



**Bill No:** HB 1276 -- County Property Tax – Classifications of Real Property and Authority to Set Special Rates

**Committee:** Ways and Means

**Date:** 2/27/2020

**Position:** Oppose

The Apartment and Office Building Association of Metropolitan Washington (AOBA) opposes HB 1276. AOBA's members own or manage more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George's counties.

This bill permits the governing body of a county or Baltimore City to set special rates for any subclass of real property that is subject to the county property tax. Those subclasses include (1) small commercial real property; (2) large commercial real property; (3) industrial real property; (4) residential rental property that contains at least four units built as apartments; (5) residential condominium property; (6) commercial or industrial condominium property; (7) real property that is used for both residential and commercial purposes, if the primary use is residential; (8) real property that is used for both residential and commercial purposes, if the primary use is commercial; (9) residential townhouse or row house property; (10) residential real property that has at least 5,000 square feet of improvements; (11) real property that is used exclusively for residential purposes, has less than 5,000 square feet of improvements, and is not an apartment, a condominium, a townhouse, or a row house; and (12) abandoned real property.

AOBA would like to highlight three tenets laid out in the Maryland Association of CPAs' 12 [Guiding Principles of Good Tax Policy](#), which states that good tax policy should:

1. Be equitable and fair—"similarly situated taxpayers should be taxed similarly";
2. Be Neutral— defined as "minimizing the effect of the tax law on a taxpayer's decisions as to how to carry out a particular transaction"; and
3. Be mindful of economic growth and efficiency— "the tax system should not unduly impede or reduce the productive capacity of the economy".

Unfortunately, HB 1276 is contrary to these three principles of good tax policy. Allowing apartment buildings with 3 units to be taxed differently than a building on the

same street that has 4 apartments but is otherwise very similar seems out of line with the equitable and fair principle. The fact that a building of the same size, with similar amenities, on the same street may pay different rates because one property is commercial, and one is residential also seems contrary to the fair and equitable principle.

If the tax rate on a residential property at 4,999 sq. ft is more favorable than a 5,000 sq. ft property, consumers and builders may be motivated by tax law to construct one type of property rather than another. Further, this proposal may incentivize property owners to limit the use of their property so that it is 'more residential than commercial' for tax purposes rather than the best use of the space or needs of the community. Tax law that compels property owners to make determinations on the use, and types of transactions they allow on the property, violates the principle on neutrality. Also, if tax rates are less favorable for industrial real property or commercial real property, why would a business locate in a region or local jurisdiction with tax rates that disincentivize that property use? In this way, HB 1276 may unduly impede or reduce the productive capacity of the economy.

**For these reasons AOBA urges an unfavorable report on HB 1276.**

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