FISCAL AND POLICY NOTE

June 8, 2024

TO: Jennifer A. Jenkins
Council Administrator

Colette R. Gresham, Esq.
Deputy Council Administrator

THRU: Josh Hamlin
Director of Budget and Policy Analysis

FROM: Shalene Miller-Whye
Legislative Budget and Policy Analyst
David Williams
Legislative Budget and Policy Analyst
Lavina Baxter
Senior Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement
CB-055-2024 Permanent Rent Stabilization and Protection Act of 2024

CB-055-2024 (*proposed by*: Council Members Ivey, Harrison, Fisher, Franklin, Hawkins, and Watson)

Assigned to the Committee of the Whole (COW)

AN ACT concerning Permanent Rent Stabilization and Protection Act of 2024 For the purpose of establishing permanent protections for renters against excessive rent increases and generally stabilizing rent prices in Prince George's County, subject to certain conditions.

Fiscal Summary

Direct Impact:

Expenditures: Significant additional administrative expenditures will be required for program implementation, enforcement, and compliance.

Revenues: No anticipated revenue impact.

Indirect Impact:

There will likely be a mixed indirect impact.

Legislative Summary:

CB-055-2024[1] Sponsored by Council Members Ivey, Harrison, Fisher, Franklin, Hawkins, and Watson, it was presented to the Council on June 6, 2024, and referred to the Committee of the Whole. It would amend Subtitle 13, Housing and Property Standards, of the Prince George's County Code to establish a permanent rent stabilization to protect renters against excessive rents.

If enacted, CB-055-2024 would:

- Repeal and reenact with amendments County Code sections 13-138, 13-144, 13-145, 13-146, and 13-147 and add sections 13-147.1, 13-147.2, and 13-147.3.

Resource Personnel:

- Karen T. Zavakos, Associate General Council Administrator
- Amy Fry, Chief of Staff, Council District 5

Current Law/Background:

Prior to CB-055-2024, CB-007-2023[2] was introduced to temporarily amend the Landlord-Tenant Code to limit landlords' ability to increase rent, with a cap set at 3%. This included an initial 6-month period but was extended through CB-008-2024[3] to extend the sunset date of this temporary measure by an additional six months, from April 17, 2024, to October 17, 2024.

To address the concerns of all stakeholders regarding rent stabilization, a rent stabilization work group was developed in partnership with Enterprise, Urban Institute, and Equitable Housing Solutions to engage stakeholders and provide clear recommendations for a permanent rent stabilization policy within the County.[4] Stakeholders included housing advocates, apartment companies, investment partners, non-profits, County agencies, and others with interests and

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[1] CB-055-2024
[2] CB-007-2023
[3] CB-008-2024
[4] Rent Stabilization Work Group

concerns regarding the potential implementation of this policy. Findings were reported on February 27, 2024.[5]

Discussion/Policy Analysis

Bill Provisions

Bill Provisions	CB-055-2024
Base Rent	Base rent means rent charged for a regulated rental unit under a lease, exclusive 7 of any rental discounts, incentives, concessions, or credits that are: (A)offered by the landlord; (B) accepted by the tenant; and (C) itemized in the lease separate from the rent.
Annual Rent Increase	Equal to the lesser of the CPI-U plus 3 % of 6%. This will be provided on May 1 of each year and effective on July 1 of that year.
Limited Surcharges for Capital Improvements	This surcharge covers the costs of capital improvements, excluding ordinary repair and maintenance. It becomes effective after the completion of capital improvements. The surcharge is divided equally among all units in a building, prorated for at least 96 months, and does not exceed 20% of the base rent. For certain units in a building, the surcharge is divided equally among the affected units, prorated over at least 60 months, and does not exceed 15% of the base rent. Surcharges end when the cost of capital improvements, including interest and service charges, have been recovered.
Limited Surcharges for Capital Improvements - Banking	The banked amount is to be established by rent stabilization regulations adopted by the Director. Landlords may petition for a limited surcharge, not to exceed 10% of the base rent, including the rent increase allowance.
Fair Return for Regulated Units	A landlord may apply to the Director for a rent increase that exceeds the allowance; a fair return is to mean a return on investment such as: Offsetting operating expenses and commensurate with returns on investments in other enterprises having comparable risks. A formula for regulations is to be established, as well as application requirements.

