SB 113 - Opportunity Zone Tax Deduction Reform Act
Uploaded by: Edwards, Donna
Position: FAV

MARYLAND STATE & D.C. AFL-CIO

AFFILIATED WITH NATIONAL AFL-CIO

7 School Street • Annapolis, Maryland 21401-2096

Office. (410) 269-1940 • Fax (410) 280-2956

President
Donna S. Edwards

Secretary-Treasurer
Gerald W. Jackson

SB 113 – Opportunity Zone Tax Deduction Reform Act of 2021
Senate Budget and Taxation Committee
January 26, 2021

SUPPORT

Donna S. Edwards
President
Maryland State and DC AFL-CIO

Chairman and members of the Committee, thank you for the opportunity to provide testimony in support of SB 113 – Opportunity Zone Tax Deduction Reform Act of 2021. My name is Donna S. Edwards, and I am the President of the Maryland State and DC AFL-CIO. On behalf of the 340,000 union members in the state of Maryland, I offer the following comments.

With the passage of the Tax Cuts and Jobs Act of 2017, The Opportunity Zone Program was created, providing federal tax incentives for investment in distressed communities over ten years. The concept was simple and was entered into with the idea of "lifting up" economically areas around the country by giving incentives to invest in those areas, thus creating more and better jobs.

However, with no real job creation standards by which to judge success, nor any solid data on the totality of the economic impact of the program, finding who truly benefits from Opportunity Zones (OZ) can be an opaque endeavor. According to a 2020 study by the Urban Institute, on the efficacy of the OZ program, that found that "*although there are compelling examples of community benefit, the incentive as a whole is not living up to its economic and community development goals. The incentive's structure makes it harder to develop projects with community benefit in places with greatest need. In contrast, OZs are providing the biggest benefits to projects with the highest returns, which are rarely aligned with equitable development*."[1]

Moreover, and even more damning of the OZ program, the study finds that it is spurring relatively little job creation, while disproportionately helping high-profit real estate projects and not small businesses. So many questions have arisen from this program, that earlier in 2020, the

[1] https://www.urban.org/research/publication/early-assessment-opportunity-zones-equitable-development-projects/view/full_report

Treasury Department's inspector general opened an inquiry into the program, at the request of three Federal lawmakers.[2]

We do not need to continue subsidizing this program in the State of Maryland, by keeping our wagon hitched to a potentially problematic Federal program. Passing SB 113 will decouple Maryland tax law from Federal tax law, allowing us to continue to collect the Capital Gains taxes at the state level.

If, in the future, the OZ program is truly fixed, with full accountability and measurable success, along with a track record of sustainable good jobs creation, it might be prudent to realign state tax law with Federal law. Until that time, it is imprudent to spend the tax dollars of Maryland's workers on a program that is opaque and riddled with controversy.

We urge a favorable report on SB 113.

[2] https://www.nytimes.com/2020/06/17/business/trump-opportunity-zone-jobs.html

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Uploaded by: Mehu, Natasha
Position: FAV

BRANDON M. SCOTT
MAYOR

Office of Government Relations
88 State Circle
Annapolis, Maryland 21401

SB 133

January 26, 2021

TO: Members of the Budget & Tax Committee

FROM: Natasha Mehu, Director of Government Relations

RE: SENATE BILL 133 – Local Tax Relief for Working Families Act of 2021

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) 133.

SB 133 would allow the counties and Baltimore City to establish income tax brackets and raise the maximum income tax rate cap to 3.5%. Under current state law, local jurisdictions are only authorized to set a flat local income tax rate between 1% and 3.2%.

This bill enables Baltimore City and other local jurisdictions to have the authority and flexibility to apply progressive tax brackets or to retain their current structures – whatever is determined to be the best fit locally. The change in structure would allow local governments to tailor their tax policy in a manner that can be more equitable and fairer rather than just for revenue generation.

Baltimore City is also one of twelve jurisdictions in the state already applying the maximum income tax rate of 3.2%. Under SB 133 the City would be able to raise that rate to 3.5%, and, under the new allowable bracket structure apply the tax rate according to income bracket.

For these reasons BCA respectfully request a **<u>favorable</u>** report on Senate Bill 133.

