Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 527 (Delegate Hogan, *et al.*)
Ways and Means

Lead Safe Income Tax Credit

This bill creates a tax credit against the State income tax for the costs incurred for qualifying lead hazard reduction projects. The Department of Housing and Community Development (DHCD) is required to administer the program and, in cooperation with the Maryland Department of the Environment (MDE) and the Comptroller's Office, adopt regulations to implement the program. DHCD may award a maximum of $1.0 million in credits in each fiscal year through fiscal 2015.

The bill takes effect July 1, 2011, and applies to tax years 2011 and beyond.

Fiscal Summary

State Effect: General fund, Transportation Trust Fund (TTF), and Higher Education Investment Fund (HEIF) revenues will decrease by $1.0 million annually in FY 2012 through 2015. General fund expenditures increase by $179,400 in FY 2012 for implementation by DHCD and the Comptroller's Office. Future years reflect ongoing administrative costs for DHCD and termination of the program.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
GF/SF Rev.	($1,000,000)	($1,000,000)	($1,000,000)	($1,000,000)	$0
GF Expenditure	$179,400	$142,200	$149,100	$156,500	$0
Net Effect	($1,179,400)	($1,142,200)	($1,149,100)	($1,156,500)	$0

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

Local Effect: Baltimore City, counties, and municipalities receive a portion of corporate income tax revenues to support the construction and maintenance of local roads and other transportation facilities. Local highway user revenues will decrease in FY 2012 through 2015 as a result of credits claimed against the corporate income tax. The bill's criminal penalty provision is not expected to significantly affect local finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: This bill establishes a tax credit program for qualifying property owners who complete an approved lead hazard reduction project. Owners of registered rental property, child care centers, day care centers for the elderly, and owner-occupied housing that meet specified requirements are eligible for the program. A taxpayer may submit to DHCD a proposal for a lead hazard reduction project; this proposal must be submitted in writing before commencement of the project. DHCD must approve or disapprove the project within 60 days after receiving a completed application. DHCD may approve up to $1.0 million in tax credits in each fiscal year, but may not award a tax credit after June 30, 2015.

In order to qualify, all lead hazard reduction activities must be performed in accordance with MDE standards and procedures. Once the project has been completed, an independent inspector accredited by MDE and hired by the owner of the property will issue a certificate indicating that the property owner has met the eligibility requirements for the credit. Tax credits may be carried forward for five taxable years and are not allowable for costs for which the taxpayer has already received a State lead hazard reduction loan or grant.

Both registered rental property and owner-occupied property must contain lead-based paint and have at least two bedrooms to qualify for the tax credit program. The amount of the credit is equal to 90% of direct costs of an approved lead hazard reduction project for rental property, 70% for child care and elder care centers, and 90% for owner-occupied property. The maximum credit cannot exceed $5,000 per unit or $50,000 total for any taxpayer.

In order to qualify for the credit, properties must at completion of the project:

- satisfy the “full risk reduction” standard;
- have a walk-off floor mat for all exterior entryways;
- not have any exterior surfaces with chipping, peeling, or flaking paint;
- have lead-safe windows in all specified living areas; and
- pass a lead-contaminated dust test.

Any person who knowingly makes a false statement or report in applying for the tax credit is guilty of a misdemeanor and subject to a penalty provision (up to $50,000 fine and/or up to two years imprisonment).

Current Law: No State tax credit of this type exists. However, several State and federal programs provide funding for lead abatement, as discussed below.

Background: Chapter 114 of 1994 established the Lead Paint Poisoning Prevention Program within MDE. The program provides limited liability relief for owners of rental property built before 1950 and others in exchange for the reduction of lead hazards in these older properties. The program also provides for limited compensation to children who are poisoned by lead. By December 31, 1995, the owner of an affected property must have registered that property with MDE. An owner who first acquires affected property after that date must register the property within 30 days of acquisition. At each change in occupancy, before the next tenant occupies the property, an owner must satisfy the risk reduction standard by passing the test for lead contaminated dust or performing specified lead hazard reduction treatments. An affected property is exempt from the risk reduction standards under specified conditions. The proposed fiscal 2012 State budget includes $1.6 million in funding for the program.

The U.S. Environmental Protection Agency (EPA) and the U.S. Department of Housing and Urban Development (HUD) provide grants for lead abatement projects and conduct outreach programs. In addition, EPA recently issued a rule requiring the use of lead-safe practices and other actions aimed at preventing lead poisoning. Beginning April 22, 2010, contractors performing renovation, repair, and painting projects that disturb lead-based paint in homes, child care facilities, and schools built before 1978 must be certified by EPA and must follow specific work practices to prevent lead contamination. EPA has reached an agreement in 10 states for the certification to be conducted by the applicable state agency. HUD recently announced that Baltimore City did not rehabilitate a sufficient number of homes under its most recent federal lead abatement grant and, as a result, the city was deemed ineligible to receive additional funds. HUD officials also stated that they are investigating the city's management of the grant and seeking documentation to show that the money was spent appropriately.

State Revenues: DHCD may award a maximum of $1.0 million in credits in fiscal 2012 through 2015. As a result, general fund, HEIF, and TTF revenues may decrease by a total of $1.0 million annually in fiscal 2012 through 2015. This estimate assumes that credits are earned in the first half of the fiscal year and claimed by the end of the fiscal year. To the extent DHCD does not award the maximum amount of credits in each fiscal year, revenue losses will be less than estimated.

The criminal penalty provision is not expected to significantly affect State revenues.

State Expenditures: General fund expenditures increase by $179,400 in fiscal 2012 due to implementation costs at DHCD and the Comptroller's Office, as described below.

Department of Housing and Community Development

General fund expenditures will increase by an estimated $139,400 in fiscal 2012, which reflects the bill's July 1, 2011 effective date. This estimate reflects the cost of hiring one program administrator and one support staff. It includes salaries, fringe benefits, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	$129,700
Operating Expenses	9,720
Total FY 2012 DHCD Expenditures	**$139,420**

Future year expenditures reflect 4.4% annual increases in salaries and 3% employee turnover as well as 1% annual increases in ongoing operating expenses.

Comptroller's Office

The Comptroller's Office reports that it will incur a one-time expenditure increase of $40,000 in fiscal 2012 to add the tax credit to the income tax forms. This amount includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

Other

The criminal penalty provision is not expected to significantly affect State expenditures.

Local Revenues: Baltimore City, counties, and municipalities receive a portion of corporate income tax revenues to support the construction and maintenance of local roads and other transportation facilities. Local highway user revenues will decrease in fiscal 2012 through 2015 as a result of credits claimed against the corporate income tax.

Additional Information

Prior Introductions: HB 1449 of 2006 passed the House and received a hearing in the Senate Budget and Taxation Committee, but no further action was taken. Similar bills were introduced in the 2005, 2004, 2000, and 1997 sessions. HB 1394 of 2005, HB 1039 of 2004, HB 995 of 2000, and HB 990 of 1997, all received unfavorable reports from the House Ways and Means Committee.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Department of Housing and Community Development, Comptroller's Office, Department of Legislative Services

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