

SB 841

**Department of Legislative Services**  
Maryland General Assembly  
2011 Session

## **FISCAL AND POLICY NOTE**

## Senate Bill 841

(Senator Pugh)

## Budget and Taxation and Finance

Economic Matters

## Arts and Entertainment Districts - Artistic Work - Design

This bill expands the eligibility criteria for the tax benefits available for qualifying residing artists in arts and entertainment districts. An individual who creates works that are an original design will be classified as an artist under the program. Under current law, only works that are original clothing designs qualify under the program.

## Fiscal Summary

**State Effect:** Potential decrease in general fund revenues beginning in FY 2012 due to expanded eligibility for the subtraction modification. Expenditures are not affected.

**Local Effect:** Potential local government revenue decrease beginning in FY 2012 due to the expanded eligibility for the subtraction modification and the local property tax credit. Expenditures are not affected.

**Small Business Effect:** Potential meaningful.

## Analysis

**Current Law:** A qualifying artist is an individual who owns or rents residential property in the county in which the arts and entertainment district is located and operates a business in the arts and entertainment district that derives income from artistic work created in the district.

Artistic work includes (1) a book or other writing; (2) a play, musical performance, or performance thereof; (3) a painting or other picture; (4) sculpture; (5) traditional or fine crafts; (6) the creation of a film or acting within a film; (7) the creation of a dance or the

performance of a dance; (8) the creation of original jewelry, clothing, or clothing design; or (9) any other product generated as a result of any of these works.

Qualifying residing artists qualify for three tax benefits under the Arts and Entertainment Districts Program as discussed below.

**Background:** Chapter 608 of 2001 authorized the Department of Business and Economic Development (DBED) to establish arts and entertainment districts within a county or municipal corporation. Counties and municipal corporations must apply to DBED to have an area designated as an arts and entertainment district. The district must be wholly within a priority funding area and a designated neighborhood. Chapter 608 expanded the permissible uses of the Maryland Economic Development Assistance Fund to allow DBED to use the fund to provide financial assistance to arts and entertainment enterprises and arts and entertainment projects.

Chapter 608 also created a subtraction modification under the Maryland income tax for the amount of income derived from the publication, production, or sale of artistic work that is created by a “qualifying residing artist” who owns or rents residential property in the district and conducts business in the district. The Comptroller’s Office does not collect information on the amount of any subtraction modification claimed as a result of residency in an arts and entertainment district. The income subtraction modification for these districts is consolidated together with other subtractions and is listed as a miscellaneous subtraction on the income tax return.

Chapter 608 also provided for a property tax credit against the county or municipal corporation property tax imposed on a manufacturing, commercial, or industrial building that is located in an arts and entertainment district, and is wholly or partially renovated for use as housing for qualifying residing artists. The property tax credit cannot be granted for more than 10 years.

Finally, under Chapter 608, a county or municipal corporation may exempt from the admissions and amusement tax gross receipts any admissions or amusement charge levied by an “arts and entertainment enterprise” or qualified residing artist in an arts and entertainment district.

Chapter 175 of 2005 altered the program by:

- expanding eligibility to include artists who own or rent real property in the county where an arts and entertainment district is located;
- clarifying that, in order to qualify, a resident artist must write, compose, or execute artistic work in an arts and entertainment district;

- expanding the type of buildings in an arts and entertainment district for which a property tax credit may be granted by county and municipal governments to buildings that are constructed or renovated to be capable of use by a qualifying residing artist or an arts and entertainment enterprise; and
- establishing a method for calculating property tax credits that may be granted by local governments.

Chapter 290 of 2008 expanded the eligibility criteria of the program to include individuals who create original jewelry, clothing, or clothing design.

**Exhibit 1** lists the 19 arts and entertainment districts currently established in the State.

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**Exhibit 1**  
**Current Arts and Entertainment Districts**

<b>Arts and Entertainment District</b>	<b>Location</b>
Cumberland	Allegany County
Frostburg	Allegany County
Annapolis	Anne Arundel County
Station North	Baltimore City
Highlandtown	Baltimore City
Denton	Caroline County
Elkton	Cecil County
Cambridge	Dorchester County
Frederick	Frederick County
Bel Air	Harford County
Havre de Grace	Harford County
Bethesda	Montgomery County
Silver Spring	Montgomery County
Wheaton	Montgomery County
Gateway	Prince George's County
Hagerstown	Washington County
Salisbury	Wicomico County
Berlin	Worcester County
Snow Hill	Worcester County

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**State Fiscal Effect:** The bill expands eligibility for the tax benefits available under the Arts and Entertainment District Program to original designs if they meet the existing requirements of the program. The bill does not specify, but it is assumed that the change would be effective tax year 2011. As a result, general fund revenues may decrease beginning in fiscal 2012 due to additional subtraction modifications claimed.

However, the amount of the revenue loss cannot be reliably estimated and depends on the number of additional businesses that would qualify for the subtraction modification and the income of these qualifying businesses from the sale or services associated with these works of original design. The Comptroller's Office advises that the existing subtraction modification is listed on the income tax form as one of the miscellaneous subtraction modifications. Therefore, the Comptroller's Office cannot advise on the amount of subtraction modifications that have been claimed to date.

**Local Fiscal Effect:** Revenues for local jurisdictions where qualified residing artists live could decline by about 3% of the total subtraction taken against the State income tax beginning in fiscal 2012.

To the extent provided by a county, local government property tax revenues could decrease if more properties are eligible for the credit as a result of the expanded eligibility provided by the bill.

The bill is not expected to materially impact admissions and amusement tax revenues.

**Small Business Effect:** The bill would positively impact through a reduction in State taxes any qualifying small business that creates original works of design. Conversely, any small businesses that are competitors of these businesses and do not qualify would be at a competitive disadvantage due to higher relative tax burdens.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** HB 1281 (Delegate Stukes, *et al.*) - Economic Matters.

**Information Source(s):** Department of Business and Economic Development, Comptroller's Office, Department of Legislative Services

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