

MEMORANDUM

TO: County Council

FROM: Jeffrey L. Zyontz, Legislative Attorney
Michael Faden, Senior Legislative Attorney

SUBJECT: **Introduction:** Bill 4-10, Workforce Housing - Voluntary

Bill 4-10, Workforce Housing - Voluntary, sponsored by the Planning, Housing and Economic Development (PHED) Committee, is scheduled to be introduced on February 2, 2010. A public hearing is tentatively scheduled for March 2 at 1:30 p.m.

Bill 4-10 would repeal the requirement to build workforce housing under certain circumstances and make the program voluntary for the developer in the zones where it is allowed. It would also repeal the program's December 2014 sunset date.

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Bill No. 4-10
Concerning: Workforce Housing –
Voluntary
Revised: 1-29-10 Draft No. 2
Introduced: February 2, 2010
Expires: August 2, 2011
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Planning, Housing, and Economic Development Committee

AN ACT to:

- (1) modify the requirement for workforce housing to make the provision of workforce housing voluntary; and
- (2) generally amend the law governing the workforce housing program.

By amending

Montgomery County Code
Chapter 25A, Housing, Moderately Priced
Section 25A-5

Chapter 25B, Housing Policy
Sections 25B-23 through 25B-28

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:

Sec. 1. Section 25A-5 is amended as follows:

25A-5. Requirement to build [MPDU's] MPDUs; agreements.

* * *

(c) When the development at one location is in a zone where a density bonus is allowed; and

(1) is covered by a plan of subdivision,

(2) is covered by a plan of development or a site plan, or

(3) requires a building permit to be issued for construction,

the required number of moderately priced dwelling units is a variable percentage that is not less than 12.5 percent of the total number of dwelling units at that location, not counting any workforce housing units [required] built under Chapter 25B.* * *

Sec. 2. Sections 25B-23 through 25B-28 are amended as follows:

25B-23. Definitions.

In this Article, the following words have the following meanings:

* * *

(j) *Workforce housing project* means a housing or mixed-use project where [at least 10 percent of the] dwelling units[, as computed under Section 25B-24(e),] are sold or rented to households with incomes at or below 120% of the area-wide median income.

* * *

25B-24. Workforce housing program.

* * *

(d) [*Requirement*] Option. A developer of any subdivision with 35 or more market-rate dwelling units at one location, as defined in Section 25A-3(b), [must build the number of] may build workforce housing units [, if any,] that are expressly [required] allowed in the applicable zone under

28 Chapter 59.

29 (e) *Exclusions.* In calculating the number of dwelling units in any
30 subdivision to determine the number of workforce housing units
31 [required] built under this Article, the Department must not count:

32 (1) any moderately priced dwelling units (MPDUs) and any resulting
33 bonus density market-rate units;

34 (2) any Personal Living Quarters unit built under Section 59-A-6.15,
35 which meets the price or rent eligibility standards for a
36 moderately priced dwelling unit under Chapter 25A;

37 (3) any dwelling unit in an Opportunity Housing Project built under
38 Sections 56-28 through 56-32, which meets the price or rent
39 eligibility standards for a moderately priced dwelling unit under
40 Chapter 25A; and

41 (4) any other dwelling unit built under a government regulation or
42 binding agreement that limits for at least 15 years the price or rent
43 charged for the unit in order to make the unit affordable to
44 households earning less than 60% of the area median income,
45 adjusted for family size.

46 [(f) *Exemption.* If the total number of units in a subdivision that are not
47 counted under subsection (e)(4) is sufficient to qualify the entire
48 subdivision to receive federal low-income housing tax credits, then no
49 workforce housing units are required in that subdivision.]

50 [(g)] (f) *Regulations.* The County Executive must adopt regulations
51 under method (1) to administer this program. These regulations:

52 (1) must set maximum sale prices and annual rent limits, sale price
53 and rent ranges (which must promote a variety of different prices
54 or rents at each workforce housing location), minimum unit type

- 55 and bedroom requirements, and income eligibility standards;
- 56 (2) must govern notice to the Department of sales and rentals,
- 57 foreclosures, and other relevant procedural matters; and
- 58 (3) should, wherever possible, be similar to or at least consistent with
- 59 the regulations that govern the MPDU program.

60 The regulations governing eligibility must include some preference for
 61 applicants who either reside in the County or work or have received a
 62 job offer in the County.

