



Bill: **HB 390 - Affordable Housing Payment In Lieu of Taxes Expansion Act**

Committee: **Ways & Means**

Date: **February 4, 2025**

Position: **Favorable with Amendments**

The Apartment and Office Building Association (AOBA) of Metropolitan Washington is the leading non-profit trade association representing the owners and managers of more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George’s counties. AOBA is proud to support House Bill 390 with amendments.

HB 390 allows counties to exempt rental housing properties from county property taxes if the property owner enters into a payment in lieu of taxes (PILOT) agreement that maintains 50% or more of the units as affordable for a period of at least 15 years. Affordable is defined as not exceeding 30% of a household's income for households earning 60% or less than area median income (AMI). Counties are already allowed to use PILOTs to help offset the cost of development of new affordable housing.

Montgomery County, for example, has three types of PILOTs¹:

- A standard PILOT that provides a property tax abatement based on the affordability of each rental unit in the project;
- A “by-right” PILOT that provides a 100% property tax abatement to non-profit housing developers that build affordable housing with 50% of the units affordable to households making 60% or less of AMI; and
- A WMATA PILOT that provides a 100% property tax abatement for development leased from WMATA with at least 25% moderately priced dwelling units affordable to households making 50% or less AMI.

Many of these affordable housing projects would not be financially viable without the use of PILOTs. Similarly, financial challenges place considerable redevelopment pressure on naturally occurring affordable housing. Financial challenges include rising operating expenses and increasing capital

¹ <https://www.montgomerycountymd.gov/DHCA/landlords/PILOT.html#>



requirements needed to comply with state and local mandates, such as Building Energy Performance Standards and new building code requirements.

AOBA supports efforts that reduce financial pressure and aid in the preservation of affordable housing. However, AOBA members urge the Committee to reduce the threshold for obtaining a PILOT from 50% affordable units on a property to 30%. As noted above, state law grants Montgomery County considerable flexibility to create various types of PILOTs. Counties should have the same flexibility to negotiate PILOTs for existing affordable housing properties. For example, a county could negotiate a 50% property tax abatement for maintaining 30% of units as affordable or a 100% property tax abatement for maintaining 50% of units as affordable.

It's worth noting that a 30% affordability threshold doubles Montgomery County's moderately priced dwelling unit requirement, which only requires that 12.5-15% of units in a new development be affordable to households making 70% of less of AMI². Furthermore, most mission driven affordable housing developers target affordability for 25-30% of new units in a development. Allowing a 30%-unit affordability threshold for existing properties would be consistent with the state and county affordable housing goals.

For these reasons, AOBA urges the Committee to vote favorably with amendments outlined above on House Bill 390. For more information, please contact Brian Anleu at banleu@aoba-metro.org.

² <https://www.montgomerycountymd.gov/DHCA/MPDU/mpdu-program.html>