Department of Legislative Services

Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 553 (Chair, Environmental Matters Committee)(By Request - Departmental - Housing and Community Development)

Environmental Matters Education, Health, and Environmental Affairs

Housing - Energy-Efficient Homes Construction Loan Program

This departmental bill establishes the Energy-Efficient Homes Construction Loan Program within the Department of Housing and Community Development (DHCD) to provide low-interest loans for the construction of "low-energy" and "net-zero" homes. An applicant must meet specified criteria to qualify for and receive a loan under the program. An Energy-Efficient Homes Construction Fund is established as a special fund within DHCD to pay the expenses of the program, provide credit enhancement under the program, and make or purchase loans under the program. DHCD must administer the program, adopt specified regulations, and submit required reports.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: Special fund expenditures for DHCD increase by $1.6 million in FY 2015, reflecting loans and administrative costs. The FY 2015 budget authorizes $1.5 million in special funds from the Strategic Energy Investment Fund (SEIF) to be used only for the new program. The *Capital Improvement Program* (CIP) includes $1.0 million in general obligation (GO) bonds for FY 2016 through 2019 for continued capitalization of the new fund; special fund revenues within DHCD increase correspondingly and may increase further due to loan repayments, fees, investment earnings, or other funding sources made available to the fund. Future year special fund expenditures within DHCD reflect ongoing loan activity ($1.0 million annually) and ongoing administrative costs. The bill's penalty provisions are not anticipated to materially affect State finances.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
SF Revenue	$0	$1,000,000	$1,000,000	$1,000,000	$1,000,000
SF Expenditure	$1,572,800	$1,093,500	$1,096,900	$1,100,500	$1,104,300
Bond Exp.	$0	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Net Effect	($1,572,800)	($1,093,500)	($1,096,900)	($1,100,500)	($1,104,300)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: DHCD has determined that this bill has a meaningful 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: "Low-energy home" means a home that achieves a Home Energy Rating System (HERS) rating (1) of 50 or lower or (2) as determined by DHCD. "Net-zero home" means a home that is designed to produce an amount of energy in one year that is equal to the amount of energy that the home uses in one year.

DHCD must administer the Energy-Efficient Homes Construction Fund. The fund consists of (1) money appropriated in the State budget; (2) repayments or prepayments of principal and payments of interest on loans made under the program; (3) investment earnings of the fund; and (4) any other money from any other source. All investment earnings of the fund must be paid into the fund. DHCD must use the fund to (1) pay expenses of the program; (2) provide credit enhancement under the program; and (3) make or purchase loans under the program.

DHCD must attach to a program loan the terms needed to carry out the program, establish eligibility standards for program loans, and establish interest rates that may be as low as 0% or as high as is reasonable to make the project viable. In setting the terms and interest rates for program loans, DHCD may offer preferred interest rates and terms for loans used to finance net-zero homes and establish different interest rates based on the projected energy efficiency of the home to be constructed.

The bill authorizes DHCD to:

- contract for services relating to the program;
- contract with private mortgage servicers to perform on behalf of DHCD functions the servicers ordinarily perform;
- charge a nonrefundable application fee and other customary loan fees;

- enter into agreements to provide credit enhancement or collectively lend money for the construction of net-zero and low-energy homes;
- purchase or commit to purchase from mortgage lenders notes or mortgages that meet specified requirements;
- modify the interest rate and other terms of a program loan to facilitate repayment of the program loan and to achieve the purpose of the program; and
- without approval or execution by the Board of Public Works (1) assign, release, or foreclose a mortgage; (2) acquire property that secures a loan in default; and (3) encumber, sell, or otherwise dispose of property acquired in connection with a loan in default.

Every six months beginning January 1, 2015, DHCD must submit a report to the General Assembly on regulations adopted to increase participation of minority businesses in the program and the outcome of that effort.

Proceeds of a program loan may only be used for property acquisition and development costs for (1) the construction of a net-zero home or low-energy home and (2) settlement and closing costs. A program loan must be secured by a mortgage lien. The mortgage lien may be subordinate to other mortgage liens and may include terms that DHCD considers necessary to make the project viable.

To qualify for a loan under the program, a person must submit (1) an application; (2) information on projected energy usage, project design, and marketing data; and (3) any other information or documentation DHCD considers necessary to make a determination on the loan. DHCD may give preference to an application for a net-zero home or a project that includes financing from other sources in addition to the program loan.

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 under an agreement relating to a loan under the program. A loan applicant is similarly prohibited from knowingly making or causing to be made any false statement or report to influence DHCD's action on a program loan application or a program loan already made. A violator is guilty of a misdemeanor and is subject to imprisonment not exceeding five years and/or a fine of up to $50,000.

Current Law/Background:

Home Energy Rating System

The HERS index is an energy efficiency scoring system established by the Residential Energy Services Network. A HERS index score of 100 represents the score of a standard new home. Each one-point decrease in the HERS index is equivalent to a 1% reduction in energy consumption compared to the standard new home. Thus, a home with a HERS index score of 70 is 30% more energy efficient than a standard new home.

Current Energy Efficiency Programs

DHCD offers a number of energy efficiency programs; however, none of them provide loans for the construction of new homes. Programs include:

- *Be SMART Home Program:* offers innovative financing to improve home energy efficiency through replacement and upgrading of appliances; heating, cooling, and ventilation systems; and whole house envelope improvements across the State, up to $15,000 in financing;

- *Be SMART Home Energy Efficiency Rebate Program:* offers up to $4,250 in incentives to Maryland homeowners to offset the cost of qualified energy efficiency improvements and products;

- *EmPower Low Income Energy Efficiency Program:* helps low-income households with the installation of energy conservation materials in their homes at no charge, including insulation, hot water system improvements, and lighting retrofits; and

- *Weatherization Assistance Program:* helps eligible low-income households with the installation of energy conservation materials in their homes, including insulation, hot water system improvements, and furnace cleaning.

