

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## BILL 26-22: LANDLORD-TENANT RELATIONS – RADON TESTING AND MITIGATION – REQUIRED

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 26-22 could have a favorable impact on RESJ in the County, since Black and Latinx renters will disproportionately benefit from reduced radon exposure if this Bill works as intended. While BIPOC landlords could be harmed by the Bill, the potential benefits to BIPOC renters exceeds the potential harm. Given that, to the extent known, racial disparities in lung and bronchus cancer are relatively small, OLO anticipates the favorable RESJ impact of this Bill will be small.

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### PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.<sup>1</sup> Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.<sup>2</sup>

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### PURPOSE OF BILL 26-22

According to the Centers for Disease Control and Prevention (CDC), radon is the second leading cause of lung cancer after cigarette smoking. Radon is a radioactive gas that forms naturally when radioactive metals break down in rocks, soil and groundwater. People can be exposed to radon primarily from breathing radon in air that comes through cracks and gaps in buildings and homes.<sup>3</sup>

Montgomery County is among eight counties that have been designated by the U.S. Environmental Protection Agency (EPA) as having the highest potential indoor radon levels in Maryland.<sup>4</sup> Testing is the only effective way to determine high levels of radon exposure in a home.<sup>5</sup> The EPA and the Surgeon General recommend testing all homes below the third floor for radon.<sup>6</sup>

As of 2016, County law requires a single-family home located in the County to be tested for radon before completing a sale of the home.<sup>7</sup> The purpose of Bill 26-22 is to extend protections to tenants by requiring radon testing, education, disclosure, and mitigation in rental housing. Radon testing and educational information would be required only for dwelling units located below the third floor of a building.<sup>8</sup>

Bill 26-22 would require a landlord to conduct radon testing prior to a tenant's occupancy for any rental housing. It would also require the landlord to provide educational pamphlets related to radon, testing, and mitigation at the time of lease signing. The Bill also allows existing tenants to self-test for the presence of radon, and outlines procedures for landlords to conduct confirmatory testing, mitigation efforts, and disclosure if high levels of radon are reported by a tenant in writing.<sup>9</sup>

# RESJ Impact Statement

## Bill 26-22

Bill 26-22 was introduced to the Council on September 20, 2022.

In December 2021, OLO published a RESJ impact statement (RESJIS) for Expedited Bill 43-21, Health – Advisory Board for Montgomery Cares Program – Amendments, which also considers health and health care disparities. OLO builds on Bill 43-21’s analysis for this RESJIS.

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### HEALTH AND HEALTH CARE DISPARITIES, LUNG CANCER AND RACIAL EQUITY

While all County residents occupying a home below a third floor face a risk of high radon exposure, racial disparities in health and health care – or differences in health and health care between groups that stem from broader inequities<sup>10</sup> – make BIPOC residents more vulnerable to the health consequences of radon. This section provides background and data on health and health care disparities, as well as available data on lung cancer to understand the potential impact of radon exposure on County residents by race and ethnicity.

**Health and Health Care Disparities.** There is a long history of systemic racism in the U.S. that drives present-day health disparities among BIPOC. Enslaved Black people experienced poor nutrition and inhumane living conditions, making them more susceptible to disease and death. Further, overutilization of Black patients for medical demonstration, dissection, and risky surgical and experimental procedures – a practice that began during slavery and continued into the 20<sup>th</sup> century – fostered distrust in the medical system that lives today.<sup>11</sup>

Post slavery, Black people only had sporadic access to deteriorated public hospitals that were typically reserved for the poorest residents. By the 1920s, while there was a limited number of segregated clinics operated by Black physicians, hospital and health facilities continued to be rare in the South, where most Black people resided. It was not until after the passage of Medicare and Medicaid in the 1960s – which forced the desegregation of hospitals through the 1964 Civil Rights Act – that BIPOC were able to receive access to a wider range of health care services and facilities.<sup>12,13</sup>

Today, racial disparities in health care stemming from inadequate health insurance coverage largely contributes to poor health outcomes among BIPOC. People without health insurance face substantial barriers to receiving health care since most medical services are expensive or require insurance coverage. Intermittent or unstable health insurance coverage also has negative consequences, including limiting a patient’s ability to establish a sustainable relationship with a physician. Research has identified low-income and employment in jobs that do not provide health benefits as causes for high rates of uninsurance among BIPOC. Of note, these jobs often pay too much to qualify for Medicaid, but too little for employees to afford private health insurance.<sup>14</sup>

Table 1 compares rates of uninsurance in the United States and the County by race and ethnicity. Nationally, Native American and Latinx residents have among the highest rates of uninsurance. Locally, Native American, Latinx, and Black residents have the highest rates of uninsurance, with rates nearly three to eight times greater than White residents. Foreign-born residents in the County who are not U.S. citizens face among the highest rates of uninsurance at 24.3 percent.<sup>15</sup> Of note, 32.9 percent of the County’s residents are foreign-born, and 43.5 percent of these residents are not U.S. citizens.<sup>16</sup>

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**Table 1: Uninsurance Rates by Race and Ethnicity, United States and Montgomery County<sup>17</sup>**

Race and ethnicity	Percent Uninsured, United States	Percent Uninsured, Montgomery County
White	6.1	2.3
Black or African American	9.6	6.1
American Indian and Alaska Native	19.6	14.1
Asian	5.9	4.2
Native Hawaiian and Other Pacific Islander	10.4	N
Hispanic or Latino	17.7	17.8

Source: Table S2701, 2021 American Community Survey 1-Year Estimates, Census Bureau.

