



**STATE OF DELAWARE  
STATE COUNCIL FOR PERSONS WITH DISABILITIES**

Margaret M. O'Neill Bldg., Suite 1  
Dover, Delaware 19901  
302-739-3621

The Honorable John Carney  
Governor

John A. McNeal  
Director

**MEMORANDUM**

DATE: May 30, 2019

TO: All Members of the Delaware State Senate  
and House of Representatives

FROM: Mr. J. Todd Webb, Chairperson  
State Council for Persons with Disabilities

RE: H.B. 120 (Rental Tax Credit)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 120 which attempts to increase affordable housing by financially assisting renters struggling with low income and renters that are elderly, and not receiving other subsidized housing benefits. It appears to emulate the programs offered by New Castle County to property owners who are elderly or disabled. While the intent of the legislation is good, SCPD has the following observations and concerns.

The bill contains ambiguities and inconsistencies that are enumerated below. 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 a fiction 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 a fictional property tax calculated on rent paid. Also, line 24 of the

bill refers to Subchapter II of Chapter 85 of Title 9. However, this reference to the Delaware Code could not be located by SCPD. 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 timely pay their taxes regardless of the reason(s).

The definition of renter in §6602(11) appears to have three (3) eligibility standards. The individual has to be at least sixty (60) years old, or is disabled under several enumerated standards, or if under sixty (60) 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 arguably be read to mean that to be eligible, the individual has to be at least sixty (60) years old and disabled. SCPD recommends inserting “or” between a. and b. to clear up any confusion. Further, the disqualification for residing in subsidized or public housing only applies to individuals under sixty (60) and not to those individuals over sixty (60) years old. Some consideration should 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)). Although the Division is able to promulgate regulations, nothing is mentioned about how the program would be introduced, advertised, or disseminated to the renters in the state. Some guidance would be 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 to obtain same, which could in theory be as little as two dollars (\$2.00).

Based upon the aforementioned reasons, SCPD recommends that the proposed legislation be amended to eliminate the potential ambiguities and pertain to a wider section of the population.

Thank you for your consideration and please contact SCPD if you have any questions regarding our observations on the proposed legislation.

cc: Ms. Laura Waterland, Esq.  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

P&L/H.B. 120 rental tax credit 5-28-19