HB 146

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 146 (Delegate Hixson, *et al.*)
Environmental Matters and Ways and Means Budget and Taxation

Condominiums - Conversion of Rental Facilities - Extended Leases - Property Tax Credit

This bill increases from three to five years the minimum period of an extended lease that a developer converting a rental facility to a condominium is required to offer specified households. The bill also authorizes local governments to grant, by law, a property tax credit against the county or municipal property tax imposed on residential real property owned by a developer that (1) converts a residential rental facility to a condominium; and (2) offers extended leases to tenants of the residential rental facility. Local governments are authorized to provide, by law, for the amount and duration of the tax credit, the criteria and qualifications for granting the credit, and any other provisions necessary.

The bill takes effect June 1, 2008 and the tax credit is applicable to taxable years beginning after June 30, 2008.

Fiscal Summary

State Effect: None. The bill would not materially affect State operations or finances.

Local Effect: County and municipal property tax revenues could decrease to the extent that the property tax credit is granted. The amount of the decrease depends on the amount and duration of the credit and the number of residential rental facilities that are converted to condominiums.

Small Business Effect: Minimal.

Analysis

Current Law: Before a residential rental facility is subjected to a condominium regime, the owner, and the landlord of each tenant in possession of any portion of the residential rental facility, if not the owner, must give the tenant a required notice of the conversion. The notice must be delivered after registering the condominium with the Secretary of State and sent together with an offer to allow the tenant to exercise the tenant's right of first refusal to purchase the property. A tenant leasing any portion of the residential rental facility as a residence may not be required to vacate the premises, with limited exceptions, prior to the expiration of 180 days from the notice.

An owner required to give notice of the conversion must offer to each tenant entitled to receive the notice a right to purchase the tenant's leased residence. The offer must be at a price and on terms and conditions at least as favorable as the price, terms, and conditions offered for that portion of the property to any other person during the 180-day period following giving notice to the tenant of the conversion. Settlement cannot be required any earlier than 120 days after the offer is accepted by the tenant. The offer must be made concurrently with the required notice about the conversion and must make specified statements about the tenant's rights. After an offer terminates, the owner may not offer to sell the unit at a price or on terms and conditions more favorable to the offeree than the price, terms, and conditions offered to the tenant during the 180-day period.

A developer may not grant a unit in a rental facility occupied by a "designated household" (a household that includes a senior citizen or an individual with a specified disability) without offering the tenant of the unit a lease extension for a period of at least three years if the household meets the following criteria: (1) has an annual income that does not exceed the income eligibility figure developed by the Secretary of State; (2) is current in its rent payment and has not violated any other material term of the lease; or (3) has provided the developer an affidavit containing specified information about its eligibility for an extended lease.

The Secretary of State must prepare an income eligibility figure for each county and standard metropolitan statistical area of the State. Except in Baltimore City, Chapter 370 of 2006 authorizes a county or incorporated municipality to select, by law, ordinance, or resolution, which income eligibility figure prepared by the Secretary of State to use in the county or municipality for purposes of determining eligibility for an extended lease when rental housing is being converted to a condominium. Chapter 370 also added an option to the figures that a county or municipality may select from – the uncapped low-income limits as adjusted for family size calculated by the U.S. Department of Housing and Urban Development for assisted housing programs. If a county or municipality does not select a figure, the income eligibility is 80% of the median household income for the county. In Baltimore City the figure must approximate 100% of the median household income for the Baltimore Metropolitan Statistical Area. Chapter 370 made conforming changes to the notice that must be sent to tenants of a converting property.

A developer must grant extended leases to up to 20% of the total number of units within a condominium to designated households. If the number of units occupied by qualifying designated households exceeds 20%, the number of units available for extended leases must be allocated as determined by the local governing body. If the local governing body does not provide for the allocation, the units must be allocated by the developer based on continuous length of residence.

