

SENATE BILL 891

L6, N1

5lr1839
CF 5lr1838

By: **Senator M. Washington**

Introduced and read first time: January 28, 2025

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Land Use and Real Property – Accessory Dwelling Units – Requirements and**
3 **Prohibitions**

4 FOR the purpose of requiring, on or before a certain date, the legislative body of certain
5 counties or municipal corporations to adopt a local law authorizing the development
6 of accessory dwelling units on land zoned for single-family residential use subject to
7 certain requirements; providing for requirements for approval of a zoning use permit
8 application, the calculation of development impact fees or building excise taxes, the
9 creation of on- and off-street parking spaces, and restrictions on the ability of a
10 utility to require a certain connection or charge a certain fee, subject to certain
11 criteria; prohibiting a restriction on use in an instrument affecting the transfer or
12 sale of real property or any other interest in real property from imposing or acting to
13 impose certain limitations on the development or use of accessory dwelling units on
14 property zoned for single-family residential use; authorizing the governing body of
15 a homeowners association to treat an accessory dwelling unit as a separate lot for
16 purposes of voting and levying assessments; and generally relating to the
17 development and use of accessory dwelling units.

18 BY repealing and reenacting, without amendments,
19 Article – Land Use
20 Section 1–401(a) and (c) and 10–103(a)
21 Annotated Code of Maryland
22 (2012 Volume and 2024 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article – Land Use
25 Section 1–401(b)(18) through (30) and 10–103(b)(17) through (23)
26 Annotated Code of Maryland
27 (2012 Volume and 2024 Supplement)

28 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Land Use

Section 1–401(b)(18); 4–501 through 4–507 to be under the new subtitle “Subtitle 5. Accessory Dwelling Units”; and 10–103(b)(17)

Annotated Code of Maryland

(2012 Volume and 2024 Supplement)

BY adding to

Article – Real Property

Section 2–126, 11B–101(a–1), and 11B–111.11

Annotated Code of Maryland

(2023 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, without amendments,

Article – Real Property

Section 11B–101(a)

Annotated Code of Maryland

(2023 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, with amendments,

Article – Real Property

Section 11B–117(a)

Annotated Code of Maryland

(2023 Replacement Volume and 2024 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

Article – Land Use

1–401.

(a) Except as provided in this section, this division does not apply to charter counties.

(b) The following provisions of this division apply to a charter county:

(18) TITLE 4, SUBTITLE 5 (ACCESSORY DWELLING UNITS);

[(18)] (19) § 5–102(d) (Subdivision regulations – Burial sites);

[(19)] (20) § 5–104 (Major subdivision – Review);

[(20)] (21) Title 7, Subtitle 1 (Development Mechanisms);

[(21)] (22) Title 7, Subtitle 2 (Transfer of Development Rights);

1 **(3) AS A NEW BUILDING, DETACHED FROM THE PRIMARY DWELLING**
2 **UNIT AND ANY EXISTING ACCESSORY STRUCTURES.**

3 **(C) (1) “DWELLING UNIT” MEANS A SINGLE UNIT PROVIDING COMPLETE,**
4 **INDEPENDENT LIVING FACILITIES FOR AT LEAST ONE INDIVIDUAL, INCLUDING**
5 **PERMANENT PROVISIONS FOR SANITATION, COOKING, EATING, SLEEPING, AND**
6 **OTHER ACTIVITIES ROUTINELY ASSOCIATED WITH DAILY LIFE.**

7 **(2) “DWELLING UNIT” DOES NOT INCLUDE A UNIT IN A MULTIFAMILY**
8 **RESIDENTIAL BUILDING.**

9 **(D) “UTILITY” MEANS WATER OR SEWER DISPOSAL SERVICES PROVIDED BY:**

10 **(1) A PRIVATE COMPANY REGULATED UNDER DIVISION I OF THE**
11 **PUBLIC UTILITIES ARTICLE;**

12 **(2) THE WASHINGTON SUBURBAN SANITARY COMMISSION**
13 **REGULATED UNDER DIVISION II OF THE PUBLIC UTILITIES ARTICLE;**

