

## **MEMORANDUM**

March 24, 2025

**TO:** Government Operations & Fiscal Policy Committee  
Economic Development Committee

**FROM:** Jim Ogorzalek, Legislative Attorney

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

**PURPOSE:** Worksession

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, Councilmembers Balcombe and Sayles. Public hearings occurred on March 11, 2025, at 1:30 p.m. and 7:00 p.m.

As introduced, 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 Amendment 25-03 and Subdivision Regulation Amendment 25-01.<sup>1</sup>

### **SUMMARY OF IMPACT STATEMENTS**

**Fiscal impact.** According to the Office of Management and Budget, “real property tax revenues could decrease by approximately \$5.8 million in the first year, increasing by further annual reductions of an additional \$6–7 million as more properties utilize the PILOT, resulting in a loss of \$130 million in real estate tax revenue in the six-year analysis period.” Additionally, “the annual decrease in property tax revenues will continue to grow for 25 years from the time the initial projects received the PILOT, after which new PILOTs may replace expired PILOTs and the revenue decrease stabilizes with annual loss of around \$230 million in property tax revenue per year, with total loss over that 25-year period of approximately \$2.6 billion.” Separately, the Fiscal Impact Statement “adds 1.0 FTE for a Senior Planning Specialist and \$134,600 in personnel costs” and increased operating expenses of \$7,500 in FY26 and \$1,700 in subsequent years.

**Racial equity and social justice.** “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” by “benefit[ing] landlords and residents who can afford market-rate housing more than residents in need of affordable housing” and forgoing property tax revenue, which might have been

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<sup>1</sup> Expedited Bill 2-25 was introduced as part of the “More Housing N.O.W. (New Options for Workers)” package. The package includes: ZTA 25-02, Workforce Housing - Development Standards; ZTA 25-03, Expedited Approvals – Commercial to Residential Reconstruction; SRA 25-01, Administrative Subdivision – Expedited Approval Plan; and Expedited Bill 2-25, Taxation – Payments in Lieu of Taxes – Affordable Housing – Amendments. Each of these items has separate worksessions and staff reports. Please see the Council website for scheduling and staff reports on each item: <https://www.montgomerycountymd.gov/COUNCIL/ondemand/index.html>.

used for the provision of public goods and services. OLO also proposed creating additional incentives to provide a higher percentage of affordable housing units.

**Economic impact.** “The Office of Legislative Oversight (OLO) anticipates that Expedited Bill 2-25 would have a positive impact on economic conditions in the County” by “reduc[ing] operating expenses for office buildings that are converted to residential buildings” and, thereby, “yield[ing] higher business incomes.”

**Climate assessment.** “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.”

### SUMMARY OF PUBLIC TESTIMONY

Public hearings were held on March 11, 2025, at 1:30 p.m. and 7:00 p.m. Speakers testified both in support and in opposition to Expedited Bill 2-25. The Council also received written testimony.<sup>2</sup> Testimony was from civic associations, homeowners’ associations, individuals, industry associations, and developers.

Testimony in support noted that Expedited Bill 2-25 would incentivize development of attainable housing. Developers and land use attorneys in support argued that the tax benefits of the bill would cause projects that are not currently financially viable to proceed to construction. Residents testified that it would create more housing availability in the County. Industry groups, such as the Maryland Building Industry Association (MBIA), National Association for Industrial and Office Parks DC/MD Chapter (NAIOP), the Greater Capital Area Association of Realtors (GCAAR) and the Apartment and Office Building Association of Metropolitan Washington (AOBA), stated that the bill would meaningfully impact the region’s economy by addressing vacant commercial space. Organizations associated with construction and development indicated that current regional instability associated with the federal government had made securing financing particularly challenging, which would make the bill’s impact more significant.

