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Maryland Housing Certainty Act (HB 548/SB 325)
Frequently Asked Questions

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Section 1: Overview

1. **What is the purpose of the Maryland Housing Certainty Act?**

   The Maryland Housing Certainty Act is intended to boost housing affordability in Maryland by reducing some of the costs associated with building housing. By reducing uncertainty in approval and permitting processes, and eliminating carrying costs associated with up-front payment of development impact fees and excise taxes, the Housing Certainty Act will bring housing to market more quickly and less expensively by reducing uncertainty and lowering holding expenses for builders.

2. **When does the Maryland Housing Certainty Act go into effect?**

   The Maryland Housing Certainty Act went into effect October 1, 2026.

3. **What does the Maryland Housing Certainty Act do?**

   The Housing Certainty Act lowers costs and increases certainty in the housing construction process by requiring local jurisdictions to evaluate an application for a housing development project using only the rules and regulations that were in place when the application was submitted. Then, if a project is approved, the Housing Certainty Act establishes a 5-year "vested rights" period during which local rule changes cannot modify or block the new development. It also requires local jurisdictions to defer the collection of impact fees and development excise taxes until after construction of a residential housing development is complete.

Section 2: Applications

1. **What types of applications are covered under the Housing Certainty Act?**

   The Housing Certainty Act applies to any housing development project application submitted to a local jurisdiction for the purpose of obtaining approval for a housing development project. A "housing development project application" includes any application for a building permit, certification,

authorization, site plan approval, subdivision approval, conceptual plan, or any other determination relating to a housing development project.

2. **What types of housing development projects are impacted?**

   The Housing Certainty Act applies to any new construction or substantial renovation of a residential real estate project. A "residential real estate project" is any project that includes any number of residential units, including mixed-use projects.

3. **Do the Housing Certainty Act's provisions impact non-residential development?**

   Generally, the provisions of the Housing Certainty Act only apply to new construction or substantial renovation of residential real estate. However, non-residential portions of a mixed-use project that contains residential units are also subject to the Act's provisions. Purely non-residential projects are not.

4. **When are local rules "locked in" for purposes of approving or denying an application for a housing development project?**

   Under the Housing Certainty Act, rules are "locked in" at the time of submission of a complete housing development project application, meaning local jurisdictions are required to determine whether to approve or deny an application based solely on the duly adopted laws and regulations that were in effect at the time the complete application was submitted. This provision does not prohibit local jurisdictions from making changes to their zoning codes, ordinances, or other applicable regulations, but an application must be evaluated using the rules that were in effect at the time a complete application was submitted.

5. **Who is responsible for documenting the duly adopted laws and regulations that were in effect at the time each complete application was submitted?**

   Local jurisdictions that process or approve housing development project applications.

6. **What is a "complete" application?**

   For the purposes of the Housing Certainty Act, a "complete application" is one that contains all materials and information required for substantive review, as determined by the local jurisdiction. A "complete application" may contain nonsubstantive errors, omissions, or similar inconsequential deficiencies.

7. **How long does a local jurisdiction have to determine whether an application is complete?**

   A local jurisdiction has 30 days after receipt of a housing development project application to determine whether it is a "complete application" for the purposes of the Housing Certainty Act.

8. **What happens if the application is determined to be incomplete?**

   If the local jurisdiction determines that an application is incomplete, it must promptly notify the applicant and provide the applicant with a list of deficiencies and a reasonable timeframe for fixing the deficiencies.

9. **What happens if a jurisdiction does not make determination on completeness within 30 days?**

   If a local jurisdiction does not notify the applicant of its determination on completeness within 35 days after receiving the application, the application is deemed to be complete, meaning that the rules in

effect at the time the application was submitted must be used to evaluate the application, and any subsequent applications related to the same project. This does not, however, mean that the application is automatically approved – the application would still be required to undergo substantive review using the rules in effect when it was submitted.

10. Is a complete application the same as an approved application?

No. A complete application means it contains all materials and information required for substantive review, as determined by the local jurisdiction. For a complete application to be approved, it still needs to undergo substantive review using the duly adopted laws and regulations in effect when it was submitted.

11. If an application is returned as incomplete and re-submitted, how long does the jurisdiction have to determine its completeness?

For a re-submitted application, the local jurisdiction has 30 days to determine completeness after receiving the re-submitted application.

12. If an application is returned as incomplete and re-submitted, is it still "locked in" based on the date the application was first submitted?

Rules and regulations are "locked in" from the date an application deemed to be complete was submitted. Therefore, for an application initially returned as incomplete, resubmitted, and deemed complete after resubmission, the rules and regulations in effect at the time of resubmission will govern the evaluation of the application.

13. What happens when a local jurisdiction requires approval of multiple applications for a housing development project?

When a local jurisdiction requires multiple applications for the completion of a single housing development project (for instance, an initial site plan application followed by a building permit application), the rules in effect at the time the first complete application is submitted for any process that may culminate in the completion of a housing development project, must be used to evaluate any other applications submitted for the same project.

