

M E M O R A N D U M

March 20, 2023

TO: Economic Development Committee
FROM: Khandikile Mvunga Sokoni, Legislative Attorney
SUBJECT: Expedited Bill 30-22, Buildings – Demolition or Removal
PURPOSE: Worksession – Committee recommendation expected

Expedited Bill 30-22, Buildings – Demolition or Removal, was introduced on November 1, 2022 by lead sponsors, then Councilmember Hucker and then Councilmember Riemer. The bill is now co-sponsored by Councilmembers Balcombe, Katz, Stewart, and Sayles. A public hearing was held on November 29, 2022. A committee worksession before the Economic Development Committee is scheduled for March 23, 2023.

The bill would:

- (1) redefine the term demolish; and
- (2) generally, amend the law regarding buildings and building permits.

EXPECTED ATTENDEES:

- Rabbiah Sabbakhan, Director, Department of Permitting Services (DPS)
- Eric Friedman, Director, Office of Consumer Protection (OCP)
- George Muste, DPS, Division Chief, Residential Construction & Fire Code Compliance

BACKGROUND

Expedited Bill 30-22 seeks to amend Sec. 8-27 of the Code titled “Demolition or removal of buildings. The purpose of Bill 30-22, according to the bill’s sponsors, is to address situations where buildings can be substantially removed except for a small wall yet enabling people to avoid the need for a demolition permit. On that site, a contractor can then rebuild what is for all practical purposes a “new home” which they can market and sell as such without having to obtain a permit for new home construction. Instead, the permit they do apply for is one for alternations or renovations. When this happens, the contractor is not required to provide a warranty for a new home. The sponsors of this bill seek to ensure that where a building is substantially demolished,

a demolition permit will be required, and any home rebuilt on that site will require a new construction permit.

Applying for a demolition permit triggers certain obligations on the part of the applicant including a requirement that water supply and other utilities are properly disconnected, compliance with safeguards to abate any pest control issues or any negative environmental impact (e.g. asbestos, lead, etc.). These same safeguards do not apply to alteration permits. In addition, alteration permits do not cover stormwater management.

The County's Office of Consumer Protection registers all new home builders and sellers and worked closely with the Department of Permitting Services (DPS) and the Maryland Building Industry Association (MBIA) to develop and agree upon the language for the new definition of demolish for this bill.

BILL SPECIFICS

Bill 30-22 would amend the definition of "demolish" in Code section 8-27(g) so that it would mean not only the tearing down of an entire building or structure but also tearing down sixty-seven (67) percent or more of first story exterior walls of a one-family or two-family dwelling unit. Basement and cellar walls would not be considered exterior walls for purposes of measuring the sixty-seven (67) percent of wall removal.

By changing the threshold for requiring a demolition permit, a person seeking to substantially remove a building would have to go through the same process as someone tearing down the whole building thereby requiring the applicant to meet requirements regarding the disconnection of utilities, pest control, environmental and stormwater management measures. This would also ensure that when building the new structure, the applicant would have to apply for a new construction building permit which would in turn require that they must provide a new home warranty to the consumer who purchases that home.

SUMMARY OF IMPACT STATEMENTS

The Office of Legislative Oversight (OLO) submitted a Racial Equity and Social Justice (RESJ) Impact Statement dated November 16, 2022. (© 6). OLO concluded that this bill could have a minimal impact on racial equity and social justice (RESJ) in the County. OLO concluded that although this Bill could disproportionately impact White and Asian residents – who generally have more financial means to purchase homes – it is not likely to change existing racial disparities in homeownership. No amendments were recommended.

OLO provided an Economic Impact Statement (© 10) and anticipates that Expedited Bill 30-22 likely would have an overall positive impact on economic conditions in the County in terms of the Council's priority indicators.

The Fiscal Impact Statement is not yet available.

SUMMARY OF PUBLIC HEARING TESTIMONY/SUBMISSION

No one signed up to speak at the public hearing that was held on November 29, 2022. However, the Director of the Office of Consumer Protection, Mr. Eric Friedman submitted written testimony in support of the bill. (© 14).

