HB 548

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 548 (The Speaker, *et al.*) (By Request - Administration)
Economic Matters Finance

Financial Regulation - Maryland Community Investment Venture Fund - Establishment (Access to Banking Act)

This Administration bill establishes the Maryland Community Investment Venture Fund, which is a private venture fund that (1) is an instrumentality of the State and (2) uses both public and private investment funds. Generally, the purpose of the fund is to develop opportunities for banking institutions and credit unions to better serve needs of low- to moderate-income areas, as specified. To encourage private investment, the Office of the Commissioner of Financial Regulation (OCFR) is authorized to provide an initial equity capital investment in the fund in an amount of up to $2.5 million from the Banking Institution and Credit Union Regulation Fund. OCFR may also use a total of $250,000 to cover any administrative expenses associated with establishing the fund. OCFR may provide assessment offset credits for banking institutions and credit unions that meet certain requirements and may also match any investment made by those financial institutions (up to the amount of the assessment credit earned). OCFR may not make an investment in the fund (including a matching investment) after June 30, 2028. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: Special fund expenditures increase by approximately $2.8 million in FY 2024, reflecting the initial investment authorized by the bill, administrative expenses, and matching expenditures. Out-year expenditures reflect residual administrative costs and matching expenditures. Special fund revenues decrease by an estimated $171,000 in FY 2024 and by $310,000 in FY 2028 due to reduced assessments on financial institutions.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
SF Revenue	($171,000)	($246,000)	($265,500)	($287,000)	($310,000)
SF Expenditure	$2,838,500	$328,500	$265,500	$287,000	$310,000
Net Effect	($3,009,500)	($574,500)	($531,000)	($574,000)	($620,000)

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

Local Effect: The bill does not directly affect local government finances or operations.

Small Business Effect: The Administration has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Definitions

"Deposit growth cap" means the year-over-year percentage change of domestic office deposits as reported on December 31 each year by the relevant federal supervisory entity.

For a credit union, "*de novo* branch" means a branch of a credit union that was originally established by the credit union in the State. This definition is similar to the existing definition of a "*de novo* branch" for a banking institution (which specifically excludes existing branches that are acquired, merged, converted, or consolidated).

"Low- to moderate-income tract" means a census tract delineated by the U.S. Census Bureau in the most recent decennial census that corresponds to low- to moderate-level classifications as defined by regulations implementing the federal Community Reinvestment Act.

Maryland Community Investment Venture Fund

Generally, the purpose of the fund is to develop opportunities for banking institutions and credit unions to better serve the needs of low- to moderate-income tracts by:

- investing in the development of financial product (or financial product underwriting) innovations that enhance access to capital, funding, and other financial services for businesses in low- to moderate-income tracts in the State;
- deploying, testing, and evaluating the innovations for providing capital and funding to businesses in low- to moderate-income tracts in the State; and
- promoting and making the innovations available to banking institutions and credit unions for use in enhancing access to capital, funding, and other financial services for businesses in low- to moderate-income tracts in the State.

With the approval of the commissioner, the purpose of the fund may be altered in a manner that is consistent with the intent and requirements of the bill.

OCFR must establish a governance structure for the fund and may collaborate with investors in the fund when doing so. The commissioner (or designee, if applicable) must always serve on the governing body of the fund.

All investment returns (or return of capital) from the fund with respect to an investment authorized by OCFR accrue to the Banking Institution and Credit Union Regulation Fund.

At the direction of the commissioner (and in addition to any customary and appropriate audits of the fund), the governing body of the fund must obtain the services of an independent third party (designated by the commissioner) on an annual basis to evaluate whether investments made to the fund comply with the bill.

If the commissioner determines that separate private venture funds are necessary to accomplish the fund's purpose, the commissioner may use money from the fund to establish additional private venture funds. However, an additional private venture fund remains subject to the requirements of the bill (including the aggregate expense and investment limitations).

Assessment Offset Credits

A well-capitalized banking institution or credit union with a composite CAMELS rating of 1 or 2 may file with OCFR a request for an assessment offset credit of:

- 12 cents for each $1,000 of deposits in a *de novo* branch located in a low- to moderate-income tract for the first five years after the branch opened; or
- 6 cents for each $1,000 of deposits in a branch located in a low- to moderate-income tract (not to exceed the deposit growth cap).

OCFR is authorized to establish a successor index for both (1) the low- to moderate-income tract or (2) the deposit growth cap, if the designated sources under the bill are no longer published.

Current Law: OCFR within the Maryland Department of Labor regulates State-chartered and State-licensed financial institutions operating in Maryland, including Maryland-chartered banks and credit unions.

Assessments on Banking Institutions and Credit Unions

OCFR is required to impose annual assessments on each State-chartered banking institution and credit union to cover the expenses of regulating them. The assessment amounts vary based on the deposit levels of the financial institution.

Banking Institutions: Banking institutions that accept deposits or retain funds in deposit accounts are subject to a graduated annual assessment of $8,000 *plus* $0.12 for each $1,000 of the assets of the institution over $50 million but up to $250 million, $0.10 for each $1,000 of assets over $250 million but up to $500 million, $0.09 for each $1,000 of assets over $500 million but up to $1 billion, $0.08 for each $1,000 of assets over $1 billion but up to $10 billion, and $0.07 for each $1,000 of assets over $10 billion.

