

Department of Legislative Services
 Maryland General Assembly
 2008 Session

FISCAL AND POLICY NOTE

Senate Bill 996 (Senator Muse)
 Education, Health, and Environmental Affairs and Budget and Taxation

**Department of Housing and Community Development - Rent Stabilization
 Program for Seniors**

This bill establishes a Rent Stabilization Program for Seniors within the Department of Housing and Community Development. The Office of Administrative Hearings would be required to hear appeals from landlords.

Fiscal Summary

State Effect: Special fund expenditures for DHCD could increase by \$2.9 million in FY 2009 for additional staff and administrative expenses. General fund expenditures for OAH could increase by \$9.6 million in FY 2009 to provide rent ceiling exemption and adjustment hearings. Special fund revenues would increase in FY 2009 due to the collection of rental unit registration statement fees.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
SF Revenue	-	-	-	-	-
GF Expenditure	9,652,500	13,127,400	13,389,900	13,657,700	13,930,900
SF Expenditure	2,851,900	2,776,200	2,912,700	3,056,300	3,207,300
Net Effect	(\$12,504,400)	(\$15,903,600)	(\$16,302,600)	(\$16,714,000)	(\$17,138,200)

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

Local Effect: Local revenues could decrease to the extent that tax credits are provided to participating landlords. Local expenditures would not be affected.

Small Business Effect: Meaningful. Landlords could realize a significant decrease in rental income which would dramatically affect the availability and quality of senior housing in Maryland.

Analysis

Bill Summary: DHCD is required to adopt policies to guarantee that the rent for low-income seniors remains at a constant, manageable level and to ensure that a supply of affordable, decent, safe, and sanitary rental housing is made available to low-income seniors. The program is to be administered with available DHCD resources, including monies from the Rental Housing Program Fund, along with assistance from other State and federal programs. DHCD may seek to increase or replace budgeted funds.

To qualify for assistance from the program, an individual must • be at least 62 years old; • be the sole tenant or head of the household; • in conjunction with all members of the household, not have an aggregate disposable income of greater than \$25,000 after taxes; and • in conjunction with all members of the household, not have an aggregate disposable income that is greater than the median State income. Aggregate disposable income is defined as the sum of the income of all members of a household, not including gifts, inheritances, Social Security benefit increases, or pension payments.

The landlord of a qualifying senior tenant must file a rent registration statement and affidavit with DHCD by January 1, 2009, along with a supplemental statement for any new qualifying senior tenants gained thereafter. DHCD must provide a copy of the registration statement to the senior tenant.

The landlord must submit a registration statement fee by December 1, 2009 and by January 1 each subsequent year. For each six months of delinquency, the fee will increase by the amount of the original fee. In addition, a landlord must register with DHCD a rental unit leased to any senior tenant within 60 days of execution of the lease and submit a registration fee. A landlord may not pass along the cost of paying a registration fee to a tenant or otherwise penalize a senior tenant.

The landlord of a qualifying senior tenant may not charge a rent greater than one-third of the tenant's aggregate disposable income. A landlord may petition DHCD for a two-year exemption from this rental ceiling if the landlord would experience extreme financial hardship related to its mortgage or other property-related debt incurred before the effective date of this bill; the exemption may be renewed for an additional two-year period. DHCD is required, upon receiving a petition for a temporary rent ceiling exemption, to provide notice to any affected tenants who may request an administrative hearing.

A landlord or senior tenant may also petition DHCD for an adjustment of the rent ceiling. DHCD must provide a copy of the petition for adjustment to the nonfiling party. A public hearing must be provided, and any rent ceiling adjustment decision must be made on an official and publicly available record. Prior to the hearing, the tenant may request

that DHCD conduct an inspection of the rental property. Each party to the hearing is required to be given notice of the decision, along with a copy of the findings of fact and law, and notice of the right to seek judicial review of the decision. Judicial review is limited to errors of law and questions of constitutionality.

A landlord may not be granted an upward adjustment of the rent ceiling if it can be proven by a preponderance of the evidence that the landlord reasonably could have foreseen that increased interest rates or expenses from its refinancing or sale of property could not be covered by the landlord's existing rent schedule. In addition, a landlord may not be granted an upward adjustment if it has failed to comply with any DHCD order or regulation, or has failed to maintain the rental unit in issue in accordance with the implied warranty of habitability. If the landlord is granted the upward adjustment, the adjustment of the rent ceiling is not effective until 30 days after notice is given to the affected senior tenant.

If the Secretary of Housing and Community Development has reason to believe that there has been a violation of the program, it must serve a written statement on the landlord containing the reasons why the notice is being given and an outline of the remedial action that must be taken within 30 days. Failure to take remedial action subjects the landlord to a noncompliance charge. DHCD may also seek injunctive relief to secure compliance. Any aggrieved party may request an appeal hearing before DHCD; a subsequent decision constitutes an order and failure to comply with the order may lead to a civil penalty.

