



Committee: Joint
Committee Review: At a future date
Staff: Jim Ogorzalek, Legislative Attorney
Purpose: To receive testimony – no vote expected

AGENDA ITEMS #7 & #17
March 11, 2025
Public Hearing

SUBJECT

Expedited Bill 2-25, Taxation – Payments in Lieu of Taxes – Affordable Housing – Amendments

Lead Sponsors: Councilmembers Fani-González and Friedson

Co-Sponsors: Councilmember Luedtke, Council President Stewart, and Councilmembers Balcombe and Sayles

EXPECTED ATTENDEES

Members of the public

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

Receive public testimony

DESCRIPTION/ISSUE

Expedited Bill 2-25 would:

- (1) establish a minimum payment in lieu of taxes for certain conversions of high-vacancy commercial properties to residential use;
- (2) establish the amount of the payment in lieu of taxes; and
- (3) generally amend the law governing payments in lieu of taxes.

SUMMARY OF KEY DISCUSSION POINTS

N/A

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MEMORANDUM

March 6, 2025

TO: County Council

FROM: Jim Ogorzalek, Legislative Attorney

SUBJECT: Expedited Bill 2-25, Taxation – Payments in Lieu of Taxes – Affordable Housing – Amendments

PURPOSE: To receive testimony – no Council vote expected

Expedited Bill 2-25, Taxation – Payments in Lieu of Taxes – Affordable Housing – Amendments, was introduced on February 4, 2025. The Lead Sponsors are Councilmembers Fani-González and Friedson. The bill’s co-sponsors are Councilmember Luedtke, Council President Stewart, and Councilmembers Balcombe and Sayles. Public hearings on the bill will occur on March 11, 2025, at 1:30 p.m. and 7:00 p.m. A worksession of the Joint Government Operations and Fiscal Policy and Economic Development (GO/ECON) Committee is tentatively scheduled for March 27, 2025, at 9:30 a.m.

Expedited Bill 2-25 would:

- (1) establish a minimum payment in lieu of taxes for certain conversions of high-vacancy commercial properties to residential use;
- (2) establish the amount of the payment in lieu of taxes; and
- (3) generally amend the law governing payments in lieu of taxes.

Background

Currently, the County Code authorizes three mechanisms by which an owner may receive the benefit of a Payment in Lieu of Taxes (“PILOT”). Montgomery County Code § 52-24(b) contains the “Standard PILOT,” which permits the Finance Director to negotiate a PILOT for any qualifying housing development eligible under state law, functionally serving as local authorizing language to provide any PILOT allowed under state law. M.C.C. § 52-24(c) contains the “By Right Pilot,” which requires the Finance Director to grant a minimum PILOT for certain housing developments based upon ownership or enumerated affordability requirements. M.C.C. § 52-24A allows for a PILOT for properties leased from the Washington Metropolitan Area Transit Authority.

The purpose of this bill is to expand the By Right Pilot to include an extended tax exemption period and reduced affordability requirements when the property developed is a conversion from a high-vacancy commercial use to a residential use that achieves timely approval as set forth in Sections 3.3.2.B and 7.3.5 of Chapter 59 (Zoning).

Bill Specifics

Expedited Bill 2-25 would require the Director of Finance to offer a PILOT for a residential development resulting from the conversion of a property that was designated for commercial use but had at least a 50% vacancy rate at the time of the development application to the Planning Department or Department of Permitting Services. To be eligible for the PILOT, the conversion of the property must comply with the requirements set forth in Section 3.3.2.B of Chapter 59 (Zoning)—which allows for demolition or adaptive reuse, contemplates multifamily or townhouse developments depending upon the context, and sets applicable timelines for approval—and provide that at least 15% of units be affordable to households earning 60% or less of the area median income for a period of 25 years. The Bill would require a PILOT that would exempt 100% of the real property tax that would otherwise be levied for a period of 25 years.

The Bill contains an effective date of 20 days after the date on which it becomes law, which aligns with the anticipated effective dates of companion Zoning Text Amendments 25-02 and 25-03 and Subdivision Regulation Amendment 25-01, which compose the “More Housing N.O.W. (New Options for Workers)” package.

