

Department of Legislative Services
 Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

House Bill 1141
 Ways and Means

(Delegates Washington and Bridges)

Qualified Maryland Housing Tax Credit

This bill creates a tax credit against the State income tax for the owner or developer of a qualified low-income housing project. The total amount of credits awarded in each tax year cannot exceed the lesser of \$10 million or the amount of funds appropriated to the program in the State budget. The Department of Housing and Community Development (DHCD) must adopt regulations implementing the tax credit program. **The bill takes effect July 1, 2019, and applies to tax year 2020 and beyond.**

Fiscal Summary

State Effect: General fund expenditures may increase by \$10.0 million annually beginning in FY 2020 due to appropriations to the reserve fund. Administrative costs at the Comptroller’s Office and DHCD may increase by \$164,900 in FY 2020. Future years reflect ongoing operating expenditures. Revenues are not affected.

(\$ in millions)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	10.2	10.1	10.1	10.1	10.1
Net Effect	(\$10.2)	(\$10.1)	(\$10.1)	(\$10.1)	(\$10.1)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local highway user revenues will decrease to the extent tax credits are claimed against the corporate income tax. Local expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: An owner or developer can apply for tax credits if the housing project (1) is a low-income housing project, as defined under Section 42(G) of the Internal Revenue Code; qualifies for the federal low-income housing tax credit; and is located in a community revitalization area (as designated by DHCD) or (2) is located in a community revitalization area and meets eligibility standards established in regulations by DHCD.

A person must submit an application to DHCD and can apply regardless of whether the taxpayer qualifies for the federal credit. DHCD must adopt regulations that establish the criteria by which the State tax credit will be allocated among projects. These regulations must establish the criteria for projects that do not qualify for the federal credit. A project that receives a State tax credit is restricted in occupancy as specified by regulations adopted by DHCD for a period of at least 30 years beginning with the first year in which the credit is claimed.

The bill creates a qualified Maryland housing tax credit reserve fund. The total amount of initial credit certificates issued by DHCD in each fiscal year cannot exceed the lesser of \$10 million or the amount appropriated to the reserve fund in the State budget. Any amount of money in the fund that is not expended in the fiscal year can be rolled over into the next fiscal year.

Current Law: The Heritage Structure Rehabilitation Tax Credit Program provides tax credits for commercial, small commercial, and owner-occupied residential property rehabilitations. The value of the refundable credit is based on the type of rehabilitation undertaken and up to a percentage of qualified rehabilitation expenditures, as follows:

- 20% for the rehabilitation of a single-family, owner-occupied residence or a small commercial project; and
- 20% for the commercial rehabilitation of a certified historic structure or 25% if certain energy efficiency standards are met.

Chapters 842 and 843 of 2018 altered the heritage structure rehabilitation commercial tax credit program by providing an additional 5% credit if the rehabilitation qualifies as affordable housing, which means a project or undertaking that has received an allocation of federal low-income housing tax credits by DHCD. The value of the tax credit may not exceed (1) for a commercial rehabilitation (any building that is not a single-family, owner-occupied residence or small commercial project), \$3 million or the maximum amount specified under the initial credit certificate or (2) for all other rehabilitations, \$50,000. Applying for the credit is a three-part process that is administered by the Maryland Historical Trust within the Maryland Department of Planning.

Background: The low-income housing tax credit (LIHTC) was created by the federal Tax Reform Act of 1986 to provide an incentive for the development and rehabilitation of affordable rental housing. These nonrefundable federal housing tax credits are awarded to developers of qualified rental projects via a competitive application process administered by state housing finance authorities. LIHTCs are first allocated to each state according to its population. In 2019, states received an LIHTC allocation of \$2.75625 per person, with a minimum small population state allocation of \$3,166,875. State housing agencies allocate credits to developers of rental housing according to federally required, but state created, Qualified Allocation Plans (QAPs). Federal law requires that the QAP give priority to projects that serve the lowest-income households and that remain affordable for the longest period of time.

In order to be eligible for an LIHTC allocation, properties are required to meet certain tests that restrict both the amount of rent that is assessed to tenants and the income of eligible tenants. Two types of LIHTCs are available depending on the nature of the construction project. The 9% credit is generally reserved for new construction, while the 4% credit is typically used for rehabilitation projects and new construction that is financed with tax-exempt bonds. Each year, for 10 years, a tax credit equal to roughly 4% or 9% of a project's qualified basis (cost of construction) is claimed.

Developers typically sell their tax credits to outside investors in exchange for equity in the project. Selling the tax credits reduces the debt developers would otherwise have to incur and the equity they would otherwise have to contribute. The LIHTC is estimated to cost the federal government an average of approximately \$9.9 billion annually.

DHCD received 44 applications requesting \$45.6 million in Rental Housing Funds and \$61.9 million of LIHTC in the Spring 2018 Competitive Round. Three applications include requests for a total of \$2.875 million in Partnership Rental Housing Program Funds. The 44 applications proposed to create or rehabilitate 2,513 family, 184 senior, and 421 special needs units in 11 counties and Baltimore City.

State Fiscal Effect:

Appropriations to the Reserve Fund

The bill states that the Governor may appropriate money to the reserve fund but does not require or specify a recommended amount. The bill does state, however, that DHCD may not award more than \$10 million in credits in each fiscal year. Assuming that the maximum amount is appropriated in each year, State expenditures will increase by \$10 million annually beginning in fiscal 2020.

Administrative Costs

DHCD

The Department of Legislative Services estimates that DHCD requires one program administrator to process and approve the tax credit applications each year. Therefore, general fund expenditures increase by \$109,900 in fiscal 2020. This estimate reflects the cost of hiring the administrator to certify tax credits and perform related tasks beginning July 1, 2019. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	1
Salaries and Fringe Benefits	\$104,390
Other Operating Expenses	<u>5,515</u>
Total FY 2020 Expenditures	\$109,905

Future year expenditures reflect a full salary with annual increases and employee turnover as well as ongoing operating expenses.

Comptroller's Office

The Comptroller's Office reports that it will incur a one-time general fund expenditure increase of \$55,000 in fiscal 2020 to add the tax credit to personal income tax forms. This includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

Additional Information

Prior Introductions: HB 723 of 2006, a similar bill, received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: None.

Information Source(s): Comptroller's Office; Department of Legislative Services

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