

SB0593-BT_MACo_SUP.pdf

Uploaded by: Sanderson, Michael

Position: FAV



Senate Bill 593

Property Tax – Homeowners’ Property Tax Credit – Calculation and Refunds

MACo Position: **SUPPORT**

To: Budget and Taxation Committee

Date: February 17, 2021

From: Michael Sanderson and Kevin Kinnally

The Maryland Association of Counties (MACo) **SUPPORTS** SB 593. This bill properly requires the State to rectify errors made by the State Department of Assessments and Taxation (SDAT) which resulted in thousands of low-income Marylanders paying excessive property taxes.

The Homeowners’ Property Tax Credit (HTC) is a State-funded program that provides credits against state and local real property taxes for homeowners who qualify based on a sliding scale of property tax liability and income. According to a recent report from the Office of Legislative Audits, since at least 2005, SDAT erroneously included adjustments based on other property tax credits when calculating the value of HTCs in at least two jurisdictions (Montgomery County and Baltimore City), and in 2019, improperly reduced these credits by at least \$4.4 million.

SB 593 clarifies the calculation of the Homeowners’ Property Tax Credit Program (HTC) by basing the credit on the amount of property taxes paid prior to any adjustments for other property tax credits, and requires the State to retroactively grant refunds to eligible homeowners.

As SDAT administers the State HTC, as well as supplemental credits awarded to eligible homeowners by their local governments, the State should similarly be the party responsible for paying any and all refunds for overpayments due to miscalculating these credits.

For these reasons, MACo urges the Committee to give SB 593 a **FAVORABLE** report.

_MCRC Testimony 2021 SB593 – Homeowners Tax Credit

Uploaded by: White, Marceline

Position: FAV



Maryland Consumer Rights Coalition

Testimony to the Senate Budget & Taxation Committee

SB593: Homeowners Property Tax Credit-Calculations & Refunds

Position: Support

February 17, 2021

The Honorable Guy Guzzone, Chair
Senate Budget & Taxation Committee
3 West, Miller Senate Office Building
Annapolis, MD 21401
cc: Members, Ways & Means Committee

Chair Guzzone and Members of the Committee:

My name is Marceline White and I'm the executive director of the Maryland Consumer Rights Coalition (MCRC). MCRC is a statewide coalition of individuals and organizations that advances economic rights and financial inclusion for Maryland consumers through research, education, direct service, organizing, and advocacy. Our 8,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland.

We are here in support of SB593.

For the past five years, MCRC has helped homeowners, particularly older adults, apply for the Homeowners Property Tax Credit (HOTC). We have spearheaded marketing campaigns, trained financial and housing counselors, VITA staff, and legal service providers on how to assist homeowners in applying for the tax credit, and served as a sounding board when colleagues ran into trouble with the application process. In Baltimore, we have been able to help homeowners avert a tax-sale foreclosure because of these tax credits. In 2020, we returned, \$136,360 to financially fragile families.

SB593 addresses the findings in the OLA October 2020 audit which found that SDAT *"did not ensure HTC's were properly calculated. As a result, HTC's awarded to thousands of homeowners in certain jurisdictions were improperly reduced by at least \$4.4 million in fiscal year 2019"*.

SB593 prohibits SDAT from deducting other tax credits from applicants' total property tax liabilities, which reduced the amount of HOTC tax credit eligible applicants received. Our work shows us how critically important this asset is to many households, particularly older adults, and SB593 will help to ensure that these credits are calculated properly going forward and that eligible applicants will receive the correct amount.

Marceline White
Executive Director

SB 593 Homeowners' Property Tax Testimony.pdf

Uploaded by: Zucker, Senator Craig

Position: FAV

CRAIG J. ZUCKER
Legislative District 14
Montgomery County

Budget and Taxation Committee

Subcommittees

Vice Chair, Capital Budget

Chair, Education, Business and
Administration

Chair, Senate Democratic Caucus



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony of Senator Craig J. Zucker
Senate Bill - 593 - Property Tax - Homeowners' Property Tax Credit - Calculation
and Refunds

Senate Budget and Taxation Committee

February 17th, 2021

1:00pm

Position: SUPPORT

Good afternoon Chairman Guzzone, Vice Chairman Rosapepe, and distinguished members of the committee. It is my pleasure to testify today in **support of Senate Bill 593 – Property Tax – Homeowners' Property Tax Credit – Calculation and Refunds.**

Since 2005, both Montgomery County and Baltimore City homeowners have had their property taxes miscalculated causing taxpayers from those areas more than \$32 million of over charges. T

Senate Bill 593, attempts to address that by reimbursing taxpayers from those jurisdictions some of the money from their being overcharged. Under this legislation homeowners will receive a refund of any property taxes paid in the prior 3 years that exceed the amount required under the revised calculation for the property tax credit program.