<u>This packet contains:</u>	<u>Circle #</u>
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Expedited Bill No. 2-25
Concerning: Taxation – Payments in Lieu
of Taxes – Affordable Housing –
Amendments
Revised: 1/27/2025 Draft No. 5
Introduced: February 4, 2025
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmembers Fani-González and Friedson
Co-sponsors: Councilmember Luedtke, Council President Stewart, and Councilmembers Balcombe
and Sayles

AN EXPEDITED ACT to:

- (1) establish a minimum payment in lieu of taxes for certain conversions of high-vacancy commercial properties to residential use;
- (2) establish the amount of the payment in lieu of taxes; and
- (3) generally amend the law governing payments in lieu of taxes.

By amending

Montgomery County Code
Chapter 52, Taxation
Section 52-24

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

28 percent of the real property tax that would otherwise be levied as
29 long as the Section 8 Project-Based Rental Assistance Payment
30 contract is in effect[.]; or

31 (4) owned or controlled by a person engaged in constructing or
32 operating housing structures or projects if:

33 (A) the property receiving the payment in lieu of taxes is
34 converted to residential use from a commercial use with at
35 least a 50 percent vacancy rate at the date of application to
36 either the Department of Permitting Services or Planning
37 Department pursuant to Section 3.3.2.B of Chapter 59;

38 (B) the property’s development meets all the requirements of an
39 expedited approval plan under Section 7.3.5 of Chapter 59;
40 and

41 (C) at least 15 percent of the dwelling units located on the
42 property are built under a government regulation or binding
43 agreement with the County limiting the rent charged for the
44 unit for at least 25 years to make the unit affordable to
45 households earning 60 percent or less of the area median
46 income.

47 The offer must exempt 100 percent of the real property tax that
48 would otherwise be levied for a period of at least 25 years
49 beginning in the year a use and occupancy permit is issued for the
50 qualifying development, but no more than the number of years that
51 rents charged for 15 percent of the dwelling units must remain
52 restricted to households earning 60 percent or less of the area
53 median income.

54 * * *

55 **Sec. 2. Effective date.** The Council declares that this legislation is necessary for
56 the immediate protection of the public interest. This Act takes effect 20 days after the
57 date on which it becomes law.

58 **Sec. 3. Short title.** This expedited bill may be cited as part of the “More Housing
59 N.O.W. (New Options for Workers)” package.



MONTGOMERY COUNTY COUNCIL

ROCKVILLE, MARYLAND

January 28, 2025

Colleagues:

For your consideration, we are enclosing the details of an ambitious workforce housing package which takes five steps to increase the supply of housing, drive down costs, and increase pathways to homeownership for the hard-working residents of Montgomery County.

With the high cost of housing squeezing families and holding back our economy, the **More Housing N.O.W. (*New Options for Workers*)** package helps build more homes that are affordable to teachers, firefighters, police officers, biotech and healthcare workers, and everyone in, or striving to be in, the middle class.

Homes are too expensive in Montgomery County. We all know it. Consider the following figures:

- Not only are we starting from a high level, but it's getting increasingly expensive. Housing price increases have outpaced inflation and income growth since the mid-1990s.
- Between 2023 and 2024, the average sold price across all unit types increased by 6.5%, while wages have only increased by 1.5%
- In 2024, the average sale price for a single family detached home was \$1.02 million. To afford this house, a couple would need a combined income of approximately \$340,000, far exceeding Montgomery County's area median income for a couple at \$123,800. Townhomes, which are on average smaller than detached units, sold for an average of \$583,000. A couple would need a combined income of \$197,000 to afford this house.

Working families and young professionals are feeling the squeeze. According to the [Comptroller of Maryland's 2024 State of the Economy Report](#), housing affordability and availability is hurting efforts to attract new residents who could fill job vacancies, noting “prospective businesses turning down potential location plans to Maryland due to insufficient workforce housing.” Similarly, a recent supply/demand analysis by the Montgomery Planning Department, we are facing a deficit of over 12,000 rental units that are affordable to incomes at 70-120% of area median income (AMI). This forces these workers to swallow exorbitant housing costs *or* compete with residents at lower income bands for less expensive options. Both are bad outcomes.

