

D40W11
Department of Planning – PAYGO

Pay-As-You-Go Capital Budget Summary

(\$ in Millions)

	<i>FY 2008 Approp.</i>	<i>FY 2009 Approp.</i>	<i>FY 2010 Allowance</i>	<i>Percent Change</i>	<i>DLS Recommd.</i>
Maryland Historical Trust Revolving Loan Fund	\$0.100	\$0.200	\$0.300	50.0%	\$0.300
Maryland Heritage Structure Rehabilitation Tax Credit Program*	14.700	10.000	14.700	47.0%	10.000
Total	\$14.800	\$10.200	\$15.000	47.1%	\$10.300

Fund Source					
General	\$14.700	\$10.000	\$14.700	47.0%	\$10.000
Special	0.100	0.200	0.150	-25.0%	0.150
PAYGO Subtotal	\$14.800	\$10.200	\$14.850	45.6%	\$10.150
GO Bonds	0	0	0.150	100%	0.150
Total	\$14.800	\$10.200	\$15.000	47.1%	\$10.300

*The fiscal 2009 appropriation for the Maryland Heritage Structure Rehabilitation Tax Credit Program has been reduced to reflect the voluntary reversion of \$4,700,000. The fiscal 2010 allowance for the program is deleted, contingent upon enactment of legislation authorizing the program as a nonbudgeted tax credit.

Summary of Issues

Proposed Reauthorization of the Maryland Heritage Structure Rehabilitation Tax Credit: The Maryland Heritage Structure Rehabilitation Tax Credit (HSRTC) is scheduled to sunset at the end of fiscal 2010. The Administration has proposed legislation in the 2009 session to extend the tax credit and to change its provisions. **The Department of Legislative Services (DLS) recommends striking the language in the budget bill that deletes the appropriation contingent upon enactment of legislation reauthorizing the program as a nonbudgeted tax credit. In addition, DLS recommends that the appropriation be reduced by \$4.7 million to level fund the program with the fiscal 2009 working appropriation of \$10.0 million.**

For further information contact: Andrew D. Gray

Phone: (410) 946-5530

Summary of Recommended Actions

Maryland Historical Trust Revolving Loan Fund

1. Concur with Governor's allowance.

Maryland Heritage Structure Rehabilitation Tax Credit Program

1. Strike the following language:

~~; provided that this appropriation shall be reduced by \$14,700,000 contingent upon enactment of legislation reauthorizing the program as a non-budgeted tax credit.~~

Explanation: Technical amendment to reflect budget action.

	<u>Amount Reduction</u>	
2. Reduce funding for the Maryland Heritage Structure Rehabilitation Tax Credit. This recommendation would level fund the budgeted tax credit program at the fiscal 2009 level.	\$ 4,700,000	GF
Total General Fund Reductions	\$ 4,700,000	

Overview

The Maryland Department of Planning assumed responsibility for two capital programs as a result of Chapter 440 of 2005: the Maryland Historical Trust Revolving Loan Fund (MHT) and the Maryland Heritage Structure Rehabilitation Tax Credit Program. These two capital programs seek to promote the acquisition and rehabilitation of historic properties by providing low interest loan funds and tax credits.

The Maryland Heritage Structure Rehabilitation Tax Credit Program’s fiscal 2010 allowance includes \$14.7 million. However, the 2009 budget bill includes language that would eliminate the \$14.7 million contingent upon legislation reauthorizing the program as a nonbudgeted tax credit (Senate Bill 258/House Bill 309).

The fiscal 2010 allowance includes \$0.3 million for the MHT Revolving Loan Fund, which is comprised of \$0.15 million in special funds and \$0.15 million in general obligation bonds.

Maryland Historical Trust Revolving Loan Fund (Statewide)

PAYGO SF	\$150,000	Recommendation:	Approve
GO Bonds	\$150,000		

Program Description: The Maryland Historical Trust (MHT) Revolving Loan Fund provides loans to nonprofit organizations, local jurisdictions, business entities, and private individuals for the purpose of acquiring, rehabilitating, or refinancing all categories of real property listed in or eligible for listing in the Maryland Register of Historic Properties. Short-term financing (up to two years) also may be available for predevelopment work required or recommended by MHT that is to be undertaken in advance of a construction project being funded with federal or State monies. The program also may be used to fund the cost of rehabilitation of historic property owned by MHT and for the acquisition of historic property by MHT. In return for loans, most recipients must convey to MHT a perpetual historic preservation easement on the property.