Testimony in opposition stated that Expedited Bill 2-25 amounted to an unnecessary tax break for developers, which would not benefit County residents. Testimony expressed concerns that the bill’s affordability requirement was too low and ought to be higher than the legal minimum. Residents testified that the current fiscal and economic uncertainty at the federal and State levels made the present a particularly inappropriate time to provide a tax break for developers. Additionally, residents were concerned about the bill’s racial equity impact, as they suggested the bill would primarily benefit developers and individuals able to purchase additional market-rate housing. These concerns were echoed by numerous civic and homeowners’ associations, as well as by UFCW Local 1994 MCGEO, which echoed residents’ concerns that the affordability

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<sup>2</sup> The public record was left open until March 24, 2025, and, therefore, some written testimony may not be available at the time of the posting of this staff report. Written testimony may be found here: <https://www.montgomerycountymd.gov/COUNCIL/OnDemand/testimony/20250311/item7.html>.

requirements were too low and that the tax incentive would significantly reduce revenues used for critical public services.

### **ISSUES FOR THE COMMITTEE'S CONSIDERATION<sup>3</sup>**

#### **Percentage of Affordable Units**

Public testimony in opposition to Expedited Bill 2-25 suggested that the bill's requirement that fifteen percent of units be affordable is too low and ought to be increased. The affordability requirement is, of course, one of the primary mechanisms that could be adjusted to increase affordable housing stock created via the PILOT. Council staff observes that although increasing affordability requirements for the PILOT inherently increases affordable housing for a development that has entered into a PILOT agreement, the percentage also affects the viability of any particular project, which could ultimately reduce the number of developments that the PILOT might have incentivized. Moreover, there is some minimum affordable housing percentage requirement that would render the PILOT ineffective by increasing the cost to a developer to such an extent that it overcomes the associated tax benefit, thus not making any project more financially viable than it otherwise would have been in the absence of the PILOT. Council Staff is available to Committee members to explore this issue in greater detail.

#### **Depth of Affordability**

As introduced, Expedited Bill 2-25 requires that eligibility for the PILOT be contingent upon units being affordable to households earning sixty percent or less of the area median income. As with the percentage of affordable units, the depth of affordability is another lever the Council could pull to affect the impact of the bill on affordable housing. Like the percentage requirements, deepening affordability inherently increases the affordability of units in each development that has availed itself of the PILOT. So too, altering depth of affordability might ultimately reduce the number of developments that the PILOT might have incentivized. Moreover, there is some maximum depth of affordability requirement that would render the PILOT ineffective by increasing the cost to a developer to such an extent that it overcomes the tax benefit, thus no longer making any project more financially viable than it otherwise would be in the absence of the PILOT. Council Staff is available to Committee members to explore this issue in greater detail.

#### **PILOT Length**

As introduced, for eligible properties, the PILOT provides tax exemption for twenty-five years from the year in which use and occupancy is issued. This presents a variable Council could revise to increase the County's long-term revenue as compared to the introduced bill. As with percentage of affordable units and depth of affordability, reducing the number of years for which a property receives tax exemption might ultimately reduce the number of developments that the PILOT might have incentivized with some reduction of years ultimately rendering the PILOT ineffective versus the existing alternative for any hypothetical property development. Council Staff is available to Committee members to explore this issue in greater detail.

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<sup>3</sup> The Committee authorizes Council Legislative Attorneys to make non-substantive technical corrections necessary to fix any typographical, stylistic, formatting, or grammatical errors in Bill 2-25E.

## **PILOT Retroactivity**

Several proponents of Expedited Bill 2-25 testified that the bill should be amended to allow for properties that have already applied to either the Planning Department or Department of Permitting Services (as required) to be eligible for the PILOT without having to reapply under the new expedited process set forth in ZTA 25-03. Council Staff suggests that to the extent the Committee amends the bill to allow some retroactivity, the amendment: (1) only extends to properties that have a certified site plan as of the bill’s effective date; (2) requires the property to have fully met the requirements of Section 3.3.2.B of Chapter 59; and (3) requires the property to otherwise comply with Section 7.3.5.H.4 of Chapter 59 that (a) the applicant must have a building permit application, accepted by DPS, that includes the core and shell of the principal building within two years of the bill’s effective date, and (b) within two years after DPS accepts the building permit application that includes the core and shell of the principal building, the applicant must obtain that building permit.

