Department of Legislative Services

Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 5 (Delegates Fair and Patterson)

Economic Matters and Ways and Means

Community Development - Maryland New Markets Development Program - Establishment

---

This bill establishes a Maryland New Markets Development Program modeled on the federal New Markets Tax Credit (NMTC) Program and administered by the Department of Housing and Community Development (DHCD). The program offers a nonrefundable insurance premiums or retaliatory tax credit for 50% of a qualified equity investment in a qualified community development entity (CDE) that is claimed over a period of seven years. DHCD may issue up to $9,375,000 in credit certificates for each biennial application period and may not issue more than $18,750,000 in credit certificates for any tax year. **The bill takes effect July 1, 2026, and applies to tax year 2026 and beyond.**

Fiscal Summary

State Effect: General fund revenues decrease by $2.3 million in each of FY 2030 and 2031 due to credits claimed against the insurance premiums tax or retaliatory tax. Insurance Regulation Fund (IRF) revenues may also be affected, as discussed below. General fund revenue losses are minimally offset by application fee revenues in FY 2027 and every two years thereafter (not shown below). General fund expenditures increase by $0.1 million in FY 2027; future years reflect annualization and ongoing costs.

($ in millions)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
GF Revenue	$0	$0	$0	($2.3)	($2.3)
GF Expenditure	$0.1	$0.1	$0.1	$0.1	$0.1
Net Effect	($0.1)	($0.1)	($0.1)	($2.5)	($2.5)

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

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Qualified Community Development Entity

"Qualified CDE" means a business entity that has entered into an allocation agreement under the federal NMTC Program that includes the State within the service area of the agreement. "Maryland qualified CDE" means a qualified CDE headquartered in the State or owned or controlled by a business entity headquartered in the State that formed on or after July 1, 2021, and has not entered into an allocation agreement under the federal NMTC Program. (This analysis assumes that a Maryland qualified CDE is a business entity that is a qualified CDE under the federal NMTC Program but has not entered into an allocation agreement under the federal program and that otherwise meets the specified requirements of a Maryland qualified CDE. This analysis also assumes that "qualified CDE" includes a Maryland qualified CDE.)

Qualified Active Low-income Community Business

"Qualified active low-income community business" means a business entity that has its principal business operations in the State and meets the definition of a qualified active low-income community business under § 45D of the Internal Revenue Code (IRC). It does not include a nonprofit organization exempt from taxation under IRC § 501(c)(3) and generally does not include a business entity that derives or projects to derive at least 15% of annual revenue from the rental or sale of real estate, as specified. A business entity whose principal business operations are not in the State may be considered a qualified active low-income community business under the bill if the entity agrees to (1) relocate or hire employees to establish principal business operations in the State; (2) use the proceeds of a qualified low-income community investment to hire or relocate the employees; and (3) hire or relocate the employees within 180 days after receiving the investment or on a later date agreed to by DHCD.

Qualified Equity Investment

An equity investment in a qualified CDE may qualify for the tax credit if (1) the equity investment is originally issued and acquired on or after July 1, 2026, in exchange for cash or is originally issued and acquired before July 1, 2026, in exchange for cash and is transferred or sold on or after July 1, 2026; (2) the qualified CDE uses the equity investment in an amount equal to 100% of the cash purchase price to make qualified low-income community investments in qualified active low-income community businesses; and (3) the equity investment is designated by the qualified CDE and jointly certified by the entity and DHCD. For a non-Maryland qualified CDE, the equity investment (1) may not exceed double the qualified CDE's equity investment authority under the federal NMTC Program and (2) must be designated as a qualified equity investment under the federal NMTC Program by the entity in an amount equal to at least 50% of the cash purchase price.

Tax Credit Allowed

The credit is allowed for the tax year during which the qualified equity investment is made and each of the next six tax years. In total, the credit equals 50% of the qualified equity investment (0% for each of the first three tax years and 12.5% for each of the remaining four tax years).

The credit may be claimed against any premium receipts tax or insurance retaliatory tax, fee, charge, or penalty imposed by the State, including any tax, fee, charge, or penalty under Insurance Article § 3-324 (premium receipts tax on surplus lines insurance); § 4-209 (premium receipts tax - unauthorized insurers); § 4-211 (premium receipts tax - insureds); § 4-211.1 (premium receipts tax - nonadmitted or unauthorized insurance); or § 6-102 (premium tax) or under Insurance Article Title 6, Subtitle 3 (retaliation).

The credit may not be sold but may be transferred to an affiliated business entity and may be allocated among the partners, members, or shareholders of a business entity in any manner agreed to by the partners, members, or shareholders in writing. Any unused credit may be carried forward for up to five tax years. The Maryland Insurance Administration may not impose any additional tax, penalty, or fee on a person in order for the person to claim the credit or as a result of claiming a credit.

Aggregate Limitation on Tax Credit Awards

In general, DHCD may not issue credit certificates totaling more than $9,375,000 in aggregate for each scheduled application period. Any unused amount may be carried over and issued during a subsequent application period. However, DHCD may not issue credit certificates for credit amounts totaling more than $18,750,000 in aggregate for any tax year.

