

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	08/25/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 10/3/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

05 13 01 .06-.08, .16, .17

3. Name of Promulgating Authority

Department of Housing and Community Development

4. Name of Regulations Coordinator

Mark S Petruskas

Telephone Number

410-514-7834

Mailing Address

100 Community Place

City State Zip Code

Crownsville MD 21032

Email

petruskas@dhcd.state.md.us

5. Name of Person to Call About this Document

Ramona Amin

Telephone No.

410-514-7800

Email Address

amin@dhcd.state.md.us

6. Check applicable items:

- New Regulations

- Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: August 1, 2014.

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes - No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Ramona Amin, Assistant Attorney General, (telephone #410-514-7800) on August 18, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Raymond A. Skinner

Title

Secretary

Telephone No.

410-514-7005

Date

August 22, 2014

Title 05
DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT

Subtitle 13 NEIGHBORHOOD BUSINESS DEVELOPMENT

05.13.01 Business Development Program

Authority: Housing and Community Development Article, §§2-201 and 2-111, Title 4, Subtitle 5, and Title 6, Subtitle 3, Annotated Code of Maryland

Notice of Proposed Action

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The Secretary of Housing and Community Development proposes to amend Regulations .06 - .08, and .17 and adopt new Regulation .16 under COMAR 05.13.01 Business Development Program.

Statement of Purpose

The purpose of this action is to provide guidance for implementation of Chapter 118 of the laws of Maryland. The statute allows the Department to establish partnerships with community-based lenders as intermediaries that would administer microenterprise loans under the Neighborhood Business Development Program, and reduces administrative barriers to making microloans. The statute also provides that microenterprises be subject to more flexible requirements than larger Neighborhood Business Development Program loans. The amended regulations would encourage more investment in Maryland microenterprise start-up and expansion.

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 regulations would reduce administrative barriers to making microloans and provide better access to capital for establishing and sustaining micro-businesses. The regulations would also make it easier for the Department to partner with third party intermediaries, with experience and capacity to provide technical assistance to microloan borrowers, increasing successful outcomes, while easing the administrative burden on State agencies.

Because of the nature and size of the loans, the requirement that microloans made under the Neighborhood Business Development Program be matched by non-state resources represents a substantial barrier to micro-entrepreneurs. The proposed regulations would eliminate that barrier for microloans resulting in a positive economic impact to micro-entrepreneurs. However, the magnitude of that impact cannot be determined. The

legislation would also allow the Department to partner with experienced local lending intermediaries to originate and administer microloans, resulting in ease of administration and improved technical support to borrowers. The Program would retain the authority to originate, underwrite and service the microloans directly. Small businesses will benefit from improved access to capital, however the magnitude of this benefit cannot be determined. Local governments may benefit from increased local revenue due to new business activity, however the magnitude of this benefit cannot be determined. The proposed regulations would be implemented with existing staff and program resources.

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

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

C. Local governments may benefit from increased local revenue due to new business activity, however the magnitude of this benefit cannot be determined.

F. Because of the nature and size of the loans, the requirement that microloans made under the Neighborhood Business Development Program be matched by non-state resources represents a substantial barrier to micro-entrepreneurs. The proposed regulations would eliminate that barrier for microloans resulting in a positive economic impact to micro-entrepreneurs.

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 would improve access to capital for microloans to small businesses seeking financing through the Neighborhood Business Development program, resulting in a positive economic impact to micro-entrepreneurs. However, the magnitude of that impact cannot be determined. The legislation would also allow the

Department to partner with experienced local lending intermediaries to originate and administer microloans. This would ease administration and benefit borrowers who would receive direct technical assistance and loan administration through intermediaries. However, the magnitude of that impact cannot be determined.

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 November 3, 2014. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2015

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 will be implemented with existing staff and program resources.

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:

Title 05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subtitle 13 NEIGHBORHOOD BUSINESS DEVELOPMENT

Chapter 01 Business Development Program

Authority: Housing and Community Development Article, §§2-201 and 2-111, Title 4, Subtitle 5, and Title 6, Subtitle 3, Annotated Code of Maryland

.01-.05 (text unchanged)

.06 Eligible Projects.

A. In order to be eligible for financial assistance, a project shall satisfy the following requirements:

(1) - (4) (text unchanged)

(5) *Except for a microenterprise project, the [The] financial assistance from all State government sources, including but not limited to the Program, may not exceed 50 percent of total project costs;*

(6) - (10) (text unchanged)

B. (text unchanged)

.07 Terms and Conditions of Financial Assistance.