14. What is a "process that may culminate in the completion of a housing development project?"

A "process that may culminate in the completion of a housing development project" refers to the full approval and permitting process for such a project. Under the Maryland Housing Certainty Act, the date of the first complete application submission in such a process – typically an initial subdivision or site plan – is the date on which the laws and regulations in effect are "locked in" for subsequent approvals or permits related to that project. Note that, for the purposes of the Housing Certainty Act, zoning text amendments or applications for rezoning (or other local equivalents) are not considered part of a process that may culminate in the completion of a housing development project. In other words, rules and regulations do not "lock in" at the time of a request for a zoning text amendment or submission of an application for rezoning.

15. Is every local jurisdiction in Maryland subject to the Housing Certainty Act?

The Housing Certainty Act applies to all local jurisdictions in Maryland that process or approve housing development project applications, including those without planning and zoning authority but with permitting authority.

16. **What enforcement mechanisms are in the Housing Certainty Act? Who enforces it? What remedies do I have available if a jurisdiction is refusing to honor my vested rights or otherwise follow the requirements of the Housing Certainty Act?**

    The Maryland Housing Certainty Act does not explicitly contain any enforcement measures or mechanisms. Typically, if a local jurisdiction or government body is failing to act as required under the Act, the remedy would be to file for mandamus or injunctive relief in Circuit Court, seeking a court order requiring the local jurisdiction to follow the procedures outlined in the Act.

17. **Who can I contact if the jurisdiction I work with isn't complying with the Housing Certainty Act regarding my project?**

    If you believe a local jurisdiction or regulatory authority is not complying with the Housing Certainty Act, contact the State Housing Ombudsman at steven.palmer@maryland.gov.

Section 3: Vested Rights

1. **How long are development rights vested once all required approvals are obtained?**

   After all required approvals are given for a housing development project, the proponent (usually the developer) of the project has a vested right to the authorized use and development for a period of either five (5) years or a period determined by the local regulatory authority, whichever is longer.

2. **What does it mean for development rights to "vest?"**

   "Vesting" refers to the conversion of an approved authorized use and development to a legally protected and enforceable right to that authorized use and development. Under the Maryland Housing Certainty Act, after a housing development project has received all required approvals, the developer cannot, in most cases, be required to modify the project to satisfy subsequently adopted regulations for at least five (5) years after the final approval is granted.

3. **When does the vesting period begin?**

   The vesting period begins when the final required approval – typically a building permit – for a housing development project is obtained.

4. **Is vesting the same as local regulations "locking in"?**

   No. The regulations that a jurisdiction uses to evaluate a housing development application "lock in" on submission of the first complete application, and then development rights vest on approval of the final permit required for development. For example, a subdivision application could "lock in" regulations for the application and approval process, but development rights for that housing development project would not vest, and the 5-year vesting period would not begin, until the project receives the final approval necessary to begin development.

5. **How does vesting work for developments that are built in multiple phases?**

   For developments built in multiple "phases" under a phased development plan, each phase is treated as a separate housing development project for purposes of the Housing Certainty Act, meaning that approvals for one phase of a project do not create a vested right to complete subsequent phases of the project. Approvals for subsequent phases must be obtained separately.

6. **How is a "phase" defined?**

   The Maryland Housing Certainty Act defines a "phase" as "a discrete, planned portion of a larger housing development project that: 1) is constructed independently of and sequentially with other portions of the project; 2) includes 25 or more housing units; and 3) includes any improvements necessary to function independently from the other portions of the project." In other words, portions of housing development projects that do not fit all three of those criteria are not considered "phases," and approval of the first portion of the project would result in vesting of the entire project.

7. **How are expirations of approvals handled?**

   The Maryland Housing Certainty Act does not prevent the expiration of an approval of a housing development project in accordance with the laws or regulations governing the local jurisdiction. In other words, notwithstanding the five-year "vested rights" period established upon final approval for a project, a specific approval may expire if applicable law limits it to a shorter period.

8. **Are local jurisdictions prohibited from changing zoning or other regulations during a project's vesting period?**

   No, local jurisdictions may duly change zoning or other regulations through legislative or other prescribed processes at any time. A project with development rights that vested prior to the change, however, would, during the five-year "vested rights period," remain entitled to the use and development that was authorized.

9. **Are there any exceptions to the vested rights period?**

   The Maryland Housing Certainty Act does not limit the ability of a local jurisdiction to 1) require separate approvals for each phase of a housing development project, as outlined above, 2) enforce health and safety laws or regulations that are necessary to address immediate threats to public safety, 3) execute a development rights and responsibilities agreement under Title 7, Subtitle 3 of the Land Use Article, or 4) approve a zoning text amendment, application for rezoning, or other local equivalent to increase the density of a housing development project beyond the maximum allowable amount at the time of complete application submission. The provisions of the Housing Certainty Act also apply to a local jurisdiction only to the extent that its requirements do not conflict with other state or federal law or regulation. In other words, a state or federal law or regulation that explicitly overrides the Housing Certainty Act, or explicitly states that the law or regulation is applicable throughout development, as opposed to at the time of application, would not be subject to the requirements of the Housing Certainty Act.

