

SENATE BILL 836

C8, Q6

6lr1845
CF 6lr1603

By: **Senators McFadden and Ferguson**

Introduced and read first time: February 5, 2016

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Housing and Community Development – Community Development Program Act**

3 FOR the purpose of establishing the Community Development Program in the Department
4 of Housing and Community Development; requiring the Department to perform
5 certain duties; establishing the Community Development Board in the Department;
6 providing for the membership and chair of the Board; requiring the Board to perform
7 certain duties; establishing the Community Development Fund as a special,
8 nonlapsing fund; specifying the purpose of the Fund; requiring the Department to
9 administer the Fund; requiring the State Treasurer to hold the Fund and the
10 Comptroller to account for the Fund; specifying the contents of the Fund; specifying
11 the purpose for which the Fund may be used; providing for the investment of money
12 in and expenditures from the Fund; providing for the imposition of the community
13 development transfer tax under certain circumstances; establishing the rate of the
14 community development transfer tax; providing for the consideration payable for the
15 community development transfer tax; providing for the application of the community
16 development transfer tax to certain corporate transfers; providing for the payment
17 of the community development transfer tax; providing for the distribution of revenue
18 from the community development transfer tax; defining certain terms; and generally
19 relating to the Community Development Program Act.

20 BY adding to

21 Article – Housing and Community Development
22 Section 6–501 through 6–509 to be under the new subtitle “Subtitle 5. Community
23 Development Program Act”
24 Annotated Code of Maryland
25 (2006 Volume and 2015 Supplement)

26 BY adding to

27 Article – Tax – Property
28 Section 13–601 through 13–608 to be under the new subtitle “Subtitle 6. Community
29 Development Transfer Tax”

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2012 Replacement Volume and 2015 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
4 That the Laws of Maryland read as follows:

5 **Article – Housing and Community Development**

6 **SUBTITLE 5. COMMUNITY DEVELOPMENT PROGRAM ACT.**

7 **6–501.**

8 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

10 (B) “BOARD” MEANS THE COMMUNITY DEVELOPMENT BOARD.

11 (C) “FUND” MEANS THE COMMUNITY DEVELOPMENT FUND.

12 (D) “PROGRAM” MEANS THE COMMUNITY DEVELOPMENT PROGRAM.

13 **6–502.**

14 (A) THERE IS A COMMUNITY DEVELOPMENT PROGRAM IN THE
15 DEPARTMENT.

16 (B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE FINANCIAL
17 ASSISTANCE FOR COMMUNITY DEVELOPMENT PROJECTS AND COMMUNITY
18 DEVELOPMENT ORGANIZATIONS AROUND THE STATE.

19 **6–503.**

20 (A) THE DEPARTMENT SHALL:

21 (1) ADMINISTER THE PROGRAM; AND

22 (2) ADOPT REGULATIONS TO CARRY OUT THE PROGRAM.

23 (B) THE DEPARTMENT SHALL ADMINISTER THE FUND, WITH THE
24 ASSISTANCE OF THE BOARD, TO:

25 (1) OPERATE AND PAY EXPENSES OF THE PROGRAM; AND

26 (2) PROVIDE FINANCIAL ASSISTANCE UNDER THE PROGRAM.

1 **6-504.**

2 (A) **THERE IS A COMMUNITY DEVELOPMENT BOARD IN THE PROGRAM.**

3 (B) **THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:**

4 (1) **ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE**
5 **PRESIDENT OF THE SENATE;**

6 (2) **ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE**
7 **SPEAKER OF THE HOUSE;**

8 (3) **THE SECRETARY, OR THE SECRETARY'S DESIGNEE;**

9 (4) **THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR, IN**
10 **CONSULTATION WITH THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE**
11 **HOUSE:**

12 (I) **ONE REPRESENTATIVE OF THE COMMUNITY**
13 **DEVELOPMENT NETWORK OF MARYLAND;**

14 (II) **ONE REPRESENTATIVE OF THE SMALL BUSINESS**
15 **COMMUNITY; AND**

16 (III) **ONE REPRESENTATIVE OF THE NONPROFIT DEVELOPMENT**
17 **COMMUNITY; AND**

18 (5) **ANY OTHER MEMBERS AS DEEMED APPROPRIATE BY THE**
19 **SECRETARY.**

20 (C) **THE SECRETARY SHALL DESIGNATE THE CHAIR OF THE BOARD.**

21 (D) (1) **THE TERM OF A MEMBER MAY NOT EXCEED 3 YEARS.**

22 (2) **A MEMBER MAY BE REAPPOINTED.**

23 (E) **SERVICE AS A MEMBER IS NOT A STATE OFFICE OR STATE EMPLOYMENT**
24 **FOR PURPOSES OF ANY PROHIBITION AGAINST HOLDING TWO PUBLIC POSITIONS.**

