

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 325 (Senator Augustine)
Education, Energy, and the Environment

Land Use - Permitting - Development Rights (Maryland Housing Certainty Act)

This bill establishes that (1) a housing development project application approval or denial is governed only by laws and regulations in effect when a substantially complete application was submitted, and (2) after approval, the proponent of the project has a vested right to the authorized use and development for the longer of five years or a period determined by the local jurisdiction or the Maryland-National Capital Park and Planning Commission (M-NCPPC). The bill also prohibits a county or municipality from collecting development impact fees or excise taxes imposed on a residential real estate project until after construction is complete and all requirements for a certificate of occupancy, occupancy permit, or other equivalent have been met.

Fiscal Summary

State Effect: The bill does not directly affect State finances.

Local Effect: Local government finances are expected to be affected, as discussed below.
This bill imposes a mandate on a unit of local government.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Applicable Laws/Regulations – and – Vested Right to Use and Development

Housing Development Project Application

The bill establishes that the approval, conditional approval, or denial of a housing development project application by a local jurisdiction or M-NCPPC must be governed

only by the laws and regulations in effect (1) at the time of submission of a substantially complete application or (2) when a local jurisdiction or M-NCPPC provides for the approval of a housing development project in multiple stages, the date of the first complete or substantially complete application submission for any process that may culminate in the final approval of the application. A zoning text amendment, application for rezoning, or other local equivalent may not be considered as a process that may culminate in the final approval of an application.

Determination and Notification of Substantially Complete Application

A local jurisdiction or M-NCPPC must, within 15 days after receipt of a housing development project application, make a determination whether the application is substantially complete and notify the applicant of the determination and the date of the determination, and provide a list of deficiencies and a reasonable time frame for curing them if the application is determined to not be a substantially complete application. If the local jurisdiction or M-NCPPC fails to notify the applicant of its determination within 20 days after receipt of the application, it is deemed to be a substantially complete application for purposes of the bill's provisions.

Housing Development Project

After a housing development project has received all required approvals, the proponent of the project has a vested right to that authorized use and development for the longer of (1) five years or (2) a period determined by the local jurisdiction or M-NCPPC. Each discrete phase of a housing development project subject to a phased development plan must be considered a discrete housing development project.

Definitions

“Housing development project” means the new construction or substantial renovation of a residential real estate project.

“Housing development project application” means an application for a building permit, certification, authorization, site plan approval, subdivision approval, conceptual plan, or any other determination by a local jurisdiction or M-NCPPC relating to a housing development project that has been submitted to a local jurisdiction or M-NCPPC in compliance with applicable requirements.

“Substantially complete application” means a housing development project application that satisfies a substantial majority of the application requirements, but may contain nonsubstantive errors, omissions, or similar inconsequential deficiencies.

Application and Effect of Provisions

These requirements of the bill relating to housing development project applications and housing development projects apply to a local jurisdiction and M-NCPPC only to the extent that they do not conflict with other State or federal laws or regulations. The bill's provisions may not be construed to prevent the expiration of an approval of a housing development project application in accordance with the laws or regulations governing a local jurisdiction or M-NCPPC. The bill's provisions also may not be construed to limit the ability of a local jurisdiction or M-NCPPC to:

- require approvals or permits for each phase of a housing development project subject to a phased development plan in accordance with the laws and regulations in effect at the time of submission of a substantially complete application for each respective phase;
- enforce health and safety laws or regulations that are necessary to address immediate threats to public safety;
- execute a development rights and responsibilities agreement under Title 7, Subtitle 3 of the Land Use Article; or
- approve a zoning text amendment, application for rezoning, or other local equivalent to increase the density of a housing development project beyond the maximum allowable amount at the time of complete or substantially complete application submission.

Development Impact Fee and Excise Taxes

The bill prohibits a county or municipality from collecting development impact fees or excise taxes imposed on a residential real estate project (including a mixed-use development that includes residential units) until after construction is complete and all requirements for a certificate of occupancy, occupancy permit, or other equivalent have been met. The bill authorizes denial, withholding, or revocation of a certificate, permit, or equivalent if the fee/tax is not paid within a reasonable time period.

Current Law:

Development Rights

Vested Rights

The Supreme Court of Maryland, in *Prince George's County v. Sunrise Development Limited Partnership*, addressed the question of when a landowner has a vested right to an authorized use or development of their property, regardless of a subsequent change in

zoning or other law or regulations that affects that authorized use or development. 330 Md. 297, 306-314 (1993). In the case, the court:

- discussed its prior cases, that generally establish, as a whole, that a landowner's right to a use or development of their property vests when there is publicly visible (or substantial) commencement of construction consistent with that authorized use or development, in good faith, under a valid permit, prior to a change in the law (or regulations); and
- clarified, in its holding, the standard for when there is sufficient commencement of construction, by establishing that "in order for rights to be vested before a change in the law, work done must be recognizable, on inspection of the property by a reasonable member of the public, as the commencement of construction of a building for a use permitted under the then current zoning."

