Montgomery County Council

Committee: PHED
Committee Review: At a future date
Staff: Christine Wellons, Legislative Attorney
Purpose: To receive testimony – no vote expected
Keywords: #NoRentIncreases
#RentStability

UPDATED
AGENDA ITEM #6
September 14, 2021
Public Hearing

SUBJECT

Expedited Bill 30-21, Landlord-Tennant Relations – Restrictions During Emergencies – Extended Limitations Against Rent Increases and Late Fees

Lead Sponsor: Councilmember Jawando

EXPECTED ATTENDEES

Public speakers

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A; hear public testimony

DESCRIPTION/ISSUE

On April 23, 2020, the County Council enacted Expedited Bill 18-20, the COVID-19 Renter Relief Act, which prohibited landlords from raising rent above certain guidelines during the COVID emergency declared by Governor Hogan, and for a 90-day period after the expiration of the emergency.

Expedited Bill 30-21 would extend the prohibition against raising rents above the guidelines until 1 year after the expiration of the emergency. In addition, the bill would prohibit charging fees for late rent payments for 1 year after the expiration of the emergency.

The COVID emergency declared by Governor Hogan expired on August 15, 2021. Therefore, the rent stabilization under the COVID-19 Renter Relief Act is scheduled to expire on November 21, 2021. If Expedited Bill 30-21 were adopted, then the rent stabilization (in addition to late fee relief) would extend until August 15, 2022.

SUMMARY OF KEY DISCUSSION POINTS

- N/A; public hearing

<u>This report contains:</u>

Alternative format requests for people with disabilities. If you need assistance accessing this report you may submit alternative format requests to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at adacompliance@montgomerycountymd.gov

F:\LAW\BILLS\2130 Landlord Tenant - Late Fees During Emergencies\PH Cover Sheet.docx

Agenda Item #6
September 14, 2021
Public Hearing

M E M O R A N D U M

September 9, 2021

TO: County Council

FROM: Christine Wellons, Legislative Attorney

SUBJECT: Expedited Bill 30-21, Landlord-Tennant Relations – Restrictions During Emergencies – Extended Limitations Against Rent Increases and Late Fees [1]

PURPOSE: Public hearing – no Council votes required

Expedited Bill 30-21, Landlord-Tennant Relations – Restrictions During Emergencies – Extended Limitations Against Rent Increases and Late Fees, sponsored by Lead Sponsor Councilmember Jawando, was introduced on July 13, 2021. A worksession of the PHED Committee will be scheduled for a future date.

Expedited Bill 30-21 would build upon expedited legislation passed by the Council on April 23, 2020 in response to the COVID rental crisis. The 2020 legislation – the COVID-19 Renter Relief Act – limited the increase of residential rents during the catastrophic health emergency declared by Governor Hogan on March 5, 2020. Under the COVID-19 Renter Relief Act, the limitation on rent increases lasts for 90 days after the emergency expires.

Under Bill 30-21, the limitation on rent increases would be extended from 90 days to 1 year after the expiration of the emergency. In addition, the bill would prohibit charging late fees accrued during, and for 1 year after, the emergency.

Governor Hogan allowed the catastrophic health emergency to expire on August 15, 2021. Therefore, under the current County law, the rent stabilization would expire on November 15, 2021. Under Bill 30-21, the rent stabilization would be extended until August 15, 2021. In addition, late fees would be precluded from the effective date of the bill until August 15, 2021.

BACKGROUND

The purpose of Expedited Bill 30-21 is to extend certain protections for tenants as they recover from the recent catastrophic health emergency declared by the Governor on March 5 in response to the COVID-19 pandemic.

SPECIFICS OF THE BILL

Under current law, the COVID-19 Renters Relief Act enacted by the Council on April 23, 2020, rents may not be increased above certain rent guidelines during the COVID "catastrophic

[1] #NoRentIncreases
#RentStability

health emergency" declared by Governor Hogan on March 5, 2020, and for 90 days after the expiration of the emergency. Expedited Bill 30-21 would extend the period that rent increases may not exceed certain guidelines from the current 90 days to 1 full year after the expiration of the emergency.

In addition to limiting rent increases, the bill would prohibit landlords from charging fees accrued for late rent payments during the emergency, and for a period of 1 year after the expiration of the emergency. The bill would not require landlords to refund late fees that have been paid already, but it would apply "to any uncollected late fee for rent that became due on or after the date of the emergency, including rent that became due on or after the date of the emergency and before the effective date of this Act."

The bill also would extend the sunset of the Covid-19 Renter Relief Act. The Act currently is scheduled to sunset 181 days after the expiration of the emergency. Bill 30-21 would extend the sunset until 18 months after the expiration of the emergency.

F:\LAW\BILLS\2130 Landlord Tenant - Late Fees During Emergencies\PH Memo.docx

Expedited Bill No. 30-21
Concerning: Landlord-Tenant Relations – Restrictions During Emergencies – Extended Limitations Against Rent Increases and Late Fees
Revised: 7/7/2021 Draft No. 4
Introduced:
Expires:
Enacted:
Executive:
Effective:
Sunset Date: None
Ch. _____, Laws of Mont. Co.

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Jawando

AN EXPEDITED ACT to:

(1) prohibit fees for the late rent payments during certain emergencies;
(2) extend the time after an emergency during which rent increases must not exceed certain guidelines; and
(2) generally amend the law regarding rents and fees for rental housing, and regarding landlord-tenant relations.

By amending
Montgomery County Code
Chapter 29, Landlord-Tenant Relations
Section 29-55

Laws of Montgomery County 2020
Chapter 14

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets**]**	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets**]]**	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Section 29-55 is amended as follows:

29-55. Rent increases and late fees during state of emergency – prohibited.

(a) *Definitions*. In this Section, the following terms have the meanings indicated.

Emergency means the catastrophic health emergency declared by the Governor of Maryland on March 5, 2020, as amended or extended by the Governor, under Section 14-3A-02 of the Public Safety Article of the Maryland Code.

Tenant has the meaning stated in Section 29-1. Tenant includes an existing tenant. Tenant does not include a prospective tenant.

(b) *Rent increases above guidelines – when prohibited*. A landlord must not increase a tenant's rent to an amount that exceeds the voluntary rent guidelines under Section 29-53 if:

(1) the rent increase would take effect during an emergency; or

(2) notice of the rent increase does not comply with subsection (c) and Section 29-54.

(c) *Notices of rent adjustments*.

(1) During an emergency and within **[**90 days**]** 1 year after the expiration of an emergency, a landlord must not notify a tenant of a rent increase if the increase would exceed the voluntary rent guidelines under Section 29-53.

(2) If a landlord provided notice of a rent increase to a tenant prior to the emergency and the increase would exceed the voluntary rent guidelines under Section 29-53, the landlord must inform the tenant in writing:

(A) to disregard the notice; or

(B) that the increase is amended to be less than or equal to the voluntary rent guidelines under Section 29-53.

(d) *Late fees – when prohibited*. A landlord must not charge a fee to a tenant for the nonpayment or late payment of rent due during an emergency, or due within 1 year after the expiration of the emergency.

[(d)**]** (e) *Notice of expiration of emergency*. The Department must post on its website information about the requirements of this Section, including the date that an emergency expires, and the date that is **[**90 days**]** 1 year after the expiration of the emergency.

Sec. 2. Expedited Effective Date. The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

Sec. 3. Application of Late Fee Restrictions. Section 22-55(d), added under section 1 of this Act: (1) applies to any uncollected late fee for rent that became due on or after the date of the emergency, including rent that became due on or after the date of the emergency and before the effective date of this Act; but (2) does not require a landlord to refund to a tenant any payment received by the landlord prior to the effective date of this Act.

Sec. 4. Section 3 of Chapter 14 of the Laws of Montgomery County 2020 is amended as follows:

Sec. 3. Sunset date. This Act must expire, and must have no further force or effect, upon **[**the 181st day**]** 18 months following the expiration of the catastrophic health emergency declared by the Governor of Maryland on March 5, 2020, as amended or extended by the Governor.

LEGISLATIVE REQUEST REPORT

Expedited Bill 30-21
Landlord-Tenant Relations – Restrictions During Emergencies – Extended Limitations Against Rent Increases and Late Fees

DESCRIPTION: Expedited Bill 30-21 would restrict certain rent increases and late fees for one year after the expiration of the COVID-19 emergency, which was declared by the Governor on March 5, 2020.

PROBLEM: The burden of rent increases and late fees for tenants during public emergencies.

GOALS AND OBJECTIVES: Prevent landlords from increasing a tenant's rent above certain guidelines, or from charging late fees, for one year after the expiration of the COVID emergency declared by the Governor.

COORDINATION: Department of Housing and Community Affairs

FISCAL IMPACT: OMB

ECONOMIC IMPACT: OLO

EVALUATION: To be done.

EXPERIENCE ELSEWHERE: Montgomery County's COVID-19 Renter Relief Act of 2020

SOURCE OF INFORMATION: Christine Wellons, Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: N/A

PENALTIES: Class A violation under Section 29-8

F:\LAW\BILLS\2130 Landlord Tenant - Late Fees During Emergencies\LRR.Docx

MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

WILL JAWANDO
COUNCILMEMBER
AT-LARGE

TO: Councilmembers
Chiefs of Staff

FROM: Councilmember Will Jawando

Dear Colleagues:

When Governor Hogan declared a State of Emergency on March 5, 2020 due to COVID-19 pandemic, no one could fully imagine what was ahead. Since that time, there have been over 71,000 COVID-19 cases, 1,600 deaths and the loss of countless businesses in Montgomery County alone. Fifteen months later, as we work through recovery from this devastation, one of the biggest dilemmas we face is the current eviction crisis.