PROPOSED AMENDMENT

The original sponsors of Bill 30-22 introduced this bill as an expedited bill. Councilmember Balcombe is proposing to change this bill’s designation from an expedited bill to a regular bill. Legislation containing a section declaring that it is “necessary for the immediate protection of the public health, safety, or interest, and enacted by the affirmative vote of at least seven members of the Council, shall be expedited legislation”.¹ Expedited legislation, as defined in this section, is the emergency legislation referred to in Article XI-A, Section 3, of the Constitution of Maryland.² This proposed amendment would require the deletion of lines 12-15 of the bill as follows:

[[Sec. 2. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.]]

The consequence of this amendment, if supported and ultimately approved by Council is that unless Council sets a different effective date, the bill would become law ninety-one days after it is signed as law. All legislation, except expedited legislation, takes effect ninety-one days after the date when it becomes law, unless a later effective date is prescribed in the legislation. Expedited legislation shall take effect on the date when it becomes law unless a different effective date is prescribed in the legislation.

I have spoken to representatives at OCP and DPS and they do not object to the proposed amendment.

<u>This packet contains:</u>	<u>Circle #</u>
Expedited Bill 30-22	© 1
Legislative Request Report	© 5
Racial Equity and Social Justice (RESJ) Impact Statement	© 6
Economic Impact Statement	© 10
Public Hearing Written Testimony	© 14

¹ Code Sec. 111

² Id.

Expedited Bill No. 30-22
Concerning: Buildings - Demolition or Removal
Revised: 10/27/2022 Draft No. 1
Introduced: November 1, 2022
Expires: April 30, 2024
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Hucker and Councilmember Riemer

AN EXPEDITED ACT to:

- (1) redefine the term demolish; and
- (2) generally amend the law regarding buildings and building permits

By amending

Montgomery County Code
Chapter 8, Sections 8-27

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:

1 **Sec. 8-27. Demolition or removal of buildings.**

2 * * *

3 (e) Permit requirement; conditions. A person must not demolish or remove a
4 building or structure unless the Director has issued a permit to do so under
5 this Section. Each demolition or removal permit must require the
6 applicant to:

7 (1) before demolishing or removing a building or structure,
8 exterminate any rodents or other pests in it;

9 (2) after demolition or removal, clear all construction and
10 demolition debris;

11 (3) restore the established grade of the surrounding land, unless a
12 sediment control permit is otherwise required; and

13 (4) at all times keep the site free from any unsafe condition.

14 (f) Bond or surety. Each applicant for a demolition or removal permit must
15 file a performance bond, cash, certificate of guarantee, or surety with the
16 Department, in an amount equal to the cost of demolition or removal, to
17 assure the safe and expedient demolition or removal of the building or
18 structure and clearing of the site. If the building or structure is not
19 demolished or removed and the site is not cleared of all debris within the
20 time specified in the permit, but not sooner than 60 days after the permit
21 is issued, the Director may enter the property, demolish or remove the
22 building or structure, clear the site of debris, and take action to forfeit the
23 performance bond, enforce the guarantee, or otherwise reimburse the
24 Department for its cost.

25 (g) Definitions. As used in this Section:

1 [(1) remove means to move a building or structure substantially
2 intact from or within a site; and]

3 [(2)](1) [d]Demolish means to tear down or destroy an entire
4 building or structure, or [all of a building or structure except a
5 single wall or facade.] sixty-seven (67) percent or more of first
6 story exterior walls of a one-family or two-family dwelling unit.
7 Demolish includes the conversion of an exterior wall into an
8 interior wall. Basement and cellar walls are not considered exterior
9 walls[.]; and

10 (2) Remove means to move a building or structure substantially intact
11 from or within a site.

12 **Sec. 2. Expedited Effective Date.**

13 The Council declares that this legislation is necessary for the immediate
14 protection of the public interest. This Act takes effect on the date on which it becomes
15 law.