Credit Unions: Credit unions with assets of $300,000 or greater are subject to an annual assessment of $1,000, *plus* $0.08 for each $1,000 of the assets of the institution over $1 million.

Banking Institution and Credit Union Regulation Special Fund

The purpose of the fund is to pay all the costs and expenses incurred by OCFR that are related to the regulation of banking institutions and credit unions, as specified. The fund is a special, nonlapsing fund not subject to reversion to the general fund. As of June 30, 2022, the fund had a balance of $9.9 million.

CAMELS Rating System

"CAMELS" means the composite rating adopted by the federal Financial Institutions Examination Council to evaluate the adequacy of capital, quality of assets, capability of management, quality and level of earnings, adequacy of liquidity, and sensitivity to market risk.

Background: OCFR advises that the bill is intended to address concerns that certain locations in the State do not have adequate access to financial services (*i.e.*, banking deserts). The bill seeks to address this by (1) enhancing the availability of capital for businesses in low- to moderate-income neighborhoods and (2) creating an incentive for depository institutions to maintain and establish branches in the same areas.

OCFR further advises that the fund will be used to invest in companies that successfully underwrite small or micro business credit in low- to moderate-income communities. As these underwriting capabilities are developed, the fund is intended to serve as a source of capital for loans to (or investments in) small businesses. OCFR advises that banks and credit unions will be encouraged to invest any assessment credits received into the fund and that any amounts contributed by those entities will be matched by OCFR as allowed under the bill.

CAMELS Rating System

More broadly, under the CAMELS rating system, the appropriate federal supervisory institution (*e.g.*, the U.S. Federal Reserve, National Credit Union Association, etc.) assigns each bank and credit union a rating that allows comparisons over time with peer institutions. Just as defined in the Financial Institutions Article, the acronym represents six features that are considered in developing the rating:

- capital adequacy;
- asset quality;
- management;
- earnings;
- liquidity; and
- sensitivity to market risk.

The financial institution is rated on each feature and subsequently receives a composite rating varying from 1 (strong) to 5 (critically deficient).

State Expenditures: Special fund expenditures increase by $2,838,500 in fiscal 2024, reflecting the following assumptions: (1) OCFR exercises the bill's authorization for it to make an initial $2,500,000 investment in the fund; (2) OCFR incurs first-year administrative expenses totaling $167,500 to charter and organize the fund; and (3) OCFR makes matching expenditures totaling $171,000. In fiscal 2025, special fund expenditures increase by $82,500 (*i.e.*, the remaining portion of the bill's $250,000 expense authorization). All other special fund expenditures reflect matching amounts paid by OCFR into the venture fund; these amounts are assumed to correspond to the assessment credit revenue decrease discussed below.

OCFR advises that, following the expenditure of the initial authorization of $250,000 to establish the fund, it can manage the fund with existing resources.

State Revenues: Special fund revenues decrease by $171,000 in fiscal 2024 due to the assessment credits authorized by the bill. In subsequent years, special fund revenues decrease by varying amounts; by fiscal 2028, the revenue decrease is estimated at $310,000. OCFR advises the estimate is based on the asset levels of the 59 total financial institutions with *de novo* branches that meet the criteria established by the bill (48 banks and 11 credit unions). To the extent that additional *de novo* branches are opened that meet the bill's requirements, special fund revenues decrease further.

The estimate above assumes that the assessment credits granted to financial institutions are invested by the relevant financial institutions into the Maryland Community Investment Venture Fund and subsequently matched by OCFR. DLS advises that, while OCFR may encourage financial institutions to invest the assessment credits into the new fund, the bill does not *require* banks or credit unions to do so. Moreover, there is no direct financial incentive for banks or credit unions to reinvest their credits in the fund since all returns from the fund's investments accrue to OCFR, not to the investor. Thus, to the extent that the assessment credits are retained by financial institutions (rather than invested into the new fund), special fund matching expenditures may be reduced, which in turn reduces available funds in the new venture fund.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 550 (The President, *et al.*) (By Request - Administration) - Finance.

Information Source(s): Maryland State Treasurer's Office; Department of Budget and Management; Maryland Department of Labor; Federal Reserve Bank of St. Louis; Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2023
km/mcr Third Reader - March 27, 2023
Revised - Amendment(s) - March 27, 2023
Enrolled - April 28, 2023
Revised - Amendment(s) - April 28, 2023

Analysis by: Eric F. Pierce

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Financial Regulation - Maryland Community Investment Venture Fund - Establishment (Access to Banking Act)

BILL NUMBER: HB0548

PREPARED BY: Joe Cunningham, Director of Legislative Response and Special Projects

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

____ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

OR

__X__ WILL HAVE A MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

Small businesses will be affected positively by this legislation, for one of its key aspects is to encourage, as well as facilitate, small business investment. Specifically, creation of the Maryland Community Investment Venture Fund aims to focus on ensuring the availability of credit and investment capital for small businesses in low-and-moderate income ("LMI") communities throughout the State by investing in entities that (1) develop, expand, and ensure the continued availability of data points and streams that can be used to successfully underwrite small business credit in low to moderate income communities and (2) providing loans and capital investments for small businesses using these data streams as the basis for underwriting the loans or investments.