25 **6-505.**

26 **THE BOARD SHALL:**

1 (1) MAKE RECOMMENDATIONS ON AND DETERMINE HOW THE FUND
2 IS TO BE USED; AND

3 (2) REPORT ON OR BEFORE DECEMBER 31 EACH YEAR ON THE
4 ACTIVITIES OF THE FUND AND MAKE ANY RECOMMENDATIONS REGARDING THE
5 FUND TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE
6 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

7 **6-506.**

8 (A) THERE IS A COMMUNITY DEVELOPMENT FUND.

9 (B) THE PURPOSE OF THE FUND IS TO PROVIDE FINANCIAL ASSISTANCE
10 FOR COMMUNITY DEVELOPMENT PROJECTS AND COMMUNITY DEVELOPMENT
11 ORGANIZATIONS AROUND THE STATE.

12 (C) THE DEPARTMENT SHALL ADMINISTER THE FUND.

13 (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
14 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

15 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,
16 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

17 (E) THE FUND CONSISTS OF:

18 (1) REVENUE DISTRIBUTED TO THE FUND UNDER § 13-608 OF THE
19 TAX - PROPERTY ARTICLE;

20 (2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND; AND

21 (3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR
22 THE BENEFIT OF THE FUND.

23 (F) THE FUND MAY BE USED ONLY FOR:

24 (1) ADMINISTRATIVE EXPENSES OF THE DEPARTMENT IN
25 ADMINISTERING THE PROGRAM; AND

26 (2) FINANCIAL ASSISTANCE FOR COMMUNITY DEVELOPMENT
27 PROJECTS AND COMMUNITY DEVELOPMENT ORGANIZATIONS AS PROVIDED UNDER
28 § 6-507 OF THIS SUBTITLE.

1 **(G) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND**
2 **IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

3 **(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO**
4 **THE GENERAL FUND OF THE STATE.**

5 **(H) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE**
6 **WITH THE STATE BUDGET.**

7 **(I) MONEY EXPENDED FROM THE FUND FOR THE PROGRAM IS**
8 **SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT**
9 **OTHERWISE WOULD BE APPROPRIATED FOR THE PROGRAM.**

10 **6-507.**

11 **IN CONSULTATION WITH THE BOARD, THE DEPARTMENT SHALL ADMINISTER**
12 **THE FUND TO PROVIDE FINANCIAL ASSISTANCE, INCLUDING CAPITAL AND**
13 **OPERATING GRANTS, TO COMMUNITY DEVELOPMENT PROJECTS AND COMMUNITY**
14 **DEVELOPMENT ORGANIZATIONS TO PROVIDE AND SUPPORT:**

15 **(1) AFFORDABLE HOUSING;**

16 **(2) NEIGHBORHOOD REVITALIZATION FOR RESIDENTIAL AND**
17 **COMMERCIAL AREAS;**

18 **(3) HOUSING COUNSELING AND FORECLOSURE PREVENTION;**

19 **(4) COMMUNITY ORGANIZING;**

20 **(5) SMALL BUSINESS DEVELOPMENT;**

21 **(6) COMMUNITY SERVICES; AND**

22 **(7) ANY OTHER COMMUNITY DEVELOPMENT PURPOSE AS**
23 **DETERMINED BY THE DEPARTMENT.**

24 **6-508.**

25 **THE DEPARTMENT SHALL PROVIDE FINANCIAL ASSISTANCE FROM THE FUND**
26 **IN THE FORM AND MANNER THE DEPARTMENT DETERMINES APPROPRIATE,**
27 **INCLUDING PROVIDING CAPITAL AND OPERATING GRANTS.**

1 **6-509.**

2 **THIS SUBTITLE IS THE COMMUNITY DEVELOPMENT PROGRAM ACT.**

3 **Article – Tax- Property**

4 **SUBTITLE 6. COMMUNITY DEVELOPMENT TRANSFER TAX.**

5 **13-601.**

6 **IN THIS SUBTITLE, “COMMUNITY DEVELOPMENT TRANSFER TAX” MEANS THE**
7 **TAX IMPOSED UNDER THIS SUBTITLE.**

8 **13-602.**

9 **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A COMMUNITY**
10 **DEVELOPMENT TRANSFER TAX IS IMPOSED ON AN INSTRUMENT OF WRITING:**

