



TO: Board of Estimates, Office of Comptroller

FROM: AGC1000 - City Council

DATE: 05/05/2023

SUBJECT: City Council Bill 21-0178 - Tax Credits - Historic Properties -
Definition of "Historic Property"

ACTION REQUESTED OF BOARD OF ESTIMATES:

The Board is requested to approve an CC Bill - Other .

**PERIOD OF
CONTRACT/AGREEMENT:**

AMOUNT AND SOURCE OF FUNDS:

Transaction Amount \$ 0.00

Project Fund

Amount

BACKGROUND/EXPLANATION:

City Council bill 21-0178 was introduced on November 15, 2021. It was recommended as favorable with amendments by the Ways and Means committee on May 2, 2023. Agency position reports are as followed: Law - Not approved for legal sufficiency, BBMR - Opposed, DHCD - Defers to BBMR. and CHAP - Supports with Amendments.

Bill Purpose Clause:

Tax Credits - Historic Properties - Definition of "Historic Property"

For the purpose of expanding the definition of "historic property" in City Code Article 28, § 10-8.

Baltimore City Code

Article 28. Taxes, Subtitle 10. Credits

§ 10-8. Historic improvements, restorations, and rehabilitations.

(a) Definitions.

(4) Historic property.

“Historic property” means a property:

(i) individually listed on the National Register of Historic Places;

(ii) individually listed on the City Landmark List;

(iii) located within a National Register Historic or Landmark District and certified by CHAP as contributing to the historic significance of that district; [or]

(iv) located within a City Historical and Architectural Preservation District and certified by CHAP as contributing to the historic significance of that district[.] ; or

(v) built at least 50 years ago as confirmed by CHAP.

Section 2. And be it further ordained, That this Ordinance takes effect on the 30th day after the date it is enacted.

Reports

- Law - Not approved for legal sufficiency
- BBMR - Opposed
- DHCD - Defers to BBMR.
- CHAP - Supports with Amendments

EMPLOY BALTIMORE:

LIVING WAGE:

LOCAL HIRING:

N/A

N/A

N/A

1% FOR PUBLIC ART:

N/A.

ENDORSEMENTS:

Law has reviewed and approved for form and legal sufficiency


Clerk, Board of Estimates

6/7/2023

**CITY OF BALTIMORE
COUNCIL BILL 21-0178
(First Reader)**

Introduced by: Councilmembers Bullock, Middleton, Burnett, Cohen, Torrence

Introduced and read first time: November 15, 2021

Assigned to: Ways and Means Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Finance, Department of Housing and Community Development, Department of Planning, Commission for Historical and Architectural Preservation, Board of Estimates

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Tax Credits – Historic Properties – Definition of “Historic Property”**

3 FOR the purpose of expanding the definition of “historic property” in City Code Article 28, § 10-
4 8.

5 BY repealing and reordaining, with amendments

6 Article 28 - Taxes

7 Section 10-8(a)

8 Baltimore City Code

9 (Edition 2000)

10 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE**, That the
11 Laws of Baltimore City read as follows:

12 **Baltimore City Code**

13 **Article 28. Taxes**

14 **Subtitle 10. Credits**

15 **§ 10-8. Historic improvements, restorations, and rehabilitations.**

16 (a) *Definitions.*

17 (4) *Historic property.*

18 “Historic property” means a property:

19 (i) individually listed on the National Register of Historic Places;

20 (ii) individually listed on the City Landmark List;

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 21-0178

1 (iii) located within a National Register Historic or Landmark District and certified
2 by CHAP as contributing to the historic significance of that district; [or]

3 (iv) located within a City Historical and Architectural Preservation District and
4 certified by CHAP as contributing to the historic significance of that district[.]
5 ; OR

6 (V) BUILT AT LEAST 50 YEARS AGO AS CONFIRMED BY CHAP.

7 **SECTION 2. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
8 after the date it is enacted.