The developer must pay designated households that meet income qualifications $375 when the household vacates the unit and for moving expenses in excess of $375 that are actually and reasonably incurred, up to $750. The household must make a written request for reimbursement. If a designated household does not meet income qualifications, the developer must reimburse moving expenses actually and reasonably incurred, up to $750. The household must make a written request for reimbursement.

A county or incorporated municipality may provide, by local law or ordinance that a rental facility may not be granted to a purchaser for the purpose of subjecting it to a condominium regime unless the county, municipality, or housing agency has first been offered in writing the right to purchase the rental facility on substantially the same terms and conditions. Chapter 370 provides that when a county or municipality exercises its right to purchase a rental housing facility before conversion to a condominium, the county, municipality, or housing agency making the purchase may, as an alternative to retaining the entire property as a rental facility for at least three years, retain or provide for the retention of at least 20% of the units in the facility as rental units for 15 years for income-eligible households.

Also, a county or incorporated municipality may declare a rental housing emergency caused by the conversion of rental housing to condominiums. After declaring a rental housing emergency, the county or municipality may grant a designated family a right to an extended lease for a period in addition to the three-year period mentioned above. The county or municipality may also extend any other provision governing units leased by designated households, including those requiring the payment of moving expenses incurred by designated households. However, the developer is still not required to set aside more than 20% of the total number of units. The term of an extended lease for a family made a designated family by a county or municipality may not exceed three years.

Background: There are 2,290 registered condominiums in Maryland. From July 2005 through December 2006, 76 rental units were converted to condominiums and an additional 55 rental units have converted since January 2007. Of the 194 applications for a condominium regime received by the Secretary of State in 2005, approximately 23 buildings were for conversions of rental facilities. In 2006, of the 151 condominium applications received, 51 were conversion applications. Of the 97 applications received in 2007, 8 were conversion applications. Of the 12 applications received to date in 2008, none have been for conversions.

Local Fiscal Effect: County and municipal property tax revenues could decrease to the extent that the property tax credit is granted. The amount of the decrease depends on the amount and duration of the credit and the number of residential rental facilities that are converted to condominiums. **Exhibit 1** shows the number of accounts, by county, that the State Department of Assessments of Taxation has classified as apartments (buildings with four or more living units).

Additional Information

Prior Introductions: This bill was introduced as SB 641 and HB 96 in the 2007 session and as HB 1500 in the 2006 session. The Senate Judicial Proceedings and Budget and Taxation committees took no action on the Senate Bill; whereas, the House Environmental Matters and Ways and Means committees took no action on either House Bill.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Secretary of State, Montgomery County, Prince George's County, Talbot County, Wicomico County, Department of Legislative Services

Fiscal Note History: First Reader - February 8, 2008
mll/hlb

Analysis by: Michael Sanelli

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

Exhibit 1
Number of Apartment Accounts and Assessed Value

County	Number of Improved Accounts	Total Assessed Value	Value Per Account
Allegany	34	$12,598,458	$370,543
Anne Arundel	145	1,471,310,296	10,146,968
Baltimore City	1,812	1,449,204,245	799,782
Baltimore	2,247	3,389,962,821	1,508,662
Calvert	18	30,565,632	1,698,091
Caroline	48	21,679,767	451,662
Carroll	174	115,961,253	666,444
Cecil	107	137,606,226	1,286,039
Charles	57	207,376,919	3,638,192
Dorchester	26	14,074,233	541,317
Frederick	419	372,504,227	889,032
Garrett	38	14,602,998	384,289
Harford	184	272,047,057	1,478,517
Howard	107	1,181,049,691	11,037,848
Kent	23	31,187,191	1,355,965
Montgomery	1,012	6,806,754,589	6,726,042
Prince George’s	836	4,569,862,218	5,466,342
Queen Anne’s	19	8,156,928	429,312
St. Mary’s	120	209,257,762	1,743,815
Somerset	24	24,705,893	1,029,412
Talbot	88	58,348,212	663,048
Washington	514	312,005,272	607,014
Wicomico	141	104,901,723	743,984
Worcester	133	98,365,304	739,589
Total	**8,326**	**$20,914,088,912**	**$2,511,901**