On June 15, 2021, Governor Hogan announced plans to lift Maryland's state of emergency on July 1, 2021. This action will put an end to all the state's mandates and restrictions related to COVID-19, including important tenant protections. At the beginning of the pandemic, I introduced and the Council passed Bill 18-20, Landlord-Tenant Relations-Rent Stabilizations During Emergencies, to protect Montgomery County renters from destabilizing rent increases. The law is tied to the Governor's declaration and will expire 90 days after the end of the state of emergency. Unfortunately, given the depth of the pandemic and economic fallout our residents need more time.

In the coming weeks, I will be introducing legislation to extend the time that rent increases must not exceed the Voluntary Rent Guidelines to one (1) year after the expiration of an emergency and prohibit late fees for late rent payments. This is a critical step that will help build the necessary bridge that families need as we work towards an equitable recovery from the COVID-19 pandemic. A copy of the proposed legislation is included for your review.

We must continue to provide protections and solutions for Montgomery County residents that we have not had to consider in the past and I hope you will join me in supporting this

STELLA B. WERNER OFFICE BUILDING • 100 MARYLAND AVENUE • ROCKVILLE, MARYLAND 20850
240/777-7811 OR 240/777-7900 • TTY 24/777-7914 • FAX 240/777-7989
WWW.MONTGOMERYCOUNTYMD.GOV/COUNCIL

legislation. Please reach out to Pam Luckett in my office if you would like to co-sponsor or have any questions.

Sincerely,

Will Jawando

cc: Chiefs of Staff
Christine Wellons
Marlene Michaelson
Linda McMillan
Craig Howard
Sonya Healy

STELLA B. WERNER OFFICE BUILDING • 100 MARYLAND AVENUE • ROCKVILLE, MARYLAND 20850
240/777-7811 OR 240/777-7900 • TTY 24/777-7914 • FAX 240/777-7989
WWW.MONTGOMERYCOUNTYMD.GOV/COUNCIL

Fiscal Impact Statement
Bill 30-21, Landlord-Tenant Relations – Restrictions During Emergencies – Extended Limitations Against Rent Increases and Late Fees

1. **Legislative Summary**

   Expedited Bill 30-21 would build upon expedited legislation (Bill 18-20) passed by the Council on April 23, 2020 in response to the COVID rental crisis. The 2020 legislation, cited as the COVID-19 Renter Relief Act, limited the increase of residential rents during the catastrophic health emergency declared by Governor Hogan on March 5, 2020. Under the COVID-19 Renter Relief Act, the limitation on rent increases lasts for 90 days after the emergency expires.

   Under Bill 30-21, the limitation on rent increases would be extended from 90 days to one year after the expiration of the emergency. In addition, the bill would prohibit charging late fees accrued during the emergency, and for one year after the expiration of the emergency.

2. **An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

   Bill 30-21 is not expected to have an impact on County expenditures or revenues, similar to the estimated fiscal impact presented for expedited Bill 18-20. The Department of Housing and Community Affairs (DHCA) will continue to administer the requirements proposed under this legislation within existing resources.

3. **Revenue and expenditure estimates covering at least the next 6 fiscal years.**

   Per Question #2, this Bill is not expected to have an impact on expenditures or revenues.

4. **An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

   Not applicable.

5. **An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

   Not applicable.

6. **Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

   Not applicable.

7. **An estimate of the staff time needed to implement the bill.**

   The implementation of this Bill is expected to have a minimal impact on staff time.

8. **An explanation of how the addition of new staff responsibilities would affect other duties.**

   Per Question #2, implementing this Bill will have a minimal impact on staff time and responsibilities.

9. **An estimate of costs when an additional appropriation is needed.**

   Not applicable.

10. **A description of any variable that could affect revenue and cost estimates.**

    Not applicable.

11. **Ranges of revenue or expenditures that are uncertain or difficult to project.**

    Not applicable.

12. **If a bill is likely to have no fiscal impact, why that is the case.**

    DHCA has not experienced any additional expenses through administering the current COVID-19 Renter Relief Act requirements. Bill 30-21 would extend the requirements for another year, which we do not expect any additional expenses for implementation.

13. **Other fiscal impacts or comments.**

    Not applicable.

14. **The following contributed to and concurred with this analysis:**

    Frank Demarais, Department of Housing and Community Affairs

    Pofen Salem, Office of Management and Budget

Chris Mullin for JRB

Jennifer Bryant, Director
Office of Management and Budget

9/7/21
Date

Expedited Bill 30-21 — Landlord-Tenant Relations – Restrictions During Emergencies – Extended Limitations Against Rent Increases and Late Fees

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Expedited Bill 30-21 would have a net negative impact on economic conditions in the County. Using input-output analysis, OLO estimated that the non-transfer of higher rents and late fees from affected tenants to landlords would result in net negative economic effects. However, the negative economic effects of the Bill could be reduced if the residential rental sub-sector is sufficiently profitable to absorb the loss of revenue, landlords are able to pass some portion of costs to prospective tenants, and the Bill reduces housing insecurity for tenants and the economic costs associated with it.

BACKGROUND

Expedited Bill 30-21 would amend the COVID-19 Renter Relief Act which the Council enacted on April 23, 2020. The COVID-19 Renter Relief Act (hereinafter "the Act") prohibited landlords from raising rent above the County's voluntary rent guidelines during the COVID emergency declared by Governor Hogan and for a period of 90 days after the expiration of the emergency.[1] The emergency ended as of August 16, 2021.[2] As a result, the prohibition on rent increases above the voluntary rent guidelines will end in November 2021.

If enacted, Bill 30-21 would make two changes to the Act. First, it would extend the temporary prohibition against raising rents above the voluntary rent guidelines, which stands at 1.4% for 2021, until one year after the expiration of the emergency. Second, it would prohibit a landlord from charging fees for late rent payments during the emergency and for a one-year period after the expiration of the emergency.[3]

[1] Montgomery County Council, Expedited Bill 30-21, Landlord-Tennant Relations – Restrictions During Emergencies – Extended Limitations Against Rent Increases and Late Fees, See Bill in Introduction Staff Report, https://apps.montgomerycountymd.gov/ccllims/DownloadFilePage?FileName=2721_1_15581_Bill_30-2021_Introduction_20210713.pdf. /DownloadFilePage?FileName=2720_1_15580_Bill_29-2021_Introduction_20210713.pdf.
[2] https://governor.maryland.gov/wp-content/uploads/2021/08/2760_001.pdf
[3] Expedited Bill 30-21.

Like much of the country, the COVID-19 pandemic and economic recession have significantly affected renters and landlords in the County. Due to job loss and other economic disruptions, many tenants have been unable to keep up with rent payments, causing substantial losses in rental income for landlords.

In her 2020 analysis of the crises' impacts on rental housing in the County, Natalia Carrizosa (OLO) found the following:[4]

- Eviction moratoria and rental assistance programs likely have been successful in reducing evictions. There is a risk of a "wave of evictions" when temporary moratoria expire.
- Risk factors for loss of housing due to the pandemic and/or recession likely include the following: loss of employment income, cost-burdened prior to the pandemic (more than 30% of income spent on rent), presence of children under 18, lower levels of educational attainment, low income, Black, and Latinx.
- Owners of small rental properties, as well as Black and Latinx owners,[5] likely have experienced greater relative losses of rental revenue for several reasons. First, tenants in homes and small multi-family buildings are more likely than tenants in larger buildings to work in the industries most impacted by the pandemic and recession. Second, small multi-family buildings generally charge lower rents than large buildings. Third, tenants in small multi-family buildings tend to have lower incomes.[6]

Recent data from the U.S. Census Bureau's weekly Household Pulse Survey (HPS) indicates that rental housing insecurity remains a problem in the Washington DC Metropolitan Area. (Note that HPS provides data at the metropolitan level, not the county level). **Table 1** presents the most recent survey results for three measures of rental housing insecurity:

- Payment Status – whether households are caught up on their rent payment
- Payment Confidence – households' confidence in their ability to make next month's rent payment
- Perceived Eviction Likelihood – households' perception of the likelihood they will be evicted in the next two months

[4] Natalia Carrizosa, "COVID-19 Recovery Outlook: Cost-Burdened Renter Households," Office of Legislative Oversight, Montgomery County Council, September 21, 2020, https://www.montgomerycountymd.gov/OLO/Resources/Files/2020%20Reports/COVID-19RecoveryOutlook-CostBurdenedRenters.pdf; and Natalia Carrizosa, "COVID-19 Recovery Outlook: Evictions in Rental Housing," Office of Legislative Oversight, Montgomery County Council, June 16, 2020, https://www.montgomerycountymd.gov/OLO/Resources/Files/2020%20Reports/COVID-19Recovery-Evictions.pdf.

[5] On impacts to Black and Latinx landlords, see Nathaniel Decker, "The Uneven Impact of the Pandemic on the Tenants and Owners of Small Rental Properties," Turner Center for Housing Innovation, UC Berkeley, July 2021, https://ternercenter.berkeley.edu/wp-content/uploads/2021/07/Small-Rental-Properties-Decker-July-2021.pdf; and Laurie Goodman and Jung Hyun Choi, "Black and Hispanic Landlords Are Facing Great Financial Strain because of the COVID-19 Pandemic," Urban Institute, September 4, 2020, https://www.urban.org/urban-wire/black-and-hispanic-landlords-are-facing-great-financial-struggles-because-covid-19-pandemic-they-also-support-their-tenants-higher-rates.

[6] On impacts to small landlords, see Elijah de la Campa, "The Impact of COVID-19 on Small Landlords in Albany and Rochester, New York," Joint Center for Housing Studies, Harvard University, March 11, 2021, https://www.jchs.harvard.edu/blog/impact-covid-19-small-landlords-albany-and-rochester-new-york; Decker, "The Uneven Impact of the Pandemic on the Tenants and Owners of Small Rental Properties."

