



February 7, 2023

The Honorable, Vanessa E. Atterbeary, Chair
House Ways and Means Committee
Room 131, House Office Building
Annapolis, Maryland 21401

Oppose: HB 211 – Rental Housing Fund – Calculation of Taxable Income and Transfer Tax – Alterations

Dear Chair, Atterbeary and Committee Members:

The NAIOP Maryland Chapters represent 700 companies involved in all aspects of commercial, industrial and mixed use real estate. On behalf of our member companies, I am writing to oppose the retroactive alteration of how Opportunity Zone investments are taxed that is proposed in House Bill 211.

House Bill 211 proposes the laudable goal of providing additional funding for the Department of Housing and Community Development's Rental Housing Fund. The bill proposes additional appropriations in the 2025 budget as well as taxing capital gains from investments in Opportunity Zones that are currently excluded from federal taxable income. (p. 3 lines 2-30 and p. 4 lines 18-19)

The Opportunity Zone program was created as part of the Tax Cuts and Jobs Act of 2017 to incentivize long-term private capital investments in low-income communities. Maryland has 149 Opportunity Zones.

House Bill 211 would apply Maryland tax to capital gains related to investments in Opportunity Zones that are currently excluded from federal taxable income. This change in tax status would apply capital gains tax to proceeds from the future sale of buildings and other investments in Opportunity Zones that have already been made.

Opportunity Zone investments were made relying on state and local tax provisions described in the IRS code and Maryland law. NAIOP is concerned about the negative impacts and reputational damage from retroactively applying tax to mature Opportunity Zone projects.

We respectfully recommend the committee remove these provisions from House Bill 211. With this change we could withdraw our opposition.

Sincerely,

A handwritten signature in blue ink, appearing to read "T.M. Ballentine".

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

cc: Ways and Means Committee Members
Nick Manis – Manis, Canning Assoc.