HB 497

Department of Legislative Services

Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 497 (Delegate Anderson, *et al.*) (By Request - Baltimore City Administration)

Ways and Means Budget and Taxation

Property Tax - Exemption - Low Income Housing - Ownership by Limited Liability Company

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This bill expands a local property tax exemption for specified entities that provide low-income housing to families to include specified tax exempt limited liability companies (LLCs) that are wholly owned by a nonprofit corporation, or a specified limited partnership whose managing general partner is a specified LLC wholly owned by a nonprofit corporation.

The bill takes effect June 1, 2015, and applies to taxable years beginning after June 30, 2015.

Fiscal Summary

State Effect: Potential minimal general fund revenue decrease as a result of fewer corporate filing fees being paid each year. Expenditures are not affected.

Local Effect: Baltimore City and county revenues are not expected to be significantly impacted as any property tax exemption under the bill must be offset, at least in part, by a payment in lieu of taxes (PILOT) agreement. Expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Current Law: Property tax exemptions and PILOTs for housing for low-income families, is limited to certain types of limited partnerships engaged in the operation, construction, or management of qualified low-income housing projects. These entities include specified tax exempt nonprofit corporations, specified nonprofit housing corporations, specified limited partnerships, and specified nonprofit corporations. Real property may only be exempt if an agreement is approved between the local government and the owner of the real property and there is a negotiated PILOT. Any negotiated PILOT must be allocated, when applicable, between counties and municipalities in a specified ratio.

Background: Baltimore City advises that much has changed in recent years with regard to the financing of affordable housing projects. The bill will modernize State law so that when qualifying entities in Maryland develop affordable housing, they will be able to use the nonprofit partner's existing legal structures and still maintain the ability to obtain a PILOT. The city advises that the preferred corporate structure for businesses which operate in affordable housing-related fields has overwhelmingly moved toward LLCs. By expressly including these types of LLCs, the bill removes the need for the creation of a new shell corporation simply to comply with current law which adds a layer of complexity and inefficiency in structuring these types of affordable housing projects. LLCs did not exist at the time the statute was originally enacted.

Many of the affordable housing projects financed in Baltimore City and the rest of the State are financed through the use of the Low Income Housing Tax Credit (LIHTC).

Federal Low Income Housing Tax Credit

LIHTC was established by the Tax Reform Act of 1986. The tax credit subsidizes the construction and rehabilitation of low-income rental housing and is intended to encourage the production of low-income residential rental housing. Instead of offering direct subsidies, LIHTC provides incentives by granting investors a dollar-for-dollar reduction in their federal tax liability in exchange for providing funds for the development of qualified, affordable rental housing. This allows rents for some of a project's units to be set below market level while the investors receive annual tax credit allotments over 10 years. For at least 15 years after completion, a project must continue to meet LIHTC eligibility requirements, such as maintaining the units as affordable to the target population.

The federal LIHTC can only be claimed for a qualified project – any project for residential rental property that meets requirements for low-income tenant occupancy, gross rent restrictions, state credit authority, and Internal Revenue Service certification. A project must continue to meet these requirements for 15 years or the credit is subject to recapture.

The Department of Housing and Community Development finances multi-family housing developments using the federal LIHTC program and Community Development Administration revenue bonds which support the construction and rehabilitation of affordable rental units. LIHTCs are awarded to projects in accordance with the Internal

Revenue Code and developers sell these credits to investors to raise equity for the construction of affordable rental housing. In exchange for the tax credits, developers agree to income and rent restrictions for a minimum of 30 years. Loans for these projects are funded using the proceeds of tax-exempt revenue bonds and/or State appropriations.

State Fiscal Effect: An annual report fee (corporate filing fee) is required to be paid to the State Department of Assessments and Taxation with each business personal property tax return. The annual report fee is for the privilege of maintaining the legal entity's existence in the State. **Exhibit 1** identifies the amount of the report fee that each legal entity is required to pay. To the extent that fewer filing fees are paid as a result of fewer corporate entities being formed to structure various housing financing arrangements, general fund revenues may decrease. The decrease is expected to be minimal.

Exhibit 1
Annual Reporting Fee Requirement

Business Entity	Fee	Business Entity	Fee
Stock Corp	$300	Domestic Statutory Trust	$300
NonStock Corp	0	Foreign Statutory Trust	300
Foreign Insurance Corp	300	REIT	300
Foreign Interstate Corp	0	SDAT Certified Family Farm	100
LLC	300	Sole Proprietorship	0
LLP	300	General Partnership	0
LP	300	Amended Return	0

Local Fiscal Effect: Baltimore City and county revenues are not expected to be significantly impacted as any property tax exemption under the bill must be offset, at least in part, by a PILOT. In fiscal 2014, there were 375 PILOTs in the State with an exempt property value of approximately $510.2 million. Of this amount, Baltimore City had 201 PILOTs with an exempt property value of approximately $187.4 million. Housing authorities and housing nonprofits represent a large share of the PILOTs statewide.

Additional Information

Prior Introductions: None.

Cross File: SB 356 (Senator McFadden)(By Request - Baltimore City Administration) - Budget and Taxation.

Information Source(s): State Department of Assessments and Taxation, Baltimore City, Comptroller's Office, Department of Legislative Services

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