LEGISLATIVE REQUEST REPORT

Expedited Bill 30-22

Buildings – Demolition or Removal

DESCRIPTION: This Bill amends Chapter 8 redefine the term demolition to include removal of 67 per cent of first story exterior walls of a single-family or two-family dwelling.

PROBLEM: According to the bill’s sponsors, this bill would close out a “loophole” under which a building can be substantially removed except for a small wall, hence avoiding the need for a demolition permit. On that site, a contractor can then rebuild what is for all practical purposes a “new home” which they can market and sell as such without having to obtain a permit for new home construction. Instead, the permit they do apply for is one for alternations or renovations. When this happens, the contractor is not required to provide a warranty for a new home. The sponsors of this bill seek to ensure that where a building is substantially demolished, a demolition permit will be required and any home rebuilt on that site will require a new construction permit.

Applying for a demolition permit triggers certain obligations on the part of the applicant including a requirement that water supply and other utilities are properly disconnected, compliance with safeguards to abate any pest control issues or any negative environmental impact (e.g. asbestos, lead, etc). These same safeguards do not apply to alteration permits. In addition, alteration permits do not cover stormwater management.

OBJECTIVE: Require a demolition permit for tearing down 67 per cent or more of the first story exterior walls of a one-family or two-family dwelling.

COORDINATION: Department of Permitting Services.

FISCAL IMPACT: To be provided by Office of Management and Budget

ECONOMIC IMPACT: Office of Legislative Oversight

RACIAL EQUITY & SOCIAL JUSTICE IMPACT STATEMENT: Office of Legislative Oversight

EVALUATION: To be requested.

EXPERIENCE

ELSEWHERE: Inapplicable.

SOURCES OF INFORMATION: Eric Friedman, Director
Office of Consumer Protection
240.777.3636

George Muste, PE, Division Chief
Residential Construction & Fire Code Compliance
Department of Permitting Services
Division of Building Construction Services
240.777.6232

APPLICATION WITHIN

MUNICIPALITIES: Varies. Applicable to municipalities governed by Chapter 8.

PENALTIES: Fines associated with violations as outlined in Sec. 8-22 of the Code.

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

EXPEDITED BUILDINGS – DEMOLITION OR REMOVAL BILL 30-22:

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Expedited Bill 30-22 could have a minimal impact on racial equity and social justice (RESJ) in the County. Although this Bill could disproportionately impact White and Asian residents – who generally have more financial means to purchase homes – it is not likely to change existing racial disparities in homeownership.

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.¹ 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.²

PURPOSE OF EXPEDITED BILL 30-22

The purpose of Expedited Bill 30-22 is to redefine the term “demolish” in the County Code so that it includes tearing down two-thirds or more of first story exterior walls of a one- or two-family dwelling unit. According to the Bill’s sponsors, a loophole in current law allows buildings to be substantially demolished without requiring a demolition permit. As explained in the Introduction Staff Report:³

“By changing the threshold for requiring a demolition permit, a person seeking to substantially remove a building would have to go through the same process as someone tearing down the whole building thereby requiring the applicant to meet requirements regarding the disconnection of utilities, pest control, environmental and stormwater management measures. This would also ensure that when building the new structure, the applicant would have to apply for a new construction building permit which would in turn require that they must provide a new home warranty to the consumer who purchases that home.”

The Federal Trade Commission explains that most newly built homes come with a builder warranty that covers items that are typically a permanent part of the home, like concrete floors, plumbing, or electrical work.^{4,5}

Expedited Bill 30-22 was introduced to the Council on November 1, 2022.

RESJ Impact Statement

Expedited Bill 30-22

HOMEOWNERSHIP AND RACIAL EQUITY

Government policies and practices have played a significant role in creating and sustaining housing inequities by race and ethnicity. As outlined below, Black and Latinx residents experience lower rates of homeownership and higher rates of housing insecurity as homeowners. Please refer to the RESJIS for Expedited Bill 30-21, Landlord-Tenant Relations – Restrictions During Emergencies – Extended Limitations Against Rent Increases and Late Fees, for more on the government’s role in fostering racial segregation in housing and the racial wealth divide.⁶

Inequities in Homeownership. The possibility of homeownership has been placed out of reach for many Black, Indigenous, and Other People of Color (BIPOC) families due to inequitable housing policies and practices of the past.⁷ Slavery, sharecropping, Jim Crow laws, and the Homestead Act were government policies designed to build wealth among White residents by extracting resources from BIPOC.