## **Allow For-sale Units**

The Planning Board recommended that Council “[e]xpand the PILOT to also allow the option for for-sale unit.” Although the Planning Board is correct that commercial-to-residential conversions could theoretically become sold as condominiums rather than rented, this structure does not function within the context of a PILOT. Selling the units rather than renting them would make the PILOT more administratively challenging for the County. Moreover, it is unclear whether, as a practical matter, a developer would be able to sufficiently monetize future tax relief through sale in the way it could plan forward with tax exemption on rental property. For this reason, all applicable existing County PILOTs only contemplate rental of units, rather than sale.

### This packet contains:

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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

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

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**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

<b>Boldface</b>	<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

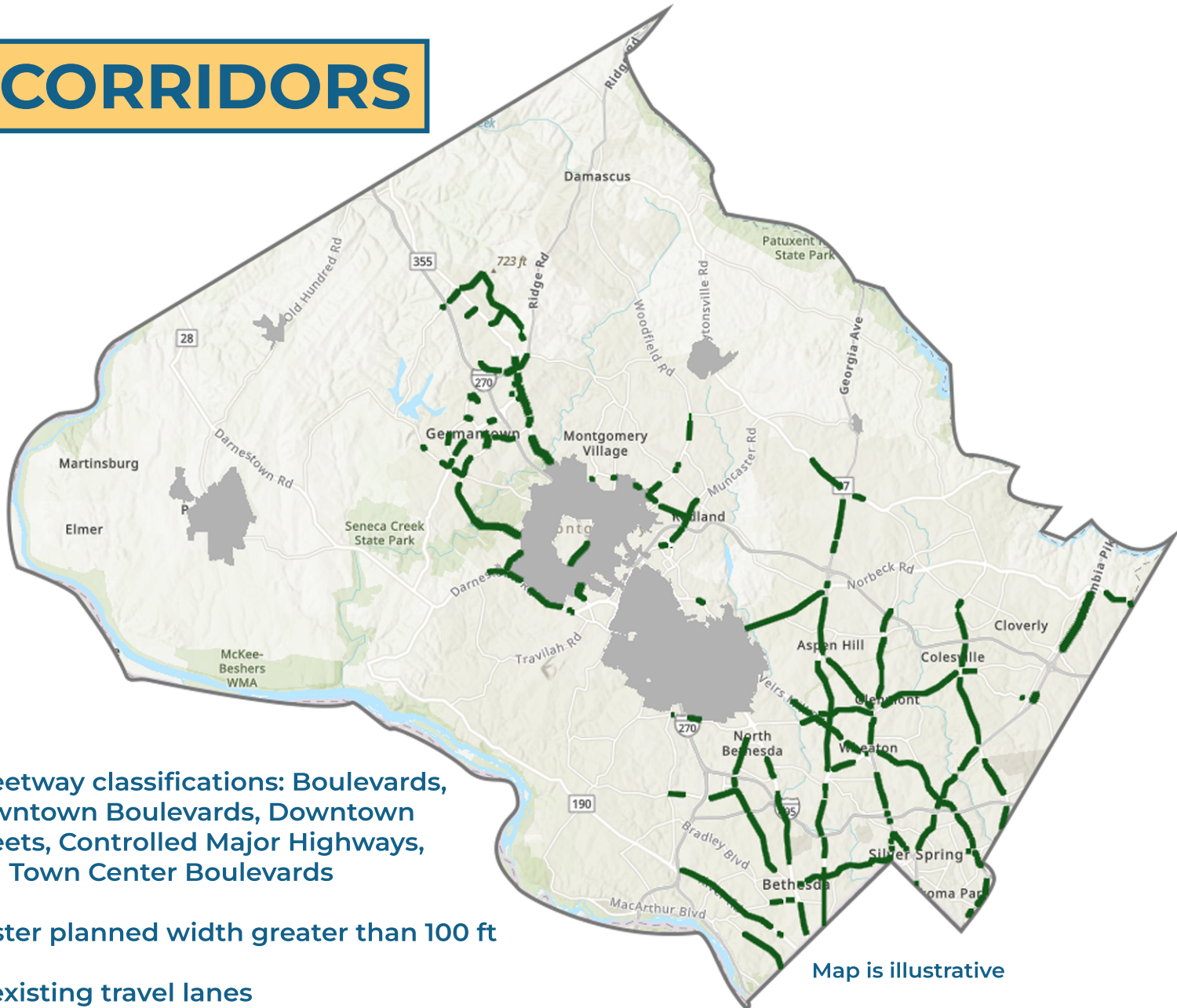
Attachments:

