

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE

Third Reader - Revised

House Bill 326

(Chair, Environment and Transportation Committee)(By
Request - Departmental - Housing and Community
Development)

Environment and Transportation

Education, Health, and Environmental Affairs
and Budget and Taxation

Housing and Community Development - Business Lending and Neighborhood
Revitalization

This departmental bill makes specified changes to various programs within the Department of Housing and Community Development (DHCD) that relate to providing financial assistance to businesses. Among other things, the bill (1) authorizes the Community Development Administration (CDA) and the Maryland Housing Fund (MHF) to support “business projects”; (2) expands the geographic area in which the Neighborhood Business Development Program (NBDP) operates; (3) expands the types of financial assistance that can be provided under specified programs; and (4) makes changes to streamline the efficiency of certain programs. By December 31, 2018, DHCD must report to specified legislative committees on financial assistance provided to business projects under the bill.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: Although additional State funding could be provided to support the bill’s expanded authority, DHCD advises that it intends to use existing funding to implement the bill. Pay-as-you-go (PAYGO) special fund revenues may increase due to the bill’s fee provisions.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: DHCD has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services (DLS) generally

concurs with this assessment, as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Maryland Housing Fund and the Community Development Administration

The bill expands provisions relating to financing under MHF and CDA to include “business projects.” A project qualifies as a “business project” if the project is:

- located in an area designated as a priority funding area under the State Finance and Procurement Article; and
- acquired, owned, developed, constructed, reconstructed, rehabilitated, or improved by a person or an entity for the purposes of carrying on a business, whether or not for profit or eligible for funding from the Neighborhood Business Development Fund (NBDF) as specified by the bill.

Under provisions relating to CDA, the bill provides that repayment of principal and interest for a business project may be secured by:

- real property;
- personal property;
- bank accounts;
- certificates of deposit, stocks, and bonds;
- credit enhancement, assurance, or guaranty; or
- any other collateral acceptable to the Administration.

The bill requires CDA to administer a program of financial assistance for business projects. To finance such projects, CDA may purchase or issue securities that are backed by loans or other obligations. The issuance, terms, and conditions of a security that CDA issues may be as CDA finds necessary or desirable for guaranty by MHF, a private entity, or a government-sponsored enterprise, for such business projects.

Sustainable Communities

The bill specifies that it is the intent of the General Assembly that, in implementing the bill, DHCD fund (to the greatest extent possible) a number of business projects located in

sustainable communities that is comparable to the number of business projects located in priority funding areas *outside* sustainable communities.

The bill also requires DHCD to reserve at least the lesser of \$5 million or the annual capital appropriation for NBDF to make financial assistance available to projects located in sustainable communities.

Neighborhood Business Development Program

The bill redefines “development costs” to mean the costs incurred to develop, redevelop, or expand a neighborhood business development project, among other things. The bill removes existing loan limits for specified small businesses called “microenterprises.” The bill redefines “microenterprises” such that the number of employees and the amount of its annual receipts must not exceed limits that DHCD sets by regulation.

The bill also expands the area in which NBDP operates. Under the bill, the program expands to priority funding areas, as defined in the State Procurement Article; under current law, the program may only provide financial assistance in sustainable communities and food deserts.

The bill repeals a provision that requires DHCD to establish minimum percentages or amounts of private and nonstate public financing that an applicant must secure for specified forms of financial assistance. The bill also repeals a provision that limits the sale of loans to a maximum of \$4 million in proceeds under the Business Development Program. DHCD is authorized to set new limits by regulation. In addition, DHCD may pledge an NBDP loan as security for any (1) business project loan, bond, or security that is issued, made, or purchased by CDA or (2) insurance, guaranty, or credit enhancement on a program loan or business project.

The bill expands DHCD’s Microenterprise Loan Program to include other types of financial assistance. The bill authorizes DHCD to (1) purchase or commit to purchase from approved entities any form of financial assistance that meets specified requirements and regulations and (2) enter into agreements with approved entities to collectively lend money on a project that meets the specified requirements and regulations.

Neighborhood Business Development Fund Transfers

With the approval of the Legislative Policy Committee and subject to specified requirements, after the first eight months of a fiscal year, DHCD may transfer unencumbered money in NBDF to:

- CDA to provide financial assistance to business projects; and
- MHF to provide insurance, credit enhancement, or a guaranty on (1) a program loan or (2) a business project loan, bond, or security that is issued, made, or purchased by CDA.

Division of Neighborhood Revitalization

Under provisions relating to the Division of Neighborhood Revitalization, the bill authorizes DHCD to charge and collect from a project applicant or other recipient of financial assistance (1) origination, application, and processing fees and (2) any other charges, fees, or reimbursements incidental to a project application or providing financial assistance. DHCD must include the fees and charges in the amount of financial assistance.

