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April 5, 2016

The Honorable Lawrence J. Hogan, Jr.
Governor of Maryland
State House
100 State Circle
Annapolis, Maryland 21401

RE: House Bill 686, "Department of Housing and Community Development – Strategic Demolition and Smart Growth Impact Fund – Establishment"

Dear Governor Hogan:

We have reviewed and hereby approve for constitutionality and legal sufficiency House Bill 686, "Department of Housing and Community Development – Strategic Demolition and Smart Growth Impact Fund – Establishment." We note that Section 2 of this bill must be construed as an authorization to transfer certain funds only with the Governor's approval of a budget amendment.

Section 1 of House Bill 686, among other things, establishes a Strategic Demolition and Smart Growth Impact Fund to be administered by the Department of Housing and Community Development ("DHCD") to provide grants and loans to government agencies and community development organizations for revitalization projects in an area designated as a Sustainable Community. Section 2 of the bill provides that certain funds appropriated in the Fiscal Year 2017 Budget Bill, Supplemental Budget No. 2, for the Department of Housing and Community Development Neighborhood Revitalization – Capital Program shall be appropriated to the Fund, to be allocated in a specified manner.

Under the Executive Budget Amendment, the Governor prepares the annual Budget Bill and submits it to the General Assembly. Md. Const., Art. III, § 52(3) and (5). Subject to limited exceptions, the General Assembly may only strike, reduce or qualify items of appropriation in the Budget Bill. Art. III, § 52(6); *Bayne v. Secretary of State*, 283 Md.

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560, 574-76 (1978). If the General Assembly wishes to initiate an appropriation, it may do so only by way of a Supplementary Appropriation Bill, which must levy a tax to supply the revenue for the appropriation. Art. III, § 52(8).

Section 2 of House Bill 686 attempts to change the purpose for which appropriated funds may be used. In order to preserve the Governor's constitutional prerogative to initiate appropriations, we believe Section 2 must be construed as an authorization to transfer the funds to the Strategic Demolition and Smart Growth Impact Fund. *See* Bill Review Letter to Senate Bill 868 of 1995. Accordingly, the Governor may, but is not required to, transfer the funds by budget amendment in accordance with § 7-209 of the State Finance and Procurement Article.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian E. Frosh". The signature is fluid and cursive, with a large initial "B" and a long, sweeping underline.

Brian E. Frosh
Attorney General

BEF/DS/kk

cc: The Honorable John C. Wobensmith
Joseph M. Getty
Warren Deschenaux