

MARYLAND REGISTER

## Proposed Action on Regulations

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	05/06/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 6/13/2014

2. COMAR Codification

**Title Subtitle Chapter Regulation**

05 13 05 01-.05 and .08

3. Name of Promulgating Authority

Department of Housing and Community Development

**4. Name of Regulations Coordinator Telephone Number**  
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**5. Name of Person to Call About this Document Telephone No.**  
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6. Check applicable items:  
 New Regulations



# **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

## **Subtitle 13 NEIGHBORHOOD BUSINESS DEVELOPMENT**

### **05.13.05 Linked Deposit Program**

Authority: State Finance and Procurement Article, §§6-211 and 6-212, Annotated Code of Maryland

#### **Notice of Proposed Action**

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The Secretary of Housing and Community Development proposes to amend Regulations .01-.05 and .08 under COMAR 05.13.05 Linked Deposit Program.

#### **Statement of Purpose**

The purpose of this action is to implement Chapter 345, Laws of Maryland 2013 by: altering the interest rate necessary for a loan to qualify under the original Linked Deposit Program for Minority Businesses and the recently established Linked Deposit Program for Small Businesses. Chapter 345 also altered under what conditions the Treasurer may make an interest-bearing deposit in a financial institution under both programs by authorizing the Treasury to use Certificate of Deposit Account Registry Service (CDARS). The statutory changes, and proposed changes to regulation, implement the recommendations of a Linked Deposit Workgroup of public and private industry stakeholders convened in the fall of 2012 by The Maryland Department of Housing and Community Development (DHCD) at the request of the Senate Finance Committee. The Workgroup recommendations are intended to reduce barriers to the effective use of the Minority Business Enterprise Linked Deposit program and increasing lender participation.

#### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

#### **Estimate of Economic Impact**

##### **I. Summary of Economic Impact.**

The proposed action alters the interest rate necessary for a loan to qualify under the original Linked Deposit Program for Minority Businesses and the recently established Linked Deposit Program for Small Businesses. The action also alters under what conditions the Treasurer may make an interest-bearing deposit in a financial institution under both programs by authorizing the Treasury to use Certificate of Deposit Account Registry Service (CDARS). These changes are intended to encourage lender participation in the program. Small and minority businesses will benefit from increased access to loan capital and increased lender participation. Depending on market conditions, these changes may also result in the Treasurer accepting a lower interest rate for certificates of

deposit at participating financial institutions for loans enrolled in the program, resulting in reduced interest income. Local governments may benefit from increased lending to small businesses, resulting in increased local revenue. The public will benefit from improved access to products and services provided by businesses receiving financing under the Linked Deposit Program.

<b>II. Types of Economic Impact.</b>	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	(R-)	Indeterminable
C. On local governments:	(R+)	Indeterminable
	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
Public	(+)	Indeterminable

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

B. The proposed action alters the interest rate necessary for a loan to qualify under the original Linked Deposit Program for Minority Businesses and the recently established Linked Deposit Program for Small Businesses. The action also alters under what conditions the Treasurer may make an interest-bearing deposit in a financial institution under both programs by authorizing the Treasury to use Certificate of Deposit Account Registry Service (CDARS). These changes are intended to encourage lender participation in the program. Small and minority businesses will benefit from increased access to loan capital and increased lender participation. Depending on market conditions, these changes may also result in the Treasurer accepting a lower interest rate for certificates of deposit at participating financial institutions for loans enrolled in the program, resulting in reduced interest income.

C. Local governments may benefit from increased lending to small businesses, resulting in increased local revenue.

F. The public will benefit from improved access to products and services provided by businesses receiving financing under the Linked Deposit Program.

**Economic Impact on Small Businesses**

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

The proposed regulations are intended to increase lender participation in the Linked

Deposit Program, while providing borrowers with loans at a lower interest rate than the lender would charge for a loan with a similar purpose.

### **Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

### **Opportunity for Public Comment**

Comments may be sent to John Papagni, Program Officer, Division of Neighborhood Revitalization, Department of Housing and Community Development, 100 Community Place, Crownsville, MD 21032, or call 410-209-5807 , or email to papagni@mdhousing.org, or fax to 410-685-8270. Comments will be accepted through July 13, 2014. A public hearing has not been scheduled.