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

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

UNFAVORABLE

Re: City Council Bill 21-0178 – Tax Credits- Historic Properties – Definition
of “Historic Property”

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 21-0178 for form and legal sufficiency. The bill would amend the definition of “Historic Property” in Section 10-8 (Historic Improvements, Restorations and rehabilitations”) in Article 28 of the City Code. The bill would expand the availability of this credit to any property over fifty years old. Currently, the credit is only available to eligible improvements to properties on the National Register of Historic Places, the City Landmark List, within the National Register Historic or Landmark District or the City Historical and Architectural Preservation District if CHAP certifies the property contributes to the historic significance of either of those districts.

This is a local real property tax credit that is authorized by Section 9-204.1 of the Tax-Property Article of the Maryland Code. That state enabling law only allows a tax credit for the “eligible improvements which are:

(i) located within the boundaries of:

1. a property listed individually on the National Register of Historic Places, or a national register historic or landmark district;
2. a property or district designated as a historic property or district under local law; or
3. a property included within the boundaries of a certified heritage area under § 13-1111 of the Financial Institutions Article; and

(ii) for a property or district under paragraph (3)(i)1 or 2 of this subsection, determined by the local historic district commission to be compatible with local historic preservation standards.

Md. Code Ann., Tax-Prop. § 9-204.1.

Therefore, the City is not allowed to grant a local real property tax credit to improvements made on just any property older than fifty years. Rather, state law only authorizes this tax credit


for the improvements to properties that meet the state criteria. For this reason, the Law Department cannot approve the bill for form and legal sufficiency.

Very truly yours,



Hilary Ruley
Chief Solicitor

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

FROM	NAME & TITLE	Robert Cenname, Budget Director <i>BaltAC</i>	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Bureau of the Budget and Management Research Room 432, City Hall		
	SUBJECT	City Council Bill 21-0178 – Tax Credits – Historic Properties – Definition of “Historic Property”		

DATE:

TO

The Honorable President and
Members of the City Council
City Hall, Room 400

April 29, 2022

OPPOSED

Position: Oppose

The Department of Finance (Finance) is herein reporting on City Council Bill 21-0178, Tax Credits – Historic Properties—Definition of “Historic Property”, the purpose of which is to expand the definition of “Historic property” to include properties built at least 50 years ago.

Background

The Historic Restoration and Rehabilitation (CHAP) Property Tax Credit was established in 1996 through enabling State legislation to foster the rehabilitation of residential and commercial buildings in historic districts. The 10-year credit is granted for “significant improvements” exceeding 25% of a property’s full cash value. The credit is up to 100% of the increased tax liability from historic renovation for projects with construction costs less than or equal to \$5 million, and up to 80% of the increased tax liability from historic renovation for projects with construction costs exceeding \$5 million. This tax credit is scheduled to expire February 28, 2023.

The eligibility criteria includes (i) properties individually listed on the National Register of Historic Places; (ii) properties individually listed on the City Landmark List; (iii) properties located within a National Register Historic or Landmark District and certified by the Commission for Historical and Architectural Preservation (CHAP) as contributing to the historic significance of that district; or (iv) properties located within a CHAP District and certified by CHAP as contributing to the historic significance of that district. The proposed legislation would expand the eligibility criteria to include properties built at least 50 years ago, as confirmed by CHAP.

Fiscal Impact Analysis

The Department of Finance anticipates a cost of \$1.1 million in Fiscal 2023 and over \$50 million through Fiscal 2032.

Expense	FY23 Cost	10-Year Cost
Tax Credit	\$ 806,000	\$ 49,985,000
Operations	\$ 210,000	\$ 1,830,000
Total Costs	\$ 1,016,000	\$ 51,815,000

Finance estimates that an average of 184 properties per year will become newly eligible under the proposed legislation. Based on data as of April 2022, the estimated Fiscal 2023 average tax credit is \$4,380

for an initial total cost of \$806,000 for the first year of implementation of this provision. The long-term Real Property tax revenue reduction of the proposed legislation, assuming the CHAP Property Tax Credit does not expire as scheduled in February 28, 2023, is estimated at \$50.0 million over the next ten years. This estimated fiscal impact does not include the cost of currently eligible properties or those receiving the credit.

