AN ACT to:

(1) allow the Director of the Department of Housing and Community Affairs to set aside certain specially equipped moderately priced dwelling units for eligible disabled persons;

(2) repeal the authority of the Director to allow an applicant to pay into the Housing Initiative Fund instead of building some or all of the required moderately priced dwelling units in a proposed subdivision; and

(3) generally amend County law governing the moderately priced dwelling unit program.

By amending
Montgomery County Code
Chapter 25A, Housing, Moderately Priced
Sections 25A-4 and 25A-5

By repealing
Section 25A-5A

The County Council for Montgomery County, Maryland approves the following Act:

[Addition and deletion conventions explained within the text]
Sec. 1. Sections 25A-4 and 25A-5 are amended and Section 25A-5A is repealed as follows:


(a) The County Executive must set and annually revise standards of eligibility for the MPDU program by regulation. These standards must specify moderate-income levels for varying sizes of households which will qualify a person or household to buy or rent an MPDU. The Executive must set different income eligibility standards for buyers and renters. The Executive may set different income eligibility standards for buyers and renters of higher-cost or age-restricted housing, as defined by regulation. The regulations may also allow the Director to set aside certain units for eligible persons with disabilities if the units are specially equipped for occupancy by disabled persons.

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(e) The Director may approve an MPDU agreement that[:]

[(1) allows an applicant to reduce the number of MPDUs in a subdivision only if the agreement meets all requirements of Section 25A-5A; or]

[(2)] allows an applicant to build the MPDUs at another location only if the agreement meets all requirements of Section 25A-5B.

* * *

(m) Nothing in this Chapter prohibits an applicant from voluntarily building MPDUs, as calculated under subsection (c), in a development with fewer than 20 dwelling units at one location, and in so doing from qualifying for an optional method of development under Chapter 59. A
development with fewer than 20 dwelling units where an applicant voluntarily builds MPDUs must comply with any procedures and development standards that apply to a larger development under this Chapter and Chapter 59. Sections [25A-5A,] 25A-5B[,] and 25A-6(b) do not apply to an applicant who voluntarily builds MPDUs under this subsection and in so doing qualifies for an optional method of development.

[25A-5A. Alternative payment agreement.]

(a) The Director may approve an MPDU agreement that allows an applicant, instead of building some or all of the required number of MPDUs in the proposed subdivision, to pay to the Housing Initiative Fund an amount computed under subsection (b), only if an Alternative Review Committee composed of the Director, the Commission's Executive Director, and the Director of Park and Planning, or their respective designees, by majority vote finds that:

(1) either:

(A) an indivisible package of services and facilities available to all residents of the proposed subdivision would cost MPDU buyers so much that it is likely to make the MPDUs effectively unaffordable by eligible buyers; or

(B) environmental constraints at a particular site would render the building of all required MPDUs at that site economically infeasible; and

(2) the public benefit of additional affordable housing outweighs the value of locating MPDUs in each subdivision throughout the County, and accepting the payment will further the objective of providing a broad range of housing opportunities throughout the
(b) Any payment to the Housing Initiative Fund under this Section must equal or exceed 125% of the imputed cost of land for each unbuilt MPDU. Except as further defined by Executive regulation, the imputed land cost must be calculated as 10% (for high-rise units) or up to 30% (for all other housing units) of the actual sale price charged for each substituted unit. If the substituted unit will be a rental unit, the Director must calculate an imputed sale price under applicable regulations, based on the rent actually charged.

(c) Any payment to the Housing Initiative Fund under this Section may be used only to buy or build more MPDUs in the same planning policy area (as defined in the County Growth Policy) as the development for which the payment was made, and must not be used to reduce the annual County payment to the Fund.

(d) Any subdivision for which a payment is made under this Section is not eligible for any density bonus for which it would otherwise be eligible under Chapter 59.

Approved:

Marilyn J. Praisner, President, County Council

Approved:

Isiah Leggett, County Executive

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council