Development Rights and Responsibilities Agreements

Title 7, Subtitle 3 of the Land Use Article authorizes local jurisdictions (with the exception of Montgomery and Prince George's counties) to, by local law, allow for development rights and responsibilities agreements to be entered into, by the jurisdiction, with persons having a legal or equitable interest in real property in the jurisdiction. An agreement must contain, among other things, the duration of the agreement, permissible uses of the property, density or intensity of the use of the property, other terms or conditions applicable to the development, and, if applicable, public benefits to be provided by the property owner (e.g., construction or financing of public facilities, dedication of a portion of the property for public use). Real property subject to an agreement is subject to the local laws and regulations governing the use, density, or intensity of the property in effect at the time of the agreement, unless compliance with subsequent laws or regulations is determined to be essential to ensure public health, safety, or welfare. Title 24, Subtitle 3, and Title 25, Subtitle 5, of the Land Use Article establish separate, specified authorizations for development rights and responsibilities agreements in Montgomery and Prince George's counties, respectively.

The Supreme Court of Maryland, in a 2004 opinion, characterized Chapter 562 of 1995 – which first enacted Title 7, Subtitle 3 – as seeming to balance developers' and property owners' desires for more certainty and less monetary risk as they proceed with development, against local governments' desire to "receive greater public benefits on a more predictable schedule than might otherwise be attainable[.]" *Queen Anne's Conservation, Inc. v. County Comm'rs*, 382 Md. 306, 308-309 (2004).

Development Impact Fees and Excise Taxes

Development impact fees and excise taxes enable local governments to collect revenue for new or expanded public facilities or services necessitated by new residential or commercial

development, shifting the costs of financing the new or expanded facilities/services from existing taxpayers to those responsible for the development. See the attached **Appendix – Development Impact Fees and Excise Taxes** for information on the amount of fees and taxes (for single-family detached homes) and overall revenues collected by counties that impose the fees/taxes. And see this [2025 Department of Legislative Services report](#) for citations/links to State enabling law and county implementing laws for development impact fees and excise taxes, as well as full fiscal 2025 fee/rate schedules, in the appendices, which include multifamily residential fee and tax amounts.

Land Use – Generally

The regulation of land use in the State, through planning and zoning, is implemented by local governments, subject to applicable State law. Planning and zoning authority is delegated by the State to local governments primarily under the Land Use Article and, for certain counties, the Express Powers Act (Title 10 of the Local Government Article).

Both the Land Use Article and Express Powers Act contain the State’s policy statement that (1) the orderly development and use of land and structures requires comprehensive regulation through implementation of planning and zoning controls and (2) planning and zoning controls must be implemented by local government. State law includes various provisions authorizing local governments to regulate the location, size, and use of structures through zoning regulations.

Division II of the Land Use Article establishes M-NCPPC (made up of the Montgomery County and Prince George’s County planning boards) and governs planning and zoning within the Maryland-Washington Regional District (§ 20-101), which consists of (1) the entire area of Montgomery County, subject to certain limitations (relating to certain municipalities not subject to the planning and zoning authority of the county, unless by agreement, and other municipalities that have certain, limited planning and zoning authority), and (2) the entire area of Prince George’s County, except for the City of Laurel as it existed on July 1, 2013.

Local Expenditures: Local government expenditures may increase in some jurisdictions to implement the bill’s provisions governing the submission of housing development project applications, laws and regulations applicable to pending applications, and vested rights of proponents of approved projects, based on information received from a small number of jurisdictions. The jurisdictions’ responses vary, with some expecting to need additional personnel and/or programming to implement changes under the bill and others expecting to implement the changes with existing resources. Those that indicate a need for additional resources cite, among other things, (1) the short time frame after an application is submitted within which a planning office must make a determination of whether the application is substantially complete and (2) the need to track the correct laws

and regulations applicable to pending applications and the vesting periods of approved projects. Guidance and technical assistance available from the Maryland Department of Planning, to manage implementation of the changes, may help jurisdictions to an extent.