The status quo is unsustainable and makes our County less attractive to families, workers, entrepreneurs, and businesses.

To address this crisis, we must act boldly. Now.

The More Housing N.O.W. package takes five bold steps to increase housing supply, reduce costs, and expand pathways to homeownership for hardworking Montgomery County residents:

Building More Workforce Housing

1. **Workforce Housing ZTA:** Allow more residential building types along corridors with a workforce housing requirement
 - a. Allow more residential building types through optional method development along corridors with a 15% workforce housing requirement in the R-200, R-90, R-60, and R-40 zones.
 - b. Corridors included are Boulevards, Downtown Boulevards, Downtown Streets, Controlled Major Highways, and Town Center Boulevards that have a master planned width greater than 100 feet and 3+ existing travel lanes
 - c. Density capped at 1.25 FAR
 - d. Maximum height is 40 feet
 - e. Require 15% of units satisfy the definition of workforce housing, with a minimum of 1 workforce housing unit for structures that have 3 or more units
 - f. Maintain existing workforce housing definition of 120% AMI, which is currently approximately \$148,000 for 2 persons or \$185,000 for a family of four
2. **Workforce Housing Opportunity Fund:** New countywide fund to incentivize the construction of workforce units
 - a. \$4 million in initial funding

- b. Eligible projects must provide at least 30% workforce units
- c. Workforce units must be affordable to 80% AMI (area median income), on average

Converting Highly Vacant Office to Housing

- 3. **Office to Housing ZTA:** Create an expedited approval process for projects that convert high-vacancy commercial properties to residential use
 - a. Applies to the Commercial-Residential, NR, and EOF zones
 - b. Retail or office building that is at least 50% vacant
 - c. Remove residential restriction on FAR, so that total commercial-residential FAR can be used for residential
 - d. In red policy areas, must be for the apartment-building type; may include townhomes outside of the red policy area
 - e. Must pull a building permit within 2 years of approval
- 4. **Office to Housing PILOT Bill:** Establish a payment in lieu of taxes (PILOT) for conversion of high-vacancy commercial properties to residential use
 - a. Retail or office building that is at least 50% vacant
 - b. 100% tax abatement for 25 years for qualifying projects
 - c. Minimum 15% MPDU requirement

Pathways to Homeownership

- 5. **Budget:** Double the County's investment in the Homeowner Assistance Program from \$4 million to \$8 million in the FY26 Housing Initiative Fund (HIF)
 - a. Funds may be used in partnership with the State's Maryland Mortgage Program (which allows the household to receive both down payment assistance and lower rate mortgage) and through the Housing Opportunities Commission's Montgomery County Homeownership Assistance Fund (McHAF).
 - b. Up to \$25,000 may be granted to a first-time buyer thus providing support for up to 160 qualified applicants. Up to \$1.0 million is reserved for County and MCPS employees under the Montgomery Employee Down Payment Assistance Loan (MEDPAL)

Many thanks to Council President Kate Stewart, Councilmembers Dawn Luedtke, Marilyn Balcombe, and Laurie-Anne Sayles who have already signed on as co-sponsors as well as the many community advocates and housing experts for their strong support of this package which we will be unveiling today at noon. We would welcome additional

cosponsors prior to introduction of the legislative aspects of the package, scheduled for February 4.

We have appended the zoning text amendments, legislation, and some supporting materials to assist your review of the proposal. We appreciate your thoughtful consideration of this package and hope to earn your support for it in the coming weeks and months.

Our housing crisis is a serious and urgent matter. There is no time to wait.