14 **(3) A SANITARY COMMISSION REGULATED UNDER TITLE 9, SUBTITLE**
15 **6 OF THE ENVIRONMENT ARTICLE; OR**

16 **(4) A MUNICIPAL AUTHORITY REGULATED UNDER TITLE 9, SUBTITLE**
17 **7 OF THE ENVIRONMENT ARTICLE.**

18 **4-502.**

19 **THIS SUBTITLE APPLIES ONLY TO THE DEVELOPMENT OF ACCESSORY**
20 **DWELLING UNITS ON LAND ZONED FOR SINGLE-FAMILY RESIDENTIAL USE.**

21 **4-503.**

22 **(A) IT IS THE POLICY OF THE STATE TO PROMOTE AND ENCOURAGE THE**
23 **CREATION OF ACCESSORY DWELLING UNITS ON LAND ZONED FOR SINGLE-FAMILY**
24 **RESIDENTIAL USE IN ORDER TO MEET THE HOUSING NEEDS OF THE CITIZENS OF**
25 **MARYLAND.**

26 **(B) (1) EXCEPT AS PROVIDED IN THIS SUBTITLE AND SUBJECT TO**
27 **PARAGRAPH (2) OF THIS SUBSECTION, THIS SUBTITLE DOES NOT ALTER OR**
28 **ABROGATE ANY ZONING POWER OR RELATED AUTHORITY GRANTED TO A LOCAL**
29 **JURISDICTION UNDER THIS TITLE.**

**(2) LOCAL JURISDICTIONS SHALL ESTABLISH POLICIES THAT
FURTHER THE INTENT OF THIS SUBTITLE.**

4-504.

**(A) ON OR BEFORE OCTOBER 1, 2026, EACH LEGISLATIVE BODY SHALL
ADOPT A LOCAL LAW AUTHORIZING THE DEVELOPMENT OF ACCESSORY DWELLING
UNITS ON LAND ZONED FOR SINGLE-FAMILY RESIDENTIAL USE IN ACCORDANCE
WITH THIS SECTION.**

**(B) A LOCAL LAW ADOPTED UNDER THIS SECTION SHALL APPLY TO ALL
LAND IN THE LOCAL JURISDICTION ZONED FOR SINGLE-FAMILY RESIDENTIAL USE,
PROVIDED THAT:**

**(1) THE PARTY DEVELOPING THE ACCESSORY DWELLING UNIT OWNS
AND HAS THE EXCLUSIVE RIGHT TO USE THE LOT, PARCEL, OR TRACT ON WHICH THE
ACCESSORY DWELLING UNIT IS TO BE DEVELOPED; AND**

**(2) THE DEVELOPMENT OF NEW DWELLING UNITS ON THE LOT,
TRACT, OR PARCEL IS NOT OTHERWISE PROHIBITED DUE TO:**

(I) LIMITATIONS ON AVAILABLE SAFE DRINKING WATER;

**(II) THE EXISTENCE OF PUBLIC HEALTH RISKS DUE TO
LIMITATIONS ON SEWAGE DISPOSAL; OR**

(III) RISKS ASSOCIATED WITH FIRES, FLOODS, OR LANDSLIDES.

