

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1517 (Delegates Behler and Allen)
Economic Matters

Land Use - Qualified Project - Retaliatory Downzoning

This bill requires a local jurisdiction to allow specified increased development density for a residential development project that meets the definition of a “qualified project” under the Housing Expansion and Affordability Act of 2024 (Chapter 122) and has been targeted by specified retaliatory downsizing.

Fiscal Summary

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

Local Effect: Local government finances may be affected, as discussed below. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: Under the bill, a local jurisdiction must allow the density of a “qualified project” (defined below) to exceed the density otherwise authorized in a district or zone as follows. A qualified project, in an area zoned:

- for single-family residential use, may include middle housing units;
- for multi-family residential use, (1) must have a density that is the greater of a limit that exceeds by 60% the allowable density in that zone for uses that are not part of a qualified project or 50% of the density allowed under the previous zoning and (2) may consist of mixed-use;

- for nonresidential use, may consist of mixed-use development, with density limits that do not exceed the highest allowable density in the local jurisdiction’s multifamily residential zones (subject to a specified public health impact assessment provision); and
- for mixed-use, may include 60% more housing units than are allowed in that zone for uses that are not part of a qualified project.

“Qualified project” means a residential project that:

- consists of new construction or substantial renovation;
- has been targeted by retaliatory downzoning;
- otherwise qualifies as a qualified project under the Housing Expansion and Affordability Act of 2024 (under § 7-502 – property formerly owned by the State and property currently or formerly owned by the federal government, § 7-503 – property within three-quarters of a mile of a rail station located in the State, or § 7-504 – land/improvements owned/controlled by a nonprofit organization);
- contains at least 15% of units that are affordable dwelling units (unless a local jurisdiction, by December 31, 2024, has a requirement equal to or exceeding the minimum 15% requirement, in which case at least 20% of units must be affordable dwelling units); and
- is deed-restricted to include 15% of units that are affordable dwelling units for a period of at least 40 years (unless a local jurisdiction, by December 31, 2024, has a requirement equal to or exceeding the 15% requirement, in which case, the requirement is 20%).

“Retaliatory downzoning” means the rezoning of a project or property to reduce the otherwise permitted residential density where a local official:

- identifies the project or property by name, address, or material description in any public or constituent communication;
- publicly states or communicates opposition or concern in any forum, including constituent emails, community meetings, or media interviews;
- enacts, sponsors, or causes to be enacted or sponsored a zoning designation change that reduces the permitted residential density of the property when the majority of the property has been zoned under the same designation for not less than 25 consecutive years; and
- within four years after publicly opposing the project or property, takes legislative or administrative actions that materially delay, obstruct, or burden redevelopment of the property and are done in a manner inconsistent with or contrary to the written

recommendations of the local planning, transportation, or public works departments.

Current Law:

Housing Expansion and Affordability Act of 2024

In General

Chapter [122](#) (the Housing Expansion and Affordability Act of 2024) created Title 7, Subtitle 5 of the Land Use Article (to which the bill's provisions are added). Chapter 122, among other things, requires local jurisdictions to allow specified densities and uses in certain zoning areas for “qualified projects” on (1) specified property formerly owned by the State; (2) specified property currently or formerly owned by the federal government; (3) property within three-quarters of a mile of a rail station located in the State; and (4) specified land that is wholly owned by a nonprofit organization or that includes improvements owned by an entity that is controlled by a nonprofit organization.

More specifically, “qualified project” is a residential project that consists of new construction or substantial renovation, and meets one of the four following criteria:

- *Property Formerly Owned by the State* – (1) is on property that was formerly owned by the State, consists of more than one building, includes at least one building that was built more than 50 years before the date of application for the project, and is appropriate for redevelopment as determined by the Secretary of Housing and Community Development; (2) contains at least 25% of units that are affordable dwelling units; and (3) is deed-restricted to include 25% of units that are affordable dwelling units for a period of at least 40 years;
- *Property Currently or Formerly Owned by the Federal Government* – (1) is on property that is currently or was formerly owned by the federal government, is greater than 80 acres in size, and was the site of a former U.S. military reservation; (2) contains at least 25% of units that are affordable dwelling units; and (3) is deed-restricted to include 25% of units that are affordable dwelling units for a period of at least 40 years;
- *Property within Three-quarters of a Mile of a Rail Station Located in the State* – (1) is on property that is located within three-quarters of a mile of a rail station located in the State (subject to the exceptions discussed below); (2) contains at least 15% of units that are affordable dwelling units (unless a county or municipality, by December 31, 2024, has a requirement equal to or exceeding the minimum 15% requirement, in which case at least 20% of units must be affordable dwelling units); and (3) is deed-restricted to include 15% of units that are affordable dwelling units for a period of at least 40 years (unless a county or municipality, by

December 31, 2024, has a requirement equal to or exceeding the 15% requirement, in which case, the requirement is 20%); or

- *Land/Improvements Owned/Controlled by a Nonprofit Organization* – (1) is on land, including land that is subject to a ground lease, that is wholly owned by a nonprofit organization or includes improvements owned by an entity that is controlled by a nonprofit organization; (2) contains at least 25% of units that are affordable dwelling units; and (3) is deed-restricted to include 25% of units that are affordable dwelling units for a period of at least 40 years.