If DHCD does not certify the maximum aggregate available credit, the department must redistribute the credit among approved applicants that have elected to receive additional allocations on a *pro rata* basis and waive the requirement (to the extent applicable) that a qualified equity investment be designated as a qualified equity investment under the federal NMTC Program. If, upon such consideration of existing applications, DHCD does not certify the maximum aggregate available credit, DHCD must accept new applications for the same calendar year and additionally waive the requirement (to the extent applicable) that a qualified equity investment not exceed double the qualified CDE's equity investment authority under the federal NMTC Program.

Application and Certification

To designate an equity investment as a qualified equity investment and obtain a tax credit certificate, a qualified CDE must submit an application to DHCD, as specified and subject to a $5,000 fee per application. DHCD generally must open an application period on September 1, 2026, and each September 1 every two years thereafter but may delay or advance the start date of the application period to align with a notice of funding under the federal NMTC Program, as specified. DHCD must approve or deny each application in full or in part within 30 days of receipt.

Upon application approval and designation of a qualified equity investment, DHCD and the qualified CDE must jointly certify all or part of each qualified equity investment eligible for a credit. On certification, DHCD must issue the eligible taxpayer a credit certificate for each tax year for which the taxpayer is eligible. A qualified CDE has an ongoing duty to inform DHCD of any change made to a qualified equity investment.

A qualified CDE must (1) within 30 days of certification, issue the qualified equity investment and, for a non-Maryland qualified CDE, designate the equity investment in an amount equal to at least 50% of the cash purchase price as a qualified equity investment under the federal NMTC Program and (2) within 35 days of certification, provide evidence of the cash payment and federal designation (as applicable). If a qualified CDE fails to satisfy these requirements, the certification issued under the bill lapses and DHCD must redistribute the credit among approved applicants on a *pro rata* basis.

Compliance and Recapture

DHCD must recapture all or a portion of a credit issued under the bill under certain circumstances and must reallocate any recaptured credit, as specified. The bill limits the aggregate amount of qualified low-income community investments made in a qualified active low-income community business and any affiliated business entities to $15.0 million ($7.5 million for any individual investment). By May 1, 2027, and each May 1 thereafter, a qualified CDE must report specified information to DHCD for each credit certificate issued for a qualified equity investment that has not been redeemed or repaid.

DHCD may conduct periodic examinations to enforce the bill’s requirements and to verify whether an event has occurred that would result in recapture of a credit. DHCD may also issue a binding advisory letter to a qualified CDE on request. When conducting enforcement activities and administering the program, DHCD must consider guidance issued under the federal NMTC Program.

Current Law: As discussed above, the bill is modeled on the federal NMTC Program, which offers nonrefundable credits against the federal income tax for qualified equity investments in qualified CDEs. The federal One Big Beautiful Bill Act of 2025 permanently extended the program beyond calendar year 2025. "Qualified CDE" means any domestic corporation or partnership (1) whose primary mission is serving or providing investment capital for low-income communities or low-income persons; (2) that maintains accountability to residents of low-income communities through their representation on any governing or advisory board of the entity; and (3) that is certified by the Secretary of the Treasury as a qualified CDE.

The credit may be claimed over seven years and is equal to 39% of the original investment (5% for each of the first three years and 6% for each of the remaining four years). Designated investments may not exceed $5.0 billion annually for calendar year 2020 and beyond. The limit is allocated among qualified CDEs, with priority given to entities with a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities or that intend to make qualified low-income community investments in one or more businesses in which persons unrelated to the entity hold the majority equity interest.

State Revenues: Assuming that issued tax credit certificates maximize available credit in each biennial application period within the five-year scope of this analysis, general fund revenues decrease by an estimated $2.3 million in each of fiscal 2030 and 2031 due to credits claimed against the insurance premiums tax or retaliatory tax. General fund revenues increase minimally due to application fees in fiscal 2027 and 2029 and minimally offset revenue losses in fiscal 2031 and every other year thereafter. It is unclear whether credits may be claimed against fees imposed under the Insurance Article that accrue to IRF; to the extent that they may, IRF revenues may decrease.

State Expenditures: General fund expenditures for DHCD increase by an estimated $94,709 in fiscal 2027, which reflects a 90-day start-up delay from the bill's July 1, 2026 effective date. This estimate reflects the cost of hiring one full-time program manager to develop regulations and program materials and administer the tax credit application and approval process. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	$85,568
Other Operating Expenses	9,141
Total FY 2027 DHCD Expenditures	**$94,709**

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

Small Business Effect: Small businesses operating within low-income communities benefit to the extent the bill generates increased investment in these businesses.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 372 (Senator McCray) - Budget and Taxation.

Information Source(s): Comptroller's Office; Maryland Insurance Administration; Department of Housing and Community Development; Internal Revenue Service; Department of Legislative Services

Fiscal Note History: First Reader - February 10, 2026
sj/jrb

Analysis by: Elizabeth J. Allison

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