



Senate Bill 389

Land Use - Transit-Oriented Development – Alterations (Maryland Transit and Housing Opportunity Act)

MACo Position: **SUPPORT
WITH AMENDMENTS**

To: Finance and Education, Energy, and the
Environment Committees

Date: February 17, 2026

From: Dominic J. Butchko and Karrington Anderson

The Maryland Association of Counties (MACo) **SUPPORTS SB 389 WITH AMENDMENTS**. This bill proposes various changes to land use and taxation in areas surrounding designated Transit Oriented Developments (TODs). The bill would: (1) designate all TODs as enterprise zones; (2) preempt county minimum off-street parking requirements within 0.25 miles of a designated TOD; (3) require mixed-use zoning for most residential and commercial land within 0.5 miles of a TOD; (4) exempt certain state-owned properties from most land use and zoning requirements; and (5) limit when counties may impose impact fees or excise taxes that help fund necessary infrastructure expansions. MACo supports the goal of encouraging TOD growth, but recommends clarifying amendments to better align the bill's intent with practical implementation.

Maryland continues to face significant growth and affordability challenges, alongside major shifts in commuting patterns that have reduced transit ridership and changed how residents and workers move around the state. In that context, SB 389 seeks to catalyze new investment near transit by promoting mixed-use development, eliminating parking minimums, and providing enterprise zone incentives around TOD areas.

Attached are MACo's seven proposed amendments, with a brief explanation for each. MACo is actively coordinating with the Administration on these refinements, which counties view as necessary to ensure the bill can be implemented consistently and responsibly at the local level.

As drafted, counties have concerns about how SB 389 would operate in practice—particularly as it relates to infrastructure capacity, local planning consistency, and predictable administration. The clarifying amendments would better align the bill language with the Administration's objectives and on-the-ground realities. Accordingly, MACo urges the Committee to issue a **FAVORABLE WITH AMENDMENTS** report on SB 389.

MACo Amendments for SB 389

Amendment #1 – Retains automatic enterprise zone designation for TOD areas, but associated property tax benefits are contingent upon local government approval/designation (parallel to current Enterprise Zone two-party process, where locals designate/apply, and State approves).

On page 2, after line 27, insert:

“BY repealing and reenacting, with amendments,
Article – Tax – Property Section 9-103(b)
Annotated Code of Maryland
(2019 Replacement Volume and 2025 Supplement)”.

On page 13, after line 11, insert:

“Article – Tax - Property
§9-103.

(b) (1) EXCEPT AS PROVIDED IN ITEM (3) OF THIS SUBSECTION, The governing body of a county or of a municipal corporation shall grant a tax credit under this section against the property tax imposed on the eligible assessment of qualified property.

(2) In Montgomery County the lessor of real property eligible for a credit under this section shall reduce the amount of taxes for which a tenant is contractually liable under the lease agreement by the amount of any credit allowed under this section that is attributable to improvements made by the tenant.

(3) IN A REGION DESIGNATED AS AN ENTERPRISE ZONE THROUGH THE PROCEDURE IN TITLE 7, SUBTITLE 1 OF THE TRANSPORTATION ARTICLE, OR ANY OTHER DESIGNATION NOT ORIGINATING WITH THE LOCAL GOVERNING BODY, THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION MAY, THROUGH ORDINANCE OR RESOLUTION, GRANT A TAX CREDIT UNDER THIS SECTION AGAINST THE PROPERTY TAX IMPOSED ON THE ELIGIBLE ASSESSMENT OF QUALIFIED PROPERTY.”.

(amendments continue on next page)

Amendment #2 – Clarifies that local jurisdictions may establish parking requirements or limits based on an adequate parking study. In some settings, higher-density development can create real spillover impacts, and right-sized parking standards may be appropriate to protect surrounding communities. Requiring a study-based justification preserves flexibility and avoids one-size-fits-all mandates that could produce unintended consequences.

