

## SB 389: “Maryland Transit & Housing Opportunity Act of 2026” Maryland Municipal League Proposed Amendments

### Financing - Impact Fees & Excise Taxes

- Any development excise tax or development impact fee imposed on a residential real estate project (defined as a mixed-use development with housing that is located in a TOD served by a rail transit station that receives at least hourly service from 8a-6pm Mon-Fri) cannot be collected until after construction is complete and a certificate of occupancy, occupancy permit, or other local equivalent for the residential real estate project has been issued.
  - Problem: Tying collection to certificate of occupancy shifts 100% of financing risk to local governments and disconnects fees from the infrastructure timeline.
  - Proposal:
    - Collect up to 50% of development excise taxes or impact fees prior to issuing building permits, and the remaining balance before certificates of occupancy are issued.
    - Impose development impact fees for financing public works and facilities required by new construction.
  - Language:
    - “NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, A LOCAL GOVERNMENT MAY:
      - (1) COLLECT UP TO 50% OF ANY APPLICABLE DEVELOPMENT EXCISE TAX OR DEVELOPMENT IMPACT FEE PRIOR TO THE ISSUANCE OF A BUILDING PERMIT FOR A RESIDENTIAL REAL ESTATE PROJECT; AND
      - (2) COLLECT THE REMAINING BALANCE PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY, OCCUPANCY PERMIT, OR OTHER LOCAL EQUIVALENT FOR THE RESIDENTIAL REAL ESTATE PROJECT.
    - NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO PROHIBIT A LOCAL GOVERNMENT FROM IMPOSING OR COLLECTING DEVELOPMENT IMPACT FEES TO FINANCE PUBLIC WORKS, IMPROVEMENTS, OR FACILITIES REQUIRED TO ACCOMMODATE NEW CONSTRUCTION.”
- A local govt may revoke a certificate of occupancy, occupancy permit, or other local equivalent if the development excise tax or development impact fee is not paid within a reasonable time period set by the local govt.
  - Problem: Revoking a CO affects residents more than the developer, invited litigation, and puts locals in a challenging position politically.
  - Proposal: Local governments may withhold, not revoke, occupancy approvals, which preserves a meaningful enforcement mechanism without creating unintended legal and public safety consequences.
  - Language: “A LOCAL GOVERNMENT MAY WITHHOLD ISSUANCE OF A CERTIFICATE OF OCCUPANCY, OCCUPANCY PERMIT, OR OTHER LOCAL EQUIVALENT UNTIL ALL REQUIRED DEVELOPMENT EXCISE TAXES OR DEVELOPMENT IMPACT FEES ARE PAID.”

### Definition of “Enterprise Zone”

- Adds TODs served by rail transit stations receiving at least hourly service from 8a-6pm Mon-Fri. These are exempted from the limit on the number of EZs the state can designate under 5-704(b).
  - Problem: Automatically designating TODs as enterprise zones fundamentally reorients the program from economic distress to growth management, while forcing municipalities to give up local property tax dollars without accounting for infrastructure capacity, zoning authority, or local fiscal impacts.
  - Solution A
    - Proposal: A designation under this subsection shall not be effective unless the local government agrees to provide the tax incentives authorized under this subtitle.