Government policies reinforcing housing segregation through homeownership continued with the New Deal as the Federal Housing Administration provided government-subsidized financing to White residents and developers to purchase or build homes in White-only enclaves.⁸ While the Fair Housing Act of 1968 eliminated racially explicit segregation in housing, the policies that built the segregated housing market “have never been remedied and their effects endure.”⁹

As a result of inequitable government policies and practices, access to wealth (which families often rely on to make a down payment for their home) varies significantly by race and ethnicity.¹⁰ The racial wealth gap in the Metropolitan Washington Region is sizable: White households had more than 80 times the wealth of Black households and 21 times the wealth of Latinx households in 2014.¹¹ Further, BIPOC residents still experience discrimination in the housing market due to predatory lending practices and bias in the real estate market.¹² As such, disparities in homeownership by race and ethnicity persist in Montgomery County where:

- 75 percent of White and 73 percent Asian or Pacific Islander households reside in owner-occupied units, compared to 50 percent of Latinx households and 41 percent of Black households.¹³
- 31 percent of Black and 33 percent of Latinx homeowners were cost-burdened, spending more than 30 percent of their income on housing, compared to 18 percent of White and 26 percent of Asian or Pacific Islander homeowners.¹⁴
- The average value of home mortgages carried by White households was \$410,000, compared to \$391,000 for Asian households, \$328,000 for Black households, and \$308,000 for Latinx households.¹⁵

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Expedited Bill 30-22 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?

RESJ Impact Statement

Expedited Bill 30-22

For the first question, OLO considered the demographics of potential homebuyers, as they would reap the benefits from increased warranty coverage on newly constructed homes but also bear the increased costs of such homes redefined as demolitions.

Generally, White and Asian residents are best positioned to purchase homes in the County, which is evidenced by existing homeownership disparities. As previously mentioned, families often rely on wealth to make a down payment on a home. Table 1 lists the median net worth of Washington Metropolitan Area residents by race and ethnicity, as estimated by the Urban Institute from 2014 survey data. Table 1 suggests that Black and Latinx households have low levels of wealth available to make a major purchase, in contrast to White and Asian households. Further, as noted in Table 2, White and Asian residents have higher median incomes, which also makes homeownership more attainable.

Table 1: Household Median Net Worth by Race and Ethnicity, Washington Metropolitan Area

Race and ethnicity	Median Net Worth
White	\$284,000
Black, US	\$3,500
Black, African	\$3,000
Latinx	\$13,000
Chinese	\$220,000
Korean	\$496,000
Vietnamese	\$423,000
Asian Indian	\$573,000

Source: Urban Institute, “The Color of Wealth in the Nation’s Capital” (adapted from Table 12)

Table 2: Median Household Income by Race and Ethnicity, Montgomery County, Maryland¹⁶

Race and ethnicity	Median Household Income
Asian	\$121,323
Black	\$78,246
Native American	\$88,828
White	\$131,602
Latinx	\$79,981

Source: 2020 American Community Survey (Table S1903)

While White and Asian residents are more likely to benefit from increased home warranty coverage, they are also most likely to bear the higher costs of new homes that could result from this Bill. The increased cost of new homes likely offsets some of the benefits of this Bill for homebuyers. It is unclear whether the benefits of this Bill for homebuyers exceeds the costs.

For the second question, OLO considers how the Bill could affect existing disparities in homeownership. Potential homebuyers – who are more likely to be White or Asian – could benefit from increased warranty coverage on newly constructed homes. However, this benefit would likely be offset at least partially by an increase in the cost of homes. Further, the changing benefits/costs to potential homebuyers from this Bill would likely not affect structural factors that drive the homeownership gap between Black and Latinx residents and White and Asian residents.