Prior Authorization and Capital Improvement Program

Authorization Request

(\$ in Millions)

Fund Source	2008 <i>Approp.</i>	2009 <i>Approp.</i>	2010 <i>Allowance</i>	2011 <i>Estimate</i>	2012 <i>Estimate</i>	2013 <i>Estimate</i>	2014 <i>Estimate</i>
PAYGO GF	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000
PAYGO SF	0.200	0.200	0.150	0.100	0.100	0.150	0.150
GO Bonds	0.000	0.000	0.150	0.200	0.200	0.150	0.150
Total	\$0.200	\$0.200	\$0.300	\$0.300	\$0.300	\$0.300	\$0.300

The fiscal 2010 allowance provides \$150,000 in special funds and \$150,000 in general obligation bonds for this program. This represents a \$100,000 increase from the fiscal 2009 working appropriation due to the October 15, 2008 Board of Public Works reduction of \$250,000 in general funds from the \$450,000 fiscal 2009 working appropriation as part of cost containment actions.

The 2009 *Capital Improvement Program* (CIP) alters this program’s proposed funding sources and the total funding amount relative to what was included in the 2008 CIP. Overall, the new CIP reflects the use of GO bonds in place of general funds and reduces planned annual levels of funding from \$450,000 to \$300,000 over the five-year planning period.

D40W11 – Department of Planning – PAYGO

The MHT Revolving Loan Fund had two cancellations in fiscal 2008 totaling \$163,000. The cancellations were for loans encumbered in previous years as follows:

- fiscal 2000 – \$60,000 for the Brunswick Railroad Museum; and
- fiscal 2005 – \$103,000 for the Paw Paw Cove Paleo-Indian Site.

The cancelled funds then were re-encumbered in fiscal 2008 as follows:

- Brunswick Railroad Museum – funds of \$60,000 were cancelled then re-encumbered with additional fiscal 2008 funds for a total project amount of \$160,000; and
- Paw Paw Cove Paleo-Indian Site – easement funds of \$103,000 were cancelled then re-encumbered for a new project – rehabilitation of State-owned structures at Jefferson Patterson Park and Museum.

The fiscal 2009 project list includes funding for two projects that will use \$250,000 in unencumbered bond funding from fiscal 2004. The Maryland Department of Planning (MDP) explains that this bond funding has not been spent because the requirement to appear before the Board of Public Works has discouraged applicants. The total loan amount for the two projects will be \$300,000.

The fiscal 2010 project list includes a tentative Baltimore City project – the Mount. MDP indicates that the acquisition project may qualify for a loan up to \$350,000, which would exceed the fiscal 2010 allowance. However, a sufficient fund balance is available to allow the project to be funded if needed.

Fund Data

Fund History

	<i>FY 2008 Actual</i>	<i>FY 2009 Estimated</i>	<i>FY 2010 Estimated</i>
Beginning Balance	\$555,109	\$511,323	\$109,205
Revenue			
General Funds	\$0	\$0	\$0
GO Bonds	0	0	150,000
Loan Repayments and Interest	84,694	102,856	135,238
Cancelled Encumbrances	163,000	12,526	0
Total Revenue	\$247,694	\$115,382	\$285,238
Total Available	\$802,803	\$626,705	\$394,443
Encumbrances			
Loans	\$261,480	\$450,000	\$300,000
Operating Expenses	30,000	67,500	60,000
Total Encumbrances	\$291,480	\$517,500	\$360,000
Ending Balance	\$511,323	\$109,205	\$34,443

Note: The fiscal 2008 beginning balance includes \$250,000 in general obligation bonds from the 2004 Maryland Consolidated Capital Bond Loan.

