

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

DRAFT

TO: All Councilmembers

FROM: Chairman Phil Mendelson
Committee of the Whole

DATE: December 6, 2022

SUBJECT: Report on Bill 24-710, “Migratory Local Wildlife Protection Act of 2022”

The Committee of the Whole, to which Bill 24-710, the “Migratory Local Wildlife Protection Act of 2022” was sequentially referred, reports favorably thereon with amendments, and recommends approval by the Council.

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I. BACKGROUND AND NEED

On February 16, 2022, Bill 24-710, the “Migratory Local Wildlife Protection Act of 2022” was introduced by Councilmembers Mary Cheh, Anita Bonds, Brooke Pinto, Charles Allen, and Janeese Lewis-George. As introduced, Bill 24-710 would require both new building construction and substantial improvements of a building to use bird-friendly materials starting January 1, 2023, and would establish a “Bird Friendly Buildings Fund” to provide financial support to building owners to come into compliance with the requirements of the bill. The bill would also prescribe other building elements that must be constructed using bird-friendly materials, require bird hazard installations to use bird-friendly materials, and require the Department of Buildings, in consultation with the Department of Energy and Environment, to issue regulations implementing the bill. In short, the purpose of the bill is to reduce the number of birds killed due collisions with buildings, and this can be done at relatively minimal expense.

Birds Populations, Building Standards, and Bird Collisions

The District is home to over 300 species of birds. These birds play a vital role in our ecosystem. For instance, the three species of hummingbirds found in the area pollinate flowers and plants, the various species of sandpipers feast on flies, crickets, and grasshoppers, which controls our insect populations, and the various species of owls and hawks prey on the District's population of mice and rats.¹ Yet, our bird populations are in significant decline. Birds such as the Black-billed Cuckoo, the Cerulean Warbler, the Red-headed Woodpecker, and the Snowy Owl have lost 50% of their population in the past 50 years.² And numerous other species in and around the District may lose up to 50% of their population in the next 50 years. While the District has been a leader in reducing emissions from human activity, one of the largest drivers of bird population loss, our current laws do not address other significant contributors to unnatural bird deaths, one of the largest of which is building collisions.

In many jurisdictions, building codes and guidelines often prescribe where, when, what types, and what amount of glass must be used for specific construction projects or specific areas. The District's current building code is not different. It currently requires that "every space intended for human occupancy shall be provided with natural light by means of exterior glazed openings."³ At least 50% of the required glazing must be "clear glass."⁴ Guidelines such as the Leadership in Energy and Environmental Design (LEED), developed by the United States Green Building Council, emphasize the use of glass to reduce energy use. These requirements and incentives have led to an increase in the use of glass in building construction.⁵ But the widespread use of clear or reflective glass in construction comes at an environmental cost: bird-building collisions. Dozens of studies and reports have found that birds frequently collide with clear or reflective glass windows and structures.⁶ Why does this happen? Research has shown that birds cannot see clear or transparent glass and that they perceive reflective glass as an extension of the natural environment. If glass shows a reflection of the sky, the bird perceives the reflection as the actual sky and tries to continue flying.⁷ As a result of this, bird-building collisions—most of which involve collisions with glass—cause a significant number of bird fatalities: Researchers estimate that anywhere between 365 and 988 million birds in the United States die annually due to collisions with glass.⁸

¹ For a full list of known species, see: Official List of the Birds of the District of Columbia, Maryland/District of Columbia Records Committee of the Maryland Ornithological Society, as of April 14, 2022 (<https://mdbirds.org/wp-content/uploads/dc-bird-list.pdf>).

² North American Bird Conservation Initiative. 2022. The State of the Birds, United States of America, 2022 (<https://www.StateoftheBirds.org>).

³ 2017 District of Columbia Building Code, Section 1205.1.

⁴ *Ibid.*, Section 1205.02.

⁵ See, for instance, Norah Dick, "Dynamic Companies Navigate a Changed Economy," *Glass Magazine*, April 29, 2021 (<https://www.glassmagazine.com/article/dynamic-companies-navigate-changed-economy#sales>).

⁶ See, for instance, Cusa, M., Jackson, D. A., & Mesure, M. (2015). Window collisions by migratory bird species: urban geographical patterns and habitat associations. *Urban Ecosystems*, 18(4), 1427-1446; Klem Jr, D. (1989). Bird: window collisions. *The Wilson Bulletin*, 606-620; Klem Jr, D., & Saenger, P. G. (2013). Evaluating the effectiveness of select visual signals to prevent bird-window collisions. *The Wilson Journal of Ornithology*, 125(2), 406-411.

⁷ Martin, G. R. (2017). *The sensory ecology of birds*. Oxford University Press.

⁸ Loss, S. R., Will, T., Loss, S. S., & Marra, P. P. (2014). Bird-building collisions in the United States: Estimates of annual mortality and species vulnerability. *The Condor*, 116(1), 8-23.

While we do not have an estimate of the number of birds killed due to collisions with buildings in the District, reports from Lights Out D.C., an organization that monitors bird-building collisions and deaths, suggest that hundreds of birds die each year from such collisions in a small area of downtown.⁹ These same reports find that buildings with the most bird collisions and fatalities have facades covered in clear or reflective glass. For instance, over a ten-year monitoring period, Lights Out D.C. found that one building on New Jersey Avenue accounted for 10 percent of all bird strikes and deaths in the monitoring area of the organization. The building was constructed in 2009 and is LEED gold-certified with a façade of mostly clear or reflective glass.¹⁰ Dozens of similar buildings have been constructed in the last decade all throughout the District, increasing the likelihood of bird-building collisions and deaths.¹¹ All of this would have been preventable if bird-friendly materials had been used. This supports the need for Bill 24-710.

Bill 24-710

As introduced, Bill 24-710 would require new building construction and substantial improvements of a building to use bird-friendly materials starting January 1, 2023, and would establish a “Bird Friendly Buildings Fund” to provide financial support to building owners to come into compliance with the requirements of the bill. The bill would also prescribe other building elements that must be constructed using bird-friendly materials, require bird hazard installations to use bird-friendly materials, and require the Department of Buildings, in consultation with the Department of Energy and Environment, to issue regulations to implement the bill.

At the Committee hearing on Bill 24-710, several witnesses suggested that the requirements of the bill could be costly for new construction and renovations or that the requirements should only apply to areas that are bird migration routes.

First, regarding cost, the Committee is not convinced that the requirements will significantly impact construction costs. There are numerous ways that a developer could comply with the requirements of the bill, including using window films and laminates, using etched or fritted glass, or using netting, screens, grilles, or shutters.¹² Most of these design elements or products would add negligible costs to a major construction project.¹³ Additionally, several architects testified at the Committee’s public hearing on Bill 24-710 or submitted written testimony stating that the cost of using bird-friendly materials is not significant and can be easily absorbed.¹⁴

⁹ See, for instance, Lights Out D.C. – Ten Year Report, 2010-2019 (<http://citywildlife.org/wp-content/uploads/Lights-Out-DC-Ten-Year-Report.pdf>).

¹⁰ *Id.*, pgs. 11-12.

¹¹ Approximately 250 projects in the District have been awarded LEED platinum, gold, or silver certification. Many of these projects are newer residential, office, or commercial buildings with facades that feature a significant amount of clear or reflective glass.

¹² See, for instance, the American Bird Conservancy and New York City Audubon, Bird-Friendly Building Design, 2015 (https://abcbirds.org/wp-content/uploads/2015/05/Bird-friendly-Building-Guide_2015.pdf).

¹³ See, for instance, Alex Tay, “Bird-safe glass design at 181 Mercer saves wildlife and energy,” Washington Square News, October 18, 2021 (<https://nyunews.com/news/2021/10/18/bird-safe-glass-181-mercercer/>).

¹⁴ The architects who testified at the Committee’s public hearing on Bill 24-710 or submitted written testimony include Anne Lewis, Kathryn Slattery, Craig McClure, and Brian Forehand.

Second, regarding the idea of narrowing the applicability of the bill to developments within bird migration routes, the Committee is similarly not convinced that this would be a wise decision. Numerous species of birds in the District, including species of cardinals, mockingbirds, and sparrows, do not migrate and therefore are vulnerable to building collisions year-round.¹⁵ Additionally, bird migration routes are not fixed,¹⁶ and may be altered significantly by climate change.¹⁷

As such, the Print retains much of the language of the introduced bill but makes three substantive changes to the bill based on feedback from stakeholders. First, the Print would require the use of bird-friendly materials in new construction or renovations beginning on October 1, 2024. The introduced version would require the use of bird-friendly materials beginning January 1, 2023. But planning for major construction projects can take a significant amount of time, and such a short window before implementation would force developers to make changes to plans that are close to completion. For instance, an analysis conducted by Millar, Oliner and Sichel (2016) of more than 80,000 construction projects planned from 1999 to 2010 found that the average time between the planning and construction phases of commercial construction was 17 months.¹⁸ Given this, the Committee believes the October 1, 2024 implementation date is more reasonable.

Second, the Print strikes language from the introduced version of the bill that would have required the use of bird-friendly materials whenever a building undergoes a substantial improvement, which the bill defined as “any repair, alteration, addition, or improvement of a building or structure, the cost of which equals or exceeds 50% of the market value of the structure before the improvement or repair is started.”¹⁹ As several witnesses testified at the Committee Hearing on Bill 24-710, this definition of “substantial improvement” would undoubtedly apply to interior renovations in which no part of the façade is altered. This, in return, would probably add substantial costs to a renovation. As such, the Committee Print only requires the use of bird-friendly materials for renovations in which all or substantially all exterior glazing is replaced. The Committee Print defines “substantially all” as the replacement of 75% or more of exterior glazing. The Committee believes this is a justifiable percentage, as any renovation that impacts three-quarters of the exterior glazing on a building is significant in nature.

Third, the Print removes language from the bill that would create a “Bird Friendly Buildings Fund” to provide subsidies to property owners to come into compliance and educate stakeholders on the requirements of the law. Instead, the Print amends the Green Building Act of 2006 to make these allowable uses for funds in the Green Building Fund. The Green Building Fund is currently utilized by the Department of Buildings and the Department of Energy and

¹⁵ These birds are classified as resident or sedentary birds.

