

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 929 (Chair, Environment and Transportation Committee)(By Request - Departmental - Housing and Community Development)

Environment and Transportation

**Department of Housing and Community Development - Opportunity Zone Fund
 - Establishment**

This departmental bill establishes the Opportunity Zone Fund to provide financial assistance to local governments, nonprofits organizations, and private businesses for projects and programs in Opportunity Zones. The Department of Housing and Community Development (DHCD) must administer the fund and adopt regulations to implement the bill. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: General fund expenditures increase by \$10.0 million in FY 2023, and by \$5.0 million in FY 2024 and annually thereafter to capitalize the fund; special fund revenues and expenditures increase correspondingly. Special fund revenues also increase to the extent loans are repaid and/or DHCD assesses fees, as authorized by the bill.

(\$ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
SF Revenue	\$10.0	\$5.0	\$5.0	\$5.0	\$5.0
GF Expenditure	\$10.0	\$5.0	\$5.0	\$5.0	\$5.0
SF Expenditure	\$10.0	\$5.0	\$5.0	\$5.0	\$5.0
Net Effect	(\$10.0)	(\$5.0)	(\$5.0)	(\$5.0)	(\$5.0)

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

Local Effect: Local revenues and expenditures increase to the extent local governments apply for and receive program funds.

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

Analysis

Bill Summary: “Opportunity Zone” means an area that has been designated as a qualified Opportunity Zone in the State, as specified under federal law.

In addition to providing financial assistance, and as provided in the State budget, DHCD must use the fund to operate and pay expenses of the fund.

The fund is a special, nonlapsing fund that consists of (1) money appropriated in the State budget to the fund; (2) repayments of loans made from the fund; (3) money received from the sale, assignment, or other disposition of program loans and equity investments; (4) interest and investment earnings of the fund; and (5) any other money from any other source accepted for the benefit of the fund. The State Treasurer must invest the money of the fund in the same manner as any other State money may be invested, and any interest earnings of the fund must be credited to the fund.

Financial assistance from the fund may be provided as (1) a grant; (2) a loan; (3) a reduction of the principal obligation of or interest rate on a loan or portion of a loan; (4) a prepayment of interest on a subordinate or superior loan or portion of loan; (5) an assurance; (6) a guarantee; (7) any other form of credit enhancement; or (8) an equity investment, including taking an interest in specified financial instruments.

The recipient of financial assistance from the fund is authorized to use the assistance for (1) specified development costs and (2) operating costs and expenses of providing community education, counseling, and support programs in an Opportunity Zone.

DHCD may (1) contract for services related to the fund; (2) charge application, origination, and processing fees; (3) require financial assistance under the fund to be secured by a mortgage or other security instrument on real or personal property; (4) modify the interest rate, the time or amount of payment, or any other term of a grant or loan to facilitate the successful completion or operation of a project; (5) enter into agreements with lenders or other entities to provide financial assistance or collectively lend money; (6) foreclose or execute on a security investment; and (7) without approval or execution by the Board of Public Works, sell or dispose of the property or loan acquired as a result of a default, as specified.

Current Law/Background:

Opportunity Zones

The Federal Tax Cuts and Jobs Act of 2017 established Opportunity Zones to incentivize private investment in certain communities. Under the Act, states may nominate up to 25% of specified low-income census tracts for designation by the U.S. Treasury as Opportunity Zones. The U.S. Treasury has designated 149 zones located in Maryland.

The program offers three federal tax incentives related to capital gain taxation: (1) a temporary tax deferral for capital gains reinvested in a Qualified Opportunity Fund; (2) a step up in basis for these capital gains, which excludes up to 15% of the original capital gain from taxation; and (3) an exclusion from taxable income of capital gains from the sale or exchange of an investment in a Qualified Opportunity Fund, if the investment is held for at least 10 years. Investors and investments must also meet numerous other requirements.

