NAIOP
MARYLAND CHAPTERS
THE ASSOCIATION FOR COMMERCIAL REAL ESTATE

February 18, 2025

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

Unfavorable: HB 1014 – Fair Share for Maryland Act

Dear Chair, Atterbeary and Committee Members:

The NAIOP Maryland Chapters represent approximately seven hundred companies involved in all aspects of commercial, industrial, and mixed-use real estate. On behalf of our member companies, I am writing in opposition to HB 1014 which would make numerous changes to the Maryland tax code that increase income tax rates for individuals and businesses entities.

The bill imposes new, higher taxes at both the entity level and at the individual level which results in combined state / local income tax rates that could be as high as 19.45%. (7% state top income tax rate + 3.2% local income tax + 8.25% tax surcharge + 1% capital gain)

These taxes apply to pass-through entities, corporations, REITS and partnerships that commonly hold real estate. Combined with existing real estate property taxes, transfer, recordation and excise taxes, HB 1014 results in outcomes that are particularly onerous for real estate enterprises in Maryland.

HB 1014 proposes four main changes that raise concern for commercial real estate:

- **Page 7, lines 19-22 Impose a new transportation fee of 2.25%** on earnings in excess of $10 million of corporations and pass-through entities.
- **Page 12, lines 13-18 impose a new tax surcharge of 8.25%** on the pro rata share of income distributed to a member of a pass-through entity from the entity's taxable income that exceeds $1.0 million.
- **Page 13, lines 23-24, increase the income tax rate from $5.75% to 7%** and apply it from the first dollar of earnings of individuals whose taxable income is above $1 million.
- **Page 14, lines 23-26, impose a new 1% tax on capital gains income (**Net Investment Income) for individuals whose adjusted gross income is $350,000 or more.

The new transportation fee would "double tax" entities that own real estate. In most jurisdictions commercial real estate is already subject to impact fees, special taxing district assessments and excise taxes that generate transportation funding. Adequate Public Facilities regulations generate in-kind services in the form of upgraded intersections and road improvements as a condition of commercial real estate development approval.

In commercial real estate the sale of a $25 million asset may have been decades in the making and involved heavy upfront investment. For an asset of that size, the proposed 2.25% transportation tax would be $375,000. (please see attached scenarios for more details example)

Even though the sale of real estate may show as earned income on a tax return, the proceeds may have been required to retire debt secured by the property that was sold and does not necessarily indicate the entity has cash to pay the 2.25% fee.

The 8.25% tax surcharge at the pass-through entity level would immediately put our member companies at further disadvantage compared to real estate entities in neighboring and competing states. The surcharge, higher income tax rate and capital gains tax surcharge are significant exit cots at the sale of a real estate asset that will not have been built into a pro forma.

Scenario #2 Sale of Maryland Real Estate	Current Tax	SB 859 / HB 1014 Proposed	Additional Tax
8.25% Pass-through Entity Tax	$0.00	$115,500	$115,500
Income Tax Rate from 5.45% to 7%	$136,385	$168,000	$31,615
1% Tax on Investment Income	$0.00	$24,000	$24,000
	$136,000	**$307,500**	**$171,115**

The table below and the attached worksheet show that the asset sale in the example would have a tax liability of $136,385 under current tax law. The HB 1014 proposals would more than double the tax liability to $307,500.

These are abrupt and uncompetitive tax proposals that will reduce investment in Maryland real estate.

For these reasons, NAIOP respectfully requests your unfavorable report on HB 1014.

Sincerely,

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.

SB 859/HB 1014

Real Estate Tax Impacts

Scenario #1 – Section 10-102.2 (2.5% transportation fee).

Assume that a real estate project owned by a Maryland LLC is sold for a profit of $25 million.

Existing Law = No fee.

Proposed Law-The LLC must pay an additional transportation fee of $375,000

Scenario #2 - Sections 10-102.3 (8.25% tax on pass-through entities) and 10-105 (increased income tax rates and new tax on net investment income)

Assume a Maryland LLC that owns Maryland real estate realizes a profit of $3 million.

One of the members owns 80% of the LLC.

Her share of that profit is $3 million x 80% = $2.4 million.

Existing law = No Surtax

Proposed Law - The LLC member must pay an 8.25% surtax of $115,500.

Existing income tax on $2.4 million (max rate of 5.75%) = $136,385

Proposed Law: $2.4 million x 7% (new flat tax rate) = $168,000 income tax.

Existing tax on net investment income = None

Proposed Law = $24,000

Total increase in taxes: *$115,500 + $31,615 + $24,000 = $171,115 An increase of 225% compared to what would have been paid under existing law.*
