



**DEPARTMENT OF HOUSING  
AND COMMUNITY DEVELOPMENT**

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**DATE:** February 27, 2020

**BILL NO.:** Senate Bill 822

**COMMITTEE:** Senate Education, Health, and Environmental Affairs Committee

**POSITION:** OPPOSE

**TITLE:** Housing and Community Development – Down Payment and Settlement Expense Loan Program – Homebuyer Education Requirements

**SPONSORS:** Senator McCray

**Description of Bill:**

Senate Bill 822 would impose more stringent housing counseling requirements on the Maryland Department of Housing and Community Development’s Down Payment and Settlement Expense Loan Program, creating barriers for first time homebuyers to access the Maryland Mortgage Program (MMP) and resulting in an estimated 70% decrease in MMP mortgage production. MMP provides a safe 30-year fixed rate mortgage to first time homebuyers in Maryland, typically at lower interest rates than a prospective borrower may otherwise receive and, in most cases, paired with other financial assistance such as downpayment assistance and/or payoff of student loans. The average income of a MMP homebuyer is approximately 80% of Area Median Income and the average home purchase price is approximately \$200,000.

This bill *only* impacts Maryland Mortgage Program purchasers and would 1) significantly advance the timeline for homebuyer education in the MMP process, 2) limit the available counseling pool to only those counselors certified by the U.S. Department of Housing and Urban Development, and 3) require scheduling a one-on-one counseling session in order for a prospective homebuyer to receive downpayment assistance through MMP. This would result in fewer participants in the Maryland Mortgage Program, few overall homebuyers receiving homebuyer education, and fewer homebuyers generally.

**Background:**

Currently, all Maryland Mortgage Program borrowers are required to receive homebuyer education prior to closing, ensuring that borrowers understand the entirety of the homebuying process, their repayment responsibilities, and other information and resources that support successful, sustainable homeownership. In 2018, the department worked with the General Assembly to pass House Bill 279 to establish a single statewide standard for the Maryland Mortgage Program’s homebuyer education requirements and enshrine in statute that online counseling would be allowed. This bill changes the requirement from homebuyer education to also require one-on-one counseling, moves the time frame up to pre-contract from pre-closing, and restricts the availability of that housing counseling providers to only those certified by the U.S. Department of Housing and Urban Development (HUD). The Department objects to each of these requirements.

Requiring that the homebuyer education be completed before signing a contract for a property rather than before closing often does not mesh with the way homebuyers typically approach a purchase. Rather than a counseling agency or even a lender, a homebuyer’s first inquiry is usually to a real estate professional who outlines the general process and helps the homebuyer begin looking at properties. Most homebuyers will secure a letter of credit from a mortgage lender or broker but, at this point in the process, final financing is several steps away and the Maryland Mortgage Program is usually not the only mortgage option available to them. Often, the homebuyer with a letter of credit will find a home they like, put in an offer and sign a contract with a financing contingency, and then secure final financing. With Senate Bill 822’s



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requirement that education be completed pre-contract, homebuyers could very well be precluded from participating in MMP before they know that it is even an available option to them. This disqualifies them from valuable downpayment and closing cost incentives and may force the homebuyers to consider riskier, higher interest mortgage products (than the Maryland Mortgage Program) in order to maintain the purchase timeline for the home they want. Again, they may not have even been aware of the opportunities offered by the Maryland Mortgage Program when they made the decision to sign a contract prior to having housing counseling and disqualified themselves.

Prior to the 2018 legislation referenced earlier, in Baltimore City and Baltimore County, MMP was required to defer to the counseling requirements on the books in those jurisdictions because they offer their own downpayment assistance programs whose requirements superseded any state standard. One of those requirements was that homebuyer education be conducted pre-contract, rather than pre-closing. In Baltimore County, MMP participation increased approximately 160% from 225 homebuyers to 577 (\$42 million in first time homebuyer mortgages to nearly \$119 million); in Baltimore City, MMP participation jumped 81% from 305 to 552 (\$48 million to \$92 million).