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[5] Rest Stabilization Task Force Recommendations and Report

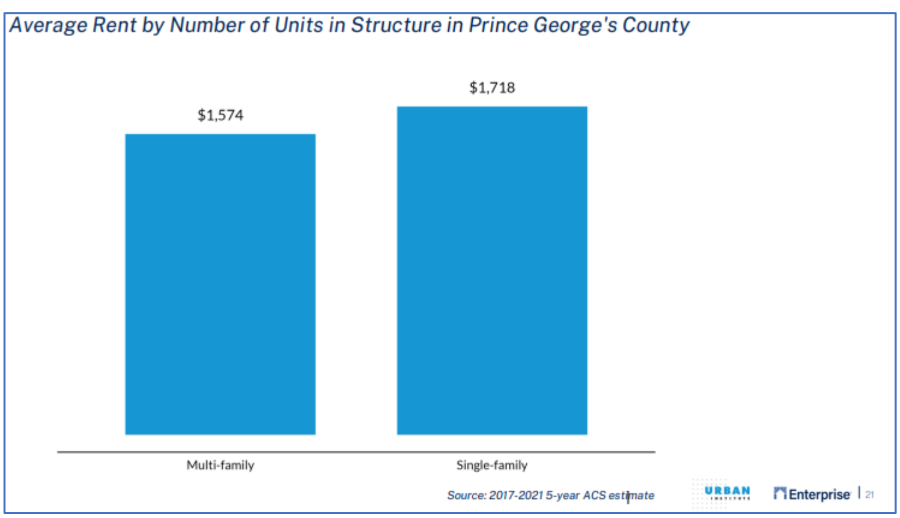
Automatic Exemptions	(1) a newly constructed unit whose construction was completed on or after January 1, 2000; (2) a unit in a licensed facility, the primary purpose of which is the diagnosis, cure, mitigation, and treatment of illnesses; (3) a unit in a facility owned or leased by an organization exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code if the primary purpose of the organization is to provide temporary shelter for qualified clients; (4) an owner-occupied group house; (5) a religious facility, including a church, synagogue, parsonage, rectory, convent, and parish home; (6) a hotel or motel only serving transient residents; (7) a school dormitory; (8) a licensed assisted living facility or nursing home; (9) a building originally designed and constructed to contain only 2 dwelling units, one of which the owner currently occupies as a principal residence (domicile); (10) an accessory dwelling unit; (11) a unit subject to a regulatory agreement with a governmental agency or an agreement with a third-party entity that restricts occupancy of the unit to low and moderate-income tenants; (12) Subject to rent stabilization regulations adopted by the Director, a unit located within a substantially renovated building if: (A) the substantial renovation was or is completed on or after January 1, 2000; and (B) the building is not in violation of Subtitles 4 or 13; (13) a rental unit owned by a landlord who: (A) owns 5 or fewer rental units within the County; and (B) is either: (i) a natural person; or (ii) the trust or estate of a decedent; (14) a rental unit being leased to a new resident; (15) any rental unit that is (or is located within) a dwelling that is majority owned by one or more individuals domiciled in Prince George's County and is not a multifamily dwelling or located within a multifamily dwelling; (16) a condominium unit owned by one or more individuals domiciled in Prince George's County; and (17) any unit within or a part of a building cooperative. ***An exemption listed above expires when the conditions entitling the unit or facility to an exemption cease or no longer exist.***

Fee Regulation	The Director will adopt regulations regarding limitations on fee increases or new fees charged by the landlord to the tenant in a regulated unit. A fee schedule may be included.
Data Collection	A landlord must submit a report to the Department regarding regulated rental units, rents, and notices of rent increases for the 12-month period from July 1 to June 30.
Enforcement	DHCD, DPIE, and OCR must inform landlords and tenants about the provisions of this Bill. DHCD must provide a public web portal for landlords to determine if their property is subject to rent increases. DPIE must notify license holders of the limits on rent increases 15 days before the effective date. With enforcement, DPIE may impose penalties of $500 for first violations and up to $5,000 for all other violations.