Maryland generally conforms to federal tax law, so any capital gain deferred or excluded under the program is also deferred or excluded under the Maryland income tax. In addition, Chapter 211 of 2019 established the Opportunity Zone Enhancement Program. Administered by the Department of Commerce, the program provides enhanced incentives for qualifying businesses within an Opportunity Zone. Qualifying businesses within an Opportunity Zone may qualify for enhanced incentives under the following tax credit programs (1) job creation; (2) One Maryland; (3) enterprise zone; (4) biotechnology investment incentive; (5) cybersecurity investment incentive; and (6) More Jobs for Marylanders.

The **Appendix – Opportunity Zones** illustrates the eligible locations for funding under the bill.

Department of Housing and Community Development – Generally

Among other responsibilities, DHCD provides financing for the economic development and maintenance of affordable housing and communities in Maryland. DHCD also provides funding for community revitalization projects. As introduced, the Governor's proposed fiscal 2023 capital budget includes a mixture of general obligation bonds, general funds, special funds, and federal funds for the following DHCD programs that provide assistance to homebuyers and those facilitating community revitalization in Maryland:

- Strategic Demolition Fund (\$30.0 million);
- Neighborhood Business Development Program (\$25.0 million);
- Baltimore Regional Neighborhood Initiative (\$12.0 million);

- National Capital Strategic Economic Development Program (\$7.0 million);
- Community Development Block Grant Program (\$12.0 million);
- Seed Community Development Anchor Institution Fund (10.0 million);
- Special Loan Programs (\$10.4 million);
- Community Legacy Program (\$8.0 million);
- Homeownership Programs (\$42.0 million); and
- Housing and Building Energy Program (\$15.8 million).

State Fiscal Effect: The bill does not specify a funding level for the Opportunity Zone Fund. Given the range of potential uses for the fund, and that it is authorized to provide grants, loans, and other types of financial assistance, DLS estimates that \$10.0 million is necessary in the first year to establish a viable financial assistance program. Under the assumption that approximately half of the transactions in the first year are loans that will be repaid (and thus support future forms of assistance), DLS further estimates that \$5.0 million is required in each succeeding year to sustain the fund/program.

Therefore, general fund expenditures increase by \$10.0 million in fiscal 2023, and by \$5.0 million in fiscal 2024 and annually thereafter to capitalize the fund. Special fund revenues to and expenditures from the fund increase correspondingly each year. To the extent any loans are made under the fund, special fund revenues increase further from loan repayments. Special fund revenues also increase from any application, origination, or processing fees that DHCD is authorized to assess under the bill.

Under the bill, DHCD is explicitly authorized to use the fund for administrative costs. Therefore, staffing costs for one financial analyst – anticipated to be \$71,069 in fiscal 2023, increasing to \$91,273 by fiscal 2027 – are absorbed within the appropriation provided for the fund. To the extent that funds are used for administration, they are not available for financial assistance.

This analysis does not reflect any effect on State tax revenues from the economic development initiatives supported by the fund.

Local Fiscal Effect: To the extent that local governments receive financial support from the fund, local revenues and expenditures increase correspondingly. Although not a direct effect, local tax revenues in affected areas may increase from economic development initiatives funded by the fund. However, the exact magnitude of such an effect cannot be reliably estimated.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

