

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1514 (Delegate Hixson, *et al.*)

Environment and Transportation and
Ways and Means

Housing and Community Development - Community Development Program Act

This bill establishes a Community Development Program (CDP) within the Department of Housing and Community Development (DHCD) to provide financial assistance for community development projects and community development organizations around the State. DHCD must adopt regulations to carry out the program. The bill also establishes a Community Development Fund as a special fund within DHCD to support the program; the fund consists primarily of revenue from a community development transfer fee that is established by the bill.

Fiscal Summary

State Effect: Special fund revenues increase significantly (likely by several million dollars annually) beginning in FY 2018 due to the establishment of the community development transfer fee. Special fund expenditures increase correspondingly to provide financial assistance and to cover DHCD's administrative costs (estimated at \$341,900 in FY 2018 and increasing to \$492,600 by FY 2022) and administrative costs of the State Department of Assessments and Taxation (SDAT) (estimated at \$254,300 in FY 2018 and at least \$165,500 annually thereafter). General fund expenditures for the Judiciary increase by \$10,400 in FY 2018 only for reprogramming costs. General fund revenues increase beginning in FY 2018 from interest earnings of the new special fund.

Local Effect: Local government revenues may increase significantly to the extent local jurisdictions are eligible to receive financial assistance under the program. The circuit courts can handle the bill's requirements with existing resources.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Community Development Board

The bill establishes a Community Development Board in the program and establishes provisions relating to the membership of the board. The board must (1) make recommendations on how the fund is to be used; (2) provide a period of at least 30 days for public comment on the recommendations; and (3) report on the activities of the fund and make any recommendations regarding the fund to the Governor and the General Assembly by December 31 of each year.

Community Development Fund

The stated purpose of the fund is the same as the stated purpose of CDP. DHCD must administer the fund with the assistance of the board. The fund consists of (1) revenue distributed to the fund from the community development transfer fee established by the bill; (2) money appropriated in the State budget; and (3) any other money from any other source accepted for the benefit of the fund. Any interest earnings of the fund are credited to the general fund.

The fund may be used only for (1) administrative expenses of DHCD in administering the program and (2) financial assistance for community development projects and community development organizations as specified under the bill. Expenditures from the fund may be made only in accordance with the State budget.

In consultation with the board, DHCD must administer the fund to provide financial assistance (including capital and operating grants) for:

- affordable housing;
- neighborhood revitalization for residential and commercial areas;
- housing counseling, financial counseling, and foreclosure prevention;
- community organizing;
- small business development;
- community services; and
- any other community development purpose.

The financial assistance may be provided in the form and manner DHCD determines appropriate and may include providing capital and operating grants.

Community Development Transfer Fee

The bill establishes a community development transfer fee imposed on an instrument of writing (1) recorded with the clerk of the circuit court for a county or (2) filed with SDAT, as specified. The fee applies to both residential and commercial properties. The amount of the fee varies based on the amount of a property's consideration, as shown in **Exhibit 1**.

Exhibit 1
Amount of the Community Development Transfer Fee
For Residential and Commercial Properties

<u>Consideration</u>	<u>Fee</u>
\$250,000 or less	\$50
\$250,001 - \$499,999	\$100
\$500,000 or more	\$250

Source: Department of Legislative Services

First-time Maryland home buyers who meet specified requirements are exempt from the fee. In addition, except as specified, the fee applies to conveyances that transfer the real property of a corporation to its stockholders, the real property of a limited liability company to its members, or the real property of a partnership to its partners. The bill also specifies various instruments of writing that are not subject to the fee.

The fee must be paid to the clerk of the circuit court where the instrument of writing is recorded or to SDAT. An instrument of writing that is subject to the fee under the bill may not be recorded in any county unless a statement is attached to or stamped on the instrument of writing indicating (1) that the community development transfer fee has been paid and (2) the amount of the community development transfer fee paid.

Use of Community Development Program Funds

In any fiscal year that bonds secured by a pledge of the community development transfer fee are outstanding, the revenue from the fee must be used to pay the principal of and interest on the bonds before any other distribution is made.

SDAT must deduct the cost of administering the fee from the amounts collected under the bill and credit those revenues to an existing special fund it uses for administrative costs.

The remaining revenues must be paid to the Comptroller for deposit in the Community Development Fund. For each fiscal year, up to 3% of the revenues in the fund may be appropriated in the State budget for salaries and related expenses in DHCD. The remaining balance must be allocated as provided in the State budget.

Current Law/Background: The counties and Baltimore City are authorized to impose locally established recordation tax rates on any business or person (1) conveying title to real property or (2) creating or giving notice of a security interest (*i.e.*, a lien or encumbrance) in real or personal property, by means of an instrument of writing.

The State and most counties impose a transfer tax. The State transfer tax rate is 0.5% of the consideration payable for an instrument of writing conveying title to, or a leasehold interest in, real property (0.25% for first-time Maryland homebuyers). In some jurisdictions, a local property transfer tax may be imposed on instruments transferring title to real property. A distinction is made in the local codes between instruments transferring title such as a deed and certain leaseholds and instruments securing real property such as a mortgage.

For purposes of local recordation taxes, which are applied to each \$500 or fraction of \$500 of consideration payable or of the principal amount of the debt secured for an instrument of writing, the consideration includes the amount of any mortgage or deed of trust assumed by the grantee. For purposes of the State transfer tax, the consideration includes the amount of any mortgage or deed of trust assumed by the grantee.

County governments collected \$765.0 million in local recordation and transfer taxes in fiscal 2015 and are expected to collect \$819.5 million in fiscal 2016 and \$877.2 million in fiscal 2017. The State is expected to collect \$214.8 million in fiscal 2018 in transfer tax revenue.

