MARYLAND BUILDING INDUSTRY ASSOCIATION
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February 27th, 2026

The Honorable Brian J. Feldman
Chair, Senate Education, Energy and the Environment Committee
2 West Miller Senate Office Building
Annapolis, Maryland 21401

RE: MBIA Letter of Support with Amendments SB 688 Environment - Stream and Floodplain Restoration Projects - Requirements and Limitations

Dear Chair Feldman,

The Maryland Building Industry Association, representing 100,000 employees of the building industry across the State of Maryland, appreciates the opportunity to participate in the discussion surrounding **SB 688 Environment - Stream and Floodplain Restoration Projects - Requirements and Limitations.**

SB 688 is a big shift in policy regarding how we treat stream and floodplain restoration within its stormwater, MS4, and TMDL compliance framework. Stream restoration has been an accepted, state-endorsed tool used to generate regulatory credit and meet watershed restoration obligations. This bill moves away from that model by restricting the use of in-stream restoration for compliance credit and requiring post-construction biological proof of "functional lift" before credit can be awarded. This will significantly alter the current mitigation and watershed compliance strategy, reducing flexibility in how we meet environmental obligations, and introduces new uncertainty into development planning and housing production.

The primary reason our industry utilizes stream restoration onsite is to mitigate an unavoidable impact to a stream to satisfy MDE or Army Corps mitigation requirements for that impact. Impacts are generally related to unavoidable crossings to provide access to sites from a public right-of-way or to meet some other local requirements. Page 5 of this bill appears to prohibit stream restoration to meet compensatory mitigation requirements which includes compensatory mitigation to satisfy MDE and Army Corps requirements for unavoidable impacts as part of the Joint Permit application process.

The bill also elevates non-disturbance practices as the preferred stormwater approach, effectively treating restoration as a last-resort option that must be justified as infeasible to avoid. Under our current framework, credit generation is largely predictable. Credits are determined using established MDE-approved methodologies that rely on modeled pollutant reductions, hydraulic calculations, linear feet restored, or predefined mitigation ratios. SB 688 would shift us from a modeling-based compliance framework to a biological performance standard that depends on post-construction monitoring, which changes the timing, predictability, and financial certainty of credit generation. It would also expand agency discretion, introduce potential delays in compliance confirmation, and create tension with long-standing MS4, TMDL, and Chesapeake Bay restoration strategies.

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At a minimum, the bill should be amended to:

- Page 5 this bill appears to prohibit stream restoration to meet compensatory mitigation requirements which includes compensatory mitigation to satisfy MDE and Army Corps requirements for unavoidable impacts as part of the Joint Permit application process. We would propose eliminating the compensatory mitigation from the prohibition on page 5 line 29. The other option would be to clarify that the bill does not apply to stream restoration required by the Maryland Department of the Environment or the US Army Corps of Engineers to meet compensatory mitigation requirements.
- The term "infeasible" is concerning and we hope to have more conversations on this section of the bill.

We have concerns with any legislation that will complicate or prolong housing projects at a time when housing is greatly needed. For these reasons, MBIA respectfully requests the Committee give this measure a favorable report with amendments. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the Senate Education, Energy, and the Environment Committee