Government of the District of Columbia
Office of the Chief Financial Officer

Jeff DeWitt
Chief Financial Officer

MEMORANDUM

TO:	**The Honorable Phil Mendelson** **Chairman, Council of the District of Columbia**
FROM:	**Jeff DeWitt** **Chief Financial Officer**
DATE:	**March 19, 2014**
SUBJECT:	**Fiscal Impact Statement – Residential Real Property Equity and Transparency Act of 2014**
REFERENCE:	**Draft Committee Print as Shared with the Office of Revenue Analysis on March 18, 2014**

Conclusion

Funds are not sufficient in the FY 2014 through FY 2017 budget and financial plan to implement the bill. The estimated cost of the bill is approximately $1.46 million in FY 2014 and $11.2 million over the FY 2014 through FY 2017 budget and financial plan period.

Background

The bill makes several modifications to the District's tax sale process that are intended to provide additional safe guards for residential homeowners who are delinquent on their real property taxes and may become subject to tax sale. To this end, the bill does the following:

- **Establishes an Office of the Real Property Tax Ombudsman**. The Office will be headed by an Ombudsman of real property tax ("Ombudsman") who is appointed by the Mayor and serves a 5-year term. The Ombudsman's office is responsible for advising residential real property owners with tax-related matters, investigating taxpayer complaints, and referring taxpayers to the appropriate channels to resolve tax-related matters.
- **Prohibits the sale of a residential real property tax lien if the amount owed is $2,500 or less.** Currently, the Office of Tax and Revenue (OTR) excludes properties that owe $1,000 or less in real property taxes.
- **Reduces the amount of interest charged on all delinquent real property taxes to 12 percent per year as of October 1, 2014.** Current statuary interest on delinquent real

property taxes is 1.5 percent a month,[1] or 18 percent a year. The rate will change to 1 percent per month.

- **Allows homeowners to enter into a deferred payment plan for delinquent taxes**, so long as they are claiming the homestead deduction and owe $7,500 or less in taxes.
- **Reduces the interest rate applied to seniors in the low-income tax deferral program from 8 percent to 6 percent.**[2] It also allows senior citizens, who are delinquent on real property taxes and not enrolled in the program, to enroll and have all past taxes deferred.
- **Expands pre-sale and post-sale noticing requirements for real property subject to tax sale.** The bill increases the frequency with which OTR must notify real property owners subject to the tax sale. It also requires OTR to mail notices to the homeowners mailing address of record as well as to the premise address.
- **Limits the attorney's fees and other expenses charged by lien purchasers to $1,500 plus allowances for additional expenses incurred as outlined in the bill.** Under current law, in order for a property owner to redeem a property sold at tax sales, the owner must pay the taxes due, as well as attorney fees incurred by the purchaser.[3] Currently, the law does not cap the total amount of legal fees a purchaser can charge a property owner.
- **Establishes an Office of Tax Sale Review.** This Office will be housed within the Office of the City Administrator and responsible for reviewing taxpayer applications requesting removal from tax sale and/or the cancellation of an existing sale.
- **Limits the purchasers' equity in the foreclosure of an owner-occupied property to 10 percent, or $20,000, whichever is less**. This provision applies to residential real property that is occupied by the owner (or a person with an interest in the property as an heir or beneficiary) at the time the complaint to foreclose was filed. Once the foreclosure is final, the property will then be sold by a trustee appointed by the Superior Court of the District of Columbia. The bill requires that the purchaser is entitled to retain 10 percent, or $20,000, whichever is less, of the equity, and the remaining balance is transferred to the owner of record or their heirs (as determined by the court). Under current law, the purchaser is entitled to the equity in the property.

Financial Plan Impact

Funds are not sufficient in the FY 2014 through FY 2017 budget and financial plan to implement the bill. The estimated cost to implement the requirements is approximately $1.46 million in FY 2014 and $11.2 million over the FY 2014 through FY 2017 budget and financial plan. The provisions under this bill will have both revenue-side and expenditure-side costs.

With regards to revenue impacts, the bulk of the cost is due to reducing the interest rate for all delinquent real property taxes to 12 percent from 18 percent, whether they are a part of a tax sale or not. This reduction will take effect in FY 2015 and is estimated to cost approximately $2.5 million annually.[4] Additionally, the exclusion of properties owing $2,500 or less for residential property

[1] D.C. Official Code §47-811(c).
[2] D.C. Official Code §47-845.03.
[3] D.C. Official Code §47-1377.
[4] Data provided by the Office of Tax and Revenue for all interest collected on real property taxes for the years 2010 through 2013. For the purposes of this analysis, we took the average interest collected for these years.

from the tax sale will have a one-time impact on tax collections.[5] These properties account for approximately $4.6 million, or 10 percent of the value, of real property taxes owed prior to tax sale.[6] Because the threat of a tax sale will no longer apply to this group of taxpayers, this will have a one-time impact on collections, which is estimated to cost $787,000.[7]

The establishment of a forbearance program or deferred payment plan for taxpayers will also impact collections. While the District will eventually collect taxes, there will be a delay in receipt. The delay in collections will depend on the timeframe in which taxpayers are allowed to repay his or her taxes. For the purposes of this estimate, we assume taxpayers are granted a four year window, which will delay the collection of approximately $465,000 in FY 2014 and $1.2 million over the four year financial plan. After year four, the District will have recovered the past taxes.

