MARYLAND Association of COUNTIES

Senate Bill 325

Land Use - Permitting - Development Rights (Maryland Housing Certainty Act)

MACo Position: **SUPPORT WITH AMENDMENTS**

To: Education, Energy and the Environment Committee

Date: February 17, 2026

From: Dominic Butchko & Michael Sanderson

The Maryland Association of Counties (MACo) **SUPPORTS** SB 325 **WITH AMENDMENTS**. This bill would overturn existing Maryland case law to establish an earlier vesting standard for residential projects and would adjust impact fee and excise tax payment timing to the issuance of a use and occupancy permit. Counties offer amendments to resolve issues of timing and application, and do so in the pursuit of a bill that creates wise, and clearly defined, measures to spur needed housing growth.

During the closing days of the 2025 legislative session, a central unresolved issue was legislation that moved Maryland from a "late vesting" framework to an "early vesting" framework—shifting when new regulations may be applied to projects. That policy direction mirrors the intent of SB 325. However, the debate in 2025 also reflected a practical challenge: counties and legislators had limited time to fully evaluate how such a significant change would affect regulatory administration and the future development landscape.

Since then, counties have worked extensively over the interim to develop pro-housing, implementation-focused reforms for the 2026 session through SB 267, the Building Affordably in My Back Yard (BAMBY) Act. Like SB 325, BAMBY includes major provisions on regulatory and construction certainty (i.e. vesting) and smarter timing for impact fees. MACo has been working with bill sponsors, the Maryland Building Industry Association, and the Administration to build a foundation of agreement around a core principle: the rules in effect when an application is deemed complete should generally be the rules that govern project review and approval.

That said, important gaps remain between stakeholders on how to best implement this transition in a clear, workable way. MACo's amendments (outlined below) are intended to close those gaps and ensure Maryland can unveil an early vesting standard consistently and responsibly. These amendments would make a bill's passage smoother by reducing ambiguities and overlaps in existing bill language. MACo remains active in daily conversations to help create such a path forward.

As the frontline actor in land use – and housing policy – counties remain committed to working with the Administration in advancing comprehensive housing solutions. The amendments included on the following pages are critical in nature, without which SB 325 will likely have severe operational and fiscal consequences for Maryland's counties and communities. For this reason, MACo urges the Committee to amend SB 325 to remedy these concerns, and issue a **FAVORABLE WITH AMENDMENTS** report.

MACo Amendments for SB 325

Amendment #1 *- Clarifies that the bill applies only to complete applications. The concept of a "substantially complete" application introduces significant administrative complexity and is not realistically implementable as drafted. This also runs counter to the overall intent of providing additional certainty.*

On page 6, in line 4 after "(H)", strike through line 7 and substitute,

"COMPLETE APPLICATION" MEANS THE INITIAL SUBMITTAL OF AN APPLICATION WITH ALL MATERIALS AND INFORMATION REQUIRED FOR PROCESSING AND SUBSTANTIVE REVIEW AS DEFINED AND DETERMINED BY THE LOCAL JURISDICTION OR THE COMMISSION.".

On page 6, in lines 14, 19, 25, 31; page 7, lines 3, 5, 31; and page 8, line 8, strike "SUBSTANTIALLY".

Amendment #2 *- The affordable housing challenges in rural Maryland are fundamentally different from those in the urban core. Without significant infrastructure investment, urban-centric mandates can exacerbate strains that many counties are already struggling to manage. This amendment refocuses the legislation on areas with sufficient capacity to accommodate additional growth.*

On page 6, after line 8, insert,

"12–201.