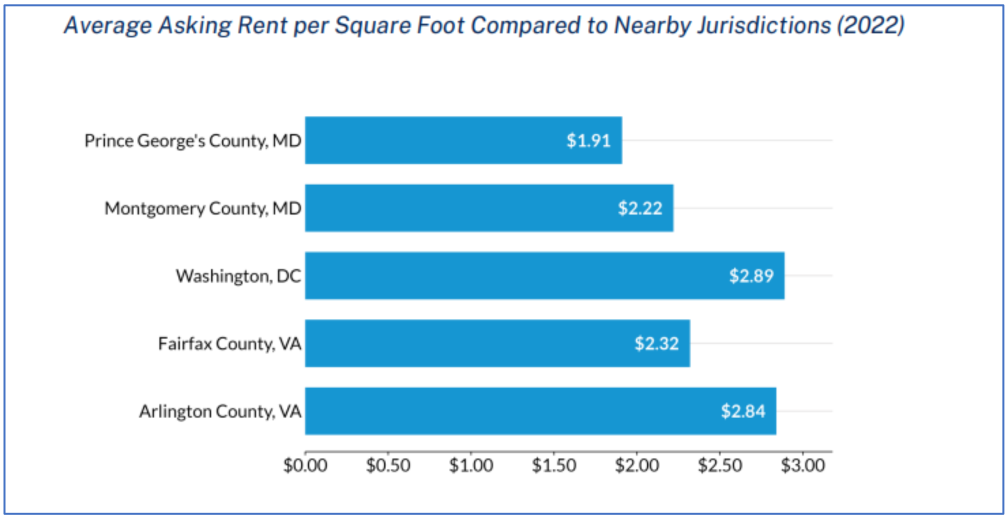
Prince George's County Renters & Rent Growth

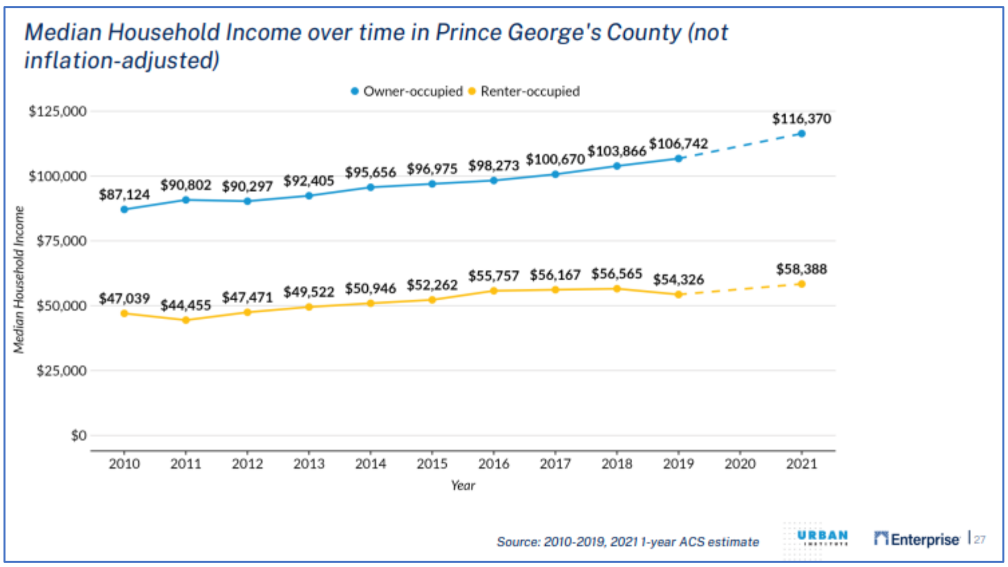
According to the American Community Survey 2018-2022, 52% of the County's renters had unaffordable housing costs within the County. In 2023, 30% of the County's housing stock was affordable to households with low incomes. With an annual housing production target of 2,380 units through the Council of Government Housing Targets, the County only built 1,172 new units. With a 4 year target of 9,520, the County has missed its targets, only developing at least 5,576 units.[6] In 2021, there were 64,777 cost-burdened renters within the County, this has steadily grown since 2010 from 55,766.[7]

