

Brooks_SB12.pdf

Uploaded by: Benjamin Brooks

Position: FAV

BENJAMIN BROOKS
Legislative District 10
Baltimore County

Education, Energy, and the
Environment Committee



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

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TESTIMONY IN SUPPORT OF SB12
Corporations and Associations – Annual Report Filing Fees –
Electronic Filing Exemption
Judicial Proceedings Committee
January 25, 2023

Chair Smith, Vice-Chair Waldstreicher and Members of the Committee,

Thank you for the opportunity to testify before you on S12, Corporations and Associations – Annual Report Filing Fee – Electronic Filing Exemption. The purpose of this bill is to require the State Department of Assessment and Taxation (SDAT) to waive the filing fees for annual reports filed electronically by certain businesses.

Currently, when a business is formed, qualified, or registered in the State, they are required to file an annual report. The cost to file that report is \$300, payable to SDAT. Since 2016, there have been several variations of this legislation introduced to eliminate the \$300 fee. This fee is already waived for corporations that do not issue shares of stock, Foreign Interstate Corporations, and businesses that qualify for an exemption under the Maryland Small Business Retirement Savings Trust (MD\$AVES) fee waiver program.

While the big companies may qualify for the fee waiver, we are leaving out the little guy. This bill is targeted to waive the fee for those businesses that file online with SDAT but ARE NOT eligible for the fee waiver offered under MD\$AVES.

Pursuant to HB0356 of the 2021 Legislative Session of the Maryland General Assembly, which was enacted under Article II, § 17(c) of the Maryland Constitution on May 30, 2021, SDAT was tasked to study and review fees collected by all 50 states and the District of Columbia that are equivalent or substantially similar to the Annual Report filing fees collected by SDAT. The Department was also tasked to provide the General Assembly, pursuant to §2-1257 of the State Government Article, recommendations to make Maryland's Annual Report filing fee more competitive with the similar fees collected by other states.

As written, SB12 complies with SDAT's study findings and recommendations to the General Assembly on how best to amend the Maryland Annual Report fees to make Maryland more business-friendly and competitive with its regional neighbors.

This bill ensures that single member LLC's (disregarded entities) that file electronically and are not eligible for the MD\$AVES waiver will not pay an annual report fee. This will incentive businesses to locate to Maryland and will encourage electronic filings over more inefficient paper filings. MD\$AVES is supportive of this measure.

For these reasons, I am requesting a favorable report.

With kindest regards,

A handwritten signature in cursive script that reads "Benjamin T. Brooks".

Benjamin Brooks

SB0012 -- Corporations and Associations – Annual R

Uploaded by: Brian Levine

Position: FAV



Senate Bill 12 -- Corporations and Associations – Annual Report Filing Fees – Electronic Filing Exemption
Senate Judicial Proceedings Committee
January 25, 2023
Support

The Montgomery County Chamber of Commerce (MCCC), the voice of business in Metro Maryland, supports Senate Bill 12 -- *Corporations and Associations – Annual Report Filing Fees – Electronic Filing Exemption*.

Senate Bill 12 waives the filing fees paid by corporations and other business entities to the State Department of Assessments and Taxation for electronically filed annual reports beginning in Fiscal Year 2024.

MCCC seeks to improve Maryland's business climate by finding solutions that lower the cost of doing business and create a more customer-oriented approach in transactions between businesses and the State of Maryland. Senate Bill 12 accomplishes both.

By eliminating fees of annual reports that are filed electronically, Senate Bill 12 makes Maryland's business climate more competitive by lowering business costs. Furthermore, eliminating filing fees for reports that are filed electronically acknowledges that these types of fees are typically meant to pay for the cost of administering transactions between government and business. Electronic filing of reports should be encouraged because they create efficiencies and reduce administrative costs.

For these reasons, the Montgomery County Chamber of Commerce supports Senate Bill 12 and respectfully requests a favorable report.