Program Analysis and Performance

One of the primary goals for this program is the protection of historic properties eligible for listing on the Maryland Register of Historic Properties through assisting in the acquisition and rehabilitation of those properties. As shown in **Exhibit 1**, demand for loans from this program has varied in recent years, likely due in part to the availability of low commercial loan rates and the reluctance of property owners to grant permanent easements to MHT. However, in fiscal 2009 it is estimated that this program will have the most activity – three projects – since fiscal 2004.

Exhibit 1
Total Number of Historic Properties Preserved
Fiscal 2003-2010

	<u>2003</u> <u>Actual</u>	<u>2004</u> <u>Actual</u>	<u>2005</u> <u>Actual</u>	<u>2006</u> <u>Actual</u>	<u>2007</u> <u>Actual</u>	<u>2008</u> <u>Actual</u>	<u>2009</u> <u>Est.</u>	<u>2010</u> <u>Est.</u>
# of Historic Properties Acquired	0	1	2	0	0	0	0	0
# of Historic Properties Rehabilitated	0	2	1	0	1	2	2	2
# of Historic Properties Refinanced	0	0	0	0	1	0	1	0
Total	0	3	3	0	2	2	3	2

Source: Maryland Department of Planning

Currently, this program appeals to nonprofits and local governments who are not reluctant to grant historic preservation easements as a condition of the loan. Because it is run on a first-come, first-served basis, the loan program also provides for more immediate funding relative to the Maryland Historical Trust Capital Grant Fund grants, which are awarded once a year on an annual cycle.

If commercial interest rates rise, demand for the revolving loan program may increase. MDP's loans to business entities and individuals bear interest at a fixed annual rate, 0.125% higher than the most recently sold State general obligation bonds. Loans to nonprofit organizations and political subdivisions may bear interest at a rate not to exceed that for business entities or individuals. Even at this low loan rate, the loan fund is not well situated to compete with commercial banks because of the permanent easement requirement. An additional challenge is that the loan program stipulates that loans to individuals and business entities may be made only when private financing cannot otherwise be obtained. However, the current liquidity concerns in the lending market may yet increase interest in the revolving loan fund.

MDP states that it has worked to market the revolving loan fund more aggressively and has granted an exception for the perpetual easement in order to improve loan performance. MDP has marketed the revolving loan fund statewide – both with the tax credit program and through Preservation Maryland. MDP lifted the perpetual easement requirement on properties deemed to have lost their interior historical integrity under the condition that a property is situated in a locally designated historic district that still protects the exterior of the property.

Recommended Actions

1. Concur with Governor's allowance.

Fiscal 2010 Proposed Projects

<u>Project</u>	<u>Location</u>	<u>Amount</u>
The Mount	Baltimore City	Up to \$350,000; currently under review in fiscal 2009

Fiscal 2009 Authorized Projects Status

<u>Project</u>	<u>Location</u>	<u>Amount</u>	<u>Status</u>
Cecil Hotel	Cecil County	\$150,000	To MHT Board for approval on January 29, 2009
Leeke Academy	Baltimore City	\$150,000	To MHT Board for approval on January 29, 2009
The Mount	Baltimore City	Up to \$350,000	Under review; may be partially funded in fiscal 2009/remainder in fiscal 2010

Maryland Heritage Structure Rehabilitation Tax Credit Program (Statewide)

PAYGO GF	\$14,700,000	Recommendation:	Strike contingent language and reduce \$4,700,000
-----------------	---------------------	------------------------	--

Program Description: The Maryland Heritage Structure Rehabilitation Tax Credit Program (HSRTC) is administered by the Maryland Historical Trust (MHT) and provides tax credits equal to 20% of the qualified capital costs expended in the rehabilitation of a certified heritage structure. Certified structures must meet one of the following requirements: (1) is listed on the National Register of Historic Places; (2) is designated as a historic property under local law and determined by MHT to be eligible for listing on the National Register of Historic Places; (3) is located in a historic district listed in the National Register of Historic Places or in a local historic district that MHT determines is eligible for listing on the National Register of Historic Places and certified by MHT as contributing to the significance of the district; or (4) is located in a certified heritage area and is certified by the Maryland Heritage Areas Authority as contributing to the significance of the certified heritage area. The credit is available for owner-occupied residential property as well as commercial property; however, there is no aggregate cap or reserve fund for the residential tax credits. The residential tax credit program operates as a traditional tax credit program. The maximum amount of credits earned for an individual owner-occupied rehabilitation project may not exceed \$50,000.