Other important figures provided by the Rent Stabilization Task Force demonstrate that the average rent for multi-family units is $1,574, and the median household income for owner-occupied units is double the median household income for renter-occupied units. This demonstrates that with lower rents per square foot in the County, the median household income amongst renters is not enough to meet the cost of rent in comparison to neighboring jurisdictions, especially given the cost burdens mentioned previously.



[6] Prince George's County | Housing Indicator Tool | HAND (handhousing.org)
[7] 2010-2019, 2021 1-year ACS estimate, Rent Stabilization Task Force PowerPoint





Based on the current provisions, it is important to understand the number of units to be regulated through CB-055-2024. This is to regulate units built before January 1, 2000. According to CoStar's data[8], prior to 2000, 444 buildings were constructed, including 86,040 units; these units may be subject to regulation; in the chart below, these are considered Class B and Class C units. However, there are several other stipulations that can remove them from this number, including:

- a unit subject to a regulatory agreement with a governmental agency or an agreement with a third-party entity that restricts occupancy of the unit to low and moderate-income tenants;
- a unit located within a substantially renovated building if:
  (A) the substantial renovation was or is completed on or after January 1, 2000; and
  (B) the building is not in violation of Subtitles 4 or 13;

[8] CoStar ©, a commercial listing firm, for apartment counts and rents.

According to 2022 CoStar rent data, as provided by the Rent Stabilization Task Force, 11% of all multi-family units are affordable, also to be excluded from the number of units to be regulated under this policy.[9]

In the table below, at least 12,275 Class A units were built after January 1, 2000, in 41 buildings, and at least 7,916 Class B or C units were built after 2000, in 48 buildings.

Further, rent growth in the County is an important measurement to understand how rents in the County are currently rising prior to establishing a form of rent stabilization. Based on U.S. Bureau of Labor Statistics Data depicted in the below table, the County saw rent growth of 3% across all classes. This is .15% below the CPI-U for our region. Rent growth slowed from 4.5% in 2022 to 1.5% in 2023 among Class B and C units and from 3.0% to 1.5% during the same period among Class A units. CPI-U went from 6.72% in 2022 to 3.15% in 2023. Focusing strictly on units built before 2000, since 2017, the growth of rent has only seen a 6% increase in 2019, which would be the maximum cap as outlined in this Bill. Since 2017, the County has averaged a 3.2% rent increase across Class B and Class C units.

