to the report, 10 local governments have waived or modified fees for 15 affordable housing projects under the authorization provided by Chapters 386 and 387. Of these projects, 1,119 housing units were developed, including 16 single family homes for sale, 494 rental units for families, and 609 rental units for seniors. The fees waived totaled \$4.39 million. About \$207,000 was collected by the four jurisdictions that *modified* fees (rather than waiving them in full). To put the fee

waivers and modifications in context, about \$79.4 million in development impact fees and excise taxes were collected statewide in fiscal 2010 (down substantially from the pre-recession level of \$129.1 million in fiscal 2007).

The household income levels served by the rental units developed under fee waivers and modifications ranged between 0% of the Area Median Income (AMI) and 60%, while the income levels of the homeowner units ranged between 0% and 80% of AMI.

Housing Affordability in Maryland

The generally accepted definition of housing affordability is when a household pays no more than 30% of its annual income on housing. Families who pay more than 30% for housing are considered cost burdened and may have difficulty affording necessities such as food, clothing, transportation, and medical care.

In Maryland, the median home price for owner-occupied real property was \$315,000 in fiscal 2007, a 108.6% increase over the median price in fiscal 2001 of \$151,000. For comparison purposes, the median household income increased by 21.4% over roughly the same period. The median home price in fiscal 2007 ranged from \$109,875 in Allegany County to \$437,750 in Montgomery County. Western Maryland is the most affordable location in the State to purchase a home, whereas Montgomery County and parts of the Eastern Shore are the least affordable.

In Allegany County, the median home price is 2.9 times higher than the median household income, whereas in Talbot County, the median home price is 6.3 times higher than the median household income. **Appendix 2** shows data available regarding median household income and the median price for homes by county. A comparison of the growth in household income and home prices is provided in **Appendix 3**.

The revenues collected from development impact fees and building excise taxes are used for a variety of core governmental functions, as shown in **Appendix 4**.

Small Business Effect: Some small business developers, both for-profit and nonprofit, may realize additional business opportunities or some margin of cost savings to the extent they are involved in the development of a project under the bill's continued authorization. However, some or all of any cost savings may be passed on to the lower-income tenants and purchasers of the development.

Additional Comments: For additional information, please see the October 1, 2010 DHCD report entitled *An Analysis of Waivers and Modifications of Building Permits or Development Impact Fees and Charges for Lower Income Housing Projects*, which is available from the Department of Legislative Services' Library and Information Services.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Housing and Community Development; State Department of Assessments and Taxation; Maryland Municipal League; Baltimore City; Allegany, Harford, Montgomery, and Wicomico counties; Department of Legislative Services

Fiscal Note History: First Reader - January 31, 2011
ncs/lgc

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Appendix 1
County Development Impact Fees and Excise Tax Rates

<u>County</u>	<u>Type</u>	<u>Fee/Rate Per Dwelling¹</u>		
		<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
Anne Arundel ²	Impact Fee	\$1,795	\$3,590	\$8,976
Calvert	Excise Tax	12,950	12,950	12,950
Caroline ³	Excise Tax	5,000	5,000	5,000
Carroll	Impact Fee	6,836	6,836	6,836
Charles	Excise Tax	11,598	12,625	12,097
Dorchester ⁴	Excise Tax	3,671	3,671	3,671
Frederick ⁵	Impact Fee/ Excise Tax	13,733	14,283	15,185
Harford	Impact Fee	8,269	6,000 ⁶	6,000
Howard ⁷	Excise Tax/ Surcharge	See note	See note	\$2.15/sq. ft.
Montgomery ⁸	Impact Tax	31,105	33,331	33,331
Prince George's ⁹	Surcharge	20,638	20,494	20,945
Queen Anne's	Impact Fee	\$4.05/sq. ft.	\$4.25/sq. ft.	\$4.36/sq. ft.
St. Mary's	Impact Fee	4,500	4,500	4,500
Talbot ¹⁰	Impact Fee	5,684	5,957	6,113
Washington	Excise Tax	\$3.00/sq. ft.	\$3.00/sq. ft.	\$3.00/sq. ft.
Wicomico	Impact Fee	5,231	5,231	5,231

¹Rates listed are generally those applicable to single-family detached dwellings and are per dwelling unless otherwise indicated.

²Rates for a 1,500-1,999 square foot residential unit. These rates are those applicable in the second half of fiscal 2009, 2010, and 2011, the result of increases effective January 1 in each of those years. Residential rates vary by the square footage of a unit.

³A \$750 development excise tax for agricultural land preservation is also imposed on new lots created by subdivision in a "rural district."