Sincerely,



Andrew Friedson
Councilmember, District 1



Natali Fani-González
Councilmember, District 6

Attachments:

1. Workforce Housing ZTA Corridors Map
2. Workforce Housing ZTA
3. Office to Housing ZTA
4. Office to Housing Pilot Bill



OFFICE OF MANAGEMENT AND BUDGET


Marc Elrich
County Executive

Jennifer R. Bryant
Director

MEMORANDUM

February 25, 2025

TO: Kate Stewart, President
Montgomery County Council

FROM: Jennifer R. Bryant, Director
Office of Management and Budget 

SUBJECT: Extension Request: Fiscal Impact Statement for Expedited Bill 2-25,
Taxation - Payments in Lieu of Taxes - Affordable Housing Amendments

As required by Section 2-81A of the Montgomery County Code, we are informing you that transmittal of the Fiscal Impact Statement for the above referenced legislation will be delayed because more time is needed to collect information and conduct a meaningful analysis on the Bill. We are requesting an extension and will transmit the Fiscal Impact Statement no later than March 20, 2025.

JRB:ac

cc: Cecily Thorne, Chief of Staff to the Council President, Montgomery County Council
Craig Howard, Executive Director, Montgomery County Council
Richard S. Madaleno, Chief Administrative Officer, Office of the County Executive
Tricia Swanson, Director of Strategic Partnerships, Office of the County Executive
Joshua Watters, Deputy Director, Office of Management and Budget
Anita Aryeetey, Senior Fiscal and Policy Analyst, Office of Management and Budget

Office of the Director

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Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

EXPEDITED TAXATION – PAYMENTS IN LIEU OF TAXES – AFFORDABLE BILL 2-25: HOUSING – AMENDMENTS

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Expedited Bill 2-25 could have a negative impact on racial equity and social justice (RESJ) in the County. Bill 2-25 would likely benefit landlords and residents who can afford market-rate housing more than residents in need of affordable housing. Therefore, OLO anticipates this Bill could widen disparities in housing by race and ethnicity. Further, the forgone property tax revenue from this Bill could undermine the County's ability to provide future public goods and services, which could particularly harm BIPOC community members. OLO offers one policy option for Council consideration.

PURPOSE OF RESJ IMPACT STATEMENTS

RESJ impact statements (RESJIS) evaluate the anticipated impact of legislation on racial equity and social justice in the County. RESJ is a **process** that focuses on centering the needs, leadership, and power of Black, Indigenous, and other people of color (BIPOC) and communities with low incomes. RESJ is also a **goal** of eliminating racial and social inequities. Applying a RESJ lens is important to achieve RESJ.¹ This involves seeing, thinking, and working differently to address the racial and social inequities that cause racial and social disparities.²

PURPOSE OF EXPEDITED BILL 2-25

The County's Payment in Lieu of Taxes (PILOT) program aims "to support the construction and preservation of affordable multifamily rental housing" in the County.³ A PILOT lowers or completely abates County real property taxes on affordable rental housing projects for a set period of time. The County offers three PILOT options. Specifically, the By Right PILOT option abates all County real property taxes for at least 15 years if:⁴

- A rental property is owned or controlled by a non-profit; and
- At least 50 percent of the units in the property are rented to households making up to 60 percent of the area median income (AMI).

The purpose of Bill 2-25 is to expand the By Right PILOT option to provide tax abatements to commercial buildings that are converted to residential buildings primarily comprised of market-rate units. A property owner could qualify for a By Right PILOT if:⁵

- The commercial building has at least a 50 percent vacancy rate;
- The conversion of the property complies with certain zoning requirements; and
- At least 15 percent of the units in the property are affordable to households making up to 60 percent of the AMI for 25 years.

Property owners who qualify for this PILOT program would be exempt from 100 percent of County real property taxes for 25 years.⁶

RESJ Impact Statement

Expedited Bill 2-25

The Council introduced Expedited Bill 2-25, Taxation – Payments in Lieu of Taxes – Affordable Housing – Amendments, on February 4, 2025. The Bill was introduced along with Zoning Text Amendments (ZTA) 25-02 and 25-03 and Subdivision Regulation Amendment (SRA) 25-01 as part of the “More Housing N.O.W. (New Options for Workers)” package.

In October 2024, OLO previously published a RESJIS for Bill 18-24, Housing Policy – Standards and Procedures – Amendments.⁷ Please refer to this RESJIS for background on housing affordability and racial equity.