The Montgomery County Chamber of Commerce, on behalf of our nearly 500 members, advocates for growth in business opportunities, strategic investment in infrastructure, and balanced tax reform to advance Metro Maryland as a regional, national, and global location for business success. Established in 1959, MCCC is an independent non-profit membership organization and a proud Montgomery County Green Certified Business.

*Brian Levine | Vice President of Government Affairs
Montgomery County Chamber of Commerce
51 Monroe Street | Suite 1800
Rockville, Maryland 20850
301-738-0015 | www.mcccmd.com*

Support of SB 12 - Corporations and Associations -

Uploaded by: Colby Ferguson

Position: FAV



Maryland Farm Bureau, Inc.

3358 Davidsonville Road • Davidsonville, MD 21035 • (410) 922-3426

January 25, 2023

To: Senate Judicial Proceedings Committee

From: Maryland Farm Bureau, Inc.

Re: **Support of SB 12 - Corporations and Associations - Annual Report Filing Fees - Electronic Filing Exemption**

On behalf of our Farm Bureau member families in Maryland, I submit this written testimony in support of SB 12. This bill exempts business entities from paying the filing fee required with the submission of an annual report to the State Department of Assessments and Taxation (SDAT) if the annual report is filed electronically. This would include a farm.

Having the ability to remove a \$100 or \$300 annual fee just to electronically submit paperwork, not only keeps farmers hard earned money in their pocket, but also makes for a more efficient filing process for the farmer and the state. This is a win, win for the farmer and the state.

MDFB Policy:

We urge the reduction of government agency bureaucracy and duplication to reduce costs, fees, and frustration of the public.

MARYLAND FARM BUREAU SUPPORTS SB12 & REQUESTS A FAVORABLE REPORT

A handwritten signature in black ink, appearing to read 'Colby Ferguson'.

Colby Ferguson
Director of Government Relations

For more information contact Colby Ferguson at (240) 578-0396

SB0012_PGCFB_Fav.pdf

Uploaded by: Harrison Palmer

Position: FAV



PRINCE GEORGE'S COUNTY FARM BUREAU, INC.

13501 Molly Berry Road Brandywine, MD 20613

PGCFB.org – 301.579.6552 – PGCFB@yahoo.com

January 24, 2023

To: Senate Judicial Proceedings Committee

From: Prince George's County Farm Bureau

Re: Support of SB0012 - Corporations and Associations – Annual Report Filing Fees – Electronic Filing Exemption

On behalf of the Prince George's County Farm Bureau, I would like to express our support of Support of SB0012 - Corporations and Associations – Annual Report Filing Fees – Electronic Filing Exemption. This bill exempts business entities from the filing fees that are required by the State Department of Assessments and Taxation if they are filed electronically.

Inflation, rising fuel and input costs, and fewer markets for agricultural products have continued to put financial strain on Maryland farmers since before the COVID-19 pandemic. Alleviating some of this strain during a time of year where farmers are planning their seed, fertilizer and fuel purchases grants financial and mental relief. This added cost of doing business steers new and beginning farmers away from properly filing, and complicates the already challenging process for establishment. Currently, the only reduction in filing fees is available to "family farms" which disqualifies farmers on rented land and urban agricultural producers. The proposed legislation would create a more fair and equitable opportunity to reduce costs for all farmers in Maryland.

Prince George's County Farm Bureau serves the interests of all farmers across our county, and SB0012 stands to benefit our wide range of producers, therefore we are in full support of waiving filing fees for qualified businesses filing annual reports electronically.