⁴A slightly higher rate, \$3,765 per dwelling, applies outside of the Cambridge and Hurlock areas.

⁵The rates shown only reflect the public school and library impact fee total. The roads tax (unchanged for all three fiscal years) is \$0.10/sq. ft. or \$0.25/sq. ft. (depending on the square footage), with the first 700 square feet not taxed.

⁶Effective December 4, 2009.

⁷Fiscal 2011 amount represents roads tax of \$0.99/sq. ft. and school surcharge of \$1.16/sq. ft. In fiscal 2009 and 2010, the roads tax was \$400 for the first 500 sq. ft. and \$0.90 and \$0.95, respectively, for sq. ft. in excess of 500 sq. ft. The school surcharge was \$1.14/sq. ft. in fiscal 2009 and 2010.

⁸Fiscal 2010 and 2011 amounts represent \$11,411 for transportation and \$21,920 for schools. Fiscal 2009 amount represents \$10,649 for transportation and \$20,456 for schools. The school excise tax is increased by \$2 for each square foot between 3,500 and 8,500 gross square feet. Different transportation rates apply in the Metro Station and Clarksburg impact tax districts.

⁹Fiscal 2011 amount represents \$14,227 for school facilities and \$6,718 for public safety. A lower school facilities rate (\$8,299 in fiscal 2011) applies inside the beltway and a lower public safety rate (\$2,240 in fiscal 2011) applies inside the "developed tier" as defined in the 2002 Prince George's County Approved General Plan.

¹⁰A lower rate (\$5,281 in fiscal 2011) applies to "in-town" development.

Source: Department of Legislative Services

Appendix 2
Economic Indicators for Maryland Counties

<u>County</u>	<u>Median Household Income</u>		<u>Median Home Price</u>	
	<u>CY 2007</u>	<u>% State Average</u>	<u>FY 2007</u>	<u>% State Average</u>
Allegany	\$38,050	55.7%	\$109,875	34.9%
Anne Arundel	83,350	122.0%	339,900	107.9%
Baltimore City	38,400	56.2%	159,625	50.7%
Baltimore	64,100	93.9%	262,850	83.4%
Calvert	90,200	132.1%	324,900	103.1%
Caroline	45,850	67.1%	275,000	87.3%
Carroll	78,200	114.5%	340,000	107.9%
Cecil	62,850	92.0%	260,000	82.5%
Charles	80,150	117.3%	348,475	110.6%
Dorchester	40,650	59.5%	214,000	67.9%
Frederick	83,000	121.5%	329,900	104.7%
Garrett	40,150	58.8%	145,500	46.2%
Harford	77,800	113.9%	269,900	85.7%
Howard	96,900	141.9%	392,000	124.4%
Kent	51,450	75.3%	264,000	83.8%
Montgomery	90,550	132.6%	437,750	139.0%
Prince George's	70,300	102.9%	325,000	103.2%
Queen Anne's	76,650	112.2%	378,911	120.3%
St. Mary's	65,750	96.3%	315,000	100.0%
Somerset	33,700	49.3%	159,900	50.8%
Talbot	56,900	83.3%	360,000	114.3%
Washington	52,150	76.4%	239,450	76.0%
Wicomico	47,300	69.3%	200,000	63.5%
Worcester	54,300	79.5%	265,000	84.1%
Maryland	\$68,300	100.0%	\$315,000	100.0%

Source: Department of Labor, Licensing, and Regulation; Maryland Department of Planning; State Department of Assessments and Taxation