The results from the most recent survey round (July 21 to August 2, 2021) for households in the Washington DC Metropolitan Area indicate the following:

- Approximately 16% of renter households were not caught up on their rent payments.
- Approximately 22% of renter households had "no confidence" or "slight confidence" in their ability to make the next month's rent payment.
- Approximately 35% of renter households felt it was "very likely" or "somewhat likely" that they would be evicted within the next two months.

These findings are generally consistent with previous survey results dating back to April 28, 2021. (See **Tables A1-A3** in the Appendix.)

Moreover, the most recent survey results presented in **Table 1** are generally consistent with Carrizosa's findings regarding household characteristics associated with rental housing insecurity. As shown in **Table 1**, households with the following characteristics had higher percentages of rental housing insecurity than the total averages:[7]

- Elderly
- Latinx
- Black
- Lower educational attainment
- Presence of children
- Experienced recent loss of employment
- Lower income

Consistent with the unequal economic impacts of the crisis, the HPS data indicate that a minority, yet significant, portion of tenants in particular demographic groups in the metropolitan area continue to face rental housing insecurity.[8] In addition to the economic strain it places on households, tenant challenges paying rent also impact landlords, particularly those with relatively larger shares of tenants who entered the crisis in a more vulnerable economic state and/or have been disproportionately impacted by the crisis. As previously indicated, small and minority landlords appear more likely to fall in this category.

[7] For this survey round, respondents with incomes over $200,000 also expressed rental housing insecurity. However, a cursory look at data from previous survey rounds seems to suggest that this finding is anomalous.

[8] For more on the groups most impacted by the crisis, see for example "Black women face a persistent pay gap, including in essential occupations during the pandemic," Economic Policy Institute, https://www.epi.org/blog/black-women-face-a-persistent-pay-gap-including-in-essential-occupations-during-the-pandemic/; "Older workers were devastated by the pandemic downturn and continue to face adverse employment outcomes," Economic Policy Institute, https://www.epi.org/publication/older-workers-were-devastated-by-the-pandemic-downturn-and-continue-to-face-adverse-employment-outcomes-epi-testimony-for-the-senate-special-committee-on-aging/; and "Latinos face disproportionate health and economic impacts from COVID-19," American Center for Progress, https://www.americanprogress.org/issues/economy/reports/2021/03/05/496733/latinos-face-disproportionate-health-economic-impacts-covid-19/.

Table 1. Rental Housing Insecurity in Washington DC Metropolitan Area (July 21 to August 2, 2021)

	Not currently caught up on rent payments	No or Sight slight? confidence in ability to pay next month's rent	Very or somewhat likely to leave this home due to eviction in next two months
Total	**16%**	**22%**	**35%**
Age		0%	
18 - 24	-	19%	-
25 - 39	14%	17%	**39%**
40 - 54	19%	**31%**	25%
55 - 64	**20%**	**23%**	19%
65 and above	**24%**	**24%**	**60%**
Hispanic origin and Race			
Hispanic or Latino (may be of any race)	**24%**	**42%**	**52%**
White alone, not Hispanic	9%	7%	6%
Black alone, not Hispanic	**20%**	**36%**	**53%**
Asian alone, not Hispanic	15%	20%	8%
Two or more races + Other races, not Hispanic	**44%**	7%	16%
Education			
Less than high school	**58%**	**74%**	**83%**
High school or GED	13%	**30%**	2%
Some college/Associate's degree	**21%**	**24%**	**37%**
Bachelor's degree or higher	9%	10%	33%
Presence of children under 18 years old			
Children in household	**25%**	**36%**	**49%**
No children	11%	17%	22%
Respondent or household member experienced loss of employment income in last 4 weeks			
Yes	**41%**	**41%**	34%
No	9%	18%	37%
Household income			
Less than $25,000	**20%**	**38%**	15%
$25,000 - $34,999	**38%**	19%	8%
$35,000 - $49,999	**28%**	**29%**	**67%**
$50,000 - $74,999	3%	**24%**	**80%**
$75,000 - $99,999	3%	6%	0%
$100,000 - $149,999	14%	11%	12%
$150,000 - $199,999	1%	0%	-
$200,000 and above	**27%**	**27%**	**100%**

Source: Census Bureau, Household Pulse Survey; Stephen Roblin

Despite the uneven impacts of the crisis on certain tenants and landlords, the residential rental markets in the County and broader Washington DC Metropolitan Area appear to be rebounding from when it hit bottom in the 2020-21 winter. This conclusion is based on rent and vacancy trends in data from CoStar, a commercial real estate information and analytics provider.[9]

Staff from the Montgomery County Planning Department provided CoStar data to OLO. The data provided includes the following indicators:

- Average daily asking rent per square foot for all multifamily rental properties by jurisdiction, namely Washington DC and Fairfax, Montgomery, and Prince George's Counties.
- Average daily asking rent per square foot for all multifamily rental properties in Montgomery County by building class (A, B, and C).
- Quarterly vacancy rates for all multifamily rental properties by jurisdiction.

OLO staff produced the graphs and tables presented below from this data.

It is important to note the data does not reflect the entire population of residential rental units in the jurisdictions. The data reflects all multifamily rental properties in the CoStar database. Excluded are units that rent as an agreement between an individual owner and an individual tenant, such as a condominium in a building that the owner chooses to rent.[10] Despite this limitation, OLO believes the CoStar data provides an accurate reflection of changes over time in the residential rental markets.

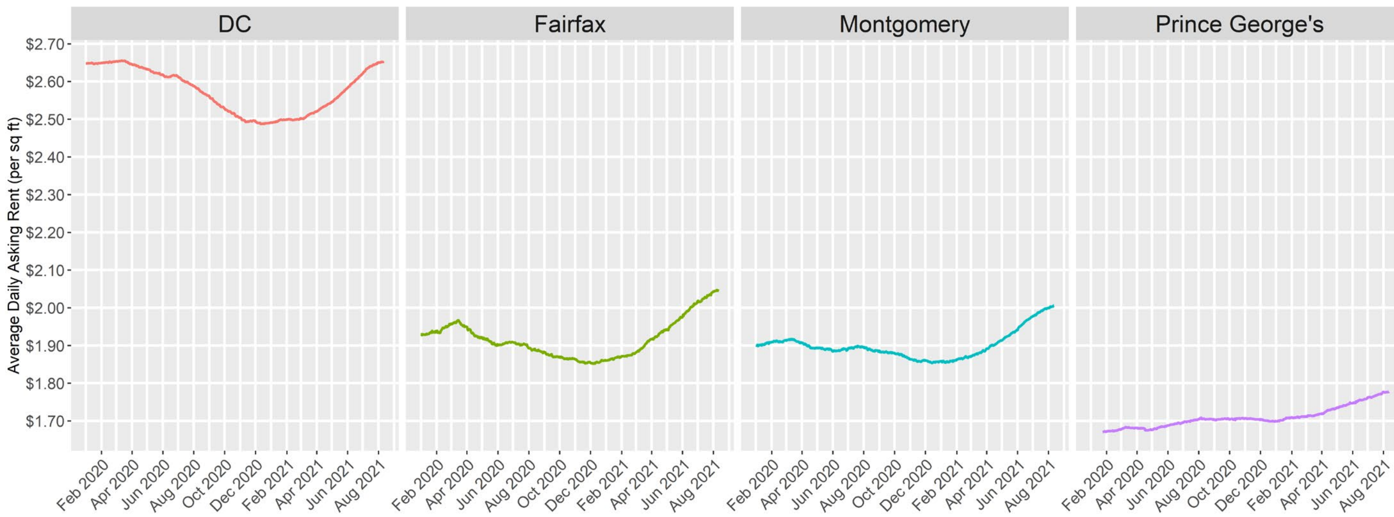
Rents by Jurisdiction: **Figure 1** and **Table 2** provide an overview of average daily asking rents for multifamily by jurisdiction from January 1, 2020 to August 12, 2021. As indicated in both, Montgomery County has followed the regionwide pattern of rents reaching their 2020 peak in March, sharply decreasing until December 2020, and rebounding during the spring and summer months of 2021. Prince George's County is the exception to this pattern in which rents have remained relatively stable throughout the crisis.

In Montgomery County, multifamily property rents have rebounded strongly.

- In 2020, the pre-pandemic average daily asking rent reached as high as \$1.92 per square foot and dropped to \$1.85 in December—a 4% decrease from the pre-pandemic peak.
- By May 2021, the average daily asking rent reached the pre-pandemic peak of \$1.92 per square foot and has continued to climb.
- As of August 12, 2021, the average daily asking rent has reached \$2.01 per square foot—a 5% increase over the pre-pandemic peak of \$1.92.

[9] CoStar.com, About CoStar, https://www.costar.com/about.
[10] OLO correspondence with Montgomery Planning Department staff.