¹⁶ See, for instance, Vardanis, Y., Klaassen, R. H., Strandberg, R., & Alerstam, T. (2011). Individuality in bird migration: routes and timing. *Biology letters*, 7(4), 502-505.

¹⁷ See, for instance, Moore, T. T. (2011). Climate change and animal migration. *Envtl. L.*, 41, 393; and Nourani, E., Yamaguchi, N. M., & Higuchi, H. (2017). Climate change alters the optimal wind-dependent flight routes of an avian migrant. *Proceedings of the Royal Society B: Biological Sciences*, 284(1854), 20170149.

¹⁸ Millar, J. N., Oliner, S. D., & Sichel, D. E. (2016). Time-to-plan lags for commercial construction projects. *Regional Science and Urban Economics*, 59, 75-89.

¹⁹ Introduced version of Bill 24-710, Sec. 2(f)(10).

Environment, the two agencies tasked with developing regulations to implement this bill.²⁰ Additionally, the Committee believes that the use of bird-friendly materials in building construction and renovation has a logical nexus with the definition of “green building,” which is defined as an “integrated, whole-building approach to the planning, design, construction, operation, and maintenance of buildings and their surrounding landscapes that help mitigate the environmental, economic, and social impacts of buildings...”²¹

All other changes to Bill 24-710 made by the Committee Print are minor or technical in nature, such as including a reference to the D.C. Municipal Regulations in the definition of “commercial building.”

Conclusion

The District is home to a diverse array of birds that play a crucial role in our ecosystem. Yet every year, an untold number of these birds die from collisions with buildings. Many of these collisions are caused by the use of clear or reflective glass that birds cannot see. To address these preventable bird deaths, Bill 24-710 would require new construction, renovations of building facades, and specific building elements to use bird-friendly materials, thereby reducing the

II. LEGISLATIVE CHRONOLOGY

March 14, 2022	Bill 24-710, the “Migratory Local Wildlife Protection Act of 2022” is introduced by Councilmembers Mary Cheh, Anita Bonds, Brooke Pinto, Charles Allen, and Janeese Lewis-George.
March 25, 2022	Notice of Intent to Act on Bill 24-710 is published in the District of Columbia Register.
April 5, 2022	Bill 24-710 is “read” at a legislative meeting; on this date, the referral of the bill to the Committee of the Whole is official.
August 12, 2022	Notice of a public hearing on Bill 24-710 is published in the District of Columbia Register.
October 21, 2022	The Committee of the Whole holds a public hearing on Bill 24-710.
December 6, 2022	The Committee of the Whole marks up Bill 24-710.

III. POSITION OF THE EXECUTIVE

²⁰ In fiscal year 2021, the Department of Consumer and Regulatory Affairs reported expending \$1.72 million from the Green Building Fund for 12 full-time equivalent employees and supplies.

²¹ D.C. Official Code § 6-1451.01(17).

Ernest Chrappah, the Director of the Department of Buildings, testified at the Committee's public hearing on Bill 24-710 on October 21, 2022 on behalf of the Executive. In his testimony, Director Chrappah said that while the Executive supports the intent of the legislation, they have several concerns with the bill, including:

- The cost to developers and builders to use bird-friendly glass or materials;
- The definition of "substantial improvements" would capture a significant number of routine interior renovations;
- Fenestration requirements in the bill would apply to most apartment building windows in the District; and
- The bill is silent on who would administer the Bird Friendly Buildings Fund created in the bill.

Director Chrappah then suggested that the Council explore alternative means of accomplishing the same goals as Bill 24-710, including requiring residents to purchase energy credits or requiring contributions to organizations dedicated to the conservation of wetlands and habitats for waterfowl.

Finally, Director Chrappah noted that the bill would likely have a fiscal impact due to the implementation and enforcement of the bird-friendly building requirements.

IV. SUMMARY OF TESTIMONY

The Committee of the Whole held a public hearing on Bill 24-710 on October 21, 2022. Copies of written testimony are attached to this report.

Emily Hovermale, Director of Government Affairs for the Humane Rescue Alliance, testified in support of the bill.

Anne Lewis, President of City Wildlife, testified in support of the bill. Ms. Lewis testified that the bill is necessary to reduce the number of birds that die from collisions with buildings, many of which have facades with clear or reflective glass.

Catherine Plume, Sierra Club D.C., testified in support of the bill. Ms. Plume stated that several other jurisdictions, including New York City, San Francisco, and Portland, have approved legislation requiring bird-friendly glass in new or renovated buildings.

Christine Sheppard, Director of the Glass Collisions Program at the American Bird Conservancy, testified in support of the bill. Ms. Sheppard noted that the number of bird-friendly products has increased from a few dozen to over 200 in the last decade.

Stella Tarnay, Founder and Executive Director of Capital Nature, testified in support of the bill.

Jeremy Joseph, Public Witness, testified in support of the bill.

Chris Weiss, Executive Director of the D.C. Environmental Network, testified in support of the bill.

Max Broad, President of D.C. Voters for Animals, testified in support of the bill. Mr. Broad said that bird-building collisions are the second most common cause of unnatural deaths for birds in the United States.

Michael Ezban, Assistant Director of the Architecture Program at the University of Maryland School of Architecture, Planning, and Preservation, testified in support of the bill.

Beth Purcell, a Trustee with the Committee of 100, testified in support of the bill. Ms. Purcell stated that the District is home to an average of 230 bird species year-round and is within a migration route for waterfowl.

Lisbeth Fuisz, Coordinator with Lights Out D.C., testified in support of the bill. Ms. Fuisz said that, of the bird-building collisions documented by Lights Out D.C. in over a decade, approximately 85% resulted in a bird's death.

Tykee James, President of the D.C. Audubon Society, testified in support of the bill.

Steve Dryden, Rock Creek Songbirds Restoration Project, testified in support of the bill.

Dhruv Cohen, a Volunteer with Lights Out D.C., testified in support of the bill.

Kathryn Slattery, Principal at Quinn Evans, testified in support of the bill. Ms. Slattery noted that many bird-friendly design options or products have little or no cost impact on projects.

Sara Hallager, Curator of Birds at the Smithsonian's National Zoo and Conservation Biology Institute, testified in support of the bill.

Stephanie Dalke, a Volunteer with Lights Out D.C., testified in support of the bill.

Brenda Richardson, Coordinator with Anacostia Parks and Community Collaborative, testified in support of the bill.

Bonnie Van Dam, Curator of Birds with the Detroit Zoological Society, testified in support of the bill. Ms. Van Dam said that the Detroit Zoo, where she works as Curator of Birds, has retrofitted or built 24 buildings with bird-friendly glass or film.

Elizabeth Reid-Wainscoat, Urban Wildlands Campaigner with the Center for Biological Diversity, testified in support of the bill.

Eric Jones, Vice President of Government Affairs at the Apartment and Office Building Association of Metropolitan Washington, testified in opposition to the bill. Mr. Jones stated that the timeline for implementation of the bill's requirements is too short, the economic impacts of the requirements in the bill are unknown, and the application of the requirements is overly broad.

Nathan Harrington, Executive Director of the Ward 8 Woods Conservancy, testified in support of the bill.

Aniko Totha, Glass Collisions Project Coordinator at the American Bird Conservancy, testified in support of the bill.

John Boland, Policy and Advocacy Associate at Casey Trees, testified in support of the bill. Mr. Boland noted that the District has an ambitious goal for increasing tree canopy coverage and that this bill would complement that by protecting birds who benefit from tree canopies.

Craig McClure, Member-at-Large of the Potomac Chapter of the American Society of Landscape Architects, testified in support of the bill.

Liz DeBarros, CEO of the District Building Industry Association, testified in opposition to the bill. Ms. DeBarros said that the applicability of the bill should be narrowed for renovations, so it would only apply where a renovation involves replacing all external glazing. She also suggested that the bill allow for a waiver or reduction of requirements if analysis by a qualified ornithologist shows that construction would pose no danger to migratory birds.

Lora Nunn, Vice President of Friends of Kingman & Heritage Islands, testified in support of the bill.

Brian Forehand, Chair of the Advocacy Committee of the Washington Chapter of the American Institute of Architects, testified in support of the bill.

V. IMPACT ON EXISTING LAW

Bill 24-710 would require that, for building permits for new construction or alterations involving the replacement of all exterior glazing issued after October 1, 2024, the facade of the building's exterior wall envelope and exterior fenestration largely use bird-friendly materials. Bill 24-710 also amends the Green Building Act of 2006 to allow for monies from the Green Building Fund to be used to assist developers with compliance and to educate stakeholders on the law. Finally, Bill 24-710 would require the Department of Buildings to issue regulations implementing the bill.

VI. FISCAL IMPACT

VII. RACIAL EQUITY IMPACT

VIII. SECTION-BY-SECTION ANALYSIS

- Section 2 Provides definitions for specific terms used in the act, including “bird friendly material,” “commercial building,” “material threat factor,” and “substantially all.”
- Section 3 Requires the use of bird-friendly materials on new commercial, residential, and District-owned or operated buildings and renovations in which all exterior glazing will be replaced for permits issued after October 1, 2024. Also provides definitions of certain terms used in the section.
- Section 4 Amends the Green Building Act of 2006 to make it an allowable use of Green Building Fund monies to assist developers with compliance and to educate stakeholders on the requirements of Bill 24-710
- Section 5 Requires the Department of Buildings to issue rules implementing the bill.
- Section 6 Standard applicability provision for legislation that is subject to appropriation.
- Section 7 Standard fiscal impact statement provision.
- Section 8 Standard effective date provision.

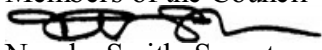
IX. COMMITTEE ACTION

X. ATTACHMENTS

1. Bill 24-710 as introduced.
2. Written testimony.
3. Fiscal Impact Statement for Bill 24-710.
4. Legal Sufficiency Determination for Bill 24-710.
5. Racial Equity Impact Assessment for Bill 24-710.
6. Comparative Print for Bill 24-710.
7. Committee Print for Bill 24-710.