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

# More Housing N.O.W.

## *New Options for Workers*

### CORRIDORS



# 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.

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### 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.<sup>1</sup> This involves seeing, thinking, and working differently to address the racial and social inequities that cause racial and social disparities.<sup>2</sup>

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### 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.<sup>3</sup> 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:<sup>4</sup>

- 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:<sup>5</sup>

- 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.<sup>6</sup>

# 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.<sup>7</sup> Please refer to this RESJIS for background on housing affordability and racial equity.

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### 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.<sup>8</sup> 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).<sup>9</sup>

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.<sup>10</sup> 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.<sup>11</sup> In housing developments with more than 20 units, between 12.5 to 15 percent of the units must be MPDUs.<sup>12</sup> 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.”<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup> 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.

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## 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.<sup>16</sup> 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.<sup>17</sup> 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.<sup>18</sup> 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.

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### 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.

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### CONTRIBUTIONS

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

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### APPENDIX

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

Race and ethnicity <sup>19</sup>	Real Estate and Rental and Leasing Business Owners (NAICS 53) <sup>20,21</sup>	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.

<sup>1</sup> 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](#).

<sup>2</sup> Ibid.

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

<sup>4</sup> Ibid.

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

<sup>6</sup> Ibid.

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

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

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

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

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

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

<sup>14</sup> [Montgomery County, MD Housing Market](#), Zillow.

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

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

<sup>17</sup> Michela Zonta et. al, "[Converting Vacant Office Space Into Housing](#)," Center for American Progress, July 30, 2024.

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

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

<sup>20</sup> 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.

<sup>21</sup> 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.

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### 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.<sup>1</sup> 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:<sup>2</sup>

- 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:<sup>3</sup>

- 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.<sup>4</sup>

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.

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## ANTICIPATED IMPACTS

This Bill is part of a package of proposed housing measures, called the More Housing N.O.W. (New Options for Workers)<sup>5</sup>. 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.<sup>6</sup> 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.<sup>7</sup>

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.<sup>8</sup>

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.<sup>9</sup> 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.<sup>10</sup>

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.<sup>11</sup> 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.<sup>12</sup> 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.<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup>

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.

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## RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.<sup>16</sup> 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.

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## 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.

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## 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.

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## CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

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

<sup>2</sup> Ibid.

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

<sup>4</sup> Ibid.

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

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

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

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

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

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

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

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

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

<sup>14</sup> [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.

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

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

# Economic Impact Statement

Montgomery County, Maryland

## Expedited Bill 2-25

## Taxation – Payments in Lieu of Taxes – Affordable Housing – Amendments

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Expedited Bill 2-25 would have a positive impact on economic conditions in the County in terms of the Council's priority economic indicators. By granting a 25-year property tax exemption, the Bill would reduce operating expenses for office buildings that are converted to residential buildings and meet certain zoning and affordability requirements. All else being equal, these properties would yield higher business incomes. However, due to the significant physical and financial barriers to office-to-residential conversions and data limitations, it is unclear whether the Bill would incentivize conversions that would not otherwise occur. If this occurs, certain residents could benefit from increased access to affordable housing, potentially lowering nondiscretionary household expenses.

### 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.<sup>1</sup> 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:<sup>2</sup>

- 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 include commercial buildings that are converted to residential buildings. A property owner could qualify for a By Right PILOT if:<sup>3</sup>

- 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 would be exempt from 100 percent of County real property taxes for 25 years.<sup>4</sup>

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 25-01 as part of the "More Housing N.O.W." (New Options for Workers) package.

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

<sup>2</sup> Ibid.

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

<sup>4</sup> Ibid.

# INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

As required by 2-81B of the Montgomery County Code, this Economic Impact Statement evaluates the impacts of Expedited Bill 2-25 on residents and private organizations in relation to Council's priority economic indicators. In doing so, it examines whether the Bill would have a net positive or negative impact on overall economic conditions in the County.<sup>5</sup>

The County would fund the Bill's 25-year property tax exemption using tax revenue. Notably, this would constitute an internal transfer from the County to property owners rather than a net increase in economic activity. As a result, the Bill's overall economic impact would depend on: (a) the annual economic effects of the tax exemption on County residents and businesses, and (b) the economic opportunity cost of the forgone County revenue. Since OLO cannot determine how the lost tax revenue would otherwise be allocated, this analysis does not assess the economic impact of alternative government spending.

To assess the Bill's economic impact statements, this analysis relies on the following information sources:

- Analyses presented by personnel from the Montgomery County Economic Development Corporation (MCEDC) and Montgomery Planning Department before the Council's ECON Committee,<sup>6</sup> and
- Reports on the feasibility of office-to-residential conversions by Goldman Sachs economists, Montgomery Planning analysts, and Bolan Smart Associates, a real estate consulting firm commissioned by Montgomery Planning.<sup>7</sup>

No formal methodologies or assumptions are used in this analysis.

## VARIABLES

The primary variables that would affect the economic impacts of enacting Expedited Bill 2-25 are the following:

- Physical barriers to conversion
- Upfront costs to conversion (acquisition, conversion, financing)
- Difference between office and residential rents (per square foot)

## IMPACTS

**WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS**

### Businesses, Non-Profits, Other Private Organizations

OLO anticipates that Expedited Bill 2-25 would have a positive impact on certain private organizations in the County in terms of the Council's priority economic indicators.

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<sup>5</sup> ["Sec. 2-81B, Economic Impact Statements,"](#) Montgomery County Code.

<sup>6</sup> Bilal Ali, "[Worksession – Office Vacancy Follow-Up](#)" (Economic Development Committee, Montgomery County Council, March 6, 2024).

<sup>7</sup> Elsie Peng and Vinay Viswanathan, "[The Price Is Still Too High for Office-to-Multifamily Conversion](#)," Economic Research (Goldman Sachs, February 26, 2024); Rick Liu, "[Converting Office to Residential Is Complicated](#)," *Montgomery Planning* (blog), October 4, 2017; Bolan Smarts Associates, Inc., "[Adaptive Reuse: Executive Boulevard and Rock Spring Office Markets](#)" (Commissioned by Montgomery Planning, May 2016).

The Bill would likely impact a small portion of office properties in the County due to the physical and financial barriers to office-to-residential conversion.<sup>8</sup> As of Q2 2023, the County had 1,512 office buildings, with a vacancy rate of 16.5 percent—up from 11.6 percent five years earlier.<sup>9</sup> Based on interviews with local real estate leaders, a review of relevant literature, consultations with Montgomery County Planning, and research on local office vacancy trends, MCEDC estimated that 1 percent of office buildings, or roughly 15, are suitable for residential conversion.<sup>10</sup> For this reason, MCEDC designated office-to-residential conversion as a “low feasibility” solution to office vacancy in the County.

This finding aligns with analysis on the feasibility of conversions at the national level. In their February 2024 report, Goldman Sachs economists evaluated the conversion potential for “nonviable” office buildings—defined as those located in suburban areas or central business districts, built before 1990, unrenovated since 2000, and with a vacancy rate above 30 percent.<sup>11</sup> Their analysis found that converting these buildings to multifamily housing would likely result in net losses due to high acquisition, conversion, and financing costs, combined with the typically lower rents for residential units compared to commercial properties. They conclude that “only 0.8% of US office inventory is currently priced at a level that makes conversion to multifamily housing financially feasible.”

Of the approximately 15 office buildings in the County where conversion is deemed feasible, OLO cannot predict how many will pursue this option, given the significant financial barriers and risks. Some owners may instead choose lower-cost alternatives, such as renovating the property or lowering rents to attract tenants. For those who do proceed with conversion, the Bill would grant a 25-year property tax exemption if the project meets specified conditions, reducing the multifamily property’s operating expenses. All else being equal, lower operating costs would increase business income for property owners.

