HB 1135

Department of Legislative Services

Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1135 (Delegate Wells)
Economic Matters

Financial Institutions - Community Benefit Plan Act of 2024

This bill requires "regulated financial institutions" (defined as a banking institution, credit union, or nondepository mortgage company) to develop a "community benefit plan" with specified components in connection with an application for a deposit facility or license. The bill also establishes the Community Reinvestment Fund, administered by the Office of Financial Regulation (OFR) within the Maryland Department of Labor (MDL), to finance community development activities. It requires OFR to assess penalties for noncompliance and/or substantial failure to attain plan goals.

Fiscal Summary

State Effect: General fund expenditures increase by at least $10.0 million FY 2025 to capitalize the Community Reinvestment Fund; special fund revenues increase correspondingly. Special fund expenditures increase by at least $10.6 million in FY 2025 for community development activities, staffing, and a mandated disparity study. Out-years reflect annualization, special fund revenue from assessments on regulated financial institutions beginning in FY 2026, ongoing community development financing, and the recurring disparity study in FY 2028 only.

($ in millions)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
SF Revenue	$10.00	$10.59	$10.61	$10.71	$10.67
GF Expenditure	$10.00	$10.00	$10.00	$10.00	$10.00
SF Expenditure	$10.57	$10.59	$10.61	$10.71	$10.67
Net Effect	($10.57)	($10.00)	($10.00)	($10.00)	($10.00)

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

Local Effect: The bill is not anticipated to materially affect local finances or operations.

Small Business Effect: Meaningful.

Analysis

Bill Summary: A “community benefit plan” is a plan created by a regulated financial institution that (1) provides measurable and verifiable goals for future amounts of safe and sound loans, investments, grants, services, and other financial products for low- and moderate-income individuals and communities and other distressed or underserved individuals and communities; (2) has goals that are developed in reference to past levels of lending, investments, grants, and services; (3) includes comparisons to demographic benchmarks and peer or industry levels of activities; and (4) includes documentation of input from community-based organizations and other stakeholders.

The bill expresses several related findings of the General Assembly. Notably, the purpose of the bill is to require OFR to encourage regulated financial institutions to meet the financial needs of the local communities where the regulated financial institutions are chartered consistent with the safe and sound operation of the regulated financial institutions.

Disparity Study

OFR must contract with qualified persons to conduct a disparity study to identify underserved counties, populations, and census tracts in the State. The study must identify segments of the population that are underserved due to discrimination by metropolitan area and by urban and rural counties. The study must be (1) completed by December 1, 2024; (2) updated once every three years thereafter; and (3) made available to the public.

Community Benefit Plan

A regulated financial institution must develop a community benefit plan in connection with an application for a deposit facility or license, but nondepository mortgage companies that issue fewer than 50 single family home loans on an annual basis are exempt from this requirement. A plan must have a duration of three years and include goals established for each year for retail lending and community development lending, investment, grantmaking, and services. Upon expiration of a community benefit plan, a regulated financial institution must adopt a new plan.

Before adopting a plan, a regulated financial institution must submit a draft to OFR, which must establish a public comment period of at least 60 days. The draft must be revised in response to public comments. Likewise, OFR may require a regulated financial institution to revise a draft in response to public comments.

When renewing a license during a year when a community benefit plan is in effect, a regulated financial institution must submit to OFR (and make publicly available) a report on community benefit plan goal attainment that (1) identifies any goals not met and (2) includes verifiable data.

OFR must receive public comments on the report during a public comment period established by OFR.

A regulated financial institution that issues at least 300 but fewer than 1,000 single family loans each year must:

- include in its community benefit plan a retail lending product or community loans, investments, grants, or services that are targeted to (1) at least one underserved or distressed county and (2) low- and moderate-income individuals and other underserved populations in that county; and
- for each plan year, submit to OFR and make publicly available verifiable data that includes (1) demographic information on retail lending recipients and the number of loans made to target populations and (2) data regarding community development loans, investments, grants, and services.

The bill establishes similar but more extensive requirements for a regulated financial institution that issues 1,000 or more single family loans each year.

When establishing a new domestic branch or relocating a branch, a banking institution or a credit union must describe in a community benefit plan how the new or relocated branch will benefit low- and moderate-income census tracts or predominantly minority tracts in proximity to the branch.

A member of the public may comment at any time on the community benefit plan of a regulated financial institution; copies of public comments must be retained for three years.

Requirements for OFR

OFR must (1) review an initial community benefit plan submitted by a regulated financial institution to assess whether the plan is adequate in meeting community needs and (2) monitor the extent to which a regulated financial institution has attained the goals of the plan during each year that the plan is in effect.

If OFR determines that a community benefit plan is not adequate in meeting community needs or that a regulated financial institution has substantially failed to attain annual goals, OFR must:

- deny an application for a deposit facility or license submitted by the regulated financial institution;

- impose a civil penalty or increase an applicable fee under specified provisions of State law, with proceeds payable to the Community Reinvestment Fund;
- require a branch divestiture for the regulated financial institution;
- prohibit the regulated financial institution from selling loans to government-sponsored enterprises; or
- require an adjustment to the community benefit plan or adoption of a remedial action plan that specifies concrete steps to meet community needs or attain annual goals, such as increasing marketing to underserved or distressed communities; any such plan must be made publicly available.

A banking institution or a credit union must honor any community benefit plan established by an entity acquired by the banking institution or credit union; OFR must deny an application for a deposit facility of a banking institution or credit union that does not comply with this requirement.