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council
From :  Nyasha Smith, Secretary to the Council
Date : Tuesday, March 22, 2022
Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Monday, March 14, 2022. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Migratory Local Wildlife Protection Act of 2022", B24-0710

INTRODUCED BY: Councilmembers Cheh, Allen, Bonds, Lewis George, and Pinto

CO-SPONSORED BY: Councilmember Silverman

The Chairman is referring this legislation to Committee of the Whole with comments from the Committee on Transportation and the Environment.

Attachment
cc: General Counsel
Budget Director
Legislative Services



COUNCIL OF THE DISTRICT OF COLUMBIA
1350 PENNSYLVANIA AVENUE, N.W.
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March 14, 2022

Nyasha Smith, Secretary
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

Dear Secretary Smith,

Today, I, along with Councilmembers Janeese Lewis George, Brooke Pinto, Charles Allen, and Anita Bonds, am introducing the “Migratory Local Wildlife Protection Act of 2022”. Please find enclosed a signed copy of the legislation.

Untreated glass—whether it be glass windows, doorways, or large building design elements—poses a significant and growing risk to birds and other migratory local wildlife. Each year, anywhere between 365 million and 1 billion birds in the United States die following collisions with glass;¹ in fact, glass collisions are the second leading man-made cause of death for birds. Much of this heightened risk is due to the transparency and reflectivity of glass building elements that render birds unable to distinguish between the horizon and a solid building. Similarly, migratory birds flying at night may be attracted to and confused by interior lighting. As a result, since 1970, North American bird populations have decreased by approximately 29%, in part due to collisions with glass.²

Unfortunately, because the District is situated along the Atlantic flyway, a major migratory route for birds in North America, our local statistics on collisions with glass are just as dire. Millions of birds migrate through the District each year, and, due to the proliferation of predominantly glass buildings, thousands are killed. Since 2010, City Wildlife has identified nearly 4,500 birds injured or killed by collisions with glass buildings primarily in the area between Union Station and Chinatown; 84% of those collisions were fatal. Worse, these numbers are increasing: where City Wildlife’s patrol team identified just over 200 collision birds in 2012, they are now finding

¹ Sheppard, Christine and Bryan Lenz, *Birds Flying Into Windows? Truths About Birds & Glass Collisions from ABC Experts*, BIRDCALLS News and Perspectives on Bird Conservation, 06 Mar. 2019 (available at: <https://abcbirds.org/blog/truth-about-birds-and-glass-collisions/>).

² Kenneth V. Rosenberg, et al, “Decline of North American Avifauna,” *Science* Volume 366, Issue 6461 (September 19, 2019): pp. 120-124.

almost 700 collision birds in that same corridor. Extrapolating this data to the whole District suggests that thousands upon thousands of birds are being injured and killed by glass buildings each year.

One clear way to protect birds and other migratory animals from the harms of glass building elements is by using bird-friendly glass and by retrofitting existing hazardous building elements with bird-friendly products. These products are specifically designed to make glass a visible obstacle for birds—all while keeping the glass transparent for human use. Low-cost and low-burden techniques include treating glass with ultraviolet coating, silk-screening, or fritting, or even adhering decals. Many of these techniques are already utilized in building construction, often for purely aesthetic reasons. These glass products are assessed by the American Bird Conservancy (“ABC”) under their Bird Friendly Materials Evaluation Program and have been shown to be incredibly effective at reducing collisions.³⁴

We know that universal mandates that bird-friendly glass be used in construction could prevent the needless death and injury of millions, if not billions, of birds. The District can do its part by prohibiting the use of unsafe building materials that put birds and other migratory wildlife at greatest risk. With that in mind, this legislation would require that, by January 1, 2023, all new construction, substantial improvements, and certain design elements (such as glazed corners and envelope, windows, and doors adjacent to roof terraces) at commercial, multi-unit residential,⁵ institutional, and government-owned buildings be constructed using bird-friendly materials. This language, which was developed in coordination with experts at City Wildlife and the American Bird Conservancy, will help protect birds and migratory wildlife in the District and has the potential to drastically reduce the number of injuries and fatalities due to glass collisions over the next decade.

We also know that the cost to substitute bird-friendly glass is minimal. In fact, today, many manufacturers offer bird-safe glass and do so at a competitive price. The National Audubon Society estimates that using bird-friendly materials causes just a 5% increase⁶ in total glass costs (and overall glass expenditures are usually a small

³ ABC tests materials using a tunnel design, in which birds fly through a dark tunnel toward a lit exit with two panes—one of clear, untreated glass and the second with the to-be-tested treated glass product; a net ensures the birds are not injured. Using this process, ABC is able to assess whether birds will avoid the treated product, and to what degree; ABC translates those findings into a “threat factor,” which consumers can use to assess how bird-friendly the product is; the lower the threat factor, more effective the product is at reducing collisions. *Glass Collisions: About ABC’s Threat Factor Rating System* (available at: <https://abcbirds.org/glass-collisions/threat-factor-rating/>)

⁴ Of note, since 2011, the LEED Program rating system has included using ABC-approved products as a basis for a pilot credit. *Glass Collisions: LEED Pilot Credit* (available at: <https://abcbirds.org/glass-collisions/leed-credit/>).

⁵ Of note, this mandate would not apply to resident properties with four or fewer units, therefore excluding single-family homes and small multi-unit residential properties.

⁶ Chaisson, Clara, *What Does ‘Bird Safe Glass’ Even Mean?*, The National Audubon Society, 25 Jul. 2014 (available at: <https://www.audubon.org/news/what-does-bird-safe-glass-even-mean>).

fraction of total project costs).⁷ A number of construction projects back up Audubon's estimates: for one, Zoo Atlanta's Reptile House was constructed using bird-friendly glass, which added just \$32,000 to the project's overall cost, representing less than 0.2% of the project's total cost.⁸⁹ And, as was touched on earlier, many buildings already incorporate bird-friendly products into their design, often unintentionally or without knowing it; the Shaw Neighborhood Library, with its innovative glazing system, is an example. And, some studies have shown that bird-friendly glass materials may have secondary benefits for building owners, reducing cooling and other energy costs, cutting glare, and providing aesthetic benefits. That said, recognizing that some property owners may struggle to cover these additional costs, the legislation as introduced would establish a new Bird Friendly Buildings Fund, which is to be used to provide income-contingent subsidies to assist property owners with the costs of complying with this legislation. Fund dollars could also be used to support public education and outreach by the District on the new bird-friendly construction standards and the benefits to birds and other wildlife from using bird-friendly materials in construction.

The changes in this legislation would bring the District in line with a number of other jurisdictions, including the states of Minnesota and Illinois, as well as more than a dozen other cities, including New York City, Portland, and San Francisco, in passing legislation to protect birds and other migratory wildlife from the harms of untreated glass buildings. Of note, the federal Government Services Administration recently adopted bird-friendly guidelines for all GSA buildings¹⁰ and there is pending Congressional legislation mandating bird-friendly design for all federal buildings.¹¹ We have seen a prolonged architectural trend for large glass buildings, and we will

⁷ Gerardi, Jeff, *Commercial Construction Costs Per Square Foot*, Proest, 01 Jun. 2021 (available at: <https://proest.com/construction/cost-estimates/commercial-costs-per-square-foot/>).

⁸ Edelstein, Ken, *Kendeda Building's bird-safe glass: Small step in 'shockingly huge' issue*, The Kendeda Fund Living Building Chronicle, 26 Apr. 2019 (available at: <https://livingbuilding.kendedafund.org/2019/04/26/kendeda-buildings-bird-safe-glass-shockingly-huge-issue/>).

⁹ Another example—but one where the property owners ultimately did not use a bird-friendly design—is the Minneapolis Vikings new football arena, U.S. Bank Stadium, completed in 2016. There, using bird-safe glass would have cost just \$1 million out of a \$1 billion total budget (or 0.1% of total cost). Matthews, Susan, *Why Should Birders Be Worried About the new Vikings Stadium?*, The National Audubon Society, 24 Jul. 2014 (available at: <https://www.audubon.org/news/why-should-birders-be-worried-about-new-vikings-stadium>).

Of note, a 2019 study tracked bird collisions at 21 buildings in Minneapolis, including the new stadium, finding that deaths rose with the amount of non-bird-friendly glass (and vegetation) used in the building envelope and installations; the new arena was among one of the worst offenders. Loss, Sirena Lao, Joanna W. Eckles, Abigail W. Anderson, Robert B. Blair, Reed J. Turner, *Factors influencing bird-building collisions in the downtown area of a major North American city*, PLoS ONE 14(11): e0224164, 06 Nov. 2019 (available at: <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0224164>).

¹⁰ Government Services Administration Facilities Standards P100, Section 3.6.7, October, 2021.

¹¹ Bird-safe Buildings Act of 2021, HR-1986, S-791.

continue to see increasing numbers of migratory bird collisions if we do not put these protections in place. Finally, legislation mandating bird-friendly design for government building has recently passed the Maryland House of Representatives and is currently before the State Senate.¹²

Should you have any questions, please contact my Legislative Director Michael Porcello at mporcello@dccouncil.us or (202) 724-8062.

Thank you.

Best,

A handwritten signature in black ink, appearing to read 'Mary M. Cheh', with a stylized flourish at the end.

Mary M. Cheh

¹² MD Sustainable Buildings Act of 2022-HB-0043.

1 Janeese Lewis George
2 Councilmember Janeese Lewis George

Mary M Cheh
Councilmember Mary. M Cheh

3
4 BE R
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6 Councilmember Brooke Pinto

Charles Allen
Councilmember Charles Allen

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10 Anita Bonds
11 Councilmember Anita Bonds

12
13 A BILL

14
15 _____
16
17 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

18
19 _____
20
21 To require that, for building permits for new construction or substantial improvements issued
22 after January 1, 2023, the facade of the building's exterior wall envelope and exterior
23 fenestration largely use bird friendly materials; to prescribe other building elements that
24 must be constructed using bird-friendly materials after January 1, 2023; to require that
25 bird hazard installations be installed with bird friendly materials; to require that DCRA,
26 in consultation with DOEE, issue regulations to implement the act; and to establish a new
27 special fund, the Bird Friendly Buildings Fund, to support building owners with
28 compliance with the act.