(C) A LOCAL LAW ADOPTED UNDER THIS SECTION SHALL:

**(1) REQUIRE THAT THE TOTAL SQUARE FOOTAGE OF THE ACCESSORY
DWELLING UNIT BE LESS THAN THE TOTAL SQUARE FOOTAGE OF THE PRIMARY
DWELLING UNIT;**

**(2) REQUIRE THAT THE FINAL DESIGN FOR THE ACCESSORY
DWELLING UNIT SATISFY ALL RELEVANT BUILDING CODE REQUIREMENTS;**

**(3) AUTHORIZE CONSTRUCTION OF AN ACCESSORY DWELLING UNIT
BEFORE OR DURING THE CONSTRUCTION OF THE PRIMARY DWELLING UNIT, UNLESS
THE CONSTRUCTION OF THE ACCESSORY DWELLING UNIT WOULD RESULT IN THE
NEED FOR A VARIANCE FROM THE ZONING LAW OF THE LOCAL JURISDICTION IN
ORDER TO CONSTRUCT THE PRIMARY DWELLING UNIT;**

(4) EXCLUDE THE DEVELOPMENT OF AN ACCESSORY DWELLING UNIT FROM THE CALCULATION OF DENSITY AND THE APPLICATION OF ANY MEASURES LIMITING RESIDENTIAL GROWTH THAT PERTAIN TO THE LOT, PARCEL, OR TRACT PROPOSED FOR THE DEVELOPMENT OF THE ACCESSORY DWELLING UNIT; AND

(5) SET CONDITIONS FOR APPROVAL OF A ZONING USE PERMIT FOR AN ACCESSORY DWELLING UNIT UNDER § 4-505 OF THIS SUBTITLE THAT ADDRESS OBJECTIVE AND MEASURABLE REQUIREMENTS, INCLUDING:

(I) MASSING;

(II) LOCATIONS OF ENTRANCES;

(III) SQUARE FOOTAGE; AND

(IV) SUBJECT TO § 4-507 OF THIS SUBTITLE, CONNECTIONS TO A UTILITY.

(D) A LOCAL LAW ADOPTED UNDER THIS SECTION MAY NOT:

(1) REQUIRE, AS A CONDITION TO DEVELOPING AN ACCESSORY DWELLING UNIT, THAT THE LOT, PARCEL, OR TRACT EXCEED THE MINIMUM SIZE REQUIRED FOR A PRIMARY DWELLING UNIT IN THE ZONE OR DISTRICT;

(2) ESTABLISH SETBACK REQUIREMENTS FROM THE SIDE AND REAR LOT LINES FOR AN ACCESSORY DWELLING UNIT THAT IS CONVERTED FROM AN EXISTING ACCESSORY STRUCTURE IF:

(I) THE LOCATION OF THE PROPOSED ACCESSORY DWELLING UNIT IS IDENTICAL TO THE EXISTING ACCESSORY STRUCTURE; AND

(II) THE DIMENSIONS OF THE PROPOSED ACCESSORY DWELLING UNIT ARE IDENTICAL TO OR SMALLER THAN THE EXISTING ACCESSORY STRUCTURE;

(3) FOR AN ACCESSORY DWELLING UNIT OTHER THAN A UNIT THAT MEETS THE REQUIREMENTS OF ITEM (2) OF THIS SUBSECTION, ESTABLISH SETBACK REQUIREMENTS THAT EXCEED 4 FEET FROM THE SIDE AND REAR LOT LINES;

(4) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, REQUIRE:

1 **(I) IF THE DEVELOPMENT OF THE ACCESSORY DWELLING UNIT**
2 **IS LOCATED WITHIN A 0.75-MILE RADIUS OF A MASS TRANSIT FACILITY, THE**
3 **CREATION OF NEW OFF-STREET PARKING AS A CONDITION TO DEVELOPING THE**
4 **ACCESSORY DWELLING UNIT; AND**

5 **(II) IF THE DEVELOPMENT OF THE ACCESSORY DWELLING UNIT**
6 **IS LOCATED OUTSIDE A 0.75-MILE RADIUS OF A MASS TRANSIT FACILITY, THE**
7 **CREATION OF MORE THAN ONE OFF-STREET PARKING SPACE; OR**

8 **(5) SET CONDITIONS FOR APPROVAL OF A ZONING USE PERMIT FOR**
9 **AN ACCESSORY DWELLING UNIT UNDER § 4-505 OF THIS SUBTITLE BASED ON**
10 **SUBJECTIVE CRITERIA, INCLUDING:**

