

HOUSE BILL 1514

C8, Q6

7lr2166
CF SB 812

By: **Delegates Hixson, D. Barnes, Lafferty, Tarlau, A. Washington, and M. Washington**

Introduced and read first time: February 10, 2017

Assigned to: Environment and Transportation and Ways and Means

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 fee under certain circumstances; establishing the amount of
14 the community development transfer fee under certain circumstances; exempting
15 certain transfers from the community development transfer fee under certain
16 circumstances; providing for the application of the community development transfer
17 fee to certain corporate transfers; providing for the payment of the community
18 development transfer fee; providing for the distribution of revenue from the
19 community development transfer fee; defining certain terms; and generally relating
20 to the Community Development Program Act.

21 BY adding to
22 Article – Housing and Community Development
23 Section 6–601 through 6–609 to be under the new subtitle “Subtitle 6. Community
24 Development Program Act”
25 Annotated Code of Maryland
26 (2006 Volume and 2016 Supplement)

27 BY adding to
28 Article – Tax – Property

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 13–601 through 13–607 to be under the new subtitle “Subtitle 6. Community Development Transfer Fee”
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

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

Article – Housing and Community Development

SUBTITLE 6. COMMUNITY DEVELOPMENT PROGRAM ACT.

6–601.

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

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

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

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

6–602.

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

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

6–603.

(A) THE DEPARTMENT SHALL:

(1) ADMINISTER THE PROGRAM; AND

(2) ADOPT REGULATIONS TO CARRY OUT THE PROGRAM.

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

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

(2) PROVIDE FINANCIAL ASSISTANCE UNDER THE PROGRAM.

6-604.

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

(B) THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:

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

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

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

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

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

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

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

(5) ANY OTHER MEMBERS CONSIDERED APPROPRIATE BY THE SECRETARY.

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

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

(2) A MEMBER MAY BE REAPPOINTED.

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

6-605.

THE BOARD SHALL:

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

(2) PROVIDE A PERIOD OF AT LEAST 30 DAYS FOR PUBLIC COMMENT ON THE RECOMMENDATIONS; AND

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

6-606.

(A) THERE IS A COMMUNITY DEVELOPMENT FUND.

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

(C) THE DEPARTMENT SHALL ADMINISTER THE FUND.

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

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

(E) THE FUND CONSISTS OF:

(1) REVENUE DISTRIBUTED TO THE FUND UNDER § 13-607 OF THE TAX – PROPERTY ARTICLE;

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

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

(F) THE FUND MAY BE USED ONLY FOR:

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

(2) FINANCIAL ASSISTANCE FOR COMMUNITY DEVELOPMENT PROJECTS AND COMMUNITY DEVELOPMENT ORGANIZATIONS AS PROVIDED UNDER § 6-607 OF THIS SUBTITLE.

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

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

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

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

6-607.

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

(1) AFFORDABLE HOUSING;

(2) NEIGHBORHOOD REVITALIZATION FOR RESIDENTIAL AND COMMERCIAL AREAS;

(3) HOUSING COUNSELING, FINANCIAL COUNSELING, AND FORECLOSURE PREVENTION;

(4) COMMUNITY ORGANIZING;

(5) SMALL BUSINESS DEVELOPMENT;

(6) COMMUNITY SERVICES; AND

(7) ANY OTHER COMMUNITY DEVELOPMENT PURPOSE.

6-608.

1 **THE DEPARTMENT SHALL PROVIDE FINANCIAL ASSISTANCE FROM THE FUND**
2 **IN THE FORM AND MANNER THE DEPARTMENT DETERMINES APPROPRIATE,**
3 **INCLUDING PROVIDING CAPITAL AND OPERATING GRANTS.**

4 **6-609.**

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

6 **Article – Tax – Property**

7 **SUBTITLE 6. COMMUNITY DEVELOPMENT TRANSFER FEE.**

8 **13-601.**

9 **IN THIS SUBTITLE, “COMMUNITY DEVELOPMENT TRANSFER FEE” MEANS THE**
10 **FEE IMPOSED UNDER THIS SUBTITLE.**

11 **13-602.**

12 **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A COMMUNITY**
13 **DEVELOPMENT TRANSFER FEE IS IMPOSED ON AN INSTRUMENT OF WRITING:**