A key question regarding the Bill’s economic impact is whether it would incentivize conversions that would not otherwise occur. Addressing this question would require a case-by-case financial analysis of the buildings deemed feasible, which is beyond the scope of this report. However, OLO notes that the financial barriers to conversion may be too substantial for the tax exemption to overcome.

Beyond these potential impacts, OLO does not expect the Bill to affect private organizations in terms of the Council’s other priority indicators.

## Residents

OLO anticipates that Expedited Bill 2-25 could have a positive impact on certain residents in the County in terms of the Council’s priority economic indicators.

As previously discussed, it is unclear whether the Bill would incentivize conversions that would not otherwise occur due to the significant physical and financial barriers to office-to-residential conversions and data limitations. If this occurs, certain residents could benefit from increased access to affordable housing, potentially lowering nondiscretionary expenses and increasing their net household income.

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<sup>8</sup> For discussions of the physical/architectural barriers to conversion, see Liu, “Converting Office to Residential Is Complicated”; Bolan Smarts Associates, Inc., “Adaptive Reuse.”

<sup>9</sup> See Montgomery Planning’s presentation in Ali, “Worksession – Office Vacancy Follow-Up.”

<sup>10</sup> Economic Development Committee Worksession - Office Vacancy Follow-up, Montgomery County Government, March 6, 2024.

<sup>11</sup> Peng and Viswanathan, “The Price Is Still Too High for Office-to-Multifamily Conversion.”

Beyond this potential impact, OLO does not expect the Bill to affect residents in terms of the Council's other priority indicators.

## **Net Impact**

OLO anticipates that Expedited Bill 2-25 would have a positive impact on economic conditions in the County in terms of the Council's priority economic indicators. By granting a 25-year property tax exemption, the Bill would reduce operating expenses for office buildings that are converted to residential buildings and meet certain zoning and affordability requirements. All else being equal, these properties would yield higher business incomes. However, due to the significant physical and financial barriers to office-to-residential conversions and data limitations, it is unclear whether the Bill would incentivize conversions that would not otherwise occur. If this occurs, certain residents could benefit from increased access to affordable housing, potentially lowering nondiscretionary household expenses.

## **DISCUSSION ITEMS**

Not applicable

## **CAVEATS**

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. 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.

## **AUTHOR**

Stephen Roblin (OLO) prepared this report.



# Fiscal Impact Statement

Office of Management and Budget

## Bill 2-25E

## Taxation - Payments in Lieu of Taxes - Affordable Housing - Amendments

### Bill Summary

This bill expands payment in lieu of taxes (PILOT) to housing developments if the property meets the following criteria: the property has been converted from commercial use to residential use; the property has at least a 50 percent vacancy rate at the time of application; the property's development meets all the requirements of an expedited approval plan under County Code; and at least 15 percent of the units are built under a government regulation or binding agreement limiting the rent charged for the unit for at least 25 years, to ensure the unit is affordable for households earning 60 percent or less of the Area Median Income (AMI). The bill provides a real property tax exemption for at least 25 years from when the use and occupancy permit is issued, however the exemption ends if less than 15 percent of the units limit rent to ensure the unit is affordable for households earning 60 percent or less of the AMI.

### Fiscal Impact Summary

The bill adds 1.0 FTE for a Senior Planning Specialist and \$134,600 in personnel costs to the Department of Housing and Community Affairs (DHCA) Multifamily Housing Program. Operating expenses needed to support the position increase by \$7,500 in FY26 and \$1,700 each year thereafter. The Department of Finance estimates real property tax revenues could decrease by approximately \$5.8 million in the first year, increasing by further annual reductions of an additional \$6-7 million as more properties utilize the PILOT, resulting in a loss of \$130 million in real estate tax revenue in the six-year analysis period. Assuming the PILOT is provided to qualifying properties for no more than 25 years, Finance estimates the annual decrease in property tax revenues will continue to grow for 25 years from the time the initial projects received the PILOT, after which new PILOTs may replace expired PILOTs and the revenue decrease stabilizes with annual loss of around \$230 million in property tax revenue per year, with total loss over that 25-year period of approximately \$2.6 billion.

