

# HOUSE BILL 1065

I1, C8

11r2615

---

By: **Delegate Holmes**

Introduced and read first time: February 5, 2021

Assigned to: Appropriations

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Bond Authority – Maryland State Ceiling and Housing Bond Allocations**

3 FOR the purpose of authorizing a certain issuer receiving a certain housing bond allocation  
4 to transfer all or any portion of the housing bond allocation to another issuer for the  
5 issuance of housing bonds; requiring that the unused balance of the initial housing  
6 bond allocation to a housing authority and certain other allocations be reallocated in  
7 a certain manner; altering the reallocation of certain bond allocations; requiring each  
8 housing authority in the State, in consultation with the housing authority's bond  
9 counsel, to develop a certain policy and to provide for the content of the policy;  
10 requiring a housing authority to retain a certain housing bond allocation under  
11 certain circumstances; requiring the Secretary of Commerce to create an electronic  
12 database relating to the Maryland State ceiling; providing for the contents of the  
13 electronic database; requiring the Secretary, in consultation with local issuers, to  
14 develop a certain web-based application for the database; defining a certain term;  
15 making conforming and stylistic changes; and generally relating to the Maryland  
16 State ceiling and housing bond allocations.

17 BY repealing and reenacting, with amendments,  
18 Article – Financial Institutions  
19 Section 13–801, 13–803, and 13–805  
20 Annotated Code of Maryland  
21 (2020 Replacement Volume and 2020 Supplement)

22 BY adding to  
23 Article – Financial Institutions  
24 Section 13–808  
25 Annotated Code of Maryland  
26 (2020 Replacement Volume and 2020 Supplement)

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

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



**Article – Financial Institutions**

13–801.

(a) In this subtitle the following words have the meanings indicated, unless otherwise required by the context.

(b) “Bonds” means any bonds, notes, or other obligations of an issuer, the interest on which is exempt from federal taxation under the Code and the tax-exempt status of which is subject to the volume limitation established under § 146 of the Code.

(c) “Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

(d) “Community Development Administration” means that division of the Department of Housing and Community Development established under Title 4, Subtitle 2 of the Housing and Community Development Article.

(e) “County” means any county in the State of Maryland and the City of Baltimore.

**(F) “HOUSING AUTHORITY” MEANS A PUBLIC CORPORATION CREATED AS A HOUSING AUTHORITY UNDER DIVISION II OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.**

**[(f)] (G)** “Housing bonds” means any “qualified mortgage bonds” and bonds for any “qualified residential rental project” as those terms are defined in the Code.

**[(g)] (H)** “Issuer” means any State issuer or local issuer.

**[(h)] (I)** “Local issuer” means any county, municipality, or industrial development authority established under Title 12, Subtitle 1 of the Economic Development Article, or other agency with authority to issue bonds, other than a State issuer.

**[(i)] (J)** “Maryland State ceiling” means the volume limitation established pursuant to § 146 of the Code on the aggregate dollar amount of bonds that may be issued by State and local issuers in any calendar year.

**[(j)] (K)** “Minority business enterprise” means the minority business enterprises as defined in § 14–301 of the State Finance and Procurement Article.

**[(k)] (L)** “Municipality” means any municipal corporation subject to the provisions of Article XI–E of the Maryland Constitution.

**[(l)] (M)** “Secretary” means the Secretary of Commerce.

1            ~~[(m)]~~ **(N)**     “Secretary’s reserve” means the allocation of the Maryland State ceiling  
2 initially made under § 13–802(4) of this subtitle and augmented under § 13–805 of this  
3 subtitle.

4            ~~[(n)]~~ **(O)**     “State issuer” means the State of Maryland or any agency of the State  
5 of Maryland with authority to issue bonds.  
6 13–803.

7            (a)     Except as specifically provided in this section, an issuer receiving an allocation  
8 under this section may not transfer all or any portion of its allocation to any other issuer.

9            (b)     (1)     Any county may, at any time in its sole discretion, reallocate all or any  
10 portion of its allocation to any local issuer (including any agency of the county) within its  
11 jurisdiction.