11 **(I) NEIGHBORHOOD COMPATIBILITY, SUCH AS DESIGN OR**
12 **AESTHETICS; OR**

13 **(II) ADVERSE IMPACTS.**

14 **(E) (1) (I) SUBJECT TO SUBSECTION (D)(4) OF THIS SECTION, A LOCAL**
15 **LAW ADOPTED UNDER THIS SECTION MAY ESTABLISH ADDITIONAL OFF-STREET**
16 **PARKING REQUIREMENTS THAT CONSIDER:**

17 **1. THE COST TO CONSTRUCT OFF-STREET PARKING**
18 **SPACES;**

19 **2. WHETHER SUFFICIENT CURB AREA EXISTS ALONG**
20 **THE FRONT LINE OF THE PROPERTY TO ACCOMMODATE ON-STREET PARKING;**

21 **3. THE INCREASE IN IMPERVIOUS SURFACE DUE TO THE**
22 **CREATION OF NEW OFF-STREET PARKING AND THE RELATION TO ANY APPLICABLE**
23 **STORMWATER MANAGEMENT PLANS; AND**

24 **4. VARIABILITY DUE TO THE SIZE OF THE LOT, PARCEL,**
25 **OR TRACT ON WHICH THE ACCESSORY DWELLING UNIT OR PRIMARY DWELLING IS**
26 **LOCATED.**

27 **(II) A LOCAL LAW ADOPTED UNDER THIS PARAGRAPH SHALL**
28 **PROVIDE FOR A WAIVER PROCESS FROM THE PARKING REQUIREMENTS.**

29 **(2) BEFORE ADOPTING A LOCAL LAW UNDER PARAGRAPH (1) OF THIS**
30 **SUBSECTION, A LEGISLATIVE BODY SHALL COMPLETE A PARKING STUDY TO**
31 **DETERMINE THE APPLICABLE NEEDS AND RESTRICTIONS IN THE JURISDICTION.**

4-505.

(A) A LOCAL JURISDICTION SHALL APPROVE OR DENY A COMPLETE APPLICATION FOR A ZONING USE PERMIT FOR AN ACCESSORY DWELLING UNIT WITHIN 90 DAYS AFTER RECEIPT BY THE AGENCY RESPONSIBLE FOR MAKING ZONING DECISIONS.

(B) APPROVAL OF A COMPLETE APPLICATION UNDER THIS SECTION SHALL BE PERFORMED IN A MINISTERIAL MANNER.

(C) IF AN APPLICANT REQUESTS A DELAY IN THE REVIEW OF AN APPLICATION, THE 90-DAY REVIEW PERIOD REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE TOLLED FOR THE DURATION OF THE DELAY.

(D) THIS SECTION MAY NOT BE CONSTRUED TO ALTER THE APPELLATE OR JUDICIAL REVIEW PROCESSES FOR A ZONING USE PERMIT APPLICATION FOR AN ACCESSORY DWELLING UNIT.

4-506.

(A) A LOCAL JURISDICTION MAY NOT CHARGE A DEVELOPMENT IMPACT FEE OR A BUILDING EXCISE TAX ON AN ACCESSORY DWELLING UNIT WITH A TOTAL SQUARE FOOTAGE OF LESS THAN 750 SQUARE FEET.

(B) A LOCAL JURISDICTION MAY CHARGE A DEVELOPMENT IMPACT FEE OR A BUILDING EXCISE TAX FOR THE DEVELOPMENT OF AN ACCESSORY DWELLING UNIT THAT IS AT LEAST 750 SQUARE FEET IF THE IMPACT FEE OR BUILDING EXCISE TAX IS:

(1) ASSESSED PROPORTIONATELY IN RELATION TO THE SQUARE FOOTAGE OF THE PRIMARY DWELLING UNIT; AND

(2) SET AT AN AMOUNT THAT DOES NOT CREATE A DE FACTO PROHIBITION ON THE CONSTRUCTION OF THE ACCESSORY DWELLING UNIT.