Because the bill largely does not affect a local jurisdiction's existing control over the developments it approves (albeit subject to the bill's requirement that laws and regulations in effect at the time an application is determined to be substantially complete apply to the approval or denial) – and does not prevent the expiration of an approval of a project, or limit a jurisdiction's ability to require separate approvals or permits for each phase of a phased development plan – jurisdictions should retain the ability, under the bill, to ensure that development does not outpace existing or planned infrastructure capacity, through a jurisdiction's adequate public facilities ordinance (APFO) (if the jurisdiction has an APFO) or other growth management policies. However, the bill does affect the timing of collection of development impact fees and excise taxes imposed by local jurisdictions to pay for new or expanded public facilities or services necessitated by housing development, as discussed below.

Local Revenues: Local government revenues from development impact fees and excise taxes are delayed to the extent the bill's prohibition against a county or municipality collecting development impact fees or excise taxes imposed on a residential real estate project causes fees/taxes collected from such development to be collected later than they would be in the absence of the bill. Based on information received from a small number of local jurisdictions, by delaying the time when development impact fees and taxes may be collected, local jurisdictions may need to increase capital borrowing and debt to pay for required infrastructure and/or delay necessary infrastructure spending.

Small Business Effect: Developers and/or housing construction small businesses may meaningfully benefit from the bill's provisions relating to (1) housing development project applications and a vested right to an authorized use and development of a residential housing project for at least five years and (2) delayed payment of development impact fees and excise taxes.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years; however, legislation with similar provisions has been proposed. For example, see HB 503 of 2025.

Designated Cross File: HB 548 (Delegate Behler, *et al.*) - Economic Matters.

Information Source(s): Anne Arundel, Baltimore, Charles, Dorchester, Frederick, and Garrett counties; Maryland Association of Counties; Maryland-National Capital Park and Planning Commission; City of Laurel; Maryland Municipal League; Town of La Plata; Department of Housing and Community Development; Maryland Department of Planning; Department of Legislative Services

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Appendix – Development Impact Fees and Excise Taxes

This appendix compiles information on (1) the development impact fees and excise taxes imposed by Maryland counties and (2) the revenues generated by the fees/taxes. Development impact fees and excise taxes enable local governments to collect revenue for new or expanded public facilities or services necessitated by new residential or commercial development, shifting the costs of financing the new or expanded facilities/services from existing taxpayers to those responsible for the development.

The county development impact fees and excise taxes included in this appendix are those charges generally identified as development impact fees or excise taxes, or a variation of those terms (in some cases “surcharge” or “impact tax” is used). However, this appendix does not include all charges imposed on new development to generate revenue to cover costs of new or expanded public facilities/services. Some jurisdictions also impose water- and sewer-related charges (such as capital connection charges or system development charges), and/or mitigation payments based in the county’s adequate public facilities ordinance, that generate revenue for new or expanded public facilities/services. While not focused on in this report, a number of Maryland’s municipalities also impose impact fees or similar charges on new development to generate revenue for public facilities or services they provide.

The first table below shows the counties’ fee amount or tax rate for a single-family detached home in each of fiscal 2024, 2025, and 2026.

The second table shows actual or projected/estimated revenues from counties’ development impact fees and excise taxes for fiscal 2024, 2025, and 2026. This table is based primarily on information provided by the counties in response to the Department of Legislative Services’ (DLS) and the Maryland Association of Counties’ *FY 2026 Local Government Budget and Tax Rate Survey* conducted during summer 2025, supplemented by DLS follow up with certain counties. The extent to which the revenue amounts are actual vs. projected/estimated varies. The fiscal 2024 amounts are actual revenue amounts, and the fiscal 2025 and 2026 amounts are projected/estimated revenues in most cases; in limited cases, some counties were able to provide actual fiscal 2025 revenue amounts.

County Development Impact Fees and Excise Tax Rates¹
Fiscal 2024-2026

County	FY 2024	FY 2025	FY 2026
Anne Arundel ²	\$16,217	\$16,636	\$16,903
Baltimore ³	1.5% of gross sales	\$6.00/sq. ft.	\$6.00/sq. ft.
Calvert	12,950	12,950	12,950
Caroline	5,000	5,000	5,000
Carroll ⁴	3,533	3,533	3,533
Charles	20,330	21,351	21,972
Dorchester ⁵	0	0	5,000
Frederick ⁶	17,961	18,851	19,408
Harford ⁷	6,000	10,000	10,000
Howard ⁸	\$9.77/sq. ft.	\$10.05/sq. ft.	\$10.27/sq. ft.
Montgomery ⁹	56,274	56,274	59,854
Prince	29,188	30,180	30,875
Queen Anne's	\$5.85/sq. ft.	\$5.85/sq. ft.	\$5.99/sq. ft.
St. Mary's	6,697	6,697	6,697
Talbot ¹¹	9,091	9,091	9,356
Washington	\$1.00/sq. ft.	\$1.00/sq. ft.	\$1.00/sq. ft.

sq. ft.: square foot

¹ Fees/rates listed are those applicable to single-family detached dwellings and are per dwelling unless otherwise indicated.

