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### Home tax benefits wrongly accepted

#### State legislators get homestead breaks for ineligible properties

By Gadi Dechter

Sun reporter

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Several state legislators have been receiving thousands of dollars in undeserved property tax breaks under the Homestead Tax Credit program, records show.

In some cases, the lawmakers have reduced their tax bills on "principal residences" even though they don't live there. Others have been getting tax breaks on multiple homes, a duplication forbidden under the law.

The lawmakers, identified through a Sun review of public records relating to all Baltimore-area delegates and senators, said they did not intend to take advantage of tax credits and other financial benefits they did not deserve, and one immediately took steps to rectify the situation.



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"Please remove my property from the homestead credit eligibility," Del. Shirley Nathan-Pulliam wrote in a July 31 letter to the city tax assessor.

Nathan-Pulliam, a Democrat who represents western Baltimore County, received about \$1,600 this year in city and state credits on a property she owns in the city, even though she primarily lives in a home she rents in her county district. She said she didn't know she was getting the benefit.

It is not uncommon for Maryland homeowners to unwittingly violate the homestead credit program, officials said, because until this year the credit was applied automatically for new homeowners.

Several legislators noted the irony of being part of a problem the General Assembly tried to solve more than a year ago when it unanimously passed legislation requiring all homestead recipients to formally apply for the tax break - potentially capturing millions in uncollected taxes.

Del. Keith E. Haynes, a Baltimore Democrat, got about \$1,600 in county and state tax discounts in 2008 for a Columbia home he owns outside his district because it is listed as his principal residence.

Haynes said he has continuously lived in a rented downtown apartment since his election and keeps the Howard County home for visits by relatives.

"This is something, quite honestly, that I was not aware of," Haynes said of the tax credit on the Columbia property. "I don't live there, and I'm not trying to get something that I really shouldn't be getting a break on. ... I will definitely take steps to look into that."

Del. Don H. Dwyer Jr., an Anne Arundel Republican, received about \$670 in tax credits this year on a rental property in Glen Burnie listed as his and his wife's principal residence. The lawmaker also benefited from about \$670 in tax breaks on a nearby home he owns with his brother, in which neither lives.

"Clearly, someone who is not entitled to a tax credit should not be getting it. Even me," said Dwyer, who said he was unaware that he was receiving tax breaks on the two homes he owns in addition to his actual residence in Glen Burnie.

Established about 30 years ago, the homestead credit is designed to protect homeowners from being priced out of their homes during periods of rapid increases in property values. The measure limits how much a home's assessed value can increase in any given year, and credits reduce the owner's annual property tax bill by hundreds or thousands of dollars.

Before the 2007 law requiring taxpayers to start applying for the homestead program, the tax credit was automatically assigned to any property designated as homeowner-occupied, and there was little attempt to verify whether the owners actually lived there.

To make the principal residency determination, the State Department of Assessments and Taxation has been relying on an affidavit signed by the purchaser at the time of settlement.

When a current homeowner bought a new property, there was no obligation on the purchaser's part to notify the state about a change in principal residency, said Robert E. Young, the state taxation official in charge of the homestead program.

Instead, the state would assume that a change of property tax billing address indicated a new principal residence, he said.

Dwyer said his unwitting violation of the Homestead Tax Credit underscores the importance of reform legislation passed in Annapolis in 2007 - but nearly reversed this year.

A repeal bill sailed through the Senate but died in the House of Delegates.

"Clearly, it's very easy" to have subverted the tax credit before the law change, Dwyer said. "When you have members of the legislature that have been in the same boat and don't even realize it, how many other homeowners do you think are in the same situation?"

Dwyer said he would make sure to apply for the homestead credit only on the house in which he lives.

State officials said they don't know how many credits are awarded improperly, but the total value of the tax credit this year is estimated to be worth nearly \$1 billion.

Legislative analysts have estimated that local governments could miss out on \$10 million in revenues if just 2 percent of the credits are improperly claimed.

In addition to annual tax breaks, declarations of "principal residency" also bring discounts on transfer and recordation taxes and often qualify borrowers for lower mortgage interest rates.

Property taxes are the primary revenue sources for county governments, and some jurisdictions are trying to crack down on homestead violators independently of state efforts.

In Baltimore this year, officials cross-referenced licensed rental properties with those receiving homestead credit and found 1,700 matches, said City Councilwoman Mary Pat Clarke.

That means the owners of those rental properties claim to be living there, potentially allowing them to get a homestead credit they don't deserve and costing the city as much as \$1 million in uncollected taxes, Young said. Clarke said that once violators were verified by the state, the city would push to collect three years' worth of back credits improperly claimed by the landlords.

Baltimore County is preparing to embark on a similar initiative, Young said.

Sen. Joan Carter Conway, a Baltimore Democrat, has been receiving homestead tax credits on two properties she owns - one in her East Baltimore district and one in West Baltimore. Conway said she rents the West Baltimore house to a relative and has repeatedly tried to alert state officials to the mistaken "principal residence" designation.

That home received about \$60 in tax credits this year.

The principal residence of Sen. Nathaniel J. McFadden, also an East Baltimore Democrat, is really in Sen. Verna L. Jones' legislative district. McFadden ran for office out of a different home he owns in his district, but that house is not listed as his principal residence.

McFadden, who did not return a call for comment, got a property tax discount of about \$250 for his 2008-2009 tax bill, under the homestead program. If he does reside in the home outside his district, in the 1000 block of N. Central Ave., the senator is entitled to the tax credit.

The Maryland Constitution does not require that legislators reside in their districts except for a period of six months before an election. Moreover, the state's highest court ruled in 1998 that a person's "primary place of abode" is not the chief criterion by which residency is determined, favoring the vaguer notion of "domicility," which is largely determined, the court said, by the politician's intent.

Under the new law, all recipients of the tax credit must fill out a one-time application for the benefit. Although that measure passed unanimously in 2007, many Annapolis lawmakers backed its repeal during this year's legislative session out of concern that elderly homeowners might mistakenly neglect to apply for the credit and end up priced out of their homes.

The repeal effort failed, but many legislators remain concerned.

"I'm sure there are people who are double-dipping somehow, but I just want to make sure that everyone who deserves [the credit] gets it," said Del. Maggie I. McIntosh, a Baltimore Democrat. "I've had constituents calling me this year about this issue. ... People are concerned they're going to miss it or not register what the form is."

Of the 470,000 homestead applications sent out so far, about 312,000 have been returned, state officials said.

New homeowners have 180 days to apply for the credit, while current homestead recipients have five years to reapply for the discount.

Toward the end of this year, state officials will start calculating how much in additional property taxes will be collected as a result of the new application requirement, Young said.

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*The area represented by Del. Shirley Nathan-Pulliam was misstated in an earlier version of this article. The Sun regrets the error.*

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