

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE

House Bill 1554

(Delegate Vaughn, Chair, Economic Matters Committee,  
*et al.*) (By Request - Departmental - Housing and  
Community Development)

Economic Matters

Education, Health, and Environmental Affairs

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**Linked Deposit Program - Loans to Minority Business Enterprises**

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This departmental bill allows borrowers under the State's Linked Deposit Program to apply for loans directly from participating lenders rather than through the Department of Housing and Community Development (DHCD). It also exempts decertified minority business enterprises (MBEs) from having their loans reduced if their decertification is due to revenue or employment growth.

The bill takes effect October 1, 2009, and terminates September 30, 2021.

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**Fiscal Summary**

**State Effect:** None. Any reduction in administrative burden on DHCD resulting from borrowers applying directly to lenders does not affect the department's finances.

**Local Effect:** None.

**Small Business Effect:** DHCD has determined that this bill has a meaningful impact on small business (attached). Legislative Services concurs with this assessment.

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**Analysis**

**Current Law:**

*Linked Deposit Program:* Chapter 396 of 2006 establishes a Linked Deposit Program in DHCD to provide low-interest loans to State-certified MBEs. Banks that participate in

the program make loans to certified MBEs as long as the loan period does not exceed 10 years, and the criteria used for making the loans are the same used for other loans. The loans made to MBEs must carry interest rates 2% below market rates for similar loans. The State Treasurer is authorized to use up to \$50 million to purchase certificates of deposit (CDs) from banks participating in the program with interest rates 2% below the market rate.

DHCD must establish procedures for obtaining up-to-date listings of State-certified MBEs, for notifying lending institutions when MBEs lose their certification, and for processing loan applications from MBEs. If a loan recipient loses its MBE certification, its loan is reduced by the amount of the loan's remaining balance.

The State is not liable to any bank for unpaid loan payments made under the Linked Deposit Program, and a loan under the program is not a debt of the State.

The Treasurer and DHCD must adopt regulations to carry out the program. DHCD must submit annual reports to the Governor, Treasurer, and General Assembly on the overall performance of the Linked Deposit Program. The program terminates September 30, 2021.

*MBE Program:* The State's MBE program establishes a goal that at least 25% of the total dollar value of each agency's procurement contract be awarded to MBEs, including 7% to African American-owned businesses and 10% to woman-owned businesses. There are no penalties for agencies that fail to reach these targets. Instead, agencies are required to use race-neutral strategies to encourage greater MBE participation in State procurement.

An MBE must be at least at least 51% owned and controlled by one or more individuals who are socially and economically disadvantaged. It must also be managed by one or more of the socially and economically disadvantaged individuals who own it. MBEs include not-for-profit entities organized to promote the interests of physically or mentally disabled individuals.

An individual with a personal net worth in excess of \$1.5 million is not considered economically disadvantaged for the purpose of being eligible for MBE certification. Personal net worth includes the individual's share of assets held jointly or as community property with a spouse, but does not include the individual's ownership interest in an MBE or equity in a primary place of residence.

In accordance with State regulations, the Maryland Department of Transportation (MDOT) decertifies an MBE if the owner's personal net worth exceeds the statutory limit of \$1.5 million or if the firm exceeds the federal definition of a small business, which varies by business sector. If, during the next three years, the firm again becomes

qualified for MBE status, it is eligible for recertification. However, if the firm remains decertified for three consecutive years, it graduates from the program and may no longer be certified. An MBE that is decertified by MDOT is still eligible for credit toward an MBE goal for a contract entered into when the MBE was certified, and MBE decertification may not be the sole cause of a contract termination.

**Background:** The Linked Deposit Program is operational but has not provided any loans to date. DHCD, in collaboration with the Treasurer's Office and the Office of the Attorney General, finalized regulations governing the operation of the Linked Deposit Program in October 2007. In March 2008, the Treasurer's Office issued an Expression of Interest to 140 banks and received affirmative responses from six banks (with a total of 12 participating branches). Contracts with the six participating banks were finalized in August 2008, and the web-based platform and associated databases for loan applications were completed in November 2008. Training for bank personnel was conducted in January 2009; as of March 2009, 19 loan applications had been received, but no loans had yet been awarded.

**Additional Comments:** It is not clear whether the exemption granted by the bill to decertified MBEs also extends to MBEs that graduate from MBE status.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Housing and Community Development, Maryland Department of Transportation, Department of Legislative Services

**Fiscal Note History:** First Reader - March 24, 2009  
ncs/rhh

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL:     Linked Deposit Program – Loans to Minority Business Enterprises

BILL NUMBER:     HB 1554

PREPARED BY:     Department of Housing and Community Development

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.