State Fiscal Effect:

Community Development Transfer Fee Revenues

The precise impact of the bill on special fund revenues depends on a variety of factors, including the number of transactions subject to the transfer fee and the distribution of the value of those properties, which determines the level of the fee. Because of considerable uncertainty regarding these factors, a reliable estimate of the increase in revenues resulting from the establishment of the transfer fee cannot be made at this time. However, *for illustrative purposes only*, **Exhibit 2** shows the amount of revenue the fund could be expected to accrue based on existing home sales data from the Maryland Association of Realtors. Under the bill, the amount of the fee varies by the value of the property and ranges from \$50 to \$250 per instrument; this illustrative example assumes all transactions are subject to a \$100 fee.

Exhibit 2
Community Development Transfer Fee
under Illustrative Scenario
Fiscal 2018-2022

	<u>FY 2018*</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
Transactions	79,956	82,355	84,825	87,370	89,991
Less Exemptions	7,996	8,235	8,483	8,737	8,999
Adjusted Total	71,960	74,120	76,342	78,633	80,992
Fee	\$100	\$100	\$100	\$100	\$100
Total Revenue	\$5,397,000	\$7,412,000	\$7,634,200	\$7,863,300	\$8,099,200

*Fiscal 2018 reflects the bill's October 1, 2017 effective date.

Source: Maryland Association of Realtors; Department of Legislative Services

The fiscal 2018 estimate reflects the bill's October 1, 2017 effective date. In future years, the estimate assumes a 3% increase in the number of transactions each year. In addition, the estimate assumes approximately 10% of all transactions are exempt, reflecting the bill's exemption of specified instruments of writing as well as first-time homebuyers who meet the criteria outlined in the bill. This number of transactions is based on sales of residential properties facilitated through a realtor. Therefore, the estimate understates revenue that is realized under the bill, which applies to both residential and commercial properties.

The State Department of Assessments and Taxation Administrative Costs

The bill requires SDAT to deduct the cost of administering the community development transfer fee from the fees collected and credit those revenues to an existing special fund that SDAT uses to cover its administrative costs. SDAT's special fund expenditures increase by \$254,346 in fiscal 2018, which accounts for the bill's October 1, 2017 effective date. This estimate reflects the cost of hiring two office clerks and one accounting clerk to perform the functions required by the bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	3
Salaries and Fringe Benefits	\$119,020
Programming Costs	120,000
Operating Expenses	<u>15,326</u>
Total FY 2018 SDAT Admin. Expenditures	\$254,346

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

Community Development Fund in the Department of Housing and Community Development

After SDAT deducts administrative costs, the remaining community development transfer fee revenues are deposited into the Community Development Fund within DHCD. Although the bill authorizes DHCD to use up to 3% of the revenues deposited in the fund to cover its administrative costs, the department advises that it can implement the bill with five additional staff. DHCD's administrative expenditures increase by \$341,916 in fiscal 2018, which accounts for the bill's October 1, 2017 effective date. This estimate reflects the cost of filling several new positions to perform the functions required by the bill, including:

- one program manager to provide direction, leadership, and management of the program and its staff;
- three program administrators to adopt regulations and carry out day-to-day functions of the program; and
- one advanced accountant to operate and pay expenses related to the program.

The fiscal 2018 estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	5
Salaries and Fringe Benefits	\$316,372
Operating Expenses	<u>25,544</u>
FY 2018 DHCD Admin. Expenditures	\$341,916

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

Any balance remaining in the Community Development Fund after DHCD's administrative costs are paid is assumed to be spent on program activities as specified in the bill. To the extent that administrative costs incurred by either SDAT or DHCD are higher than currently anticipated, the amount available for financial assistance under the program decreases accordingly.

Although the bill suggests that DHCD may issue bonds under the program, it does not require the department to do so. Therefore, this analysis assumes that DHCD uses program revenues as they are received each year and does not issue bonds. To the extent that DHCD issues bonds under the program, however, special fund revenues and expenditures increase accordingly.

Judiciary Administrative Costs

The Judiciary advises that its accounting system must be reprogrammed in order to implement the bill's fee collection provisions. In total, the Judiciary anticipates approximately 125 hours of work totaling \$10,440 in general fund expenditures in fiscal 2018 only.

General Fund Revenues from Interest Earned and Economic Development

The bill specifies that any interest earnings of the fund are credited to the general fund. Thus, general fund revenues increase accordingly beginning in fiscal 2018.

Although not a direct impact, the bill may also result in an increase in State revenues from increased economic development.

Local Fiscal Effect: Local government revenues may increase significantly to the extent local jurisdictions are eligible to receive financial assistance under the program for community development projects; although the bill does not explicitly indicate that local jurisdictions may apply for funds, it is assumed that local jurisdictions could be sponsors of eligible projects.

The circuit courts can handle the bill's requirements with existing resources.

Although not a direct impact, the bill may also result in an increase in local revenues from increased economic development.

Small Business Effect: Small businesses that are able to secure funding under the program for community development projects (*e.g.*, affordable housing construction, neighborhood revitalization for commercial areas, etc.) may be able to expand as a result of the bill.

Additional Information

Prior Introductions: HB 1274 of 2016, a similar bill, received a hearing in the House Environment and Transportation Committee, but no further action was taken. Its cross file, SB 836, received a hearing in the Senate Budget and Taxation Committee, but no further action was taken.

Cross File: SB 812 (Senator Madaleno, *et al.*) - Budget and Taxation.

Information Source(s): Maryland Association of Counties; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; State Department of Assessments and Taxation; Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2017
md/mcr

Analysis by: Eric Pierce

Direct Inquiries to:
(410) 946-5510
(301) 970-5510