The State Department of Assessment and Taxation (SDAT), must notify the homeowner and the county within which the homeowners' dwelling is located of the amount of the refund. The Comptroller must pay eligible homeowners the amount of the refund from the Local Reserve Account.

From Fiscal Year 2023 through 2028, the Governor must include an appropriation to the Local Reserve Account in the annual budget bill in an amount equal to 1/6 of the total refunds paid for property tax refunds resulting from the bill during Fiscal Year 2022.

For Fiscal Year 2022, a refund paid to a homeowner in accordance with the provisions of the bill may not be included in the calculation of the homeowners' gross income for purposes of eligibility for the homeowners' property tax credit.

This legislation is about tax fairness. For these reasons, I urge a favorable report on Senate Bill 593. Thank you for your kind consideration.

SB593 testimony.pdf

Uploaded by: Wilen, Louis

Position: FWA

Testimony before the Maryland State Senate Budget and Taxation Committee

SB 593

Property Tax – Homeowners’ Property Tax Credit – Calculation and Refunds

Requesting a FAVORABLE report with suggested amendments

Testimony by Louis Wilen, a resident of Olney, Maryland

February 17, 2021

Dear Mr. Chair and Members of the Committee:

SB 593 seeks to aid moderate and low-income homeowners by requiring partial refunds of property tax that was improperly collected because of a calculation error by the State Department of Assessments and Taxation (SDAT). An Office of Legislative Audits (OLA) investigation revealed that the calculation error has been occurring since 2005 and possibly earlier. The error affects thousands of homeowners throughout the State, primarily in Baltimore City and Montgomery County, and possibly in other counties. Any homeowner who received the Homeowners’ Tax Credit (HTC) and at least one other property tax credit (other than the Homestead Credit) is likely to have been impacted.

Please note that SB593 requires refunds of only the State portion of property tax credits that were improperly calculated. The bill does not give the counties and municipalities even the *option* to refund improperly calculated local supplemental property tax credits, such as the Montgomery County low and moderate income senior tax credit. Please consider amending the bill so that counties and municipalities are at least given the *option* to refund improperly calculated supplemental property tax credits.

Furthermore, the bill requires refunds of property tax that was improperly collected only since FY2018. While it may be convenient for the state to issue refunds covering only the most recent years, a refund covering this short period will leave many of the homeowners injured since the miscalculation has been

taking place since at least 2005. Please consider amending the bill to require refunds of improperly collected property taxes back to at least 2005.

Please also consider that it would have been almost impossible for an HTC recipient to discover the calculation error on their own because the amount of the HTC is calculated entirely by SDAT. The calculations are normally invisible to homeowners. (It's quite a different process from calculating income tax, where all calculations are fully visible to taxpayers on their tax returns so errors can be readily detected.) The OLA deserves a great deal of credit for their auditing work on this issue. Since the error was well-hidden, it is inappropriate for taxpayers to be harmed at all by this error.

Finally, from all indications, the calculation error was not a "programming error" or "processing error," but was instead the result of a long-standing (and incorrect) policy decision by SDAT. I've attached a Maryland Tax Court Order from May 2011, *Crandon v. SDAT*, that illustrates the extent to which SDAT went to defend their policy. In the Order, please note that SDAT's experienced attorney improperly construed the meaning of the phrase "property tax imposed" in the Property Tax Code to steamroll elderly *pro se* appellant Ms. Crandon in Tax Court and convince the court to rule in favor of SDAT. In fact, the term "property tax imposed" is used similarly in the description of every property tax credit. If SDAT's (and the court's) interpretation of the use of "property tax imposed" in the HTC law had been correct, every tax credit would be subtracted from every other tax credit, leading to a final credit calculation of zero. The OLA's findings and common sense make it clear that the legislature never intended to issue property tax credits, then immediately zero them out by recursively subtracting them from all other property tax credits.

Thank you for taking time to hear my testimony and consider the amendments I have suggested. I ask that you issue a FAVORABLE report on SB593.

2016 HOMEOWNERS' TAX CREDIT WORKSHEET

Example of an HTC worksheet from SDAT. This is **not** normally provided to the homeowner by SDAT. It was obtained by special request.