Fiscal Year	26	27	28	29	30	31	Total
Personnel Costs	\$134,600	\$134,600	\$134,600	\$134,600	\$134,600	\$134,600	\$807,600
Operating Expenses	\$7,500	\$1,700	\$1,700	\$1,700	\$1,700	\$1,700	\$16,000
Total Expenditures	\$142,100	\$136,300	\$136,300	\$136,300	\$136,300	\$136,300	\$823,600
Revenues	(\$5,795,200)	(\$11,822,300)	(\$18,088,100)	(\$24,599,800)	(\$31,364,700)	(\$38,390,400)	(\$130,060,500)
Total Impact	(\$5,937,300)	(\$11,958,600)	(\$18,224,400)	(\$24,736,100)	(\$31,501,000)	(\$38,526,700)	(\$130,884,100)
FTE	1.00	1.00	1.00	1.00	1.00	1.00	

### Fiscal Impact Analysis

#### Expenses

DHCA indicates that it will require 1.0 FTE for a Senior Planning Specialist, which creates \$134,600 in new personnel costs each year. The position also requires one-time operating expenses of \$5,900 for equipment and furniture, and ongoing operating expenses of \$1,700 for software licenses and basic supplies.



**Revenues**

This analysis estimates this bill will result in a \$5.8 million decrease in real property tax revenues from projected FY26 levels, with that reduction increasing by a further \$6-7 million annually as the number of properties utilizing the PILOT benefit increases over time. This analysis anticipates the revenue impact on projections assuming:

- a property tax rate of \$1.0255 per \$100 in taxable assessed value (should the rate increase, the amount of revenue lost would commensurately increase);
- new multifamily development adds \$5.5 million in new real property tax revenues annually;
- senior apartment developments add an additional \$300,000 in new real property tax revenue annually; and
- values of existing properties and the real property tax revenues from new construction increase at 2% annually.

Annual projections of new multifamily development and senior apartment development are based on the prior 10-year average. Multifamily development from 2015-2024 resulted in 58 market rate projects occupying 244 acres, providing 16,558 units, that will generate approximately \$55 million in property tax revenues in FY26 at a weighted rate of \$1.0255 per \$100 in value. In addition, there were another 11 senior apartment projects occupying 51 acres, providing 1,347 units, and generating approximately \$2.9 million in property tax revenues in FY26. This analysis assumes the future annual average rate of 30 acres of land consumed for development will continue and approximately \$5.8 million in increased property tax revenue would be generated absent the bill, with the value of existing properties and future construction increasing at 2% annually.

As discussed below, this revenue projection is based on many assumptions, any one of which could significantly affect the actual revenue impact.

**Staff Impact**

DHCA indicates that its Multifamily Housing Program staff are at capacity. Under previous expansions of PILOT, DHCA saw a significant increase in the number of applications annually. This analysis assumes a similar increase in applications would result from the bill. DHCA estimates that it will require an additional 1.0 FTE Senior Planning Specialist position to provide staff support for those applications. The position's full-year compensation will increase expenditures by \$134,600 annually. Without appropriate staffing support to review, negotiate, and process the expected increase in applications, transactions to create and preserve affordable housing units may be delayed.

**Actuarial Analysis**

The bill is not expected to impact retiree pension or group insurance costs.

**Information Technology Impact**

The bill is not expected to impact the County Information Technology (IT) or Enterprise Resource Planning (ERP) systems.

**Other Information**

*Later actions that may impact revenue or expenditures if future spending is projected*

The bill does not authorize future spending.

*Ranges of revenue or expenditures that are uncertain or difficult to project*

DHCA notes that this analysis is based on the expenditure impact of Bill 2-25. Additional potentially significant expenditures for additional staffing and associated operating expenses would be needed if Zoning Text Amendments 25-01 and 25-02 are also enacted.