Figure 1. Average Daily Asking Rent for Multifamily Rental Units by Jurisdiction



Source: CoStar; Montgomery County Planning Department; Stephen Roblin

Table 2. Minimum and Maximum Average Daily Asking Rent for Multifamily Rental Units by Jurisdiction

	Pre-Pandemic Period 1/1/2020 - 3/15/2020	**Pandemic Period (3/16/2020 - 8/12/2021)**	
	Maximum Rent (per sq ft) *Date*	*Minimum Rent (per sq ft)* *Date*	*Maximum Rent (per sq ft)* *Date*
DC	$2.66	$2.49	$2.65
	3/12/2020	12/12/2020	8/12/2021
Fairfax	$1.97	$1.85	$2.05
	3/15/2020	12/7/2020	8/8/2021
Montgomery	$1.92	$1.85	$2.01
	3/10/2020	12/14/2020	8/11/2021
Prince George's	$1.68	$1.68	$1.78
	3/12/2020	4/20/2020	8/12/2021

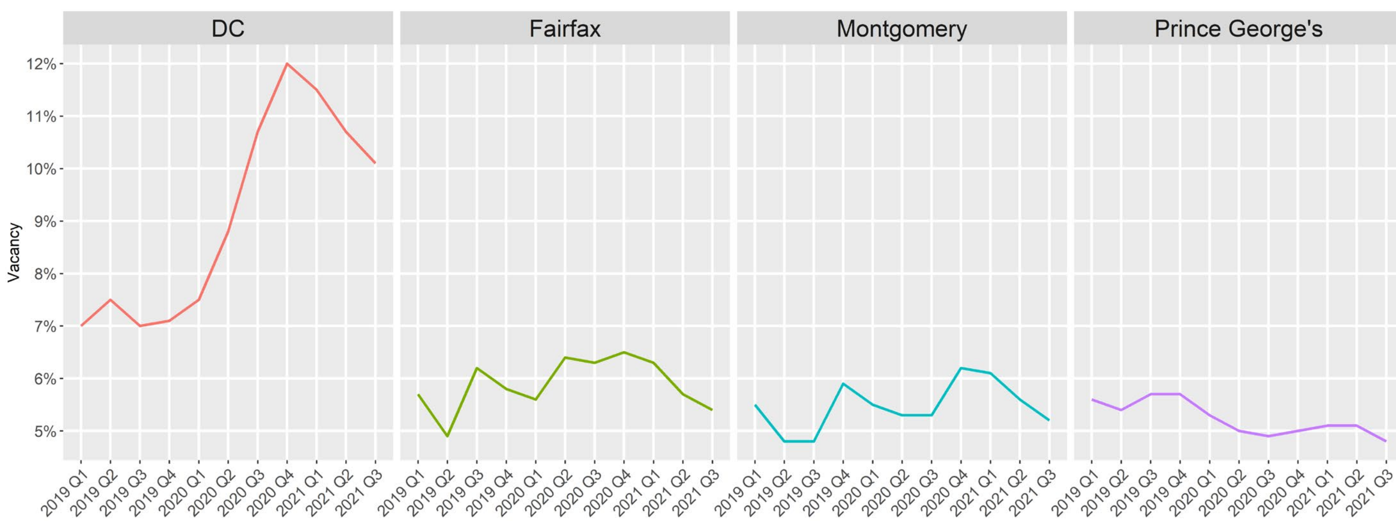
Source: CoStar; Montgomery County Planning Department; Stephen Roblin

Vacancy by Jurisdiction: **Figure 2** and **Table 3** provide an overview of vacancy rates for multifamily by jurisdiction from the first quarter in 2019 to the third quarter in 2021. Montgomery County has followed the regionwide pattern in terms of vacancy rates. Rates reached their lowest point in the first and second quarters in 2020, sharply increasing until the fourth quarter in 2020, and dropping in subsequent quarters. Again, Prince George's County is the exception to this pattern in which vacancy rates have remained relatively stable throughout the crisis.

In Montgomery County, multifamily property vacancy rates have rebounded.

- In 2020, the vacancy rate reached its lowest point of 5.3% in the first and second quarters. Since then, the vacancy rate climbed to 6.2% in the fourth quarter in 2020—a 17% increase over the lowest rate that year.
- As of the third quarter in 2021, the vacancy rate reached 5.2%—a 2% decrease from 5.3%.

Figure 2. Average Quarterly Vacancy Rates for Multifamily Rental Units by Jurisdiction



Source: CoStar; Montgomery County Planning Department; Stephen Roblin

Table 3. Minimum and Maximum Average Vacancy Rates for Multifamily Rental Units by Jurisdiction

	Pre-Pandemic Period 2019 Q4 - 2020 Q2[11])	Pandemic Period 2020 Q3 - 2021 Q3	
	Minimum Vacancy Quarter	*Maximum Vacancy Quarter*	*Minimum Vacancy Quarter*
DC	7.1% 2019 Q4	12% 2020 Q4	10.1% 2021 Q3
Fairfax	5.6% 2020 Q1	6.5% 2020 Q4	5.4% 2021 Q3
Montgomery	5.3% 2020 Q1 & Q2	6.2% 2020 Q4	5.2% 2021 Q3
Prince George's	5% 2020 Q2	5.1% 2021 Q1 & Q2	4.8% 2021 Q3

Source: CoStar; Montgomery County Planning Department; Stephen Roblin

<u>Rents by Building Class:</u> **Figure 3** and **Table 4** provide an overview of average daily asking rents for multifamily properties in Montgomery County by building class from January 1, 2020 to August 12, 2021. Building class designations differentiate buildings based on quality. To illustrate, Class A multifamily properties include luxury apartments with higher average rents and tend to have higher-income tenants. Class B refers to older properties with lower average rents and tend to cater to middle-class tenants. Compared to Class A and B, Class C properties are the oldest, have the lowest average rents, and tend to have moderate- to low-income residents.

In Montgomery County, multifamily property rents across all building classes have rebounded strongly.

- **Class A Rents:** In 2020, the pre-pandemic average daily asking rent for Class A multifamily properties reached $2.27 per square foot. With the onset of the pandemic, it dropped to $2.15 in November 2020—a 5% decrease from the pre-pandemic peak. By late-April 2021, rents rebounded to the pre-pandemic peak of $2.27 and continued to climb. As of August 2021, rents have reached as high as $2.37—a 4% increase over the pre-pandemic peak.
- **Class B Rents:** For Class B multifamily properties, the pre-pandemic average daily asking rent reached $1.82 per square foot. It dropped to $1.77 in November 2020—a 3% decrease from the pre-pandemic peak. By mid-April 2021, rents rebounded to the pre-pandemic peak of $1.82 and continued to climb. As of August 2021, rents have reached as high as $1.92—a 5% increase over the pre-pandemic peak.

[11] This table includes 2020 Q2 within the "pre-pandemic period" because of the lag in time between the start of the pandemic and tenants vacating properties.

- **Class C Rents:** For Class C multifamily properties, the pre-pandemic average daily asking rent reached $1.71 per square foot. The lowest it dropped to was $1.68—a 2% decrease from the pre-pandemic peak. By early-May 2021, rents rebounded to the pre-pandemic peak of $1.71 and continued to climb. As of August 2021, rents have reached as high as $1.77—a 4% increase over the pre-pandemic peak.

Figure 3. Average Daily Asking Rents for Multifamily Rental Units in Montgomery County by Building Class

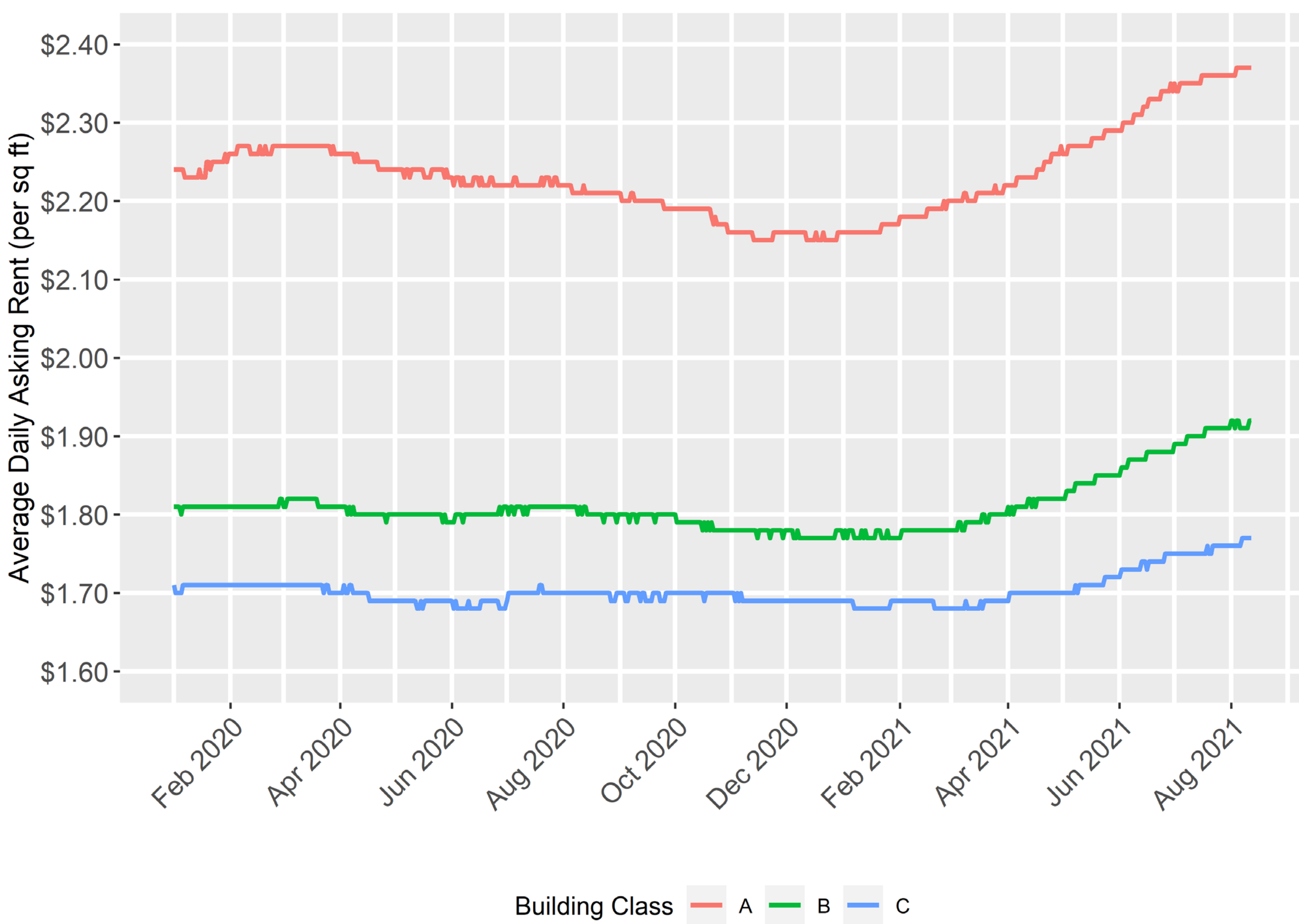


Table 4. Minimum and Maximum Average Daily Asking Rent for Multifamily Rental Units by Building Class in Montgomery County