Local Approvals of Certain Projects

The bill alters the requirements for notification of proposed projects to political subdivisions under three programs (the Community Legacy Program, Neighborhood Business Development Program, and the Neighborhood and Community Assistance Program). The bill requires DHCD to provide written notice to the political subdivision in which a project is located. For NBDP, the bill prohibits the department from approving an application unless the political subdivision approves the application by resolution or letter of support. Under current law, there are similar approval requirements for the Community Legacy Program and the Neighborhood and Community Assistance Program.

For all three programs, if DHCD does not receive notice of approval or denial from the political subdivision within 45 days after notice is given, DHCD may approve the application.

Reporting Requirement

The report that DHCD is required to submit regarding financial assistance provided to business projects as a result of the bill must include (1) the total number of projects assisted and applications received; (2) the amount and type of financial assistance provided by DHCD, including assistance from MHF and CDA; (3) the amount of financial assistance provided in sustainable communities and priority funding areas; and (4) specified information on each project.

Current Law:

Community Development Administration

CDA is a division within DHCD that issues revenue bonds to raise capital used to make below-market interest rate mortgages. CDA may purchase or issue securities that are backed by mortgage loans and guaranteed by the Government National Mortgage Association or a government-sponsored enterprise to finance community development projects, public purpose projects, or residential mortgage loans. The issuance, terms, and conditions of a security that CDA issues may be as CDA finds necessary or desirable for guaranty by the Government National Mortgage Association or a government-sponsored enterprise.

Maryland Housing Fund

MHF is a program within DHCD's Division of Credit Assurance. It is the oldest, and one of the largest, state-sponsored mortgage insurance funds in the United States. MHF provides mortgage insurance primarily for CDA's tax-exempt revenue bond mortgages.

MHF is used to (1) insure loans accepted by DHCD; (2) insure bonds or notes issued to finance an eligible project; and (3) provide credit enhancement products. The fund consists of (1) money appropriated by the State; (2) proceeds of authorized State loans; (3) fees and premiums in connection with insurance or other credit enhancement products; and (4) all other money made available from any other source.

Chapter 477 of 2008 provides that any unallocated reserve balance of MHF at the end of any fiscal year exceeding \$10 million be transferred by the Governor to support the Homeownership Programs Fund, Rental Housing Programs Fund, and the Special Loan Programs Fund. The distribution of any money transferred is at the discretion of the Secretary of Housing and Community Development.

Neighborhood Business Development Program

NBDP, operating publicly as Neighborhood BusinessWorks (NBW), provides grants and loans to fund community-based economic development activities in revitalization areas designated by local governments. The program provides gap financing to small businesses that are unable to finance 100% of a project's total costs through a traditional lender. The program requires a minimum 50% match from each grant or loan applicant. Borrowers must provide a 5% equity investment to receive a loan to pay for capital improvement costs or to pay for direct business functions such as working capital or capital equipment. Loan terms range from 5 to 15 years, and interest rates range from 4% to 6%. Under current

law, the program may only provide financial assistance to projects in sustainable communities and designated food deserts.

DHCD advises that it closed \$5.3 million of NBW loans and grants in fiscal 2015, assisting 23 businesses.

Neighborhood Business Development Fund

NBDF is used to (1) operate and pay expenses of NBDP and (2) provide financial assistance to small businesses, nonprofit organizations, and microenterprises. With the approval of the Legislative Policy Committee and subject to other specified requirements, after the first eight months of a fiscal year, DHCD may transfer unencumbered money in the fund to any other fund established under Title 6 (Division of Neighborhood Revitalization) of the Housing and Community Development Article.

Division of Neighborhood Revitalization

The Division of Neighborhood Revitalization administers commercial and mixed-use revitalization programs to encourage physical and organizational improvements to business areas. To carry out commercial and mixed-use revitalization programs, the division must administer State and federal grants and loans and other financial assistance to:

- political subdivisions, local public agencies, nonprofit organizations, neighborhood or community organizations, or private parties; or
- corporations or foundations whose net earnings are invested to foster, encourage, help, or carry out community assistance activities, projects, or programs.

Local Approval of Applications/Proposals under the Community Legacy Program and the Neighborhood and Community Assistance Program

The Community Legacy Program was established in 2001 to create a process and funding source for several types of revitalization projects. The program provides local governments and community development organizations with financial assistance to strengthen communities through such activities as business retention and attraction, encouraging homeownership, and commercial revitalization. Program funds are restricted to sustainable communities.

