NAIOP
MARYLAND CHAPTERS
THE ASSOCIATION FOR COMMERCIAL REAL ESTATE

March 6, 2023

The Honorable Kumar P. Barve, Chair
House Environment and Transportation Committee
House Office Building, Room 251
6 Bladen St., Annapolis, MD 21401

Unfavorable – HB 1134 – Maryland Building Performance Standards – Fossil Fuel Use and Electric Ready Standards

Dear, Chair Barve and Committee Members:

HB 1134 requires the Maryland Building Performance Standards be amended to require new buildings meet all energy demands without the use of fossil fuels beginning October 1, 2025, for buildings less than seven stories tall and October 1, 2029, for a building more than seven stories tall. For the reasons outlined below, the NAIOP Maryland Chapters representing more than 700 companies involved in all aspects of commercial, industrial, and mixed-use real estate recommend your unfavorable report on HB 1134.

NAIOP's membership is comprised of a mix of local firms and publicly traded real estate investment trusts that are invested in the future of Maryland but also have experience in national and international markets. Many of NAIOP's leading companies have adopted portfolio-wide net-zero commitments. The broad commitment of our members to high performance buildings is one of the drivers behind Maryland's decades long position among state leaders in the rate that LEED certified buildings are brought to market.

NAIOP supports adoption of least-cost decarbonization strategies that achieve carbon related performance targets in ways that are technically feasible, commercially available, cost effective and result in a managed, orderly energy transition for building owners and occupants. This requires a comprehensive, systems approach to policy making that fully considers both the building level and utility scale considerations.

Based on our experience and the most recent literature, we believe the full suite of current and emerging technologies and techniques will be needed to decarbonize Maryland's economy. While high rates of building electrification will be necessary, successful policy will need to allow for the future combustion of low and zero emissions fuels, as well as the use of carbon offsets and credits that can meet the state's net-zero emissions targets faster and at lower cost.

NAIOP's unfavorable position on HB 1134 is based on the following considerations:

- HB 1134 jumps ahead of the deliberate energy transition planning in the Climate Solutions Now Act process by selecting a calendar deadline and specifying requirements for newly constructed buildings. Climate Solutions Now Act requires that state agencies, the Public Service Commission and related workgroups complete specific reports, technical studies and make policy recommendations about the timing and policy considerations related to accelerating the energy transition in the building and utility sectors.
- Decoupling from national building codes and writing an all-electric construction code raises concerns that design teams will be forced to use unproven technologies or meet costly, untested code requirements. The two governing bodies that write the mechanical, building and energy codes – *The International Code Council [ICC] and American Society of Heating Refrigeration and Air Conditioning Engineers [ASHRAE]* – have both accelerated the development of codes, standards, evaluation tools and technical guidance focused on carbon reduction that will provide a roadmap to accomplish the intent of the bill. These organizations will have revised their codes twice by 2030 using their testing capacity and expertise to ensure that code requirements achieve carbon related performance targets in ways that are technically feasible, commercially available, and cost effective for builders and occupants.
- Electric heat pump systems do not necessarily scale up well for large buildings. While it is less challenging to electrify new construction than existing buildings, even in new construction current electric heat pump and heat pump hot water technologies are often better suited to smaller residential and commercial buildings. For larger buildings, system designs

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become complicated by limitations on refrigerant line length, roof and basement space available for equipment. For some applications such as water heating, there are limited all-electric equipment options in the market that can meet the energy efficiency, health and comfort needs of large multi-family buildings. While there has been some advancement in development of residential cold climate heat pumps, improvement is needed for commercial equipment. Declines in both operating and capital costs of commercial equipment are necessary to close the feasibility gap between small and large buildings.

- In order to qualify for a waiver, the bill includes the installation of a second shadow mechanical system to make the building, "electric-ready." This is a wasteful and impractical policy that was removed from the Climate Solutions Now Act by the House of Delegates during the 2022 Session. Buildings that initially qualify for the waiver provision in the bill are subject to review and reauthorization whenever a local government amends its local code which makes it subject to repeal at any time. Overall, the bill's waiver provisions and requirements for existing buildings appear to be more restrictive than building performance standards in the Climate Solutions Now Act and provide building owners with less flexibility and more uncertainty about how to comply with carbon reduction requirements.

For these reasons, NAIOP respectfully requests your unfavorable report on HB 1134.

Sincerely,

Tom Ballentine, Vice President for Policy
NAIOP Maryland Chapters - *The Association for Commercial Real Estate*

cc: Environment and Transportation Committee Members
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