Best Regards,

Sincerely,

Harrison Palmer

Vice President

Prince George's County Farm Bureau

Jan 24 2023 MSBA Business Law Section Council Test

Uploaded by: Jason Wasserman

Position: FWA

January 24, 2023

Senator William C. Smith, Jr., Chair
Judicial Proceedings Committee
Maryland State Senate
Miller Senate Office Building, 2 East Wing
11 Bladen Street
Annapolis, Maryland 21401 - 1991

Re: **MSBA Business Law Section Council**
Senate Bill 12 (Corporations and Associations – Annual Report Filing Fees –
Electronic Filing Exemption)

Dear Chair Smith and Fellow Committee Members:

The Business Law Section Council of the Maryland State Bar Association annually reviews proposed legislation that may have an effect on Maryland businesses. Our review of Senate Bill 12 (Corporations and Associations – Annual Report Filing Fees – Electronic Filing Exemption) (the “Bill”) has generated a few concerns. The Bill would waive the filing fee for entities that (1) file their annual report electronically with the Maryland State Department of Assessments and Taxation (“SDAT”) if (2) they are not a “covered employer” as defined in Section 12-101(d) of the Maryland Labor and Employment Article.

First, we believe that the Bill would make the annual report filing process unnecessary complex. We believe that the cross-reference to the “covered employer” definition does not make it clear which companies would and would not qualify for the fee waiver and instead requires a convoluted and complex analysis to determine if the entity in question is eligible for the waiver.

Related to this concern, we believe that the administrative aspects of the Bill, that is, determining which business entities qualify for the fee waiver if they file electronically, would be an unnecessary burden on the entities themselves as well as the state agency that is designated to make and/or confirm these designations; while the Bill does not specify who would be responsible for making this determination, we are concerned that the burden would fall to SDAT, and that the time and resources that SDAT, which is already understaffed, would have to dedicate to making

these determinations would decrease its existing customer service levels with respect to the functions it is already required to perform in connection with Maryland business entities.

If the goal of the Bill is to lower fees to help Maryland businesses and/or to encourage the electronic filing of annual reports, as appears to be the case based on the language of the Bill, it would be much more efficient to do this in a uniform manner, that is, by waiving the annual report filing fee for all entities that file their annual report electronically.

Further, we believe that, absent compelling and clear reasons, like companies should be treated alike under Maryland law, and it is unclear from the face of the Bill why some companies would be eligible for the annual fee waiver and others not based on their use of a “payroll system or service” to pay their “covered employees.” It appears from the current text of the Bill that the legislature is picking winners and losers with respect to an annual fee waiver for reasons that are not discernable in the Bill, and we are concerned about the ramifications of this apparent unfairness with respect to the business climate in Maryland.

We therefore respectfully suggest that, in lieu of the Bill as currently proposed, the Committee consider revising the Bill to provide the proposed fee waiver in connection with electronic filing in a straightforward and equitable manner. In that regard, we note that HB 171, introduced in the Maryland House on January 18, 2023, would eliminate the annual report filing fee for any business entity that files its annual report electronically in accordance with procedures established by SDAT.

Very truly yours,

A handwritten signature in cursive script that reads "Penny Somer-Greif".

Penny Somer-Greif, Chair
MSBA Business Law Section Council

cc: MSBA Business Law Section Council

MSAR #13118 (2) (2).pdf

Uploaded by: Jonathan Glaser

Position: INFO



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

**ANNUAL REPORT FILING FEE STUDY AND RECOMMENDATIONS
MARYLAND STATE DEPARTMENT OF ASSESSMENTS AND TAXATION
MSAR #13118**

December 31, 2021

To: Maryland General Assembly

From: Maryland State Department of Assessments and Taxation

Contact: Jonathan Glaser, Legislative Director

jonathan.glaser@maryland.gov 443-447-0078

PURPOSE

Pursuant to HB0356 of the 2021 Legislative Session of the Maryland General Assembly, which was enacted under Article II, § 17(c) of the Maryland Constitution on May 30, 2021, the Maryland State Department of Assessments and Taxation (SDAT) has been tasked to study and review fees collected by other states that are equivalent or substantially similar to the Annual Report filing fees collected by SDAT under the authority of § 1-203(b)(3)(ii) of the Corporations and Associations Article.