Chapter 76 of 2004 shifted HSRTC from a traditional tax credit program to a tax credit program that is subject to an annual appropriation, with an aggregate limit for the awarding of commercial credits.

The HSRTC program was scheduled to sunset on June 30, 2008, until the enactment of Chapters 566 and 567 of 2007, which among other changes extended the termination date through fiscal 2010, and altered the maximum amount of total initial credit certifications issued in a fiscal year that may be allocated in one county or Baltimore City from 50 to 75%. Chapters 566 and 567 of 2007 did not specify a funding level for the program.

Senate Bill 258/House Bill 309 has been introduced in the 2009 legislative session to re-authorize HSRTC and to make substantive changes to the program, largely converting it back to an off-budget tax credit similar to the way it was structured before the enactment of Chapter 76 of 2004. However, Senate Bill 258/House Bill 309 would cap the overall amount of tax credits issued at \$100.0 million for five years between fiscal 2010 and 2014.

Prior Authorization and Capital Improvement Program

Authorization Request

(\$ in Millions)

Fund Source	2008 Approp.	2009 Approp.	2010 Allowance	2011 Estimate	2012 Estimate	2013 Estimate	2014 Estimate
PAYGO SF	\$14.700	\$10.000	\$14.700	\$0.000	\$0.000	\$0.000	\$0.000
Total	\$14.700	\$10.000	\$14.700	\$0.000	\$0.000	\$0.000	\$0.000

The Governor’s fiscal 2009 budget plan includes a \$4.7 million reversion from the fiscal 2009 appropriation that lowers the appropriation to \$10.0 million. This reduction was intended to be part of the Governor’s cost containment actions brought to the Board of Public Works in October 2008; however, it was later determined that the board did not have the authority to reduce this appropriation.

Due to the \$10.0 million fiscal 2009 restriction placed on the program, the program approved 15 commercial tax credit projects totaling \$10.0 million through January 2009. The Maryland Department of Planning (MDP) indicates that it is unlikely to receive any fiscal 2010 applications until after the status of the program is resolved.

D40W11 – Department of Planning – PAYGO

Fund Data

Fund History

	<i>FY 2008 Actual</i>	<i>FY 2009 Estimated</i>	<i>FY 2010 Estimated</i>
Beginning Balance	\$10,039,685	\$671,490	\$285,000
Revenue			
General Funds	\$14,700,000	\$10,000,000	\$14,700,000
1% Fee Special Funds	240,680	103,864	147,000
Total Revenue	\$14,940,680	\$10,103,864	\$14,847,000
Total Available	\$24,980,365	\$10,775,354	\$15,132,000
Encumbrances			
Credits Approved	\$24,068,195	\$10,000,000	\$14,700,000
Credits to Be Awarded	0	386,490	
Operating Expenses	240,680	103,864	147,000
Total Encumbrances	\$24,308,875	\$10,490,354	\$14,847,000
Ending Balance	\$671,490	\$285,000	\$285,000

Information as of 1/20/2009.

