

# 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