Local governments may grant a property tax credit against the property tax imposed on rental dwellings of landlords subject to the bill's provisions.

Current Law/Background: In fiscal 2007, about one-third of DHCD activities, or about \$446.3 million in State funds, federal tax credits, and bond proceeds, were dedicated specifically to the development of affordable rental housing. Developers and nonprofit organizations have access to tax credits and below-market loans to finance multifamily housing projects serving low-income families. Additionally, approximately \$109.0 million in federal Low-income Housing Tax Credits were granted in fiscal 2007. The fiscal 2009 capital budget includes approximately \$2.9 million in general funds, \$12.7 million in special funds, and \$4.8 million in federal funds for the Rental Housing Program Fund.

Five programs are supported by the Rental Housing Program Fund: • the Rental Housing Production Program; • the Elderly Rental Housing Program; • the Maryland Housing Rehabilitation Program-Multifamily; • the Nonprofit Rehabilitation Program; and • the Office and Commercial Space Conversion Program. The programs provide low-interest or deferred payment loans for rental housing developments targeting very low-income households. In general, projects serve families with incomes below 60% of the area

median, with priority given to projects serving families with incomes below 30% of the area median.

In fiscal 2007, approximately \$6.0 million was provided specifically for elderly rental housing from the Rental Housing Program Fund; this is down from a high of \$9.4 million in fiscal 2002.

State Fiscal Effect: DHCD estimates that approximately 130,000 senior households in Maryland could be affected by the proposed rent stabilization program. DHCD indicates that the legislation would significantly increase its responsibilities and costs, including accepting and monitoring rent registrations, monitoring rents for senior dwelling units, inspecting the conditions of senior dwelling units, and holding hearings of appeals from landlords. The Office of Administrative Hearings will most likely experience a significant increase in hearings, resulting in the need for additional staff. Accordingly, establishing the Rent Stabilization Program for Seniors could increase State expenditures by \$12.5 million in fiscal 2009 and \$15.9 million beginning in fiscal 2010. State special fund revenues from the collection of rental unit registration statement fees would increase significantly depending on the fee amount set by DHCD.

Department of Housing and Community Development

Special fund expenditures could increase by an estimated \$2.9 million in fiscal 2009, which accounts for the bill's October 1, 2008 effective date. This estimate reflects the cost of hiring 37 individuals to conduct inspections, monitor rent registrations and rent levels, administer the rent stabilization program, and to participate in hearings. It includes salaries, fringe benefits, and one-time start-up costs.

	<u>FY 2009</u>	<u>FY 2010</u>
Salaries and Fringe Benefits	\$2,040,259	\$2,768,296
Start-up and Administrative Costs	<u>811,656</u>	<u>7,925</u>
Total DHCD State Expenditures	\$2,851,915	\$2,776,221

Future year expenditures reflect • full salaries with 4.4% annual increases and 3% employee turnover; and • 2% annual increases in ongoing operating expenses.

Office of Administrative Hearings

OAH expenditures could increase by \$9.6 million in fiscal 2009 and \$13.1 million beginning in fiscal 2010 to provide hearings on rent ceiling exemptions and adjustments. This estimate is based on the following facts and assumptions:

- 130,000 rental units subject to the rent ceiling;
- 25% or 32,500 units would be involved in a hearing each year;
- hearings last an average of two hours;
- OAH advises that for every hour of hearing time, an administrative law judge (ALJ) spends two hours writing the opinion;
- each ALJ spends 1,768 hours per year administering hearings;
- an additional 110 ALJs would be hired at an average cost of \$117,000; and
- the estimate includes salaries, fringe benefits, start-up costs, and ongoing operating expenses.

Registration Statement Fees

DHCD revenues would increase significantly from the collection of rental unit registration statement fees. DHCD has not yet determined the level at which it would set the fee. Legislative Services advises that if DHCD were to set the fee at the level necessary to recover its costs, the fee would total approximately \$20; including the assumed costs for OAH hearings, the required fee would need to total \$120 per registration. Legislative Services notes that the bill does not require cost recovery.

Small Business Effect: DHCD advises that the bill could cause landlords to lose a substantial amount of rental income. The effect of this lost income could be especially meaningful for landlords in local jurisdictions that choose not to offer an offsetting tax credit. DHCD and Montgomery County indicate that the loss of rental income could cause some landlords to expend less on maintenance for the rental property thus reducing the quality of senior housing. In addition, both DHCD and Montgomery County advise that the bill could create a disincentive for landlords to rent to senior tenants thus reducing the availability of senior housing.

Additional Information

Prior Introductions: SB 654 of 2007, a similar bill, was withdrawn.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Judiciary (Administrative Office of the Courts), Comptroller's Office, Department of Housing and Community Development, Office of Administrative Hearings, Baltimore City, Howard County, Montgomery County, Department of Legislative Services

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