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

Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO:	**The Honorable Phil Mendelson** **Chairman, Council of the District of Columbia**
FROM:	**Jeffrey S. DeWitt** **Chief Financial Officer**
DATE:	**October 13, 2016**
SUBJECT:	**Fiscal Impact Statement – Elderly and Tenants with Disabilities Protection Amendment Act of 2016**
REFERENCE:	**Bill 21-173, Draft Committee Print sent to the Office of Revenue Analysis on October 5, 2016**

Conclusion

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill will cost $960,000 in fiscal year 2017 and $4.8 million over the four-year financial plan. The bill's implementation is subject to its inclusion in an approved budget and financial plan.

Background

In rent-controlled apartment buildings, landlords can request permission to increase rent beyond the allowable amount by filing a petition with the Department of Housing and Community Development. The bill exempts[1] from petition-based rent increases low-income residents who are elderly or have a disability. To qualify as low-income, a resident must have a household income less than or equal to 60 percent of the area median income.

The District must give landlords a property tax credit equal to the amount of rent lost from exemptions for the following types of petitions: hardship, capital improvements, substantial rehabilitation, and services and facilities.[2] There is a fifth type of petition, called a voluntary agreement, but landlords will not receive a tax credit for voluntary agreements.

[1] By amending the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 et seq.).
[2] If the credit exceeds the amount of property taxes a landlord owes, the remaining credit will go towards the landlord's income taxes and then his or her franchise taxes.

The bill caps the total amount of tax credits the District can give to landlords in a fiscal year at $1,250,000. Once the program has been in effect for a full fiscal year, the cap increases each October at a rate based on the consumer price index.

Under current law, tenants who are elderly or have a disability are exempt from rent increases due to capital improvement petitions if their income is less than $40,000, and landlords receive a real property tax credit for this exemption. This bill's income threshold of 60 percent of the area median income is greater than $40,000 for households of all sizes.

The bill also changes the allowable annual rent increase for tenants who are elderly or have a disability and live in a rent-controlled building, regardless of their income. Under the bill, the rent increase must be the *least* of: five percent of the current rent; inflation, based on the consumer price index (CPI); or the social security cost of living adjustment. Currently, the annual rent increase for these tenants must be no greater than inflation (based on the CPI)—though that increase is capped at 5 percent.

The bill prohibits landlords of rent-controlled buildings from applying rent increases to future tenants but not current tenants, and from providing different services for current tenants than future tenants.

The bill also provides a number of other protections for tenants who are elderly or have a disability, such as requiring landlords to give sufficient notice of rent increases and clarifying that a tenant's application for elderly or disability status is approved if the Rent Administrator does not deny the application in 30 days. The bill modernizes references to tenants with a disability[3].

Financial Plan Impact

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill will cost $960,000 in fiscal year 2017 and $4.8 million over the four-year financial plan.

Based on our analysis of petitions that landlords filed between fiscal year 2007 and fiscal year 2015[4], the tax credits created by this bill will reach the cap of $1,250,000 in FY 2018 and the inflated cap each year thereafter.

Petition requests could impact nearly 1,000 housing units each year, and we expect about 45 percent of these units to be occupied by low-income tenants who are elderly or have a disability.[5]

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[3] By amending the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3401.01 et seq.).

[4] From data provided to us by the Department of Housing and Community Development, the Office of the Tenant Advocate (via Council's Committee on Housing and Community Development), and the advocacy group Legal Aid Society of the District of Columbia.

[5] Using data on past petitions, we estimate that the number of units affected in the past by the relevant petitions has ranged from 170 to 1,300 a year. The portion of units affected by a capital improvement petition that received an exemption because the tenant was elderly or had a disability and had an income lower than $40,000, was 32 percent between FY 2013 and FY 2015. However, this percent varied greatly from year to year (8 percent in FY 2013, 20 percent in FY 2014, and 80 percent in FY 2015).

We estimate the average rent increase will be approximately $300 per month per unit.[6] Because the potential tax credits exceed the cap in every fiscal year of the financial plan, the cap (plus an annual inflation factor in the years beyond 2018), defines the fiscal impact of the legislation. Without the cap, we estimate the cost of the tax credits would be as high as $1.3 million in FY 2017 (for a full year of implementation), $2.6 million in FY 2018, $3.9 million in FY 2019, and $5.3 million in FY 2020. The cost would increase from year to year because a landlord is entitled to the tax credit for as long as the tenant remains in their unit (assuming the tenant continues to meet the requirements for an exemption). That means, in any given year, the District is responsible for tax credits for tenants who newly become exempt and those who first received exemptions in previous years.

Cost of Bill 21-173, the Elderly and Tenants with Disabilities Protection Amendment Act of 2016, FY 2017 - FY 2020

	FY 2017	FY 2018	FY 2019	FY 2020	Four-Year Total
Cost of tax credit	$960,000	$1,250,000	$1,281,250	$1,313,281	$4,804,531

Assumptions

- Landlords can get a tax credit for petitions filed in January 2017 or later.
- Cost in FY 2017 is three-quarters of our full-year cost estimate for FY 2017 due to January 2017 start date.
- The tax credit cap increases in FY 2019 and FY 2020 by 2.5 percent, to account for CPI increase in those years.

[6] The average monthly rent increase from hardship petitions has historically ranged from $140 to $580 a year, while the monthly increase from capital improvement petitions has ranged from $60 to $210 a year. We could not find a lot of data on monthly increases from services and facilities or substantial rehabilitation petitions, but the monthly increase for a substantial rehabilitation petition can be as high as 125 percent of the current rent, according to the Office of the Tenant Advocate.