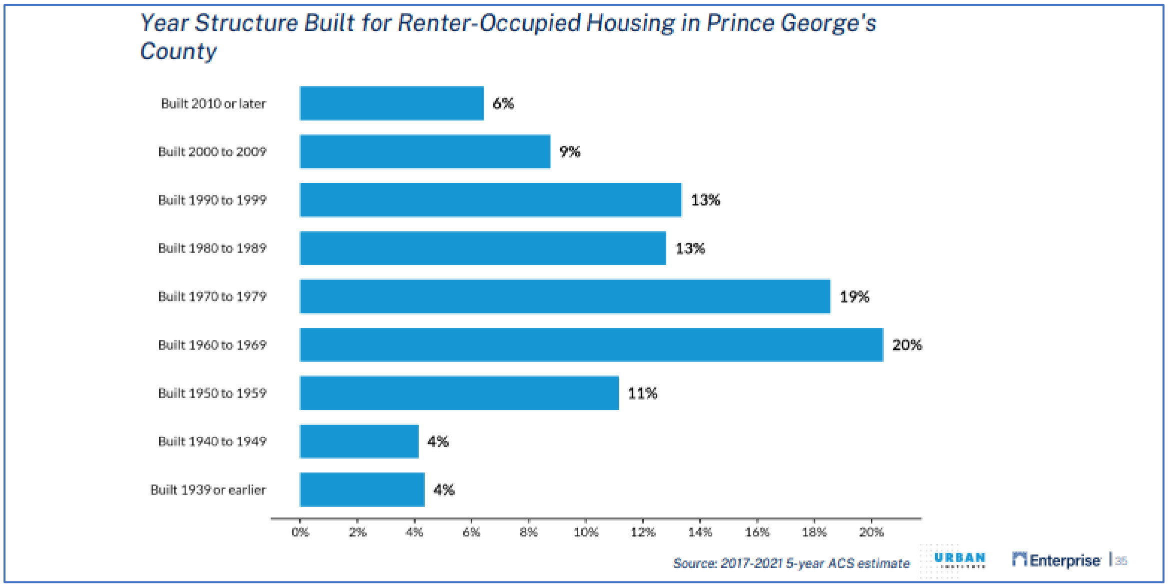
PRINCE GEORGE'S COUNTY ANNUAL RENT GROWTH SUMMARY				
YEAR	**ALL APARTMENT UNITS**	**WORKFORCE UNITS**	**LUXURY UNITS**	**Washington-Arlington-Alexandria, DC-VA-MD-WV**
	~106,000 Units	**Class-B & Class-C (Generally Built Before 2000)**	**Class-A (Generally Built After 2000)**	**CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U)**
2017		2.00%	3.50%	1.08%
2018		1.60%	3.10%	2.05%
2019		6.30%	6.70%	1.28%
2020		2.10%	0.60%	0.89%
2021		4.50%	2.50%	3.79%
2022		4.50%	3.00%	6.72%
2023		1.50%	1.50%	3.15%

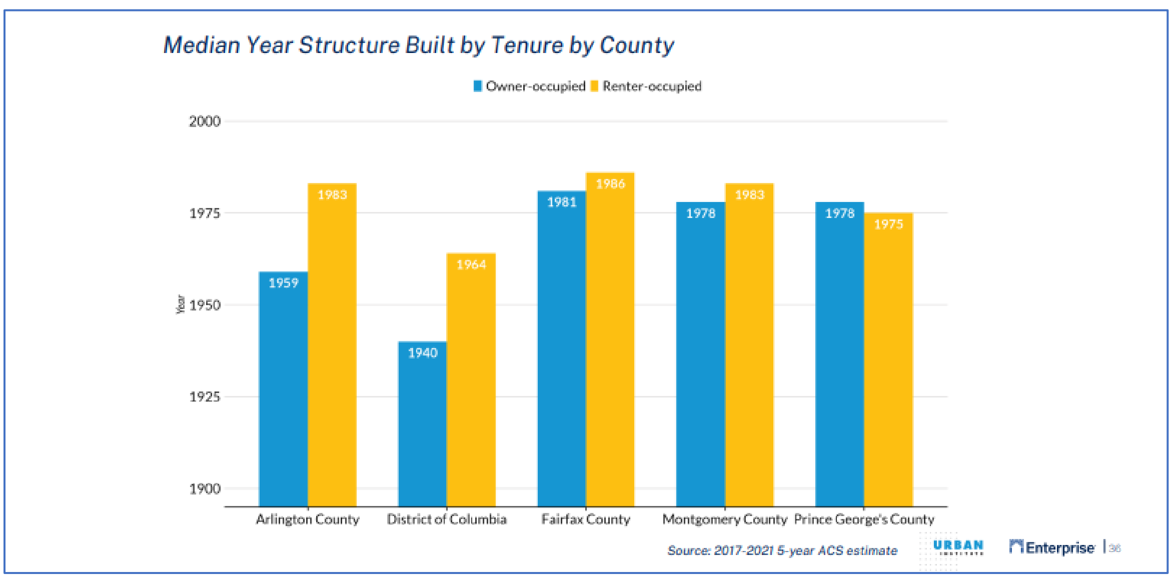
[10] [11]

[9] 2022 CoStar rent data, Rent Stabilization Task Force Recommendations PowerPoint
[10] U.S. Bureau of Labor Statistics for CPI.
[11] CoStar ©, a commercial listing firm, for apartment counts and rents.