	Pre-Pandemic Period 1/1/2020 - 3/15/2020	Pandemic Period 3/16/2020 - 8/12/2021	
	Maximum Rent (per sq ft)	*Minimum Rent (per sq ft)*	*Maximum Rent (per sq ft)*
Class A	$2.27	$2.15	$2.37
Class B	$1.82	$1.77	$1.92
Class C	$1.71	$1.68	$1.77

In sum, Montgomery County's path through the crisis has closely paralleled Fairfax County. Yet, Fairfax County was the only jurisdiction examined here that did not impose any form of rent control during the pandemic. See **Table 5**. The residential rental market in Prince George's County has been the most stable; Washington DC's trajectory has been the most turbulent. Between these paths are the residential rental markets in Montgomery and Fairfax Counties. As reflected in rents and vacancy rates, both markets took a big hit with the onset of the pandemic and bottomed-out in the 2020/21 winter. The markets rebounded in subsequent months and have surpassed their maximum rent and minimum vacancy rates in the early months of 2020.

How have rent trajectories paralleled each other in Montgomery and Fairfax Counties despite the difference in emergency rent control measures? It is beyond the scope of this analysis to explore all possible explanations. However, OLO believes the most likely explanation is that the temporary prohibition on rent increases above Montgomery County's voluntary rent guidelines only applies to existing tenants, not prospective tenants.[12] As a result, the sharp increase in rents since the nadir likely has been due to new leases.

Table 5. Rent Control During Pandemic by Jurisdiction

Jurisdiction	Temporary Price Restriction	Termination
DC	Prohibits rent increases[13]	December 31, 2021
Fairfax	None[14]	N/A
Montgomery	Prohibits rent increases above the County's voluntary rent guidelines[15]	90 days after expiration of statewide emergency
Prince George's	Prohibits rent increases for a "tenant with a substantial loss of income"[16]	90 days after expiration of statewide emergency

[12] Montgomery County Council, Expedited Bill 30-21.
[13] See link https://ota.dc.gov/sites/default/files/dc/sites/ota/publication/attachments/Act%2024-125%20Summary%20-%20Post-PHE%20Changes%20to%20Tenant%20Protections2021.08.03.pdf
[14] See link https://www.fairfaxcounty.gov/cableconsumer/csd/tenant-landlord-faqs
[15] See link https://montgomerycountymd.gov/DHCA/covid-19_summary_renter_relief.html
[16] See link https://www.princegeorgescountymd.gov/DocumentCenter/View/31333/CB-16-2020-Website-Text---FINAL.

METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

Enacting Expedited Bill 30-21 has the potential to affect landlords, tenants, and broader economic conditions through two effects—the “rent effect” and “fee effect.”

Rent Effect: The rent effect refers to the economic impacts from extending the temporary prohibition against raising rents on existing tenants above the voluntary rent guidelines until one year after the expiration of the emergency. Doing so would primarily affect economic conditions in the County on the condition that the residential rental market would support rent increases above the voluntary rent guidelines during the timeframe of the extension (roughly November 2021 to November 2022). If this occurs, the rent effect would translate into forgone rental revenues for landlords, resulting in a net increase in household income.

The data presented above suggest that some multifamily rental properties across building classes in Montgomery County can currently support rent increases above the current voluntary rent guideline for 2020 at 1.4%. For this reason, OLO anticipates that extending the current rent control measure for one additional year would keep rents lower for existing tenants in certain properties/units than they would otherwise be without enacting Expedited Bill 30-21.

It is important to emphasize however the uncertainty surrounding this prospect. Even if the current path of the residential rental market in the County continues, data limitations prevent OLO from estimating the magnitude of the rent effect in terms of the total rents charged in the County during the one-year extension and the distribution of the rent effect across building classes. Compounding the uncertainty is the possibility of the current path of the residential rental market in the County being a poor indicator for its condition during the timeframe of the temporary rent control extension. Indeed, another downturn in the market due to changes in public health conditions cannot be ruled out, particularly given the slow progress in the global vaccination effort and the potential for new, more virulent variants of COVID-19 to spread.

Fee Effect: The fee effect refers to the economic impacts from prohibiting a landlord from charging fees for late rent payments during the emergency and for a one-year period after the expiration of the emergency. The fee effect would translate into forgone revenues from fees collected by landlords, resulting in a net increase in household income.

Data limitations also prevent OLO from estimating the magnitude of the potential fee effect. However, OLO believes there is less uncertainty regarding the economic effects of prohibiting landlords from charging fees for late rent payments than extending the temporary rent control measure. Collecting late fees arguably is less dependent on conditions in the broader residential rental market than setting rents. To illustrate, even if market conditions do not support rent increases above the voluntary rent guidelines, OLO anticipates that landlords would be able to collect some portion of the total fees charged against tenants.

Given the likelihood that enacting Expedited Bill 30-21 would generate rent and fee effects, OLO makes the following assumptions in this analysis:

> **Assumption:** The non-transfer of higher rents and late fees from affected tenants to landlords would result in a net decrease in revenue for the landlords and net increase in household income for the tenants during the timeframe of the policy. Described in terms of economic sectors, the non-transfer would result in a net decrease in total revenue for the real estate industry and a net increase in income for County households.

Methodology: Due to the data limitations raised above, OLO cannot predict the total economic impact of enacting Expedited Bill 30-21. The goal of this analysis is to assess whether enacting the Bill would likely result in a net positive or negative impact on overall economic conditions in the County. To do so, OLO uses input-output (I-O) analysis, a form of quantitative macroeconomic analysis based on the interdependencies between different economic sectors or industries within a national, state, or regional economy.[17]

I-O analysis is a methodology commonly used by local planners, policymakers, and investors to estimate how changes in economic activity affect other rounds of spending across all sectors within a specified economy. Importantly, the effect on other rounds of spending diminishes over time due to "leakages," or "money that no longer circulates within the economy because of savings, taxes, or imports."[18]

To clarify the concepts, consider the following illustration: On the one hand, the net increase in household income for tenants affected by the Bill may increase their consumption from restaurants based in the County, which in turn would increase the restaurants' revenues. The positive economic effects would diminish from leakages, like the restaurant owners using a portion of the revenues to purchase equipment produced outside the County. On the other hand, the net decrease in revenue for affected landlords may lead them to lay-off employees who reside in the County. These residents may reduce their consumption from local restaurants, thereby negatively affecting their revenues. The negative economic effects would also diminish from leakages, like restaurant owners refraining from purchasing imported equipment.

To perform the I-O analysis for Expedited Bill 30-21, OLO uses the Regional Input-Output Modeling System (RIMS II) final-demand multiplier for the real estate industry and household sector. The RIMS II multipliers, developed by the U.S. Bureau of Economic Analysis,[19] measure the ripple effects of changes in economic activity in terms of four measures:

- Output (sales): total market value of industry output,
- Value-Added: total value of income generated from production (equivalent to gross domestic product),
- Earnings: employee compensation plus net earnings of sole proprietors and partnerships, and
- Employment: number of full- and part-time employees. [20]

Industries with relatively high multiplier values for these measures result in greater output, value-added, earning, and employment for every additional dollar of economic activity in those industries. There are multipliers for 64 industries in the County. **Table 6** presents the values of the RIMS II real estate and household multipliers for Montgomery County.

Table 6. RIMS II Household and Real Estate Multipliers for Montgomery County

Sector	Output	Earnings	Employment	Value-Added
Household	0.7951	0.1587	3.8028	0.4936
Real Estate	1.3845	0.1744	4.7589	0.9816

[17] For a non-technical description of I-O analysis, see https://www.investopedia.com/terms/i/input-output-analysis.asp.
[18] U.S. Bureau of Economic Analysis, *RIMS II: An Essential Tool for Regional Developers and Planners*, December 2013, G-3, https://apps.bea.gov/regional/rims/rimsii/rimsii_user_guide.pdf.
[19] Ibid.
[20] Ibid, 3 – 3 and 3 – 4.

Using the Rims II multipliers, OLO estimates the net change in output, earnings, employment, and value-added in the County for every $1 million non-transfer from the household sector to the real estate industry. As illustrated in **Table 7**, the non-transfer would result in approximate loss of $589,400 in output, $15,700 in earnings, $488,000 in value-added, and 1 job per every $1 million "transfer."

Importantly, these estimates are not predictions. Instead, they are intended to illustrate the general magnitude of the potential changes in the measures. On this basis, OLO expects that enacting Expedited Bill 31-21 would likely result in a negative impact on overall economic conditions in the County.

Table 7. Estimates of I-O Analysis

Multiplier	Economic Change ($)	Output ($)	Earnings ($)	Employment (jobs)	Value-Added ($)
Household	+ $1M	$795,100	$158,700	4	$493,600
Real Estate	- $1M	-$1,384,500	-$174,400	-5	-$981,600
Net Multiplier Effect		**-$589,400**	**-$15,700**	**-1**	**-$488,000**

Scope Limitations: It is important to note that the I-O analysis used here does not account for several factors that would likely influence the economic impacts of enacting Expedited Bill 30-21. These factors include:

- current profitability of the residential rental sub-sector
- ability of landlords to pass the costs of the Bill onto prospective tenants
- extent to which the Bill would reduce the economic costs associated with housing insecurity for tenants

As discussed in subsequent sections, sufficient profitability of the residential rental sub-sector, the ability of landlords to pass on costs to prospective tenants, and reduced housing insecurity would mitigate the negative economic impacts of the Bill.