A. (text unchanged)

B. *[There] Except for a microenterprise project, there shall be a cash contribution from private funds of at least 5 percent of the amount of the total financial assistance to the project.*

C. – E. (text unchanged)

.08 Limitations on Financial Assistance.

A. Minimum and Maximum Amount of Financial Assistance.

(1) (text unchanged)

(2) *[The] Except for a microenterprise project, the maximum amount of financial assistance from the Program to a project may not exceed the lesser of \$500,000 or 50 percent of total project costs.*

B. – D. (text unchanged)

.09 - .15 (text unchanged)

.16 Microenterprise Loan Administration — Approved Entities

A. *General. The Department may approve non-profit and for-profit entities to originate and administer loans to microenterprises in accordance with this chapter.*

B. *To be eligible to administer a microenterprise loan program, the entity must submit an application to the Department and meet the following minimum criteria to the satisfaction of the Department:*

(1) *Provide evidence satisfactory to the Department supporting the entity's demonstrated ability to:*

(a) *Manage a performing portfolio of business loans for a minimum period of five years. Audited financial statements for a period of three years will be analyzed for consistent revenues, operating reserves, net assets, unrestricted assets and portfolio delinquency rates;*

(b) *Evaluate microenterprise loan applications, underwrite microenterprise loans, and administer a microenterprise loan program;*

(c) *Leverage Program proceeds with other private or public sources of funding;*

(d) *Comply with Program statutes, regulations, guidelines and policies;*

(e) *Provide adequate resources and staff to implement the Program, including clerical and administrative staff trained to ensure prompt and efficient processing of microenterprise loan applications, draw schedules and other loan processing requirements, evaluate loan portfolio performance, and monitor the work performed with the loan proceeds;*

(f) *Provide substantive technical assistance to microenterprise loan borrowers;*

(g) *Obtain coverage by a fidelity bond or employee dishonesty liability insurance in an amount to be determined by the Department; and*

(h) *Be duly organized and in good standing in the State of Maryland.*

(2) *An approved entity shall execute and comply with the terms of an administration agreement, loan agreement, loan note, assignment, and other documents governing the duties of the entity under the Program, as required by the Department.*

(3) *The approved entity shall be directly responsible for fulfilling all of its duties and responsibilities under the Program and may not assign its responsibilities without the prior written consent of the Department.*

C. The Department reserves the right to periodically monitor an approved entity's administration of microenterprise loans funded by the Department, and may enforce its remedies under the Program loan documents including revoking the entity's approval to administer a microenterprise loan program under this chapter.

D. Other Requirements.

(1) An approved entity shall;

(a) Maintain financial records of loan disbursements for at least five years, and shall make them available for review by the Department at all reasonable times;

(b) Provide the Department with periodic reporting on:

(i) Loan disbursements to microenterprise loan borrowers, and

(ii) Other information required by the Department.

(2) Upon notice to an approved entity, and during normal business hours, the Department may inspect the files of an approved entity relating to any loans originated under the Program.

E. To fund loans under this regulation the Department may:

(1) Directly fund a loan to a microenterprise that is originated by an approved entity; or

(2) Provide financial assistance to an approved entity for the purpose of the approved entity making a loan to a microenterprise.

[.16] .17 Nondiscrimination.

A. An applicant may not discriminate [against a person] on the basis of race, color, religion, national origin, sex, sexual orientation, marital status, physical or mental handicap, or age, *except with regard to age as permitted under the federal Housing for Older Persons Act, as amended from time to time, or other similar federal laws, in leasing or otherwise providing dwelling accommodations or in any other aspect of the development, administration, or operation of any project or undertaking financed or assisted under the Program, or in any aspect of employment by any applicant, developer, or contractor involved in the project* [in any aspect of the Program].

B. An applicant shall comply with all applicable federal, State, and local laws and Department policies and programs regarding discrimination and equal opportunity in employment, housing, credit practices, and drug[-free] and alcohol-free workplaces, including:

(1) – (2) (text unchanged)

(3) [The Governor's Code of Fair Practices, as amended] *The Americans with Disabilities Act of 1990, as amended;*

(4) (text unchanged)

(5) The Governor's Executive Order 01.01.1989.18 [on] *relating to Drug and Alcohol Free Workplaces, and any Department or State regulations adopted or to be adopted to carry out the requirements of that Order*[-.];

(6) *Title 20 of the State Government Article, Annotated Code of Maryland, as amended; and*

(7) *The Fair Housing Amendments Act of 1988, as amended.*

C. (text unchanged)

[.17] .18 Waiver. (text unchanged)

[.18] .19 False Statements.

A. - C. (text unchanged)