A “qualified project” may not qualify under the “property within three-quarters of a mile of a rail station” criteria:

- if (1) the rail station is located on the campus of an institution of higher education as defined in § 10-101 of the Education Article or (2) only a portion of the property is located within three-fourths of a mile of the rail station; or
- in an area zoned for single-family residential use (1) on January 1, 2024, and (2) during any process to increase allowable density under the bill.

“Affordable” means that housing costs do not exceed 30% of a household’s income.

“Affordable dwelling unit” means a dwelling unit that is affordable to households earning 60% or less of the area median income.

Densities and Uses

A local jurisdiction must allow the density of a qualified project to exceed the density otherwise authorized in a district or zone as follows. A qualified project, in an area zoned:

- for single-family residential use, may include middle housing units;
- for multifamily residential use, (1) must have a density limit that exceeds by 30% the allowable density in that zone for uses that are not part of a qualified project and (2) may consist of mixed-use;
- for nonresidential use (or on land that is currently or was formerly owned by the federal government, is more than 80 acres in size, and was the site of a former U.S. military reservation), may consist of mixed-use, with density limits that do not exceed the highest allowable density in the local jurisdiction’s multifamily residential zones (provided that, in an area zoned for nonresidential use, the qualified project complies with the public health impact assessment requirement described below); and
- for mixed-use, (1) may include 30% more housing units than are allowed in that zone for uses that are not part of a qualified project, for projects that qualify under

the “property within three-quarters of a mile of a rail station” and “land/improvements owned/controlled by a nonprofit organization” criteria, and (2) may consist of residential development with density limits that do not exceed the greater of the highest allowable density in the local jurisdiction’s residential zones or six units per gross acre, for projects that qualify under the “property formerly owned by the State” and “property currently or formerly owned by the federal government” criteria.

Statute specifies that (1) the increased density limits for qualified projects are in addition to increased density that is allowed or required by a local jurisdiction; (2) the increased density limits for qualified projects are not further increased if a project meets the definition of a qualified project under more than one of the four criteria listed above; and (3) the bill’s increased density limits do not apply in a district or zone located on agricultural land or conservation property.

“Middle housing” means (1) duplexes; (2) triplexes; (3) quadplexes; (4) cottage clusters; or (5) town houses.

“Cottage cluster” means a grouping of not fewer than four detached housing units per acre that (1) have a footprint of less than 900 square feet each and (2) include a common courtyard.

“Mixed-use” means any combination of a residential use with a recreational, office, dining, or retail use, and does not mean any combination of a residential use with an industrial or hazardous use.

Unreasonable Limitations or Requirements

Chapter 122 prohibits a local jurisdiction from imposing any unreasonable limitation or requirements on a qualified project under Title 7, Subtitle 5, including limitations on or requirements concerning (1) height; (2) setback; (3) bulk; (4) parking; (5) loading, dimensional, or area; or (6) similar requirements.

“Unreasonable limitation or requirement” includes any limitation or requirement that amounts to a *de facto* denial by having a substantial adverse impact on (1) the viability of an affordable housing development in a qualified project; (2) the degree of affordability of affordable dwelling units in a qualified project; or (3) the allowable density or number of units of the qualified project.

Public Health Impact Assessment

Before a qualified project is authorized to exceed the density in an area zoned for nonresidential use, the entity responsible for the qualified project must (1) conduct a public
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health impact assessment and (2) receive approval of the public health impact assessment from the Department of Housing and Community Development. A public health impact assessment must evaluate potential public health impacts associated with the proximity of the qualified project to any health hazards within the area zoned for nonresidential use.

Local Fiscal Effect: Infrastructure spending by a local jurisdiction may increase or accelerate to the extent the bill allows for development to outpace infrastructure capacity by allowing for greater development density than planned for by the local jurisdiction. The extent to which potential additional strain on infrastructure under the bill may result in increased/accelerated infrastructure spending, and the potential magnitude of that spending, cannot be reliably estimated and depends on the infrastructure capacity of an area in which a development is proposed, and the size and density of the proposed development(s). However, the number of residential projects the bill applies to presumably is limited.

Small Business Effect: Small businesses involved in housing development may meaningfully benefit from the bill to the extent it allows for qualified projects to be undertaken, due to the increased density allowed under the bill, that are not otherwise undertaken in the absence of the bill.

Additional Information

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

Designated Cross File: None.

Information Source(s): Baltimore City; Harford, Montgomery, Talbot and Wicomico counties; Maryland Association of Counties; Maryland-National Capital Park and Planning Commission; Maryland Municipal League; Maryland Department of Planning; Department of Legislative Services

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