VARIABLES

The primary variables that would affect the economic impacts of enacting Expedited Bill 30-21 are the following:

- total annual rent revenues;
- total late fee revenues;
- total household income of existing tenants;
- profitability of residential rental sub-sector;
- ability of landlords to pass costs onto prospective tenants; and
- total number of tenants facing housing insecurity.

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Businesses, Non-Profits, Other Private Organizations

OLO anticipates that enacting Expedited Bill 30-21 would have a negative impact on private organizations in the County in terms of several of the Council's priority indicators.[21] The primary businesses affected would be landlords in the residential rental sub-sector. As previously discussed, OLO anticipates that market conditions would support rents above the voluntary rent guidelines for certain properties/units. By extending the temporary prohibition against raising rents on existing tenants above the voluntary rent guidelines until one year after the expiration of the emergency, certain landlords would lose rental revenues that they otherwise would collect in the absence of enacting the Bill. Forgone rental revenues, in addition to late fees, would result in a net decrease in business income for the affected landlords and could potentially result in workforce reductions in efforts to reduce operating costs to compensate for revenue loss.

As illustrated in the I-O analysis, the net reduction in landlord revenues due to the rent and fee effects would also have negative economic impacts on businesses that provide goods and services for landlords. For example, landlords may reduce their expenses for building maintenance and repair to compensate for revenue loss. If so, businesses that provide these services would experience revenue decreases. The magnitude and scope of the negative interindustry effects would depend largely on the net loss of revenue from the rent and fee effects. Additional factors include the profitability of the residential rental sub-sector and ability of landlords to pass the costs of the Bill onto prospective tenants.

Profitability: The level of profitability would affect landlords' ability to absorb the loss revenues. Landlords with strong gross profit may face less pressure to reduce their operating costs associated with labor, repair and maintenance, and other activities. While a thorough assessment of the profitability of the residential rental sub-sector is beyond the scope of this analysis, OLO notes conflicting trends at the current juncture. On the one hand, the fact that average rents have surpassed the pre-pandemic height and the vacancy rate has dropped below the pre-pandemic low suggests that the sub-sector is on the upswing. See **Figures 1-3** and **Tables 2-4**. On the other hand, the sub-sector experienced significant declines in revenues due to rent non-payments and delays. Meanwhile, landlords have experienced increases in operating expenses in certain areas. For example, water rates through the Washington Suburban Sanitary Commission (WSSC) have increased since the start of the pandemic.[22] Moreover, in OLO's conversations with local landlords, they stressed that trash removal costs have increased.

Ultimately, OLO suspects that there is significant variation within the sub-sector in terms of profitability. If secondary source evidence is indicative of local conditions, then owners of small rental properties, as well as Black and Latinx owners, likely have tighter profit margins.[23]

---

[21] Montgomery County Code, Sec. 2-81B, Economic Impact Statements, https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md/0-0-0-80894.

[22] https://bethesdamagazine.com/bethesda-beat/government/montgomery-prince-georges-jointly-pass-6-water-sewer-rate-increase/

[23] On impacts to small landlords, see Elijah de la Campa, "The Impact of COVID-19 on Small Landlords in Albany and Rochester, New York," Joint Center for Housing Studies, Harvard University, March 11, 2021, https://www.jchs.harvard.edu/blog/impact-covid-19-

Ability to Pass on Costs: As previously discussed, the sharp increase in rents in the County is likely driven by new leases, as current rent control measure applies only to existing tenants. The extent to which landlords can pass on the costs of extending the rent control onto new tenants would mitigate the negative impacts to the residential rental sub-sector. Landlords' ability to do so would likely depend on several factors. For one, it is possible that landlords may gain pricing power if the positive trends in the market continue. If so, some landlords may be more willing to test demand elasticity by increasing rents above what they would otherwise without the rent control measure.

Second, the net revenue loss from the combined rent and fee effects may incentivize landlords to seek new tenants through lease non-renewal, eviction, or other avenues. For example, Maryland landlords have filed 550 tenant-holding-over-actions (eviction suites related to expired leases) in October 2020 – a 117% increase over the previous year, since eviction bans during the pandemic do not protect against lease expiration.[24]

Competitiveness: It is not anticipated that the Bill will significantly undermine the County's competitiveness in the residential rental sub-market for a few reasons. First, relative to other peer jurisdictions, the County's market is doing well. See **Figures 1-3** and **Tables 3-4**. Second, the duration of the rent control is one year, which should not pose long-term issues.

Private Sector Capital Investment: The primary effect in this regard is likely a decrease in repair and maintenance for existing properties. OLO does not anticipate the Bill would undermine future developments of rental housing – market-rate or affordable. This is because the duration of rent control is one year and new development projects take a long time to plan, authorize, and construct.

Residents

OLO anticipates that enacting Expedited Bill 30-21 would have a positive impact on County residents in terms of several of the Council's priority indicators. The primary residents impacted by the Bill would be existing tenants. Existing tenants would experience a net increase in household income. This would be especially helpful for residents of Class B and C buildings (buildings with lower average rents that cater to middle-class and moderate-to low-income residents).

Tenants who will suffer temporary losses of income, such as furloughed employees who return to work, would benefit the most. For these households, the temporary freeze on rent hikes would prevent them from falling deeper in arrears. Once their income rebounds, they would be able to pay off their debts more rapidly to landlords. OLO has no way of estimating the number of households that would fall into this category. Nevertheless, there are theoretical and empirical reasons to expect that a lower debt burden for renters could stimulate the local economy, mainly by increasing disposable spending for these renters, and potentially reduce job loss among the working poor and other economic costs associated with housing insecurity.[25]

---

small-landlords-albany-and-rochester-new-york; Decker, "The Uneven Impact of the Pandemic on the Tenants and Owners of Small Rental Properties."

[24] "Landlords in Maryland are Exploiting a Loophole to Evict Renters During the Pandemic, Advocates Say," by Ally Schweitzer, DCist, March 11, 2021, https://dcist.com/story/21/03/11/landlords-in-maryland-are-exploiting-a-loophole-to-evict-renters-during-the-pandemic-advocates-say/

[25] See, for example, Matthew Desmond and Carl Gershenson, "Housing and Employment Insecurity among the Working Poor," Social Problems 63: 46-67, https://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.socprob.2016.pdf.

However, the freeze on rent increases may not provide enough financial support to prevent eviction for households that sustain deep and enduring losses of income, particularly low-income households. OLO is unable to accurately estimate the number of households that will fall in this category. These households will fall deep in arrears, which will incentivize landlords to assume the time and monetary costs associated with pursuing evictions and finding new renters. If these tenants are displaced/evicted, it could lead to negative impacts such as lost income, work disruption, moving costs, attorney's fees, court fees, etc.[26]

For residents who own rental properties, they may experience a net income loss due to this Bill. However, as previously discussed, these residents or landlords may rely on other avenues to make up for lost income such as tenant holding over and non-renewing lease, due to rent control.

DISCUSSION ITEMS

The Councilmembers may want to consider the following discussion items:

- Whether the residential rental sub-sector has been sufficiently profitable to absorb the loss of rental and late fee revenue;
- The extent to which the Bill would reduce housing insecurity and the economic costs associate with it; and
- If there is a more targeted approach that can focus on tenants with need.

WORKS CITED

Montgomery County Code. Sec. 2-81B. Economic Impact Statements.

Montgomery County Council. Expedited Bill 30-21, Landlord-Tenant Relations – Restrictions During Emergencies – Extended Limitations Against Rent Increases and Late Fees. Introduced on July 13, 2021.

Montgomery County Office of Procurement. FY20 Annual Report: Minority, Female and Disabled-Owned Businesses (MFD) Program.

U.S. Bureau of Economic Analysis. *RIMS II: An Essential Tool for Regional Developers and Planners*. December 2013.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does <u>not</u> represent OLO's endorsement of, or objection to, the bill under consideration.

[26] Stephanie Bryant, Natalia Carrizosa, and Kelli Robinson, "Evictions in Montgomery County," Office of Legislative Oversight, Montgomery County Council, October 2018, https://www.montgomerycountymd.gov/OLO/Resources/Files/2018%20Reports/2018_10EvictionsMontgomeryCounty.pdf.

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report, with assistance from Blaise DeFazio (OLO).

APPENDIX

Table A1. Status of Last Month's Rent for Households in Washington DC Metro Area (2021)

	Household currently caught up on rent payments			Occupied without rent
	Yes	No	Did not report	
7/21- 8/2	79%	16%	0%	5%
6/23 - 7/5	81%	15%	0%	4%
6/9 - 6/21	79%	17%	0%	3%
5/26 - 6/7	84%	13%	0%	2%
5/12 - 5/24	79%	18%	0%	2%
4/28 - 5/10	82%	13%	0%	5%

Source: Census Bureau, Household Pulse Survey; Stephen Roblin

Table A2. Confidence to Pay Next Month's Rent for Households in Washington DC Metro Area (2021)

	Confidence to pay next month's rent						Occupied without rent
	No confidence	Slight confidence	Moderate confidence	High confidence	Payment is/will be deferred	Did not report	
7/21- 8/2	11%	11%	21%	52%	0%	0%	5%
6/23 - 7/5	7%	14%	10%	64%	1%	0%	4%
6/9 - 6/21	11%	11%	11%	61%	1%	2%	3%
5/26 - 6/7	5%	16%	11%	63%	1%	1%	2%
5/12 - 5/24	11%	10%	12%	63%	1%	1%	2%
4/28 - 5/10	8%	9%	13%	65%	1%	0%	5%

Source: Census Bureau, Household Pulse Survey; Stephen Roblin

Table A3. Likelihood of Eviction for Households in Washington DC Metro Area (2021)

	Likelihood of leaving this home due to eviction in next two months				
	Very likely	**Somewhat likely**	**Not very likely**	**Not likely at all**	**Did not report**
7/21- 8/2	21%	15%	38%	20%	7%
6/23 - 7/5	39%	13%	34%	10%	3%
6/9 - 6/21	4%	15%	36%	45%	1%
5/26 - 6/7	6%	10%	45%	35%	4%
5/12 - 5/24	26%	14%	25%	29%	6%
4/28 - 5/10	27%	17%	34%	22%	0%

Source: Census Bureau, Household Pulse Survey; Stephen Roblin

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

Expedited Bill 30-21: Landlord-Tenant Relations- Restrictions During Emergencies- Extended Limitations Against Rent Increases and Late Fees

Summary

The Office of Legislative Oversight (OLO) anticipates that Expedited Bill 30-21 will disproportionately benefit Black and Latinx residents because they experience the highest rates of housing insecurity in the County. In turn, the Bill could help reduce future housing inequities associated with the displacement of low-income residents of color due to rising rents resulting from increased real estate development (i.e., gentrification).