Appendix 3 Comparison of Income Growth and Housing Cost by County

County	Median Household Income			Median Home Price			Ranking by					
	CY 2001	CY 2007	% Chng.	FY 2001	FY 2007	% Chng.	Increase in Home Price		Housing Affordability			
Allegany	\$33,750	\$38,050	12.7%	\$65,000	\$109,875	69.0%	1.	Caroline	152.3%	1.	Allegany	2.9
Anne Arundel	69,900	83,350	19.2%	156,800	339,900	116.8%	2.	Dorchester	144.6%	2.	Harford	3.5
Baltimore City	32,350	38,400	18.7%	68,500	159,625	133.0%	3.	Baltimore City	133.0%	3.	Calvert	3.6
Baltimore	55,800	64,100	14.9%	130,000	262,850	102.2%	4.	Prince George's	124.3%	4.	Garrett	3.6
Calvert	73,600	90,200	22.6%	169,900	324,900	91.2%	5.	Queen Anne's	124.1%	5.	Frederick	4.0
Caroline	40,750	45,850	12.5%	109,000	275,000	152.3%	6.	Somerset	119.8%	6.	Howard	4.0
Carroll	67,850	78,200	15.3%	173,900	340,000	95.5%	7.	Montgomery	118.9%	7.	Anne Arundel	4.1
Cecil	53,450	62,850	17.6%	134,000	260,000	94.0%	8.	Talbot	117.4%	8.	Baltimore	4.1
Charles	69,500	80,150	15.3%	169,000	348,475	106.2%	9.	Anne Arundel	116.8%	9.	Cecil	4.1
Dorchester	36,950	40,650	10.0%	87,500	214,000	144.6%	10.	St. Mary's	114.3%	10.	Baltimore City	4.2
Frederick	68,500	83,000	21.2%	161,000	329,900	104.9%	11.	Kent	112.9%	11.	Wicomico	4.2
Garrett	34,450	40,150	16.5%	82,000	145,500	77.4%	12.	Worcester	107.0%	12.	Charles	4.3
Harford	64,100	77,800	21.4%	148,000	269,900	82.4%	13.	Charles	106.2%	13.	Carroll	4.3
Howard	81,650	96,900	18.7%	198,000	392,000	98.0%	14.	Frederick	104.9%	14.	Washington	4.6
Kent	42,650	51,450	20.6%	124,000	264,000	112.9%	15.	Washington	103.0%	15.	Prince George's	4.6
Montgomery	78,400	90,550	15.5%	200,000	437,750	118.9%	16.	Baltimore	102.2%	16.	Somerset	4.7
Prince George's	61,800	70,300	13.8%	144,894	325,000	124.3%	17.	Howard	98.0%	17.	St. Mary's	4.8
Queen Anne's	62,950	76,650	21.8%	169,050	378,911	124.1%	18.	Carroll	95.5%	18.	Montgomery	4.8
St. Mary's	58,250	65,750	12.9%	147,000	315,000	114.3%	19.	Cecil	94.0%	19.	Worcester	4.9
Somerset	32,150	33,700	4.8%	72,750	159,900	119.8%	20.	Calvert	91.2%	20.	Queen Anne's	4.9
Talbot	48,400	56,900	17.6%	165,625	360,000	117.4%	21.	Wicomico	83.5%	21.	Kent	5.1
Washington	45,200	52,150	15.4%	117,950	239,450	103.0%	22.	Harford	82.4%	22.	Dorchester	5.3
Wicomico	41,700	47,300	13.4%	109,000	200,000	83.5%	23.	Garrett	77.4%	23.	Caroline	6.0
Worcester	44,350	54,300	22.4%	128,000	265,000	107.0%	24.	Allegany	69.0%	24.	Talbot	6.3
Maryland	\$56,250	\$68,300	21.4%	\$151,000	\$315,000	108.6%						

Source: Maryland Department of Planning, State Department of Assessments and Taxation

Appendix 4
Governmental Uses of Development Impact Fees and Excise Taxes
Fiscal 2010

County	Education	Transportation	Public Safety	Recreation	Other	Total Estimated Revenues	Per Capita Revenues
Anne Arundel	1,470,223	4,863,836	174,494	0	0	6,508,553	12.49
Calvert	1,737,249	1,361,359	0	589,366	114,818	3,802,793	42.63
Caroline	115,874	0	0	0	13,700	129,574	3.88
Carroll	1,185,583	0	0	118,992	0	1,304,575	7.67
Charles	5,370,374	0	0	0	0	5,370,374	37.76
Dorchester	410,330	0	26,481	0	0	436,811	13.63
Frederick	7,620,207	1,061,254	0	0	0	8,681,461	38.08
Harford	3,499,446	0	0	0	0	3,499,446	14.43
Howard	5,905,301	5,659,573	0	0	0	11,564,874	41.03
Montgomery	11,473,071	3,598,958	0	0	0	15,072,029	15.51
Prince George's	17,752,053	0	97,374	0	0	17,849,427	21.39
Queen Anne's	852,201	0	195,879	117,733	0	1,165,813	24.31
St. Mary's	1,528,050	191,966	0	221,550	0	1,941,566	18.85
Talbot	267,153	152,198	0	38,636	85,822	543,809	15.00
Washington	658,008	339,213	0	0	29,844	1,027,065	7.04
Wicomico	476,252	0	0	0	0	476,252	5.05
Total	\$60,321,375	\$17,228,357	\$494,228	\$1,086,277	\$244,184	\$79,374,422	\$19.97
Share of Total	76.0%	21.7%	0.6%	1.4%	0.3%	100.0%	

Source: Department of Legislative Services

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Affordable Housing Programs – Authority of Local Government to Support Programs – Sunset Repeal

BILL NUMBER: SB 83

PREPARED BY: Department of Housing and Community Development

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.