11 **(1) RECORDED WITH THE CLERK OF THE CIRCUIT COURT FOR A**
12 **COUNTY; OR**

13 **(2) FILED WITH THE DEPARTMENT AND DESCRIBED IN § 12-103(D)**
14 **OF THIS ARTICLE.**

15 **13-603.**

16 **(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE**
17 **RATE OF THE COMMUNITY DEVELOPMENT TRANSFER TAX IS 0.5% OF THE**
18 **CONSIDERATION PAYABLE FOR THE INSTRUMENT OF WRITING.**

19 **(2) THE CONSIDERATION:**

20 **(I) INCLUDES THE AMOUNT OF ANY MORTGAGE OR DEED OF**
21 **TRUST ASSUMED BY THE GRANTEE; AND**

22 **(II) SUBJECT TO ITEM (I) OF THIS PARAGRAPH, INCLUDES ONLY**
23 **THE AMOUNT PAID OR DELIVERED IN RETURN FOR THE SALE OF THE PROPERTY AND**
24 **DOES NOT INCLUDE THE AMOUNT OF ANY DEBT FORGIVEN OR NO LONGER SECURED**
25 **BY A MORTGAGE OR DEED OF TRUST ON THE PROPERTY.**

26 **(B) (1) THE RATE OF THE COMMUNITY DEVELOPMENT TRANSFER TAX IS**
27 **0.5% OF THE CONSIDERATION PAID FOR THE TRANSFER OF A CONTROLLING**
28 **INTEREST IN A REAL PROPERTY ENTITY AS DEFINED IN § 13-103 OF THIS TITLE THAT**

1 HAS DEVELOPED REAL PROPERTY UNDER § 42 OF THE INTERNAL REVENUE CODE,
2 THE LOW INCOME HOUSING TAX CREDIT PROGRAM.

3 (2) THE CONSIDERATION UNDER THIS SUBSECTION SHALL BE THE
4 ACTUAL PAYMENT MADE BY THE PURCHASER TO THE SELLER FOR THE PURCHASE
5 OF THE CONTROLLING INTEREST.

6 13-604.

7 THE CONSIDERATION PAYABLE SHALL BE DESCRIBED IN:

8 (1) THE RECITALS OR THE ACKNOWLEDGMENT OF THE INSTRUMENT
9 OF WRITING; OR

10 (2) A STATEMENT UNDER OATH THAT ACCOMPANIES THE
11 INSTRUMENT OF WRITING AND THAT IS SIGNED BY A PARTY TO THE INSTRUMENT OR
12 BY AN AGENT OF A PARTY.

13 13-605.

14 EXCEPT AS PROVIDED IN § 13-606(A)(9), (10), (15), AND (16) OF THIS
15 SUBTITLE, THE COMMUNITY DEVELOPMENT TRANSFER TAX APPLIES TO
16 CONVEYANCES THAT TRANSFER THE REAL PROPERTY OF A CORPORATION TO ITS
17 STOCKHOLDERS, THE REAL PROPERTY OF A LIMITED LIABILITY COMPANY TO ITS
18 MEMBERS, OR THE REAL PROPERTY OF A PARTNERSHIP TO ITS PARTNERS.

19 13-606.

20 (A) AN INSTRUMENT OF WRITING IS NOT SUBJECT TO THE COMMUNITY
21 DEVELOPMENT TRANSFER TAX TO THE SAME EXTENT THAT IT IS NOT SUBJECT TO
22 RECORDATION TAX UNDER:

23 (1) § 12-108(A) OF THIS ARTICLE (TRANSFER TO GOVERNMENT OR
24 PUBLIC AGENCY);

25 (2) § 12-108(C) OF THIS ARTICLE (TRANSFER BETWEEN RELATIVES
26 AND DOMESTIC PARTNERS);

27 (3) § 12-108(D) OF THIS ARTICLE (TRANSFER BETWEEN SPOUSES
28 AND DOMESTIC PARTNERS);

29 (4) § 12-108(E) OF THIS ARTICLE (SUPPLEMENTAL INSTRUMENT);