² Rates are for a 2,000 to 2,499 sq. ft. residential unit. Residential rates vary by the square footage of a unit.

³ Baltimore County Bill 45-24 established a \$6.00 per square foot development impact fee for residential development effective August 25, 2024.

⁴ The schools portion of the impact fee was increased from \$0 to \$3,000, increasing the total impact fee from \$533 to \$3,533, effective September 1, 2023.

⁵ The county development excise tax had been suspended since 2014, but the suspension ended in fiscal 2026.

⁶ The rates shown reflect the public school and library impact fee total.

⁷ The impact fee was increased from \$6,000 to \$10,000 – effective March 1, 2025 – pursuant to Bill No. 24-033.

⁸ The fiscal 2024, 2025, and 2026 amounts represent the total of the roads tax amount (\$1.90/sq. ft., \$1.90/sq. ft., and \$1.92/sq. ft., respectively) and the school surcharge amount (\$7.87/sq. ft., \$8.15/sq. ft., and \$8.35/sq. ft., respectively).

⁹ Amounts shown in the table represent the highest rates, that only apply in certain areas. The fiscal 2026 amount represents \$31,301 for schools in turnover impact areas and \$28,553 for transportation in yellow and green policy areas. (In fiscal 2026, the other transportation rates are \$22,841 in orange policy areas and \$9,139 in red policy areas, and the other schools rate, in infill impact areas, is \$30,005.)

¹⁰ Amounts shown in the table represent the total of the school facilities and public safety/behavioral health amounts. The fiscal 2026 amount represents \$20,972 for school facilities and \$9,903 for public safety/behavioral health. A lower school facilities rate (\$12,220 in fiscal 2026) applies inside the beltway and to certain development near mass transit, and a lower public safety/behavioral health rate (\$3,303 in fiscal 2026) applies inside Transportation Service Area 1 as defined in the Prince George's County Approved General Plan and to certain development near mass transit.

¹¹ A lower rate (\$8,080 in fiscal 2026) applies to development inside municipalities.

Source: Department of Legislative Services

**County Development Impact Fee and Excise Tax Revenues
Fiscal 2024-2026**

County	FY 2024	FY 2025	FY 2026	FY 2024-2025		FY 2025-2026	
				Difference	% Difference	Difference	% Difference
Anne Arundel	\$26,733,231	\$15,890,000	\$18,144,000	-\$10,843,231	-40.6%	\$2,254,000	14.2%
Baltimore ¹	-	-	-	-	-	-	-
Calvert	729,097	2,650,094	634,314	1,920,997	263.5%	-2,015,780	-76.1%
Caroline	100,284	100,575	100,000	291	0.3%	-575	-0.6%
Carroll	n/a	n/a	n/a	-	-	-	-
Charles	13,399,715	14,385,288	15,574,000	985,573	7.4%	1,188,712	8.3%
Dorchester ²	0	0	75,000	0	0.0%	75,000	-
Frederick	21,569,252	18,167,170	20,106,910	-3,402,082	-15.8%	1,939,740	10.7%
Harford	2,805,000	4,241,956	6,000,000	1,436,956	51.2%	1,758,044	41.4%
Howard	16,269,060	19,400,000	20,000,000	3,130,940	19.2%	600,000	3.1%
Montgomery	15,574,734	29,464,000	13,832,000	13,889,266	89.2%	-15,632,000	-53.1%
Prince George's	52,116,000	67,780,660	48,000,000	15,664,661	30.1%	-19,780,660	-29.2%
Queen Anne's	2,863,257	2,606,546	2,629,939	-256,711	-9.0%	23,393	0.9%
St. Mary's	1,342,508	1,500,000	1,500,000	157,492	11.7%	0	0.0%
Talbot	769,787	993,000	1,602,272	223,213	29.0%	609,272	61.4%
Washington	1,143,263	2,038,226	600,000	894,963	78.3%	-1,438,226	-70.6%
Total	\$155,415,187	\$179,217,515	\$148,798,435	\$23,802,328	15.3%	-\$30,419,080	-17.0%

n/a: not available at the time of publication

¹ The county imposes a development impact surcharge on new nonresidential construction and a development impact fee on new residential construction; however, minimal revenues have been collected from the surcharge and fee to date and substantial revenues are not expected in fiscal 2026.

² The county development excise tax had been suspended since 2014, but the suspension ended in fiscal 2026.

Source: Department of Legislative Services