



Governor's Advisory Council for Exceptional Citizens (GACEC)
516 West Loockerman St., Dover, DE 19904
302-739-4553 (voice) 302-739-6126 (fax) <http://www.gacec.delaware.gov>

MEMORANDUM

DATE: May 31, 2019

TO: The Honorable Members of the Delaware General Assembly

FROM: Ann C. Fisher, Chairperson
GACEC

RE: **House Bill No. 120 (Rental Tax Credit)**

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed **House Bill No. 120**, which was created to financially assist renters struggling with low income and renters that are elderly, who are not receiving other subsidized housing benefits. According to the synopsis, the renter can, under specified conditions, receive a credit of as much as \$250 if the portion of rent attributable to the assumed property taxes exceeds a fixed amount in relation to income. Council would like to share the following observations and concerns on the proposed legislation.

The bill contains a number of ambiguities and inconsistencies that need to be addressed in order to accomplish the outcome that the sponsor of the legislation is trying to attain. The concept of the legislation is laudable but given the parameters of the bill, it appears that it will likely impact only a very small segment of the population.

In the definitional section (§6602(2)), assets do not include the dwelling for which a property tax credit is sought. Does this mean that an individual can own a dwelling and rent it to himself or herself and claim the credit if otherwise eligible? If not, why is the dwelling that a person is renting mentioned at all in excluded assets?

The definition of an "assumed real property tax" (§6602(3)) is calculated in terms of rent paid, which is inaccurate because a person who rents a house or apartment does not pay property taxes because they do not own the property. Individuals who own manufactured homes and rent the lot are assessed property taxes on the value of the manufactured home at the same rate as real

property is assessed in the county and school district in which it is located (9 Del. C. §8351). However, for these individuals under the bill, their assumed property tax is not based upon the taxes they pay, but again on the lot rent they pay for the lot (or “mobile home pad on which the principal residence of the renter rests”). If individuals who own manufactured homes and rent the lot or pad are to be included in the scope of this bill, their taxes should be based upon the actual taxes paid rather than an imaginary property tax calculated on rent paid. Also, although in calculating the assumed real property tax, §6602(3)b. includes taxes paid under Subchapter II of Chapter 85 of Title 9, this reference to the Delaware Code could not be found by members of the Council. Subchapter II of Chapter 87 of Title 9 exists and pertains to delinquent taxes. If this is what the bill pertains to, it seems to reward individuals who did not pay their taxes in a timely manner regardless of the reason(s).

The definition of renter in §6601(11) appears to have three eligibility standards. The individual has to be at least 60 years old, or is disabled under several enumerated standards, or if under sixty years old, the individual is below the poverty level, has at least one dependent child, and does not reside in subsidized housing or public house. However, this section could potentially be read to mean that to be eligible, the individual has to be at least sixty years old and disabled. It would be clearer if an ‘and’ or an ‘or’ was placed between a. and b. to clear up any confusion. Also, the disqualification for residing in subsidized or public housing only applies to individuals under sixty and not to those individuals over sixty years old. Council suggests some consideration be given to eliminating this exception in order to make the benefit apply to a larger segment of the affected population.

The bill also lacks details about implementation and administration of the tax credit, delegating these tasks to the Division of Revenue and Department of Finance (§6603(a)). Nothing is mentioned about how the program would be introduced, advertised, or disseminated to the renters in the State. However, some guidance would be extremely helpful. Presumably, the eligible individual would get the credit when they filed their state income tax return for the qualifying year. If the person does not have sufficient income which generates a tax liability, this bill would require the individual to still file a tax return to obtain the tax credit. This becomes another requirement for the qualifying individual, who may decide that obtaining the credit is not worth the effort required, which could in theory be as little as \$2.00.

Council would recommend the sponsors of the bill consider amending it to eliminate the potential ambiguities and to pertain to a wider section of the population.

Thank you in advance for your time and consideration of our observations. Please feel free to contact me or Wendy Strauss at the GACEC office should you have any questions.