Department of Legislative Services

Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 576 (Delegate Fisher, *et al.*)
Environmental Matters

Sustainable Growth and Agricultural Preservation Act of 2012 - Diminution in Value of Real Property - Compensation

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This bill requires the State to pay just compensation to the owner of real property that experiences a diminution in fair market value as a direct result of specified growth tier restrictions enacted by the Sustainable Growth and Agricultural Preservation Act (Chapter 149) of 2012. To apply for compensation, a landowner must file a claim with the Maryland Department of Agriculture (MDA). The amount of compensation owed must be determined by taking the average of three estimates submitted by (1) an appraiser appointed by the Secretary of Agriculture; (2) an appraiser appointed by the landowner; and (3) an appraiser mutually agreed upon by the other two appraisers. If either the landowner or MDA disagrees with the amount of compensation, either party may request, by September 30 of the year following the determination, that the matter be referred to the Property Tax Assessment Appeal Board (PTAAB) for arbitration. A decision of PTAAB may be appealed to the Maryland Tax Court, and then to the relevant circuit court. MDA must adopt regulations to implement the bill.

Fiscal Summary

State Effect: General fund expenditures increase significantly beginning in FY 2015 to compensate landowners and to contract with appraisers. General fund expenditures may also increase to the extent that the Maryland Tax Court or PTAAB require additional resources to handle any increase in appeals. It is assumed that MDA can otherwise implement the bill, including the requirement to develop regulations, with existing budgeted resources.

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

Small Business Effect: Potential meaningful.

Analysis

Current Law/Background: Chapter 149 of 2012 established four growth tiers based on specified land use characteristics, which may be adopted by local jurisdictions. Beginning December 31, 2012, a jurisdiction may not authorize a residential major subdivision served by on-site sewage disposal systems, community sewerage systems, or shared systems unless it adopts growth tiers consistent with Chapter 149. A jurisdiction that does not adopt a growth tier may authorize either a residential minor subdivision served by on-site sewage disposal systems, or any subdivision in a "Tier I" area served by "public sewer." Chapter 149 also established land use and sewerage criteria and restrictions applicable to each of the four tiers.

The fiscal and policy note for Chapter 149 estimated that it may have potentially significant but disparate impacts on the value of real property statewide. The type of impact likely depends on several factors, including whether a property is currently developed or undeveloped, and which tier a property is located within. The value of agricultural properties may be impacted to the extent they are designated as Tier III or IV areas. The specified exemptions and separate provisions for agricultural lands may mitigate or alter the generally applicable effects Chapter 149 has on property values for those lands.

According to the Maryland Department of Planning (MDP), and as shown in **Exhibit 1**, 14 jurisdictions have adopted growth tier maps, and MDP has provided comments on 2 of those. Ten jurisdictions have not adopted a map. Under Chapter 149, if MDP comments on a jurisdiction's adopted tiers, the local legislative body or planning board must hold a hearing on the comments and review the adopted tiers in light of the comments. As noted above, if a jurisdiction does not adopt a tier map, additional land use restrictions apply to subdivisions in the jurisdiction. Therefore, the impact on real property may be greatest in jurisdictions that have not adopted a tier map.

Exhibit 1
Local Adoption of Growth Tier Maps

Adopted Tier Maps	Adopted – MDP Comment	No Tier Map Adopted
Anne Arundel	Allegany	Calvert
Baltimore	Cecil	Carroll
Baltimore City		Charles
Frederick		Caroline
Garrett		Dorchester
Harford		Queen Anne's
Howard		St. Mary's
Kent		Washington
Montgomery		Wicomico
Prince George's		Worcester
Somerset		
Talbot		

Source: Maryland Department of Planning

State Expenditures: General fund expenditures increase significantly beginning in fiscal 2015 for MDA to contract with appraisers to determine the amounts of compensation owed and for the State to compensate landowners. However, a reliable estimate of the increase in general fund expenditures cannot be made at this time, as data indicating the number of properties that may give rise to claims and the magnitude of any property value loss resulting from Chapter 149 are not available.

MDA estimates the average cost of an appraisal to be about $1,500. Thus, general fund expenditures may increase significantly to the extent that a significant number of property owners file a claim each year. The Maryland Tax Court and PTAAB are unable to determine the number of additional appeals that may be heard under the bill, but neither agency estimates an increase in appeals that would require significant additional resources.

General fund expenditures also increase, significantly, to compensate landowners who file claims under the bill. As noted above, however, a reliable estimate of this impact cannot be made in the absence of additional study regarding the effect of Chapter 149 on property values. It may be several years before the effects of Chapter 149 on property values are comprehensively studied due to the magnitude and complexity of the issue and due to the Act's grandfathering provisions; many properties subdivided prior to the effective date of Chapter 149 are still available for development.

Any significant impact on property values are not readily apparent at this time based solely on available county assessable base data. For example, while the greatest diminution in real property values are expected for rural and agricultural properties, the most recent *County Revenue Outlook* produced by the Department of Legislative Services shows that the assessable base in more rural counties (measured by the lowest population density and greatest percentage of development outside of priority funding areas) decreased less significantly, on average, between fiscal 2012 and 2014 than for more urban counties (measured by the counties with the greatest population density and percentage of growth occurring within priority funding areas). Thus, without greater study, particularly a comparative analysis of property-specific information based on actual appraised values, an estimate of the general fund impact of the bill's compensation provisions cannot be made.

Small Business Effect: Small businesses that own relatively large expanses of real property that have lost, or that may lose, value as a result of Chapter 149 of 2012, may realize significant additional revenues from the bill's compensation provisions. Small business real property appraisers may realize a significant increase in the demand for their services.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Property Tax Assessment Appeals Board, Maryland Department of Agriculture, Maryland Department of Planning, Maryland Department of the Environment, Maryland Tax Court, Department of Legislative Services

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