10. **How is "immediate threat to public safety" defined?**

    The Maryland Housing Certainty Act does not define "immediate threat to public safety," but, generally, an immediate threat to public safety would include dangerous conditions that demonstrably present an imminent danger to human life or health, such as an unstable building in danger of collapse or a leak of toxic chemicals.

11. **How are development rights and responsibilities agreements (DRRAs) handled under the Housing Certainty Act?**

    The Housing Certainty Act does not limit the ability of a local jurisdiction to execute a DRRA with a developer that establishes development rules and limitations and obligations for the local jurisdiction

and the developer. An executed DRRA would override any limitations laid out in the Housing Certainty Act.

Section 4: Impact Fees, Surcharges, and Excise Taxes

1. **What is a development impact fee?**

   A development impact fee is a fee imposed by a local jurisdiction on a housing development project for the purpose of financing any of the capital costs of additional or expanded public works, improvements, and facilities required to accommodate new construction or development.

2. **What is a surcharge?**

   "Surcharge" is a term used by some local jurisdictions to describe certain fees charged on residential development. A surcharge that fits the definition of "impact fee" or "development excise" tax under the Housing Certainty Act is subject to the terms of the Act.

3. **What is a development excise tax?**

   A development excise tax is an excise tax imposed by a local jurisdiction on the construction or improvement of a building. Development excise taxes typically differ from development impact fees in that they are typically less directly related to the impact of a specific development, and are typically used by a local jurisdiction for broader revenue-raising purposes.

4. **Are utility connection fees a type of development impact fee or excise tax?**

   No, utility connection fees are not impact fees or excise taxes, and are thus not subject to the Maryland Housing Certainty Act. A local jurisdiction may require payment of utility connection fees at any time.

5. **Does the Maryland Housing Certainty Act restrict local jurisdictions' ability to set and collect impact fees and development excise taxes to fund infrastructure?**

   The Housing Certainty Act does not prohibit or restrict local jurisdictions' authority to establish or modify impact fees or development excise taxes on residential (or other) construction. However, it generally prohibits local jurisdictions from requiring payment of impact fees or development excise taxes on residential real estate projects until after construction is complete and all requirements for a certificate of occupancy, use and occupancy permit, or other local equivalent have been met.

6. **What jurisdictions require payment of development impact fees, surcharges or development excise taxes for residential projects?**

   As of October 1, 2026, the following counties require payment of development impact fees, surcharges, or development excise taxes for residential projects: Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Charles, Frederick, Harford, Howard, Montgomery, Prince George's, Queen Anne's, St. Mary's, Talbot, and Washington. For up-to-date information on county or municipal development impact fees, surcharges, or development excise taxes, contact your local permitting authority or office.

7. **When may a local jurisdiction require payment of an impact fee or development excise tax under the Maryland Housing Certainty Act?**

   In general, a local jurisdiction may not collect or require payment of an impact fee or development excise tax until construction of the residential real estate project is complete and all requirements for a certificate of occupancy, occupancy permit, or other local equivalent for the project have been met.

8. **Can a local jurisdiction bill a residential developer or builder for impact fees or development excise taxes before construction of a project is complete?**

   Yes. The Maryland Housing Certainty Act does not prohibit a local jurisdiction from billing or invoicing for impact fees or development excise taxes before construction is complete, but the local jurisdiction may not *require payment to be made* until construction is complete and all requirements for a certificate of occupancy, occupancy permit, or other local equivalent for the project have been met.

9. **How can local jurisdictions ensure payments are made?**

   The Maryland Housing Certainty Act allows local jurisdictions to require payment of a development excise tax or impact fee as a precondition to conducting a final inspection of the residential real estate project, but not more than 30 days before the date of the inspection. It also allows a local jurisdiction to deny, withhold, or revoke a certificate of occupancy, occupancy permit, or other local equivalent if the development excise tax is not paid within a reasonable time period set by the local jurisdiction.

10. **Are there any exceptions to the requirement that local jurisdictions wait until after construction is complete to require payment of impact fees or development excise taxes?**

    The Maryland Housing Certainty Act does not apply to the collection of a development excise tax or impact fee that was imposed in order to finance a county debt that was incurred on or before January 1, 2026. This means that, if such a fee's purpose is to finance such a debt, it can be billed and payment may be required at any time determined by the local jurisdiction. Check with your local jurisdiction's permitting authority to determine whether its fees fall into this category.

11. **What is a "reasonable time period" in which a jurisdiction may require impact fees or development excise taxes to be paid?**

    The Maryland Housing Certainty Act does not define "reasonable time period," but this provision is intended to allow a developer, acting diligently and in good faith, a meaningful opportunity to determine the amount due and make the required payment, taking into account the nature and amount of the charges, the circumstances of the project, the local jurisdiction's processes, and the purpose of the statute.