

# Racial Equity and Social Justice (RESJ) Impact Statement

## **BILL 26-21: TAXATION-PAYMENTS IN LIEU OF TAXES- AFFORDABLE HOUSING-AMENDMENTS**

### **SUMMARY**

OLO anticipates that Bill 26-21 will favorably impact racial equity and social justice (RESJ) if it increases and preserves affordable housing in Montgomery County.

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### **BACKGROUND**

Bill 26-21, Taxation - Payments in Lieu of Taxes - Affordable Housing - Amendments, was introduced on June 29, 2021.<sup>1</sup> The purpose of the bill is to preserve and increase affordable housing for renters in Montgomery County. Bill 26-21 responds to the Montgomery County Preservation Study's call for policymakers to expand the County's payment in lieu of taxes (PILOT) provision and other cost reduction approaches to make it financially feasible to preserve and develop affordable housing in the County.<sup>2</sup>

PILOT programs provide tax abatements to property owners in exchange for designating rental units as affordable housing. The value of the PILOT to owners depends on the share of units devoted to affordable housing and the type of housing unit. Currently, PILOT tax abatements for non-Housing Opportunity Commission (HOC) properties expire after ten years; PILOT agreements are negotiated with the Department of Housing and Community Affairs (DHCA) and their cumulative costs cannot exceed the PILOT cap on tax abatements. For FY22, the PILOT cap was set at \$20.024 million.<sup>3</sup>

Bill 26-21 would change current policy in three ways. First, it would standardize and guarantee the value of PILOT tax abatements for affordable housing developers based on the type of unit offered. Second, it would extend PILOT tax abatement eligibility from 10 to 15 years. Third, it would eliminate the annual maximum PILOT cap for non-HOC properties. The Department of Finance is in the process of calculating the fiscal impact of this bill.

The intent of Bill 26-21 is to increase the supply of affordable housing in the County. As noted in the Preservation Study, the County is at risk to lose 7,500 to 11,000 naturally occurring affordable housing units by 2030 and another 1,400 deed-restricted units over the next 20 years once their subsidy compliance period expires. All these units are currently affordable for households earning up to 60 percent of the County's average median income (\$66,000); many are also affordable for households earning up to 30 percent of average median income (\$33,000).<sup>4</sup>

The Preservation Study further notes the need for more affordable housing units for lower-income households. Whereas about half of households earning up to \$66,000 per year reside in affordable housing units whose rental burden account for 30 percent or less of their household income, only a quarter of households earning up to \$33,000 per year reside in affordable housing units.<sup>5</sup> Thus the need for affordable housing is especially high for the lowest income households in the County.

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## DEMOGRAPHIC DATA

The potential impact of Bill 26-21 on RESJ requires understanding data on rent-burdened households that expend more than 30 percent of their monthly income on housing. A review of American Community Survey data demonstrates that Black and Latinx residents are disproportionately rent-burdened in the County.<sup>6</sup> Whereas, Black and Latinx residents were over-represented among rent-burdened households, representing larger shares of rent-burdened households than their shares of all households. White and Asian residents were under-represented among rent-burdened households compared to their shares of all households in the County. More specifically:

- Black residents accounted for 18 percent of County households but 36 percent of rent-burdened households;
- Latinx residents accounted for 13 percent of County households but 24 percent of rent-burdened households;
- White residents accounted for 57 percent of County households but 37 percent of rent-burdened households; and
- Asian residents accounted for 15 percent of County households but 6 percent of rent-burdened households.

	All Occupied Housing Units		All Occupied Rental Housing Units		Occupied Rentals with Households paying 30% or more for rent	
All	368,897		125,266		63,885	
White	211,158	57%	54,605	43%	23,470	37%
Black	68,489	18%	39,283	31%	23,491	36%
Asian	57,524	15%	12,206	9%	4,027	6%
Latinx	48,955	13%	24,728	19%	15,875	24%

## ANTICIPATED RESJ IMPACTS

Bill 26-21 aligns with the recommendations made by the Preservation Study to expand the PILOT provision to preserve affordable housing for low-income renters in Montgomery County. Assuming the changes proposed by this bill increase and preserve the supply of affordable housing in the County, OLO expects Bill 26-21 to disproportionately benefit Black and Latinx households who are more likely to be rent burdened than White and Asian households. As such, OLO anticipates the bill will advance racial equity and social justice by narrowing disparities in affordable housing by race and ethnicity. However, if Bill 26-21 neither increases nor preserves the supply of affordable housing in the County, this bill could exacerbate racial and social inequities by transferring County funding away from programs beneficial to communities of color and low-income residents to more affluent property owners with greater wealth.

## METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

OLO reviewed several sources of information to develop this RESJ impact statement, including the following:

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- Montgomery County Preservation Study, HR&A Advisors, Inc, July 2020
- 2019 American Community Survey, 1-Year Estimate
- Montgomery County Racial Equity Profile, 2019.

OLO also met with representatives from the Planning Department,<sup>7</sup> Department of Housing and Community Affairs<sup>8</sup>, and the Affordable Housing Corporation, Inc.<sup>9</sup>

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## RECOMMENDED AMENDMENTS

The County's 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>10</sup> OLO has determined that key provisions included in Bill 26-21 adequately address RESJ in the County. Consequently, this RESJ impact statement does not offer recommendations.

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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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<sup>1</sup> Montgomery County Council, Bill 26-21, Taxation - Payments in Lieu of Taxes - Affordable Housing - Amendments, introduced on June 29, 2021, Montgomery County, Maryland.

<sup>2</sup> Montgomery County Preservation Study, July 2020, HR&A Advisors, Inc. [Montgomery County Preservation Study, July 2020](#)

<sup>3</sup> Montgomery County's HIF and PILOT Programs, November 2019, Department of Housing & Community Affairs, Montgomery County, Maryland.

[https://www.montgomerycountymd.gov/DHCA/Resources/Files/housing/multifamily/publications/presentations/PHED\\_Presentation\\_HIF\\_PILOTs\\_201911.pdf](https://www.montgomerycountymd.gov/DHCA/Resources/Files/housing/multifamily/publications/presentations/PHED_Presentation_HIF_PILOTs_201911.pdf)

<sup>4</sup> Preservation Study

<sup>5</sup> Ibid

<sup>6</sup> American Community Survey, Gross Rent as a Percentage of Household Income, 2019 One-Year Estimate, The United State Census Bureau. <https://data.census.gov/cedsci/table?q=&t=-00%20-%20All%20available%20races%3AIncome%20and%20Poverty%3ARace%20and%20Poverty&g=0500000US24031&tid=ACSSPP1Y2019>

<sup>7</sup> OLO met with Lisa Govoni, a representative from Montgomery Planning on July 12, 2021.

<sup>8</sup> OLO met with Lawrence Cager and Francis Demarais, representatives from DCHA on July 8, 2021

<sup>9</sup> OLO met with Alan Goldstein, a representative from AHC (Affordable Housing Corporation) Inc. DCHA on July 14, 2021

<sup>10</sup> Montgomery County Council, Bill 27-19, Administration – Human Rights - Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee - Established