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CITY OF BALTIMORE

BRANDON M. SCOTT  
Mayor



DEPARTMENT OF LAW  
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March 28, 2022

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 22-0193 – Tax Credit for Energy Conservation Devices

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 22-0193 for form and legal sufficiency. It exercises the authority given by the General Assembly to local governments to grant a real property tax credit for the local portion of that tax on any structure using certain energy devices. Md. Code, Tax-Prop., § 9-203. 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 limit the credit to 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.

However, the bill must be amended to remove the \$750,000 yearly expense limit because it would amount to a restriction on the expenses in the City's budget that is not enacted through the annual Ordinance of Estimates. City Charter, Art. VI, § 7. The City's Charter requirement for expenditures to be listed in the Ordinance of Estimates cannot be modified by the City Code. Charter, Art. III, § 11.

The Council should also consider the application timeline as it may produce an unintended result. The eligible costs must be incurred within 12 months of the application, but the application must be filed at least 90 days before the start of the tax year for which the credit is sought. For example, if a person were to purchase an energy efficient system on April 1, 2022 and have it installed on April 5, 2022, only the purchase costs would be able to be included in an application due at least 90 days prior to July 1, 2022. The installation costs, which would have been incurred less than 90 days prior to July 1, 2022, would be unable to be included in the application and would require the person to wait until the following year to apply for the credit for those installation costs. However, the bill requires the costs be incurred within 12 months of the "initial application" to be considered eligible. Thus, if the person in this example filed for the credit in 2022, she would never be able to recapture the installation costs. The Council should consider if this was the intent and, if not, how it wants to remedy the situation; likely with the guidance from the Department of Finance.

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).

Subject to the required amendment, 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 22-0193**  
(1<sup>st</sup> Reader Copy)

Proposed by: Law Dep't

On page 3, delete lines 11-19.