**Data on Lung Cancer.** Since radon is the second leading cause of lung cancer, data on lung cancer disaggregated by race and ethnicity could help to approximate the groups most harmed by radon exposure. Tables 2 and 3 contain data by race and ethnicity on lung and bronchus cancer incidence and deaths in the United States and Montgomery County. Nationally, Black and White residents have the highest rates of new incidences and deaths of lung and bronchus cancer. Locally, where data were reported only for non-Latinx Black and White residents, Black residents experienced a higher incidence rate of lung and bronchus cancer, while White residents experienced a higher mortality rate.

**Table 2: Lung and Bronchus, Rate of New Cancers and Cancer Deaths by Race and Ethnicity, United States, 2019**

Race and ethnicity	Rate of New Cancers (per 100,000 people)	Rate of Cancer Deaths (per 100,000 people)
White	53.7	34.2
Black	53.5	34.7
American Indian and Alaska Native	37.3	22.1
Asian and Pacific Islander	33.1	19.0
Hispanic	27.5	15.0

Note: rates are age-adjusted

Source: United States Cancer Statistics: Data Visualizations, Leading Cancers by Age, Sex, Race and Ethnicity, CDC.

**Table 3: Lung and Bronchus, Rate of Incidence and Mortality by Race, Montgomery County, 2012-16**

Race and ethnicity	Incidence Rate (per 100,000 people)	Mortality Rate (per 100,000 people)
White (non-Latinx)	27.1	24.6
Black (non-Latinx)	29.7	20.9

Note: rates are age-adjusted

Source: 2010-19 Surveillance Report on Population Health, Office of Health Planning and Epidemiology, Montgomery County Department of Health and Human Services.

## ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 26-22 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

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**For the first question,** OLO considered the demographics of renters – the residents that would most benefit from required radon testing, education, disclosure, and mitigation in rental housing. Census data summarized in Table 4 suggests that Black and Latinx households could disproportionately benefit from the Bill as they are overrepresented among renter households while White and Asian households are underrepresented. Further, the median household income of renter households in the County was \$71,240, compared to \$112,854 for all households in the County, suggesting that lower-income residents could also primarily benefit from the Bill.<sup>18</sup>

**Table 4: Percent of All Households and Percent of Renter-Occupied Households by Race and Ethnicity, Montgomery County**

Race and ethnicity	All Households	Renter-Occupied Households
Asian	14.7	13.3
Black or African American	19.1	31.6
White	49.0	32.8
Hispanic or Latino	15.0	20.1

Source: Table S2502, 2021 American Community Survey 1-Year Estimates, Census Bureau.

The counterpart of the first question is which groups could be most harmed by this Bill. Reports have documented the struggles of individual investor landlords, often referred to as “mom-and-pop” landlords, amid increasing COVID protections for renters.<sup>19</sup> Comprehensive research on landlords, including with regards to their race, ethnicity, and financial standing is very limited.<sup>20</sup>

Nationally, mom-and-pop landlords own 41 percent of rental units, and they are an especially significant provider of rental units in properties with four units or less (72.5 percent).<sup>21</sup> Conversely, mom-and-pop landlords own 11.9 percent of rental units in properties with five or more units, making them a smaller provider of rental units in larger properties.<sup>22</sup> Census data indicates that most renter households in the County (73.5 percent) live in properties with five or more units, suggesting that mom-and-pop landlords may provide a minority of rental housing in the County.<sup>23</sup> Nonetheless, the potential of smaller landlords selling their properties to institutional investors to alleviate their own financial challenges could pose an issue for preserving affordable housing in the County.<sup>24</sup>

**For the second question,** OLO considered the effect this Bill could have on addressing racial disparities in health and health care. Local data on lung cancer presented in the previous section suggests Black and White residents could benefit from reduced radon exposure, since Black residents experience a higher incidence rate of lung and bronchus cancer, while White residents experience a higher mortality rate.

Taken together, OLO anticipates Bill 26-22 could have a favorable impact on RESJ in the County, since Black and Latinx renters will disproportionately benefit from reduced radon exposure if this Bill works as intended. Black residents, who generally experience a higher incidence rate of lung and bronchus cancer, could particularly benefit from this Bill. While BIPOC landlords could be harmed by the Bill, the potential benefits to BIPOC renters exceeds the potential harm. Given that, to the extent known, racial disparities in lung and bronchus cancer are relatively small, OLO anticipates the favorable RESJ impact of this Bill will be small.