Housing Stock

As established through CoStar data, most of the County's rental stock, including A, B, and C class units, was built before 2000. Based on 2017-2021 5-Year American Community Survey estimates, as highlighted in the Rent Stabilization Task Force's presentation.[12] As depicted in the chart below, 80% of renter-occupied units in the County were built before the 1960s. This demonstrates the overall aging of the County's housing stock. It is the only County within the region with renter-occupied units, which are, on average, older than owner-occupied units. In Prince George's County, the average age of a renter-occupied unit is 49, compared to 41 in Montgomery County.[13]





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[12] [Prince George's County Rent Stabilization Task Force Meeting Two]
[13] 2017-2021 5-Year American Community Survey estimates

Construction Growth

Data shows that the supply of multifamily units within the County is still growing, potentially adding to the number of units not to be regulated due to the exemption from post-2000 construction. In terms of new construction, among all units, 2.8% were under construction, with six buildings and 885 units completed in 2023, according to CoStar data. While it is important to understand the effect of temporary rent stabilization on the number of units under construction during that time, this data is not yet available, as CB-007-2023 likely happened as these units had already been under construction. It is important to note that overall, construction spending is down, according to the Census Bureau, with a 0.1% increase during April 2024. Growing interest rates are a major concern amongst developers, and at this rate, they will continue to require increased incentives and local and federal dollars to produce multi-family housing that is affordable.[14] As noted previously, about 11% of the County's units are affordable and are through LIHTC and similar incentives.

The Maryland Business Industry Association (MBIA) made a presentation on Monday, June 3, to the PHED committee highlighting the need for increased construction to reduce housing costs for renters. They noted that the unit shortage would exacerbate housing costs if this rent stabilization bill is implemented. The data provided by MBIA shows that in 2023, only 16% of new unit starts in the region were in Prince George's County, and of those units, none were conventionally financed without PILOT agreements or impact fee waivers. The MBIA contrasts the difference between sunbelt cities (predominantly in the Southern US), where housing unit supply is increasing and rents are decreasing, and gateway cities, where housing unit supply is decreasing and rents are increasing (major coastal metropolitans).[15]

The factors also cited by the MBIA as impeding housing affordability also include interest rates, increasing tax rates and impact fees, as well as property insurance costs and construction costs. Generally, rent stabilization is *only one factor of many that may* hamper new construction. It is important to note that the industry believes if rent caps were in place in the previous decade, landlords would have raised rents up to the cap to ensure return on investment. Additionally, they believe that Maryland has reached a point where every multifamily project will require a government incentive for construction due to increased building costs and regulation.[16]

In terms of recordation and transfer taxes, there has been a significant decrease in recordation taxes collected in FY 2022 to now. According to the Office of Finance's FY 2025 budget[17], transfer and recordation taxes are the most volatile due to the correlation between revenue collected and local market activity. Things that influence transfer and recordation taxes include the tax rate, business cycle, interest rates, availability of credit, and the real estate market. While there are noticeable differences in the amount of recordation and transfer taxes collected between FY 2023 and FY 2024, many factors may be affecting this, including the real estate market; as mentioned previously, construction is down nationally.

[14] U.S. Census Bureau
[15] MBIA presentation pg. 32
[16] MBIA presentation pg. 29
[17] Proposed Operating Budget pg. 48

	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2024 Estimate	FY 2025 Proposed	Change FY24-FY25
Recordation Tax	$50,749,806	$60,279,962	$73,179,036	$42,695,925	$52,431,400	$39,000,000	$42,000,000	-19.90%
Transfer Tax	$121,875,124	$143,642,925	$168,454,273	$128,254,383	$152,139,900	$122,500,000	$122,500,000	-19.50%

Neighboring Jurisdictions

Montgomery County has adopted Bill 15-23[18], with a rent increase allowance of 6% of the existing rent or 3% plus the CPI-U. Exemptions include newly constructed units offered for less than 23 years, accessory dwelling units, certain owner-occupied properties, a rental unit owned by a landlord who owns two or fewer rental units who is a natural person, estate or trust, health facilities, religious and non-profit organizations, and licensed facilities. Additionally, rent increases can be permitted to fund certain capital improvements.