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

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

18 **13-603.**

19 **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE**
20 **AMOUNT OF THE COMMUNITY DEVELOPMENT TRANSFER FEE IS:**

21 **(1) FOR A RESIDENTIAL PROPERTY WITH CONSIDERATION OF:**

22 **(I) \$250,000 OR LESS, \$50;**

23 **(II) \$250,001 OR MORE BUT LESS THAN \$500,000, \$100; AND**

24 **(III) \$500,000 OR MORE, \$250; AND**

25 **(2) FOR A COMMERCIAL PROPERTY WITH CONSIDERATION OF:**

(I) \$250,000 OR LESS, \$50;

(II) \$250,001 OR MORE BUT LESS THAN \$500,000, \$100; AND

(III) \$500,000 OR MORE, \$250.

(B) (1) IN THIS SUBSECTION, “FIRST-TIME MARYLAND HOME BUYER” MEANS AN INDIVIDUAL WHO HAS NEVER OWNED IN THE STATE RESIDENTIAL REAL PROPERTY THAT HAS BEEN THE INDIVIDUAL’S PRINCIPAL RESIDENCE.

(2) IF THERE ARE TWO OR MORE GRANTEES, THIS SUBSECTION DOES NOT APPLY UNLESS EACH GRANTEE IS A FIRST-TIME MARYLAND HOME BUYER OR A CO-MAKER OR GUARANTOR OF A PURCHASE MONEY MORTGAGE OR PURCHASE MONEY DEED OF TRUST AS DEFINED IN § 12-108(I) OF THIS ARTICLE FOR THE PROPERTY AND THE CO-MAKER OR GUARANTOR WILL NOT OCCUPY THE RESIDENCE AS THE CO-MAKER’S OR GUARANTOR’S PRINCIPAL RESIDENCE.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN INSTRUMENT OF WRITING FOR THE SALE OF IMPROVED RESIDENTIAL REAL PROPERTY TO A FIRST-TIME MARYLAND HOME BUYER WHO WILL OCCUPY THE PROPERTY AS A PRINCIPAL RESIDENCE IS NOT SUBJECT TO THE COMMUNITY DEVELOPMENT TRANSFER FEE.

(4) TO QUALIFY FOR THE EXEMPTION UNDER PARAGRAPH (3) OF THIS SUBSECTION, EACH GRANTEE OR AN AGENT OF THE GRANTEE SHALL PROVIDE A STATEMENT THAT IS SIGNED UNDER OATH BY THE GRANTEE OR AGENT OF THE GRANTEE STATING THAT:

(I) 1. THE GRANTEE IS AN INDIVIDUAL WHO HAS NEVER OWNED IN THE STATE RESIDENTIAL REAL PROPERTY THAT HAS BEEN THE INDIVIDUAL’S PRINCIPAL RESIDENCE; AND

2. THE RESIDENCE WILL BE OCCUPIED BY THE GRANTEE AS THE GRANTEE’S PRINCIPAL RESIDENCE; OR

(II) 1. THE GRANTEE IS A CO-MAKER OR GUARANTOR OF A PURCHASE MONEY MORTGAGE OR PURCHASE MONEY DEED OF TRUST AS DEFINED IN § 12-108(I) OF THIS ARTICLE FOR THE PROPERTY; AND

2. THE GRANTEE WILL NOT OCCUPY THE RESIDENCE AS THE CO-MAKER’S OR GUARANTOR’S PRINCIPAL RESIDENCE.

(5) A STATEMENT UNDER PARAGRAPH (4) OF THIS SUBSECTION BY AN AGENT OF A GRANTEE SHALL STATE THAT THE STATEMENT:

(I) IS BASED ON A DILIGENT INQUIRY MADE BY THE AGENT WITH RESPECT TO THE FACTS SET FORTH IN THE STATEMENT; AND

(II) IS TRUE TO THE BEST OF THE KNOWLEDGE, INFORMATION, AND BELIEF OF THE AGENT.

13-604.

EXCEPT AS PROVIDED IN § 13-605(A)(9), (10), (15), AND (16) OF THIS SUBTITLE, THE COMMUNITY DEVELOPMENT TRANSFER FEE APPLIES TO CONVEYANCES THAT TRANSFER THE REAL PROPERTY OF A CORPORATION TO ITS STOCKHOLDERS, THE REAL PROPERTY OF A LIMITED LIABILITY COMPANY TO ITS MEMBERS, OR THE REAL PROPERTY OF A PARTNERSHIP TO ITS PARTNERS.