STATE HOMEOWNERS' TAX CREDIT

1. TAX CLASS / ASSESSMENT (MAX \$300,000)		300,000
2. TAX RATE (FROM TAX RATE TABLE FOR TAX CLASS)	2.	x1.1502
3. TAXES SUBJECT TO STATE HTC (1 X 2)	3.	3,450.60
	county tax credit	-692
		2,758.60
4. STATE LIABILITY (Based on income of \$27,637)	4.	-1467.33
5. STATE HTC (3 - 4)	5.	1,291.27

MONTGOMERY COUNTY HOMEOWNERS' TAX CREDIT

6. TAX CLASS / ASSESSMENT (MAX \$300,000)	6.	300,000
7. TAX RATE (WITHOUT STATE AND/OR MUNICIPAL RATE)	7.	1.0382
8. TAX SUBJECT TO COUNTY CREDIT (6 X 7)	8.	3,114.60
	county tax credit	-692
		2,422.60
9. COUNTY LIABILITY (Based on income of \$27,637)	9.	-201.85
10. TOTAL CREDIT BEFORE STATE CREDIT IS DEDUCTED (8 - 9)	10.	2,220.75
11. STATE HTC (5)	11.	-1,291.27
12. MONTGOMERY COUNTY HTC (10 - 11)	12.	929.48

13. MONTGOMERY COUNTY SENIOR TAX CREDIT (5 + 12 X 50%)	2,220.75 X 50% =	1,110.38
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TOTAL HOMEOWNERS' TAX CREDIT
(5 + 12 + 13)

3,331.13

IN THE MARYLAND TAX COURT

CAROLE CRANDON

Petitioner

v.

STATE DEPARTMENT OF
ASSESSMENTS AND TAXATION

Respondent

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*
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*
*

Case No. 10-MI-MO-1245 (1-3)

ORDER

THIS MATTER, having come before this Honorable Court for hearing on May 3, 2011, and the parties having had an opportunity to be heard, it is this *24th* day of *May*, 2011, by the Maryland Tax Court,

ORDERED, that the Petitioner shall repay the Respondent \$5855.30 (the recoupment amount) for improperly granted homeowner's tax credits relative to the 2007, 2008 and 2009 taxable years. The Petitioner received historic preservation tax credits for those years, which reduced the "property tax imposed" on her dwelling under Tax-Property Article, § 9-104(g) and caused her to be ineligible for said homeowner's tax credits, and it is further;

ORDERED, that the Petitioner be allowed to repay the recoupment amount by entering into a Repayment Agreement with the Respondent, and it is further;

ORDERED, that any recoupment amount received by Respondent from Montgomery County must be returned, and it is further;

ORDERED, that any recoupment amount received by Montgomery County from the Petitioner's mortgage company must be returned, and it is further;

ORDERED, that the Petitioner is not responsible to Montgomery County for any penalties or interest in conjunction with the repayment.

CC: Carole Crandon
David M. Lyon, Esq.
Kent Finkelsen, Administrator

CERTIFIED TRUE COPY
TEST: John T. Hearn, Clerk

NOTICE: You have the right of appeal from the above Order to the Circuit Court of any County or Baltimore City, wherein the property or subject of the assessment may be situated. The Petition for Judicial Review **MUST** be filed in the proper Court within thirty (30) days from the date of the above Order of the Maryland Tax Court. Please refer to Rule 7-200 et seq. of the Maryland Rules of Court, which can be found in most public libraries.

Relevant sections of the OLA Audit Report dated October 2020

Automated and Manual Processing Errors in Calculating Certain HTC's

DAT improperly calculated HTC's in at least two jurisdictions (Montgomery County and Baltimore City) resulting in thousands of homeowners paying excessive property tax amounts. DAT administers the State HTC and certain supplemental credits awarded to eligible homeowners by their local jurisdictions, such as Montgomery County's supplemental tax credit for senior citizens 65 or older with limited incomes.

- DAT's automated system improperly deducted the income tax offset credit (ITOC) administered by Montgomery County from homeowners' State and County real property tax liabilities, resulting in the HTC's awarded to homeowners in Montgomery County being improperly reduced.² Specifically, individual homeowners under the age of 65 had their State and County HTC's improperly reduced by amounts up to a total of \$692, and homeowners at least 65 years old had their HTC's reduced by amounts up to a total of \$1,038³. Based on our analysis of HTC applications processed in DAT's automated system for Montgomery County residents in fiscal year 2019, the improper reduction of homeowners' tax liabilities resulted in reduced HTC's awarded to 5,388 applicants totaling \$4.4 million. We determined that, based on the automated system's programming for Montgomery County, DAT improperly calculated HTC's dating back to at least 2005 in the same manner. We could not readily determine the amount by which HTC's were improperly reduced for years prior to fiscal year 2019.

