# Department of Legislative Services

Maryland General Assembly
2001 Session

## FISCAL NOTE

Senate Bill 184 (Senator Exum, *et al.*)
Budget and Taxation

**Income Tax - State Tax Credit for Qualified Maryland Low-Income Housing**

This bill allows a State income tax credit for qualified Maryland low-income housing that is allocated a federal low-income housing tax credit on or after January 1, 2002 in an amount equal to the amount of the federal credit allocated to the building. The bill provides that the credit may be allocated among the partners, members, or shareholders of the entity owning the low-income housing. If a portion of the federal credit is subject to recapture under Internal Revenue Code (IRC) rules, the State credit is subject to recapture in the same proportion to the State tax claimed by the taxpayers as the federal recapture amount bears to the original federal low-income housing credit amount that is subject to recapture. The amount of the credit may not exceed the taxpayer's State tax liability. Any excess amount may be carried forward for up to five years. The Comptroller and the Department of Housing and Community Development (DHCD) are required to adopt regulations to administer the credit.

The bill takes effect July 1, 2001, and applies to all taxable years beginning after December 31, 2001.

## Fiscal Summary

**State Effect:** General fund revenues would decrease by approximately $7.8 million and Transportation Trust Fund (TTF) revenues would decrease by approximately $1.6 million in FY 2003. Future years reflect inflation, new credits being issued, and credits being carried forward.

| (in dollars) | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|---|
| GF Revenue | $0 | ($7,820,200) | ($21,229,200) | ($31,838,600) | ($42,526,300) |
| SF Revenue | 0 | (1,561,000) | (4,245,800) | (6,367,700) | (8,505,300) |
| Expenditure | 0 | 0 | 0 | 0 | 0 |
| Net Effect | $0 | ($9,381,200) | ($25,475,000) | ($38,206,300) | ($51,031,600) |

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

**Local Effect:** To the extent that credits are taken by corporations, local revenues would decline. A portion of the corporate income tax is distributed to the TTF from which a distribution to local governments is made. Based on the estimate above, local government revenues would decrease by approximately $468,000 in FY 2003.

**Small Business Effect:** Potential meaningful. Small businesses that invest in low-income housing could realize significantly reduced income tax liabilities.

## Analysis

**Current Law:** No tax credit of this type exists under the Maryland income tax.

**Background:** The federal Low-Income Housing Tax Credit program (LIHTC) was established by the Tax Reform Act of 1986. It subsidizes the construction and rehabilitation of low-income rental housing and is intended to encourage the production of low-income residential rental housing. Instead of offering direct subsidies, the LIHTC provides incentives by granting investors a dollar-for-dollar reduction in their federal tax liability in exchange for providing funds for the development of qualified, affordable rental housing. This allows rents for some of a project's units to be set below market level while the investors receive annual tax credit allotments over ten years. For at least 15 years after completion, a project must continue to meet the LIHTC eligibility requirements, such as maintaining the units as affordable to the target population.

The low-income housing credit can only be claimed for a qualified project -- any project for residential rental property that meets requirements for low-income tenant occupancy, gross rent restrictions, state credit authority, and Internal Revenue Service (IRS) certification. A project must continue to meet these requirements for 15 years or the credit is subject to recapture.

Each year states receive a per capita allotment of low-income housing credits. The federal Consolidated Appropriations Act of 2001 increased the low-income housing cap under the federal Low-Income Housing Tax Credit program from $1.25 to $1.50 per capita in calendar 2001 and to $1.75 in calendar 2002. Beginning in calendar 2003, the per capita cap will be adjusted for inflation. In addition, another category of housing projects was added to the preferential list for projects located in a qualified census tract that contribute to a concerted community revitalization plan. As a result of these and other changes, it is expected that the level of credits available to Maryland taxpayers will increase.

The federal credit is administered by the Department of Housing and Community Development (DHCD). Low-income housing credits are awarded to both nonprofit and for profit sponsors of eligible housing projects on a competitive basis. Credits are allocated according to an allocation plan established by DHCD.

**State Fiscal Effect:** General fund revenues would decrease by approximately $7.8 million and Transportation Trust Fund (TTF) revenues would decrease by approximately $1.6 million in tax year 2002 based on the following facts and assumptions:

- According to 1997 Statistics of Income data, $3.4 billion was claimed in federal low-income housing credits in 1997.

- In tax year 2002 approximately $488 million in new federal low-income housing credits will be issued nationwide.

- Based on Maryland's share of the U.S. population (1.9%), approximately $9.4 million in low-income housing credits will be claimed by Maryland taxpayers in tax year 2002.

- One-third of the credits will be claimed on individual tax returns and two-thirds will be claimed on corporate tax returns (based on Joint Committee on Taxation estimates).

- The amount of the credits claimed will increase by about 3.5% each year to account for inflation.

Credits taken on personal income tax returns will reduce general fund revenues in the amount of the credits. Because 75% of all corporate income tax revenues are distributed to the general fund and 25% are distributed to the TTF, credits taken on corporate income tax returns will reduce general fund revenues by 75% of the amount of the credits taken, and TTF revenues will be reduced by 25% of the credits taken. In addition, 30% of the 25% of revenue distributed to the TTF is distributed to local governments.

Losses will be incurred beginning in fiscal 2003 as the bill applies to tax years 2002 and later.

DHCD indicates that general fund expenditures could increase by an estimated $24,542 in fiscal 2002, which accounts for the bill's July 1, 2001 effective date and a 90-day start-up delay. This estimate reflects the cost of two half-time positions (one half-time loan/insurance underwriter and one half-time senior engineer). It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Future year expenditures reflect: (1) full salaries with a 6.5% increase in fiscal 2003 and a 4.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses as well as two new positions (asset management officers) beginning in fiscal 2004.

The Department of Legislative Services (DLS) advises that since DHCD is already administering the federal credit, the additional workload of administering the State credit could be handled with existing budgeted resources, as it is likely that the same persons receiving the federal credit will receive the State credit. Should existing resources prove inadequate, DHCD can obtain the necessary position through the annual budget process.

**Local Fiscal Effect:** Local government revenues would decline as a result of corporate taxpayers claiming the credits proposed in the bill. As mentioned above, 75% of corporate tax revenues are distributed to the general fund, and 25% are distributed to the TTF. Of the 25% distributed to the TTF, approximately 30% is distributed to local jurisdictions. Based on the estimate above, local government revenues would decrease by approximately $468,000 million in fiscal 2003.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Comptroller of the Treasury (Bureau of Revenue Estimates), Department of Housing and Community Development, Joint Committee on Taxation, Department of Legislative Services

**Fiscal Note History:** First Reader – February 5, 2001
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