

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 355

(Senator McFadden)(By Request - Baltimore City
Administration)

Education, Health, and Environmental Affairs

Environment and Transportation

Baltimore City - Housing Authority of Baltimore City - Subsidiary Entities

This bill expands the definition of a Baltimore Housing Authority entity to include an entity that is controlled by the Housing Authority of Baltimore City or in which the Housing Authority of Baltimore City has an ownership interest, either directly or indirectly through one or more wholly or partially owned subsidiary entities. A not-for-profit entity must be deemed controlled by the Housing Authority of Baltimore City if the not-for-profit entity is established by the Housing Authority of Baltimore City and the Housing Authority of Baltimore City has the power to appoint a majority of the board of directors of the not-for-profit entity or is the sole member of the not-for-profit entity. The bill also extends a specified real property tax exemption to these entities, provided that the entities enter into payment-in-lieu of taxes (PILOT) agreements with the city.

Fiscal Summary

State Effect: Special fund revenues decrease to the extent that more entities qualify for the exemption for specified low-income housing developments. The amount of the decrease depends on the number of eligible entities and the value of each property tax exemption. 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: Baltimore City revenues are not expected to be significantly impacted as any property tax exemption under the bill must be offset, at least in part, by a PILOT. Expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Current Law: A Baltimore Housing Authority entity is an entity (1) that is wholly owned by the Housing Authority of Baltimore City or (2) in which the Housing Authority of Baltimore City or an entity wholly owned by the Housing Authority of Baltimore City has an ownership interest. A nonprofit housing corporation is a nonprofit or charitable private corporation that provides safe and sanitary housing to persons of eligible income in such a way that the corporation works essentially like an authority. An authority may also establish and control not-for-profit entities, including corporations and limited liability companies, that may own, operate, and take steps necessary or convenient to develop or otherwise undertake housing projects in the authority's area of operation.

Property is exempt from all taxes and special assessments of the State or a political subdivision if the property (1) belongs to an authority or a nonprofit housing corporation or (2) is used as housing for persons of eligible income and belongs to a Baltimore Housing Authority entity. In lieu of those taxes and special assessments, an authority, a nonprofit housing corporation, or a Baltimore Housing Authority entity 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 and that does not exceed the amount of regular taxes levied on similar property.

Background: The bill expands the definition of a subsidiary entity of the Housing Authority of Baltimore City (HABC) to include certain wholly owned or partially owned not-for-profit entities. Baltimore City advises this change would alter State law so that it is more compatible with various financing mechanisms utilized by the current affordable housing industry.

Baltimore City reports that HABC has experienced significant funding cuts and reduced support from the federal government, which has created significant challenges for the maintenance and upkeep of its housing inventory. HABC has pursued several different strategies to address these needs, including using third-party entities to allow HABC to leverage the maximum available capital financing. These include HOPE VI and other mixed-finance developments, which allow public housing authorities to have partial ownership or funding participation in the creation of affordable housing. Many of the affordable housing projects financed in Baltimore City and the rest of the State are financed through the use of the Low Income Housing Tax Credit (LIHTC).

Federal Low Income Housing Tax Credit

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 multi-family housing developments using the federal LIHTC program and CDA 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 Fiscal Effect: 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.

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 fiscal 2016 State budget includes \$1.13 billion for general obligation debt service costs, including \$839.0 million in special funds from the Annuity Bond Fund, \$274.0 million in general funds, \$6.4 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 in order 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 Fiscal Effect: Baltimore City revenues are not expected to be significantly impacted as any property tax exemption under the bill must be offset, at least in part, by a PILOT. In fiscal 2014, Baltimore City had 201 PILOTs with an exempt property value of approximately \$187.4 million. Housing authorities and housing nonprofits represent a large share of the city's PILOTs.

Additional Information

Prior Introductions: None.

Cross File: HB 543 (Delegate Anderson, *et al.*) (By Request - Baltimore City Administration) – Environment and Transportation.

Information Source(s): State Department of Assessments and Taxation, Baltimore City, Department of Housing and Community Development, Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2015
min/hlb

Analysis by: Michael Sanelli

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