

**Testimony SB 122.docx.pdf**

Uploaded by: Antonio Hayes

Position: FAV

ANTONIO HAYES  
Legislative District 40  
Baltimore City

Finance Committee



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THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Hayes in Support of Senate Bill 122: Property Tax Exemption -  
Religious Group or Organization - Third-Party Leases**

**January 19, 2023**

Dear Chairman Guzzone and Members of the Budget and Taxation Committee,

Senate bill 122 was introduced last year and passed the committee and the senate floor 46-0. As a refresher this bill would disallow an exemption of taxes for any part of a religious entity's property that is being leased to another organization.

SDAT has submitted a letter of information and we are working with the department to make some technical amendments.

Thus, I urge a favorable report on Senate Bill 122.

Respectfully,

A handwritten signature in blue ink, appearing to read "Antonio L. Hayes".

Senator Antonio L. Hayes  
40<sup>th</sup> Legislative District - MD

**SB0122-BT\_MACo\_SUP.pdf**

Uploaded by: Kevin Kinnally

Position: FAV



## Senate Bill 122

### *Property Tax Exemption - Religious Group or Organization - Third-Party Leases*

MACo Position: **SUPPORT**

To: Budget and Taxation Committee

Date: January 19, 2023

From: Kevin Kinnally

The Maryland Association of Counties (MACo) **SUPPORTS** SB 122. This bill would promote taxpayer equity by conditioning tax-exempt treatment of specified real property based on its actual use rather than its nominal ownership.

Horizontal equity – the principle that people and businesses under similar circumstances should bear equal tax burdens – is a hallmark of a fair tax system. However, because of state-mandated property tax exemptions and special evaluations, Maryland’s property tax structure often fails to provide taxpayer equity across all properties.

SB 122 specifies that real property owned by a religious group or organization leased to a third party does not qualify for a specified property tax exemption. If only part of the real property is leased to a third party, only the leased part of the real property does not qualify for the exemption.

This concept is not new to Maryland. Indeed, most personal property tax exemptions are based on equipment and machinery’s use rather than ownership. The federal income tax law also incorporates similar principles with income – where “unrelated business income” is taxable even on generally tax-exempt entities such as charities or similar classifications.

Mandated tax exemptions require counties to forego meaningful local revenues to support essential public services, even if the exemptions do not serve their best interests. In Baltimore City alone, the property value owned by universities, hospitals, nonprofits, and other tax-exempt organizations totals well over 30 percent of Baltimore’s assessed value.

Although these entities are exempt from paying property taxes, they still reap the benefits of police and fire protection, snow and trash removal, road maintenance, and other essential services. Simply put, these exemptions mean that other homeowners and businesses must bear a greater share of the property tax burden for universal services.

SB 122 would level the playing field for all taxpayers by ensuring properties owned by a tax-exempt entity but used by another entity for broader, traditionally taxable functions are subject to taxation. Accordingly, MACo urges the Committee to issue a **FAVORABLE** report on SB 122.

**SB122-BT-FAV.pdf**

Uploaded by: Nina Themelis

Position: FAV



BRANDON M. SCOTT  
MAYOR

*Office of Government Relations  
88 State Circle  
Annapolis, Maryland 21401*

**SB 122**

January 19, 2023

**TO:** Members of the Senate Budget and Tax Committee

**FROM:** Nina Themelis, Interim Director of Government Relations

**RE:** SB 122 - Property Tax Exemption - Religious Group or Organization - Third-Party Leases

**POSITION: Support**

Chair Guzzone, Vice-Chair Rosapepe, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** Senate Bill (SB) 122.

SB 122 would remove the exclusion from the Property Tax exemption law under Section 7-204 of the Maryland Tax Property Article, of properties owned by a non-profit religious group or organization that are leased to third parties.

Exemptions under this section of the Code are based on the non-profit nature of these organizations. The partial or full lease of these properties to third-party users represents a for-profit activity that misleads the intention of the exemptions granted by state law.

While the fiscal impact of this legislation cannot be estimated at this time given that the detail and number of third-party leases of properties owned by religious organizations are unknown, there are 1,749 properties in the City classified as religious organizations that are partially or fully exempted from property taxes. The combined assessment of these properties is \$2.2 billion, equivalent to \$49.2 million in annual property taxes, of which the city collects only \$900K, or 1.9%.

The Baltimore City Administration is proud to be home to thousands of non-profit and religious organizations that are exempt from property taxes. We support this legislation, which would help the City recover a portion of the forgone property taxes by excluding for-profit use properties from this exempt category.

For these reasons we respectfully request a **favorable** report on SB 122.

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**SB122 - SUPPORT - Dorsey.pdf**

Uploaded by: Ryan Dorsey

Position: FAV



## BALTIMORE CITY COUNCIL

RYAN DORSEY, 3<sup>rd</sup> District

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Senate Budget and Taxation Committee  
Senator Guy Guzzone, Chair  
Senator Jim Rosapepe, Vice-Chair  
3 West  
Miller Senate Office Building  
Annapolis, Maryland 21401

### **Submitted electronically**

January 18, 2023

### **SUPPORT: SB122 – Property Tax Exemption - Religious Group or Organization - Third-Party Leases**

Dear Mr. Chair and Members of the Committee,

I request a favorable report on SB760. This bill clarifies what I believe should be the appropriate interpretation of the existing statute, but which I believe SDAT is misinterpreting, against public interest.

When a tax-exempt entity leases out the use of its tax-exempt property, it does so for financial gain, and should only be allowed to do so only on a level playing field with any other business entity, without the benefit of tax exemption. This principle should apply whether renting out the use of its parking lot, events space, worship hall or any other space, and should apply regardless of whether the renter or lessee is itself a taxed or tax-exempt entity.

