Senate Bill 267 - Land Use - Residential Housing - Oversight, Regulation, and Taxation (Building Affordably in My Back Yard Act)

Position: Oppose

On behalf of Maryland's REALTORS® and the homeowners, buyers, and sellers we represent across the State, we strongly urge an unfavorable report on Senate Bill 267, the "Building Affordably in My Back Yard Act."

While the bill is framed as a housing affordability measure, its practical effect is to expand local taxing authority, increase transaction costs, and shift additional financial burdens onto Maryland homeowners and home buyers.

At a time when affordability is already strained by elevated interest rates, insurance premiums, and existing property taxes, this legislation moves Maryland further in the wrong direction and will only speed the exodus of our workforce to surrounding states.

REALTORS® see the following as non-negotiable items:

Imposing Multiple Tax Increases on Housing

The most significant concern with SB 267 is its authorization for counties to increase so-called "housing-sensitive" taxes and fees when a housing shortfall is identified. Rather than reducing the cost of housing, the bill gives local governments new mechanisms to raise revenue directly from housing transactions and property ownership.

Most notably, the bill authorizes counties to impose an additional transfer tax of up to 5 percent on the sale of an owner-occupied home if the property will not remain owner-occupied after transfer. For the median Maryland home, currently valued at $431,000, this could mean an additional **$21,000 in transaction taxes at closing**. In real-world transactions, transfer and recordation taxes are often negotiated between the parties, meaning both buyers and sellers would feel the impact. Sellers would walk away with less equity, which they need to finance their next home purchase, their retirements, or to build generational wealth.

The legislation also permits local governments to create special subclasses of property subject to higher tax rates, including certain non-owner-occupied residential properties and underutilized land in Priority Funding Areas. This is particularly insidious in instances where the reason the property has not been developed is due to state or local permitting delays, building moratoria, or adequate public facilities lockout periods. In short, under this policy, a local government could delay a project on one hand, while extracting higher taxes from the property they will not allow to be developed on the other.

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Whatever the policy intent, expanding the authority to impose higher property tax rates inevitably increases the cost of owning and investing in housing. Those costs do not disappear—they are reflected in higher rents, higher sales prices, and reduced housing supply over time.

The bottom line is that housing affordability cannot be achieved by raising taxes and fees on housing solely to enrich local governments.

Creating Winners and Losers in the Housing Market

SB 267 provides potential tax and fee reductions for "Qualified Affordable Housing Projects," defined narrowly as projects in which at least 25 percent of units are deed-restricted for 40 years at 60 percent or less of Area Median Income. At the same time, it allows local governments to increase taxes and fees on projects that do not meet that definition.

This structure effectively creates a two-tier system. A limited subset of highly restricted and regulated projects may receive financial relief, while the vast majority of housing—starter homes, workforce housing, move-up homes, and small-scale developments—remain subject to increased costs.

Maryland's housing shortage spans a broad range of income levels. Policies that concentrate benefits in one narrow category while increasing costs elsewhere risk distorting the market without meaningfully expanding overall affordability.

Undermining Property Rights and Home Equity

The bill's 30-day "lockout" provision represents a significant intrusion into private property rights. For the first 30 days that a single-family home is on the market, sellers may accept offers only from individuals, nonprofits, community organizations, or real estate enterprises owning less than 3 percent of residential property in the county.

This 3 percent ownership threshold raises significant practical and legal questions that remain unanswered. The bill does not clearly establish when that threshold is measured or how compliance is to be verified. Is the ownership threshold determined at the time the property is listed? At the time an offer is submitted? At contract ratification? Or at closing?

Ownership portfolios can change rapidly. An entity that is below the 3 percent threshold when an offer is written could exceed it before settlement. Conversely, an entity above the threshold could divest properties and fall below it during the transaction period. The bill provides no clear compliance point, creating uncertainty and potential liability for sellers.

Equally troubling is the question of how a typical home seller, REALTOR®, or title company would determine whether a purchaser meets this definition. There is no centralized, real-time database that tracks cumulative residential ownership by an entity across a county. Many investors hold properties through limited liability companies or layered ownership structures. Determining beneficial ownership often requires reviewing corporate filings, operating agreements, or membership interests that are not publicly accessible.

Would sellers be expected to demand sworn affidavits from purchasers? Conduct independent investigations into affiliated entities? Rely on representations in a contract? What level of due diligence would be considered sufficient to avoid penalties? The bill does not establish a verification mechanism, safe harbor provision, or state-administered certification process.

In practice, this ambiguity places an unreasonable burden on ordinary homeowners attempting to sell their property. Sellers and their agents are not forensic accountants or corporate investigators. Without a clear, enforceable standard and verification process, this provision invites confusion, delayed transactions, disputes at closing, and potential litigation—all of which increase costs and undermine market stability.

Further, homeowners should retain the ability to evaluate and accept the best offer for their property, regardless of the source of that offer. In certain circumstances—such as when a home requires repairs, must be sold quickly, or is part of an estate—investor purchasers may provide the most viable or timely option. Limiting who may make an offer reduces competition and suppresses sale prices. For many Maryland families, home equity represents their largest source of accumulated wealth. Public policy should not artificially restrict the marketplace in a way that diminishes that asset.

If the General Assembly intends to regulate institutional ownership, the compliance burden should not fall on individual Maryland homeowners navigating one of the most significant financial transactions of their lives. Legislation introduced in 2025 and this session has made progress in this area; yet the bill's authors specifically chose earlier versions of this legislation – ones that specifically target current Maryland property owners and were repeatedly rejected by the General Assembly. Other than protecting their own self-interest, we must question why that was the approach taken by local governments.

<u>Missed Opportunity on Developer Impact Fees</u>

SB 267 also allows local governments to require up to 50 percent of development excise taxes or impact fees to be paid as a condition of obtaining a building permit, with the remainder due before issuance of a certificate of occupancy. Under current Maryland practice, developers are typically required to pay the entirety of these impact fees upfront.

While reducing the upfront payment to 50 percent represents an improvement over the status quo, this still forces builders to finance substantial sums for extended periods before homes can be delivered to market. Developers often carry these costs for years while projects move through permitting, construction, and sales. The financing expenses associated with these prepaid fees increase overall project costs and risk.

Importantly, other legislation under consideration by the General Assembly would provide more meaningful relief—reducing upfront financial burdens to a greater degree, lowering risk to builders, and delivering more significant cost savings to home buyers.

Regardless of whether the requirement is 100 percent or 50 percent upfront, these costs are not absorbed by the development community. They are built into the final price of new homes. When government increases—or accelerates—the cost to build, the ultimate result is higher home prices for Maryland families.

What's Missing: Real Housing Supply Reform

Mandating higher production while simultaneously authorizing higher housing-related taxes creates conflicting signals. Meaningful supply reform requires reducing barriers and lowering costs—not expanding revenue mechanisms tied to housing, which is the entire basis of this legislation.

Maryland REALTORS® has been on record for many years in staunch support of policies that increase housing supply, streamline approvals, and expand attainable homeownership opportunities. However, Senate Bill 267 does none of these things.

Instead, it authorizes higher transfer taxes, enables new property tax subclasses, accelerates development fee collections, and restricts who may purchase homes. The practical effect of these provisions is clear: they raise costs for homeowners, home buyers, and home sellers for the sole purpose of expanding county revenues.

Housing affordability cannot be achieved by taxing housing more heavily. For these reasons, we urge an unfavorable report on Senate Bill 267.

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