29
30 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
31 act may be cited as the “Migratory Local Wildlife Protection Act of 2022”.

32 Sec. 2. (a)(1) For building permits issued after January 1, 2023, for new construction,
33 substantial improvements, or alterations involving the replacement of all or substantially all
34 exterior glazing at commercial buildings, multi-unit residential buildings, institutional facilities,
35 or District-owned or operated buildings, each façade of the exterior wall envelope and any exterior
36 fenestration shall be constructed with bird friendly materials up to 100 feet above grade; provided

37 that other materials may be used to the extent that they do not exceed an aggregate of 10 square feet
38 within any 10 feet by 10 feet square area of exterior wall below 100 feet above grade.

39 (2) The requirements under paragraph (1) of this subsection shall be waived for real
40 property designated as a historic landmark pursuant to D.C. Official Code § 6-1103.

41 (3) The requirements under paragraph (1) of this subsection may be waived for
42 real property within a historic district where the Historic Preservation Review Board or the Old
43 Georgetown Board issues a recommendation to DCRA that the compliance with paragraph (1) of
44 this subsection would meaningfully and substantially impact historic elements of the property.

45 (c) For installations with construction commencing after January 1, 2023:

46 (1) All glazed corners and fly-through conditions located 100 feet or less above grade
47 shall be constructed with bird friendly materials; and

48 (2) The exterior wall envelope and any exterior fenestration installed adjacent to all
49 green roof systems or roof terraces on the same structure shall be constructed with bird friendly
50 materials up to 24 feet above the surface of the green roof system or walking surface, whichever is
51 higher.

52 (c) Bird hazard installations shall be constructed of bird friendly materials regardless of their
53 height above grade.

54 (d) Within 180 days after the effective date of this act, DCRA, in consultation with
55 DOEE, shall issue regulations to implement the act, including establishing standards for bird
56 friendly building design elements and construction.

57 (e)(1) There is established as a special fund the Bird Friendly Buildings Fund ("Fund"),
58 which shall be administered by the Mayor in accordance with paragraph (3) of this subsection.

59 (2) Money in the Fund shall be used for the following:

60 (A) To provide income-contingent subsidies to assist District property
61 owners with the costs related to installation of retrofits that meet the bird friendly construction
62 standards for newly constructed buildings or buildings undergoing substantial renovation under
63 the Migratory Local Wildlife Protection Act of 2022; and

64 (B) Public education and outreach on the District’s bird friendly
65 construction standards, the Act’s requirements on property owners, and the benefits to birds and
66 other wildlife from installation of bird friendly materials and building elements.

67 (3)(A) The money deposited into the Fund but not expended in a fiscal year shall
68 not revert to the unassigned fund balance of the General Fund of the District of Columbia at the
69 end of a fiscal year, or at any other time.

70 (B) Subject to authorization in an approved budget and financial plan, any
71 funds appropriated in the Fund shall be continually available without regard to fiscal year
72 limitation.

73 (4) The Mayor may receive and administer grants for the purpose of carrying out
74 the goals of this chapter.

75 (f) For the purposes of this act:

76 (1) “Bird friendly material” shall mean a material or assembly that has been
77 designed or treated to have a maximum material threat factor of 30.

78 (2) “Bird hazard installations” shall mean monolithic glazing installations that
79 provide a clear line of sight or mirrored surface on the exterior of buildings, including, but not
80 limited to, awnings, handrails and guards, wind break panels, bus shelter enclosures, skywalk
81 enclosures, and acoustic barriers made of glass or glass-like materials.

82 (3) “Commercial building” means income producing property as identified under
83 zoning classifications that would allow for such uses as office buildings, retail stores, restaurants,
84 bars, taverns, and service facilities.

85 (4) “Fly-through conditions” means one or more panels of glass or glass-like
86 materials that provide a clear line of sight through such elements, creating the illusion of a void
87 leading to the other side, including parallel glass or glass-like material elements when the
88 distance between such elements is 60 feet or less, or a convergence of sides made of glass or
89 glass-like materials creating a perpendicular, acute or obtuse corner.

90 (5) “Glass and glass-like materials” shall include tempered glass, spandrel glass,
91 plexiglass, mirrored products, polished metal, or other glass materials or materials that are
92 transparent or highly reflective.

93 (6) “Institutional facility” means a facility owned or operated by an organization
94 with a social, charitable, educational, or civic purpose, and shall include schools, universities,
95 laboratories, medical and healthcare facilities, residential care facilities and nursing homes,
96 athletic facilities, penal institutions, galleries, performance venues, and museums, but not include
97 churches, mosques, temples, or other houses of worship.

98 (7) “Material threat factor” means a measure of a bird’s ability to see and avoid a
99 building material; provided, that such measure shall be in accordance with the American Bird
100 Conservancy’s Threat Factor Database or with the American Bird Conservancy’s Bird-friendly
101 Materials Evaluation Program test protocol.

102 (8) “Multi-unit residential building” means a residential building with 5 or more
103 dwelling
104 units.

105 (9) “Skywalk” means any above-grade enclosed walkway of any dimension that
106 connects two or more buildings or parts of a building.

107 (10) “Substantial improvement” means any repair, alteration, addition, or
108 improvement of a building or structure, the cost of which equals or exceeds 50% of the market
109 value of the structure before the improvement or repair is started.

110 Sec. 3. Fiscal impact statement.

111 The Council adopts the fiscal impact statement in the committee report as the fiscal
112 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
113 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

114 Sec. 4. Effective date.

115 This act shall take effect following approval by the Mayor (or in the event of veto by the
116 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
117 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
118 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
119 Columbia Register.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

REVISED

**CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING**

on

Bill 24-710, Migratory Local Wildlife Protection Act of 2022

on

Friday, October 21, 2022 at 12:00 p.m.

**Chairman's Website (www.ChairmanMendelson.com/live)
DC Council Website (www.dccouncil.us)
Council Channel 13 (Cable Television Providers)
Office of Cable Television Website (entertainment.dc.gov)**

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on **Bill 24-710**, the "Migratory Local Wildlife Protection Act of 2022." The hearing will be held at **12:00 p.m. on Friday, October 21, 2022** via Zoom Video Conference Broadcast. **This hearing notice has been revised to remove references to Bill 24-785, which was included in the original notice by mistake.**

The purpose of Bill 24-710 is to require new construction or building façade improvements after January 1, 2023 to use bird friendly materials, to require the Department of Buildings to issue regulations in consultation with the Department of Energy and Environment, and to establish a Bird Friendly Buildings Fund to support compliance with the act.

Those who wish to testify must register at <http://www.ChairmanMendelson.com/testify> by **5:00 p.m. on Wednesday, October 19, 2022. Testimony is limited to four minutes.** Witnesses who anticipate needing spoken language interpretation, or require sign language interpretation, are requested to inform the Committee office of the need as soon as possible but no later than five business days before the proceeding. We will make every effort to fulfill timely requests, although alternatives may be offered. Requests received in less than five business days may not be fulfilled. If you have additional questions, please contact Blaine Stum, Senior Policy Advisor, at (202) 724-8092.

The hearing will be conducted virtually on the Internet utilizing Zoom video conference technology. Testimony should be submitted in writing to cow@dccouncil.us in advance of the hearing. Written testimony will be posted publicly to <http://www.chairmanmendelson.com/testimony>. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Statements for the record should be submitted to cow@dccouncil.us or left by voicemail by calling (202) 430-6948 (up to 3 minutes which will be transcribed). The record will close at 5:00pm on Friday, November 4, 2022.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
WITNESS LIST**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

**CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING**

on

Bill 24-710, Migratory Local Wildlife Protection Act of 2022

on

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|-----|--------------------|--|
| 1. | Noah Van Gilder | Public Witness |
| 2. | Emily Hovermale | Director of Government Affairs, Humane Rescue Alliance |
| 3. | Anne Lewis | President, City Wildlife |
| 4. | Catherine Plume | Sierra Club D.C. |
| 5. | Christine Sheppard | Director, Glass Collisions Program,
American Bird Conservancy |
| 6. | Stella Tarnay | Founder and Executive Director, Capital Nature |
| 7. | Jeremy Joseph | Public Witness |
| 8. | Chris Weiss | D.C. Environmental Network |
| 9. | Max Broad | D.C. Voters for Animals |
| 10. | Jamoni Overby | Audubon Naturalist Society |

11. Michael Ezban
Assistant Director, Architecture Program,
University of Maryland School of
Architecture, Planning, and Preservation
12. Salim Adofo
Chair, Advisory Neighborhood Commission
8C
13. Beth Purcell
Committee of 100 on the Federal City
14. Lisbeth Fuisz
Coordinator, Lights Out DC, City Wildlife,
Inc.
15. Tykee James
President, D.C. Audubon Society
16. Steve Dryden
Rock Creek Songbirds Restoration Project
17. Dhruv Cohen
Lights Out D.C.
18. Katherine Slattery
Quinn Evans
19. Sara Hallager
Smithsonian's National Zoo and
Conservation Biology Institute
20. Stephanie Dalke
Volunteer, Lights Out DC
21. Peter Marra
Georgetown University, Institute for
Environment and Sustainability
22. Brenda Richardson
Coordinator, Anacostia Parks and
Community Collaborative
23. Bonnie Van Dam
Detroit Zoological Society/North American
Songbird SAFE Bird Collision Team Lead
24. Elizabeth Reid-Wainscoat
Center for Biological Diversity
25. Eric Jones
Vice President of Government Affairs,
Apartment and Office Building Association
of Metropolitan Washington
26. Nathan Harrington
Ward 8 Woods Conservancy, Inc.

