

April 1, 2026

The Honorable Marc Korman  
Chair, House Environment and Transportation Committee  
250 Taylor House Office Building  
Annapolis, Maryland 21401

**RE: MBIA Letter of Opposition, SB431- Fish and Wildlife- Endangered and Threatened Species and Migratory Birds- Regulations, Lists, Petitions, Essential Habitats and Takings**

Dear Chair Korman,

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 **SB431**. SB431 expands the Secretary of Natural Resources' authority over endangered and threatened species, broadens the definition of "harm," incorporates federal migratory bird listings into state law, and mandates recurring regulatory reviews. While amendments narrowed some provisions, the bill still creates significant new regulatory exposure for landowners, local governments, and project sponsors without providing clarity, balance, or workable compliance pathways.

## **Key Concerns**

### **1. Broad, Undefined Regulatory Authority**

SB431 allows the Secretary to designate "essential habitats" and interpret "harm" to include habitat modification. Even as amended, these terms remain **vague and open-ended**, granting wide discretion without measurable standards.

**Impact:**

- Unpredictable permitting outcomes
- Inconsistent regional application
- Increased administrative and legal risk for routine development activities

### **2. New State-Level Enforcement for Migratory Birds**

The bill adopts federal migratory bird listings (as of 1/1/25) and applies state "take" prohibitions — including habitat-based harm — to all listed species.

**Impact:**

- Maryland would enforce a broader regime than current federal practice
- Housing, infrastructure, forestry, and resiliency projects face new exposure
- No safe harbors, incidental take permits, or mitigation pathways are provided

### 3. Mandatory 10-Year Regulatory Review Without Resources

SB431 requires DNR to review and update species regulations by 2033 and every 10 years thereafter, without aligning the mandate to staffing or funding.

#### Impact:

- Agencies may divert resources from permitting and enforcement
- Regulatory cycles could trigger frequent rule changes and delays
- Local governments and project sponsors face shifting compliance obligations

### 4. Imbalanced Petition Standards

The bill imposes strict scientific requirements for delisting petitions but **does not apply equivalent rigor to listing petitions**, creating a structural imbalance.

#### Impact:

- Easier to list species than to delist them
- Outdated or overly broad protections may persist
- Stakeholders face more frequent and costly listing challenges

### 5. Risks to Housing, Infrastructure, and Environmental Projects

Expanded definitions of harm and habitat protection could slow or complicate:

- Housing development
- Transportation improvements
- Shoreline and climate-resiliency projects
- Renewable energy siting

#### Impact:

- Additional surveys, redesigns, and biological assessments
- Delays in capital planning and permitting
- Higher costs for public and private projects

SB431, even as amended, creates **significant new regulatory exposure** without providing clarity, balance, or workable compliance tools. Maryland needs predictable, science-based environmental protections that support — not hinder — housing, infrastructure, and climate-resiliency goals. SB431 does not meet that standard.

For these reasons, MBIA respectfully requests the Committee give this measure an favorable/unfavorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or [lgraf@marylandbuilders.org](mailto:lgraf@marylandbuilders.org).

cc: Members of the House Environment and Transportation Committee