If a regulated financial institution has engaged in an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act – or an act or a practice that violates fair lending and housing laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for individuals and communities that are enforced by specified federal or State agencies – OFR must penalize the regulated financial institution in a manner commensurate with the extent of the harm experienced by individuals or communities impacted by the violation.

Community Benefit Review Committee

OFR must establish a community benefit review committee (consisting of specified members) to review the adequacy of community benefit plans adopted by regulated financial institutions.

The committee must meet at least twice a year to:

- assess whether adopted community benefit plans are adequate in meeting community needs;
- review OFR's enforcement of the bill's requirements, including applications for a deposit facility or license that have been approved and denied by OFR; and
- make other specified recommendations to OFR.

A regulated financial institution must provide a notice to the public including specified information, including that OFR requires the institution to issue a community benefits plan. The required notice must be posted in a public lobby of a regulated financial institution and on its website.

Community Reinvestment Fund

The bill establishes the Community Reinvestment Fund to finance community development activities administered by OFR. The fund is a special, nonlapsing fund not subject to reversion to the general fund. The fund consists of (1) specified civil penalty and fee revenues; (2) money appropriated in the State budget; (3) interest earnings; and (4) any other money from any other source accepted for the benefit of the fund. The fund may be used only for community development activities, which are defined as:

- affordable housing for low- or moderate-income households;
- avoidance of patterns of lending resulting in the loss of affordable housing units;
- community development services, including counseling and successful mortgage or loan modifications of delinquent loans;
- activities that promote integration, climate remediation and disaster preparedness, economic development by financing small businesses and farms; or
- physical and sensory accessibility in housing stock that is integrated into the community.

Current Law: OCFR within MDL 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.

Generally, fines assessed by OFR as a result of enforcement actions accrue to the general fund.

State Fiscal Effect:

Regulatory Expenditures and Revenues

OFR advises that there are at least 22 banks, 7 credit unions, and between 100 and 120 mortgage lenders that are chartered or licensed by the State and, therefore, have to comply with the bill's requirements. OFR's regulatory activities are generally paid for from special funds (the Nondepository Special Fund for mortgage lenders and the Banking Institution and Credit Union Regulation Special Funds for banks and credit unions, respectively).

Given the bill's significant expansion of the OFR's responsibilities, it requires additional staff to implement the bill's requirements. Special fund expenditures increase by $571,255 in fiscal 2025, which accounts for the bill's October 1, 2024 effective date. This estimate reflects the cost of hiring three financial examiners and four administrative officers to perform the functions required by the bill, including reviewing and ensuring compliance with community benefit plans, managing the community benefit review committee, determining and assessing penalties and fees for noncompliance or failure to attain plan goals, and managing the Community Reinvestment Fund. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. It also includes funding for the disparity study (which must be repeated every three years).

Positions	7.0
Salaries and Fringe Benefits	$445,463
Disparity Study	75,000
Other Operating Expenses	50,792
Total FY 2025 OFR Administrative Expenditures	**$571,255**

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

The bill authorizes OFR to increase specified fees and assessments in order to recoup its costs under the bill. However, due to the bill's October 1, 2024 effective date, OFR likely cannot implement any increases in fees or assessments until fiscal 2026. Therefore, this analysis assumes that revenues increase beginning in fiscal 2026 and that existing funds must be used to cover administrative expenses in fiscal 2025.

Community Development Activities

The bill requires civil penalties and fees assessed against regulated financial institutions to be paid to the Community Reinvestment Fund, and then used for community development activities, including financing affordable housing and providing financing to small businesses and farms. Given the relatively small number of regulated financial institutions, and assuming general compliance with the bill's requirements, revenues to the fund from penalties and fees are likely insufficient to cover the costs of community development activities. Therefore, general funds are needed to capitalize the fund.

Based on programs within the Department of Housing and Community Development (DHCD) that perform similar activities, this analysis assumes that at least $10.0 million in funding is necessary for a viable program. Thus, beginning in fiscal 2025, general fund expenditures are assumed to increase by *at least* that amount to capitalize the fund; special fund revenues and expenditures increase correspondingly, assuming all available funds are used for community development activities each fiscal year. To the extent that penalties and fee revenues are greater than projected, general fund expenditures are less.

Small Business Effect: Any banks, credit unions, or mortgage companies that are small businesses and meet the bill's requirements must complete and implement the required community benefit plans on a recurring basis and pay any assessments established by OFR. Small businesses may benefit from increased funding for community development projects in their communities.

Additional Comments: Community development activities are typically under the purview of DHCD. Among other responsibilities, DHCD provides financing for the economic development and maintenance of affordable housing and communities in Maryland. DHCD also provides funding for community revitalization projects. As introduced, the fiscal 2025 capital budget includes a mixture of general obligation bond funds, general funds, special funds, and federal funds for the following DHCD programs that provide assistance to homebuyers and facilitate community revitalization in Maryland:

- Strategic Demolition Fund ($60.0 million);
- Housing and Building Energy Programs ($38.4 million);
- Neighborhood Business Development Program ($28.3 million);
- Baltimore Regional Neighborhood Initiative ($27.0 million);
- Homeownership Programs ($21.0 million);
- Special Loan Programs ($13.0 million);
- National Capital Strategic Economic Development Program ($12.0 million);
- Community Development Block Grant Program ($12.0 million);
- Seed Community Development Anchor Institution Fund ($10.0 million);
- Appraisal Gap Program ($10.0 million);
- Downtown Partnership of Baltimore ($9.0 million);
- Community Legacy Program ($8.0 million); and
- Business Façade Improvement Program ($5.0 million).

Additional Information

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

Designated Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Maryland Department of Labor; Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2024
rh/mcr

Analysis by: Eric F. Pierce

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