In addition, by specifying that an eligible counseling agency must be approved by HUD, this bill significantly curtails availability of a homebuyer to access education. The Department presently will accept a certificate of homebuyer education from counseling agencies approved by HUD, the Federal National Mortgage Association (Fannie Mae), or the Federal Home Loan Mortgage Corporation (Freddie Mac). Eligible homebuyer education curricula must further meet the requirements of our master servicer and mortgage insurers. This ensures that the Department is meeting national standards and requirements of our partners, while providing flexibility to prospective MMP homebuyers who may choose from an extensive array of counseling agencies to best meet their needs. Prospective homebuyers may consider issues such as the availability of online classes, cost (some agencies charge the customer directly), proximity to their home or work, and whether or not the agency has a waiting list for service. The Department estimates that fewer than one-third of homebuyer education for MMP buyers is conducted by exclusively HUD-approved counseling agencies.

Self-reported data collected from recipients of the Department's Housing Counseling Fund brings into question the capacity of the current HUD-Certified housing counselors to effectively handle Maryland Mortgage Program applicants. That data shows that it may take up to 45 days to schedule homebuyer education, to say nothing of the added time that would be required for one-on-one counseling. One reputable HUD-approved counseling agency in the Baltimore area charges \$100 for online homebuyer education and an additional \$250 fee to expedite scheduling of the one-on-one counseling session, so that it may be made available within about one week, which demonstrates added cost burden to these low- and moderate- income homebuyers.

In the future, capacity is likely to be even further reduced and the impact would be compounded by Senate Bill 822's requirement that an eligible counseling agency must be approved by HUD. HUD is in the process of phasing in a requirement that individual counselors, rather than the counseling agency, be certified by HUD by August of 2020. While there are 30 HUD-approved housing counseling agencies participating in the Housing Counseling Fund, HUD's website indicates that there are only 23 agencies that currently meet the requirement to have a HUD-certified counselor on staff.

Adding the requirement that counseling be conducted one-on-one further complicates the time frame for purchase and further reduces the capacity of the available network of housing counselors to meet the demands of first time homebuyers in Maryland. Based on the self-reported data from providers, if we assume that every counselor at the 30 HUD-approved agencies participating in the Housing Counseling Fund is ultimately certified in time, that is only 58 counselors who would now need to take on a much higher workload. If the number of agencies with a certified counselor remains static at 23, that number would be even smaller. Additionally, because we are discussing HUD-approved counselors, it is important to note that HUD does not require one-on-one counseling and, in fact, mandates that an approved counselor may not withhold a certificate of homebuyer education prior to one-on-one counseling if all other criteria have been met.

While well-intentioned, the impact of these policies will result in fewer MMP borrowers, fewer individuals having received homebuyer education, more individuals in riskier mortgage products, and fewer overall first time homebuyers in Maryland. The Department anticipates that Senate Bill 822 would lead to a 70% reduction in the number of MMP participants. In calendar year 2019, MMP surpassed \$1 billion in mortgage reservations and over 4,000 participants in the program. Based upon current production numbers, we expect that Senate Bill 822 would lead to 3,500 fewer homeowners served by the program annually, a \$700 million reduction in mortgage productivity. The department's efforts to promote affordable, sustainable homeownership would also suffer greatly as revenue generated by MMP supports ongoing

investments in the downpayment assistance programs, mortgages for individuals with disabilities, special initiatives like the Maryland SmartBuy program, and costs associated with program operations.

**DHCD Position:**

Senate Bill 822 would create significant barriers to low- and moderate- income prospective homebuyers in Maryland and would preclude them from some of the best mortgage products for first time homebuyers, including DHCD's Downpayment and Settlement Expense Loan Program and SmartBuy. For these reasons, the Maryland Department of Housing and Community Development requests an **unfavorable report** on Senate Bill 822.