Purpose of RESJ Impact Statement

The purpose of RESJ impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refers to a **process** that focuses on centering the needs, power, and leadership of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.[1] Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.[2]

Purpose of Expedited Bill 30-21

Housing insecurity can make it challenging for households to quarantine and social distance during the pandemic. To enhance housing security for renters, the County Council enacted the COVID-19 Renter Relief Act (Bill 18-20) on April 23, 2020 to limit rent increases during the COVID-19 state of emergency declared by Governor Hogan. Expedited Bill 30-21, Landlord-Tenant Relations - Restrictions During Emergencies- Extended Limitations Against Rent Increases and Late Fees - was introduced on July 13, 2021. The bill's purpose is to extend the COVID-19 pandemic limitation on rent increases from 90 days to one year after the expiration of the emergency.[3] The bill would also prohibit landlords from charging late fees accrued during the emergency and for one year after.[4]

Housing Insecurity and Racial Equity

Low-wealth and low-income households have been negatively impacted by the financial burdens associated with the pandemic. These households lacking access to affordable and safe housing, also known as secure housing, are also at greater risk of experiencing evictions and homelessness.[5] Many of these households who are disproportionately Black and Latinx in Montgomery County were at risk for evictions and homelessness prior to the pandemic.

To understand the drivers of racial and ethnic inequities in housing that preceded the COVID-pandemic, this RESJIS describes local data on housing security by race and ethnicity and describes the roles that housing segregation and the racial wealth divide have played in creating housing inequities in the County. The intent of this overview is to demonstrate that racial and ethnic disparities in housing security are neither natural nor random, but instead reflect in part government's role in creating and maintaining racial and ethnic inequity in housing.

Data on Housing Insecurity. Local data on three metrics of housing insecurity - rent-burdened households, rental assistance during the pandemic, and homelessness - demonstrate that Black and Latinx households in Montgomery County are especially housing insecure. More specifically, in Montgomery County:

- Among renter households in 2019, rent-burden (expending 30 percent or more of income on rent) was experienced among 66 percent of Latinx renters and 60 percent of Black renters compared to 40 percent of White renters and 33 percent of Asian renters.[6]
- Among COVID Relief Rental Program clients (approved as of April 4, 2021), 43 percent were Black and 37 percent were Latinx while 9 percent were White and 3 percent were Asian or Pacific Islander.[7]
- Among single adults experiencing homelessness in 2020, 60 percent were Black, 30 percent were White, 17 percent were Latinx, and 5 percent were Asian and Pacific Islanders.[8]
- Among families experiencing homelessness in 2020, 78 percent were Black, 15 percent were White, 9 percent were Latinx, and 2 percent were Asian.[9]

Data on homeownership also demonstrates housing inequities by race and ethnicity where 75 percent of White and Asian households in Montgomery County resided in owner-occupied units in 2019 compared to 50 percent of Latinx and Native American households and 42 percent of Black households.[10]

Racial Segregation in Housing. Segregation by race and ethnicity characterizes the housing market in Montgomery County where White residents are concentrated in the most affluent communities. More specifically, in 2015:[11]

- White residents accounted for 47 percent of County residents but comprised 72 percent of District 1 residents (Chevy Chase, Bethesda, and Potomac) where a near majority of households (47 percent) had annual incomes exceeding $200,000 and 13 percent of households had annual incomes less than $75,000.
- Asian residents accounted for 15 percent of County residents but comprised 19 percent of District 3 residents (Rockville and Gaithersburg) where a fifth of households (21 percent) had annual incomes exceeding $200,000 compared to a third of households that had annual incomes less than $75,000.
- Black residents accounted for 18 percent of County residents but comprised 32 percent of District 5 residents (Takoma Park, Silver Spring and Burtonsville) where less than a fifth of households had annual incomes exceeding $200,000 compared to 40 percent of households that had annual incomes less than $75,000.
- Latinx residents accounted for 18 percent of County residents but comprised 26 percent of District 4 residents (Wheaton and Olney) where a sixth of households had annual incomes exceeding $200,000 compared to a third of households that had annual incomes less than $75,000.

While some attribute segregation in the housing market to personal preferences and differences in household income and educational attainment by race and ethnicity, these explanations often ignore the role of systemic discrimination as drivers of preferences, income, educational attainment, and housing segregation itself.[12] Moreover, defining housing segregation as a function of personal preferences ignores the role of government in creating segregated housing.

The role of government in creating and sustaining housing segregation begins with the origins of the nation. Slavery, sharecropping, Jim Crow laws, and the Homestead Act were government policies designed to build wealth among White residents by extracting resources from people of color. Government policies reinforcing housing segregation continued with the New Deal as the Federal Housing Administration (FHA) provided government subsidized financing to White residents and developers to purchase or build homes in White-only enclaves.[13] As noted by Oliver and Shapiro:

> "African Americans who desired and were able to afford homeownership found themselves consigned to central-city communities where their investments were affected by the "self-fulfilling proficiencies" of the FHA appraisers: cut off from sources of new investment, their homes and communities deteriorated and lost value in comparison to those homes and communities that FHA appraisers deemed desirable."[14]

Accompanying these benefits for White homeowners and communities were racial covenants attached to residential property and redlining of neighborhoods predominantly occupied by people of color.[15] Between 1902 and 1948, for example, Silver Spring enacted more than 50 racially restrictive covenants that prohibited the owning or renting "the whole or any part of any dwelling or structure thereon, to any person of African descent." [16] Further, Colonel Edward Brook Lee attached racially restrictive covenants to all of his suburban properties in Montgomery County.[17] The GI Bill was also implemented in racially exclusionary ways that denied Black veterans' loans and reinforced segregation.[18]

Collectively, taxation, housing, and transportation policy lead to the suburbanization of America, enabling 35 million White families to purchase homes in the suburbs but restricting Black families to central cities between 1933 and 1978.[19] Prior to the Fair Housing Act of 1968, affordable government-backed mortgages created a platform for wealth in White neighborhoods while only two percent of these secured mortgages were issued to Black applicants.[20] And while the Fair Housing Act of 1968 eliminated racially explicit segregation in housing, the policies that built the segregated housing market "have never been remedied and their effects endure."[21]

The suburbanization of the Washington Metropolitan region driven by White flight from Washington, D.C. drove the growth of Montgomery County. Housing segregation within Montgomery County also reflects the migration of **Black, Indigenous, and people of color** (BIPOC) families from D.C. to Prince George's County and the eastern parts of Montgomery County followed by White flight from those environs to the western parts of the County (e.g., Bethesda and Potomac). Moreover, given the value and investments made in greenlined areas, the value of segregated White housing increased exponentially compared to housing in mixed and predominantly Black areas that were undervalued and underinvested in due to redlining.[22]

Today, racial discrimination in housing continues with predatory lending practices targeted to communities of color (e.g. subprime and other undesirable loans or denied loans),[23] racial and ethnic bias in the rental and real estate markets,[24] and the "implicitly racialized tax code" that favor asset holdings with lower tax rates over income earned, and mortgage holders over renters.[25] Montgomery County's 2015 Analysis of the Impediments to Fair Housing Choice acknowledges that housing discrimination in the County on the basis of source of income also persists despite County law that makes such discrimination illegal.[26]

The Racial Wealth Divide. The racial wealth divide - the difference in wealth by race - is also a significant driver of disparities in housing security by race and ethnicity. Wealth refers to the difference between assets and obligations. Researchers generally note that the racial wealth divide reflects the cumulative impact of intergenerational transfers of resources and differential access to wealth-building opportunities over time by race and ethnicity. It takes wealth to build wealth – to invest in homes, education, new businesses and future generations.[27] Wealth also enables families to absorb the financial shocks of recessions, including the economic impact of the COVID-19 pandemic. Conversely, low-wealth households with low-incomes demonstrate the greatest risk for housing insecurity, evictions and homelessness.

Available data demonstrates wide wealth gaps in the Washington Metropolitan region by race and ethnicity. Data compiled by the Urban Institute found that White households had more than 80 times the wealth of U.S. Born Black households and 21 times the wealth of Latinx households in 2014. More specifically their survey of families in the District of Columbia region that included parts of Montgomery County found that:

- White households had a median wealth of $284,000 compared to $13,000 for Latinos, $3,500 for U.S.-born Black households, and $3,000 for African-born Black households.
- Chinese households had slightly less wealth than White households ($220,000), although the difference was not statistically significant.
- Korean ($496,000), Vietnamese ($423,000), and East Indian ($573,000) households reported the highest amounts of median wealth, though they were not statistically significant.