Example of Impact of Incorrect DAT Calculation

	OLA Calculation	DAT Calculation
1 Tax liability (TL)	\$ 3,274	\$ 3,274
2 County ITOC	N/A	692
3 TL Used for HTC (1-2)	3,274	2,582
4 Max Allowed Based on Income	1,610	1,610
5 Calculated HTC (3-4)	1,664	972
6 Homeowner Tax Liability (1-5)*	\$ 1,610	\$ 2,302
Difference (OLA-SDAT)	\$	(692)

*Excludes other taxes and fees on the tax bill

- A similar condition was noted with HTC's manually processed by DAT employees. Specifically, our test of 22 manually calculated HTC's for homeowners that received property credits administered by Montgomery County and 3 other jurisdictions disclosed that DAT employees had improperly deducted these credits from the tax liabilities of 13 homeowners from 2 jurisdictions (Montgomery and Baltimore City). It appears that the manual calculations mirrored those programmed into the automated system for Montgomery County. Consequently, the HTC's awarded to these 13 homeowners were improperly reduced by \$6,500.

DAT received advice from its legal counsel on January 23, 2019 that confirmed our determination that DAT's HTC methodology commented upon above was incorrect.

² Since HTC's are calculated based on real property tax liabilities, the improper calculation resulted in too low of a liability, which resulted in a too low of a credit.

³ Montgomery County homeowners that were at least 65 years old were eligible to receive a supplemental tax credit equal to half of their State HTC amount.

Agency Response Form

Finding 5

DAT did not ensure HTC's were properly calculated. As a result, HTC's awarded to thousands of homeowners in certain jurisdictions were improperly reduced by at least \$4.4 million.

We recommend that DAT

- a. establish procedures to periodically review the programming of its automated system to ensure that HTC's for all jurisdictions are being processed accurately and in accordance with the law;
- b. segregate duties over manually processed HTC's and ensure they are properly calculated, documented, and supported;
- c. comply with advice of legal counsel and discontinue the practice of deducting other tax credits from applicants' total property tax liabilities, except as allowed by State law; and
- d. consult with legal counsel on how to proceed regarding any refunds resulting from the HTC miscalculations including the \$4.4 million noted above.

Agency Response	
Analysis	
Please provide additional comments as deemed necessary.	SDAT disagrees with the sentiment of impropriety in the statement "HTC's awarded to thousands of homeowners in certain jurisdictions were improperly reduced by at least \$4.4 million." Before OLA began their audit, SDAT made a policy determination that increased the amount of tax credits received by certain jurisdictions in future years. Subsequent conversations with SDAT's Assistant Attorney General confirmed that this is the appropriate course of action moving forward, but the Department does not feel as though prior year calculations were inaccurate as they were consistent with the Department's practice at the time and implicitly upheld by PTAAB and Maryland Tax Court decisions.

Auditor's Comment: DAT's statement that the PTAAB and the Maryland Tax Court "implicitly upheld" the specific calculation method we addressed in our report is not consistent with its position during our audit fieldwork or subsequent to the audit when we discussed the finding with DAT management. Furthermore, the statement is questionable since the specific calculation method we addressed was demonstrably improper, and our assessment that the calculation method was improper was consistent with advice DAT received from its legal counsel in January 2019 as noted in our report.

Cross-file SB0593.pdf

Uploaded by: Higgs, Michael

Position: INFO



**DEPARTMENT OF
ASSESSMENTS AND TAXATION**

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Michael L. Higgs, Jr., Director

DATE: February 17, 2021

BILL NUMBER: SB0593

COMMITTEE: Budget and Taxation

BILL TITLE: Property Tax – Homeowners’ Property Tax Credit – Calculation and Refunds

SDAT POSITION: Letter of Information

The State Department of Assessments and Taxation (SDAT) offers the following information for SB0593.

Section 1 of this bill codifies existing policy that was enacted by the State Department of Assessments and Taxation (SDAT) beginning with the 2020 tax credit year. Section 2 requires SDAT to make that policy change retroactive and determine whether a homeowner is owed a refund of property taxes paid by the homeowner for prior taxable years as a result of the Act.

