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CITY OF BALTIMORE

BRANDON M. SCOTT  
Mayor



DEPARTMENT OF LAW  
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May 1, 2023

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 23-0368 – Tax Credit for Energy Conservation Devices

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 23-0368 for form and legal sufficiency. It modifies existing Section 10-31 of Article 28 of the City Code that 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 (emphasis added). 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).

It is worth noting that many of the definitions added to this bill are either slightly different or entirely duplicative of the terms of art used in the Tax-Property Article of the Maryland Code. For example, the word “house” is not defined in that Article but the term “dwelling house” is defined in some parts of that Article to include not more than two families. Md. Code, Tax-Prop. §§ 7-207(a)(3); 7-208(a)(4).

“Dwelling” as defined in the bill, is identical to the definition in Sections 9-105(a)(5)(i)(1) and 9-105(a)(5)(ii) of the Tax-Property Article of the Maryland Code. It is as if the drafters have taken pains to remove the reference to the curtilage from the state definition but keep the rest. This is hardly necessary given that the state enabling law authorizes a credit against the local portion of tax on only the *structure*. Md. Code, Tax-Prop., § 9-203. While the inclusion of this clarifying language is unnecessary, it can still be approved for form and legal sufficiency.

A person can prove that a place is her “Principal Residence” through any number of means, including, but specifically NOT limited to, voting, driver’s license or income tax return address. Md. Code, Tax-Prop. § 2-218. This bill would require all three to be true for a recipient to receive the credit. Although this is a permissible additional standard under Section 9-203(b) of the Tax-Property Article of the Maryland Code, it may operate to narrow eligibility. Again, this does not make the bill unable to be approved for form and legal sufficiency. The Law Department defers

to the Finance Department on how these various terms will impact the implementation of this credit against the local real property tax imposed on a structure.

Finally, as in its last report on this bill, 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 Law Department approves the bill for form and legal sufficiency.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Hilary Ruley".

Hilary Ruley  
Chief Solicitor

cc: Ebony Thompson, Acting City Solicitor  
Nina Themelis, Mayor's Office of Government Relations  
Elena DiPietro, Chief Solicitor, General Counsel Division  
Ashlea Brown, Chief Solicitor  
Jeffrey Hochstetler, Chief Solicitor  
Teresa Cummings, Assistant Solicitor  
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