Annapolis – phone: 410.269.0207 • fax: 410.269.6785
Baltimore – phone: 410.396.3497 • fax: 410.396.5136
https://mogr.baltimorecity.gov/

SB 113_MDCEP_FAV.pdf
Uploaded by: Schumitz, Kali
Position: FAV

Lawmakers Should Close an Under-the Radar Loophole for Wealthy Investors

Position Statement in Support of Senate Bill 113

Given before the Senate Budget and Taxation Committee

The hastily composed tax law Congress passed in 2017 has had far-reaching consequences for Maryland's economy. The law delivered a windfall to wealthy individuals and large corporations while heightening barriers that hold back many Marylanders of color.[i] It also had major effects on our state's tax code, which relies heavily on federal law to calculate Marylanders' tax responsibilities. One such effect is the creation of a little-noticed loophole that, if left unchecked, will layer state tax breaks for some wealthy investors on top of their new federal tax breaks. The Maryland Center on Economic Policy supports Senate Bill 113, which would close this loophole.

Maryland lawmakers made a number of wise choices in 2018 in response to the Trump administration's signature tax overhaul. The state clarified an ambiguous law that could have cost working families hundreds of millions of dollars and halted a new tax break for multimillionaire heirs that would have sprung up automatically without corrective action. However, a new loophole for wealthy Opportunity Zones investors largely flew under the radar. Lawmakers should build on their past smart choices by closing this loophole that Congress opened without their input.

Congress created the Opportunity Zone program as part of the 2017 federal tax overhaul with the ostensible goal of promoting economic opportunity in struggling communities. However, the program's structure virtually guarantees that it will primarily benefit wealthy investors and do little to help the communities our economy leaves behind:[ii]

- The program’s core is a set of capital gains tax breaks a recipient can qualify for by investing in Opportunity Zones. This design ensures that the program’s benefits will be heavily lopsided, as 65 percent of capital gains in Maryland today go to the wealthiest 1 percent of households.[iii]
- Because the program under certain circumstances allows investors to avoid paying taxes on their profits from Opportunity Zone projects, it effectively steers money toward the projects with the greatest moneymaking potential. These are the exact projects investors would most likely pursue even without tax breaks, as well as the projects least likely to benefit struggling communities.

On top of these serious flaws, the program automatically creates a state tax break for Opportunity Zone investors in states that rely on provisions of federal law to calculate individuals' and corporations' tax responsibilities. Any capital gains income the federal government does not tax because of Opportunity Zone subsidies essentially disappears from a person's income for state tax purposes.[iv] Left unchecked, this loophole will cost Maryland at least 55 million over the next four years.[v] Senate Bill 113 is a simple fix that closes this new loophole.

It is not entirely clear whether this loophole is simply a result of the federal tax law's hasty, chaotic drafting process or a deliberate policy choice that received no public scrutiny. What is clear is that Maryland's tax code changed with no input from Maryland lawmakers, in a way that further concentrates wealth and power in a few hands, and in the process made it harder for us to invest in the foundations of our economy. As lawmakers contemplate Marylanders' growing list of unmet needs in areas like education, health care, and transportation, they should work to build a revenue system capable of meeting those needs. The path forward is clear—close loopholes for powerful special interests and fix our upside-down tax code—and Senate Bill 113 is a commonsense first step.

For these reasons, the Maryland Center on Economic Policy respectfully requests that the Senate Budget and Taxation Committee make a favorable report on Senate Bill 113.

Equity Impact Analysis: Senate Bill 113

Bill summary

Senate Bill 113 changes the way the state calculates income for tax purposes by undoing a federal tax break for capital gains under the Opportunity Zones program. Under current law, the federal tax break automatically translates into Maryland's tax code, allowing investors to pay less in Maryland taxes than they otherwise would.

Background

Maryland's tax code refers extensively to federal law in order to define the income concepts that determine individuals' and corporations' tax responsibilities. This means that federal policy changes can sometimes affect state revenues without any action by Maryland lawmakers. The federal Opportunity Zones program, part of the 2017 Tax Cuts and Jobs Act, is based on federal tax breaks for certain capital gains income. Because of the way the program is structured, these tax breaks automatically flow through to Maryland's tax code. Without legislative action, this loophole is expected to cost more than $70 million between fiscal years 2021 and 2025.