But SDAT has interpreted the law as if the above principle doesn't exist when one tax-exempt entity leases to another tax-exempt entity. A church that leases its space to another church is utilizing access to its space for financial gain. To allow this gives an untaxed entity an unfair advantage over a non-exempt entity that could just as well offer that same space. The lessee needs the use of the space one way or the other, and it is not in the public's interest to give a financial advantage to any one type of entity who can provide it.

The spirit of the tax exemption law is that if those who wish to worship require space to do so, we can accommodate this inalienable right to worship by relieving the burden of taxation. But in the absence of certain other limitations, the exemption is open to abuse. Leasing an exempt property, to no matter whom, violates both the spirit of the law, and fundamentally violates the letter of the law, which is explicit about allowable exempt uses, none of which is "rental to a 3<sup>rd</sup> party."

Consider a dwindling congregation, one that was once 300 is now 3. The pastor used to be paid through tithing, an indication that he is compensated for his labors according to the value he brings to those who care to worship. And the congregants' tithing covered the costs of building maintenance and operations because it was necessary for their



purpose. But now the revenues come from leasing the building and the parking lot to another congregation. The pastor still gets his paycheck, but he has no need of and makes no use of the property, except for the revenue it generates for him. He is functioning as a landlord, not a pastor. Because he leases the church to another religious entity, it meets the standard for exemption, that use be actual and exclusive, for the purposes of worship, education, or parsonage, but by capitalizing on the property it violates the spirit and intent of the law. Unfortunately, SDAT believes otherwise, hence the clarification necessary in this bill.

In one case like what is described above, a school pays more than \$80,000 annually to use the parking lot at a church property whose would-be \$40,000 tax bill could be doubly covered by that. But SDAT allows it to fall within the exemption standard, because education is an allowable use within the religious exemption standards. But this turns a blind eye to the handsome profit being turned. Nobody would mind the school using the lot if the church weren't charging a fee. And the clarification offered in this bill would not stop that.

On the flip side, another church that might lease its parking lot to some nearby businesses is not allowed to, because those businesses are for-profit. So the church began letting the businesses use the lot free of charge, because the whole community benefits from it, and then they eventually sold the parking lot to one of the businesses, who now pays taxes on it and permanently enshrined their customers' access to it. The church is now taking up a more right-sized space, still benefitting from tax exemption, but only to an appropriate extent.

The public is missing out on tax revenue that it should have. SB122 is a very reasonable clarification that would remedy this while not infringing on the freedom to worship as one chooses. Again, if you ask me, the law as written hits the mark, but is not being applied and interpreted as intended. This bill merely clarifies that intent.

I urge your favorable report on this bill, unamended.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Dorsey". The signature is written in a cursive, flowing style with a long, sweeping tail on the final letter.

Ryan Dorsey

# **Maryland Catholic Conference\_FWA\_SB122.pdf**

Uploaded by: Jenny Kraska

Position: FWA



MARYLAND  
CATHOLIC  
CONFERENCE

January 19, 2023

Senate Bill 122

**Property Tax Exemption – Religious Group or Organization – Third Party Leases**

**Senate Budget & Taxation Committee**

**Position: SUPPORT WITH AMENDMENT**

The Maryland Catholic Conference (“Conference”) represents the public policy interests of the three Roman Catholic (arch)dioceses serving Maryland: the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington.

The Conference supports w/ amendment Senate Bill 122. This bill would provide that real property owned by a religious group or organization that is leased to a third party would not qualify for a certain property tax exemption.

The proposed language is worded much too broadly, and this area of the law is incredibly complex. The way the law has been interpreted is that if an exempt entity leases property for actual rent, then that property is not eligible for exemption. But if an exempt entity leases property for mere expenses, such as the cost of operating the property (maintenance and utilities) – if it is not a net lease - then the property can still be exempt.

However, the language in this bill stating that the property “does not qualify” could be interpreted as not allowing for any portion of the property to be treated as tax-exempt. In that case, any lease by a religious group or charitable organization to a third party – even for \$1 – could render the property completely taxable.

To fix this issue we would propose the following amendment be inserted on Page 2 line 8:

**(3) THIS SUBSECTION DOES NOT APPLY WHEN THE LESSEE IS A NONPROFIT CHARITABLE OR RELIGIOUS ORGANIZATION AND THE LEASED PROPERTY IS ACTUALLY USED EXCLUSIVELY FOR RELIGIOUS, EDUCATIONAL, OR CHARITABLE PURPOSES.**

It is for these reasons that the Maryland Catholic Conference respectfully asks you to support this bill with the suggested amendment. Thank you for your consideration.



**SB0122.docx.pdf**

Uploaded by: Director Michael Higgs

Position: INFO

**WES MOORE**  
Governor

**ARUNA MILLER**  
Lt. Governor



**MICHAEL HIGGS**  
Director

**MARCUS ALZONA**  
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**HEARING DATE:** January 19, 2023

**BILL:** SB0122

**TITLE:** Property Tax Exemption - Religious Group or Organization - Third-Party Leases

**SDAT POSITION:** LETTER OF INFORMATION

The State Department of Assessments and Taxation (SDAT) offers the following information for SB0122:

This bill states that real property owned by a religious group or organization that is leased to a third party does not qualify for a property tax exemption.

The Department is requesting that this bill be changed from a statewide bill to a local bill, and is proposing several technical amendments to further clarify the legislative intent. As this legislation is written, the matter would likely be litigated through the court system.

Currently, SDAT provides a partial exemption if part of the religious group or organization's property is used by the exempt group.

**The Department greatly appreciates Senator Hayes working with the Department to alleviate the Department's concerns.**

For these reasons, SDAT offers this Letter of Information of SB0122.