

DATE: February 17, 2026

BILL NO: Senate Bill 325

TITLE: Land Use - Permitting - Development Rights (Housing Certainty Act of 2026)

COMMITTEE: Senate Education, Energy, and the Environment Committee

Letter of Support

Description of Bill:

Senate Bill 325 requires local jurisdictions to determine the approval, conditional approval, or denial of an application for a housing development project based only on the duly adopted laws and regulations in effect at the time a substantially complete application is submitted. Further, the bill requires that, once all required approvals for a project have been granted, the proponent of the project has a vested right to the authorized use and development for a period of five years (or longer, if allowed by the local jurisdiction). The bill does not limit the ability of a local jurisdiction to treat each phase of a phased development plan as a separate project for the purposes of vesting, nor does it limit the ability to enforce health and safety laws and regulations necessary to address immediate threats to public safety.

The bill also requires local jurisdictions to defer the collection of development excise taxes and impact fees for residential real estate projects until after construction is complete and all other requirements for a certificate of occupancy, occupancy permit, or other local equivalent have been met.

Background and Analysis:

Regulatory uncertainty, impact fees, and high interest rates add significantly to the cost of building housing in Maryland, contributing to the state's housing shortage and affordability crisis. The Housing Certainty Act addresses these issues without affecting local control over zoning codes or negatively impacting a local jurisdiction's ability to fund the infrastructure improvements necessary to support growth.

Under current Maryland law – not enacted by the General Assembly, but decided by an appellate court over three decades ago¹ – local jurisdictions have the ability to “change the rules” under which housing construction is approved up until “visible construction” has commenced. In practice, this means that even *after* approvals have been granted and building permits issued, and the builder has invested substantial time and money into site design, planning, securing financing, and preliminary site preparation, a local jurisdiction can effectively “kill” a housing development project by changing regulations such as parking requirements, allowed density, or height limitations. Several projects in Maryland totaling hundreds of much needed residential units have been required to make significant alterations or cancel construction altogether as a result of this practice. Furthermore, this uncertainty makes investors less likely to support residential construction in the state, and to demand higher rates of return on projects that are ultimately built, both of which ultimately contribute to reduced housing construction and higher housing costs for Maryland families.

¹ *Prince George's County v. Sunrise Development Ltd. Partnership*, 330 Md. 297, 314 (1993).

At least 18 states across the country have prohibited this practice through either “early vesting” statutes or court rulings. Of those states, which include neighboring states with lower housing costs like Virginia and Pennsylvania, 7 ranked in the top 10 nationally in housing production in 2023. To be clear, joining these “early vesting” states does not preclude local jurisdictions from duly adopting changes to their zoning codes or regulations; it simply requires that project applications be judged based on the regulations in effect at the time they were submitted, and that housing development projects be allowed to proceed to completion under those same regulations.

By requiring local jurisdictions to use the regulations in effect at the time an application for a housing development project is submitted, and by vesting development rights for five years after approvals are granted, the Housing Certainty Act will encourage more investment in housing production in Maryland and lower the costs associated with housing construction, ultimately putting money back in the pockets of Maryland’s residents.

Development impact fees and excise taxes are collected by a number of jurisdictions across Maryland for the purposes of funding infrastructure improvements and expansions that are needed to accompany new development. Nearly all jurisdictions require that these fees be paid “up front,” i.e., at the time of application or approval of a project. This practice forces builders to finance the impact fee payments – which can range into the millions of dollars for large multifamily projects – for the period of development and construction, which can last for several years. The interest payments associated with this financing, before a project is generating income through rent or sales, can increase the building cost of each unit by thousands of dollars, ultimately resulting in more costs being passed on to Maryland renters and homeowners. Those costs have increased significantly in recent years along with interest rates. The Housing Certainty Act lowers housing costs for Marylanders by requiring jurisdictions to defer the collection of impact fees and excise taxes until after construction is complete, while protecting local jurisdictions’ ability to collect those fees and taxes by allowing an occupancy permit to be denied or withheld until the full amount is paid.

DHCD Position

The Maryland Department of Housing and Community Development respectfully requests a **favorable** report on SB 325.

