

Vacant Property Enforcement Amendment Act of 2016

Before the Committee on Business, Consumer, and Regulatory Affairs

The Honorable Vincent B. Orange, Sr., Chairperson

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Room 123, John A. Wilson Building**



**Testimony of
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Good morning Chairperson Orange and members of the Committee on Business, Consumer, and Regulatory Affairs. I am Basil Facchina, Assistant General Counsel, for the Office of Tax and Revenue. I am pleased to present testimony on Bill 21-598, the “Vacant Property Enforcement Amendment Act of 2016.”

As pertinent to the functions of the Office of the Chief Financial Officer, the Bill would modify some of the administrative provisions governing vacant properties and would provide for partial refunds of real property taxes collected on vacant properties. In particular, the Bill would direct the Recorder of Deeds to verify that unpaid taxes assessed against a property registered as vacant have been paid before recording a deed to such a property. The Bill would also provide for refunds of the additional real property taxes paid on account of vacant status to the owner if either (1) the owner acquired the property from the District, and, within one year, obtained a certificate of occupancy and actively tried to sell or rent it, or (2) the property becomes occupied within a year of being placed on the vacant property list and remains occupied for at least six months thereafter. No refund would be allowed if, during the time such owner or a related owner held the vacant property: (1) it was not registered as vacant by the time required by law; (2) its registration was revoked; (3) the owner failed to timely pay taxes and fees due, (4) the property was cited for nuisance by the District; or (5) the property was determined to be blighted. The amount refundable would equal the amount of tax

paid on account of vacant status in excess of the tax otherwise due, and would apply to taxes paid beginning with tax year 2018.

There are some policy and administrative issues that should be considered in connection with the tax refund provisions. First of all, the manner in which the refund-eligible property would be acquired from the District should be clarified. Would these properties be acquired only through the tax sale, or would properties acquired through other programs also be included? It is not clear that the incentive of a tax refund would be necessary for every property transferred by the District.

With respect to the tax sale, relatively few vacant buildings go to tax sale, and properties can move in and out of vacant status over time. If properties acquired through the tax sale process are eligible for these refunds, then the Bill would create a situation in which a tax sale purchaser could acquire the property for less than what it would cost the owner to redeem it. The refund could even consist of amounts paid by the prior owner, which represents a departure from the standard practice of only making refunds to the person who paid the taxes.

Moreover, offering refunds of tax may not be necessary to encourage tax sale purchasers to bid on vacant properties, which often have sufficient equity to draw tax sale bidders. Properties for which incentives to purchase would be helpful usually wind up in the discount or “junk” tax sale, in which the District can discount liabilities to encourage sales. The present system allows incentives to be

targeted to properties most likely to benefit from them in a manner that the refund program proposed in the Bill does not.

Also, the requirement that the owner secure a certificate of occupancy in order to qualify for a refund would preclude refunds for properties used as single family dwellings, since certificates of occupancy are not required for such properties. Accordingly, refunds would only be payable on properties used for other purposes.

With respect to properties that become occupied in their first year of vacant status, it seems that it would be more efficient for the owner to simply apply for an exemption from vacant status, rather than giving a refund of the vacant property taxes. Providing a tax refund in addition to an exemption appears to add an additional layer of complexity to the administration of this program.

Consideration should also be given to the number of tax years for which refunds can be made. Ordinarily, refunds can only be made if the refund is sought within 3 years of the tax payment. The Bill as drafted doesn't appear to incorporate such a limit, and it is possible that an owner could claim refunds of payments made more than 3 years prior to the date of the claim. Although this may not become an issue until several years after the Bill is enacted, since refunds would only begin with tax year 2018, the question should be addressed while the

Bill is still susceptible to amendment. We would recommend that the standard 3-year rule be applied for the sake of uniformity of administration.

Also, the Bill should be modified to include a provision stating that a refund will be paid only upon receipt by the Office of Tax and Revenue of a certification by the Department of Consumer and Regulatory identifying the person to whom the refund is payable, as well as the property and the tax years for which the refund is to be made.

Finally, the term “related owner” in the Bill provision denying refunds should be clarified. There are a number of provisions in the District of Columbia Code which may furnish appropriate drafting models for this purpose.

Thank you, Chairperson Orange, for the opportunity to comment on this Bill. I would be happy to answer any questions at this time.