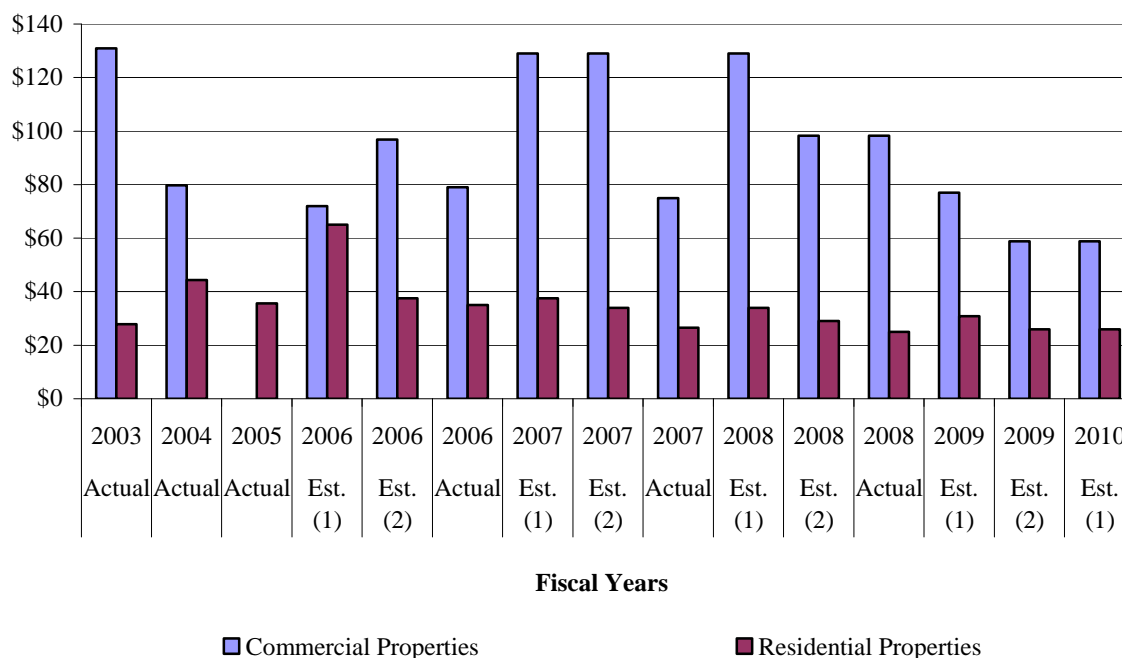
Note: The fiscal 2009 estimated general funds revenue of \$10.0 million reflects the voluntary reversion of \$4.7 million from the original appropriation of \$14.7 million.

Program Analysis and Performance

As shown in **Exhibit 2**, MDP’s fiscal 2008 actual for private investment leveraged was consistent with its estimate for commercial properties and lower than was estimated for residential properties. MDP attributes the decrease between the fiscal 2008 estimate and the fiscal 2008 actual for the amount of private investment leveraged by residential properties to the slowdown in the residential real estate market. The decrease in private investment leveraged by commercial properties between the fiscal 2008 actual and fiscal 2009 estimate is due to the decrease in the amount of tax credits from fiscal 2008 (\$24.7 million: \$14.7 million in appropriation and approximately \$10.0 million in fund balance) to fiscal 2009 (\$10.0 million). The reduction in funding, in turn, reduced the amount of private investment that could be leveraged.

MDP states that it has not seen any changes in the mix of tax credit projects that necessarily are related to Chapters 566 and 567 of 2007. However, in fiscal 2009, MDP awarded almost exactly 25% of the tax credits to jurisdictions outside of Baltimore City, which MDP interprets as validation that the cap of 75% that any one jurisdiction may receive is sufficient.

Exhibit 2
Private Investment Leveraged by the State Rehabilitation Tax Credit
(\$ in Millions)



Note: No commercial tax credits were authorized in fiscal 2005.

Source: Governor’s Budget Books, Fiscal 2006-2010

Issues

1. Proposed Reauthorization of the Maryland Heritage Structure Rehabilitation Tax Credit

The Maryland Heritage Structure Rehabilitation Tax Credit is scheduled to sunset at the end of fiscal 2010, per Chapters 566 and 567 of 2007. Senate Bill 258/House Bill 309 have been introduced in the 2009 legislative session to re-authorize HSRTC and to make substantive changes to the program. The major change is to convert HSRTC back to a nonbudgeted tax credit similar to the way it was structured before 2004. However, unlike a true tax credit, Senate Bill 258/House Bill 309 as introduced would cap the overall amount of tax credits issued at \$100 million for five years between fiscal 2010 and 2014.

The proposed revisions to the Maryland Heritage Structure Rehabilitation Tax Credit do not specify how much total tax credit value can be redeemed in any one year within the five-year period. Therefore, the State could be exposed to a large revenue loss in a particular year unlike with the current annually appropriated HSRTC. For instance, in tax years 2001 and 2002, over \$50 million in credits were claimed in each year under the off-budget tax credit program. **Exhibit 3** provides a comparison of the existing and proposed HSRTC.