### **Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 2014

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

The regulations can be implemented with existing program resources and staff.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

G. Small Business Worksheet:

Attached Document:

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## **Title 05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

### **Subtitle 13 NEIGHBORHOOD BUSINESS DEVELOPMENT**

#### **Chapter 05 Linked Deposit Program**

Authority: State Finance and Procurement Article, §§6-211 and 6-212, Annotated Code of Maryland

**.01 Purpose.**

This chapter provides policies and procedures for the Department to certify and enroll loans from financial institutions to eligible minority business enterprises *and small businesses* under the Linked Deposit Program, established pursuant to the State Finance and Procurement Article, [§6-211] §§6-211 and 6-212, Annotated Code of Maryland.

**.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) – (6) (text unchanged)

(7) "*Small business*" means a business that is qualified under State Finance and Procurement Article, Title 14, Subtitle 5, Annotated Code of Maryland.

(8) "Treasurer's Office" means the Office of the State Treasurer.

**.03 Eligible Loans.**

A. A loan is eligible under the Program if the loan:

(1) – (3) (text unchanged)

(4) Is made to a certified minority business enterprise *or a small business* that will use the proceeds for a project or activity primarily located in Maryland;

(5) Has an interest rate that is [at least 2 percentage points below] *lower than* the interest rate the financial institution would charge for a loan for a similar purpose and term *by at least*

(a) *2 percentage points; or*

(b) *The difference between the financial institution's rate on a 60 month certificate of deposit and the interest rate acceptable to the Treasurer's Office for its deposits;*

(6) – (8) (text unchanged)

B. (text unchanged)

**.04 Program Eligibility.**

A. To be eligible to receive a Program loan, an applicant shall be a certified minority business enterprise *or a small business*.

B. (text unchanged)

**.05 Initial Loan Application.**

A. (text unchanged)

B. For an application submitted directly to a financial institution under §A(1) of this regulation, the following procedures apply:

(1) – (2) (text unchanged)

(3) After receipt of a completed application, the Department shall either:

(a) Confirm that the applicant is a certified minority business enterprise *or a small business* and notify the applicant and the financial institution in writing that the applicant meets the program requirement that it be a certified minority business enterprise *or a small business*; or

(b) Notify the applicant and the financial institution in writing that the application has been denied because the applicant is not a certified minority business enterprise *or a small business*.

C. For an application submitted to the Department under §A(2) of this regulation, the following procedures apply:

(1) – (2) (text unchanged)

(3) After the receipt of a completed application, the Department shall either:

(a) Confirm that the applicant is a certified minority business enterprise *or a small business*; or

(b) Notify the applicant in writing if its application has been denied because it is not a certified minority business enterprise *or a small business*; and

(4) If the Department confirms that the applicant is a certified minority business enterprise *or a small business*, the Department shall provide:

(a) – (b) (text unchanged)

**.06 - .07 (text unchanged)**

**.08 Maintaining Certified Minority Business or Small Business Status.**

A. A borrower that receives a Program loan shall maintain its status as a certified minority business enterprise *or a small business* for the term of the Program loan.

B. The Department shall notify the Treasurer's Office in writing if the borrower is decertified as a minority business enterprise *or no longer meets the definition of a small business* for any reason during the term of the Program loan.

C. If a borrower is decertified as a minority business enterprise *or as a small business* during the term of the Program loan and upon written notification:

(1) (text unchanged)

(2) *If permitted by the loan documents,*[The] the financial institution may increase the interest rate of the Program loan by *the lesser of*

*(a) 2 percent; or [if permitted by the loan documents.]*

*(b) The difference between the financial institution's rate on a 60 month certificate of deposit and the interest rate acceptable to the Treasurer's Office for its deposits, as determined as of the date that the loan closed.*

D. A minority business enterprise that loses its certification *or a small business that no longer qualifies as a small business* due to revenue or employee growth may not be considered decertified for purposes of this regulation.

**.09 - .10 (text unchanged)**