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SB968: Income Tax – Captive Real Estate Investment Trusts – Alterations
Budget & Taxation Committee – March 15, 2023
Sponsors: Senator Nancy King, Senator Sarah Elfreth
Position: FAVORABLE

Testimony on Behalf of Unibail-Rodamco-Westfield

Chairman Guzzone, Vice Chairman Rosapepe, and members of the Committee, thank you for the opportunity to testify today.

We are here today testifying on behalf of Unibail-Rodamco-Westfield, which operates 78 shopping centers in 12 countries, including 45 under the Westfield brand which includes Annapolis Mall, Montgomery Mall, and Wheaton Mall in Maryland. These properties generate over $50 million in tax revenues for Maryland governments per year.

URW supports SB968 and asks the Committee to give it a Favorable report.

Background:
In 2007, the General Assembly adopted legislation to prevent national corporations from misusing the Real Estate Investment Trust (REIT) tax structure as a means to reduce state corporate income and franchise tax liabilities by setting up a Captive REIT. The legislation did allow for three exemptions that included an allowance for a "listed Australian property trust".

In 2007, Westfield was owned by an Australian property trust. In December of 2017, Westfield was acquired by the French property group Unibail-Rodamco.

Subsequent to the MD legislation being adopted, the Multistate Tax Commission adopted model state legislation in 2008 which was updated further in 2011. The MTC recommended language expands the exemption beyond just Australian property trusts to include Qualified Foreign Entities that meet stated requirements.

SB968 will update the Maryland Annotated Code to include the Qualified Foreign Entity allowance that will recognize all US REITs owned by foreign based REIT entities such as French, Dutch, United Kingdom, and Japanese REITs and not just those from Australia. SB968 will incorporate the recommendations of the Multistate Tax Commission.

Other states that acted before the MTC model legislation was released have updated their laws to include REITs that have ownership other than Australia, ie: New York, Illinois.

This legislation will allow URW to continue to operate as it does today and how the 2007 law intended.

We request a FAVORABLE report and look forward to your questions.

SB968 Sponsor Testimony.pdf
Uploaded by: Senator Nancy King
Position: FAV

Nancy J. King
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Senate Bill 968 – Income Tax – Captive Real Estate Investment Trusts - Alterations

March 15, 2023

Mr. Chairman and Members of the Senate Budget and Taxation Committee,

In 2007, the Maryland General Assembly passed legislation that closed a loophole that large corporations were using to avoid paying corporate income tax. Prior to the bill's passage, large corporations could shift the ownership of the real property holdings to a subsidiary Real Estate Investment Trust (REIT) and pay it rent for the use of these properties. The rents were considered a business expense and were deductible from the state corporate income tax. Meanwhile, the REIT would pay back the rent as a dividend to the parent company which was free from tax liability.

The 2007 legislation closed that loophole while recognizing that REITs serve a good purpose in providing a less risky vehicle for investing in commercial real estate and the legislation was crafted to hold harmless legitimate publicly traded REITs. In the years since the passage of the 2007 state law the Multistate Tax Commission developed model language for other states trying to resolve the issue of tax avoidance with updates to reflect more current investment practices including regulations imposed on foreign owned companies.

Senate Bill 968 simply updates our tax law on REITs to conform with Multistate Tax Commission model language. This change will ensure that those companies that are properly using REITs as legitimate forms of investment are not penalized in Maryland, while those corporations using REITs for tax avoidance will still be denied under Maryland law.

I respectfully request a favorable report on Senate Bill 968.

Anne Arundel County _FAV_SB 968.pdf
Uploaded by: Steuart Pittman
Position: FAV

ANNE ARUNDEL COUNTY
MARYLAND
County Executive Steuart Pittman

March 15, 2023

Senate Bill 968

Income Tax - Captive Real Estate Investment Trusts - Alterations

Senate Budget & Taxation Committee

Position: FAVORABLE

Anne Arundel County **SUPPORTS** Senate Bill 968 - Income Tax - Captive Real Estate Investment Trusts - Alterations. This legislation clarifies the captive Real Estate Investment Trust (REIT) rules in State law to mirror model legislation from the Multistate Taxation Commission (MTC).

In 2007, Maryland passed legislation to prevent national corporations from taking advantage of the Maryland tax code by forming captive REITs. The 2007 legislation provided an exemption for Australian-owned REITs. At the time, this included Unibail-Rodamco-Westfield, which owns Westfield shopping centers. Westfield operates three shopping center locations in Maryland, including one in Annapolis. In 2016, Westfield was sold to a French/Dutch REIT.

Maryland was ahead of other jurisdictions and adopted our legislation one year before the Multistate Taxation Commission (MTC) released model legislation for captive REITs in 2008. Senate Bill 968 will align Maryland law with the MTC model legislation and exempt all international REITs that meet stated standard, rather than only those that are Australian-owned. This clarity is essential when pursuing investors for new projects.

For all of these reasons, I respectfully request a **FAVORABLE** report on Senate Bill 968.

Steuart Pittman
County Executive

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