Taken together, OLO anticipates Expedited Bill 30-22 could have a minimal impact on RESJ in the County. Although this Bill could disproportionately impact White and Asian residents – who generally have more financial means to purchase homes – it is not likely to change existing racial disparities in homeownership.

RESJ Impact Statement

Expedited Bill 30-22

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.¹⁷ OLO finds Expedited Bill 30-22 could have a minimal impact on RESJ in the County. As such, OLO does not offer recommended amendments.

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.

CONTRIBUTIONS

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

¹ 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>

² Ibid

³ Expedited Bill 30-22, Buildings – Demolition or Removal, Introduced November 1, 2022.

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20221101/20221101_9B.pdf

⁴ “Warranties for New Homes,” Consumer Advice, Federal Trade Commission, May 2021.

<https://consumer.ftc.gov/articles/warranties-new-homes>

⁵ A warranty is a written guarantee, issued to the purchaser of an article by its manufacturer, promising to repair or replace it if necessary within a specified period of time.

⁶ Racial Equity and Social Justice Impact Statement for Expedited Bill 30-21, Office of Legislative Oversight, Montgomery County, Maryland, September 9, 2021. <https://montgomerycountymd.gov/OLO/Resources/Files/resjis/2021/Bill30-21RESJ.pdf>

⁷ Misha Hill, et al, “Taxes and Racial Equity: An Overview of State and Local Policy Impacts,” Institute on Taxation and Economic Policy, March 2021. https://itep.sfo2.digitaloceanspaces.com/ITEP_Taxes-and-Racial-Equity-State-and-Local-Policy-Impacts-2.pdf

⁸ Ibid

⁹ Richard Rothstein, *The Color of Law: A Forgotten History of How Government Segregated America*, 2017

¹⁰ Hill, et al, “Taxes and Racial Equity: An Overview of State and Local Policy Impacts”

¹¹ Kilolo Kijakazi, et al, “The Color of Wealth in the Nation’s Capital,” The Urban Institute, November 2016.

<https://www.urban.org/research/publication/color-wealth-nations-capital>

¹² Keeanga-Yamahtta Taylor, *Race for Profit: How Banks and the Real Estate Industry Undermine Black Homeownership*, 2019

¹³ “Percent Owner-Occupied Households by Race/Ethnicity: Montgomery, MD (2019)” National Equity Atlas, Accessed November 13, 2022. <https://nationalequityatlas.org/indicators/Homeownership#/?geo=0400000000024031>

¹⁴ “Housing Burden by Tenure, Severity, and Race/Ethnicity: Montgomery, MD (2019)” National Equity Atlas, Accessed June 13, 2022. https://nationalequityatlas.org/indicators/Housing_burden#/?geo=0400000000024031&rentown01=2

¹⁵ Jupiter Independent Research Group, OLO Report 2019-7: Racial Equity Profile Montgomery County, Office of Legislative Oversight, July 15, 2019. https://www.montgomerycountymd.gov/OLO/Resources/Files/2019%20Reports/OLO2019-7-6_20_19.pdf

¹⁶ Latinx is an ethnicity rather than a race. Therefore, Latinx people are included in multiple racial groups within this table.

¹⁷ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

Economic Impact Statement

Office of Legislative Oversight

Expedited Bill 30-22

Buildings – Demolition or Removal

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Expedited Bill 30-22 likely would have an overall positive impact on economic conditions in the County in terms of the Council’s priority indicators. By helping to close a “loophole” which allows contractors to bypass new home construction permitting requirements, the bill likely would increase operating costs for contractors who otherwise would obtain a building alteration/renovation permit in the absence of the change in law. However, as described below, requiring these contractors to comply with the more stringent, new home construction requirements likely would economically benefit other contractors, homebuyers, and third-party residents.