ANTICIPATED RESJ IMPACTS

Affordable housing development. As described in the RESJIS for Bill 18-24, historical and contemporary racial inequities drive increased demand in affordable housing among Black and Latinx families in the County.⁸ As shown in Table B (Appendix), the median incomes of Black and Latinx households are each more than \$30,000 less than the median income of all households in the County. Further, Black community members are largely overrepresented among families who live in properties owned by the County’s largest affordable housing provider, the Housing Opportunities Commission (HOC).⁹

To qualify for the By Right PILOT, Bill 2-25 requires property owners to comply with certain zoning requirements. These zoning requirements were recently introduced with ZTA 25-03. If enacted, ZTA 25-03 would create an expedited approval process for property owners to convert vacant commercial buildings into residential buildings.¹⁰ Commercial-to-residential conversion projects enabled by ZTA 25-03 would be subject to the County’s Moderately Priced Dwelling Units (MPDUs) requirements. MPDUs are housing units that are affordable to renters and first-time home buyers making up to 70 percent of the AMI.¹¹ In housing developments with more than 20 units, between 12.5 to 15 percent of the units must be MPDUs.¹² The percentage of required MPDUs depends on where the housing development is located.

In terms of affordable housing, ZTA 25-03 and Bill 2-25 create two options for property owners who want to convert vacant commercial buildings into residential buildings:

- **Convert without a By Right PILOT:** At least 12.5 percent of the units in the building must be affordable to households making up to 70 percent of the AMI.
- **Convert with a By Right PILOT:** At least 15 percent of the units in the building must be affordable to households making up to 60 percent of the AMI.

Thus, the By Right PILOT created by Bill 2-25 would encourage property owners to provide a slightly larger percentage of MPDUs that are slightly more affordable. Of note, researchers have recognized that office conversion projects are “economically challenging and often not possible without significant public funding.”¹³ Thus, the By Right PILOT could also incentivize the development of housing and accompanying MPDUs that would otherwise not occur.

Additional impacts by race and ethnicity. To consider the anticipated impact of Bill 2-25 on RESJ in the County, OLO recommends further consideration of two related questions:

- Who would primarily benefit or be burdened by this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

Several stakeholders could benefit from the By Right PILOT – the 25-year property tax exemption – created through Bill 2-25:

RESJ Impact Statement

Expedited Bill 2-25

- **Landlords who rent out units in converted buildings** would benefit from decreased operating costs and increased profits from owing no property taxes. Table A (Appendix) shows data on business ownership in the local real estate and rental and leasing sector by race and ethnicity. The data suggests White people are largely overrepresented among landlords and other real estate business owners in the County. Meanwhile, Black, Latinx, and to a lesser extent, Asian people, are underrepresented.
- **Community members who rent units in converted buildings** could also benefit from decreased rents charged by landlords. This would likely benefit community members who rent market rate units. Landlords are unlikely to lower rents further than the required guidelines for community members living in affordable units. According to Zillow, the average rent in the County is \$2,273.¹⁴ Considering the cost burden threshold (spending more than 30 percent of income on housing costs), this rent would be affordable to households making at least \$90,920 per year. Table B (Appendix) shows data on median household income in the County by race and ethnicity. The data shows the median income of Black households is lower than this threshold, while the median income of Latinx households is slightly above this threshold. Conversely, the median incomes of White and Asian households is well above this threshold. Thus, White and Asian households in the County are better positioned to afford market rate units.
- **Homeowners who purchase units in converted buildings** would benefit from decreased housing costs from owing no property taxes. This would benefit homeowners of affordable and market rate units. Table C (Appendix) shows homeownership rates in the County by race and ethnicity. The data suggests White and Asian community members in the County are more likely to be homeowners. Meanwhile, Black and Latinx community members are less likely to be homeowners.

Conversely, **County constituents at large** would be burdened by 25 years of forgone property tax revenue from the converted buildings. Property taxes are the largest source of tax revenue for the County government.¹⁵ The forgone revenue would undermine the County's ability to provide public goods and services, especially with the increased demand from community members who are moving into the converted buildings. The resource limitations could particularly harm BIPOC community members, especially as they continue to become a larger part of the population.

