Department of Legislative Services

Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1444 (Delegate Terrasa, *et al.*)
Environment and Transportation

Local Government - Moderate Income Housing Unit Requirements - Prohibition Against Fee-in-Lieu

This bill prohibits a county or municipality from authorizing payment of a fee-in-lieu of a requirement under local law that a developer provide moderate income housing units in a new residential development project. The bill only applies prospectively and may not be applied or interpreted to have any effect on (or application to) any authorized payment of a fee-in-lieu by a developer to a county or municipality before the bill's effective date.

Fiscal Summary

State Effect: None. The bill only affects local government operations.

Local Effect: Local fee-in-lieu revenues will decrease, where applicable, as discussed below. Local expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law: To support, foster, or promote an affordable housing program for individuals or families of low- or moderate-income, a county or municipality may, among other things (1) establish local trust funds or appropriate funds; (2) enact legislation that restricts costs and resale prices and requires development of affordable housing units as part of any subdivision in return for added density; and (3) support payment in lieu of taxes programs to encourage construction of affordable housing.

Many local governments in Maryland have zoning laws and housing programs to help facilitate the development of affordable housing within the local jurisdiction. For example, the Montgomery County Moderately Priced Dwelling Units Program requires that a percentage of housing units in residential developments be made available for low- and moderate-income households for a certain timeframe. In Anne Arundel County, certain residential developments must set aside a percentage of housing units to be made available to low-income households, depending on how many total units are in the development. In Baltimore City, certain residential development projects with 20 or more dwellings must make at least 5% of the dwellings affordable to those who are low income. For certain rental units, 5% of all units for rent must be affordable to low-income individuals, as specified.

Several counties and municipalities in Maryland offer residential developers the ability to pay a fee-in-lieu of local requirements that these developers must provide specified levels of moderate-income housing units in a new development. The local jurisdictions then generally use the revenues generated from these fees to fund affordable housing development or preservation in other areas of the local jurisdiction.

For example, Montgomery County allows for certain alternative payment agreements in-lieu-of a residential developer meeting local requirements related to building moderately priced dwelling units. These payments are made to the county's Housing Initiative Fund and are primarily used for affordable housing acquisition and preservation projects in the county. Frederick and Howard counties also have similar fee-in-lieu arrangements with residential developers, and Anne Arundel County recently passed local legislation, effective July 1, 2025, which authorizes the payment of a fee-in-lieu of providing moderately priced dwelling units, under certain circumstances.

Local Fiscal Effect: Revenues for counties and municipalities with specified fee-in-lieu programs are expected to decrease under the bill's prohibition of these fees. Howard County advises they received nearly $1.8 million in fee-in-lieu revenues in fiscal 2024. Frederick County advises that since the inception of their fee-in-lieu of program, they have only had eight total units built as most developers opt to pay the fee-in-lieu of developing moderate income housing units. As of December 31, 2024, Frederick County has generated nearly $20 million in fee-in-lieu revenues since the inception of the program.

Frederick County also advises that, in general, the county's fee-in-lieu revenues have been decreasing in recent years as most of the projects that were previously approved have been built. The county notes that it is difficult to estimate the extent to which fee revenues may decrease under the bill as many of the county's future projects have not yet been fully approved.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Department of Housing and Community Development; Maryland Department of Labor; Anne Arundel, Baltimore, and Frederick counties; Maryland Municipal League; City of Laurel; Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2025
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