Department of Legislative Services
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 21 (Delegate Haynes)
Ways and Means

Sustainable Communities Tax Credit - Residential Units for Lower-Income Individuals

This bill requires that, in order to be eligible to claim the sustainable communities tax credit, a proposed commercial rehabilitation that includes at least 30 residential rental units must set aside at least 10% of the total number of residential rental units for individuals whose median income does not exceed 60% of the area median income.

The bill takes effect July 1, 2016, and applies to all initial tax credit certificates issued on or after July 1, 2016.

Fiscal Summary

State Effect: Imposing an additional tax credit eligibility standard will not alter the fiscal impact of the credit beyond that provided under current law.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Any applicant seeking to claim the sustainable communities tax credit for the rehabilitation of a commercial property is required to submit an application to the Maryland Historical Trust (MHT) for an initial tax credit certificate. Except under certain circumstances, the total amount of initial tax credit certificates issued by MHT in each fiscal year cannot exceed the amount appropriated to the tax credit reserve fund in the State budget.

The value of the credit is generally equal to 20% for the rehabilitation of a commercial property, not to exceed $3 million or the maximum amount specified under the initial credit certificate.

Background: The Sustainable Communities Tax Credit Program encourages the preservation and rehabilitation of residential and commercial historic buildings in order to preserve the historic places associated with the identity and character of cities, towns, and rural areas. Administered by MHT within the Maryland Department of Planning, the program has also been one of the State's largest economic development programs. Through its current June 30, 2017 termination date, program costs will total an estimated $378.5 million ($475.1 million in current dollars). The commercial program comprises the vast majority of the program's fiscal costs, about 86%, with the remaining 14% from the residential program.

Between 2002 and 2004, the General Assembly made a number of legislative reforms to the tax credit that decreased the fiscal cost of the program and its unpredictability. Commercial program reforms included capping the maximum value of the credit and converting the commercial program into a budgeted tax credit. The commercial credit program was restructured so that credits are awarded through a competitive process, and additional reporting on commercial credit recipients was also required.

Pursuant to the Tax Credit Evaluation Act of 2012, the Department of Legislative Services (DLS) evaluated the Sustainable Communities Tax Credit Program and made several recommendations in a draft report issued in November 2015. Based on an analysis of the legislative reforms, DLS found that the reforms have made the commercial tax credit program a model for subsequent tax credits established by the General Assembly. DLS recommended that the General Assembly maintain the commercial tax credit as a budgeted tax credit subject to an aggregate limitation each year and that the cap on the maximum value of the commercial tax credit of $3 million be maintained. Additionally, DLS recommended that the General Assembly consider implementing similar competitive processes and reporting requirements for other State tax credits.

While DLS found that the credit is generally effective in encouraging the preservation and rehabilitation of historic buildings, the evaluation includes several other recommendations to improve the effectiveness of the credit. Current law generally requires that no more than 60% of credits in a fiscal year can go to projects in a single county or Baltimore City. In addition, MHT must evaluate, as part of its project scoring system, whether projects are located in jurisdictions that have been historically underrepresented in the award of commercial rehabilitation tax credits. DLS found that these criteria designed to ensure geographic diversity of projects may not achieve the desired results and can impact the overall quality of projects receiving the credit. Therefore, DLS recommended that the General Assembly (1) consider increasing the current 60% geographic limitation to a higher percentage or completely eliminating the limitation and (2) eliminate the criterion of scoring points on geographic underrepresentation.

DLS found that residential rehabilitation projects are often located in census tracts with higher household incomes and housing values. Thus, DLS recommended that the General Assembly consider prohibiting residential tax credits if the assessed value of the property is greater than 150% of the county's median home price. This could better target credits to residential properties in neighborhoods in need of revitalization. DLS also recommended a number of additional administrative changes to the program, including more timely notification of commercial credit awards. The DLS evaluation of the sustainable communities tax credit can be found on the DLS website.

State Fiscal Effect: The bill requires that, in order to claim the sustainable communities tax credit, a proposed rehabilitation of a building with at least 30 residential rental units must set aside at least 10% of all rental units for lower-income individuals.

The bill will not alter the overall fiscal impact of the sustainable communities tax credit. MHT typically awards the maximum amount of commercial credits, and it is expected that MHT will award the maximum amount of any commercial credits available in fiscal 2017. The bill will not impact the rehabilitation of small commercial projects and single-family owner-occupied residences.

Additional Information

Prior Introductions: HB 500 of 2015 and HB 1152 of 2012 received a hearing in the House Ways and Means Committee, but no further action was taken. In addition, similar bills were introduced in the 2009 and 2011 sessions.

Cross File: None.

Information Source(s): Comptroller's Office, Maryland Historical Trust, Department of Legislative Services

Fiscal Note History: First Reader - January 15, 2016
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