CB-055-2024 is very similar in substance to Bill 15-23. The major differences between them are time limits for newly constructed rental stock and exemptions for landlords who own a certain number of units. As the stock continues to age, newly constructed units in Montgomery County will be regulated after 23 years in the rental market, while the provisions of this Bill do not provide for a dynamic age-related exemption. Instead, this Bill age exemption is static, applying to all units built after January 1, 2000. Using a fixed date of construction for an exemption, while it diverges from Montgomery County, is the model used by the District of Columbia.[19] This may be important to note, as aging stock may require increased capital improvements and a potentially heightened number of surcharges to be passed on to tenants. Additionally, fixing applicability to the pre-2000 construction essentially means that the number of covered units will only diminish over time. Effectively, this results in a permanently shrinking pool of regulated units.

In terms of exemptions for small landlords, to be exempt under CB-055-2024 a landlord who owns five (5) units or fewer in the County. This number is two (2) units in Montgomery County. This may excuse more units to be considered for regulation under CB-055-2024.

Analyzing Montgomery County's transfer and recordation taxes may be necessary when considering construction growth. Like Prince George's County, Montgomery County is also seeing a decrease in recordation and transfer taxes, with a -20.60% decrease in recordation taxes from FY 2024 to FY 2025 and 19.80% for transfer taxes[20]. As noted above, for Prince George's County, these taxes can be the most volatile, but the real estate market plays a factor.

	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2024 Estimate	FY 2025 Proposed	Change FY24-FY25
Recordation Tax	$57,692,541	$60,573,086	$85,819,161	$53,288,501	$56,501,236	$42,884,800	$44,878,953	-20.60%
Transfer Tax	$115,719,567	$132,288,901	$180,217,441	$110,458,782	$118,050,247	$90,513,416	$94,772,310	-19.80%

[18] Sec. 29-56. Rent stabilization - Montgomery County
[19] DC Rental Housing Act of 1985 p. 24, District of Columbia Register, 12.3.23, Vol 6-49 p.012731
[20] Montgomery County Maryland Operating Budget

Task Force Findings and Recommendations

The rent stabilization task force had several recommendations for developing a permanent rent stabilization policy.[21]

Summary

COMPONENT	RENT STABILIZATION ACT OF 2023	RECOMMENDATIONS
LIMITATIONS ON RENT INCREASES	• Baseline factor: N/A • Escalator: N/A • Cap: 3%	• Anchor to an inflation index • Design to see allowable rent increases at least 4% but no more than 10% • Include a hard cap to ensure predictability
EXEMPTIONS	• Federal, state, locally subsidize units or any unit that the tenant is receiving rental assistance • Dwelling units that received an initial use and occupancy permit in the last five years of policy effective date	• Understand how different exemptions intersect and add up; compare to overarching policy goal(s) • Clearly define exemptions, including any relating to committed affordable housing units • Evaluate the macro effects of age-based exemptions over time
EXCEPTIONS	N/A	• Fair return • Significant capital improvements • Substantial renovations
DECONTROL	N/A	• Partial vacancy decontrol that allows property managers to increase rent somewhere between 8-12% • Allow rent increases to be banked up to 10%
RELATED TENANT PROTECTIONS	• Anti-retaliation ordinance (Emergency Act Concerning Landlord Retaliation for Rent Stabilization)	• Proactive education • Clear tenant appeals processes • Option for mediation • Legal support for renters • Dedicated staff/office of landlord-tenant affairs

Based on the provisions of this Bill, it loosely follows recommendations established by the task force, including:

- limitations on rent increases with a 6% hard cap
- clearly defined exemptions, excluding committed affordable housing units
- exceptions for fair return, capital improvements, and renovations; and
- allowable rent increases with a cap of 10%, including the banked amount.

However, this Bill does mention vacancy control or partial vacancy decontrol for tenant-related protections. The Rent Stabilization Task Force advised that there be partial vacancy control, capping rent increases for vacant units somewhere between 8-12%. This may leave room for uncertainty and allow for vacant regulated units to be raised to high rents, which will, in turn, be the base of the next tenant's regulation.

