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Judicial Proceedings Committee

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January, 25, 2022
The Honorable Guy Guzzone.
Senate Budget and Taxation Committee
3 West Miller Senate Building
11 Bladen Street
Annapolis, Maryland 21401

**Re: Senate Bill – 260 - Department of General Services Broker Rebate Fee Fund –
Established**

Dear Chairman Smith and Members of the Committee,

When a property owner decides to rent its property, it typically hires a broker to market the property, and it creates a pro forma financial statement for the out years setting forth the projected rental income for the property and the property maintenance costs that it expects to incur. In most modern leasing contracts, the new tenant pays the broker a commission for the broker's services, and the broker in turn shares a portion of the commission, known as the "Broker Rebate Fee", with the owner of the property. Both the Broker Rebate Fee and the costs that the property owner expects to incur to maintain the property during the term of the lease are components that are set forth on the pro forma financial statement.

The Maryland Department of General Services ("DGS") controls an enormous amount of leasable space. DGS contracts with CVRE, an international commercial brokerage firm, to act as the broker for the State's leasable properties. When CVRE negotiates a lease on behalf of DGS, the new tenant pays CVRE a broker's commission. DGS has negotiated with CVRE for a Broker Rebate Fee which averages approximately 30% of the broker's commission. These Broker Rebate Fees cover a large part of the State's operating and maintenance costs in connection with the leased properties.

Unfortunately for DGS, the Broker Rebate Fees are not remitted to the State at predictable times, and the State's need to spend money to maintain its rental properties also does not occur at predictable times.

Under Maryland law, all money received by a State agency during a fiscal year which is not spent during that fiscal year escheats to the State's general operating fund at the end of that fiscal year. This policy makes sense in most cases, but in the case of DGS's Broker Rebate Fees and its need to spend those fees to maintain its rental properties, the policy causes a serious timing problem.

For example, for Property A, DGS may receive \$100,000 in Broker Rebate Fees in April and book that receipt assigned to Property A. In August, DGS may need to spend \$60,000 on maintenance attributable to Property A. Normally, the expenditure would be booked under Property A and would reduce the amount of money available for future Property A maintenance to \$40,000. But, due to Maryland's escheat policy, the \$100,000 received in Broker Rebate Fees in April would have escheated to the State on June 30th, and come August, DGS would have no money assigned to its Property A account in August when the \$60,000 bill for maintenance bill would come due. There is a complicated "fix" for this problem, but it would be so much easier to just leave the Broker Rebate Fees in DGS's account.

Senate Bill 260 sets up a special, non-lapsing Broker Rebate Fee Fund in the Department of General Services. The bill provides that all Broker Rebate Fees would be deposited in the Fund. Expenditures from the fund may only be made in accordance with the state budget, including needed maintenance work on state properties that are under lease.

In short, Senate Bill 260 will help DGS to manage its leased properties more efficiently.

I appreciate the committee's consideration on this bill and am available for any follow-up questions the committee may have.