12            (2)     Any county which has reallocated all or any portion of its allocation to  
13 a local issuer may reduce or further reallocate such reallocation after 30 days’ prior written  
14 notice to, or after receiving the consent of, such local issuer, unless such local issuer has  
15 used such reallocation for the issuance of bonds prior to the effective date of such reduction  
16 or further reallocation.

17            (c)     (1)     **(I)**     Notwithstanding any applicable law, charter, ordinance, or other  
18 corporate document, any issuer receiving an allocation may transfer all or any portion of  
19 its allocation to a State issuer for the issuance of bonds.

20            ~~[(2)]~~ **(II)**     With the approval of the Secretary, any State issuer may transfer  
21 to any other issuer all or any portion of any allocation received by or transferred to it for  
22 any purpose.

23            **(III)**     However, the Secretary may place any conditions on any such  
24 transfer as the Secretary deems appropriate.

25            ~~[(3)]~~ **(2)**     **(I)**     **NOTWITHSTANDING ANY APPLICABLE LAW,**  
26 **CHARTER, ORDINANCE, OR OTHER CORPORATE DOCUMENT, ANY ISSUER RECEIVING**  
27 **A HOUSING BOND ALLOCATION MAY TRANSFER ALL OR ANY PORTION OF THE**  
28 **HOUSING BOND ALLOCATION TO ANY OTHER ISSUER FOR THE ISSUANCE OF**  
29 **HOUSING BONDS.**

30            **(II)**     Any housing bond allocation transferred to the Community  
31 Development Administration by a local issuer may be transferred to any other issuer only  
32 with the approval of the Secretary and the local issuer that transferred the allocation to  
33 the Community Development Administration.

34 13–805.

1 (a) All allocations of the Maryland State ceiling previously made during any  
2 calendar year shall automatically revert to the Secretary's reserve on October 1 of such  
3 calendar year except with respect to allocations for which:

4 (1) Bonds have been issued;

5 (2) With the approval of the issuer, a preliminary official statement has  
6 been distributed by the underwriters in connection with the public offering of any bonds;  
7 or

8 (3) The issuer has transferred its allocation to a State issuer under §  
9 13-803(c) of this subtitle.

10 (b) All allocations of the Maryland State ceiling for bonds to be issued in a public  
11 offering which did not revert to the Secretary's reserve on October 1 because of subsection  
12 (a)(2) of this section shall revert to the Secretary's reserve on November 15 of the same year  
13 if the bonds are not issued on or before November 14 of such year.

14 (c) (1) The unused balance of the initial allocation to the Community  
15 Development Administration under § 13-802(3) of this subtitle shall be reallocated from  
16 the Secretary's reserve to the Community Development Administration.

17 (2) **THE UNUSED BALANCE OF THE INITIAL HOUSING BOND**  
18 **ALLOCATION TO A HOUSING AUTHORITY SHALL BE REALLOCATED FROM THE**  
19 **SECRETARY'S RESERVE TO THE HOUSING AUTHORITY.**

20 (d) (1) (I) All other allocations that have reverted to the Secretary's reserve  
21 shall be reallocated as **FOLLOWS:**

22 **1. 33% SHALL BE REALLOCATED EQUALLY TO EACH**  
23 **HOUSING AUTHORITY TO ISSUE HOUSING BONDS; AND**

24 **2. THE REMAINING AMOUNT SHALL BE REALLOCATED**  
25 **AS provided in § 13-802(4) of this subtitle.**

26 (II) The Secretary may also give priority in processing and granting  
27 reservations of allocation from the Secretary's reserve to the order in which requests for  
28 reallocation are received.

29 (2) (I) No reallocation of the Secretary's reserve as provided in §  
30 13-802(4) of this subtitle may be made until notice as to the availability and amount of  
31 funds has been given to each county executive of a charter county, the Mayor and City  
32 Council of Baltimore, the Chairman of the County Council of Wicomico County, and, for all  
33 other counties, the president or the chairman of the county commissioners.

1                   **(II)** The failure of any such notice being given as required by this  
2 paragraph may not adversely affect the validity of any allocation made by the Secretary  
3 under this subtitle or of any bonds issued pursuant to this subtitle.

4                   (3) Each request for reallocation shall be accompanied by such information  
5 as the Secretary may require.

6                   (4) Each reservation of allocation made by the Secretary on or after October  
7 1 of any year shall expire on the date specified in the reservation.

