

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

House Bill 1306

(Howard County Delegation)

Environment and Transportation

Education, Health, and Environmental Affairs

Howard County - Howard County Housing Commission - Subsidiary Entities
Ho. Co. 26-19

This bill establishes that a “Howard County Housing Authority entity” is an entity that is controlled or wholly owned by the Howard County Housing Commission (HCHC) or by one or more subsidiary entities of HCHC. A nonprofit entity is deemed controlled by HCHC under specified circumstances. As a result, the bill extends, under specified circumstances, a real property tax exemption to these entities if the entities enter into payment-in-lieu of taxes (PILOT) agreements with the county. **The bill takes effect July 1, 2019.**

Fiscal Summary

State Effect: Annuity Bond Fund revenues decrease, likely minimally, beginning in FY 2020. This decrease may require either (1) an increase in the State property tax rate or (2) a general fund appropriation to cover debt service on the State’s general obligation bonds.

Local Effect: Howard County tax revenues decrease minimally beginning in FY 2020. Expenditures are not directly affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: A nonprofit entity is deemed controlled by HCHC if the nonprofit entity is established by HCHC and HCHC (1) has the power to appoint a majority of the board of

directors of the nonprofit entity or (2) is the sole member of the nonprofit entity. Property exempt from all State and local real property taxes must:

- be used, or if under construction, will be used, as housing for persons of eligible income and owned in whole or in part, directly or indirectly, through one or more wholly or partially owned subsidiary entities of an HCHC entity;
- have improvements, or have improvements under construction, on land that is owned by HCHC or an entity controlled by HCHC; and
- have improvements, or have improvements under construction, owned by specified entities.

Current Law:

Exemption of Housing Authority Properties from Taxes and Special Assessments

Under Title 12 of the Housing and Community Development Article, certain property is exempt from all taxes and special assessments of the State or a political subdivision if the property is used for essential public and governmental purposes, in addition to meeting other requirements. Specifically, the property must (1) belong to an authority or a nonprofit housing corporation or (2) be used as housing for persons of eligible income and be owned in whole or in part, directly or indirectly, through one or more wholly or partially owned subsidiary entities of a Baltimore Housing Authority entity or a Montgomery County Housing Authority entity.

A Baltimore Housing Authority entity is defined in a similar way that the bill defines a Howard County Housing Authority entity. Specifically, a Baltimore Housing Authority entity is an entity:

- that is controlled or wholly owned by the Housing Authority of Baltimore City; or
- in which the Housing Authority of Baltimore City or an entity controlled or wholly owned by the housing authority has an ownership interest, either directly or indirectly, through one or more wholly or partially owned subsidiary entities.

In lieu of payment of property taxes and special assessments, an authority, nonprofit housing corporation, Baltimore Housing Authority entities, and Montgomery County Housing Authority entities must pay the political subdivision in which a housing project is wholly or partly located an amount, if any, that may be set by mutual agreement. However, that amount may not exceed the amount of regular taxes levied on similar property.

Housing Authorities and Nonprofit Entities

Any housing authority in the State may establish and control nonprofit entities, including corporations and limited liability companies, that may own, operate, and take steps necessary or convenient to develop or undertake housing projects in the authority's area of operation.

Background: HCHC is the public housing agency for Howard County. The commission administers federal, State, county, and private affordable housing programs. In addition, it develops housing, provides mortgage financing to developers and first-time homebuyers, manages public housing and other rental units, administers rental subsidy programs (including the Housing Choice Voucher Program), and provides counseling and support services to lower income individuals and families in assisted housing.

HCHC is governed by seven volunteer commissioners, who are appointed by the Howard County Executive (and confirmed by the county council) to serve five-year terms.

Federal Low-Income Housing Tax Credit

Many of the affordable housing projects financed in the State are financed through the use of the Low-Income Housing Tax Credit (LIHTC). LIHTC was established by the Tax Reform Act of 1986. The tax credit subsidizes the construction and rehabilitation of low-income rental housing and is intended to encourage the production of low-income residential rental housing. Instead of offering direct subsidies, LIHTC provides incentives by granting investors a dollar-for-dollar reduction in their federal tax liability in exchange for providing funds for the development of qualified, affordable rental housing. This allows rents for some of a project's units to be set below market level, while the investors receive annual tax credit allotments over 10 years. For at least 15 years after completion, a project must continue to meet LIHTC eligibility requirements, such as maintaining the units as affordable to the target population.

The federal LIHTC can only be claimed for a qualified project – any project for residential rental property that meets requirements for low-income tenant occupancy, gross rent restrictions, state credit authority, and Internal Revenue Service certification. A project must continue to meet these requirements for 15 years or the credit is subject to recapture.

The Department of Housing and Community Development finances multifamily housing developments using the federal LIHTC program and Community Development Administration revenue bonds, which support the construction and rehabilitation of affordable rental units. LIHTCs are awarded to projects in accordance with the Internal Revenue Code, and developers sell these credits to investors to raise equity for the construction of affordable rental housing. In exchange for the tax credits, developers agree

to income and rent restrictions for a minimum of 30 years. Loans for these projects are funded using the proceeds of tax-exempt revenue bonds and/or State appropriations.

State Revenues: Annuity Bond Fund revenues decrease to the extent that new entities qualify for the State property tax exemption for specified low-income housing developments. The amount of the decrease depends on the number of eligible entities and the value of the property tax exemption. However, any such decrease is likely not significant.

Debt service payments on the State's general obligation bonds are paid from the Annuity Bond Fund. Revenue sources for the fund include State property taxes, premium from bond sales, and repayments from certain State agencies, subdivisions, and private organizations. General funds may be appropriated directly to the Annuity Bond Fund to make up any differences between the debt service payments and funds available from property taxes and other sources. The Governor's proposed fiscal 2020 budget includes \$1.3 billion for general obligation debt service costs, including \$287.0 million in general funds, \$1,027.1 million in special funds from the Annuity Bond Fund, \$6.9 million in transfer tax revenues, and \$11.5 million in federal funds.

To offset the reduction in State property tax revenues, general fund expenditures could increase in an amount equal to the decrease in the Annuity Bond Fund revenues or the State property tax rate would have to be increased to meet debt service payments. This assumes that the Annuity Bond Fund does not have an adequate fund balance to cover the reduction in State property tax revenues.

Local Revenues: Howard County revenues decrease minimally as a result of the bill, as any property tax exemption under the bill must be offset, at least in part, by a PILOT. Howard County advises that the county has three existing housing projects that would qualify for a tax exemption under the bill, only one of which is subject to either a county property tax or PILOT; the property tax on that project is approximately \$50,000. Under the bill, additional projects may qualify for the exemption to the extent that they negotiate a PILOT with Howard County.

For fiscal 2019, the county real property tax rate is \$1.19 per \$100 assessment. Howard County is estimated to collect approximately \$700.8 million in property tax revenues in fiscal 2019.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Howard County; Department of Housing and Community Development; State Department of Assessments and Taxation; Department of Legislative Services

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