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	AGENCY NAME & ADDRESS	Director of Revenue and Tax Analysis Department of Finance Room 545, City Hall (396-4961)		
	SUBJECT	City Council Bill 16-0692 – Property Assessed Clean Energy Loan		

TO

Honorable President and
Members of the City Council
C/O Natawna B. Austin
Room 545, City Hall

DATE: August 11, 2016

City Council Bill 16-0692 – Property Assessed Clean Energy Loan –establishes a Property Assessed Clean Energy Loan Program for the purpose of collecting qualifying loan payments for private lenders.

Analysis

Policy Issues

This bill presents a concern for the Finance Department as it puts the Finance Department and the Mayor's Office of Information Technology in the position of governmental agencies acting on behalf and for the benefit of a private sector entity. By requiring these agencies to perform billing, collection and other processes, they become agents of a private sector enterprise, which entails both operational and legal commitments.

Furthermore, the Department believes that the coercive powers (tax sale for delinquent taxes) of the City should be applied for the sole use of the City and that it is inappropriate to utilize these powers for the benefit of selected private entities and their private gains. This presents a major concern given the past issues with tax sale properties and the perceptions this legislation may invoke.

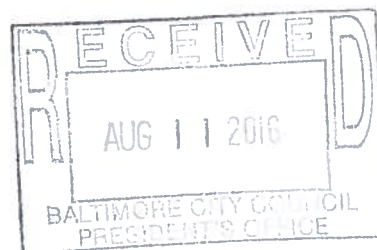
This legislation begins a slippery slope. Will additional private sector enterprises, such as electric companies or mortgage companies, seek to make use the City processes and coercive powers through expanded state legislation?

By acting on behalf of private entities, the bounds of government and private enterprise become blurred creating problems for an agency, such as the Finance Department, that must maintain public confidence while performing its Charter duties in maintaining a fair and equitable tax system.

Operational Issues

Passage of this bill would require the Finance Department to establish a comprehensive management system for loan processing. Normally the loan provider would provide these back office support systems, instead this bill would require the City to establish and maintain such system for use of private enterprises.

Opposed



Following are the major areas in which persons would need to be hired, processes designed and systems developed.

Loan Intake-The Department of Finance would need to create software and processes to input details of all new loan contracts. This will entail written procedures, software development and data entry. Personnel would need to be trained in the intake process and software developed to store loan data for annual processing.

Recordation- Each loan is required to be recorded. Personnel will need to be hired and trained to in the recordation process for these loans. A new fee collection and processing process would need to be developed for recordation.

Real Property Tax Billing System Billing -The current property tax billing system does not have the capacity to either generate a line item on the existing bill, or generate separate bills. **A new system would need to be developed.**

In addition to bill generation, the current input to the billing system does not permit input of additional types of data such as would be required for loan processing, reporting, accounting, or collections. The current billing systems would require extensive modification in order to track loan payments and reimburse the dollars collected to account for payments when they are made.

Although the City is working on a new property tax system, it is still several years off and it is unlikely it would accommodate the requirements of CCB 16-0692.

MOIT Response

Although the MOIT did not receive a request to respond to this bill, the Finance Department has consulted with MOIT to determine what, if any, modifications they would need to make to the system for this bill to be operational. Their response follows:

“Currently the real property tax billing system does not have the capability to either bill separately or to easily add additional fields to the existing files. MOIT would have to set up an entirely new “mortgage” billing system capable of account setup, billing, collections, accounts payable (with feeds with output to the various lenders, interfaces to Tax Sale system for delinquent accounts and reporting to lenders.

In the bill, it was suggested that the charges be collected through the City’s Property Tax Billing System. This is not a viable solution since the system is predicated on getting feeds from SDAT to create the bills. Modifying the system to attempt to accommodate this change would put the billing system for the highest revenue producer the City has in jeopardy.

A quick estimate for the cost of creating or procuring a system to handle this type of billing, would be \$1M-\$2M and would take a year to spec and procure and at least another 2-3 years to fully implement.”

Tax Sale- The Finance Department is concerned that by placing in tax sale properties that fail to make a loan payment, but make the property tax payment, that the proposed process will remove additional properties from the tax rolls that are and would pay property taxes. Furthermore, by placing additional properties in tax sale, this bill complicates the work the Baltimore City Council has done to minimize the number of properties in tax sale. This bill would reverse much of these legislative efforts. Additionally, it is unclear how the dollar limits currently in place for tax sale would apply.

Lien -This bill also requires the City to place a lien on any property that does not make timely payments. This will place additional work on the City's already overworked legal staff. In addition it would appear the Law Department would be responsible for bearing the cost of the fees associated liens until and if the property is redeemed.

Accounting Processes – In order to account for funds received on behalf of the lenders, the City will need to establish a new fiduciary fund/ Trust and Agency accounts within City Dynamics. Additionally, a system interface will need to be developed between the property tax system and City Dynamics that will post receivables, collections and payable amounts bi-directionally between the systems. The Bureau of Accounting and Payroll Services has indicated that it will require IT systems that don't exist in the City at this time. Keeping track of customer deposits and automated payments to third parties is something the city has not done and lacks experience in this type of accounting.

Finally, pre-audit and control procedures will need to be established requiring additional port programming. Audit costs will also be impacted by the additional fund, presumably with the City paying the additional audit cost.

Liability Concerns – Finance has concerns that should an error occur in either the recordation, billing or tax sale process that the City would be held liable for any losses incurred by the lending institutions. For the City's protection a bond will need to be established to protect the City. There is no provision for City reimbursement for such a bond.

Legislation Drafting Concerns

1. On page page 5, line 10 – the bills states: "The City may shall charge" This needs to read "The City may Charge..."
2. Page 6, line 3 – The City doesn't record surcharges, levies, or liens in the Land Records.
3. Page 9, line 21 – We don't create or record releases of any "property tax charges or assessments."
4. Page 10, line 20 – The payment application rules may not be specific enough. Would BAPS apply the payment to the lender's bill before applying it to our costs or the other way around?

Fiscal Impact

The cost to put in place a systems to operationalize this legislation is of great concern. It is believed there will not be many that will be able to take advantage of this Bill. Most holders of a mortgage or a deed of trust will not consent to a secondary status to a lien on a property. This will dramatically increase the fixed cost of providing these services, and ultimately increase the fixed cost per unit beyond acceptable levels. Additionally, it is unclear if this bill will even permit recovery of the capital cost associated with establishing the facilities to perform the processing. If it does, the City will need to lay out the funds upfront. It could take decades before the full cost of the initial capital were recovered through administrative fees. Implementation of the legislation would likely be three or more years away.

Alternately, the process could possibly be outsourced, however it seems unwise to commit the City to performing these services until discussions with potential outsourcing firms take place and the City knows what type of commitments these firms are willing to make.

Recommendation

If this bill were to pass, the Department of Finance (and City) would face a multi-year, multi-million dollar project in order to operationalize this bill. The Department of Finance ardently opposes this bill.

CC: Henry Raymond
Natawna Austin