



Bill Title: House Bill 866, Sales and Use Tax - Exemption for Energy for Residential Use - Alteration

Committee: Ways & Means

Date: February 23, 2023

Position: Favorable

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose membership consists of owners and managers of more than 207,246 rental housing homes in more than 937 apartment communities. Our members house over 667,000 residents of the State of Maryland throughout the entire State of Maryland. MMHA membership also includes more than 216 associate members that supply goods and services to the multi-housing industry. More information is available at <https://www.mmhaonline.org/>

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

I. Background

Passed in 1999, Section 11-207(a)(2) of the Tax-General Article makes clear that the sales and use tax is exempt under "a residential or domestic rate schedule on file with Public Service Commission." Unfortunately, this provision fails to accurately account for 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 fact, in 2001, the condominium industry recognized this inconsistency regarding the meter and tariff types and successfully advocated for clarity that condominiums are 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.

II. House Bill 866 Provides Clarity

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, traditionally, 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.

This bill promotes equity and reduces costs for housing providers. Apartment buildings are residential, and utilities are paid by residents either directly with ratio utility billing systems (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. House Bill 866 will reduce expenses for housing providers and improve affordability for renters in Maryland.

For these reasons, MMHA requests a favorable report on House Bill 866.

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