Furthermore, SDAT has also been tasked to suggest to the General Assembly, pursuant to §2-1257 of the State Government Article, recommendations to make Maryland's Annual Report fee more competitive with the similar fees collected by other states.

The following study contains the findings of SDAT's review of annual report filing fees collected by all fifty states and the District of Columbia, and SDAT's recommendations to the General Assembly on how best to amend the Maryland Annual Report fees to make Maryland more business-friendly and competitive with its regional neighbors.

CURRENT ANNUAL REPORT FILING FEES IN MARYLAND

The current Annual Report filing fee for domestic (Maryland chartered) and foreign (chartered in a different state and registered with SDAT to transact business in Maryland) stock corporations, LLCs, and different types of partnerships is **\$300**. The filing fee is due each year by April 15 with the required Annual Report and, if applicable to the reporting entity, a Business Personal

Property return. Each entity has the option to extend the due date to June 15 at no charge.

Nonstock corporations, religious corporations, sole proprietorships, general partnerships, and benevolent institutions are not required to pay a filing fee when submitting an Annual Report.

A Maryland family farm pays a \$100 Annual Report filing fee.

FINDINGS

HB0356 directs SDAT to make recommendations as to how to amend Maryland's Annual Report fee structure so that it is more competitive with those similar fees collected by Maryland's regional neighbors.

The rapid expansion of online business filing services in many states, including Maryland, and especially since March 2020, has meant that new business filers now have more filing options readily available to them and can often look further away from their home state when choosing where to register or start a business.

As such, the following findings are based on a survey of the annual report filing fees in all fifty states and the District of Columbia.

1. Fees and Fee Structures Vary Widely

Across the fifty states and the District of Columbia, the filing fees range from as low as \$0 to as high as several thousand dollars depending on the type and makeup of the reporting entity.

Whereas Alabama, Ohio, and South Carolina do not require entities to file an Annual Report or pay a corresponding filing fee, states like Delaware, Tennessee, Arkansas, Virginia, and Wyoming have all adopted fee structures that may result in annual fees in the thousands of dollars for certain corporations that have issued a large number of authorized shares, maintain a high par value of all capital stock, or keep significant assets or capital in the state collecting the fee, and lower fees for other entities.

Most states, however, utilize a flat annual or biennial reporting fee with the required report.

The following states charge a flat fee on domestic businesses: Massachusetts (\$500 annually for MA LLCs), Tennessee (\$300 annually for TN LLCs), Delaware (\$300 annually for DE LLCs), and Maryland (\$300 for MD LLCs and corporations). The District of Columbia charges DC corporations and LLCs \$300, however, only requires the fee biennially with its every-other-year report.

Some states have set much higher flat fees for foreign entities than for the state's domestic entities. For example, Connecticut requires \$435 annually from a foreign corporation versus \$150 from a CT corporation, Oregon requires \$275 annually from a foreign corporation versus \$100 from a OR corporation, and Vermont requires \$200 annually from a foreign corporation and \$140 from a foreign LLC as opposed to \$45 from a VT corporation and \$35 from a VT LLC.

- 11 states have a filing fee of zero dollars for Domestic Nonstock Corporations
- 11 states have a filing fee of zero dollars for Foreign Nonstock Corporations
- 7 states have a filing fee of zero dollars for Domestic Stock Corporations
- 6 states have a filing fee of zero dollars for Foreign Stock Corporations
- 8 states have a filing fee of zero dollars for Limited Liability Companies
- 8 states have a filing fee of zero dollars for Foreign Limited Liability Companies

While it is difficult to provide conclusive national averages of the fees the different states have imposed because some states maintain unique criteria for calculating the fee, the rough averages for states that charge fees are:

- \$24 for Domestic Nonstock Corporations
- \$27 for Foreign Nonstock Corporations
- \$62 for Domestic Stock Corporations
- \$83 for Foreign Stock Corporations
- \$88 for Limited Liability Companies
- \$103 for Foreign Limited Liability Companies

2. Late Filing Fees

Twenty states require some form of a late filing fee on top of the base reporting fee if the reporting entity fails to file a report before the statutorily mandated deadline or within an allowable grace period. These late fees range from as low as \$10 in Utah and Hawaii to as high as \$200 plus 1.5% interest per month in Delaware. The twenty states that impose late filing fees often use a sliding fee scale that increases depending on how late the report is filed and what type of entity is reporting. The most common late fees are \$25 and \$50.