27. Aniko Totha
Glass Collisions Project Coordinator at
American Bird Conservancy
28. John Boland
Policy and Advocacy Associate, Casey
Trees
29. Craig McClure
Member-at Large, Potomac Chapter of the
American Society of Landscape Architects
30. Liz DeBarros
CEO, DCBIA
31. Lora Nunn
Vice President, Friends of Kingman &
Heritage Islands
32. Brian Forehand
DC Chapter of the American Institute of
Architects (AIA|DC), Advocacy Committee
Chair
33. Ernest Chrappah
Interim Director, Department of Buildings



October 21, 2022

Committee of the Whole
Council of the District of Columbia
1350 Pennsylvania Avenue NW
Washington, D.C. 20004

RE: Humane Rescue Alliance testimony in support of Bill 24-710 Migratory Local Wildlife Protection Act of 2022

Dear Chairman Mendelson and Honorable Members of the Committee of the Whole:

Thank you for the opportunity to testify in support of Bill 24-710, the Migratory Local Wildlife Protection Act of 2022, on behalf of the Humane Rescue Alliance (HRA), the current provider of DC's animal care and control services through contract with DC Health. HRA receives calls every day from members of the community about sick, injured, orphaned, and trapped wildlife, and our Field Services team responds to requests for assistance to pick up injured wildlife 24-hours a day. We work closely with City Wildlife to ensure sick or injured wildlife are rehabilitated, and our wildlife program manager has also very recently become a certified wildlife rehabilitator in an effort to increase our level of services for the District's urban wildlife.

The number of calls for service to assist injured birds that we receive increases dramatically with birds hitting buildings during spring and fall migration, the lives of these animals harshly cut short as they perform their natural animal behaviors and follow their instincts. Our officers see firsthand the impact to our citizens when they witness these often-gruesome events that unfortunately will only increase in number without intervention.

The District of Columbia should not accept the death of thousands of our birds every year as a forgone conclusion to development and progress. For these reasons, we support Bill 24-710, the Migratory Local Wildlife Protection Act of 2022, and we respectfully urge the Council to pass this legislation and take an essential step toward protecting our wild neighbors. Thank you for your consideration.

Emily Hovermale
Director of Government Affairs
202.802.1363
ehovermale@humanerescuealliance.org

Migratory Local Wildlife Protection Act of 2022 (B24-0710)

Anne Lewis, President, City Wildlife
Hearing testimony October 21, 2022

Good afternoon, Councilmembers. My name is Anne Lewis and I am President of City Wildlife.

I'd like to address three questions about this proposed law:

1. Why is it necessary?
2. How much will it cost? and
3. Will it work?

The law is necessary because our buildings are killing birds.

America's bird populations are in deep decline, and glass collisions are a leading cause of death, killing up to 1 billion birds a year in the US. Unfortunately, DC is contributing significantly to these deaths. Our *Lights Out DC* monitoring project has documented more than 4,500 bird strikes, most from the limited downtown area we monitor.

DC is rapidly building out, and as more glass buildings are built -- and existing buildings are re-clad in glass -- we will continue to find more dead birds unless something is done now while these buildings are still in design.

Bird collisions also affect people. In 2018, over a period of 3 days, 52 Cedar Waxwings crashed into a glass corridor at the Shining Stars Montessori School in Northeast DC. The children were so upset to see these birds dying on the ground that the staff had to close off the corridor to view. No one -- young or old -- likes to hear that awful thud of a bird hitting glass.

Simple and inexpensive measures to reduce these collisions have been known for at least a decade, but our building community is not yet using them, and probably needs this law to do so.

So, how much will it cost?

The marginal cost of using bird-safe glass is minimal: from only one-tenth to one-half of one percent of the construction cost -- a small expense with huge humane benefits. These costs are coming down, too, as more products hit the market.

And in many cases, the added cost will be zero. Features such as louvers or screens that are included in buildings for solar control or other reasons may themselves make a building bird safe without any extra cost. And it's much less expensive to get it right at first than to retrofit later.

Finally, will this law work?

Yes, it will. The American Bird Conservancy has been testing products for 12 years and many are effective. And we have proof: after our Convention Center installed bird-safe film on its problematic skywalk, bird strikes there declined by 85%.

This law will be easy to administer for both the building industry and our new Department of Buildings (DOB). Its requirements are straightforward and well within these professionals' normal range of duties and expertise. After passing its bird-safe law in 2020, New York City found it did not need to add any staff to its regulatory agencies, and our law is similar.

So, in sum, this law is effective, inexpensive, easy to administer, and will change our lethal environment to one that allows safe passage for our beautiful birds.

Thank you.



A portion of *Lights Out DC* birds found, 2021



SIERRA CLUB

WASHINGTON D.C.

TESTIMONY

of

Catherine Plume

Sierra Club DC Chapter

before the

Committee of the Whole

regarding

B24-0710 – the Migratory Local Wildlife Protection Act of 2022

October 21, 2022

I'm Catherine Plume, an elected member of the Executive Committee of the Sierra Club DC Chapter. I'm also a lifelong environmentalist, a 20+-year District resident, and a proud resident of Ward 4. Thank you, Chairman Mendelson for convening this hearing regarding bill B24-0710 – the Migratory Local Wildlife Protection Act of 2022.

The Sierra Club is the nation's oldest and largest environmental advocacy group. We are a grassroots organization with chapters in every state, DC, and Puerto Rico. Here in DC we have nearly 3,000 dues-paying members and more than 10,000 supporters. I doubt that anyone at this hearing today will be surprised to learn that the Sierra Club strongly supports this bill. We are proud to advocate together with our environmental partner organizations across the District including City Wildlife, the DC Environmental Network, DC Voters for Animals, the Anacostia Parks and Community Collaborative, and many more to urge the entire DC Council to unanimously support this bill.

You've heard sobering facts today from my environmental peers.

- Bird populations in North America are declining rapidly. Since 1970, nearly 3 billion breeding birds have been lost, representing 29% of our total bird populations. Glass collisions contribute significantly to this decline.
- Since 2010 when City Wildlife initiated its Lights Out DC program, they've documented more than 4,500 bird strikes, largely in a small area of downtown, and 85% of these collisions were fatal. As new glass buildings are built the number of collisions is increasing dramatically.

Why do we believe the Council should pass this bill? Our reasoning is four-fold.

- 1) Nature is important to the wellbeing of any city. It provides innumerable environmental services including respite, places to recreate, and beauty. Nature without birdlife—or without the full diversity of birds that naturally occur in an area is incomplete. They're also working on our behalf—pollinating plants, dispersing seeds, scavenging carcasses, and recycling nutrients back into the Earth. The District

is located in the mid Atlantic flyway. Every Spring and Fall, millions of birds pass through the District as they migrate. And, we are fortunate to have our own resident bird population. The Sierra Club likes birds, and we believe we have a moral obligation to ensure their safety.

- 2) This bill provides a practical means for reducing bird death. Under the provisions of this bill, developers will have a wide range of options. Bird-friendly glass products are now readily available from a wealth of manufacturers. Louvers, screens, or solar controls can also be effective in preventing collisions. The cost of these measures is small—and often zero. Installing bird-friendly glass is the most expensive option and even that only increases the cost to one-tenth to one-half of one percent of the total construction cost. The Sierra Club supports pragmatic and cost-effective solutions, like those in this bill, that conserve nature.
- 3) Bird-friendly design can actually save money through more efficient energy use. In New York, renovation of the Javits Center included bird-friendly design components, which helped reduce heating, cooling, and lighting costs by 25%. The Sierra Club believes in conserving energy.
- 4) Other US cities and states—New York City, San Francisco, Portland, Toronto, the states of Illinois and Minnesota, and many other jurisdictions already have laws in place requiring bird-friendly glass. DC is lagging behind on this issue. The Sierra Club DC Chapter is proud of the District’s environmental progress. The Sierra Club believes we should add bird-friendly policies to the District’s environmental portfolio.

In summary, the Sierra Club likes birds, we like cost-effective and pragmatic solutions like those presented in this bill to conserve nature, we believe in conserving energy, and we believe that the District should add bird-friendly policies to its environmental portfolio. We like this bill. We respectfully and strongly urge the Council to vote in favor of this bill.

Again, Chairman Mendelson, thank you for convening this hearing. I’m happy to answer any questions you might have.



Bringing back the birds

I'm Doctor Christine Sheppard, director of American Bird Conservancy's Glass Collisions Program. Thank you for allowing me to contribute my testimony. People have been designing bird-friendly buildings as long as they have been building structures – it is only recently that the expanded use of glass has begun to threaten the existence of birds, with hundreds of millions of fatal collisions every year. Luckily, it is possible to retain the advantages of glass, providing clarity of view, insulation and structure, while significantly reducing the risk of collisions by birds. The key to bird-friendly design is to consider birds from the beginning of the design process and that is one reason legislation is important.

Starting in 2008, when Cook County IL adopted a bird-friendly code, there has been increasing recognition that bird mortality from glass is a serious problem, with legislation the most efficient way to address it on a large scale. More than 30 jurisdictions in the United States, with more pending, now mandate bird-friendly design. This includes San Francisco, Portland, Madison, Chicago and New York City. The Green Building Council's LEED program now includes a credit for addressing bird-collisions, and the Federal General Services Administration has added bird-friendly design to their internal policy document.

Tellingly, the glass industry is recognizing a growing market for bird-friendly materials. American Bird Conservancy maintains an interactive database of bird-friendly products on our website. From a few dozen products in 2011, produced by three companies, that number has grown to almost 200 today, produced by almost 40 companies around the world, with more in the pipeline. Legislation requiring use of bird-friendly materials has driven that growth, providing a range of materials for architects to work with. Hundreds of bird-friendly buildings have now been constructed, including prize winning designs. I strongly urge the City Council to pass the Migratory Local Wildlife Protection Act of 2022, to protect birds, preserving a vital resource.

Public Hearing Testimony
B24-0710 Migratory Local Wildlife Protection Act of 2022
Oct. 21, 2022

Stella Tarnay
Capital Nature

Good Afternoon Chairman Mendelson and committee members. My name is Stella Tarnay. I am co-founder and Executive Director of Capital Nature, and a resident of the District for over nineteen years. I am here to testify in support of B24-0710 Migratory Local Wildlife Protection Act of 2022, the Bird-Safe Building Bill. Capital Nature is a local nonprofit organization, with a mission to promote positive nature engagement. We bring attention to the many opportunities available for our residents to experience their natural world, we promote and organize citizen science events such as the annual City Nature Challenge, and we create original nature programming in DC communities. Our two most popular programs in recent weeks were a presentation on the birds of Georgetown at the neighborhood library, and a program on native trees in Eckington. I can report to you from our experience, that DC residents care a great deal about the state of their local nature, and they seek ways to enjoy it. Especially with the pandemic, birding has become a big part of that.

