
CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW
JAMES L. SHEA, CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

September 21, 2021

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 21-0115 – Tax Credit for Energy Conservation Devices

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 21-0115 for form and legal sufficiency. According to its purpose clause, the bill is for “granting a tax credit against the City personal property tax imposed on a dwelling that uses a solar energy device or geothermal energy device.” However, there are no personal property taxes on structures or dwellings in Maryland. Rather, structures and the land upon which they sit are subject to real property taxes. Md. Code, Tax-Prop., § 4-201. Personal property taxes are imposed on tangible property, but the state already exempts all “personal property owned by an individual and located at the individual’s place of residence.” Md. Code, Tax-Prop., § 7-227.

The bill appears to be trying to exercise the authority given by the General Assembly to local governments to grant a real property tax credit for the local portion of tax on any structure that uses certain energy devices. Md. Code, Tax-Prop., § 9-203. The state law provides:

- (a) The Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation may grant, by law, a tax **credit against the county** or municipal corporation **property tax imposed on a structure**, if to heat or cool the structure, to generate electricity to be used in the structure, or to provide hot water for use in the structure, the structure uses:
- (1) a solar energy device;
 - (2) a geothermal energy device; or
 - (3) a qualifying energy conservation device.

Md. Code, Tax-Prop., § 9-203(a) (emphasis added). Thus, the credit would be on the local portion of real property tax on the structure that uses the energy conservation device listed. *See, e.g.*, Gary R. Alexander, James K. McGee, “Code Green” in Maryland, 43-OCT Md. B.J. 14, 19 (2010) (“Howard (Howard County Code, §20.128A), Montgomery (Montgomery County Code, §52-18R), and Prince George's (Prince George's County Code, §10-235.06) Counties have amended their County Codes to allow a property tax credit of 50 percent of the cost of the systems, with a

maximum of \$1,500 for solar water heaters, and \$5,000 for solar PV systems. Anne Arundel (Anne Arundel County Code, §4-2-309) and Harford (Harford County Code, §123-44) Counties allow property tax credits for solar PV systems the lesser of \$2,500 and 50 percent of the cost of the system, or the total property tax, respectively.”). To effectuate the intent of the General Assembly that this be a credit on the *real* property tax imposed on the *structure* supplied by this energy device, the bill requires several amendments, which are attached to this report. These amendments are needed to make the bill legally sufficient.

The state enabling law allows local governments to define the qualifying energy device, select the amount and duration of the credit (not to exceed three years), and provide any additional criteria. Md. Code, Tax-Prop., § 9-203(b). Therefore, the City can narrow the credit to those structures that are dwellings, require the filing of an income tax return, and allow for the unused portion of a credit to be carried over to subsequent years.

The Law Department also recommends that the Council consider whether it wants to permit this real property tax credit to be used in combination with other local real property tax credits. *See, e.g.*, City Code, Art. 28, §§10-8(i); 10-13(e); 10-14(i). The sections of this bill concerning reports required of the City’s Department of Finance should also be reviewed as such reports do not appear to be required of other local real property tax credits.

Subject to the required amendments, the Law Department can approve the bill for form and legal sufficiency.

Very truly yours,



Hilary Ruley
Chief Solicitor

cc: James L. Shea, City Solicitor
Matthew Stegman, Mayor’s Office of Government Relations
Elena DiPietro, Chief Solicitor, General Counsel Division
Ashlea Brown, Chief Solicitor
Victor Tervalá, Chief Solicitor

AMENDMENTS TO COUNCIL BILL 21-0115
(1st Reader Copy)

Proposed by: Law Dep't

Amendment No. 1: Clarifying that this is a real, not a personal property tax credit

On page 1, in lines 3 and 18, and on page 2 in line 23, and on page 3 in line 13, replace "PERSONAL" with "REAL"

Amendment No. 2: Clarifying that this is a onetime credit applied against the real property tax on the dwelling

On page 3, in line 7, delete "IN ANY TAXABLE YEAR, THE AMOUNT OF"; and in that same line replace "GRANTED TO" with "AGAINST THE CITY PORTION OF REAL PROPERTY TAX ON".