HB 220

Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 220 (Montgomery County Delegation)

Environment and Transportation Education, Health, and Environmental Affairs

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Montgomery County - Housing Opportunities Commission of Montgomery County - Subsidiary Entities
MC 18-18

This bill establishes that a "Montgomery County Housing Authority entity" is an entity that is controlled or wholly owned by the Housing Opportunities Commission of Montgomery County (HOC). A nonprofit entity is deemed controlled by HOC under specified circumstances. As a result, the bill extends a specified real property tax exemption to these entities if the entities enter into payment-in-lieu of taxes (PILOT) agreements with the county. The bill also authorizes any housing authority to establish a nonprofit entity as a partnership.

Fiscal Summary

State Effect: Special fund revenues decrease, potentially minimally, beginning in FY 2019 as additional properties in Montgomery County become exempt from the State property tax. The amount of the decrease depends on the number of eligible entities and the value of each property tax exemption. This decrease may require either (1) an increase in the State property tax or (2) a general fund appropriation to cover debt service on the State's general obligation bonds.

Local Effect: Montgomery County tax revenues may decrease beginning in FY 2019 to the extent additional properties become exempt from county property taxes as a result of the bill. Property tax decreases may be mitigated by negotiated PILOT agreements between the county and a housing authority entity. Expenditures are not directly affected. Other local governments are not materially affected by the authority to establish nonprofit entities as partnerships.

Small Business Effect: Minimal.

Analysis

Bill Summary: A nonprofit entity is deemed controlled by HOC if the nonprofit entity is established by HOC and HOC (1) has the power to appoint a majority of the board of directors of the nonprofit entity; (2) holds a majority of all managing member interests in the entity; (3) holds a majority of the general partner interests in the entity; or (4) holds a majority of all ownership interests in the entity.

Current Law:

Exemption of Housing Authority Properties from Taxes and Special Assessments

Under Title 12 of the Housing and Community Development Article, certain property is exempt from all taxes and special assessments of the State or a political subdivision if the property is used for essential public and governmental purposes, in addition to meeting other requirements. Specifically, the property must (1) belong to an authority or a nonprofit housing corporation or (2) be used as housing for persons of eligible income and be owned in whole or in part, directly or indirectly, through one or more wholly or partially owned subsidiary entities of a Baltimore Housing Authority entity.

A Baltimore Housing Authority entity is defined in a similar way that the bill defines a Montgomery County Housing Authority entity. Specifically, a Baltimore Housing Authority entity is an entity:

- that is controlled or wholly owned by the Housing Authority of Baltimore City; or
- in which the Housing Authority of Baltimore City or an entity controlled or wholly owned by the housing authority has an ownership interest, either directly or indirectly, through one or more wholly or partially owned subsidiary entities.

In lieu of payment of property taxes and special assessments, an authority, nonprofit housing corporation, or a Baltimore Housing Authority entity must pay the political subdivision in which a housing project is wholly or partly located an amount, if any, that may be set by mutual agreement. However, that amount may not exceed the amount of regular taxes levied on similar property.

Housing Authorities and Nonprofit Entities

Any housing authority in the State may establish and control nonprofit entities, including corporations and limited liability companies, that may own, operate, and take steps necessary or convenient to develop or undertake housing projects in the authority's area of operation.

Background: HOC is the public housing agency for Montgomery County. The commission administers federal, State, county, and private affordable housing programs. In addition, it develops housing, provides mortgage financing to developers and first-time homebuyers, manages public housing and other rental units, administers rental subsidy programs (including the Housing Choice Voucher Program), and provides counseling and support services to lower income individuals and families in assisted housing.

HOC is governed by seven volunteer commissioners, who are appointed by the Montgomery County Executive (and confirmed by the county council) to serve five-year terms.

Federal Low-Income Housing Tax Credit

Many of the affordable housing projects financed in the State are financed through the use of the Low-Income Housing Tax Credit (LIHTC). LIHTC was established by the Tax Reform Act of 1986. The tax credit subsidizes the construction and rehabilitation of low-income rental housing and is intended to encourage the production of low-income residential rental housing. Instead of offering direct subsidies, LIHTC provides incentives by granting investors a dollar-for-dollar reduction in their federal tax liability in exchange for providing funds for the development of qualified, affordable rental housing. This allows rents for some of a project's units to be set below market level while the investors receive annual tax credit allotments over 10 years. For at least 15 years after completion, a project must continue to meet LIHTC eligibility requirements, such as maintaining the units as affordable to the target population.

The federal LIHTC can only be claimed for a qualified project – any project for residential rental property that meets requirements for low-income tenant occupancy, gross rent restrictions, state credit authority, and Internal Revenue Service certification. A project must continue to meet these requirements for 15 years or the credit is subject to recapture.

The Department of Housing and Community Development finances multi-family housing developments using the federal LIHTC program and Community Development Administration revenue bonds, which support the construction and rehabilitation of affordable rental units. LIHTCs are awarded to projects in accordance with the Internal Revenue Code and developers sell these credits to investors to raise equity for the construction of affordable rental housing. In exchange for the tax credits, developers agree to income and rent restrictions for a minimum of 30 years. Loans for these projects are funded using the proceeds of tax-exempt revenue bonds and/or State appropriations.

State Revenues: Annuity Bond Fund revenues decrease to the extent that new entities qualify for the State property tax exemption for specified low-income housing developments. The amount of the decrease depends on the number of eligible entities and the value of the property tax exemption.

Debt service payments on the State's general obligation bonds are paid from the Annuity Bond Fund. Revenue sources for the fund include State property taxes; premiums from bond sales; and repayments from certain State agencies, subdivisions, and private organizations. General funds may be appropriated directly to the Annuity Bond Fund to make up any differences between the debt service payments and funds available from property taxes and other sources.

The fiscal 2019 budget, as initially approved by both houses, includes $1.3 billion for general obligation debt service costs, including $286 million in general funds because revenues from the State property tax are not sufficient to cover the full debt service payments.

To offset the reduction in State property tax revenues, general fund expenditures could increase in an amount equal to the decrease in the Annuity Bond Fund revenues or the State property tax rate would have to be increased to meet debt service payments. This assumes that the Annuity Bond Fund does not have an adequate fund balance to cover the reduction in State property tax revenues.

Local Revenues: Montgomery County property tax revenues may decrease beginning in fiscal 2019 as additional properties become exempt from property taxes. However, the exact magnitude of any decrease depends on how many additional properties qualify for tax exemption as well as the assessed values of qualifying properties. For fiscal 2018, the county real property tax rate is $1.013 per $100 of assessed value. Montgomery County is estimated to collect approximately $1.8 billion in property tax revenues in fiscal 2018.

However, any property tax revenue decrease may be mitigated by negotiated PILOT agreements between the county and eligible owners of properties.

Montgomery County advises that, through October 2017, the county has 14,525 eligible units receiving tax abatements. The total county tax abatement is approximately $18.6 million, with an average tax abatement of $1,283 per unit. Some properties receive a full tax abatement while others receive a partial abatement.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery and Prince George's counties; Department of Housing and Community Development; Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2018
nb/mcr Third Reader - March 23, 2018
Revised - Amendment(s) - March 23, 2018
Revised - Budget Information - March 23, 2018

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