- 1 **(5) § 12-108(F) OF THIS ARTICLE (PREVIOUSLY RECORDED**
2 **INSTRUMENT);**
- 3 **(6) § 12-108(L) OF THIS ARTICLE (JUDGMENTS);**
- 4 **(7) § 12-108(N) OF THIS ARTICLE (ORDER OF SATISFACTION);**
- 5 **(8) § 12-108(O) OF THIS ARTICLE (PARTICIPATION AGREEMENT);**
- 6 **(9) § 12-108(P) OF THIS ARTICLE (TRANSFER OF PROPERTY**
7 **BETWEEN RELATED BUSINESS ENTITIES);**
- 8 **(10) § 12-108(Q) OF THIS ARTICLE (CORPORATE OR PARTNERSHIP**
9 **CONVEYANCE);**
- 10 **(11) § 12-108(R) OF THIS ARTICLE (LAND INSTALLMENT CONTRACTS);**
- 11 **(12) § 12-108(S) OF THIS ARTICLE (OPTIONS TO PURCHASE REAL**
12 **PROPERTY);**
- 13 **(13) § 12-108(T) OF THIS ARTICLE (DEED FOR PRIOR CONTRACT OF**
14 **SALE);**
- 15 **(14) § 12-108(U) OF THIS ARTICLE (LEASES OF 7 YEARS OR LESS);**
- 16 **(15) § 12-108(V) OF THIS ARTICLE (MERGERS);**
- 17 **(16) § 12-108(W) OF THIS ARTICLE (CONSOLIDATIONS);**
- 18 **(17) § 12-108(X) OF THIS ARTICLE (COOPERATIVE HOUSING**
19 **CORPORATIONS);**
- 20 **(18) § 12-108(Y) OR (BB) OF THIS ARTICLE (TRANSFER FROM**
21 **PREDECESSOR ENTITY OR REAL ESTATE ENTERPRISE TO LIMITED LIABILITY**
22 **COMPANY);**
- 23 **(19) § 12-108(Z) OF THIS ARTICLE (TRANSFER FROM A CLASS I**
24 **RAILROAD CARRIER TO ITS WHOLLY OWNED LIMITED LIABILITY COMPANY);**
- 25 **(20) § 12-108(AA) OF THIS ARTICLE (TRANSFERS INVOLVING CERTAIN**
26 **MARYLAND STADIUM AUTHORITY AFFILIATES);**

1 **(21) § 12-108(CC) OF THIS ARTICLE (CERTAIN TRANSFERS TO LAND**
2 **TRUSTS);**

3 **(22) § 12-108(DD) OF THIS ARTICLE (TRANSFER FROM AN ESTATE);**

4 **(23) § 12-108(EE) OF THIS ARTICLE (TRANSFER TO A TRUST AND**
5 **TRANSFER FROM A TRUST UNDER SPECIFIED CIRCUMSTANCES); OR**

6 **(24) § 12-108(FF) OF THIS ARTICLE (TRANSFER FROM A CERTIFIED**
7 **COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION).**

8 **(B) (1) AN INSTRUMENT OF WRITING THAT TRANSFERS AGRICULTURAL**
9 **LAND THAT THE TRANSFEREE IS ACQUIRING FOR THE PURPOSE OF MAINTAINING**
10 **THE CHARACTER OF THE LAND AS AGRICULTURAL LAND IS NOT SUBJECT TO THE**
11 **COMMUNITY DEVELOPMENT TRANSFER TAX IF THE TRANSFEREE:**

12 **(I) IS EXEMPT FROM FEDERAL INCOME TAX UNDER § 501(C)(3)**
13 **OF THE INTERNAL REVENUE CODE;**

14 **(II) IS INCORPORATED, QUALIFIED, OR REGISTERED TO DO**
15 **BUSINESS IN THE STATE;**

16 **(III) HAS AS THE PRINCIPAL PURPOSE OF THE TRANSFEREE THE**
17 **PRESERVATION OF AGRICULTURAL LAND, INCLUDING THE TEMPORARY OWNERSHIP**
18 **OF AN INTEREST IN LAND FOR THE PURPOSE OF PRESERVING THE CHARACTER OF**
19 **THE LAND AS AGRICULTURAL LAND; AND**

20 **(IV) HAS BEEN CERTIFIED BY THE DEPARTMENT AS MEETING**
21 **THE REQUIREMENTS OF THIS PARAGRAPH.**

22 **(2) IF A TRANSFEREE NOTIFIES THE DEPARTMENT AT LEAST 7 DAYS**
23 **BEFORE THE DATE OF TRANSFER OF PROPERTY TO THE TRANSFEREE, THE**
24 **DEPARTMENT SHALL NOTIFY, IN WRITING, THE CLERK OF THE CIRCUIT COURT FOR**
25 **THE COUNTY IN WHICH THE PROPERTY BEING TRANSFERRED IS LOCATED OF THE**
26 **NAME AND ADDRESS OF EACH TRANSFEREE THAT HAS BEEN CERTIFIED UNDER**
27 **PARAGRAPH (1) OF THIS SUBSECTION.**