13-605.

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

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

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

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

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

(5) § 12-108(F) OF THIS ARTICLE (PREVIOUSLY RECORDED INSTRUMENT);

(6) § 12-108(L) OF THIS ARTICLE (JUDGMENTS);

(7) § 12-108(N) OF THIS ARTICLE (ORDER OF SATISFACTION);

(8) § 12-108(O) OF THIS ARTICLE (PARTICIPATION AGREEMENT);

1 **(9) § 12-108(P) OF THIS ARTICLE (TRANSFER OF PROPERTY**
2 **BETWEEN RELATED BUSINESS ENTITIES);**

3 **(10) § 12-108(Q) OF THIS ARTICLE (CORPORATE OR PARTNERSHIP**
4 **CONVEYANCE);**

5 **(11) § 12-108(R) OF THIS ARTICLE (LAND INSTALLMENT CONTRACTS);**

6 **(12) § 12-108(S) OF THIS ARTICLE (OPTIONS TO PURCHASE REAL**
7 **PROPERTY);**

8 **(13) § 12-108(T) OF THIS ARTICLE (DEED FOR PRIOR CONTRACT OF**
9 **SALE);**

10 **(14) § 12-108(U) OF THIS ARTICLE (LEASES OF 7 YEARS OR LESS);**

11 **(15) § 12-108(V) OF THIS ARTICLE (MERGERS);**

12 **(16) § 12-108(W) OF THIS ARTICLE (CONSOLIDATIONS);**

13 **(17) § 12-108(X) OF THIS ARTICLE (COOPERATIVE HOUSING**
14 **CORPORATIONS);**

15 **(18) § 12-108(Y) OR (BB) OF THIS ARTICLE (TRANSFER FROM**
16 **PREDECESSOR ENTITY OR REAL ESTATE ENTERPRISE TO LIMITED LIABILITY**
17 **COMPANY);**

18 **(19) § 12-108(Z) OF THIS ARTICLE (TRANSFER FROM A CLASS I**
19 **RAILROAD CARRIER TO ITS WHOLLY OWNED LIMITED LIABILITY COMPANY);**

20 **(20) § 12-108(AA) OF THIS ARTICLE (TRANSFERS INVOLVING CERTAIN**
21 **MARYLAND STADIUM AUTHORITY AFFILIATES);**

22 **(21) § 12-108(CC) OF THIS ARTICLE (CERTAIN TRANSFERS TO LAND**
23 **TRUSTS);**

24 **(22) § 12-108(DD) OF THIS ARTICLE (TRANSFER FROM AN ESTATE);**

25 **(23) § 12-108(EF) OF THIS ARTICLE (TRANSFER TO A TRUST AND**
26 **TRANSFER FROM A TRUST UNDER SPECIFIED CIRCUMSTANCES); OR**

27 **(24) § 12-108(FG) OF THIS ARTICLE (TRANSFER FROM A CERTIFIED**
28 **COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION).**

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

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

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

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

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

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

13-606.

(A) THE COMMUNITY DEVELOPMENT TRANSFER FEE ON AN INSTRUMENT OF WRITING THAT IS SUBJECT TO THIS SUBTITLE SHALL BE PAID TO THE CLERK OF THE CIRCUIT COURT WHERE THE INSTRUMENT OF WRITING IS RECORDED OR TO THE DEPARTMENT.

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

(1) THAT THE COMMUNITY DEVELOPMENT TRANSFER FEE HAS BEEN PAID; AND

(2) THE AMOUNT OF THE COMMUNITY DEVELOPMENT TRANSFER FEE PAID.

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

13-607.

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

(2) THE DEPARTMENT SHALL DEDUCT THE COST OF ADMINISTERING THE COMMUNITY DEVELOPMENT TRANSFER FEE FROM THE AMOUNTS COLLECTED UNDER THIS TITLE AND CREDIT THOSE REVENUES TO THE FUND ESTABLISHED UNDER § 1-203.3 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

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

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

(B) FOR EACH FISCAL YEAR, UP TO 3% OF THE REVENUES IN THE COMMUNITY DEVELOPMENT FUND MAY BE APPROPRIATED IN THE STATE BUDGET FOR SALARIES AND RELATED EXPENSES IN THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.