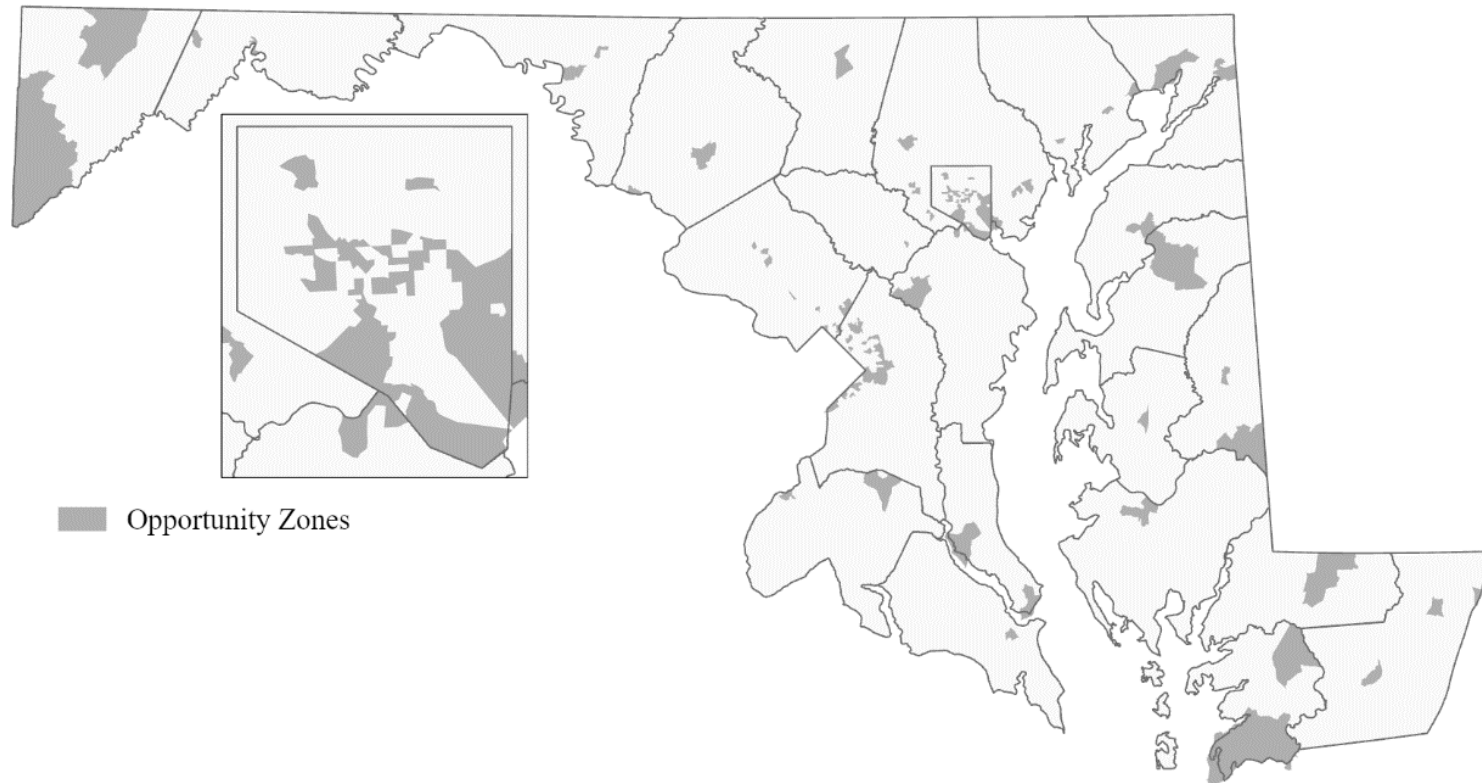
Information Source(s): Baltimore, Charles, Frederick, Montgomery, and Somerset counties; City of Havre de Grace; Department of Housing and Community Development; Board of Public Works; Department of Information Technology (MD iMap); Department of Legislative Services

Fiscal Note History: First Reader - March 6, 2022
rh/mcr

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Appendix – Opportunity Zones



Source: Department of Information Technology (MD iMap)

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: DHCD — Opportunity Zone Fund – Establishment

BILL NUMBER: HB 929

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

As noted above, the direct impacts are difficult to monetize, but businesses in Opportunity Zones, which are by definition low income census tracts, would likely see increased access to capital as a significant benefit. For existing agency investments in Opportunity Zones, we have seen every agency dollar leverage approximately \$10 in project costs. If we assume a \$25 million Opportunity Zone Fund, then the leveraged dollars would be approximately \$250 million in project costs.