Conclusion. OLO anticipates Bill 2-25 could have a negative impact on RESJ in the County. Bill 2-25 could incentivize the development of housing and MPDUs that may not otherwise occur without public funding. However, OLO anticipates this incentive will primarily benefit landlords and residents who can afford market-rate housing rather than residents in need of affordable housing. Given the demographics of households who can afford market-rate housing units compared to affordable units, OLO anticipates this Bill could widen housing disparities by race and ethnicity. Further, the forgone property tax revenue from tax abatements that primarily subsidize the development of market rate units could undermine the County's ability to provide future public goods and services. This could particularly harm BIPOC community members.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.¹⁶ OLO anticipates Expedited Bill 2-25 could have a negative impact on RESJ in the County. Should the Council seek to improve the RESJ impact of this Bill, OLO offers one policy option for Council consideration:

RESJ Impact Statement

Expedited Bill 2-25

- **Consider financial incentives for commercial-to-residential conversion projects that increase the yield of affordable housing units.** Tax abatements that increase the supply of market-rate units primarily benefit White-owned businesses and higher income White and Asian community members. Encouraging the development of more affordable housing that benefits lower-income Black and Latinx community members increasingly helps to offset this impact and narrow disparities in housing by race and ethnicity. Communities throughout the U.S. are experimenting with different financial incentives that can provide more affordable housing through office-to-residential conversions.¹⁷ For instance, incentive programs in Pittsburgh and Chicago are aiming for 20 to 30 percent of units in publicly supported conversion projects to be affordable.¹⁸ The Council could consider programs such as these or amendments to the proposed By Right PILOT that would provide a higher percentage of affordable housing units.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

APPENDIX

Table A: Percent of Real Estate and Rental and Leasing Business Owners by Race and Ethnicity, Montgomery County

Race and ethnicity ¹⁹	Real Estate and Rental and Leasing Business Owners (NAICS 53) ^{20,21}	Population
Asian	12.4	15.3
Black	5.1	18.5
White	82.3	46.6
Latinx	3.9	20.0

Source: 2022 American Business Survey ([Table AB2200CSA01](#)) and 2022 American Community Survey 5-Year Estimates ([Table DP05](#)), Census Bureau.

Table B: Median Household Income by Race and Ethnicity, Montgomery County

Race and ethnicity	Median Household Income
County	\$125,371
Asian	\$143,911
Black	\$86,359
White	\$160,756
Latinx	\$92,050

Source: 2023 American Community Survey 1-Year Estimates ([Table S0201](#)), Census Bureau.

RESJ Impact Statement

Expedited Bill 2-25

Table C: Homeownership Rate by Race and Ethnicity, Montgomery County

Race and ethnicity	Homeownership Rate
County	64.4
Asian	75.1
Black	43.9
White	74.4
Latinx	48.8

Source: 2023 American Community Survey 1-Year Estimates ([Table S0201](#)), Census Bureau.

¹ Definition of racial equity and social justice adopted from Marlysa Gamblin et al., “[Applying Racial Equity to U.S. Federal Nutrition Programs](#),” Bread for the World and [Racial Equity Tools](#).

² Ibid.

³ [Payment in Lieu of Taxes \(PILOT\)](#), Department of Housing and Community Affairs.

⁴ Ibid.

⁵ [Introduction Staff Report for Expedited Bill 2-25](#), Montgomery County Council, introduced February 4, 2025.

⁶ Ibid.

⁷ [RESJIS for Bill 18-24](#), Office of Legislative Oversight, October 3, 2024.

⁸ Ibid.

⁹ Ibid.

¹⁰ [Introduction Staff Report for Zoning Text Amendment 25-03](#), Montgomery County Council, Introduced February 4, 2025.

¹¹ [MPDU Program – General](#), Department of Housing and Community Affairs.

¹² [MPDU Developers](#), Department of Housing and Community Affairs.