Prior to co-founding Capital Nature I was a convener of the Biophilic DC civic initiative, and a work group participant in Sustainable DC - both editions. I spent much of my professional life working in green building and sustainability, and I was part of the advocacy group that promoted the Green Building Act. I speak to you now from those experiences and a great love for the human and ecological communities of our city.

I urge you to pass the Migratory Local Wildlife Protection Act of 2022. This Council and the city have shown great capacity for leadership in areas such as green building and infrastructure, environmental justice, climate and energy, heritage tree protection, through the visionary Sustainable DC Plan, and, near and dear to my heart, the Sense of Council Resolution for a Biophilic City in 2015. That was the first time the term “urban biodiversity” was used in a piece of District legislation, and it drew important connections between human health and the experience of healthy, ecologically diverse nature. Public health research shows that two experiences in particular: the visible presence of healthy trees in a neighborhood, and the sound of birdsong support our wellbeing. Something inside us knows that the sound of happy birds signals a healthy world. It soothes our nervous systems, supports our mental health, and helps our hearts beat stronger. *We* live longer and happier in their presence.

This healthy biodiversity won't happen on its own. Local plants need places to grow, native trees need protection from invasives, wildlife needs green corridors to move safely, and related to that: birds need a safe place to land, nest, and gain sustenance for their journeys through our city. We have not done a very good job on this last point. It breaks my heart that a green building I advocated for in 2005 is now causing deadly collisions with its LEED-certified glass exterior.

When we were advocating for the DC Green Building Act, one of the things our colleagues in the building industry told us was that they were interested in going green, but that they needed a level playing field. That when green performance was expected of all, those doing the right thing would not be operating at a financial disadvantage. It was in fact the combined federal building requirements and our own District law that leveled the field and raised performance expectations for all. That helped make DC an industry leader in green building. We can do the same for birds with B24-0710 Migratory Local Wildlife Protection Act of 2022 .

As I mentioned, Capital Nature gives green tours. I look forward to offering a tour in the near future, perhaps highlighting the beautiful flora and fauna of a neighborhood, and stopping next to a thoughtfully planned building to say: "notice how green this building is. It is LEED-certified. Notice the pollinators and birds in its lush RiverSmart landscape. Notice the City Council staffer taking a break from their busy schedule on a bench under the river birch, with a yellow warbler and a white throated sparrow singing nearby. We don't need to worry about that precious bird striking the building - because its development team made sure it was designed to bird-safe standards. Because that's what we do here in DC, a sustainable, truly green city."

Testimony in support of Bill 24-710, Migratory Wildlife Protection Act of 2022
From Jeremy Joseph, DC resident and nominee ANC Commissioner for ANC 3D-04
October 21, 2022

Thank you for the opportunity to testify in support of this necessary and important bill, 24-710, Migratory Wildlife Protection Act of 2022.

I am a longtime DC resident and an avid bird watcher. I have personally witnessed birds striking the glass of commercial and other buildings in the city, and have personally picked up and brought for rehabilitation migratory and other birds that were injured by glass collisions. During peak migration season, like now, I have personally witnessed numerous birds killed from bird strikes lying dead at the base of our taller buildings each morning as I arrived at work. This carnage is preventable, and it is our duty to prevent it. I applaud the council for their leadership in this important regard.

I am also conscious of increasing regulatory burdens and costs for developers. In this instance, the cost is negligible and easily absorbed into the overall project cost, whereas the benefit is immeasurable. Nearly all migratory bird species are in sharp decline due to human development and activity. This bill helps address one small but important aspect of that decline.

I urged the councilmembers to vote in favor of this important bill.

Jeremy Joseph
Nominee ANC Commissioner for ANC 3D-04



“A staggering loss that suggests the very fabric of North America’s ecosystem is unraveling.” - John Fitzpatrick, Cornell Lab Director

The Council of the District of Columbia, Committee of the Whole Public Hearing on: [Bill 24-710](#), the “Migratory Local Wildlife Protection Act of 2022”

Friday, October 21, 2022, 12:00 PM, Virtual Meeting Platform
John A Wilson Building, 1350 Pennsylvania Avenue, NW, DC, 20004

Testimony of Chris Weiss, Executive Director, DC Environmental Network (DCEN)

Good afternoon, Chairperson Mendelson, other Councilmembers, and staff.

My name is Chris Weiss, and I am the Executive Director of the DC Environmental Network. I am testifying today in support of Bill 24-710, the “Migratory Local Wildlife Protection Act of 2022.” If passed this common sense, easily implementable law will save the lives of thousands of migratory birds that land in DC during their spring and fall migrations along the Atlantic flyway.

I remember as a child being amazed by the idea that wild birds had such a dominant presence on our planet, in nature, that Doppler radar could detect thousands of them taking off from their roosting sites at dawn to forage for insects. Later in life I stood in awe somewhere on the Cape Hatteras National Seashore watching thousands and thousands of migrating birds flying just above the water. I stood there for a very long time watching a seemingly permanent, unbroken line of migratory birds passing by.

Now we know that there is no permanence with all the natural things that we have taken for granted and are necessary for human survival. I read recently, “If you were alive in 1970, more than 1 in 4 birds in the U.S. and Canada have disappeared within your lifetime. According to research published Sept. 2019 by

the journal Science, the total breeding bird population in the continental U.S. and Canada has dropped by 29 percent since that year.”¹

Climate change, plastics pollution, and other environmental challenges, driven by our country’s wasteful consumption habits, are driving major biodiversity loss and changes in the natural world that threaten human existence.

The good news is we have lots of common sense, cost effective, job creating solutions to solve some of these problems.

This bill helps the District do our part to push back against the fatal bird/glass collisions that are killing up to 1 billion birds every year in the US and thousands of surprisingly exotic, migratory, AND local DC birds in our neighborhoods and city. Let’s not forget to take care of our own.

From our fact sheet: The Migratory Local Wildlife Protection Act calls for most new or substantially remodeled buildings in DC to incorporate these bird-friendly measures. Effective and inexpensive measures, including bird-safe glass products, can be incorporated in buildings to prevent these collisions and are readily available, but are not yet required.

We are not alone in this. Similar laws requiring bird-friendly buildings have been passed for New York City, Chicago, Toronto, San Francisco, Portland, and many smaller local jurisdictions. As our nation’s capital city, we are a bit behind.

This is something we can do. The DC Environmental Network urges the swift passage of what maybe we should call the “Migratory Local Wildlife & Human Protection Act of 2022.” Let’s do it because it’s not that hard, let’s do it for our migratory and local bird friends, and let’s do it to support the eco-system humans need for survival. Thank you.

The DC Environmental Network (DCEN), founded in 1996 — is working toward a vision of rebuilding Washington, DC’s neighborhoods, and communities for long-term economic and environmental sustainability — accomplishing this by protecting, restoring, and enhancing, the Capital City’s urban environment.

¹ <https://news.cornell.edu/stories/2019/09/nearly-30-birds-us-canada-have-vanished-1970>

Migratory Local Wildlife Protection Act of 2022

Testimony from DC Voters for Animals

October 21, 2022

It was the bottom of the 8th inning when the Los Angeles Dodgers recruited a fourth outfielder in their game against the San Diego Padres. You need little knowledge of baseball to know that four outfielders are not allowed. Moreover, the new outfielder was a goose. It takes even less knowledge of baseball to know that feathered fourth outfielders are even more not-allowed!

The greater white-fronted goose did more than make it into the public spotlight during the Major League Baseball playoffs last week, it has become the informal mascot of the Padres as a signal of their success since the goose landed. But underneath the story of a lucky bird is an important reality. The goose was migrating, likely from their breeding grounds in the Arctic tundra, and an unlikely inhabitant of Chavez Ravine on a Los Angeles night.¹ Experts explain that the bright lights drew the traveler from its journey. Since most birds migrate at night, light pollution and bright illumination from cities will attract and disorient birds.² Although the amenities of development and modernization offer us many benefits (including night baseball), last week's goosecepadés demonstrate how human impacts on the ecosystem can have unintended impacts on wildlife.

Fortunately for the goose, it was safely escorted off the field. However, for our flying friends who are unable to see glass in buildings, the end of the story is not so pleasant. We are here today to talk about migrating birds that are colliding into glass.

For the average DC resident this may seem like an afterthought. But for the feathered migrater passing through our city on an annual basis, this is a crisis. Building collisions are the second biggest cause of unnatural death for birds in the US—the challenges of seeing glass are an epidemic for migratory wildlife.

Since they cannot speak for themselves, my role at DC Voters for Animals is to invite consideration of the birds themselves as a constituency worthy of consideration. How can we as a city account for their interests? Especially when our actions are causing so much suffering and loss of life. Especially when solutions are readily available.

In considering the birds perspective, we are offered a chance to explore and enact the Golden Rule. What would we want if we were in their shoes? It may be hard to step into the mind of our feathered friends. But it is not hard to imagine that flying at full speed into an unexpected and invisible pane of glass is anything but concussive, if not lethal. We can prevent these injuries. We can prevent these deaths. I urge you and appreciate your willingness to consider the birds

¹ National Audubon Society, [Greater White-fronted Goose](#)

² Van Doren B.M., Horton K.G., Dokter A.M., Klinck H., Elbin S.B., Farnsworth A. 2017.

[High-intensity urban light installation dramatically alters nocturnal bird migration](#). Proc. Natl. Acad. Sci.

perspective. Please pass this important bill to make DC a city that lives in harmony with wildlife, that leads with compassion, and that is a beacon for other cities to follow in how we can end this unfortunate and unplanned epidemic for birds.