Annual Newly Eligible Properties	Average Tax Credit Amount in FY23	FY23 Credit Cost	10-Year Credit Cost
184	\$ 4,380	\$ 806,000	\$ 49,985,000

The CHAP Property Tax Credit currently ranks as the fifth largest incentive program in the City after the Enterprise Zone, Brownfield, and High-Performance Market Rate Rental tax credits. As of April 1, 2022, \$11,991,029 has been awarded in Fiscal 2022.

In addition to the foregone property tax revenue, there are operating costs associated with this legislation. The anticipated increase in the number of applications would necessitate one-time updates to the tax credit system, which are estimated to cost between \$20,000 to \$30,000. The increased number of applications would also require the addition of two staff members to help in processing applications, one in the Department of Finance and one in the Department of Planning. Finance estimates that each position will cost the City \$100,000 in salary and other personnel costs per year.

Expense	FY23 Cost	10-Year Cost
Personnel	\$200,000	\$2,000,000
System Upgrades	\$30,000	\$30,000
Total	\$230,000	\$2,030,000

Other Considerations

The Department of Finance has several concerns about this legislation, but it should be noted, as stated in the report from the Law Department, that the State enabling legislation does not include the criterion proposed by this legislation.

Finance believes that the intent of the proposed legislation is to expand eligibility for this tax credit to increase usage in areas outside of currently designated historic districts as a means of increasing equity. Nevertheless, this expansion of eligibility might not benefit low-income property owners. First, there is a common misconception that the tax credit provides funding upfront and that the tax credit goes toward the renovation costs, which are not true. The Department of Finance's Fiscal Integrity Office often has to address these issues with applicants. Second, not all renovations increase the assessment of a property. For example, renovations that are considered part of normal maintenance and replacements often do not measurably increase the property's value. Likewise, the costs of renovations do not necessarily equal the increase in the assessment of a property. Furthermore, according to Maryland Property Tax Code § 8-104 (c)(1)(iii), the State may not reassess a property out-of-cycle due to renovations unless the aggregated cost of permits is at least \$100,000, which again undermines the intentions of the proposed legislation.

Finally, Mayor Brandon Scott announced the creation of a Tax Credit Review Committee tasked with the evaluation of all existing and new property tax credits. It is expected that this Committee will review existing and potential new programs and provide recommendations to ensure that these incentive

programs provide sustainable and equitable growth to the City's tax base and ultimately a reduction in tax credit costs to the City.

Conclusion

The proposed legislation, which expands the eligibility criteria for the CHAP Property Tax Credit to properties that were built at least 50 years ago, would have a significant negative fiscal impact for the City and does not align with the eligibility requirements in the State enabling legislation. Finance anticipates that the proposed legislation would cost \$50.0 million over the course of ten years. In addition, Finance believes that the existing CHAP tax credit and any modification from its current structure should be reviewed by the Mayor's Tax Credit Review Committee, which is tasked with guaranteeing more efficient and equitable use of City resources to promote existing and new incentive programs.

For the reasons stated above, the Department of Finance opposes City Council Bill 21-0178.

cc: Henry Raymond
Natasha Mehu
Nina Themelis



MEMORANDUM

To: The Honorable President and Members of the Baltimore City Council
c/o Natawna Austin, Executive Secretary

From: Alice Kennedy, Housing Commissioner

DEFERS TO FINANCE - (FINANCE
OPPOSED)

Date: March 4, 2022

Re: City Council Bill 21-0178 Tax Credits – Historic Properties – Definition of “Historic Property”

The Department of Housing and Community Development (DHCD) has reviewed City Council Bill 21-0178 for the purpose of expanding the definition of “historic property” in City Code Article 28, § 10- 8.

If enacted, City Council Bill 21-0178 would repeal and re-ordain with amendments Article 28 - Taxes 7, Section 10-8(a) of the Baltimore City Code by expanding the definition of “Historic Property” to include a property built at least 50 years ago, as confirmed by CHAP.