8                   (e) (1) An issuer **OTHER THAN A HOUSING AUTHORITY DESCRIBED IN**  
9 **SUBSECTION (F) OF THIS SECTION** which has received an allocation from the Maryland  
10 State ceiling prior to October 1 of any year may not carry forward such allocation to any  
11 later year.

12                   (2) All requests for a carry-forward allocation shall be submitted to the  
13 Secretary with such justifications and other information as the Secretary may require.

14                   (3) The Secretary may provide for carry-forward allocations to the extent  
15 permitted by the Code.

16                   **(F) (1) (I) EACH HOUSING AUTHORITY, IN CONSULTATION WITH THE**  
17 **HOUSING AUTHORITY'S BOND COUNSEL, SHALL DEVELOP A POLICY TO ENSURE**  
18 **MAXIMUM COMPLIANCE WITH FEDERAL REGULATIONS AND THE CODE.**

19                   **(II) THE POLICY SHALL ADDRESS:**

20                                 1.     **CRITERIA FOR BOND ALLOCATIONS; AND**

21                                 2.     **PROCEDURES FOR CARRY-FORWARD ALLOCATIONS.**

22                   **(III) EACH HOUSING AUTHORITY SHALL SUBMIT THE POLICY TO**  
23 **THE SECRETARY.**

24                   (2) (I) A HOUSING AUTHORITY SHALL RETAIN A HOUSING BOND  
25 ALLOCATION IF:

26                                 1.     **THE HOUSING BOND ALLOCATION HAS NOT BEEN**  
27 **SUBJECT TO A BOND ISSUANCE BY DECEMBER 1; AND**

28                                 2.     **THE HOUSING AUTHORITY SUBMITTED A POLICY IN**  
29 **ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.**

30 **13-808.**

1           **(A) THE SECRETARY SHALL CREATE AN ELECTRONIC DATABASE THAT**  
2 **CONTAINS A COMPREHENSIVE SET OF DATA, STATISTICS, AND DISCLOSURES WITH**  
3 **RESPECT TO THE MARYLAND STATE CEILING.**

4           **(B) THE DATABASE ESTABLISHED IN SUBSECTION (A) OF THIS SECTION**  
5 **SHALL:**

6                   **(1) BE FREELY AND CONVENIENTLY ACCESSED BY EACH ISSUER IN**  
7 **THE STATE;**

8                   **(2) BE UPDATED IN REAL TIME; AND**

9                   **(3) INCLUDE THE FOLLOWING INFORMATION:**

10                           **(I) THE AMOUNT OF THE MARYLAND STATE CEILING THAT IS**  
11 **ALLOCATED TO EACH ISSUER IN THE STATE ON JANUARY 1 EACH YEAR;**

12                           **(II) THE AMOUNT OF THE MARYLAND STATE CEILING THAT WAS**  
13 **CARRIED FORWARD FROM THE IMMEDIATELY PRECEDING CALENDAR YEAR AND THE**  
14 **ISSUER THAT REQUESTED THE CARRY-FORWARD;**

15                           **(III) ALL ALLOCATIONS OF THE MARYLAND STATE CEILING**  
16 **THAT WERE TRANSFERRED FROM ONE ISSUER TO ANOTHER ISSUER DURING THE**  
17 **IMMEDIATELY PRECEDING CALENDAR YEAR;**

18                           **(IV) ALL CARRY-FORWARD REQUESTS OF AN ISSUER THAT ARE**  
19 **EVIDENCED BY AN EXECUTED IRS FORM 8328 SUBMITTED TO THE INTERNAL**  
20 **REVENUE SERVICE; AND**

21                           **(V) THE TOTAL AMOUNT IN THE SECRETARY'S RESERVE.**

22           **(C) THE SECRETARY, IN CONSULTATION WITH LOCAL ISSUERS, SHALL**  
23 **DEVELOP A WEB-BASED APPLICATION FOR THE DATABASE ESTABLISHED UNDER**  
24 **THIS SECTION TO ENSURE FREE, CONVENIENT, AND TIMELY METHODS FOR AN OPEN**  
25 **EXCHANGE OF INFORMATION REGARDING THE MARYLAND STATE CEILING.**

26           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2021.