Equity Implications

Interactions between federal Opportunity Zone subsidies and Maryland's tax code pose significant equity concerns:

- The capital gains tax breaks at the center of the Opportunity Zones program are heavily lopsided. Nearly two-thirds of capital gains income in Maryland goes to the wealthiest 1 percent of tax filers.
- The program worsens racial wealth imbalances because a small minority of white families hold nearly two-thirds of all household wealth nationwide,[vi] which is a prerequisite for capital gains income.
- Our state's growing underinvestment in essential services harms all Marylanders and has outsized impacts on people who face economic roadblocks because of low income or the ongoing legacy of racist policy.
- Without legislative action, the automatic capital gains tax cut will make it harder for Maryland to make the kinds of investments that strengthen our economy and build opportunity for everyone.

Senate Bill 113 would mitigate these harms by closing the state tax loophole created by the 2017 federal tax law.

Impact

Senate Bill 113 would likely **improve racial and economic equity** in Maryland.

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[i] Emanuel Nieves, David Newville, Jeremie Greer, and Meg Wiehe, "Race, Wealth, and Taxes: How the Tax Cuts and Jobs Act Supercharges the Racial Wealth Divide," Prosperity Now, 2018, https://prosperitynow.org/resources/race-wealth-and-taxes

[ii] Samantha Jacoby, "Potential Flaws of Opportunity Zones Loom, as Do Risks of Large-Scale Tax Avoidance," Center on Budget and Policy Priorities, 2019, https://www.cbpp.org/research/federal-tax/potential-flaws-of-opportunity-zones-loom-as-do-risks-of-large-scale-tax

[iii] TY 2016 Personal Statistics of Income, Maryland Comptroller.

[iv] Michael Mazerov, "States Should Decouple Their Income Taxes from Federal 'Opportunity Zone' Tax Breaks ASAP," Center on Budget and Policy Priorities, 2019, https://www.cbpp.org/blog/states-should-decouple-their-income-taxes-from-federal-opportunity-zone-tax-breaks-asap

[v] SB 113 Fiscal and Policy Note, http://mgaleg.maryland.gov/2020RS/fnotes/bil_0003/sb0113.pdf

[vi] 2016 Survey of Consumer Finances.

sb0113 - Opportunity Zone - Captial Gains Tax NAIO
Uploaded by: Ballentine, Tom
Position: UNF

NAIOP
MARYLAND CHAPTERS
THE ASSOCIATION FOR COMMERCIAL REAL ESTATE

January 22, 2021

The Honorable Guy Guzzone, Chair
Senate Budget and Taxation Committee
3 West Miller Senate Office Building
Annapolis, MD 21401

Oppose - SB 113 – Opportunity Zone – Capital Gains Tax Deduction

Dear Senator, Guzzone and Committee Members:

The NAIOP Maryland Chapters represent more than 700 companies involved in all aspects of commercial, industrial and mixed-use real estate. On behalf of our member companies, I'm writing today in opposition to Senate bill 113 which would apply capital gains taxes to certain opportunity zone development projects.

The bill requires a person to add back the amount of capital gains that are deferred or excluded under the under the federal Qualified Opportunity Zones Program making these gains taxable for State income tax purposes.

While there may be some disagreement about creation and structure of the Opportunity Zone program, it is already underway and has been a catalyst for beneficial development. One example is the Southern Gateway, a $152 million mixed-use development in College Park. [please see attached summary] Opportunity Zone investors provided 1/3 of the capital investment in this project.

NAIOP is concerned about disincentive fundamentally changing the tax status of Opportunity Zone projects provides for future projects and the difficulties posed by retroactively applying tax to mature projects.

For these reasons NAIOP respectfully recommends your unfavorable report on SB 113.

Sincerely;

T.M. Ballt

Tom Ballentine, Vice President for Policy
NAIOP Maryland Chapters -*The Association for Commercial Real Estate*

cc: Senate Budget and Taxation Committee Members
Nick Manis – Manis, Canning Assoc.

Opportunity Zone Project: Southern Gateway

- Located in College Park (District 3)
- $152 million mixed-use development
- $55 million in Opportunity Zone Funds
- $500,000 EDI Fund financing
- 393 market-rate residential units
- 641 structured parking spaces
- 60,000 SF of retail space
- CR-77-2018 authorized 60% PILOT (15 years)
- City of College Park offered 60% Revitalization Tax Credits (15 years)
- Developer: Bozzuto

SB0113-1.26.21 -- Opportunity Zone Tax Deduction R

Uploaded by: Fry, Donald

Position: UNF

POSITION STATEMENT

TESTIMONY PRESENTED TO THE SENATE BUDGET & TAXATION COMMITTEE

SENATE BILL 113 -- OPPORTUNITY ZONE TAX DEDUCTION REFORM ACT OF 2021
Sponsor – Senator Jim Rosapepe