Maryland does not currently charge a flat late filing fee for Annual Reports. However, entities that submit a late Annual Report with a Business Personal Property return with assessed property are issued a penalty calculated on the assessed value of that business personal property.

3. Online Filing Incentives

The cost to agencies of processing paper applications is significantly higher than to process electronically filed applications. To encourage online filing, Georgia, Kansas, Massachusetts, North Carolina, South Dakota, and Wisconsin have each adopted annual report fees that make it *more expensive* to file the Annual Report on paper. While the savings to any individual online filer in these states averages only \$15, these six states have adopted a forward-looking approach to encourage their customers to take advantage of online filing platforms.

Other states are making it difficult or even impossible to file in person. In Idaho, paper annual reports may only be filed in person at the Idaho Secretary of State's office. In Mississippi and Vermont, it is mandatory to file online.

As online filing becomes more widely adopted it is expected that states will continue expanding online filing options, and modernization efforts, incentivizing increased online filing.

Online filing in Maryland is made available through Maryland Business Express¹. Online filers in the state currently pay the \$300 Annual Report filing fee, which is statutorily required for all filers regardless of whether they file online or by paper, and a 3% convenience fee, which funds continuous maintenance, upgrades, enhancements, and improvements to Maryland Business Express.

4. Less Frequent Filing Requirements

Thirteen states require all or some of their registered entities to file business reports on a biennial or less frequent basis. Seven states (Alaska, District of Columbia, Indiana, Iowa, Nebraska, New Mexico, and New York) require biennial reports for all entity types. California, Vermont, New Hampshire, and Texas each allow certain entity types to file less frequently than biennially. Missouri allows entities to choose an annual or biennial filing schedule at the time of formation and Pennsylvania only requires a decennial report). Maryland requires annual submission and payment.

5. How Does Maryland Compare with Its Neighbors?

West Virginia charges a flat \$25 annual report fee to all corporations and LLCs and a \$25 or \$50 late fee if the annual report is filed after July 1.

Pennsylvania's reporting requirement for all registered entities is decennial, meaning that the report is due once a decade. Pennsylvania decennial reports must be filed anytime during the calendar years ending in 1 (2001, 2011, 2021, 2031, etc.). Every decennial report must be accompanied by a \$70 flat fee.

The District of Columbia charges a flat \$300 biennial report fee to all domestic and foreign stock corporations and LLCs and \$80 to nonstock corporations. The District of Columbia only collects reports and fees every other year.

Virginia charges a flat \$50 annual report fee to all domestic and foreign LLCs and a flat \$25 annual report fee to all domestic and foreign nonstock corporations. The annual report fee for domestic and foreign stock corporations starts at \$100 and increases \$30 for every 5,000 shares the corporation has issued above the first 5,000 shares. The annual report fee for stock corporations is capped at \$1,700 for corporations that have issued more than 270,000 shares of stock.

Delaware charges a flat \$300 annual report fee to all domestic and foreign LLCs and a flat \$125 annual report fee to all foreign stock and nonstock corporations. Delaware charges a flat \$50

¹ <https://businessexpress.maryland.gov/>

annual report fee to all domestic corporations and a flat \$25 to all domestic nonstock corporations, however, all domestic corporations are also charged a franchise tax that can range between a minimum of \$175 and a maximum of \$200,000 based on the statutory formula Delaware has adopted. The breakdown of this complicated fee calculation structure can be found here: <https://corp.delaware.gov/frtaxcalc/>. The late fee for a domestic corporation filing after March 1 is \$200 plus 1.5% interest per month. Foreign corporations pay a flat \$125 late fee.

