HB 1454

Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1454 (Delegate A. Washington, *et al.*)

Ways and Means Budget and Taxation

Heritage Structure Rehabilitation Tax Credit – Commercial Rehabilitations – Affordable Housing

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This bill alters the heritage structure rehabilitation commercial tax credit program by (1) providing an additional 5% credit if the rehabilitation qualifies as affordable housing; (2) eliminating the existing requirement that the rehabilitations of multiple structures that are functionally related to serve an overall purpose are treated as a single commercial rehabilitation; and (3) requiring that an initial credit certificate that expires "or is otherwise unclaimed" remains in the program reserve fund and can be reissued in the following fiscal year.

The Maryland Historical Trust (MHT) must adopt regulations that establish a time limit for approval of the additional tax credit for qualified affordable housing and whether the rehabilitation qualifies as affordable housing. Affordable housing is a project or undertaking that has received an allocation of federal low-income housing tax credits by the Department of Housing and Community Development. **The bill takes effect July 1, 2018, and applies to tax year 2018 and beyond.**

Fiscal Summary

State Effect: General fund revenues decrease by $778,000 due to a reduction in transfers from the program reserve fund to the general fund. Future years reflect estimated reduction in transfers for expired projects. No effect on expenditures.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
GF Revenue	($778,000)	($1,271,000)	($1,192,000)	($1,725,000)	($1,510,000)
Expenditure	0	0	0	0	0
Net Effect	($778,000)	($1,271,000)	($1,192,000)	($1,725,000)	($1,510,000)

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: The Heritage Structure Rehabilitation Tax Credit Program provides tax credits for commercial, small commercial, and owner-occupied residential property rehabilitations. The value of the refundable credit is based on the type of rehabilitation undertaken and up to a percentage of qualified rehabilitation expenditures, as follows:

- 20% for the rehabilitation of a single-family, owner-occupied residence or a small commercial project; and
- 20% for the commercial rehabilitation of a certified historic structure or 25% if certain energy efficiency standards are met.

The value of the tax credit may not exceed (1) for a commercial rehabilitation (any building that is not a single-family, owner-occupied residence or small commercial project), $3 million or the maximum amount specified under the initial credit certificate or (2) for all other rehabilitations, $50,000. Chapter 668 of 2012 allowed the tax credit to be allocated among the partners, members, or shareholders of an entity in any manner agreed to by those persons in writing.

Applying for the credit is a three-part process that is administered by MHT within the Maryland Department of Planning. The following rehabilitations qualify as a single commercial rehabilitation: (1) the phased rehabilitation of the same structure; (2) the separate rehabilitation of different components of the same structure; or (3) the rehabilitation of multiple structures that are functionally related.

By October 1 of each year, MHT must notify the Comptroller as to the maximum credit amount stated in the initial credit certificate for an expired commercial project. On this notification, the Comptroller is required to transfer an amount equal to the maximum credit amount stated in the initial credit certificate for the project from the reserve fund to the general fund.

Background:

Commercial Program

The commercial program includes the rehabilitation of certified historic structures and is the largest component of the program. The commercial credit is a budgeted tax credit and the Governor must appropriate funds to the program annually through fiscal 2022. The Governor is not required to appropriate an amount to the reserve fund in each year. MHT awards credits through a competitive process, with the amount awarded each year generally limited to the amount appropriated to the program.

Small Commercial Project Program

Chapter 601 of 2014 established credit eligibility for certain small commercial projects. Applicants must apply to MHT in order to qualify and receive an initial credit certificate. MHT may award tax credits through June 30, 2022. There is no reserve fund to offset the cost of small commercial credits.

Residential Program

MHT can award an unlimited amount of residential credits for applications received through June 30, 2022. A single-family, owner-occupied residence is a structure or a portion of a structure occupied by the owner and the owner's immediate family as their primary or secondary residence. A single-family, owner-occupied residence also includes a residential unit in a cooperative project owned or leased to a cooperative housing corporation and leased for exclusive occupancy to, and occupied by, a member of the corporation and the member's immediate family.

State Fiscal Effect: The awarding of commercial credits is subject to the amount appropriated to the reserve fund. The Governor's proposed fiscal 2019 budget includes $9.0 million in funding for the commercial program. It is expected that MHT will award the maximum amount of credits. Accordingly, providing an enhanced credit and eliminating the existing requirement that the rehabilitations of multiple structures that are functionally related to serve an overall purpose are treated as a single commercial rehabilitation will not decrease the program's fiscal impact beyond that which is provided under current law.

In fiscal 2007 through 2016 the Comptroller transferred a total of $10 million from the reserve fund to the general fund after receiving notification that an initial credit certificate had expired. Assuming the program is level funded and based on the projected reserve fund transfers under current law, general fund revenues will decrease by an estimated

$778,000 in fiscal 2019 and by $1.5 million in fiscal 2023 due to a reduction in general fund transfers for expired credits.

Additional Information

Prior Introductions: None.

Cross File: SB 967 (Senator Ferguson, *et al.*) - Budget and Taxation.

Information Source(s): Department of Planning; Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2018
md/hlb Third Reader - April 5, 2018
Revised - Amendment(s) - April 5, 2018

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