January 26, 2021

DONALD C. FRY
PRESIDENT & CEO
GREATER BALTIMORE COMMITTEE

Position: Oppose

The GBC opposes Senate Bill 113, which requires taxpayers investing funds in Opportunity Zones to add to their Maryland taxable income the amount of capital gains that were deferred or excluded under the federal Qualified Opportunity Zones program. The GBC opposes this measure and requests that the tax benefit afforded by the federal Opportunity Zone program be treated as intended without further modifications to Maryland investors. Passage of Senate Bill 113 could make Opportunity Zone investments less attractive to Maryland investors and complicate efforts to make this program beneficial in Baltimore City and the Greater Baltimore region.

The Opportunity Zone benefit, created by the 2017 federal *Tax Cuts and Jobs Act*, was enacted to spur private investment in distressed communities by creating a federal tax incentive for investors in real estate or operating businesses within specified Census Tracts. There are 149 Opportunity Zones in Maryland, 62 of which are in the Greater Baltimore region 42 are located in Baltimore City. Qualified Opportunity Funds can invest in eligible commercial, residential and mixed-use real estate properties and operating businesses located in designated Opportunity Zones. The benefit offered by Opportunity Zones allows investors who reinvest capital gains in a designated census tract to defer or eliminate future capital gains taxes.

The Greater Baltimore Committee supports the Opportunity Zone benefit because it has the potential to create economic opportunity in distressed areas of the State that would benefit from private investment. In particular, Baltimore City has been aggressively seeking Opportunity Zone investments. To increase its prospects for success, Baltimore City had the foresight to create a dedicated Opportunity Zone Coordinator position to ensure a coordinated effort to spur investment. This position is now being created in other cities across the country based on Baltimore City's model.

This bill is inconsistent with two of the key tenets in *Gaining the Competitive Edge: Keys to Economic Growth and Job Creation in Maryland,* a report published by the GBC that identifies eight core pillars for a competitive business environment and job growth:

> **Strategic and effective investments in business growth.** The State must commit to substantive strategic investments, leveraged with capital assets, to nurture business and job growth. Investments should include competitive and effective tax credits, business development incentives, and tactical initiatives to nurture private investments in industry growth.
>
> **Government leadership that unites with business as a partner.** Maryland leaders must set a welcoming tone that communicates positive support for business, respect for the private sector as a partner, not an adversary, and reflects a strategic plan for business growth and job creation.

For these reasons, the Greater Baltimore Committee urges an unfavorable report on Senate Bill 113.

The Greater Baltimore Committee (GBC) is a non-partisan, independent, regional business advocacy organization comprised of hundreds of businesses -- large, medium and small -- educational institutions, nonprofit organizations and foundations located in Anne Arundel, Baltimore, Carroll, Harford, and Howard counties as well as Baltimore City. The GBC is a 65-year-old, private-sector membership organization with a rich legacy of working with government to find solutions to problems that negatively affect our competitiveness and viability.

MBIA SB 113 Testimony.pdf
Uploaded by: Graf, Lori
Position: UNF

MARYLAND BUILDING INDUSTRY ASSOCIATION
11825 West Market Place | Fulton, MD 20759 | 301-776-6242

January 20, 2021

The Honorable Guy Guzzone
Chairman, Senate Budget and Taxation Committee
Senate Office Building, 3 West
11 Bladen Street
Annapolis, MD 21401

RE: Opposition of Senate Bill 113 (Opportunity Zone Tax Deduction Reform Act of 2020)

Dear Chairman Guzzone:

The Maryland Building Industry Association (MBIA), representing 100,000 employees of the building industry across the State of Maryland, opposes Senate Bill 113 (Opportunity Zone Tax Deduction Reform Act of 2020).

This bill requires a party to add back to Maryland adjusted gross income or Maryland modified income the amount of capital gains deferred or excluded under the federal Qualified Opportunity Zones Program, thereby making these gains taxable for State income tax purposes.

This measure would harm a valuable Maryland program and slow necessary development in vulnerable communities. The Qualified Opportunity Zones Program was created to stimulate private investment in underinvested communities by providing enhanced incentives for qualifying businesses within an Opportunity Zone. Those incentives include allowing capital gains to be deferred or excluded, which frees up financial resources for the businesses to quickly reinvest in a new project in the same neighborhood. Communities are strengthened and made safer with consistent investment, and the current structure helps businesses have the financial flexibility they need to help with that process.