This Bill does include potential education related to tenant protections, but its intensity is unclear. Further, there is no additional information related to potential appeals, mediation, or legal support for renters. Also noted, the enforcer of this Bill is the Department of Permitting and Inspection. The Department of Housing and Community Development will help inform renters and landlords of this policy; however, this leaves no indication that a separate office or dedicated staff for landlord-tenant affairs will be established.

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[21] Rest Stabilization Task Force Recommendations and Report

Administrative Impact

Section 13-147.3 stipulates that the Department of Housing and Community Development, the Department of Permitting, Inspection, and Enforcement, and the Office of Community Relations must publish information on the program parameters and criteria for enforcement on their respective websites. DPIE is granted enforcement authority for any landlord violations including the imposition and collection of fines and notifying license holders of the annual limits on rent increases. DCHD will be responsible for the development and implementation of a publicly accessible web portal to verify if a rental unit is subject to the legislation. Full implementation of this bill may require establishing new dedicated units within DHCD and DPIE.

Cost Considerations

- Increased staffing/FTE demands for program administration within DCHD.
- Increased staffing/FTE demands for program administration within DPIE.
- Hardware and software asset demands for establishment and operation of public access portal.

Fiscal Impact:

- *Direct Impact*

The adoption of CB-055-2024 will have an adverse fiscal impact as it will add significant administrative responsibilities to DPIE, DHCD, and OCR. This bill will likely require the creation of dedicated units within both DPIE and DHCD to handle the additional labor demand. Some of these costs may be offset by the imposition of fees and fines, however the fiscal impact is anticipated to remain adverse. For Montgomery County's Bill 15-23 the estimated first-year expenditures for personnel and operations were approximately $1,227,394 with a total of $6,889,725 over the subsequent six years. Montgomery County Office of Management and Budget also estimated a labor demand forecast of six new positions to administer this program. Prince George's County will most likely have a higher expenditure requirement than Montgomery County due to differences in the structure of the Counties' respective housing agencies.[22]

- *Indirect Impact*

The adoption of CB-055-2024 is likely to have a mixed indirect impact. Its impact may be favorable in reducing resident displacement and creating greater housing affordability for middle to low-income renters. However, this favorable impact may be offset by an adverse impact on new multifamily construction, as referenced by the MBIA.

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[22] Montgomery County Bill 15-23 Fiscal Impact

- *Appropriated in the Current Fiscal Year Budget*

No.

Questions for Committee Consideration:

1. Does the Department have sufficient staff to meet enforcement of this Bill? What additional staffing would be required?
2. Does the department have an estimated fiscal impact for establishing the necessary provisions outlined in this Bill? How much additional staff would be required to meet the provisions outlined?
3. How many multi-family rental units (more than 4 units in a building, in this case) built before January 1, 2000, are licensed and operating in the County?
4. How many units are currently being operated within the County under an agreement for low—and moderate-income rents?
5. How many multi-family rental units (more than 4 units in a building, in this case) built before January 1, 2000, have had a substantial renovation?
6. How will all additional regulations be determined? For example, how is a fair return exception considered/approved?

Effective Date:

CB-055-2024 shall be effective forty-five (45) calendar days after it becomes law. However, the Bill contains a number of uncodified transitional provisions, as follows:

- the Director shall adopt and publish rent stabilization regulations authorized and/or required by this Act by January 1, 2026.
- The rent stabilization regulations shall become effective on February 1, 2026 and be published on the official DPIE website.
- The substantive provisions of the Act shall not take effect or be enforced until the rent stabilization regulations become effective.
- Solely for calendar year 2024, the rent increase allowance prescribed in Section 13-144(a) of the Code shall become effective on October 17, 2024, and shall remain in effect until July 1, 2025.
- The July 1, 2025 rent increase allowance and those thereafter shall be determined in accordance with the schedule established in Section 13-144 of the Code.

If you require additional information or have questions about this fiscal impact statement, please call me.