BACKGROUND

The goal of Bill 30-22 is to close a “loophole” in County law regarding the requirement to obtain a permit for new home construction. Under current law, a contractor can bypass this requirement by tearing down an entire home except for a small wall. The contractor can then rebuild the home and sell it as “new.” In such cases, the contractor is required to obtain a permit for a building alteration/renovation, which does not trigger the same requirements as a permit for new home construction. The requirements excluded in the building alteration/renovation permit include the following: properly disconnecting utilities, abating pest control and negative environmental issues, and providing a new home warranty to buyers.

Bill 30-22 would attempt to close this “loophole” by changing the threshold for requiring a demolition permit. The bill would redefine “demolish” to mean tearing down “sixty-seven (67) percent or more of first story exterior walls of a one-family or two-family dwelling unit.”¹ Thus, the revised definition would prevent contractors who tear down an entire home except for a small wall from bypassing the permit for new home construction.

¹ [Sokoni to County Council, October 27, 2022; Expedited Bill 30-22.](#)

Economic Impact Statement

Office of Legislative Oversight

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess, both, the impacts of Bill 30-22 on residents and private organizations in terms of the Council’s priority economic indicators and whether the bill would have a net positive or negative impact on overall economic conditions in the County.²

To do so, OLO primarily relies on the following sources of information in this analysis:

- consultations with County personnel in the Department of Permitting Services (DPS) and the Office of Consumer Protection (OCP); and
- consultations with a representative from the building industry.

Importantly, information and time constraints prevented OLO from quantifying the difference in total permitting and regulatory costs for homes built under the requirements for new home construction and building alteration/renovation permits, as well as the difference in costs to homebuyers and neighbors.

VARIABLES

The primary variables that would affect the economic impacts of Bill 30-22 are the following:

- total permitting and regulatory costs;
- total repair and maintenance costs to homebuyers and third-party residents; and
- home price.

IMPACTS

WORKFORCE ▪ **TAXATION POLICY** ▪ **PROPERTY VALUES** ▪ **INCOMES** ▪ **OPERATING COSTS** ▪ **PRIVATE SECTOR CAPITAL INVESTMENT** ▪ **ECONOMIC DEVELOPMENT** ▪ **COMPETITIVENESS**

Businesses, Non-Profits, Other Private Organizations

OLO anticipates Bill 30-22 would have mixed impacts on certain private organizations in the County in terms of the Council’s priority economic indicators.

Contractors: The bill likely would have mixed impacts on certain contractors.

On the one hand, the bill would negatively impact certain contractors who would capitalize on the “loophole” in the absence of the change in law. By requiring them to obtain a permit for new home construction, these contractors would experience higher operating costs related to permitting fees and regulatory compliance. Based on consultations with DPS

² Montgomery County Code, [Sec. 2-81B](#).

Economic Impact Statement

Office of Legislative Oversight

personnel, higher operating costs to contractors could be substantial. The increase in operating costs may reduce net business income for certain contractors. However, to protect profit margins, contractors likely would respond to the change in law by passing costs onto future home buyers in the form of higher sales price and/or cutting operating expenses in other areas (i.e., wages).

On the other hand, the bill would positively impact certain contractors who would not take advantage of the “loophole” in the absence of the change in law. Currently, these contractors likely face a disadvantage in competing for jobs because their prices account for fees and regulatory costs associated with obtaining a new home construction permit and complying with its requirements. By requiring certain competitors to also attain and comply with a new home construction permit, the bill likely would level the playing field among contractors. Contractors who attain jobs they otherwise would lose may experience a net increase in business income.

Beyond these potential impacts, OLO does not expect the Bill to affect private organizations in terms of the Council’s other priority indicators.

Residents

OLO anticipates that enacting Bill 30-22 would have an overall positive impact on certain residents in the County in terms of the Council’s priority indicators.

Homebuyers: The bill likely would have an overall positive impact on buyers of homes constructed by contractors who would have taken advantage of the “loophole” in the absence of the change in law.