(C) A LOCAL JURISDICTION MAY ESTABLISH A PROCESS BY WHICH AN IMPACT FEE OR BUILDING EXCISE TAX CHARGED UNDER THIS SECTION MAY BE WAIVED OR REDUCED.

4-507.

(A) (1) THIS SUBSECTION DOES NOT APPLY TO AN ACCESSORY DWELLING UNIT THAT IS DEVELOPED IN CONJUNCTION WITH A NEW OR SUBSTANTIALLY RENOVATED PRIMARY DWELLING UNIT.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A UTILITY MAY NOT REQUIRE THE USE OF A SEPARATE CONNECTION BETWEEN AN ACCESSORY DWELLING UNIT AND THE WATER OR SEWER MAIN IF THE EXISTING CONNECTION BETWEEN THE PRIMARY DWELLING UNIT AND THE WATER OR SEWER MAIN IS DETERMINED TO BE SUFFICIENT TO SUPPORT THE ADDITION OF THE ACCESSORY DWELLING UNIT.

(3) A LOCAL JURISDICTION MAY ESTABLISH CRITERIA UNDER WHICH A UTILITY IS AUTHORIZED TO REQUIRE THE USE OF A SEPARATE CONNECTION BETWEEN AN ACCESSORY DWELLING UNIT AND THE WATER OR SEWER MAIN.

(B) IF AN ACCESSORY DWELLING UNIT IS INTEGRATED INTO THE EXISTING CONNECTION BETWEEN THE PRIMARY DWELLING UNIT AND THE WATER OR SEWER MAIN, A UTILITY MAY NOT CHARGE A CONNECTION FEE ASSOCIATED WITH THE INTEGRATION OF THE ACCESSORY DWELLING UNIT.

(C) A PERSON DEVELOPING AN ACCESSORY DWELLING UNIT MAY ELECT TO USE A METER THAT IS SHARED WITH THE PRIMARY DWELLING UNIT TO TRACK THE DELIVERY OF WATER FROM A UTILITY.

10–103.

(a) Except as provided in this section, this division does not apply to Baltimore City.

(b) The following provisions of this division apply to Baltimore City:

(17) TITLE 4, SUBTITLE 5 (ACCESSORY DWELLING UNITS);

[(17)] (18) § 5–102(d) (Subdivision regulations – Burial sites);

[(18)] (19) Title 7, Subtitle 1 (Development Mechanisms);

[(19)] (20) Title 7, Subtitle 2 (Transfer of Development Rights);

[(20)] (21) Title 7, Subtitle 3 (Development Rights and Responsibilities Agreements);

[(21)] (22) Title 7, Subtitle 4 (Inclusionary Zoning);

1 [(22)] **(23)** Title 7, Subtitle 5 (Housing Expansion and Affordability); and

2 [(23)] **(24)** Title 11, Subtitle 2 (Civil Penalty).

