# HB 1196

# Department of Legislative Services
2011 Session

## FISCAL AND POLICY NOTE
**Revised**

House Bill 1196 (Chair, Ways and Means Committee)(By Request - Departmental - Planning)

Ways and Means Budget and Taxation

**Sustainable Communities Tax Credit Program**

This departmental bill makes several changes to the Sustainable Communities Tax Credit Program. The bill increases the amount of fees the Maryland Historical Trust (MHT) is authorized to charge to pay for the administrative costs of the Sustainable Communities tax credit program and provides for the payment of MHT administrative costs if the fees charged are inadequate. The bill also clarifies that tax credits for high-performance buildings and qualified rehabilitated structures are available only for the rehabilitation of commercial buildings.

The bill takes effect July 1, 2011.

## Fiscal Summary

**State Effect:** Special fund revenues and expenditures increase by $144,600 in FY 2012 due to an increase in the fees charged by MHT. General fund expenditures decrease by $144,600 beginning in FY 2013 due to the elimination of estimated deficiency appropriations required under current law to pay for administrative costs in the prior fiscal year. Future years reflect the estimated amount of fees collected and termination of the program under current law.

| (in dollars) | FY 2012 | FY 2013 | FY 2014 | FY 2015 | FY 2016 |
|---|---|---|---|---|---|
| SF Revenue | $144,600 | $147,600 | $160,000 | $173,100 | $0 |
| GF Expenditure | $0 | ($144,600) | ($147,600) | ($160,000) | $0 |
| SF Expenditure | $144,600 | $147,600 | $160,000 | $173,100 | $0 |
| Net Effect | $0 | $144,600 | $147,600 | $160,000 | $0 |

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

**Local Effect:** None.

**Small Business Effect:** The Department of Planning has determined that this bill has a meaningful impact on small business (attached). Legislative Services disagrees with this assessment as discussed below. (The attached assessment does not reflect amendments to the bill.)

## Analysis

**Bill Summary:** Under current law, MHT is authorized to charge a reasonable fee necessary to certify historic rehabilitations and qualified rehabilitated structures. The bill increases the maximum fee imposed from 1% to 3% of the initial credit certificate issued for a commercial rehabilitation or the amount of the credit for a single-family owner-occupied residential rehabilitation. If the fees paid in any fiscal year are insufficient to cover the directly related administrative costs of the sustainable communities tax credit program, funds in the sustainable communities tax credit reserve fund will be used to cover these costs. In each fiscal year, the Director of MHT is required to estimate the amount of fees that will be collected and, if applicable, reserve the difference between the estimated fees and the directly related administrative costs of the program. Any amount reserved in the fiscal year that is not necessary to administer the program may be used for initial credit certificates issued the next fiscal year. In its annual report on the credit program, MHT is required to report specified information about the administrative costs of the program.

**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 MHT for an initial tax credit certificate. 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.

The value of the credit is dependent on the type of rehabilitation undertaken and is equal to, as a percentage of qualified rehabilitation expenditures:

- 20% for the rehabilitation of a single-family, owner-occupied residence;
- 20% for the rehabilitation of a certified historic structure (25% if certain energy efficiency standards are met); and
- 10% for the rehabilitation of a qualified rehabilitated (nonhistoric) structure.

MHT may charge a fee, not to exceed 1% of an initial credit certificate issued for a commercial rehabilitation or the amount of the credit for a single-family owner-occupied residential rehabilitation, that is sufficient to pay the cost of administering the State and federal historic tax credits.

**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 credit, 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 proposed fiscal 2012 State budget includes $10.0 million for commercial rehabilitation tax credits. The Governor has also submitted a deficiency appropriation for the fiscal 2011 operating budget which includes $129,365 for administering the tax credit, as the 1% administrative fee does not currently cover administrative costs.

**State Fiscal Effect:** The bill increases the fee that MHT is authorized to charge under the program and makes several changes related to the payment of administrative costs at MHT. Based on the estimated amount required to administer the program and the amount of residential and commercial credits awarded, the current fee of 1% is estimated to be inadequate to cover administrative costs. It is estimated that, under current law, the program will require a general fund deficiency appropriation of $144,600 in fiscal 2013 to pay for administrative costs not covered by the 1% fee in fiscal 2012. As a result, special fund revenues and expenditures will increase by $144,600 in fiscal 2012. General fund expenditures will decrease by $144,600 in fiscal 2013 due to the elimination of the estimated general fund deficiency appropriation. Approximately $147,600 in additional fees will be raised in fiscal 2013, $160,000 in fiscal 2014, and $173,100 in fiscal 2015.

Although the bill terminates the program on June 30, 2014, it is assumed MHT will collect fees and administer the program in fiscal 2015 due to lags in project completions.

**Small Business Impact**: Increasing the fee MHT may impose is not expected to have a meaningful impact on any small business that claims the commercial credit.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of Planning, Comptroller's Office, Department of Legislative Services

**Fiscal Note History:** First Reader - March 15, 2011
mc/jrb Revised - House Third Reader - March 29, 2011

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Sustainable Communities Tax Credit Program

BILL NUMBER: HB 1196

PREPARED BY: Maryland Department of Planning

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

____ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

__X__ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

Small businesses receiving the award of Sustainable Communities Tax Credits from the state will experience an increase in fees from 1% of the total credit received to a maximum of 3% of the total credit received.