Sincerely,

Max Broad

Executive Director

DC Voters for Animals



DC

VOTERS

FOR ANIMALS

Committee of the Whole (Council)

From: Michael Thaler Ezban <mezban@umd.edu>
Sent: Thursday, October 20, 2022 7:10 AM
To: Committee of the Whole (Council)
Subject: Testimony for B24-710: Migratory Local Wildlife Protection Act of 2022

Testimony for supporting bird-friendly building legislation (B24-710: Migratory Local Wildlife Protection Act of 2022)

I am here to offer my testimony of full-throated support for the Migratory Local Wildlife Protection Act of 2022.

Architects are at the center of the conversation on the creation of bird-safe buildings. They not only develop and offer design solutions, but can also serve as advocates to their clients for adopting bird-safe building strategies. At the University of Maryland School of Architecture, where I teach architecture and serve as the Assistant Director of the program, I engage students—aspiring architects—in not only how to design buildings that don't kill birds, but how to design buildings that are actually co-habitable and that serve more than just people.

In the course I teach, students engage glass technologies that reduce bird impact, as well as brick patterns that can harbor nesting birds in various ways, adopting strategies that are used widely in Europe. I teach students that there is more to consider than just function and aesthetics, that building facades are a meaningful interface between nature and culture that could be of benefit to multiple species.

The response from students over years of teaching on these concepts has been encouraging. There is an appetite among students to engage bird-safe building design, especially when they are shown the evidence of bird deaths through building collision. These students take in these lessons and then carry them into their journeys to become practicing architects, where they can become tomorrow's change agents and advocates. In doing so, they are joining an industry that is becoming attuned to their responsibility to design for bird-safe cities.

Thank you,

Michael

Michael Ezban, RA, ASLA

University of Maryland, School of Architecture, Planning & Preservation
Interim Assistant Director + Clinical Assistant Professor, Architecture program
Web: [Faculty Bio](#)

VanderGoot Ezban Studio
Principal
Web: [VanderGoot Ezban Studio](#)

Aquaculture Landscapes: Fish Farms and the Public Realm (Routledge, 2020)
Winner of the 2020 John Brinckerhoff Jackson Book Prize
Web: [Aquaculture Landscapes](#)

The Committee of 100

on the Federal City



TESTIMONY Before the COMMITTEE of the WHOLE
Public hearing on
Bill 24-710 Migratory Local Wildlife Protection Act of 2022
Bill 24-785 Green Government Buildings Amendment Act of 2022
2022 October 21

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Marilyn Simon

Jim Smailes

Evelyn Wrin

Dear Chairman Mendelson,

My name is Beth Purcell. I'm testifying on behalf of the Committee of 100 on the Federal City, a planning and preservation advocacy organization that was founded nearly a century ago. The Committee of 100 strongly supports Bill 24-710 Migratory Local Wildlife Protection Act of 2022 and Bill 24-785 Green Government Buildings Amendment Act of 2022.

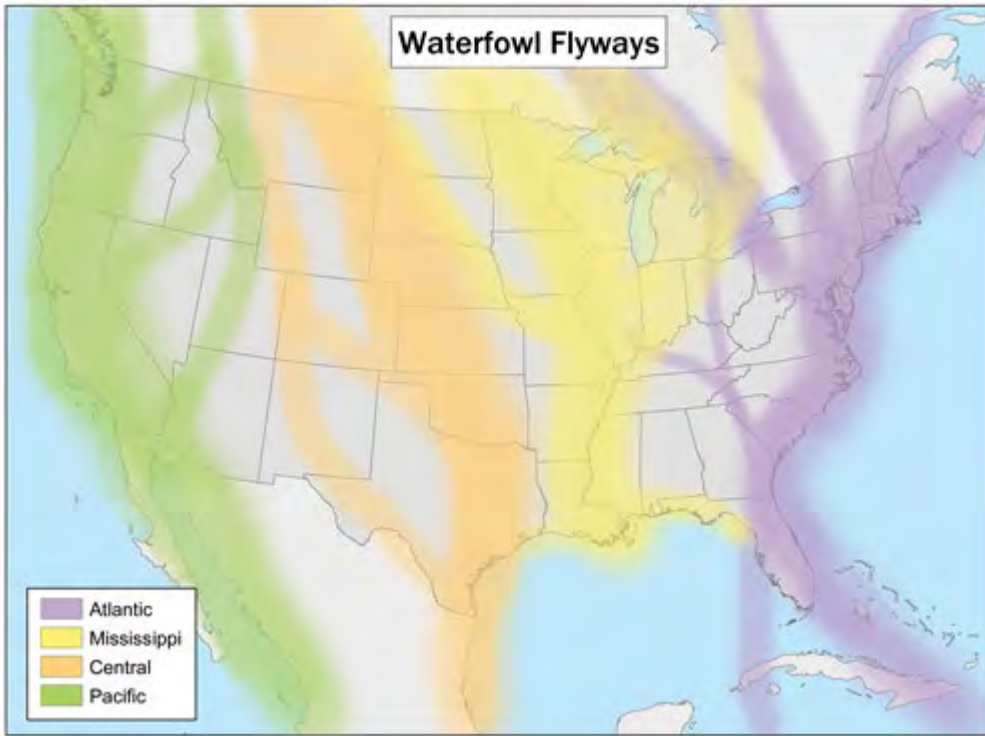
We think of the District as an urban area. But in fact, the District is home to an average of 230 bird species year-round. The District is also on the Atlantic flyway, (pictured below) and attracts thousands of migrating birds every spring and fall, that stop here to rest and feed before continuing their journey. More than 60 species breed in the District, and its rivers are wintering locations for thousands of waterfowl. Collisions with glass account for many bird deaths, estimated as between 100 million and one billion deaths per year, by the US Fish and Wildlife Service (2002). DOEE's Wildlife Action Plan (2015) agrees with these findings. Bird deaths from collisions can also affect the viability of bird populations. Nearly one-third of bird species has been documented to be victims of collisions with buildings. Deaths of migrating birds include some of the strongest healthiest birds, who otherwise would have survived to breed.

DC is undergoing a construction boom - many multi-story buildings are planned. See [Pipeline \(urbanturf.com\)](http://Pipeline(urbanturf.com)). The time to protect birds is now. The proposed acts protect birds by mandating bird-friendly glass, a proven cost-effective measure used in other forward-thinking cities. Thank you for this opportunity to comment.

The Atlantic Flyway, running through the District of Columbia, is in purple. This is a map of [waterfowl flyways](#) in the United States based loosely on U.S. Fish and Wildlife Service maps and originally published by the Natural Resources Conservation Service. Cartography done by [Karl Musser](#). "Atlantic

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Washington, D.C. 20001
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Flyway,” Wikipedia. Internet; accessed 27 Sept. 2022.



Migratory Local Wildlife Protection Act of 2022

Hearing October 21, 2022

Testimony of Lisbeth Fuisz, PhD
Coordinator of City Wildlife's *Lights Out DC* program

Good afternoon, Councilmembers. My name is Lisbeth Fuisz, coordinator of City Wildlife's *Lights Out DC* monitoring program. Lights Out DC is an all-volunteer program that has documented bird/glass collisions in a small downtown area of DC since 2010. In that time, we have collected more than 4,500 victims of these collisions, 85% of which were dead.

Our volunteers monitor the buildings on their routes starting at 5:30 AM during spring and fall migration seasons, picking up both live and dead birds that have hit glass. Live birds are taken to City Wildlife for rehabilitation; dead birds are tagged and frozen and their carcasses are given to the Smithsonian and other institutions for research.

Our monitoring area centers on the thirteen blocks from Union Station to the Convention Center. Recent construction of glass buildings in this area has dramatically increased bird deaths. In 2011, we found 212 birds; now, ten years later, we are finding more than 700 birds a year.

Moreover, many of these buildings have received LEED Gold or Platinum ratings for sustainability. This is wrong. Green buildings shouldn't kill birds, and killing birds is not sustainable.

So here are some examples of our problem buildings:

- The Thurgood Marshall Judiciary Center, just east of Union Station, with an all-glass façade and tall trees inside its atrium. **457** birds have hit this building.
- 300 New Jersey Avenue, NW, an office building with a LEED Gold rating and an all-glass façade. The interior of this atrium is often brightly lit. **380** birds have hit this building.
- Martin Luther King library, which has recently been remodeled. This building was a problem before renovation, but its new reflective glass has made it even worse for the birds. **109** birds have hit this building.
- And finally, Capitol Crossing, at 200-250 Massachusetts Avenue NW, a new office complex with a LEED Platinum rating that is hailed as the District's first Eco-District. This huge project is not even complete, yet it has already suffered **99** bird strikes.

We do try to work with the owners of these buildings, and some have agreed to dim their lights, but none have been willing to remediate their facades with bird-safe film.

As DC continues to grow in places like the Navy Yard, McMillan Reservoir, New York Avenue NE, and Poplar Point, more glass buildings will be built and these tragic bird deaths will increase unless we act now.

We urge the Council to pass this law while these buildings are still in design so that we can at least prevent our new buildings – many of which will be hailed as sustainable – from killing our beloved and valuable birds.

Thank you.



I heard the wing noise of a woodcock and turned to see it flying east to west across the plaza to the north of the building, then it turned and crashed into the 2nd floor above the Milk Bar, which I had just walked past. It seemed to have been killed instantly.

Lights Out DC volunteer
11/9/2019

Testimony for the Migratory Local Protection Act of 2022

October 21st, 2022

Good afternoon Chair Mendelson and members of the committee. Thank you for providing this opportunity.

My name is Tykee James and I am the president of the DC Audubon Society. We are an environmentally progressive bird conservation organization with over 1400 members in the District of Columbia. Our purpose is to build people-powered, bird-friendly communities in all 8 wards of the District.

Building bird-friendly communities deeply reflect our principles as an organization. A bird-friendly community in D.C. is everywhere people thrive and birds prosper because they both share equitable access to the benefits of nature. However, due to historic and systemic environmental injustice pushed on Black, Brown, and poor communities, those benefits are not meaningfully or equitably realized.