Racial discrimination created and perpetuated by government is at the root of the racial wealth divide. As noted by the Federal Reserve Bank of Boston:

> "(T)he practices and policies that laid the groundwork for and built the U.S. were explicitly designed to ensure an absolute accumulation of intergenerational wealth and concentrated power for White people, particularly men. A legacy of land theft, slavery, racial segregation, disenfranchisement, and other exclusive policies against Black and Indigenous … and (other) people of color produced a racialized economy that decimated these communities and intentionally barred survivors and descendants from building wealth, socioeconomic well-being and resilience."[28]

Moreover, Oliver and Shapiro note that "historic wealth-amassing government policies" including the Homestead Acts, Federal Housing Act, and the GI Bill "facilitated property ownership, homeownership, business development, and education largely for Whites, why systematically excluding similar opportunities" for BIPOC. They find that the racial wealth gap is a "result of both this historic legacy and enduring contemporary racial discrimination."

The Urban Institute's "The Color of Wealth in the Nation's Capital" provides an extensive history of the structural barriers in policies, Supreme Court rulings, government programs, and practices that created wealth for many White families and prevented or stripped wealth accumulation from Black families.[29] The barriers noted include:

- The failure to fully implement Reconstruction and provide land to Black people who had been held in bondage.
- Violent attacks on Black people and communities by White people, destroying individual and community assets.
- Outlawing lucrative forms of entrepreneurship and skilled private sector jobs for Black people, and severely restricting employment of Black people in government jobs.
- Requiring free Black people to pay taxes, but forbidding them to attend public schools, causing them to pay again to build and be educated in private schools.
- Using restricted racial covenants to prevent Black people from buying White-owned houses.
- Using redlining to limit loans to Black and mixed-race communities.
- Using mass incarceration to disproportionately imprison and disenfranchise Black people and undermine asset accumulation for Black families and communities.
- Targeting Black people and neighborhoods with subprime loans, further stripping them of wealth.

As BIPOC experienced barriers to asset accumulation, many White residents amassed generational wealth and power. For example, the Social Security Act of 1935 crafted a social safety net for White populations while eligibility criteria for these supports disproportionately hurt people of color by excluding farm and domestic workers, two-thirds of who were

BIPOC (i.e. Black, Mexican, or Asian). Researchers estimate that the exclusion from this part of the safety net cost Black people alone over $143 billion.[30]

Anticipated RESJ Impacts

OLO anticipates that Expedited Bill 30-21 extending rent controls enacted at the beginning of the pandemic and limiting late fees will disproportionately benefit Black and Latinx residents because they experience the highest rates of housing insecurity in the County. More specifically, Black and Latinx residents are over-represented among rent-burdened families and households in need of rental assistance to avoid evictions. Black individuals and families are also over-represented among persons experiencing homelessness in the County.

Overall, OLO anticipates that the bill could reduce the displacement of low-income residents of color resulting from rising rents in neighborhoods with increased real estate development. Displacement associated with the loss of affordable housing would exacerbate current housing inequities by race and ethnicity. Further, Bill 30-21 aligns with best practices recommended by the Eviction Lab at Princeton, the Urban Institute, and PolicyLink for reducing the risk of evictions among low-income households.[31]

Recommended Amendments

The County's Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJIS.[32] OLO finds that Expedited Bill 30-21 could narrow racial and ethnic inequities in housing security by reducing evictions associated with rising rents, particularly in response to increased development in affordable communities across the County (e.g. communities along the Purple Line).

Should the Council desire to actualize more significant reductions in housing inequities via legislation, PolicyLink's Priorities for Advancing Racial Equity Through the American Rescue Plan offers the following recommendations for investing in "frontline, Covid-impacted, and disinvested communities" and for "preventing displacement and increased community ownership of land and housing" that could be considered as potential amendments to this bill:

- **Support projects that affirmatively further fair housing** by ensuring BIPOC residents have equitable access to low-poverty neighborhoods with community assets and also by investing in low-income communities. Strategies aimed at increasing access to low-poverty neighborhoods include inclusionary zoning and increasing the value of housing voucher payments in low-poverty neighborhoods. The County's Moderate Price Dwelling Unit Program aligns with recommended practices for promoting inclusionary zoning in low-poverty communities.[33]
- **Maintain strong eviction moratoria for one year beyond the expiration of the pandemic and provide funding to eliminate rent debt** and support struggling landlords and nonprofit affordable housing providers. Best practices include pairing landlord assistance with eviction protections and lease renewals, protecting renters from exorbitant rent increases, and programs that ensure undocumented people can access services. The County has expanded funding for legal services for households facing evictions, Bills 18-20 and 30-21 limit exorbitant rent increases, and evidence of legal status is not required for the COVID Rental Relief Program.[34]
- **Expand services and acquire permanent housing for people without housing**. The County currently provides a continuum of services for individuals and families experiencing homelessness, but most clients do not receive permanent housing. Among single adults served in 2020, 44 percent were placed in permanent supportive

housing while the remainder received rental support or time-limited rental subsidies of up to 24 months; among families served in 2020, only 12 percent were placed in permanent supportive housing.[35]

- **Fund acquisition strategies to transfer housing and land to community ownership and stewardship,** including rapid-response acquisition funds, community land trusts, and land banks to quickly purchase properties that come up for sale and compete with speculators. Montgomery County's Housing Investment Fund (HIF) and Housing Acquisition and Preservation Funds could potentially be used toward these ends.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

Dr. Elaine Bonner-Tompkins, OLO Senior Legislative Analyst, drafted this RESJ impact statement.

---

[1] Adopted from definition of racial equity described in the Racial Equity Policy Scorecard included in "Applying a Racial Equity Lens into Federal Nutrition Programs," authored by Marlysa Gamblinni; see the Government Alliance for Race and Equity's "Advancing Racial Equity and Transforming Government" resource guide for understanding the historical role of government in maintaining racial inequities https://racialequityalliance.org/wp-content/uploads/2015/02/GARE-Resource_Guide.pdf
[2] Adopted from racial equity definition provided by Racial Equity Tools. https://www.racialequitytools.org/glossary
[3] Montgomery County Council Expedited Bill 30-21, Landlord-Tenant Relations- Restrictions During Emergencies- Extended Limitations Against Rent Increases and Late Fees, Introduced on July 13, 2021.
[4] Ibid.
[5] Housing insecurity and the COVID-19 pandemic, March 2021, Consumer Financial Protection Bureau. https://files.consumerfinance.gov/f/documents/cfpb_Housing_insecurity_and_the_COVID-19_pandemic.pdf
[6] American Community Survey, Gross Rent as a Percentage of Household Income, 2019 1-Year Estimates, United States Census Bureau. https://data.census.gov/cedsci/table?t=-00%20%20All%20available%20races%3AIncome%20and%20Poverty%3ARace%20and%20Ethnicity&g=0500000US24031&tid=ACSSPP1Y2019.S0201
[7] Linda McMillan memorandum to County Council regarding FY22 Operating Budget: Homeless Services, Rental Assistance, and Housing Initiative, May 11, 2021 (Agenda Item #30, Joint Committee Worksession), see page circle 13. https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2021/20210512/20210512_30.pdf
[8] Ibid, see page circle 8.
[9] Ibid.
[10] Calculations based on American Community Survey, 2019 1-Year Estimates, Table ID S2502.
[11] Data from Leah Hendy and Lily Posey, Racial Inequities in Montgomery County, Urban Institute, Detailed Tables, December 2017. https://www.urban.org/research/publication/racial-inequities-montgomery-county-2011-15
[12] Richard Rothstein, The Color of Law: A Forgotten History of How Government Segregated America, 2017
[13] Ibid.
[14] Melvin Oliver and Thomas Shapiro, "Disrupting the Racial Wealth Gap" Sociology for the Public, May 7, 2019
[15] Kilolo Kijakazi, et. al, The Color of Wealth in the Nation's Capital, November 2016 https://www.urban.org/research/publication/color-wealth-nations-capital

---

[16] History of Montgomery County, Consumer Health Foundation
[17] Ibid.
[18] Kijakazi
[19] Ibid.
[20] Thomas Hatchett, "The Other Subsidized Housing: Federal Aid for Suburbanization 1940's – 1960's" in John Bowman, et. al, From Tenements to Taylor Homes: In Search of an Urban Policy in Twentieth Century America, 2000
[21] Rothstein
[22] Kijakazi
[23] Keeanga-Yamahtta Taylor, Race for Profit: How Banks and the Real Estate Industry Undermined Black Homeownership, 2019
[24] https://www.urban.org/features/exposing-housing-discrimination
[25] Dorothy Brown, The Whiteness of Wealth: How the Tax System Impoverishes Black Americans and How We Can Fix it, 2021
[26] Montgomery County, Maryland 2015 Analysis of Impediments to Fair Housing Choice
[27] Andrea Flynn, et. al, The Hidden Rules of Race: Barriers to An Inclusive Economy, 2017
[28] Field Note, 2020-2, December 2020 – Turning the Floodlights on the Root Causes of Today's Racialized Economic Disparities: Community Development Work at the Boston Fed Post-2020, Regional and Community Outreach
[29] Kijakazi
[30] Ibid.
[31] See citations for The Eviction Lab and Urban Institute cited by Natalia Carrizosa, COVID-19 Recovery Outlook: Evictions in Rental Housing, Office of Legislative Oversight, June 16, 2020, and PolicyLink, 10 Priorities for Advancing Racial Equity Through the American Rescue Plan: A Guide for City and County Policymakers. https://www.policylink.org/resources-tools/american-rescue-plan-10-priorities
[32] Montgomery County Council, Bill 27-19, Administration – Human Rights - Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee - Established
[33] PolicyLink
[34] https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2021/20210512/20210512_30.pdf
[35] Ibid, circle page 9.