



Bill No: HB 866— Sales and Use Tax - Exemption for Energy for Residential Use - Alteration

Committee: Ways and Means

Date: 02/23/2023

Position: Favorable

The Apartment and Office Building Association of Metropolitan Washington (AOBA) represents members that own or manage more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George's Counties.

House Bill 866 would exempt the sale of electricity, steam, artificial or natural gas, or use in cooperative or multifamily housing from sales and use tax. AOBA appreciates the bill's sponsor for introducing this legislation that promotes equity among low- and moderate-income families and maintains housing affordability.

Background

In 1999, the State legislature passed [HB 366, Electric and Gas Utility Tax Reform](#), which exempted sales and use tax for all residential properties. Under the current legal statute, it provides exemptions under "a residential or domestic rate schedule on file with Public Service Commission." [With this definition, it inaccurately reflects how utility rate classes are actually structured.](#) Specifically, Pepco does not offer "residential or domestic" rate classes to master-meter apartment properties and base their rates on the types of end users, which include meter size and Kw demand.

In 2001, the Condo industry recognized this issue regarding the meter and tariff types and passed legislation to allow condominiums to be eligible for tax exemptions. Moreover, in 2009, the [District of Columbia](#) also passed a residential utility exemption that includes apartments, condominiums, and cooperative housing for sales and uses tax.

Why the need for this Legislation?

Recently, Utility companies have granted exemptions for apartment buildings based on their interpretation of current laws that apartment communities are residential customers and should be qualified for exemptions from sales tax. The Comptroller's office offers a process to refund improperly paid sales tax, especially when utility companies have agreed to stop charging tax. However, the Comptroller has rejected apartment communities from receiving refunds stating that it does not meet the definition of residential or domestic rate structures as defined by the Public Service Commission.

Additionally, this bill promotes equity and reduces costs for housing providers. Apartment buildings are residential, and utilities are paid by residents either directly with RUBS or indirectly, where utilities are included in the rent. This exemption will alleviate residents suffering from high energy costs, which currently benefits more affluent residents in individually metered apartments, condominiums, or single-family homes.

Housing providers rely on rent as the single source of revenue used to cover all operating expenses, including mortgage payments, payroll, taxes, utilities, business licenses, insurance, general maintenance, and major capital improvements, among others. Furthermore, to put these fiscal pressures in perspective, WSSC has implemented a 6.5% rate increase for the fiscal year 2023, the Public Service Commission authorized a \$52 million revenue increase and corresponding rate increase, and the statewide Building Energy Performance Standards (BEPS) will require large-scale retrofits and expensive capital improvements to meet compliance requirements. HB 866 will reduce expenses for housing providers, decrease pressure for rent increases, and improve affordability for renters in Maryland.

For these reasons, AOBA requests a favorable report on HB 866. For further information, contact Ryan Washington, AOBA's Government Affairs Manager, at 202-770-7713 or email rwashington@aoba-metro.org.