63 * * *

64 **25B-25. Execution of agreement; building permit issuance.**

65 (a) *Agreement.*

- 66 (1) After the developer of a housing project has obtained approval
- 67 from the Planning Board of a site plan that includes the number
- 68 of workforce housing units [required] approved under any
- 69 applicable provision of Chapter 59 and all other necessary
- 70 regulatory approvals, the Director and the developer must execute
- 71 an agreement assuring compliance with this Article by the
- 72 developer and any successor in interest. The Director must attach
- 73 a copy of the approved site plan to this agreement.
- 74 (2) The agreement must incorporate a staging plan for the
- 75 construction of workforce housing units, the mix of dwelling unit
- 76 sizes and types, and the maximum selling price or annual rent for
- 77 each unit. The staging plan must require all workforce housing
- 78 units to be built before or at the same time as the other dwelling
- 79 units. Where appropriate, the agreement must reflect conditions
- 80 required as part of other regulatory approvals.
- 81 (3) The agreement must require that the number of efficiency and

82 one- bedroom workforce housing units each must not exceed the
 83 ratio that market-rate efficiency and one-bedroom units
 84 respectively bear to the total number of market-rate units in the
 85 subdivision. The Director must not approve an agreement that
 86 reduces the number of bedrooms required by this subsection in
 87 any workforce housing unit.

88 (b) *Issuance of building permit.* The Director of Permitting Services must
 89 not issue a building permit for any development where workforce
 90 housing units are [required] approved under Chapter 59 until the
 91 agreement required by subsection (a) is executed. After an agreement is
 92 executed under subsection (a), the Director must certify to the Director
 93 of Permitting Services before a building permit is issued that all
 94 applicable requirements of this Article have been met. If all workforce
 95 housing units are not built before or at the same time as other dwelling
 96 units as required in the staging plan, the Director of Permitting Services
 97 may:

- 98 (1) withhold any later building permit for any part of the same
 99 development until all workforce housing units designated in the
 100 staging plan are built;
- 101 (2) issue a stop work order, effective until all workforce housing
 102 units designated in the staging plan are built; or
- 103 (3) withhold any use and occupancy permit for other units in the
 104 development until all workforce housing units designated in the
 105 staging plan are built.

106 **[25B-26. Alternative location agreement.]**

107 [(a) The Director may approve a workforce housing agreement, in addition
 108 to the agreement required by Section 25B-25, that allows an applicant,

109 instead of building some or all of the required number of workforce
 110 housing units on-site, to provide at least the same number of units at
 111 another location in the same planning policy area (as defined in the
 112 County Growth Policy), only if the Director finds that:

113 (1) either:

114 (A) the public benefit of locating at the proposed alternative
 115 location is equivalent to the value of locating workforce
 116 housing units in each applicable development; or

117 (B) building a sufficient number of workforce housing units at
 118 the original site would require the applicant to change the
 119 type of building construction used; and

120 (2) building the workforce housing units at the proposed alternative
 121 location will further the objective of providing a broad range of
 122 housing opportunities throughout the County.

123 (b) To satisfy the requirements of this Section, an applicant may:

124 (1) build, or convert from non-residential use, the required number of
 125 new workforce housing units at a site approved by the Director;

126 or

127 (2) return to workforce housing unit use, and rehabilitate as
 128 necessary, existing workforce housing units for which price
 129 controls have expired.

130 (c) Each agreement under this Section must include a schedule, binding on
 131 the applicant, for timely completion or acquisition of the required
 132 number of workforce housing units. Each agreement under this Section
 133 must also require that each workforce housing unit provided at an
 134 alternative location under this Section must be identical in type of unit
 135 and number of bedrooms to the workforce housing units that the

136 applicant would have built on site.]

137 **[25B-27] 25B-26. Control of sale prices; rent limits; income eligibility;**
138 **foreclosures.**

139 * * *

140 **[25B-28] 25B-27. Compliance.**

141 * * *

142 **Sec. 3. Expiration.**

143 Subsection (c) of Section 3 of Chapter 23, Laws of Montgomery County, 2006
144 is hereby repealed:

145 **Sec. 3. Effective date; Applicability; Expiration.**

146 * * *

147 [(c) Article V of Chapter 25B, as inserted by Section 1 of this Act, does not
148 apply to any development for which an application for a local map
149 amendment, development plan, project plan, site plan, or preliminary
150 plan of subdivision is filed after December 1, 2014.]

151 *Approved:*

152

153

Nancy Floreen, President, County Council Date

154 *Approved:*

155

156

Isiah Leggett, County Executive Date

157 *This is a correct copy of Council action.*

158

Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Bill 4-10

Workforce Housing - Voluntary

DESCRIPTION:	Repeals the requirement to build workforce housing under certain circumstances and make the program voluntary for the developer in the zones where it is allowed. Also repeals the program's December 2014 sunset date.
PROBLEM:	Under current economic circumstances, workforce housing is difficult and expensive to provide.
GOALS AND OBJECTIVES:	To allow developers to decide whether to provide workforce housing in each development where the zone would allow it and provide a density bonus. To make the program permanent.
COORDINATION:	Department of Housing and Community Affairs, Planning Board
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Jeffrey L. Zyontz, Legislative Attorney, 240-777-7896
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	Not applicable