3 **Article – Real Property**

4 **2–126.**

5 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
6 **INDICATED.**

7 **(2) “ACCESSORY DWELLING UNIT” HAS THE MEANING STATED IN §**
8 **4–501 OF THE LAND USE ARTICLE.**

9 **(3) “RESTRICTION ON USE” INCLUDES ANY COVENANT,**
10 **RESTRICTION, OR CONDITION CONTAINED IN:**

11 **(I) A DEED;**

12 **(II) A DECLARATION;**

13 **(III) A CONTRACT;**

14 **(IV) THE BYLAWS OR RULES OF A HOMEOWNERS ASSOCIATION;**

15 **(V) A SECURITY INSTRUMENT; OR**

16 **(VI) ANY OTHER INSTRUMENT AFFECTING:**

17 1. **THE TRANSFER OR SALE OF REAL PROPERTY; OR**

18 2. **ANY OTHER INTEREST IN REAL PROPERTY.**

19 **(B) (1) IF A PROPERTY OWNER HAS THE EXCLUSIVE RIGHT TO USE THE**
20 **PROPERTY AND ABIDES BY ALL APPLICABLE LAWS AND REGULATIONS, A**
21 **RESTRICTION ON USE REGARDING LAND USE MAY NOT IMPOSE OR ACT TO IMPOSE**
22 **AN UNREASONABLE LIMITATION ON THE ABILITY OF THE PROPERTY OWNER TO**
23 **DEVELOP AN ACCESSORY DWELLING UNIT ON A PROPERTY ZONED FOR**
24 **SINGLE–FAMILY RESIDENTIAL USE.**

25 **(2) FOR THE PURPOSE OF PARAGRAPH (1) OF THIS SUBSECTION, AN**
26 **UNREASONABLE LIMITATION INCLUDES A LIMITATION THAT:**

1 **(I) SIGNIFICANTLY INCREASES THE COST OF DEVELOPING AN**
2 **ACCESSORY DWELLING UNIT; OR**

3 **(II) PROHIBITS, EITHER EXPLICITLY OR BY EFFECT OF THE**
4 **RESTRICTIONS, THE DEVELOPMENT OF AN ACCESSORY DWELLING UNIT.**

5 **(C) THIS SECTION DOES NOT APPLY TO A RESTRICTION ON USE ON HISTORIC**
6 **PROPERTY THAT IS LISTED IN OR DETERMINED BY THE DIRECTOR OF THE**
7 **MARYLAND HISTORICAL TRUST TO BE ELIGIBLE FOR INCLUSION IN THE MARYLAND**
8 **REGISTER OF HISTORIC PROPERTIES.**

9 11B-101.

10 (a) In this title the following words have the meanings indicated, unless the
11 context requires otherwise.

12 **(A-1) “ACCESSORY DWELLING UNIT” HAS THE MEANING STATED IN § 4-501 OF**
13 **THE LAND USE ARTICLE.**

14 11B-111.11.

15 **NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR ANY PROVISION IN**
16 **THE DECLARATION, BYLAWS, RULES, DEEDS, AGREEMENTS, OR RECORDED**
17 **COVENANTS OR RESTRICTIONS OF A HOMEOWNERS ASSOCIATION, THE GOVERNING**
18 **BODY OF A HOMEOWNERS ASSOCIATION HAS THE AUTHORITY TO TREAT AN**
19 **ACCESSORY DWELLING UNIT AS A SEPARATE LOT FOR PURPOSES OF VOTING ON A**
20 **HOMEOWNERS ASSOCIATION MATTER.**

21 11B-117.

22 (a) (1) As provided in the declaration, a lot owner shall be liable for all
23 homeowners association assessments and charges that come due during the time that the
24 lot owner owns the lot.

25 (2) **[The] NOTWITHSTANDING ANY PROVISION OF THE DECLARATION,**
26 **ARTICLES OF INCORPORATION, OR BYLAWS RESTRICTING ASSESSMENT INCREASES,**
27 **CAPPING THE ASSESSMENT THAT MAY BE LEVIED IN A FISCAL YEAR, OR LIMITING**
28 **ASSESSMENTS TO EACH LOT, THE governing body of a homeowners association has the**
29 **authority to [increase]:**

30 **(I) INCREASE** an assessment levied to cover the reserve funding
31 amount required under § 11B-112.3 of this title[, notwithstanding any provision of the
32 declaration, articles of incorporation, or bylaws restricting assessment increases or capping
33 the assessment that may be levied in a fiscal year]; **AND**

1 **(II) TREAT AN ACCESSORY DWELLING UNIT AS A SEPARATE LOT**
2 **FOR PURPOSES OF LEVYING ASSESSMENTS.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2025.