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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>25</sup> OLO finds Bill 26-22 could have a favorable impact on RESJ in the County. As such, OLO does not offer recommended amendments.

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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> Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

<sup>2</sup> Ibid

<sup>3</sup> “Radon and Your Health,” National Center for Environmental Health, Centers for Disease Control and Prevention, Last Reviewed January 3, 2022. <https://www.cdc.gov/nceh/features/protect-home-radon/index.html>

<sup>4</sup> “Radon,” Department of Environmental Protection, Montgomery County, Maryland, Accessed October 5, 2022. <https://www.montgomerycountymd.gov/green/air/radon.html>

<sup>5</sup> “Radon and Your Health”

<sup>6</sup> “A Citizen’s Guide to Radon,” U.S. Environmental Protection Agency, December 2016.

[https://www.epa.gov/sites/default/files/2016-12/documents/2016\\_a\\_citizens\\_guide\\_to\\_radon.pdf](https://www.epa.gov/sites/default/files/2016-12/documents/2016_a_citizens_guide_to_radon.pdf)

<sup>7</sup> Memo from Legislative Attorney Ludeen McCartney-Green to County Council, Bill 26-22, Landlord-Tenant Relations – Radon Testing and Mitigation – Required, Montgomery County Council, Introduced September 20, 2022.

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20220920/20220920\\_5A.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20220920/20220920_5A.pdf)

<sup>8</sup> Ibid

<sup>9</sup> Ibid

<sup>10</sup> Nambi Ndugga and Samantha Artiga, “Disparities in Health and Health Care: 5 Key Questions and Answers,” KFF, May 11, 2021.

<https://www.kff.org/racial-equity-and-health-policy/issue-brief/disparities-in-health-and-health-care-5-key-question-and-answers/>

<sup>11</sup> W. Michael Byrd and Linda A. Clayton, “Race, Medicine, and Health Care in the United States: A Historical Survey,” Journal of the National Medical Association, March 2001. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2593958/>

<sup>12</sup> Ibid

<sup>13</sup> Steve Sternberg, “Desegregation: The Hidden Legacy of Medicare,” U.S. News & World Report, July 29, 2015.

<https://www.usnews.com/news/articles/2015/07/30/desegregation-the-hidden-legacy-of-medicare>

<sup>14</sup> Heeju Sohn, “Racial and Ethnic Disparities in Health Insurance Coverage: Dynamics of Gaining and Losing Coverage over the Life-Course,” Population Research and Policy Review, April 2017. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5370590/>

<sup>15</sup> Table S2701: Selected Characteristics of Health Insurance Coverage in the United States, 2021 American Community Survey 1-Year Estimates, U.S. Census Bureau.

[https://data.census.gov/cedsci/table?t=Health%20Insurance&g=0100000US\\_0500000US24031&tid=ACSST1Y2021.S2701](https://data.census.gov/cedsci/table?t=Health%20Insurance&g=0100000US_0500000US24031&tid=ACSST1Y2021.S2701)

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<sup>16</sup> Montgomery County, Maryland Profile, U.S. Census Bureau.

[https://data.census.gov/cedsci/profile/Montgomery\\_County,\\_Maryland?g=0500000US24031](https://data.census.gov/cedsci/profile/Montgomery_County,_Maryland?g=0500000US24031)

<sup>17</sup> Latinx is an ethnicity rather than a race. Therefore, Latinx people are included in multiple racial groups within this table and throughout this impact statement, unless where otherwise noted. Within this table, 'N' denotes that the estimate cannot be displayed because there were an insufficient number of sample cases in the geographic area.

<sup>18</sup> Table S2503: Financial Characteristics, 2021 American Community Survey 1-Year Estimates, Census Bureau.

<https://data.census.gov/cedsci/table?t=Owner%2FRenter%20%28Tenure%29&g=0500000US24031&tid=ACST1Y2021.S2503>

<sup>19</sup> Michelle Conlin, "Selling Out: America's Local Landlords. Moving In: Big Investors," Reuters, July 29, 2021.

<https://www.reuters.com/business/finance/selling-out-americas-local-landlords-moving-big-investors-2021-07-29/>

<sup>20</sup> "Landlords," Message from PD&R Senior Leadership, Office of Policy Development and Research (PD&R), U.S. Department of Housing and Urban Development, June 11, 2018. <https://www.huduser.gov/portal/pdredge/pdr-edge-frm-asst-sec-061118.html>

<sup>21</sup> Scholastica (Gay) Cororaton, "Landlord Statistics from the 2018 Rental Housing Finance Survey," National Association of Realtors, September 15, 2020. <https://www.nar.realtor/blogs/economists-outlook/landlord-statistics-from-the-2018-rental-housing-finance-survey>

<sup>22</sup> OLO Analysis of 2018 Rental Housing Finance Survey

<sup>23</sup> OLO Analysis of 2020 American Community Survey 5-Year Estimates Public Use Microdata

<sup>24</sup> Michelle Conlin

<sup>25</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