

## Allowing Housing Near Jobs Can Unlock Housing Options in Maryland

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Senate Education, Energy, and the Environment Committee

SB 829: Land Use—Multifamily Developments and Mixed-Use Developments—Authorization (Bring Back Main Street Act)

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Chair Feldman, Vice Chair Kagan, and Members of the Committee:

Thank you for providing me with the opportunity to testify on SB 829, the Bring Back Main Street Act.

Two years ago, the Maryland Senate considered, and passed, a bill that attempted to enable housing growth on underused commercial land (SB 484, 2024). At the time, I cautioned a Senate committee that the bill was weakened by incorporating a false choice between abundance and affordability.<sup>1</sup> Although the bill allowed builders to provide homes on some commercial land, this option was, practically speaking, available only to projects already using dedicated affordable housing funding such as the Low-Income Housing Tax Credit.

Today, the committee can advance SB 829, which would build on that small beginning by opening up more underutilized commercial land for housing and welcoming any builder to the opportunity. Homes built under SB 829 must still abide by affordable housing set-asides. But, as I noted in 2024, recently built apartments in Maryland are generally affordable to working-class households anyway. Increasing the supply of market-affordable apartments, condos, and—in other legislation—starter homes will allow Maryland and her counties to focus housing assistance on those with the lowest incomes.

Many Maryland cities and counties have already embraced, at least in concept, allowing homes on most commercially zoned land. Not all have done so, however, and in many cases there are additional barriers to housing that make it more difficult to build on those sites. And most jurisdictions simply have other priorities. Rather than proactively making land available for housing, they wait for a

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<sup>1</sup> Salim Furth, “Market-Rate Rents Can Serve Moderate-Income Marylanders” (Testimony before the Maryland Senate Education, Business, and Administration Subcommittee, Mercatus Center at George Mason University, March 1, 2024).

developer proposal or a small area plan. For example, Howard County does not allow residential uses in its B-2 Office Commercial zone, which is frequently employed in areas directly abutting homes.

With colleagues, I have studied the adoption of residential-in-commercial-zone (RICZ) laws like SB 829. To date, 11 other states have such laws, which I summarize below.<sup>2</sup>

- Arizona: Allows residential redevelopment of commercial properties with high rates of vacancy.
- California: Allows RICZ subject to affordability and labor requirements.
- Florida: The Live Local Act allows RICZ up to the zoned limit in other residential zones.
- Hawaii: HB 2090 (2024) allows RICZ, but it may be limited to upper stories.
- Maine: LD 997 (2025) allows RICZ, but it may be limited to upper stories.
- Montana: Allows homes in RICZ with limits on local parking and height regulation.
- Nevada: AB 241 (2025) requires all localities to rezone for RICZ.
- New Hampshire: HB 631 (2025) allows RICZ, but it may be limited to upper stories.
- Oregon: HB 3395 (2023) allows deed-restricted affordable housing in commercial zones.
- Rhode Island: Statutes 45-24-33 and 37 each allow residential uses in some commercial zones, under differing parameters.
- Texas: SB 840 (2025) legalized RICZ in major cities under clear parameters.

From observing other RICZ laws, I have two technical critiques of SB 829:

- The bill sets a standard for allowed density based on the county's highest-density zone. This approach was pioneered in Florida, and it works there. However, Florida has a law against downzoning. Without that protection, counties would likely respond by reducing the density allowed in their densest zones, since that density would implicitly be the countywide density for residential projects in commercial zones. A better approach, which I laid out in a 2024 policy brief, is to set an absolute base standard and allow contextual deviations where the existing regulations or built pattern are more permissive.<sup>3</sup>
- The bill allows counties to require first-floor retail uses in a highly prescriptive way. That element should be either dropped or given more flexibility on the space that nonresidential uses will occupy and the nonresidential uses that a county can allow, beyond just retail.

Maryland's housing challenges did not emerge overnight, and they will not be solved by a single bill. But allowing residential uses in commercial districts statewide would be a meaningful step toward attainability, predictability, and market responsiveness.

Thank you, and I welcome your questions.

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<sup>2</sup> Mercatus Center at George Mason University, "Housing Policies Highlight: Five Housing Supply Reforms Across the 50 States," 2026, <https://www.mercatus.org/housing-policies-highlight>.

<sup>3</sup> Salim Furth and Eli Kahn, "Office Overhauls and 'God's Backyard': Reforms for Housing in Commercial Zones and Faith Land" (Mercatus Policy Brief, Mercatus Center at George Mason University, May 2024).