Section 1 of the legislation requires that SDAT not include any adjustment for local tax credits when determining the state and local supplemental homeowners’ tax credits due, which was a policy adopted by SDAT beginning with the 2020 tax credit application. Increased expenditures due to that change were included in the FY20 and subsequent budgets. Therefore, this section would have no operational nor fiscal impact on the Department or the state.

Section 2 imposes a mandated appropriation in the state budget as it requires the state to issue additional property tax refunds for prior fiscal years, which is infeasible as currently written since the counties and not SDAT administer property taxes and therefore the Department would not have a cost effective way of knowing whether or not any individual homeowner would be due a property tax refund. After conversations with the bill’s sponsor, SDAT anticipates a technical amendment changing the language in Section 2 so that the Department would determine whether a homeowner is due additional State Homeowners’ Tax Credits, as opposed to a property tax refund.

If an amendment is adopted to accomplish that change, the Department would be able to administer this legislation so long as the homeowner is presently living in the same property as they were from 2017-2019. It is unclear how the Department would address payments to

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**DEPARTMENT OF
ASSESSMENTS AND TAXATION**

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Michael L. Higgs, Jr., Director

previous homeowners who have since moved, and possibly cannot be located. SDAT is working to determine a more accurate fiscal impact, but state expenditures would increase by nine (9) to twelve (12) million dollars.

SDAT is further concerned for if absent the amendment discussed above, counties may incur additional expenses and some homeowners' may have to reimburse the counties or state for tax credits they previously received.

While Section 1 has no operational nor fiscal impact on the Department or the state, SDAT is concerned that an unamended section 2 would be unworkable.

SDAT respectfully requests the committee consider this information as it deliberates SB0593.

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SB 593 Homeowners' Prop Tax Credit-Refund (Zucker)

Uploaded by: Wilkins, Barbara

Position: INFO



Maryland

DEPARTMENT OF BUDGET
AND MANAGEMENT

LARRY HOGAN
Governor

BOYD K. RUTHERFORD
Lieutenant Governor

DAVID R. BRINKLEY
Secretary

MARC L. NICOLE
Deputy Secretary

SENATE BILL 593 Property Tax - Homeowners' Property Tax Credit - Calculation and Refunds (Zucker, et al)

STATEMENT OF INFORMATION

DATE: February 17, 2021

COMMITTEE: Senate Budget & Taxation

SUMMARY OF BILL: SB 593 excludes the amount of any property tax credit from the calculation of the "total property tax" in connection with the Homeowners' Property Tax Credit Program, requires a refund to homeowners who participated in the Program that dates back to FY 2018 based on this recalculation, and makes the recalculation permanent. The refund is made from the Local Reserve Account and mandates an annual appropriation in FY 2023-FY 2028 to repay the Local Reserve Account in six equal installments. The refund is excluded from being considered as income in FY 2022 for purposes of calculating income eligibility under the Program.

EXPLANATION: The Department of Budget and Management's (DBM) focus is not on the underlying policy proposal being advanced by the legislation, but rather on the increase in entitlement spending of approximately \$12 million. The State reimburses local governments for the costs of the Homeowners' Property Tax Credit Program, the total cost of which is in excess of \$60 million.

DBM has the responsibility of submitting a balanced budget to the General Assembly annually, which requires spending allocations for FY 2022 to be within the official revenues estimates approved by the Board of Revenue Estimates in December 2020.

Economic conditions remain precarious as a result of COVID-19, making revenue predictions for the remainder of FY 2021 and FY 2022 highly volatile. Many individuals and households are unemployed or underemployed, with many industry sectors operating at much less than 100% capacity. Federal stimulus programs are providing much needed relief, but the impact of the COVID-19 pandemic continues to present a significant budgetary vulnerability.

The General Assembly and Administration have successfully enacted the Governor's emergency Recovery for the Economy, Livelihoods, Industries, Entrepreneurs, and Families Act (SB 496 RELIEF Act), which provides \$1.2 billion in direct stimulus and tax relief for Maryland working families, small businesses, and those who have lost their jobs as a result of the COVID-19 pandemic. It is incumbent upon us to allow the impact of this unprecedented relief package on the State's economy to take effect. Further mandated spending increases need to be reevaluated within the context of an ongoing pandemic.

**For additional information, contact Barbara Wilkins at
(410) 260-6371 or barbara.wilkins1@maryland.gov**

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