¹³ Tracey Hadden Loh et al., “[Myths about converting offices into housing—and what can really revitalize downtowns](#),” Brookings, April 27, 2023.

¹⁴ [Montgomery County, MD Housing Market](#), Zillow.

¹⁵ [FY25 Approved Taxes](#), Revenues, Montgomery County Operating Budget.

¹⁶ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

¹⁷ Michela Zonta et. al, “[Converting Vacant Office Space Into Housing](#),” Center for American Progress, July 30, 2024.

¹⁸ Ibid and [LaSalle Corridor Revitalization](#), City of Chicago.

¹⁹ Estimates for Native American and Pacific Islander community members were not available for data points in this RESJIS.

²⁰ The Real Estate and Rental and Leasing Sector includes establishments that rent, lease, or otherwise allow the use of their own real estate or other assets by others. This sector also includes establishments primarily engaged in managing real estate for others, selling, renting, and/or buying real estate for others, and appraising real estate.

²¹ Margins of error for these data points may be large.

Climate Assessment

Office of Legislative Oversight

Expedited Bill 2-25: Taxation – Payments in Lieu of Taxes – Affordable Housing - Amendments

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Expedited Bill 2-25 could have a small, positive impact on the County’s community climate resilience and the County’s contribution to greenhouse gas emissions as the proposed change is intended to expand a County program that supports the construction and preservation of affordable multifamily rental housing. Further, the Bill encourages the conversion of existing commercial buildings to residential which is a more sustainable construction practice than demolishing and rebuilding. However, only a small number of existing County buildings would be eligible for conversion from commercial to residential, which the proposed tax abatement targets, therefore it is unlikely a significant number of affordable housing units would be created from the proposed change nor significantly decrease the amount of County greenhouse gas emissions associated with development.

BACKGROUND AND PURPOSE OF EXPEDITED BILL 2-25

The County’s Payment in Lieu of Taxes (PILOT) program aims “to support the construction and preservation of affordable multifamily rental housing” in the County.¹ A PILOT lowers or completely abates County real property taxes on affordable rental housing projects for a set period of time. The County offers three PILOT options. Specifically, the By Right PILOT option abates all County real property taxes for at least 15 years if:²

- A rental property is owned or controlled by a non-profit; and
- At least 50 percent of the units in the property are rented to households making up to 60 percent of the area median income (AMI).

The purpose of Bill 2-25 is to expand the By Right PILOT option to provide tax abatements to commercial buildings that are converted to residential buildings primarily comprised of market-rate units. A property owner could qualify for a By Right PILOT if:³

- The commercial building has at least a 50 percent vacancy rate;
- The conversion of the property complies with certain zoning requirements; and
- At least 15 percent of the units in the property are affordable to households making up to 60 percent of the AMI for 25 years.

Property owners who qualify for this PILOT program would be exempt from 100 percent of County real property taxes for 25 years.⁴

The Council introduced Expedited Bill 2-25, Taxation – Payments in Lieu of Taxes – Affordable Housing – Amendments, on February 4, 2025. The Bill was introduced along with Zoning Text Amendments 25-02 and 25-03 and Subdivision Regulation Amendment (SRA) 25-01 as part of the “More Housing N.O.W. (New Options for Workers) package.

ANTICIPATED IMPACTS

This Bill is part of a package of proposed housing measures, called the More Housing N.O.W. (New Options for Workers)⁵. The ZTAs and SRAs are meant to increase access to affordable housing and targets the development of new affordable housing along transit corridors, which would allow more access to public transit options for more individuals living and working in the County.⁶ Further, for individuals who would elect to drive, living closer to work would cut down on both commute times and individual contributions to greenhouse gas emissions by driving fewer miles.⁷

Bill 2-25’s proposed actions are intended to incentivize developers and landlords to set aside units that are affordable to households making up to 60% of the area median income by abating all County real property taxes for up to 15 years. This would expand the existing By Right PILOT program to apply to commercial buildings with high vacancy (at least 50%) that would be converted into residential housing and would set aside at least 15% of the units for affordable housing.⁸

