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THE MARYLAND HOUSE OF DELEGATES
Annapolis, Maryland 21401

Testimony in Support of HB 211
Affordable Housing Investment Act

This bill will generate necessary funding to build affordable housing by closing several real estate tax breaks that disproportionately benefit the wealthy.

Maryland currently lacks more than 85,000 affordable units statewide and that need will double this decade.[1] Many residents meet the federal definition of being "cost burdened" by their housing. In 2020, nearly half of American renters spent 30% or more of their income on housing and nearly one in four renters spent at least 50% of their income on housing.[2] Maryland's poverty rate is 10.3%[3] and about 4,000 Marylanders are homeless.[4]

Meanwhile, our tax code provides tax breaks skewed toward benefiting the wealthiest residents. These breaks include those for the most expensive homes and out-of-state vacation properties, as well as for investments in gentrification. We can build much-needed affordable housing for Marylanders by closing these tax loopholes.

This bill would increase state funding for the construction of affordable housing by $20 million a year—a 50% increase—by ending several real estate tax breaks. The increase in revenue will be allocated to the state's Rental Housing Fund, which helps to finance affordable housing through low-interest loans. The fund has been successful at creating and rehabilitating affordable housing throughout Maryland by supplementing other financing options.

End Tax Breaks for Out-of-State Vacation Homes

Homeownership is a goal for many Marylanders, but it's out of reach for too many. One-third of Marylanders don't own their home[5] and the rate is even worse for Black, Hispanic, and Asian residents.[6]

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[1] Maryland Housing Needs Assessment. Maryland Department of Housing & Community Development. https://dhcd.maryland.gov/Documents/Other%20Publications/Report.pdf
[2] U.S. Census Bureau
[3] U.S. Census Bureau
[4] "The 2021 Annual Homeless Assessment Report to Congress." 2022. U.S. Department of Housing and Urban Development. https://www.huduser.gov/portal/sites/default/files/pdf/2021-AHAR-Part-1.pdf
[5] U.S. Census Bureau
[6] "Racial Disparities in Homeownership Rates." National Association of Realtors.

Meanwhile, a fortunate few can afford to own multiple homes. About 5% of the housing stock in the U.S. is second homes.[7]

Federal law currently gives a tax break on the interest payments made on home mortgages of up to $750,000 for a married couple or $375,000 for an individual. Residents can use this deduction for their primary residence and for secondary homes up to the indebtedness cap. Even a yacht can qualify. Because Maryland is coupled to this and most other federal tax provisions, these fortunate few also get a tax break on their state income taxes for out-of-state homes.

Due to the 2017 federal tax reforms that increased the standard deduction, only about one in seven taxpayers nationally itemize their expenses on their taxes, most of whom are among the top 10% by income.[8] The Congressional Research Service reports that households with an annual income of $100,000 or more claim the bulk (88%) of the mortgage interest deduction. As such, it's likely that only the wealthiest Marylanders would qualify for the mortgage interest deduction for a second home.

It doesn't make sense for Maryland to be subsidizing our residents to own property in another state. Every day that these residents spend out of state means less money spent in our local economy supporting local businesses and jobs and generating tax revenues from sales and use tax, gasoline tax, excise taxes, etc.

Wisconsin ended the deduction for out-of-state vacation homes years ago but retained it for in-state secondary homes. Maryland should follow their lead and end the mortgage interest deduction for new sales of out-of-state properties.

Means Test the First-Time Homebuyer Tax Break

Maryland offers first-time homebuyers a break on the transfer taxes for their home. It's laudable that we are helping to make homeownership a reality for residents, but we should ensure that this tax break is helping those who actually need the financial help.

Our current tax break applies to all first-time Maryland homebuyers, regardless of their income or the value of the home they are purchasing. Someone who is buying a million dollar plus home that has a monthly mortgage of $5,000 or more doesn't need a tax break to be able to buy the home.

This provision of the bill would cap the first-time homebuyer transfer tax exemption to the first $1 million in home value. A first-time homebuyer purchasing a home for more than $1 million would not receive the tax break for the excess value of the home.

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[7] National Association of Home Builders
[8] Tax Foundation

The median home price in Maryland is just $338,500 and even for Montgomery County, the median price is $508,600.[9] This means that most homebuyers–not just first-time buyers–are purchasing homes for much less than $1 million. And even in a hot real estate market, a million dollars still buys a lot of house.[10]

This change would only modestly impact homebuyers purchasing a higher end home; for instance, someone buying a $1.5 million home would pay just $1,250 more, with an equal amount paid by the home seller.

End Tax Incentives for Gentrification

The 2017 federal tax reforms allow wealthy investors and corporations to get tax breaks for investing in opportunity zones. Investors get to write off part or all of their capital gains taxes when they invest in a fund targeting economic growth in certain low-income communities. Currently, these investors receive a break on both their federal and state taxes, even if the money is invested outside of Maryland.

Studies on the outcomes of opportunity zones have been universally underwhelming. Researchers found that opportunity zones have “very limited” impacts on job creation and most money is going to real estate developers, not operating businesses.[11] Moreover, opportunity zone investments are largely going to better off neighborhoods, not those with the most need.[12]

Just as troubling, the tax breaks for opportunity zones aren’t even needed to spur development. Developers and opportunity zone fund managers surveyed by researchers mostly report that the tax breaks were not critical to their project and some had already committed to their projects before their zone even existed.[13]

Under federal law, opportunity zones can only be invested in by the wealthy few because only capital gains can be invested. (Capital gains are the profits from the sale of an asset, such as stocks, bonds, or real estate.) A typical opportunity zone investor has a median household income of $741,000.[14] This means that the wealthiest 1% of Americans are the primary recipient of this tax break.

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[9] U.S. Census Bureau, median for 2017-2021. According to Zillow, the average in Maryland at the end of 2022 was $407,629 and $583,729 for Montgomery County.

[10] Listings for $1 million and up homes on February 5, 2023 for Montgomery County were nearly all 3,000-6,000 square feet.

[11] “An Early Assessment of Opportunity Zones for Equitable Development Projects.” 2020. Urban Institute. https://www.urban.org/research/publication/early-assessment-opportunity-zones-equitable-development-projects/view/full_report

[12] “Measuring the Impact of Opportunity Zones.” 2022. David Wessel and Alex Conner. https://www.brookings.edu/wp-content/uploads/2022/12/OZ-conference-write-up_12.20.22.pdf

[13] “The Opportunity Zone Incentive Isn’t Living Up to Its Equitable Development Goals. Here Are Four Ways to Improve It.” 2020. Urban Institute. https://www.urban.org/urban-wire/opportunity-zone-incentive-isnt-living-its-equitable-development-goals-here-are-four-ways-improve-it

[14] “Neighborhood-Level Investment from the U.S. Opportunity Zone Program: Early Evidence.” 2021. Patrick Kennedy and Harrison Wheeler. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4024514

The net effect of the federal tax breaks for investments in opportunity zones is a more than 50% reduction in tax liability. The investor receives this break on both their federal and state taxes, even if they invest in a zone in another state. For these reasons, four states don't give any state tax breaks for opportunity zone investments and another three states only partially conform.

This bill would decouple Maryland from the federal tax incentives for opportunity zones. This provision passed the House of Delegates in 2021 and 2020.

What this Bill Does

- Mandates $20 million in additional funding for the Rental Housing Fund each year. This would supplement, not supplant, what the state budget allocates.
- Ends the mortgage interest deduction on secondary residences located outside the state of Maryland.
- Limits the state's transfer tax exemption to the first $1 million of a home's sale price.
- Decouples Maryland from the federal tax incentives for opportunity zones.