Department of Legislative Services

Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 601 (Delegate Olszewski, *et al.*)
Ways and Means Budget and Taxation

Sustainable Communities Tax Credit Program - Eligibility

This bill allows an applicant that has proceeded with a substantial portion of a commercial rehabilitation to apply for the sustainable communities tax credit if the rehabilitation work has been approved under the federal historic tax credit.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: Allowing these applicants to apply for the tax credit will not alter the fiscal impact of the program beyond that provided under current law.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Any applicant seeking to claim the sustainable communities tax credit for the rehabilitation of a commercial property (any property that is not a single-family, owner-occupied residence) is required to submit an application to the Maryland Historical Trust (MHT) for an initial tax credit certificate. MHT may not accept a commercial application if (1) any substantial part of the proposed work has begun; or (2) the applicant has previously submitted three or more applications for commercial rehabilitations exceeding $500,000 in that year.

Except under certain circumstances, the total amount of initial tax credit certificates issued by MHT in each fiscal year cannot exceed the amount appropriated to the tax credit reserve fund in the State budget. If approved, an applicant can claim a credit equal to (1) 20% for the rehabilitation of a certified historic structure (25% if certain energy efficiency standards are met); and (2) 10% for the rehabilitation of a qualified rehabilitated (nonhistoric) structure. The proposed rehabilitation must (1) meet all program requirements; (2) have been awarded an initial tax credit certificate by MHT; and (3) receive final certification by MHT.

The federal historic preservation tax credit program allows a credit of up to 20% for the rehabilitation of certified historic structures and a credit of up to 10% for the rehabilitation of nonhistoric, nonresidential buildings built before 1936. Eligibility standards for the federal credit include requirements that the rehabilitation is substantial and must involve a depreciable building (a building used in a trade or business or held for the production of income that does not serve exclusively as the owner's private residence).

Background: Chapter 487 of 2010 reestablished the Heritage Structure Rehabilitation tax credit as the Sustainable Communities tax credit and extended the termination date of the credit through fiscal 2014. Chapter 487 also expanded and altered eligibility requirements for the program, including allowing certain nonhistoric properties to qualify for the credit. In fiscal 2011, a total of 36 commercial applications were submitted for $40.0 million in tax credits. MHT awarded a total of $11.2 million in initial tax credit certificates, of which $10.0 million was from program funding included in the fiscal 2011 budget and the remaining amount was funding carried over from a previous fiscal year. The Governor's proposed fiscal 2012 budget includes $10.0 million for commercial rehabilitation tax credits.

State Fiscal Effect: The bill will allow applicants who have proceeded with a substantial portion of a rehabilitation to apply for the sustainable communities tax credit if the rehabilitation work has been approved under the federal historic tax credit.

The bill will not alter the fiscal impact of the sustainable communities tax credit. MHT awarded the maximum amount of commercial credits in fiscal 2011, and it is expected that MHT will award the maximum amount of any commercial credits available in fiscal 2012. Further, any amount that is not awarded in a fiscal year can be awarded in the next fiscal year.

Small Business Impact: An applicant under the bill who is a small business and has elected to proceed with a rehabilitation before applying for the credit will benefit if the project is approved by MHT. Since MHT can award a limited amount of credits in each year, to the extent this impacts other small businesses that have not proceeded with rehabilitation work, these businesses will be negatively impacted.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Planning, Department of Legislative Services

Fiscal Note History:	First Reader - March 6, 2011
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