RECOMMENDATIONS

Based on the findings of the comprehensive study of annual and biennial report filing fees collected by all fifty states and the District of Columbia, the State Department of Assessments and Taxation submits the following recommendations to the Maryland General Assembly.

1. Eliminate the \$300 Annual Report Fee

For small businesses and entrepreneurs, \$300 is a significant amount of money that can create financial hardships. Removing this fee would undoubtedly promote a friendlier entrepreneurial climate in Maryland.

LLCs remain the most popular business structure for new businesses. For Domestic LLCs, currently both Delaware and Maryland charge a \$300 filing fee. Lowering the domestic LLC fee in Maryland would likely draw some of those initial LLC formation filings away from Delaware and to Maryland. Maryland could have a competitive advantage by lowering the annual report fee.

This change would positively affect the Maryland small business community.

2. Make Online Filing Less Expensive Than Paper Filing

During the previous five years, SDAT has made significant progress in modernizing and upgrading the Maryland Business Express online filing platform. The past year and a half have only accelerated the expansion of online services as more of SDAT's customers utilize and adapt to the filing processes through Business Express. Despite these gains, SDAT continues to receive large numbers of paper Annual Reports through the mail and by in person delivery. These Annual Reports are accompanied by checks or money orders.

Annual Reports submitted to SDAT in hard copy present multiple challenges because of the many opportunities for disruption to the filing process. Delays to mail delivery (a significant challenge for much of the last year and a half), missing or improperly filled out checks for fees, damaged, unreadable, or missing pages, and improperly completed forms all result in delays and frustrated filers. As such, paper filings cost more to process and record both in terms of budgetary expense and staff time.

States that have incentivized online annual report filing by making online filing cheaper than paper filing (or altogether eliminated paper filings for businesses) have taken a forward-thinking approach to the modernization of business filing in their respective states. By making online annual report filing in Maryland cheaper than filing on paper, Maryland can distinguish itself regionally as none of its neighbors have yet to do so.

MACPA Written ONLY - SB 12 _ Corporations and Asso

Uploaded by: MB Halpern

Position: INFO



Jan. 25, 2023

The Honorable William C. Smith Jr., Chair
Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

Re: SB 12 “*Corporations and Associations - Annual Report Filing Fees - Electronic Filing Exemption*” - **INFORMATIONAL**

Dear Chairman Smith and members of the Committee,

The Maryland Association of Certified Public Accountants (MACPA) is a membership organization with nearly 9,000 CPA members. Our members serve thousands of individual and business clients throughout the state.

As we have previously discussed with the State Department of Assessments & Taxation and with members of the General Assembly, the current online filing system is complex and inefficient for filers who need to file multiple reports, including CPA firms that prepare the reports on behalf of many clients. The complexity of the current system can add costs for the filers rather than make the filing process simpler, and the added costs can actually exceed the amount of the proposed filing fee exemption.

We understand that the current online filing system can be a good thing for small businesses that file a single report or just a few reports for their entity(ies), and that exemption from the filing fee is helpful to businesses. Likewise, some sort of electronic filing makes the receipt and processing of the reports more efficient and cost effective for the SDAT. Our MACPA members are not universally supportive of encouraging use of the current online system via the fee exemption due to the additional time and therefore costs that usually cannot be billed to the clients. Instead, the MACPA plans to continue our work with the SDAT in hopes of helping the development of a system that is truly electronic filing (similar to how income tax returns are currently electronically filed) and one that is more effective and suits the needs of more filers than does the current online system.

Thank you very much for the opportunity to offer these comments for your consideration. If you have any questions or if we can provide additional information, please contact Mary Beth Halpern of the MACPA at marybeth@macpa.org or (443) 632-2330.

Sincerely,

MACPA State Tax Committee

cc: Nick Manis, Manis Canning & Associates