

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 453

(Chair, Environmental Matters Committee)(By Request -
Departmental - Housing and Community Development)

Environmental Matters

Education, Health, and Environmental Affairs

**Housing and Community Development - Multifamily Rental Housing Programs
Efficiency Act**

This departmental bill consolidates four multifamily housing programs (the Elderly Rental Housing Program, the Multifamily Rehabilitation Program, the Nonprofit Rehabilitation Program, and the Rental Housing Production Program) to be under a new Rental Housing Program in the Department of Housing and Community Development (DHCD). The bill also alters specified standards for multifamily loans and specified notice and permission standards for DHCD's consultation with local jurisdictions on community development projects. Finally, the bill modifies various provisions relating to the Partnership Rental Housing Program.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: The bill's changes do not materially affect State operations or finances.

Local Effect: This bill is not anticipated to significantly affect local government operations or finances. The bill's procedural changes to notice and permission standards may reduce local government expenditures on making formal resolutions to approve community development projects.

Small Business Effect: DHCD has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Rental Housing Program – Generally

The stated purposes of the Rental Housing Program are to (1) stimulate the production and preservation of rental housing; (2) increase and improve the supply of decent, safe, and sanitary rental housing at costs that are affordable to households of limited income; (3) use available resources efficiently to serve the households that are in need of quality affordable housing opportunities; (4) support economic growth and activity by financing the construction or substantial rehabilitation of rental housing projects; and (5) revitalize sustainable communities through “office or other commercial space conversion.” The bill defines “household of limited income” as one or more individuals who occupy the same residential dwelling unit and whose total household income does not exceed the upper income limits established by the Secretary of Housing and Community Development for the Rental Housing Program.

The bill requires DHCD to:

- administer the Rental Housing Program either directly or through the Community Development Administration (CDA);
- adopt specified regulations to carry out the program;
- adopt policies to ensure that rental housing is made available to limited-income households;
- develop procedures to ensure that the projects receiving financial assistance from the program are in compliance with applicable occupancy restrictions;
- use federal and State programs to help carry out the program; and
- encourage the assistance or participation of local political subdivisions.

The bill requires the Secretary to set income guidelines by considering any relevant factors, including the median income for the area, the minimum income needed to afford available standard rental units in the area, and federal income guidelines.

Qualified Projects and the Review of Applications

A project qualifies as a rental housing project under the Rental Housing Program if (1) its purpose is to acquire, construct, or rehabilitate real property or a building or all or part of a building that will be occupied by limited-income households and (2) a portion of the rental units in the project are set aside for households of lower income for the greater of 15 years or the number of years required by federal law. The bill establishes provisions

relating to the minimum number of rental units that must be set aside for lower-income households.

A project qualifies as a rental housing project and is not subject to income restrictions if it will affect an office or other commercial space conversion into market rate rental housing and provide substantial economic development to a sustainable community. “Office or other commercial space conversion” means the conversion to rental housing of a building that (1) is in a sustainable community; (2) was built more than 30 years before an application is submitted to DHCD to finance the conversion; (3) consists of at least two floors at or above ground level; and (4) was last used as office or other commercial space.

DHCD must review applications for loans submitted by private or nonprofit sponsors, political subdivisions, or local housing authorities on behalf of sponsors of proposed rental housing projects. The bill establishes several factors DHCD must consider in reviewing applications.

Rental Housing Fund

The bill renames the Rental Housing Programs Fund as the Rental Housing Fund and grants authority over the fund to DHCD, effectively transferring the authority to administer the repealed Rental Housing Programs Fund from CDA to DHCD. The fund includes funds contained in the loan programs repealed under the bill as well as funds received by DHCD or CDA from any other source. To achieve the purposes of the program, DHCD must, from time to time, ask the State to increase or replace amounts deposited with the State Treasurer in the fund.

Money in the fund may be used to make loans to an approved applicant to (1) acquire, construct, or rehabilitate a rental housing project; (2) convert an existing building to a rental housing project; or (3) provide assistance to reduce the operating costs of a project by depositing the proceeds of the loan in an interest-bearing account that is under the control of DHCD and is used to pay the operating costs on any prior mortgage loan securing the project.

A program loan may (1) be secured by a mortgage lien; (2) be subordinate to other financing; (3) have an interest rate as low as 0%; (4) be payable out of surplus cash; (5) be a deferred payment loan; (6) provide for an equity participation by DHCD or contingent interest payable out of surplus cash or net equity; or (7) have any other terms DHCD may require. DHCD is authorized to modify loan terms to facilitate repayment and achieve the purposes of the program.

If a loan is secured by a mortgage, DHCD may (1) enforce the mortgage; (2) foreclose on the mortgage; (3) convey title to a purchase; (4) obtain and enforce a deficiency judgment; (5) allow assumption of the mortgage; and (6) contract with a private mortgage servicer to perform on behalf of DHCD any functions a servicer ordinarily performs. The bill authorizes DHCD to assign a mortgage for value or convey property after acquisition without approval or execution by the Board of Public Works.

