

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 901

(Senator Currie)

Budget and Taxation

Ways and Means

Property Tax Exemption - Property Used for Student Housing

This bill exempts property that is leased from the State and used to provide housing to students of public senior higher education institutions from the State and local property tax. The bill authorizes a public senior higher education institution to negotiate a payment in lieu of taxes agreement with the municipal corporation or county in which the specified student housing is located.

The bill takes effect June 1, 2005 and applies to all taxable years beginning after June 30, 2005.

Fiscal Summary

State Effect: Potential decrease in State special fund revenues to the extent that student housing is owned by a for-profit entity. Student housing on State campuses is not currently taxable if it is owned by a nonprofit entity. No student housing is currently owned by a for-profit entity.

Local Effect: Potential decrease in local government property tax revenue to the extent that student housing is owned by a for-profit entity. Student housing on State campuses is not currently taxable if it is owned by a nonprofit entity. No student housing is currently owned by a for-profit entity.

Small Business Effect: None.

Analysis

Current Law: The types of property exempt from local taxation are enumerated in statute. Exemptions apply to State property taxation as well. While local governments have limited ability to alter real property exemptions, they have been granted broad authority to exempt certain types of personal property from the property tax. The State has not imposed personal property taxes since fiscal 1984.

An interest of a person in personal property of the federal government or of the State is not subject to property tax if the person holds an interest in the property under a contract with the federal government or the State for: (1) manufacturing, constructing, or assembling equipment, supplies, or component parts for national defense purposes; or (2) research or development for national defense purposes.

An interest of a person in property of the federal government, the State, a county, or a municipal corporation is not subject to property tax, if the property is used for a concession that: (1) is located in a public airport, park, market, or fairground; and (2) is available for use by the general public. This does not apply to property owned by the Maryland-National Capital Park and Planning Commission in Prince George's County that is located in a public airport and is used for a restaurant concession.

An interest of a person in any property of the federal government or the State is not subject to property tax, if the government that owns the property makes negotiated payments in lieu of tax payments.

An interest of a person in property in specified port facilities that are owned by the federal government or the State, any of their agencies or instrumentalities, or a county or municipal corporation is not subject to the property tax.

An interest of a person in property in a specified international trade center is not subject to property tax, if the State, or any agency or instrumentality of the State: (1) owns the property; and (2) makes negotiated payments in lieu of tax payments.

An interest of a person in personal property in a vending facility operated under the Maryland Vending Program for the Blind is not subject to the property tax.

The major exemptions from the local property tax on real property include:

- local, State, and federal government property;
- property of religious organizations;
- cemeteries and mausoleums;

- nonprofit hospitals;
- portions of continuing care facilities for the elderly;
- property of charitable, fraternal, and educational institutions;
- property of national veterans' organizations;
- homes of disabled veterans' and blind individuals (partial exemption) and their surviving spouses;
- property of historical societies and museums;
- property owned by certain taxpayers engaged in building, operating, and managing nonprofit multifamily units, subject to local government approval; and
- property owned by fire companies, rescue squads, community water corporations, and housing authorities.

Background: The State real property tax rate is \$0.132 per \$100 of assessed value. All State property tax revenues are credited to a special fund, the Annuity Bond Fund, dedicated exclusively to paying the debt service on State general obligation bonds.

There are several agreements between the State and nonprofit entities to allow the nonprofit entity to construct and manage student housing at State colleges and universities. This includes Allegany College of Maryland in Cumberland, Salisbury University, the University of Maryland at College Park, the University of Maryland Baltimore County, and Towson University.

These types of student housing projects can be funded through what is called "non-recourse debt" which is tax-exempt, off-balance sheet financing. Under this type of financing scenario, 100% of a project is funded by tax-exempt debt, which in theory provides the lowest possible cost of capital, thus hopefully ensuring higher construction quality and lower rental rates. The school is not be required to make any financial or occupancy guarantees. The school's land is not subordinated to the debt. The student housing that is constructed is owned by a nonprofit entity is exempt from property taxes as it is on State-owned property. This in turn should translate into lower operating costs and rental rates. The school receives any surplus net operating income and receives ownership of the housing once the debt service is retired. The corporation doing the construction would then establish a partnership with 501(c)(3) entities to own the housing so that it is exempt from taxation.

In recent years, the State has pursued public/private partnerships to provide student housing. Student residences are not funded by State general fund revenues. Instead, the University System of Maryland (USM) has traditionally funded the construction of dormitories from the proceeds of auxiliary revenue bonds issued by the USM pursuant to Title 19 of the Education Article. The payment of the bonds is secured by specified

auxiliary and academic revenue of USM. Auxiliary facilities of USM, which include the student residences, are self-supporting. In recent years, USM has not been able to issue auxiliary bonds to fund all of the required auxiliary facilities. The need to restrict the bonds has come at the same time that the demand for new auxiliary facilities (primarily student residences, parking facilities, and student centers) is increasing. There has been, and is anticipated to be, a large enrollment demand. USM reviewed alternative funding mechanisms and decided that student residence facilities were most suitable for privatized financing. Any new student housing is required to be available only to the institution's students or visiting faculty. The student life program offered in the public/private housing must be comparable to the type offered by the institution in general.

The bill is limited to public/private partnerships on State-owned land. The bill would allow for-profit entities to enter into agreements to construct and manage student housing for USM. Property which is not involved in a public/private partnership with a nonprofit entity would be deemed taxable. The bill exempts property which would be otherwise taxable due to a for-profit use of State-owned land.

The bill does not cover housing constructed on land not owned by the State, including a new housing project planned on U.S. Route 1 in College Park and planned project at Towson. Neither project is located on State-owned land, and the College Park project is for-profit.

USM comprises 11 institutions of higher education. The University System also has two research centers. There are also two other public colleges: St. Mary's College (St. Mary's County) and Morgan State University (Baltimore City) which are operated outside of USM. The bill could affect the assessable base for these jurisdictions if student housing is constructed using a public/private partnership with a for-profit entity providing the private funding for student housing.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Property Tax Assessment Appeals Board, University System of Maryland, Maryland Higher Education Commission, Department of Legislative Services

Fiscal Note History: First Reader - March 21, 2005
mll/hlb Revised - Senate Third Reader - April 4, 2005
Revised - Enrolled Bill - May 5, 2005

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