On page 7, after line 17, insert:

“(4) “ADEQUATE PARKING STUDY” MEANS A DATA-SUPPORTED ANALYSIS, PREPARED FOR A SPECIFIC GEOGRAPHIC AREA, THAT A LOCAL JURISDICTION HAS USED TO DETERMINE WHETHER ONE OR MORE PARKING REQUIREMENTS, PARKING RATIOS, OR PARKING MANAGEMENT STANDARDS ARE NECESSARY FOR THE PROPER SAFETY AND BENEFIT OF THE IMMEDIATE AREA.”.

On page 8, strike lines 15-19 and insert:

“UPON A FINDING THAT THE AREA WILL BE MATERIALLY PARKING-CHALLENGED BY ADDITIONAL DEVELOPMENT, A LEGISLATIVE BODY OR OTHER LOCAL AGENCY WITH LAND USE AUTHORITY MAY IMPOSE A MINIMUM OFF-STREET PARKING REQUIREMENT ON A RESIDENTIAL OR MIXED-USE DEVELOPMENT THAT IS LOCATED WITHIN 0.25 MILES OF A RAIL TRANSIT STATION THAT RECEIVES AT LEAST HOURLY SERVICE ON AVERAGE FROM 8:00 A.M. UNTIL 6:00 P.M. MONDAY THROUGH FRIDAY.”.

Amendment #3 – Clarifies the grandfathering clause applies to properties zoned by this date, not just properties zoned on this date.

On page 8, in line 9, strike “ON” and insert “**BY**”.

Amendment #4 – Clarifies that local land use and zoning standards are only preempted for state projects with an affordability requirement of 60% area median income or below. This is in line with the bill’s intent of furthering housing affordability and avoids one-size-fits-all mandates that could produce unintended consequences.

On page 9, strike lines 7-15 and substitute,

“(F) FOR STATE-OWNED LAND IN USE FOR A TRANSPORTATION PURPOSE CONTIGUOUS TO A RAIL TRANSIT STATION THAT RECEIVES AT LEAST HOURLY SERVICE ON AVERAGE FROM 8:00 A.M. UNTIL 6:00 P.M. MONDAY THROUGH FRIDAY, A LEGISLATIVE BODY OR OTHER LOCAL AGENCY WITH LAND USE AUTHORITY MAY NOT IMPOSE LIMITATIONS OR RESTRICTIONS ON LAND USE CLASSIFICATION, HEIGHT, OR SETBACK, OR ANY SIMILAR REQUIREMENTS IF:

(amendments continue on next page)

(1) THE LAND IS SUBJECT TO A TRANSIT-ORIENTED DEVELOPMENT PLAN APPROVED BY THE DEPARTMENT OF TRANSPORTATION AND DEVELOPED IN COORDINATION WITH THE LOCAL JURISDICTION, AND

(2) THE PROJECT INCLUDES AN AFFORDABLE HOUSING REQUIREMENT WHERE A SUBSTANTIAL PORTION OF UNITS ARE AFFORDABLE TO RESIDENTS EARNING SIXTY PERCENT AREA MEDIAN INCOME OR BELOW, AS DETERMINED BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

Amendment #5 – Clarifies that the preemption of parking limits does not override county adequate public facility protection.

On page 9, in line 16 after “SUBSECTIONS”, insert “**(C)(2).**”.

Amendment #6 – Counties are currently negotiating with the Administration and the Maryland Building Industry Association on a framework to better align the timing of impact fees and excise taxes with project financing. This amendment better aligns the bill with the framework being negotiated.

On page 12, lines 13-27, strike and substitute,

“(D) (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.”.

Amendment #7 – Establishes a sunset for the bill’s provisions. Counties recognize the need for aggressive action to meet today’s challenges, but local governments have long been responsible for managing growth and implementing state policy on the ground. A sunset ensures the State can reassess these measures as conditions evolve, while preserving counties’ ability to carry out that core function over time.

On page 13, in line 21 after “ENACTED,” through “2026” in line 22, strike and substitute:

“That this act shall take effect July 1, 2027, and shall remain effective for a period of 10 years. With no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.”.