

Department of Legislative Services  
Maryland General Assembly  
2021 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1303  
Ways and Means

(Delegate Henson)

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Small, Minority, and Women-Owned Business Financial Assistance - Use of  
Funds

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This bill requires an agency or unit of State government administering a program authorized in response to a disaster to allow a small, minority, or women-owned business that is not in good standing with the State Department of Assessments and Taxation (SDAT) to apply to conditionally participate in the program, as specified. The business may receive 40% of the assistance that it would have otherwise received, but for its lack of good standing, and may use the funds to bring the business into compliance with annual reporting requirements, pay outstanding personal property taxes owed, and any penalties, interest, and fees associated with noncompliance with State law or business regulation. If the assistance is in the form of a loan, the portion used to pay the above costs must be forgiven. If the business enters into good standing during the period of conditional participation, the business may participate fully in the program and must be provided with the remaining financial assistance under the program.

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Fiscal Summary

**State Effect:** State expenditures likely increase for administrative costs associated with the additional requirements for State disaster assistance programs. Financial assistance provided under such programs is also delayed and reallocated. Depending on the structure and funding of any future program, the effect could be significant. The effect on State revenues is unclear, as discussed below. The bill may also limit use of future federal funding for disaster relief.

**Local Effect:** Personal property tax revenues increase from State programmatic funding received and used by conditional applicants under the bill to repay outstanding balances. Expenditures are not affected.

**Small Business Effect:** Meaningful.

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## Analysis

**Bill Summary:** “Disaster” means a catastrophic event, including a natural disaster, an epidemic, a pandemic, or any other public health emergency. “Financial assistance” means need-based monetary aid provided by the State to small, minority, and women-owned businesses, including loans, forgivable loans, and grants. Small, minority, or women-owned business is not defined.

An applicant for conditional participation in a program must reasonably demonstrate to the administering department that the business was in operation for the period of time applicable under the regulations generally governing the financial assistance program. An applicant may do so by providing gross sales receipts showing transaction dates, dated financial statements, and sworn affidavits made by a person with knowledge of the business’s operations.

**Current Law:** The State has authorized many programs designed to provide financial assistance to businesses in response to the COVID-19 pandemic, although many programs were not need-based, and were instead first-come, first served. See page 12 of the [Operating Budget Analysis](#) for the Maryland Department of Commerce on the Department of Legislative Services website for an overview of the programs, funding levels and sources, and implementation challenges.

**State Fiscal Effect:** When SDAT issues a certificate verifying that a business entity is in “good standing,” it means that all documents and fees required by law to be submitted to the department have been received and that no other government agency has notified the department that the entity is delinquent in tax payments. SDAT [regulations](#) specify the SDAT-specific requirements for different types of businesses.

While the bill does not alter the amount of initial funding available under any future disaster programs, it modifies the timing of disbursements and, potentially, the amount recouped from disaster program loans. The bill also creates additional administrative requirements for any agency administering the assistance – which further compounds other administrative issues associated with standing up a program in the wake of a disaster. The effects likely increase administrative expenditures associated with any such programs and, depending on their structure and funding, the effect could be significant.

Up to 40% of funding received under a State disaster program may ultimately be used to repay the State and/or local governments for amounts owed. Commerce, a likely agency to administer any such State program, advises that this is currently a disallowed use of funds received through its financial assistance programs. Still, the net effect on State revenues is unclear, as there are competing potential effects:

- typically, ineligible grant funding is eligible to repay the State, but also local personal property taxes (zero to net-positive effect on State revenue); and
- loan funds can be used to repay the State, but also local property taxes, and amounts used for those purposes are forgiven (zero to net-negative effect on State revenue).

Finally, State programs authorized in response to a disaster may also use federal funds – as was the case for several Commerce programs in response to COVID-19. Depending on restrictions placed on the use of such federal funds, the bill may result in their use being disallowed for an affected program.

**Local Revenues:** Personal property tax revenues increase from State programmatic funding received and used by conditional applicants under the bill to repay outstanding balances. The timing and amounts cannot be predicted.

**Small Business Effect:** The bill reallocates funding from businesses that are in good standing with SDAT to those that, at least originally, are not. In a program with a limited budget, the bill results in some small businesses receiving funds when they otherwise would not and some businesses not receiving funds when they otherwise would. The bill also effectively encumbers a portion of any program’s financial assistance for a period of up to six months – the remaining 60% of available assistance for conditional recipients – which delays the distribution of those funds.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Department of Commerce; State Department of Assessments and Taxation; Department of Legislative Services

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Analysis by: Stephen M. Ross

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