The affordability of a community’s housing stock has a direct correlation to the overall resilience of a community, and on its ability to prepare for current and future risks.⁹ It can do so through two ways:

- Increasing housing stability which can increase community resilience by building community ties and enabling residents to stay better connected during emergencies; and
- Alleviating cost-burdened households by providing more affordable housing options, which allows these households to have more cash on hand to weather shocks, such as extreme weather events.¹⁰

According to data presented on March 11, 2024 by the Montgomery County Economic Development Corporation (MCEDC), there is an estimated 1% of County buildings with high vacancies that would be feasible to convert from offices to housing. It was further noted that in a strong office market, office rents generally yield higher rents compared to residential so developers are hesitant to convert.¹¹ Another 6.5% of commercial office buildings would be good candidates for demolition, and depending on zoning, residential housing could be built on the previous site.¹² Due to the small percentage of currently eligible buildings for conversion and the uncertainty of the type of building that would be built following demolition, it is not likely that the proposed actions would significantly increase the amount of affordable housing units in the County.

Further, as the Bill would encourage the conversion of existing high vacancy office buildings to residential homes, the resulting construction would be less carbon intensive than demolishing and rebuilding on an existing site. This is due to embodied carbon, which represents the total carbon emissions released during the lifecycle of building materials and includes emissions associated with manufacturing building materials, transportation of materials, and disposal of materials.¹³ The building sector is responsible for at least 37% of global greenhouse gas emissions and sustainable building practices, such as renovating existing office buildings to residential buildings, saves the embodied carbon that was used for the initial build.¹⁴ However, as only an estimated 1% of County buildings are feasible to convert from offices to housing, it is unlikely the proposed actions would significantly decrease the amount of County greenhouse gas emissions associated with development.¹⁵

As Bill 2-25 proposes changes that could create a small number of affordable housing units and encourage more sustainable construction practices, OLO anticipates the Bill could have a small, positive impact on the County's community climate resilience and the County's contribution to greenhouse gas emissions.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.¹⁶ OLO does not offer recommendations or amendments as Bill 2-25 is likely to have a small positive impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptive capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ [Payment in Lieu of Taxes \(PILOT\)](#), Department of Housing and Community Affairs.

² Ibid.

³ [Introduction Staff Report for Expedited Bill 2-25](#), Montgomery County Council, introduced February 4, 2025.

⁴ Ibid.

⁵ [Councilmembers Andrew Friedson and Natali Fani-González unveil More Housing N.O.W. package](#), Montgomery County Government, January 28, 2025.

⁶ [Legislation would allow duplexes, triplexes along MoCo transit corridors](#), Bethesda Magazine, January 28, 2025.

⁷ [What You Can Do to Reduce Pollution from Vehicles and Engines](#), U.S. EPA, Accessed 2/24/2025.

⁸ [Introduction Staff Report for Expedited Bill 2-25](#), Montgomery County Council, introduced February 4, 2025.

⁹ [The Community Resilience Benchmarks](#), Alliance for National and Community Resilience, Accessed 2/24/2025.

¹⁰ [Equitable Adaptation Legal & Policy Toolkit: Resilient Affordable Housing, Anti-Displacement, and Gentrification](#), Georgetown University Climate Center, Accessed 2/24/2025.

¹¹ [Economic Development Committee Worksession - Office Vacancy Follow-up](#), Montgomery County Government, March 6, 2024.

¹² [Economic Development Committee Worksession - Office Vacancy Follow-up](#), Montgomery County Government, March 6, 2024.

¹³ [C-MORE: Construction Material Opportunities to Reduce Emissions](#), U.S. EPA, Accessed 2/24/2025.

¹⁴ [Building Materials and the Climate: Constructing a New Future](#), UN Environment Programme, September 2023.; [Embodied Carbon and the Nuances in Office-to-Residential Conversions](#), Gavu, E.K. and Peiser, R.B., *Sustainability*, January 26, 2024.

¹⁵ [Economic Development Committee Worksession - Office Vacancy Follow-up](#), Montgomery County Government, March 6, 2024.

¹⁶ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022