The Neighborhood and Community Assistance Program was established to (1) help nonprofit organizations to carry out approved projects in priority funding areas; (2) encourage business entities and individuals to invest in priority funding areas; and (3) strengthen partnerships between public and private entities.

Under both of these programs, DHCD may not approve an application or a proposal unless specified local government entities have first approved the application or proposal.

Background: DHCD advises that it would like to expand the department's small business gap financing program, NBW. The program is currently restricted by statute to sustainable communities, except for designated food deserts. In order to expand the program, DHCD advises it needs to increase the geographic areas in which NBW is authorized to operate. In addition, to increase available funding sources, the legislation is intended to allow CDA and MHF to support NBW's business lending activities.

DHCD also advises that the bill is intended to streamline current processes and requirements by removing dollar-specific loan limits and requirements for significant outside funding and to institute a notice and review policy for projects in local jurisdictions. The legislation also is intended to clarify definitions and allow the Division of Neighborhood Revitalization to charge specified fees to project applicants.

State Fiscal Effect:

Additional State Expenditures for NBW

As introduced, the Governor's proposed fiscal 2017 capital budget included \$3.4 million in general obligation (GO) bond funding for NBW and the fiscal 2017 operating budget included \$1.6 million in PAYGO special funds. This combined level of \$5.0 million for NBW is just \$450,000 higher than the program's total budget for fiscal 2016. The General Assembly made changes to both the capital and operating budgets that may affect program funding for fiscal 2017. First, it deleted the \$3.4 million in GO funding in the capital budget, as passed by both houses. However, it restricted \$3.4 million in PAYGO general funds for the program. If the Governor does not allocate the restricted funds for NBW, funding for fiscal 2017 will consist only of the \$1.6 million in PAYGO special funds appropriated in the operating budget. As the bill requires DHCD to reserve at least the lesser of \$5.0 million or the capital appropriation for the fund to make financial assistance available to projects located in sustainable communities, fiscal 2017 funding for that purpose will be either \$5.0 million or \$1.6 million, depending on the Governor's actions.

In any event, DHCD intends to use existing funds to implement the bill, at least in the short term; thus, it is assumed that additional GO bonds are not authorized as a result of the bill. To the extent more GO bonds are authorized in future years to implement the bill, GO bond expenditures increase.

The bill's impact on nonbudgeted expenditures from CDA and MHF is unclear.

Transfer of Funds from NBDF

The bill authorizes, under specified conditions, the transfer of unencumbered money in NBDF to CDA to provide financial assistance to business projects and to MHF to provide insurance, credit enhancement, or a guaranty on a program loan or a business project loan, bond, or security that is issued, made, or purchased by CDA.

PAYGO Special Fund Revenues from Fees for Specified Project Applications

Under provisions relating to the Division of Neighborhood Revitalization, the bill authorizes DHCD to charge and collect from a project applicant or other recipient of financial assistance (1) origination, application, and processing fees and (2) any other charges, fees, or reimbursements incidental to a project application or providing financial assistance. Thus, PAYGO special fund revenues may increase. The magnitude of any such increase depends on the number of project applicants in future years as well as the amount of the fees set by DHCD; thus, a reliable estimate cannot be made at this time.

Small Business Effect: While DLS concurs that the bill has a potential meaningful impact on some small businesses depending on the extent to which DHCD reallocates existing funds, DHCD's assessment includes specific estimates of economic impact that result from a \$3 million increase in financial assistance provided. However, any additional leveraging impact resulting from the programs affected by the bill depends on the extent to which *additional* funding is provided as a result of the bill. To the extent existing funds are simply reallocated, the impact on small businesses is less meaningful.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Harford, Montgomery, and Talbot counties; Maryland Association of Counties; Maryland Municipal League; Department of Housing and Community Development; Department of Legislative Services

Fiscal Note History:
min/lgc

First Reader - February 8, 2016
Revised - House Third Reader/Updated Budget Information -
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: DHCD - Business Lending and Neighborhood Revitalization

BILL NUMBER: HB 326

PREPARED BY Department of Housing and Community Development

PART A. ECONOMIC IMPACT RATING

 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

This legislation would result in increased lending to small businesses through the Neighborhood BusinessWorks program, having a positive impact on Maryland small businesses. In FY15, DHCD closed \$5.3 million of NBW loans and grants, assisting 23 businesses, leveraging \$49 million in private capital and creating/sustaining over 560 jobs. A \$3 million investment of DHCD funds in NBW is expected to leverage an additional \$24.8 million. The total direct and indirect expenditures from this expansion will generate \$14.7 million in wages and salaries and 289 jobs.