Removing that taxation benefit removes that financial flexibility, which would slow crucial development and redevelopment in Opportunity Zones. Builders and developers want to be a part of the solution, but it has to make financial sense for the business, which is why the Opportunity Zones Program was created. Passing this measure would essentially disincentivize investment in Opportunity Zones.

Furthermore, this will further creates a disincentive for investment in Baltimore. According to the Baltimore Development Corporation, of the 149 Census Tracts in Maryland that are designated a Opportunity Zones by the U.S. Treasury, 42 are in Baltimore City. (See: http://baltimoredevelopment.com/wp-content/uploads/2018/08/BDC-Opportunity-Zones-Prospectus.pdf and http://baltimoredevelopment.com/wp-content/uploads/2018/08/BDC-Opportunity-Zones-Prospectus.pdf)

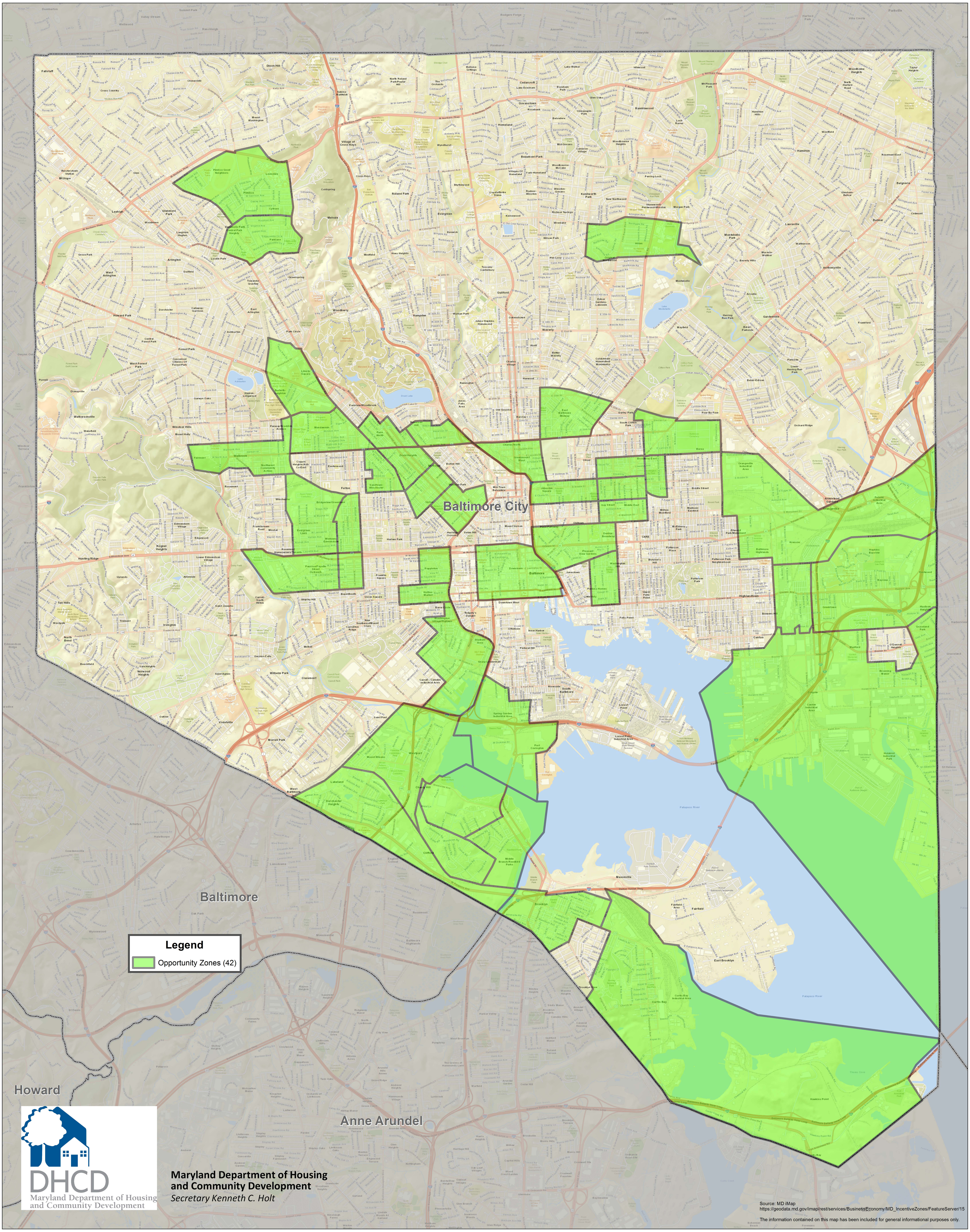
For these reasons, MBIA respectfully requests the Committee give this measure an unfavorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Senate Budget and Taxation Committee Members

