

Climate Assessment

Office of Legislative Oversight

Bill 5-25: Demolition Tax for Affordable Housing Production

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 5-25 will likely have a positive impact on the County's contribution to addressing climate change as the Bill proposes a demolition tax and its revenue would go towards the development of affordable housing that prioritize transit-oriented locations and sustainable construction and design practices.

BACKGROUND AND PURPOSE OF BILL 5-25

The Housing Production Fund (HPF) was established by the County Council in 2021. The fund allows the Housing Opportunity Commission (HOC) to finance construction of mixed-income and mixed-use developments in the County. Thirty percent of the units in these developments must be income-restricted, with 20% of the units affordable at or below 50% of the Area Median Income (AMI) and 10% affordable at 65%-70% of the AMI.¹

Bill 5-25 would establish a \$20,000 excise tax on certain demolitions and renovations of single-family homes. This would include partial demolitions of attached or detached single-family homes that result in the destruction or removal of at least 50% of an existing home.² Revenues from the new excise tax would be used exclusively for the HPF which allows HOC to finance the construction of mixed-income, mixed-use developments.³

The Bill also outlines the following proposed exemptions from the excise tax:

- The existing home is deemed unsafe or condemned under County Code;
- The replacement single-family home would be a moderately priced dwelling unit (MPDU);
- The replacement single-family home would be the owner's principal residence for a minimum of 5 years;
- The gross floor area of the replacement single-family home would be equal or less than equal to the original home's gross floor area;
- It is demonstrated the replacement single-family home is necessary due to a medical condition or disability of an individual that will reside in the home; or
- It is demonstrated the demolition is necessary due to unforeseeable circumstances beyond the owner's control and reasonable ability to remedy.⁴

Bill 5-25, Demolition Tax for Affordable Housing Production was introduced by the County Council on February 11, 2025.

ANTICIPATED IMPACTS

The Bill proposes a demolition tax and revenue raised will go to the HPF which HOC uses to finance affordable housing developments. The HOC's 5-year strategic plan (2024-2029) cites their commitment to creating and maintaining sustainable affordable housing in the County.⁵

Some examples of their current and future sustainable housing developments funded through the Housing Production Fund (HPF) include:

- **The Laureate** – The Laureate is a LEED-certified¹ mixed-use, mixed-income residence and is walking distance to the Shady Grove Metro Station. It was the first building funded by the HPF and was designed to be a transit-oriented community.⁶
- **Hillandale Gateway** – Hillandale Gateway will be a LEED-certified mixed-use, mixed-income community. It will be built to Passive House standards, which are high performance energy efficiency standards that require buildings reduce energy needed for heating and cooling of up to 90% and up to 75% in overall energy use, based on standards developed by the Passive House Institute US.⁷ A microgrid is planned for the site as well as a neighborhood resiliency hub, which will support the community during an extreme weather event.⁸
- **Wheaton Gateway** – Wheaton Gateway will be a mixed-use residential and retail property and residential buildings will be designed to meet Passive House standards. It will also be walking distance to the Wheaton metro as well as to a planned Bus Rapid Transit station along University Boulevard.⁹

Due to HOC's past and planned projects that create sustainable, affordable housing that are accessible to public transit, it is likely that future projects funded by the HPF will also follow these design principles.¹⁰ Adopting passive house standards will lower their building's operational energy use and emissions related to energy use, which residential energy use accounts for 24% of the County's total greenhouse gas emissions.¹¹ Further, 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 through the following ways:¹²

- 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.¹³

¹ LEED (Leadership in Energy and Environmental Design) designates buildings that incorporate best practices in energy efficiency, water conservation, and sustainable building material selection. LEED buildings are designed to minimize their environmental impact. <https://www.usgbc.org/leed>

OLO cannot discern if the demolition tax would discourage property owners from demolishing single-family homes on their site. The demolition and rebuilding of buildings is extremely carbon intensive due to embodied carbon, which represents 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.¹⁴ Depending on the size of the new building, the embodied carbon associated with the construction site can be doubled, due to the embodied carbon of the original materials and the new materials used for the new building.¹⁵

However, the measures put forth could encourage owners of the property to build a new single-family house similar in size and square footage to the old building that was demolished. Larger homes typically require more energy to heat and cool and more building materials to construct, which increases both their embodied carbon and emissions associated with energy use.¹⁶ According to analysis from the planning department, there is a pattern of homes with significantly more square footage replacing homes that were demolished in the County. For the 734 homes recorded as demolished and replaced from 2012 – 2019, the gross floor area of the new home was 152% larger on average, or 2,554 square feet on average.¹⁷

According to data from the Energy Information Administration (EIA) published for 2022, the annual amount of electricity purchased by an average U.S. home (with an average square footage of 1,799) was 10,791 kilowatt-hours (kWh).¹⁸ ² OLO notes the 734 homes demolished and replaced from 2012 – 2019 were built, on average, with an additional 2,554 square feet, which is larger than the average home discussed in the EIA dataset.¹⁹ Assuming the house is occupied year round, these homes could consume more than double the amount of electricity compared to the average home in the United States. Mitigating the size of replacement homes after a demolition could reduce greenhouse gas emissions in the County's building sector.

