

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Housing and Community Development
(DLS Control No. 14-238)**

Overview and Legal and Fiscal Impact

These regulations amend Neighborhood Business Development Program requirements for financial assistance to microenterprises in conformance with Chapter 118 of 2010.

The regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies. The regulations implement Chapter 118 of 2010. Any fiscal impact is a result of that legislation and not the regulations.

Regulation of COMAR Affected

Department of Housing and Community Development:

Neighborhood Business Development: Business Development Program:
COMAR 05.13.01.06-.08, .16, and .17

Legal Analysis

Background

Chapter 118 of 2010, requested by the Department of Housing and Community Development, establishes a new initiative with the Neighborhood Business Development Program that authorizes the department to partner with community-based lenders to facilitate better access to capital by microenterprises located within designated neighborhoods and to ease the administrative burden on the department.

Under the program, a microenterprise is a business with up to five employees that requires up to \$35,000 in total start-up capital or financial assistance and does not have access to the traditional commercial banking sector. Chapter 118 allows an approved entity to originate and administer loans to microenterprises in accordance with standards the department adopts by regulation and, in addition to the development costs of a project, enables financial assistance under the program to be used for the working capital or business expenses of a microenterprise. The law also authorizes the department to: help train employees of an approved entity to administer a microenterprise loan; directly fund a loan to a microenterprise that is originated by an approved entity; and provide financial assistance to an approved entity for the purpose of the approved entity making a loan to a microenterprise.

Summary of Regulation

The regulations implement Chapter 118 by amending current regulations concerning the Neighborhood Business Development Program and adding new provisions. Specifically, the regulations amend current requirements regarding eligibility for and conditions on financial assistance for microenterprises in conformance with Chapter 188 so as to reduce barriers for microenterprises obtaining financial assistance under the program.

New regulation .16 provides minimum criteria for an entity to become eligible to originate and administer loans under the program, including providing evidence that demonstrates the entity's ability to: leverage program proceeds with other public or private sources of funding; provide adequate resources and staff to implement the program; and obtain a fidelity bond or employee dishonesty liability insurance. The regulation also requires an approved entity to: execute specified agreements and other documents as required by the department; be directly responsible for fulfilling its duties under the program; maintain and allow the inspection of specified financial records; and make periodic reports to the department.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The department cites §§ 2-201 and 2-111, Title 4, Subtitle 5, and Title 6, Subtitle 3 of the Housing and Community Development Article as authority for the regulations. Section 2-201 lists the units in the department, including the Neighborhood Business Development Program, and Section 2-111 contains the basic authority of the secretary to review and approve regulations of each unit in the department.

Title 4, Subtitle 5 contains several continuing, non-lapsing special funds under the jurisdiction of the department; however, the Neighborhood Business Development Fund is not located in this subtitle. Title 6, Subtitle 3 provides for the Neighborhood Business Development Program, including the microenterprise loan program under § 6-308.1, which contains provisions that require the department to adopt regulations to establish eligibility standards for an entity to administer loans to microenterprises, and the Neighborhood Business Development Fund under § 6-310.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

The department has agreed to make the following corrections to the regulations: include regulation 05.13.01.03 and amend the definition of "microenterprise" in conformance with Chapter 188; include regulation 05.13.01.05 and amend the eligible uses of financial assistance in conformance with Chapter 118; make stylistic changes in new Regulation 05.13.01.16B(1)(a); and make clarifying changes in new Regulation 05.13.01.16B(1)(e).

Fiscal Analysis

There is no fiscal impact on State or local agencies. The regulations implement Chapter 118 of 2010. Any fiscal impact is a result of that legislation and not the regulations.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulations have minimal or no impact on State or local governments. The department can implement the regulations with existing program resources and staff. The Department of Legislative Services concurs with this assessment, as the regulations implement Chapter 118 of 2010 (HB 66), and any fiscal impact is a result of that legislation and not the regulations. The fiscal and policy note for HB 66 indicated that the legislation was not anticipated to materially affect State finances.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have a beneficial, but indeterminable, effect on small businesses in the State. The Department of Legislative Services concurs with this assessment. The fiscal and policy note for HB 66 indicated that the legislation had a potential meaningful impact on small businesses that qualify as microenterprises eligible for financial assistance under the program. The potential meaningful impact was contingent upon the department adopting regulations eliminating the private funds match and/or equity stake requirements for microenterprise projects. The regulations eliminate the private funds match and the equity stake requirement for loans made for microenterprise projects under the program and, therefore, have a meaningful, beneficial impact on small businesses.

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