THIS SUBTITLE APPLIES ONLY TO:

(1) A COUNTY WITH A POPULATION OF AT LEAST 150,000 RESIDENTS, NOT INCLUDING ANY RESIDENTS OF A MUNICIPAL CORPORATION LOCATED WITHIN THE COUNTY; AND

(2) A MUNICIPAL CORPORATION.";

On page 6, in line 9, strike "12-201" and substitute "**12-202**"

Amendment #3 *– Clarifies that regulatory certainty for a "complete application" lasts three years, unless an extension is granted. Without a clear time limit, applications could remain open indefinitely ("zombie applications"), preventing new requirements from applying and creating significant administrative burdens for counties.*

On page 6, in line 10 after "SUBSECTION" insert,

"AND FOR A PERIOD OF 3 YEARS UNLESS EXTENDED BY THE LOCAL JURISDICTION OR THE COMMISSION,".

(amendments continue on next page)

Amendment #4 *– Extends the timeframe for counties to certify whether an application is complete from 15 days to 30 days. Even the best-resourced jurisdictions cannot reliably ensure that every application—regardless of size or complexity—can be fully reviewed for completeness within a 15-day window.*

On page 6, in line 16, strike "15" and substitute "**30**".

Amendment #5 *- Clarifies that applicants must respond to county requests for additional, revised, or updated information within a reasonable timeframe to keep the application moving. If an applicant does not respond, the application would lose the bill's regulatory certainty protections—preventing projects from "parking" an incomplete file indefinitely while still claiming vesting and fixed-review standards.*

On page 6, in line 28 after (3) strike through line 32 and substitute

"(I) IF DURING THE APPLICATION REVIEW PROCESS AN APPLICANT FAILS TO RESPOND TO A REQUEST FROM A LOCAL JURISDICTION OR THE COMMISSION FOR ADDITIONAL INFORMATION OR APPLICATION AMENDMENTS, THE PROVISIONS OF SUBSECTIONS (A)(1) OF THIS SECTION DO NOT APPLY TO THE APPLICATION.

(II) A LOCAL JURISDICTION OR THE COMMISSION SHALL ESTABLISH THE TIME FRAME FOR RESPONSES REQUIRED UNDER THIS PARAGRAPH BEFORE THE SUBMISSION OF THE APPLICATION.".

Amendment #6 *- Page 7, lines 1–7 and lines 18–20 directly conflict and treating multi-stage projects as a single unit for these "freezing" provisions would be impossible for counties to implement as written. Striking lines 1–7 and retaining lines 18–20 provides greater clarity and workability – treat massive multi-stage projects as separable units in sequence.*

On page 7, strike lines 1-7.

Amendment #7 *– Clarifies that once a project has received its approvals and has been awarded permits, the project is vested for the period of the validly issued permits.*

On Page 7, strike lines 12-17, and substitute

"(B) AFTER A HOUSING DEVELOPMENT PROJECT HAS RECEIVED ALL REQUIRED PERMITS, THE PROJECT SHALL HAVE A VESTED RIGHT TO THAT AUTHORIZED USE AND DEVELOPMENT FOR THE VALIDITY OF THE PERMIT, AS DETERMINED BY THE LOCAL REGULATORY AUTHORITY OR THE COMMISSION.".

(amendments continue on next page)

Amendment #8 *- Clarifies key implementation guardrails, including how the bill interacts with county APFO requirements, existing permit expiration timelines, and related administrative procedures. This ensures projects remain subject to core public facility capacity standards and prevents unintended conflicts with established local permitting rules.*

On page 7 through 8, strike beginning with line 22 on page 7 down through line 9 on page 8, and substitute

"(1) PREVENT THE APPLICATION OF REGULATIONS THAT ARE ADOPTED IN ACCORDANCE WITH APPLICABLE LAW AND NECESSARY TO PROTECT PUBLIC HEALTH AND SAFETY;

(2) EXTEND ANY ADEQUATE PUBLIC FACILITY APPROVAL REQUIREMENTS BEYOND THE TIME FRAME APPROVED BY THE LOCAL JURISDICTION OR THE COMMISSION;