The adoption of City Council Bill 21-0178 would have minimal impact on DHCD. The legislation will require additional administrative time of staff to verify compliance and communicate with Finance. We do this now for the high-performance tax credit.

DHCD supports the restoration and productive reuse of historic structures which contribute to the health and welfare of neighborhoods. The Bill may further expand the use of the Tax credit and incentivize the rehabilitation of historic structures throughout Baltimore.


DHCD **defers** to the Department of Finance on the passage of City Council Bill 21-0178.

AK/sm

cc: Ms. Themelis, Nina, *Mayor’s Office of Government Relations*

Brandon M. Scott, Mayor • **Alice Kennedy**, Housing Commissioner

417 East Fayette Street • Baltimore, MD 21202 • 443-984-5757 • dhcd.baltimorecity.gov

FROM	NAME & TITLE	CHRIS RYER, DIRECTOR	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #21-0178/ TAX CREDITS – HISTORIC PROPERTIES – DEFINITION OF “HISTORIC PROPERTY”		

TO

The Honorable President and
Members of the City Council
City Hall, Room 400
100 North Holliday Street

DATE: April 18, 2022

FAVORABLE WITH CHAP AMENDMENTS

The Department of Planning is in receipt of City Council Bill #21-0178, which is for the purpose of expanding the definition of “historic property” in City Code Article 28, § 10-8.

The Department of Planning concurs with the CHAP recommendation of **amendment and approval** of City Council Bill #21-0178.

If you have any questions, please contact Mr. Eric Tiso, Division Chief, Land Use and Urban Design Division at 410-396-8358.

CR/ewt

cc: Ms. Natasha Mehu, Mayor’s Office
Ms. Nina Themelis, Mayor’s Office
The Honorable Eric Costello, Council Rep. to Planning Commission
Mr. Matthew Stegman, City Council President’s Office
Ms. Nikki Thompson, City Council President’s Office
Mr. Colin Tarbert, BDC
Ms. Kathleen Byrne, BMZA
Mr. Geoffrey Veale, Zoning Administration
Ms. Stephanie Murdock, DHCD
Ms. Elena DiPietro, Law Dept.
Mr. Francis Burnszynski, PABC
Mr. Liam Davis, DOT
Ms. Natawna Austin, Council Services

FROM	NAME & TITLE	Eric Holcomb, Executive Director CHAP 	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Commission for Historical and Architectural Preservation 417 East Fayette Street, 8 th Floor		
	SUBJECT	COUNCIL BILL 21-0178 – Tax Credits – Historic Properties – Definition of “Historic Property”		

TO

The Honorable President and
Members of the City Council
City Hall, Room 400
100 North Holliday Street

DATE:

March 7, 2022

FAVORABLE WITH AMENDMENTS

The Commission for Historical and Architectural Preservation staff is in receipt of City Council Bill 21-0178 – Tax Credits – Historic Properties – Definition of “Historic Property” for the purpose of expanding the definition of “historic property” in City code Article 28, subsection 10-8.

CHAP Executive Director recommends an **Amendment** to City Council Bill 21-0178. In Section 9-204.1 of the Tax-Property Article of the Maryland Code only allows a tax credit for the following:

1. a property listed individually on the National Register of Historic Places, or a national register historic or landmark district;
 2. a property or district designated as a historic property or district under local law; or
 3. a property included within the boundaries of a certified heritage area under § 13-1111 of the Financial Institutions Article; and
- (ii) for a property or district under paragraph (3)(i)1 or 2 of this subsection, determined by the local historic district commission to be compatible with local historic preservation standards.

This enabling legislation does not allow the local jurisdiction to define a historic property as a “structure built at least 50 years ago as confirmed by CHAP.” **Therefore**, CHAP suggests that the council deletes “Structures built at least 50 years ago as confirmed by CHAP” and replaces it with **a property included within the boundaries of a certified heritage area.**

If you have any questions, please contact Mr. Eric Holcomb, Executive Director, at 410-371-5667.