NAIOP
MARYLAND CHAPTERS
THE ASSOCIATION FOR COMMERCIAL REAL ESTATE

January 26, 2021

The Honorable Paul G. Pinsky, Chair
Senate Education, Health and Environmental Affairs
2 West, Miller Senate Office Building
Annapolis, MD 21401

Oppose: SB 414 – Climate Solutions Now Act of 2021

Dear, Chair Pinsky and Committee Members:

The NAIOP Maryland Chapters represent 700 companies involved in development and ownership of commercial, mixed-use, and light industrial real estate, including some of the largest property owners in the state. 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.

Success in climate mitigation fits the ambition and values of commercial real estate. For decades, NAIOP's member companies have been dedicated to energy efficiency, conservation, and high-performance construction. That commitment is one of the primary reasons that for 20-years Maryland has been among the top ten states in the country for LEED certified buildings. This experience leads NAIOP to consider deep reductions in carbon emissions from buildings to be the most challenging of the sectors.

Meeting Maryland's 2050 greenhouse gas reduction goals in a way that is affordable to the consumer, maintains quality of life and ensures a stable transition of energy and economic markets will require coordinated action across every level of government, by utility operators, regulators, NGOs, consumer advocates, homeowners, and businesses.

NAIOP submitted testimony in support of the Greenhouse Gas Reduction Act [GGRA] in 2009 and again for its reauthorization in 2016. Senate Bill 414 proposes changes that are a material and consequential departures from the structure and provisions of the GGRA that allow the use of least-cost compliance options. NAIOP therefore cannot endorse SB 414 and offers the following information, and observations for the General Assembly to consider.

+ **Zero Energy New Construction**

The zero energy buildings requirement focuses on reduced energy use which diverts from measures of progress in the current GGRA that are based on reducing greenhouse gas emissions. Focusing on eliminating energy use will provide fewer emissions reductions at higher cost as utilities transition to low carbon electric generation.

U.S. Mail: P.O. Box 16280, Baltimore, Maryland 21210 **Phone:** 410.977.2053 **Email:** tom.ballentine@naiop-md.org

Large buildings, and high energy uses like hospitals, data centers and restaurants will find it extremely difficult to reach Zero Energy balance. Large net zero energy buildings require plentiful, locally sourced, off-site wind, geothermal and solar energy. Integrating renewables at that scale will require significant advancements in renewable energy markets.

While the technologies exist to build net zero energy buildings under the right circumstances, the trade-offs make them impractical for widespread application across the entire market. To achieve necessary reductions in energy consumption, designers of net zero energy buildings often must reduce occupant density, move computer servers or laboratory equipment off-site, reduce the building footprint or put limitations on the type of tenant uses. Broadly applied, the net effect would be under utilization of building sites and under build of job centers.

The phase in periods of below code energy requirements effectively decouple Maryland from the national building codes. This will leave state and local codes officials and building designers to create the code compliant pathway to progressively lower energy use. Even states with long experience writing and administering their own building codes have found this difficult.

+ **Deep Energy Retrofit Requirement**

The 40% energy reduction requirements for existing buildings will be extremely difficult for recently built, higher performing buildings to meet.

This section raises questions about how easily a major renovation would be triggered as there are various definitions used by Maryland jurisdictions.

On-site power alternatives include more than rooftop solar and there are multiple issues related to the solar ready concept that raise concerns. One group is related to the readiness of equipment and conduit installed perhaps many years before any decision is made about when to install and whether equipment might best be located elsewhere on-site such as parking areas.

The requirement would encumber roof space that is often used for other equipment that cannot be located on the ground, tenant amenities or skylights that help reduce lighting requirements.

The relationship between the roof area and floor area / energy use on a 20-story building is much larger than what our members consider to be a good candidate for rooftop solar. Solar on a building of this size would not provide meaningful amounts of power.

We are still monitoring events related to solar markets net metering, virtual net metering and battery storage and utility pricing that affect the feasibility of on-site solar for commercial buildings.

The 15-year payback is generally three times longer than industry standard return on investment.

+ Reduced Role of Climate Commission and GGRA Quality Assurance Provisions

Passing SB 414 would make moot the Climate Commission's recommended workplan for developing a cost-effective emissions reduction strategy for the building sector. During 2020 climate commission held a series of subgroup and working group meetings on energy use and emissions in the building sector. The Commission's work plan for 2021 includes a series of recommended actions related to reducing emissions from the building sector, including:

1. Allowing utility incentive programs to pay for reducing emissions via fuel switching of space and water heating equipment.
2. Commissioning a study of the market potential and consumer economics of building electrification examining incremental first costs payback periods, appropriate incentive levels and the greenhouse gas reduction potential.
3. Producing an energy transition plan for the building sector by the end of 2021.

The net zero energy new construction and energy retrofit requirements were not presented as part of the commission's 2020 work. The economic and emissions outcomes have not been modeled. By mandating means and methods, limiting technologies, and setting a Maryland cost of carbon, the bill by-passes provisions in ENV 2-1206 that require an MDE feasibility analysis as well as the allowed use of alternative compliance mechanisms such as offsets and credits or technologies including carbon sequestration.

+ Net Zero Emissions and the Need for Carbon Capture or Other Advanced Technologies

Preventing access to technologies, narrowing the set of compliance options, and limiting location choices will unnecessarily increase compliance costs and slow progress. IPCC model runs, the academic literature and numerous technical studies make clear the need to preserve the option to use a full range of future technologies related to carbon capture, nuclear, green hydrogen, bio, synthetic and natural gas technologies. A recent study by Energy and Environmental, Economics of least-cost carbon reduction policies in the PJM utility service territory found, "*Reaching the end points of many "100%" goals being set today may require carbon capture and sequestration, new nuclear generation, new sources of renewable biogas or hydrogen fuels or other forms of clean generation that while technically achievable are not commercially available today. Achieving absolute zero carbon emissions requires one or more of these resources to become available.*"

On behalf of our member companies, I want to reiterate NAIOP's commitment to working with the General Assembly and other stakeholders to meet the challenges presented by the Maryland's climate mitigation goals.

Sincerely,

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

cc: Senate EHEA Committee Members
Nick Manis – Manis, Canning Assoc.

U.S. Mail: P.O. Box 16280, Baltimore, Maryland 21210 **Direct:** 410.977.2053 **Email:** tom.ballentine@naiop-md.org