(3) ALLOW A RESIDENTIAL OR MIXED–USE DEVELOPMENT PROJECT TO BEGIN OR CONTINUE CONSTRUCTION IF THE ADEQUATE PUBLIC FACILITY APPROVAL HAS EXPIRED;

(4) PREVENT THE EXPIRATION OF A HOUSING DEVELOPMENT PROJECT APPLICATION OR PERMIT IN ACCORDANCE WITH THE LAWS OR REGULATIONS OF THE STATE, A LOCAL JURISDICTION, OR THE COMMISSION; OR

(5) LIMIT THE ABILITY OF A LOCAL JURISDICTION OR THE COMMISSION TO:

(I) EXTEND THE DURATION OF A VALID PERMIT FOR A RESIDENTIAL OR MIXED–USE DEVELOPMENT PROJECT;

(II) EXECUTE A DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT UNDER TITLE 7, SUBTITLE 3 AND TITLE 25, SUBTITLE 5 OF THIS ARTICLE;

(III) APPROVE A ZONING TEXT AMENDMENT, APPLICATION FOR REZONING, OR OTHER LOCAL EQUIVALENT TO INCREASE THE DENSITY OF A RESIDENTIAL OR MIXED–USE DEVELOPMENT PROJECT BEYOND THE MAXIMUM ALLOWABLE AMOUNT AT THE TIME A COMPLETE APPLICATION IS VERIFIED; OR

(IV) REQUIRE APPROVALS OR PERMITS FOR EACH PHASE OF A HOUSING DEVELOPMENT PROJECT SUBJECT TO A PHASE DEVELOPMENT PLAN IN ACCORDANCE WITH THE LAWS AND REGULATIONS IN EFFECT AT THE TIME OF SUBMISSION OF A COMPLETE APPLICATION FOR EACH RESPECTIVE PHASE.".

(amendments continue on next page)

Amendment #9 *- The affordable housing challenges in rural Maryland are fundamentally different from those in the urban core. Without significant infrastructure investment, urban-centric mandates can exacerbate strains that many counties are already struggling to manage. This amendment refocuses the legislation on areas with sufficient capacity to accommodate additional growth.*

On page 9, strike lines 1-13 and substitute

"THIS SECTION APPLIES ONLY TO:

(1) BALTIMORE CITY;

(2) A COUNTY WITH A POPULATION OF AT LEAST 150,000 RESIDENTS MINUS ANY RESIDENTS OF A MUNICIPALITY WITHIN THE COUNTY; AND

(3) A MUNICIPALITY.".

Amendment #10 *- Establishes a bifurcated impact fee payment schedule, allowing counties to collect up to 50% at building permit issuance, with the remaining balance due as a condition of issuing a use and occupancy permit. This approach helps reduce upfront cost barriers while still ensuring counties receive the revenue needed to fund growth-related infrastructure before units are occupied and demands on public services increase.*

On page 9, in line 14, after (C), strike through line 28 and substitute

"(C) (1) A COUNTY OR MUNICIPALITY MAY REQUIRE UP TO 50% OF THE FULL PAYMENT OF A DEVELOPMENT EXCISE TAX OR DEVELOPMENT IMPACT FEE IMPOSED ON A RESIDENTIAL UNIT, INCLUDING A MIXED–USE PROJECT THAT INCLUDES RESIDENTIAL UNITS, AS A PRECONDITION FOR THE ISSUANCE OF A BUILDING PERMIT.

(2) A COUNTY OR MUNICIPALITY MAY REQUIRE THE REMAINING OR FULL PAYMENT OF A DEVELOPMENT EXCISE TAX OR DEVELOPMENT IMPACT FEE IMPOSED ON A RESIDENTIAL UNIT, INCLUDING A MIXED–USE PROJECT THAT INCLUDES RESIDENTIAL UNITS, AS A PRECONDITION BEFORE THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY, OCCUPANCY PERMIT, OR OTHER LOCAL EQUIVALENT APPLICABLE TO THE RESIDENTIAL UNIT.".