

**Department of Legislative Services**  
Maryland General Assembly  
2016 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 974  
Finance

(Senator Pugh)

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**Arts and Entertainment Districts - Artistic Work - Eligibility**

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This bill broadens the definition of “artistic work” for an arts and entertainment district by adding graphic design, urban manufacturing, and architectural design. The bill also makes the creation or execution of artistic work for industry-oriented or -related production eligible for the arts and entertainment district tax incentives in current law.

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**Fiscal Summary**

**State Effect:** General fund revenues decrease significantly beginning in FY 2017 to the extent that additional and/or larger subtraction modifications are taken by qualifying residing artists under the bill. The amount cannot be reliably estimated at this time, but given the scope of what may be considered “urban manufacturing” combined with industry-oriented or -related production becoming eligible, the revenue loss, under conservative assumptions, readily exceeds \$1.0 million annually. Expenditures are not directly affected.

**Local Effect:** Local revenues decrease significantly beginning in FY 2017 to the extent that additional and/or larger subtraction modifications are taken by qualifying residing artists under the bill. Local revenues may further decrease due to local property tax credits and potential local exemptions from the admissions and amusement tax available under current law in arts and entertainment districts. The amounts cannot be reliably estimated at this time. Expenditures are not directly affected.

**Small Business Effect:** Meaningful. Small businesses in the affected industries potentially benefit from the subtraction modification (if they file under the personal income tax), the local property tax, and/or the local admissions and amusement tax.

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## Analysis

**Current Law:** “Artistic work” means an original and creative work that is created, written, composed, or executed and falls into one of the following categories:

- a book or other writing;
- a play or performance of a play;
- a musical composition or the performance of a musical composition;
- a painting or other picture;
- a sculpture;
- traditional or fine crafts;
- the creation of a film or the acting within a film;
- the creation of a dance or the performance of a dance;
- the creation of original jewelry, clothing, or design; or
- any other product generated as a result of a work listed above.

Provisions related to arts and entertainment districts do not apply to (1) the creation or execution of artistic work for industry-oriented or -related production or (2) tailoring services, clothing alteration, or jewelry repair.

A “qualifying residing artist” means an individual who (1) owns or rents residential real property in the State; (2) conducts a business in *any* arts and entertainment district; and (3) derives income from the sale or performance within *any* arts and entertainment district of an artistic work that the individual wrote, composed, executed, either alone or with others, in *any* arts and entertainment district.

Upon application from an eligible local government, the Secretary of Commerce may designate an area as an arts and entertainment district only if the area is a contiguous geographic area that is wholly within a priority funding area. An arts and entertainment district is a developed district of public and private uses that (1) is distinguished by resources that play a vital role in community development and contribute to the public through interpretive, educational, and recreational uses and (2) ranges in size from a portion of a political subdivision to a regional district with a special coherence.

Several tax benefits are available in arts and entertainment districts:

- qualifying residing artists may claim a subtraction modification on State and local income taxes for the income derived within any district from the publication, production, or sale of artistic work created by the qualifying artist;

- a county or municipality may grant, by law, a property tax credit against the 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 to be capable for use by a qualifying artist or an arts and entertainment enterprise; and
- a county or municipality may exempt from the admissions and amusement tax gross receipts from any admissions or amusement charge levied by an arts and entertainment enterprise or qualified residing artist in an arts and entertainment district.

**Background:** Chapter 608 of 2001 authorized the Department of Economic Competitiveness and Commerce (DOC) to establish arts and entertainment districts within a county or municipality. Counties and municipalities must apply to DOC 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. There are currently 24 designated arts and entertainment districts in 17 counties.

Chapter 576 of 2014 broadened the definition of “qualifying residing artist” for an arts and entertainment district by removing the requirement that the artist reside, conduct business, and derive income from the same arts and entertainment district.

**Exhibit 1** shows the number and amount of subtraction modifications taken by qualifying residing artists in 2012 through 2014, under considerably more restrictive conditions. Assuming an average State tax rate of 4.75%, general fund revenues decreased by about \$41,000 in fiscal 2012, \$65,200 in fiscal 2013, and \$71,300 in fiscal 2014.

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**Exhibit 1**  
**Qualifying Residing Artist Subtraction Modifications**  
**2012-2014**

<u>Year</u>	<u>Number of Subtractions</u>	<u>Qualifying Income</u>	<u>Estimated General Fund Impact</u>
2012	110	\$864,000	\$41,040
2013	115	1,373,000	65,218
2014	139	1,500,000	71,250

Source: Comptroller’s Office; Department of Legislative Services

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**State Revenues:** General fund revenues decrease significantly beginning in fiscal 2017 to the extent that additional and/or larger subtraction modifications are taken by qualifying residing artists (who do not have to reside in the same county or do business in the same arts and entertainment district) in the new industries authorized under the bill. The amount cannot be reliably estimated at this time, but given the scope of what may be considered “urban manufacturing” combined with industry-oriented or -related production becoming eligible, the revenue loss exceeds \$1.0 million annually as discussed below.

In December 2015, the average weekly earnings of a worker in the manufacturing sector in Maryland was \$760, which equates to \$39,520 annually. Assuming a State tax rate of 4.75%, the maximum subtraction modification per worker in a year reduces general fund revenues by \$1,877. There are approximately 100,000 individuals employed in the manufacturing sector in the State. *Under one set of assumptions*, if just 1% of those individuals claims the subtraction modification each year due to the bill (for income derived from the production or sale of their “artistic work”), general fund revenues decrease by ***\$1.9 million*** annually.

This estimate does not include individuals employed in graphic design or architectural design, and it also does not include individuals who create “artistic work” under the current definition but who do so for industry-oriented or -related production. All of these individuals are also eligible for the subtraction modification due to the bill.

**Local Revenues:** Local income tax revenues decrease by about 3% of the total net State subtraction modification claimed under the bill. The amount cannot be reliably estimated at this time. *Under the same assumptions as above*, local revenues decrease by approximately ***\$1.2 million*** annually.

Local revenues may further decrease due to local property tax credits and potential local exemptions from the admissions and amusement tax available under current law in arts and entertainment districts. The amounts cannot be reliably estimated at this time.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1507 (Delegate McCray, *et al.*) - Rules and Executive Nominations.

**Information Source(s):** Department of Commerce, Office of the Comptroller, Bureau of Labor Statistics, Department of Legislative Services

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