Under current law, buyers of “new” homes constructed under the alteration/renovation permitting requirements likely incur post-transaction costs associated with (1) lacking a home warranty and (2) contractors failing to properly disconnect utilities and abate pest control and negative environmental issues. Due to information asymmetries between sellers and buyers in home transactions, certain homebuyers are likely unaware that contractors have bypassed requirements triggered by a new home construction permit and that this practice creates financial (and other) risks for them. OLO believes this practice may lead to a market failure, in which certain buyers may feel they paid too much for the home or would not have purchased it at all if they were made aware of the risks.

By requiring certain contractors to obtain a new home construction permit and comply with its requirements, the bill likely would mitigate this market failure. While contractors may attempt to pass on costs to homebuyers, as previously discussed, the bill likely would reduce unknown risks for homebuyers and prevent them from incurring certain post-transaction costs caused by lacking a home warranty, improper disconnection of utilities, unabated pest control, etc. In this way, the bill may help align prices of certain homes with their quality, thereby reducing the number of buyers who would have behaved differently if they had more information.

Third-Party Residents: OLO anticipates the bill would benefit certain residents who live near homes that would be constructed under “loophole” in the absence of the change in law. According to DPS and OCP personnel, contractors failing to properly disconnect utilities and abate pest control and negative environmental issues can create costs for nearby

Economic Impact Statement

Office of Legislative Oversight

residents that would have been avoided if contractors adhered to the new home construction permitting requirements. By requiring more contractors to comply with these requirements, the bill likely would prevent certain nearby residents from incurring these costs.

Beyond these potential impacts, OLO does not expect the bill to affect residents in terms of the Council's other priority indicators.

Net Impact

OLO anticipates that Bill 30-22 would have an overall positive impact on economic conditions in the County in terms of the Council's priority indicators. As previously discussed, while the bill likely would negatively impact contractors who currently take advantage of the "loophole," requiring these contractors to comply with the new home construction requirements likely would benefit certain other contractors, homebuyers, and nearby residents.

DISCUSSION ITEMS

Not applicable

WORKS CITED

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements](#).

Montgomery County Council. [Expedited Bill 30-22, Buildings – Demolition or Removal](#). Introduced on November 1, 2022.

Sokoni, Khandikile Mvunga to County Council. [Memorandum](#). October 27, 2022.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. 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.

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.



OFFICE OF CONSUMER PROTECTION

Marc Elrich
County Executive

Eric Friedman
Director

Memorandum

December 5, 2022

TO: County Council President Evan Glass
Planning, Housing, and Economic Development (PHED) Committee

FROM: Eric Friedman, Director
Office of Consumer Protection

SUBJECT: Expedited Bill #30-22

Expedited Bill #30-22 serves as a technical amendment to remedy a “loophole” in Chapter 8-27(g) of the County Code which unlicensed contractors have been using to build new homes without obtaining the required construction permits from the Department of Permitting Services (DPS).

As a result: 1) new home purchasers do not receive warranty protection; 2) certain construction code requirements and procedures are not followed; and 3) registered new home builders are unfairly paying fees that unregistered contractors are avoiding.

Bill #30-22 resolves the current “loophole” by better defining the word “entire” in Chapter 8-27(g). This amendment is supported by DPS, OCP, and the Maryland Building Industry Association (MBIA) and does not change the intent of the current code which requires contractors to obtain a new home permit when they demolish an existing home.

Understanding the current “loophole”

Some unlicensed contractors take advantage of the current residential building code’s definition of “demolish” and “entire”. These unlicensed contractors falsely state to DPS that the contractor is applying for an “Addition-Alteration” permit rather than a “New Home” construction permit, when in fact the contractor is tearing down an existing single-family house and constructing & selling a new home.

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When the existing house is demolished, the contractor temporarily leaves a small section of the existing house standing or incorporates a small section of the existing house into the construction of the new house. In doing so, the unlicensed contractor claims that the contractor is not demolishing the “entire” existing house; and therefore, claims that the contractor is not constructing a “New Home” for which: 1) a new home construction permit from DPS is needed; 2) a New Home Builder registration from OCP is needed; and 3) registration with the Maryland new home guarantee fund is required.

ESF/wd

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