MD Opportunity Zones Baltimore City POSTER.pdf
Uploaded by: Graf, Lori
Position: UNF

Maryland Opportunity Zones
Baltimore City



Maryland Department of Housing
and Community Development
Secretary Kenneth C. Holt

Source: MD iMap
https://geodata.md.gov/imap/rest/services/BusinessEconomy/MD_IncentiveZones/FeatureServer/15

The information contained on this map has been included for general informational purposes only.

SB0113_UNF_MTC_Opportunity Zone Tax Deduction.pdf

Uploaded by: Kasemeyer, Pam

Position: UNF

MARYLAND TECH COUNCIL

TO: The Honorable Guy Guzzone, Chair
Members, Senate Budget and Taxation Committee
The Honorable Jim Rosapepe

FROM: Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman

DATE: January 26, 2021

RE: **OPPOSE** – Senate Bill 113– *Opportunity Zone Tax Deduction Reform Act of 2021*

The Maryland Tech Council (MTC) is a collaborative community, actively engaged in building stronger life science and technology companies by supporting the efforts of our individual members who are saving and improving lives through innovation. We support our member companies who are driving innovation through advocacy, education, workforce development, cost savings programs, and connecting entrepreneurial minds. The valuable resources we provide to our members help them reach their full potential making Maryland a global leader in the life sciences and technology industries. On behalf of MTC, we submit this letter of **opposition** for Senate Bill 113.

Senate Bill 113 requires a person to add back to Maryland adjusted gross income or Maryland modified income the amount of capital gains deferred or excluded under the federal Qualified Opportunity Zones Program. This bill references IRS code section 1400Z-2, which is the deferment of gains for investments in Qualified Opportunity Funds (QOF) investing in Qualified Opportunity Zones. A QOF can buy and sell property and the gain does not have to be recognized until the earlier of the sale of the investment or December 31, 2026. Under this bill, there would have to be reporting on the Maryland K-1 to identify any deferred gains, which could be onerous if the QOF is active in buying and selling.

A fairer way to realize capital gain tax revenue would be to defer the gains until having to be reported on a federal return. Maryland would eventually receive its tax revenue, but the taxpayer would get a deferral and there would be less administrative burden to the QOF. This would still allow the fund to be attractive to invest and to improve certain areas and provide jobs, particularly as it relates to the information technology, cybersecurity, and biotechnology industries. Making the taxpayer pay Maryland tax as they go makes the QOF less attractive to potential investors which also means a QOF may not look to Maryland to invest in our leading industries.

As such, MTC urges the Senate Budget & Taxation Committee to oppose Senate Bill 113.

For more information call:
Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
410-244-7000

T 240.243.4026 • F 240.243.4060 • MDTECHCOUNCIL.COM
9841 WASHINGTONIAN BOULEVARD, SUITE 200 • GAITHERSBURG, MD 20878

SB 113.pdf
Uploaded by: Mitchell, Susan
Position: UNF

Senate Bill 113 - Opportunity Zone Tax Deduction Reform Act of 2021

Position: Oppose

On behalf of Maryland REALTORS®, we oppose SB 113 which would no longer allow investors to invest capital gains in an opportunity zone fund by incentivizing these investments.

Maryland REALTORS® fully supported the prospect for significant investment in low income areas that the Opportunity Zone programs encourages. For too long, low income areas have not seen investment or incentives for investment. This program is still so new and recent and has not had the time to prove its effectiveness.

Maryland REALTORS® believes the Opportunity Zone program has the potential to increase investment opportunities in Maryland's distressed areas and will revitalize neighborhoods, job opportunities and create more affordable/workforce housing at a time when Maryland needs the housing supply.

For these reasons, Maryland REALTORS® respectfully urges an unfavorable report of SB 113.

For more information, please contact bill.castelli@mdrealtor.org or susan.mitchell@mdrealtor.org or lisa.may@mdrealtor.org