The bill also requires OTR to provide taxpayers with a certificate of redemption when they redeem a property. Currently, OTR charges a $100 fee for these certificates and issues approximately 500 a year. OTR will no longer collect this revenue, which amounts to $50,000 a year.

Lastly, on the revenue side, the reducing the interest rate for the low-income senior tax deferral program from 8 to 6 percent and allowing seniors who are delinquent and qualify for the program to enroll and have the deferral apply to past taxes will also reduce revenue collections; however the impact of this provision is *de minimus* given the current low participation rate in the program.[8]

On the expenditure side, personnel are required to implement the two new offices established under the Mayor – the Office of the Real Property Tax Ombudsman and the Office of Tax Sale Review. At a minimum, each office will require one full-time staff person to implement the responsibilities of the office. If additional staff is required, they can be appointed as funding is budgeted.

The OTR will also require a total of four new staffers to implement the requirements of the bill. Two full-time equivalents (FTEs) are required to implement the deferred payment program for taxpayers[9] and two FTEs are required to implement the new pre-sale and post-sale noticing requirements.

Finally, it is worth noting that the combination of these modifications to the tax sale process could impact purchasers' participation. For example, the cap on legal fees and the provision that limits tax sale purchasers equity in a foreclosure has been raised as concerns by some stakeholders who

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[5] Currently, OTR excludes properties with liens of $1,000 or less; however, this exclusion is neither required by law, nor it is made apparent in the tax sale notice. Thus the threat of tax sale still applies to these taxpayers and motivate payments.

[6] This is based on the total value of delinquencies at the time OTR runs its newspaper advertisement announcing delinquent properties in July for the years 2010 through 2013. Prior to every tax sale, OTR is required to print a newspaper ad announcing properties in which taxes are levied and are in arrears (D.C. Official Code § 47-1301). The total value of delinquencies at the time of the news ad is run averages approximately $43 million. Between the news ad and tax sale day, OTR recovers about $15 million on average. Data provided by OTR.

[7] The average collection rate for delinquencies from the time of the newspaper ad to the day of tax sale averages 34 percent. It is assumed OTR will collect rate for this group will be reduced by half.

[8] Currently, there is only one taxpayer taking advantage of this program.

[9] The cost to automate this process using OTR's current system would require significantly more resources than hiring additional personnel.

argue these provisions will reduce purchaser participation. However, it is difficult to estimate what, if any, dampening effect will occur as a result of these changes.

The estimated costs of Bill 20-23 are detailed in the table below.

Estimated Fiscal Impact for Bill 20-23, Residential Real Property Equity and Transparency Act of 2013					
	FY 2014	**FY 2015**	**FY 2016**	**FY 2017**	**4-Year Total**
Reduction in interest rate from 18 to 12 percent [1]	$0	$2,426,000	$2,426,000	$2,426,000	$7,278,000
One-time cost due to $2500 minimum for homesteads [2]	$787,000	$0	$0	$0	$787,000
Deferred payment plan - revenue impact [3]	$465,000	$349,000	$233,000	$117,000	$1,164,000
Deferred payment plan - personnel costs [4]	$41,000	$128,000	$134,000	$139,000	$442,000
Office of the Ombudsman [5]	$46,000	$144,000	$150,000	$156,000	$496,000
Personnel required for noticing requirements [6]	$40,000	$124,000	$129,000	$134,000	$427,000
Waiving of fees for redemptions certificates [7]	$50,000	$50,000	$50,000	$50,000	$200,000
Office of Tax Sale Review [8]	$32,000	$99,000	$103,000	$107,000	$341,000
Total	**$1,461,000**	**$3,320,000**	**$3,225,000**	**$3,129,000**	**$11,135,000**

Table Notes:

1. The 12% interest rate for delinquent taxes will take effect in FY 2015. The estimate is based on average interest collections for years 2010-2013. Data provided by OTR.
2. The threat of tax sale will be removed for those with delinquencies of $2500 or less, reducing collections prior to the sale. It is assumed OTR will collect 1/2 of the amount of taxes it usually collects between the first news advertisement and tax sale day. The average value of collections for delinquencies less than $2500 is approximately $1.6 million.

3. It is assumed that those homestead properties with tax bills of $7500 or less will opt into the deferral plan requiring outstanding taxes to be paid off over a four year period.
4. OTR will need two grade level 9 FTE's to run a deferral program. Cost includes salary and fringe benefits. FY14 estimate is for 4 months.

5. The estimate assumes one grade level 15 FTE for the Ombudsman. Cost includes salary and fringe benefits. FY14 estimate is for 4 months.
6. OTR requires 2 accounting technicians to handle contact with property owners and outreach. FY14 estimate is for 4 months.

7. OTR issues approximately 500 redemption certificates annually at a cost of $100 per certificate. OTR will no longer collect the $100 fee under this bill
8. The estimate assumes one FTE at a grade level 13. Cost includes salary and fringe benefits. FY14 estimate is for 4 months.