Exhibit 3 Comparison of Existing and Proposed Maryland Heritage Structure Rehabilitation Tax Credit

<u>Parameter</u>	<u>Existing</u>	<u>Proposed</u>
Funding	Unspecified	Specified: \$100 million of total credits between fiscal 2010 and 2014
Budgetary certainty	Annual appropriation; high certainty	No annual appropriation; \$100 million cap over five years; low certainty in individual years
Application process	Competitive	First-come, first-serve
Refundability	Yes	Limited, but allowed to be transferred between partners, members or shareholders
Certification process	July 2008 OLA audit recommended that paid invoices or cancelled checks for expenditures be submitted for certification	Individual or business entity would state under oath qualified rehabilitation expenditures for certification

OLA: Office of Legislative Audits

Source: Department of Legislative Services

D40W11 – Department of Planning – PAYGO

DLS recommends that the program continue as a budgeted tax credit. This allows the General Assembly to set the annual credit amount in context of current fiscal conditions and relative to other budget priorities. While the proposed legislation would cap the amount of claimed credits at \$100 million over the next five fiscal years, this does not avoid unpredictable fluctuations in revenues as the entire amount could conceivably be claimed in any one year. This would undoubtedly put pressure on the General Assembly to increase the cap to accommodate additional credits. **The Department of Legislative Service (DLS) recommends striking the language in the budget bill that deletes the appropriation contingent upon enactment of legislation reauthorizing the program as a nonbudgeted tax credit. In addition, DLS recommends that the appropriation be reduced by \$4.7 million to level fund the program with the fiscal 2009 working appropriation of \$10.0 million.**

Recommended Actions

	<u>Funds</u>
1. Strike contingent language on the appropriation.	
2. Reduce the appropriation \$4,700,000.	\$4,700,000

Fiscal 2010 Proposed Projects

MDP has not received any commercial tax credit applications for fiscal 2010 due to the uncertainty surrounding the funding for the program and the impacts of the potential changes proposed in the re-authorizing legislation introduced as Senate Bill 258/House Bill 309 in the 2009 legislative session.

Fiscal 2009 Authorized Projects Status

As of January 2009, MDP had approved 15 commercial tax credit projects totaling \$10 million (see the following list) and 62 residential credits representing \$795,304. However, MDP estimates 300 residential projects in total for fiscal 2009 representing \$5,975,077.

<u>Recipient (Company or Individual)</u>	<u>County</u>	<u>Project Name</u>	<u>Credit Amount</u>
Sean McCarthy, Accent Development Corporation	Baltimore City	Mayfair Theatre	\$2,850,000
Sean McCarthy, Accent Development Corporation	Baltimore City	Academy Hotel	850,000
Kennard Alumni Association, Inc., Clayton Washington – President	Queen Anne’s	The Kennard School	44,888
Vincent Lancisi, Everyman Theatre, Inc.	Baltimore City	Town Theatre	3,000,000
Pravin Pannuri, P & D Realty, LLC	Baltimore City	400 North Howard Street	250,000
Mary Jane Herron, Healthcare for the Homeless	Baltimore City	111 Park Avenue	400,000
Raj Sehgal, 2106 McCulloh Street, LLC	Baltimore City	2106 McCulloh Street	95,000
Matt Keller, KONA LLC	Baltimore City	1002 Edmondson Avenue	33,000
Pat Keegin	Frederick	Fisher Building	70,000
Ash Azadi, ARES Investment Group, LLC	Washington	Hamilton Hotel	767,367
St. Michaels Westside Village, LLC	Talbot	109 Conner Street	95,000
Paul Green	Allegany	Klots Throwing Company Mill	1,101,809
Martin P. Azola, Azola Family Holdings LLC	Baltimore County	Baltimore County Jail	309,000
Timothy Gordon	Washington	S.M. Bloom Company	110,000
Board of Trustees, Grace United Methodist Church	Montgomery	Gideon Briggs House	23,936
Total			\$10,000,000*

* Of this amount, \$7,478,000 has been approved for projects in Baltimore City