OLO anticipates Bill 5-25 will have a 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. The Bill's proposed actions will likely lead to an increase in affordable housing units and these buildings will likely use sustainable design and construction as they will be overseen by HOC, which is committed to sustainability.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.²⁰ OLO does not offer recommendations or amendments as Bill 5-25 is likely to have a positive impact on the County's contribution to addressing climate change,

² The figure for average square footage includes single-family homes, multifamily, and mobile homes in the United States. 2022 data broken down by type of home was not available, however in 2020, the EIA reported the average single-family home was 2,264 square feet. From: <https://www.eia.gov/consumption/residential/data/2020/hc/pdf/HC%2010.9.pdf>

including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

CAVEATS

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

PURPOSE OF CLIMATE ASSESSMENTS

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

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

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ [Housing Production Fund](#), Housing Opportunity Commission, Accessed 2/19/2025.

² [Introduction Staff Report for Bill 5-25](#), Montgomery County Government, Introduced 2/11/2025.

³ Ibid.

⁴ [Introduction Staff Report for Bill 5-25](#), Montgomery County Government, Introduced 2/11/2025.

⁵ [HOC Five-Year Strategic Plan 2024-2029](#), Housing Opportunities Commission, 2024.

⁶ [A Earth Month Environmental Progress Update from HOC and HOCF](#), Housing Opportunities Commission, Accessed 2/27/2025.

⁷ [Passive House Design Guidelines](#), NYC Housing Preservation and Development, Accessed 2/27/2025; [Passive House Certification Criteria](#), International Passive House Association, Accessed 2/27/2025; [Hillandale Gateway Spring 2022 Community Update Release](#), Housing Opportunities Commission, 2022;

⁸ [Hillandale Gateway Spring 2022 Community Update Release](#), Housing Opportunities Commission, 2022;

[Hillandale Gateway Accelerates Energy Efficiency with Green Bank Financing](#), Montgomery County Green Bank, 11/8/2024.

⁹ [Wheaton Gateway FAQ](#), Wheaton Gateway, Accessed 2/27/2025; [Housing Production Fund](#), Housing Opportunities Commission, Accessed 2/27/2025.

¹⁰ [Wheaton Gateway's Role in Achieving Montgomery County's Climate Action Plan](#), Wheaton Gateway, Accessed 2/27/2025; [HOC Five-Year Strategic Plan 2024-2029](#), Housing Opportunities Commission, 2024.

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- ¹¹ [Passive House FAQ](#), Passive House Network, Accessed 2/26/2025.; [Montgomery County Climate Action Plan](#), Montgomery County Government, June 2021.
- ¹² [The Community Resilience Benchmarks](#), Alliance for National and Community Resilience, Accessed 2/24/2025.
- ¹³ [Equitable Adaptation Legal & Policy Toolkit: Resilient Affordable Housing, Anti-Displacement, and Gentrification](#), Georgetown University Climate Center, Accessed 2/24/2025.
- ¹⁴ [C-MORE: Construction Material Opportunities to Reduce Emissions](#), U.S. EPA, Accessed 2/26/2025.
- ¹⁵ [Combating climate change: A study of embodied carbon](#), Trellis, 11/8/2021.; [Building Reuse: A Proven Climate and Economic Strategy](#), National Trust for Historic Preservation & American Institute of Architects, Accessed 2/26/2025.
- ¹⁶ [Maximum Size of Single-Family Residences](#), Sustainable Development Code, Accessed 2/26/2025; [The Impact of Increasing Home Size on Energy Demand](#), U.S. Energy Information Administration, 4/19/2012.
- ¹⁷ [Bill 34-19, Taxation - Development Impact Taxes - Affordable Housing - Housing Impact Fairness Act Staff Report](#), Montgomery County Planning Department, 11/26/2019.
- ¹⁸ [How much electricity does an American home use?](#), U.S. Energy Information Administration, Accessed 2/26/2025.; [Annual Energy Outlook: Residential Sector Key Indicators and Consumption](#), U.S. Energy Information Administration, Accessed 2/26/2025
- ¹⁹ [Annual Energy Outlook: Residential Sector Key Indicators and Consumption](#), U.S. Energy Information Administration, Accessed 2/26/2025
- ²⁰ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022