EmPower Maryland

Chapter 131 of 2008 established the State goal of achieving a 15% reduction in per capita electricity consumption and peak demand by the end of 2015. Beginning with the 2008 calendar year and each year thereafter, the Public Service Commission (PSC) must calculate the per capita electricity consumption and peak demand for the year. PSC, to the extent it determines that cost effective energy efficiency and conservation programs are available for each affected class, must require electric companies to procure and provide customers with a cost effective demand response program that is designed to achieve targeted electricity savings and demand reduction through 2015. Customers are assessed a monthly surcharge (the EmPower Maryland surcharge) by electric companies to recover the costs of the program.

Strategic Energy Investment Fund

Chapters 127 and 128 of 2008 created the Maryland Strategic Energy Investment Program, and the implementing SEIF, to decrease energy demand and increase energy supply to promote affordable, reliable, and clean energy. The fund is administered by MEA. Currently, the fund's primary source of revenue is proceeds from the sale of carbon dioxide (CO_2) allowances under the Regional Greenhouse Gas Initiative. Money received by SEIF from the CO_2 auctions is required by statute to be allocated across various energy programs, including those that support energy efficiency and conservation, electricity assistance for low-income individuals, and renewable and clean energy. The fund may also receive money as appropriated in the State budget and from payments paid under the State Renewable Energy Portfolio Standard for noncompliance, among others.

Energy Efficiency Upgrades

The up-front costs of installing renewable energy and energy efficiency measures can be a barrier against consumers adopting such measures. In a recent PSC Order (No. 84569) relating to utilities' implementation of programs under the State's EmPower Maryland program, the commission stated that "access to financing is critical for many consumers who must invest thousands of dollars to achieve significant energy savings in their homes and businesses." The commission also noted that "investments can often pay for themselves in a matter of years if financing rates are affordable." The commission found that the lack of convenient, accessible financing at favorable rates was a missing link in the utilities' programs and ordered a workgroup to be convened to analyze financing options and legislative or regulatory solutions.

The workgroup submitted its proposal to the commission in January 2013. The proposal was to integrate the Maryland Home Energy Loan Program (MHELP) into electric company residential programs. MHELP is an off-bill, unsecured loan program administered by the Maryland Clean Energy Center (MCEC) with funds made available through MEA from the American Recovery and Reinvestment Act of 2009. The program provides affordable and accessible financing to Maryland residents for qualifying energy efficiency improvements. In a recent PSC Order (No. 85589), the commission rejected the workgroup's proposal on a Residential Energy Efficiency Financing Program, citing that the administrative cost associated with the proposed program for MCEC is too high at this time.

State Fiscal Effect:

Loan Activity

Special fund expenditures increase by $1.5 million in fiscal 2015 to implement the new program. The fiscal 2015 budget authorizes $1.5 million in special funds from SEIF to be used only to provide construction loans under the program (referred to as the "Net Zero Homes program") to companies for constructing net-zero energy homes at interest rates as low as 0% and as high as reasonable to make the project feasible. The funding is not contingent upon the enactment of legislation, however.

GO bond expenditures are anticipated to increase by $1.0 million annually in future years to provide additional low-interest loans under the program based on the amounts included in the CIP for the program through fiscal 2019. Special fund revenues to and expenditures from the Energy-Efficient Homes Construction Fund increase correspondingly beginning in fiscal 2016, reflecting the availability of capitalization funds to provide low-interest loans under the program. Special fund revenues and expenditures may increase further due to loan repayments, application and loan fees, investment earnings, or other funding sources made available to the fund.

DHCD Administrative Expenditures

DHCD administrative expenditures increase by $72,786 in fiscal 2015, which accounts for a 90-day start-up delay. This estimate reflects the cost of hiring one administrative clerk to coordinate and manage the liens and releases. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses, including contractual services for advertising and marketing.

Position	1
Salary and Fringe Benefits	$49,231
Contractual Services	18,750
Other Operating Expenses	4,805
Total FY 2015 DHCD Admin. Expenditures	**$72,786**

Future year administrative expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses. Additional staff may be needed in the out-years as the program develops. DHCD advises that existing special funds will be used to cover administrative expenses, at least in the first year.

Additional Information

Prior Introductions: HB 1489 of 2013, a similar bill, received an unfavorable report from the House Environmental Matters Committees. Its cross file, SB 935, was heard by the Senate Budget and Taxation Committee, but received no further action.

Cross File: None.

Information Source(s): Department of Housing and Community Development, Judiciary (Administrative Office of the Courts), Maryland Energy Administration, Public Service Commission, Residential Energy Services Network, EmPower Maryland Utilities, Department of Legislative Services

Fiscal Note History:	First Reader - February 11, 2014
ncs/lgc	Revised - House Third Reader - March 19, 2014
	Revised - Enrolled Bill - May 14, 2014
	Revised - Clarification - June 17, 2014

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Energy–Efficient Homes Construction Loan Program

BILL NUMBER: HB 553

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

__X__ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The bill will not have a negative impact on small businesses in Maryland. Quite the contrary, we anticipate that this program will serve as an economic stimulus to several small businesses. The initial customers of the Efficient Homes Construction Loan Program, specifically, the home contractors and developer, community banks and small lenders, and energy efficiency rating firms, can all be classified as small businesses based on the number of employees.