28 **13-607.**

29 **(A) THE COMMUNITY DEVELOPMENT TRANSFER TAX ON AN INSTRUMENT**
30 **OF WRITING THAT IS TAXABLE UNDER THIS SUBTITLE SHALL BE PAID TO THE CLERK**
31 **OF THE CIRCUIT COURT WHERE THE INSTRUMENT OF WRITING IS RECORDED OR TO**
32 **THE DEPARTMENT.**

1 **(B) AN INSTRUMENT OF WRITING TAXABLE UNDER THIS SUBTITLE MAY NOT**
2 **BE RECORDED IN ANY COUNTY UNLESS A STATEMENT IS ATTACHED TO OR STAMPED**
3 **ON THE INSTRUMENT OF WRITING INDICATING:**

4 **(1) THAT THE COMMUNITY DEVELOPMENT TRANSFER TAX HAS BEEN**
5 **PAID; AND**

6 **(2) THE AMOUNT OF THE COMMUNITY DEVELOPMENT TRANSFER TAX**
7 **PAID.**

8 **(C) THE PRESENCE OF THE STATEMENT REQUIRED BY SUBSECTION (B) OF**
9 **THIS SECTION ON AN INSTRUMENT OF WRITING IS PRIMA FACIE EVIDENCE OF**
10 **PAYMENT OF THE COMMUNITY DEVELOPMENT TRANSFER TAX.**

11 **13-608.**

12 **(A) (1) BEFORE ANY OTHER DISTRIBUTION UNDER THIS SECTION, IN ANY**
13 **FISCAL YEAR THAT BONDS SECURED BY A PLEDGE OF THE COMMUNITY**
14 **DEVELOPMENT TRANSFER TAX ARE OUTSTANDING, THE REVENUE FROM THE**
15 **COMMUNITY DEVELOPMENT TRANSFER TAX SHALL BE USED TO PAY, AS AND WHEN**
16 **DUE, THE PRINCIPAL OF AND INTEREST ON THE BONDS.**

17 **(2) THE DEPARTMENT SHALL DEDUCT THE COST OF ADMINISTERING**
18 **THE COMMUNITY DEVELOPMENT TRANSFER TAX FROM THE TAXES COLLECTED**
19 **UNDER THIS TITLE AND CREDIT THOSE REVENUES TO THE FUND ESTABLISHED**
20 **UNDER § 1-203.3 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.**

21 **(3) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION,**
22 **AFTER DEDUCTING THE REVENUES REQUIRED UNDER PARAGRAPHS (1) AND (2) OF**
23 **THIS SUBSECTION, THE REVENUE FROM THE COMMUNITY DEVELOPMENT TRANSFER**
24 **TAX IS PAYABLE TO THE COMPTROLLER FOR DEPOSIT IN THE COMMUNITY**
25 **DEVELOPMENT FUND UNDER TITLE 6, SUBTITLE 5 OF THE HOUSING AND**
26 **COMMUNITY DEVELOPMENT ARTICLE.**

27 **(4) IN ANY FISCAL YEAR IN WHICH COMMUNITY DEVELOPMENT**
28 **TRANSFER TAX REVENUE IS USED TO PAY DEBT SERVICE ON OUTSTANDING BONDS**
29 **UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DISTRIBUTION OF REVENUES IN**
30 **THE COMMUNITY DEVELOPMENT FUND SHALL BE REDUCED BY AN AMOUNT EQUAL**
31 **TO THE DEBT SERVICE FOR THE FISCAL YEAR.**

32 **(B) FOR EACH FISCAL YEAR, UP TO 3% OF THE REVENUES IN THE**
33 **COMMUNITY DEVELOPMENT FUND MAY BE APPROPRIATED IN THE STATE BUDGET**

1 FOR SALARIES AND RELATED EXPENSES IN THE DEPARTMENT OF HOUSING AND
2 COMMUNITY DEVELOPMENT.

3 (C) THE BALANCE OF ANY REVENUE IN THE COMMUNITY DEVELOPMENT
4 FUND NOT REQUIRED UNDER SUBSECTION (A) OR (B) OF THIS SECTION SHALL BE
5 ALLOCATED AS PROVIDED IN THE STATE BUDGET.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2016.