Penalties

A person may not knowingly make or cause to be made a false statement or report in a document required to be submitted to DHCD with respect to a loan. A loan applicant may not knowingly make or cause a false statement or report to be made to influence the action of DHCD on a program loan application or to influence action of DHCD affecting a program loan already made. Violators are guilty of a misdemeanor and on conviction are subject to maximum penalties of imprisonment for five years and/or a fine of \$50,000.

Consultation and Notice Standards for Community Development Projects

The bill requires CDA to provide written notice and a reasonable opportunity to comment to the chief executive officer (CEO) or equivalent officer and the head or president of the legislative body of the political subdivision in which a proposed community development project or a public purpose project is located. (This alters a current requirement that CDA must get approval of the land use for a community development project by resolution of the appropriate governing body.) The bill also repeals a requirement that CDA, in implementing specified provisions of law, work closely, consult, and cooperate with local elected officials and give primary consideration to local needs and desires.

Partnership Rental Housing Program

In administering the existing Partnership Rental Housing Program, the bill authorizes DHCD to make loans either directly or through CDA.

DHCD may approve the use of partnership rental housing funds for a unit of partnership rental housing that does not comply with specified application requirements if the unit will be occupied by a household of lower income that includes one or more individuals with disabilities or special needs and the project in which the unit is located complies with the requirements of the other State housing programs financing the project. Any eligible borrower may participate in the program.

The bill authorizes funds provided under the program to be made available as a specified deferred payment loan if necessary to comply with, or receive the benefit of, federal or other financial assistance.

Current Law:

Rental Housing Program

As noted above, the bill consolidates four multifamily programs currently administered by DHCD's Division of Finance or CDA: the Elderly Rental Housing Program; the Multifamily Rehabilitation Program; the Nonprofit Rehabilitation Program; and the Rental Housing Production Program. These programs are currently funded out of the Rental Housing Programs Fund.

Approval by Local Governments for Community Development Projects

CDA is required to get approval of the land use for a community development project by resolution of the appropriate governing body of the locality in which the development is located before (1) acquiring, owning or holding land; (2) clearing, improving, constructing, or rehabilitating the property; (3) transferring, leasing, mortgaging, or otherwise disposing of the property; or (4) building housing on any land.

Partnership Rental Housing Program

Except under specified conditions, DHCD may only approve an application for a proposed partnership project if:

- the application is authorized by the CEO of the political subdivision or, if there is no CEO, by the governing body of the political subdivision in which the project is located;
- the political subdivision or housing authority (1) funds or makes specified contributions; (2) manages the project; and (3) is to have an ownership interest in the project or in the rental units financed by the program and sold to the political subdivision or housing authority or a specified partnership;
- the rental units financed by the program are to be occupied on completion of the acquisition, construction, reconstruction, renovation, or rehabilitation by lower-income households;
- the occupying lower-income households are required to contribute services to enhance or maintain the project or the community in a way that the political subdivision or housing authority accepts; and
- it is reasonable to anticipate that more State subsidies will not be need for long-term occupancy by households of lower income and rental income, including any contribution to allow for more affordable housing rents, will be enough to pay the operating costs of the partnership project and to build an adequate reserve of or the long-term maintenance and renovation of the project.

DHCD may approve the use of funds for a unit of partnership rental housing that is not owned in whole or part by a political subdivision or housing authority if (1) the unit will be occupied by a lower-income household that includes one or more individuals with disabilities or special needs and (2) the project in which the unit is located complies with the requirements of other State housing programs financing the project, if any, including requirements for local support or local contribution.

A political subdivision or housing authority may participate in the program and do all things necessary or convenient to its participation, including borrowing money and mortgaging, pledging, and granting a security interest in real or personal property related to a particular partnership project. DHCD may not require a political subdivision or housing authority to repay money made available under the program unless the political subdivision or housing authority sells the partnership project or fails to operate the partnership project for the benefit of lower-income households in accordance with agreements between DHCD and the political subdivision or housing authority.

Background: DHCD advises that the bill is intended to reduce the administrative burden on program staff and applicants by streamlining and consolidating multiple programs under a single subtitle with consistent statutory language. The four programs that the bill consolidates were adopted individually under different subtitles. DHCD advises that these programs now share identical goals and address overlapping constituencies. However, according to DHCD, the inconsistent language among the multiple subtitles has resulted in various administrative inefficiencies and complications. For example, some subtitles assign administrative authority over some programs to DHCD, while others reserve this authority to CDA.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Harford, Montgomery, Talbot, and Wicomico counties; cities of Frederick and Havre de Grace; Town of Indian Head; Department of Housing and Community Development; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2014
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Housing and Community Development- Rental Housing Programs Efficiency Act

BILL NUMBER: HB 453

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

This proposed legislation will have minimal or no impact on small businesses.