The forecast of lost property tax revenue relies upon the following assumptions, detailed further in this section: recent development levels would continue unaffected by any recently approved and/or implemented Montgomery County policies; there is ample supply of properties eligible for the PILOT if redeveloped into rental residential; developers will be able to reduce the vacancy at properties they wish to redevelop to 50 percent; and the PILOT will be attractive to developers and that all future multifamily supply will make use of the PILOT.

This analysis assumes 10 years of rental and senior apartment multifamily properties built between 2015 and the end of 2024 proxy the future average level of multifamily development and related taxable assessed value in the County. It is not possible to accurately predict the level of development that will occur in any specific year or the future development of any specific property. Future forecasts of development levels depend upon the assumption that future development trends resemble recent observable and measurable development trends. While a forecast of development and resulting tax revenues has general accuracy across a six-year time frame, the estimate of those individual years is less accurate given considerable variance between this calculated average and the potential actuals.

Through evaluation of Montgomery County's land records, Finance assumes the supply of property potentially eligible for the PILOT if redeveloped into residential use (4,764 acres) far exceeds the demonstrated demand for multifamily development (300 acres over 10 years). Further, Finance estimates that properties potentially attractive for redevelopment (1,524 acres) also far exceeds the potential demand for multifamily development.

This analysis assumes properties with both (1) a low ratio of building value to land value (indicating the existing structure is worth relatively little compared to the potential use of the land); and (2) buildings that are older than 25 years are potentially attractive candidates for conversion from commercial use to residential use. In addition, this analysis assumes the PILOT substantially reduces property operation costs and thus will be highly utilized by multifamily builders, that there is an ample supply of properties that satisfy the criteria for the PILOT, and that as a result of the bill, most future multifamily rental properties will receive the PILOT and generate no real property tax revenue for at least 25 years.

This analysis assumes the existing weighted property tax rate of \$1.0255 per \$100 in taxable assessed value. Should the County Executive's proposed tax rate increase to \$1.0605 per \$100 of assessed value be approved, the amount of revenue lost would commensurately increase, with a \$6.0 million impact in FY26. This analysis assumes properties currently under construction or development that otherwise would have satisfied the requirements of the PILOT will be allowed to make use of the program, resulting in a reduction in tax revenue starting in FY26. If instead developers of prospective projects must resubmit their applications, the loss of tax revenue may not start until two years after adoption of the bill. Finance assumes it takes two years to take a project from conception through the development and construction process.

This analysis assumes that townhome development will not be significantly impacted by the bill. While townhome development is eligible for the PILOT outside of the red policy zone, Finance anticipates that there will be few such developments that utilize the PILOT due to the required 15% MPDUs that must be located on-site of the development, requiring the development is a rental property, and that there is a limited market for rental townhouse developments. Any level of townhome development that does occur and is eligible for the PILOT would increase the loss in



future real property tax revenue estimated in this analysis.

The actual revenue impact may vary if development occurs at a different level or pace than assumed; if more or less development occurs at assessed values that are more or less than assumed; or if land prices for eligible properties increase due to utilization of the PILOT among multifamily developers, resulting in less multifamily development utilizing the PILOT than assumed due to the high cost of eligible land. In addition, the actual revenue impact may vary if this bill results in changes to other tax revenues such as income, transfer, or recordation as a result of new multifamily development. The actual revenue impact may vary if actual property attributes differ from those recorded in the Planning Department land database, therefore affecting the estimated value of properties and acres potentially eligible for the PILOT.

*Sources of information*

The analysis utilizes data from the Department of Planning (Planning) land use database, the State Department of Assessment and Taxation (SDAT), and the commercial real estate data company CoStar. Finance used geographic information system (GIS) software to evaluate Planning's land use database to identify office and retail properties (Commercial Properties) that are greater than two stories and could possibly satisfy the criteria for PILOT. Finance also used GIS to identify adjacent Commercial Properties as many developments are the result of combining multiple existing parcels. Finance used CoStar data to identify rental and senior apartment multifamily properties built between 2015 and the end of 2024, using this ten year period of multifamily development as a proxy for the future average level of multifamily development and taxable assessed value. Finance used SDAT data to identify the existing assessed value of the land and improvements for all properties and to estimate future real property tax revenue from multifamily rental developments.

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