



February 16, 2026

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

**Unfavorable: HB 578 Endangered and Threatened Species and Migratory Birds Regulations**

Dear Chair, Korman and Committee Members:

The NAIOP Maryland Chapters represent approximately 700 companies involved in all aspects of commercial, industrial, and mixed-use real estate. On behalf of our member companies, I am writing to recommend your unfavorable report on HB 578, which significantly expands Maryland's endangered species law and introduces broad new regulatory authorities affecting land use, permitting, and development of public and private projects across the state.

While HB 578 includes several provisions that restate authority the Department of Natural Resources (DNR) already possesses—such as listing and delisting species, conducting scientific reviews, and administering conservation programs—it also introduces sweeping new prohibitions that go far beyond existing law without a comparable permitting framework or explicit safe harbor language. These changes will increase regulatory uncertainty, raise compliance costs, and expose routine activities to heightened enforcement risk. The major areas of concern include:

- **Expansion of the Definition of “Harm”** – The bill expands the definition of “harm” to include “*habitat modification or degradation*” that impairs breeding, feeding, or sheltering—even if no individual animal is ever directly harmed. This definitional change represents a significant lowering of the threshold for enforcement of a “*taking*” of a threatened or endangered species. Routine development activities that impact protected vegetation considered “*Essential Habitats*” could be subject to enforcement action.
- **Designation of “Essential Habitats”** – The bill grants the Secretary the authority to designate areas as “*essential habitats*” for endangered and threatened species. The bill lacks clear criteria for geographic extent and other factors used to make such designations raising concerns about the potential for overly broad or arbitrary restrictions on land use. Combined with the expanded definition of habitat modification as a “*taking*,” this provision could result in significant limitations on the use of private and commercial property, further complicating development efforts and reducing land value.
- **Prohibition on Considering Economic Impacts** – Economic impacts are not part of federal “*listing*” decisions. HB 578 changes state law to explicitly prohibit DNR from considering possible economic or other impacts when determining whether a species is endangered or threatened. This goes beyond the Endangered Species Act, which requires economic impacts to be considered in certain contexts, such as critical habitat designation.
- **State Definitions and Recurring Regulatory Review Cycles** – The bill creates a Maryland specific definition of “*foreseeable future*” for use in listing Threatened species and mandates a five-year cycle of regulatory reviews of state lists. This has the potential to put Maryland listing out of sync with federal list changes. It will also create an unstable land use and regulatory landscape.
- **Blanket Protection of Migratory Birds and Habitat** – The bill creates a blanket prohibition on taking any migratory bird while providing no explicit safe harbor or state permitting mechanism. Without more guidance

and discretion, particularly around incidental takings, routine construction and maintenance operations will be exposed to sweeping prohibitions and / or enforcement.

HB 578 extends state agency and private obligations including provisions that go beyond federal requirements. The bill also expands the scope and significantly lowers the bar for what is considered an enforceable harm to habitat and migratory birds without safe harbor statutory language or a permitting framework. These expansions risk delays, increased costs, and legal exposure without demonstrably improving conservation outcomes compared to the well-established federal frameworks.

**For these reasons, NAIOP respectfully requests your unfavorable report on HB 578.**

Sincerely,



Tom Ballentine, Vice President for Policy

NAIOP – Maryland Chapters, *The Association for Commercial Real Estate*

cc: Environment and Transportation Committee Members

Nick Manis – Manis, Canning Assoc.