We are proud to join this strong coalition of support for B24-0710, the Migratory Local Wildlife Protection Act of 2022. As we've seen throughout the pandemic, especially in our membership, more people want to see more birds. Let's support that. Let's support migrating birds. More birding means more stories about birds and people in the community having access to the benefits of nature.

On behalf of the 1400 members of the DC Audubon Society, I urge your support and the passage of this legislation. I hope we can go birding together, I'd be happy to work around your schedule. Thank you.

Tykee James
President
D.C. Audubon Society

October 21, 2022

Testimony of Steve Dryden, Director, Rock Creek Songbirds Habitat Project

To the Council of the District of Columbia, Committee of the Whole

Re: Bill 24-710, the Migratory Local Wildlife Protection Act of 2022

Good afternoon, members of the Council, and thank you for this opportunity to speak in support of the Migratory Local Wildlife Protection Act of 2022.

My name is Steve Dryden. I am a Tenleytown resident and director of the Rock Creek Songbirds Habitat Restoration Project. The project was created in 2013 to address the acute problem of habitat decline in Rock Creek National Park, a major stopover point and nesting site for migratory birds, including the wood thrush, DC's official bird. The wood thrush flies to our city every spring from Central America and the Yucatan Peninsula, taking up residency in the quieter sections of our parks before returning south in September.

The Songbird initiative benefits from the participation of 14 local and national organizations, including start-up funding from the National Audubon Society. Among other grantors have been the District Department of Energy and the Environment, the Mayor's Office of Latino Affairs, and Humanities DC.

Since 2013, we've planted or protected more than 600 native trees in the Piney Branch area of the park, close to Mt. Pleasant and Columbia Heights. Approximately 600 volunteers have given 2,250 hours planting trees and removing invasive species and trash. More than 525 students and young people have been engaged either outdoors or through classroom presentations. The Songbirds project has successfully advocated for the improvement of picnic facilities in Piney Branch used by Latino residents and other community members, and continues to urge DPW to maintain city property (alleys and streets) that borders the national park.

The 10-year Songbirds project is a partner with City Wildlife and I've been gratified to support efforts to reduce the alarming mortality of birds via the bill under consideration today. We see our habitat restoration activities as complementary to the need for building owners to use bird-safe glass and other products. It's a relatively simple fix. The District is lucky to have unofficial bird sanctuaries in Rock Creek, the Anacostia waterfront, and the C/O Canal Park, but their benefits are diminished if the city's built infrastructure continues to harm avian wildlife.

I hope the Council sees fit to pass bill 24-710 without delay. Thank you again for the opportunity to appear before you today.

Good afternoon Council Members,

My name is Dhruv Cohen. I recently graduated from School Without Walls High School, and am currently a freshman at Cornell University. I began volunteering with Lights Out DC in fall 2021, as part of my Senior Project that focused on threats to migratory birds throughout the country, and how we might save them. As a nature lover, wildlife photographer, and extremely avid birder, my walks with the group were deeply moving because they revealed a type of human-nature interaction that most people are unaware of.

For the past few years, I woke up well before sunrise to go to Rock Creek Park and attempt to glimpse the migrants that foraged there. The park was my refuge, especially during a year and a half of virtual school during the pandemic. It was also a learning laboratory for migratory birds, where I could watch them and learn about their basic natural history as they went about their daily activities. I will never forget my first walk with Lights Out in downtown DC at dawn, where only a mile south of my daily birding spot I saw these same species lying catatonic, or dead on the pavement after collisions with brightly-lit buildings. That is no way anyone should have to see a bird.

For people in the city, especially young people like myself who cannot easily travel to experience nature, birds bring nature to us in backyards, on bird feeders, or at local parks like Rock Creek. But if birds are going to let us experience nature, or be our pollinators, our seed dispersers and pest control, or sources of ecotourism revenue, then it is absolutely our duty to make sure that we do all that we can to ensure their safety.

Though I grew up in DC, my passion for the outdoors has been fostered by many of the natural encounters it has offered. What I witnessed volunteering with Lights Out DC changed me from someone who was enthusiastic about wildlife to a student who understands the threats that face wildlife and who wants to fight to help protect it. The morning after I received my letter of acceptance to college, I watched the first woodcock, a type of sandpiper, that I'd ever seen fly into a building while I was walking to school. It was a grave reminder of why I am here at Cornell.

I am now surrounded by students and professors at the Lab of Ornithology who are leading large-scale research on bird populations and their conservation status. Moreover, they are acting on birds' declining numbers and I hope to join them in saving these natural wonders. As someone who takes pride in their home city—a leader in change—I see no reason why we have to lag behind other cities who are already taking action. We are unworthy to claim a migratory bird like a wood thrush as our avian representative if we show no interest in protecting it. I'm asking that our council take these valuable steps to make sure that these birds can remain so that young naturalists may learn from and be compelled to protect the natural world that our teachers and schools have taught us to fight for.

Thank you.



20 October 2022

Phil Mendelson, Chairman
Committee of the Whole
District of Columbia Council
1350 Pennsylvania Avenue, NW
Washington, DC 20004

**RE: Testimony in support of Bill 24-710 the
"Migratory Local Wildlife Protection Act of 2022"**

Dear Chairman Mendelson:

My name is Katie Slattery. I am licensed architect, a principal, and the cultural practice area leader at Quinn Evans – a woman-owned design firm in the District of Columbia founded in 1984 that specializes in commercial, cultural, and institutional projects. Thank you for allowing me to share and provide insight from my professional experience with Bird Friendly Design and voice my support of the Migratory Local Wildlife Protection Act of 2022.

In 2013, Quinn Evans was honored to be selected to redesign the Bird House at Smithsonian's National Zoo. The project renews the historic animal building, preparing it for immersive exhibits that educate the visitor on the wonders of migration. Through the visioning process, we learned about the amazing feats that birds take annually during migration but also the impact that habitat loss and buildings can have on their journey. It was disappointing to learn that our work could have such a negative impact on wildlife around us, but it was also empowering to learn that the negative impact could be reduced with easy refinements to the design process.

Incorporating Bird Friendly Design methods including risk assessment and the inclusion of bird friendly deterrents (such as patterns on the glazing) into our projects is not only good design, it is easy, already part of the process, and it is also our responsibility as those who craft and design our built environment.

There are numerous options for bird deterrent glazing products that have limited to no cost impact. Architects are already considering many factors for glazing design and incorporating bird strike deterrents is not unfamiliar or an additional burden. On modern construction projects, glazing includes multiple layers of glass (of various thicknesses), air space, and coatings. We already consider sun orientation, color and aesthetics, energy efficiency characteristics (such as visible light transmittance and solar heat gain), maintenance, weight, and safety when developing the makeup of the glazing for a project. The glazing on commercial projects is designed to meet both energy code and design intent; adding the Bird Friendly evaluation is not complicating the effort. In situations where bird strike is a risk, glazing strategies include incorporating ceramic frit, etching, post-applied films, or UV products. Best practice is an evaluation of reflectivity and adjacent plantings and adding a 2" x 2" or 2" x 4" pattern so that birds can see the glazing. The pattern can be subtle (and practically disappear) or be a defining characteristic of the façade. These glazing strategies have no negative impact on the energy performance of the glazing. Low-e films can still be incorporated and some of these bird strike deterrent strategies will in fact reduce solar heat gain and help improve the building's energy performance. Including deterrence that limits the impact the building will have on local and migratory birds is an easy step to reduce our impact on habitats we choose to inhabit.

LEED is already a required design standard in DC, and thus many of our new buildings are LEED-certified and hailed as "green" but are also killing birds. Green buildings shouldn't kill birds. Bird Collision Deterrence is an optional credit that can be pursued in LEED. It's great that this structure exists but this needs to be happening on more projects. Not just some of our LEED projects, but all projects. I applaud the Council for making bird strike deterrence a clear priority and moving to provide guidance on how to accomplish this.

Building on our experience at the Bird House, QE has made Bird Friendly Design evaluation a best practice for all our



20 October 2022

projects, whether it is a specific project goal or sustainable certification requirement. We have seen bird friendly glass successfully designed, procured, and installed on projects in DC and around the DMV. These projects have been approved by local agencies such as the Commission of Fine Arts and the National Capital Planning Commission.

The Bird House at the National Zoo will open in early 2023 and all should go visit! The National Zoo would be happy to show off that project-specific solution that is inspired by the movement of birds.

For many, birds are the first animal we see or hear every day, and we take for granted the impact they have on our environments; how unfortunate it would be if they were no longer there when it is so easy to reduce the impact that buildings have on them.

Thank you for your time.

Sincerely,

Cordially,

Quinn Evans

A handwritten signature in blue ink that reads "Kathryn Slattery". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kathryn Slattery, AIA, LEED AP
Principal

Bill 24-710, Migratory Local Wildlife Protection Act of 2022

Hello, my name is Sara Hallager and I am Curator of Birds at the Smithsonian's National Zoo and Conservation Biology Institute. I'm here today to thank you for considering policies to protect the well-being of birds through bird-friendly building legislation in the District of Columbia. It is critical that migratory birds are provided safe passage through Washington DC during spring and fall migrations as well as those birds that call Washington DC home year round. Migratory birds play essential roles in the ecosystem by helping with pest control and pollination of plants. Science-based research proves that collisions with windows are a major threat to birds, with estimates of nearly 1 billion birds killed annually in the United States.

Zoological institutions around the world are addressing collisions of wild birds with glass in their operations. Bird friendly glass is not only better for the birds but is also aesthetically pleasing. More and more, bird-friendly design strategies are adopted in new construction in zoos and aquariums, including the Smithsonian. Our mission is to save species and educate the public in the process. We made the commitment to bird friendly architecture for our new Bird House, a major capital renovation which incorporates bird friendly glass throughout the interior and exterior of the building. We're highlighting the bird-friendly window treatments for our visitors through Interpreters and interpretive labels including information on actions they can take in their own homes. It is a powerful lesson that together we can build bird-friendly architecture and educate millions of visitors each year on the glass strike issue, conservation implications, and the attainable solutions. If people understand the benefits of protecting their home windows from bird strikes, they will be very likely to expect the same protections in buildings throughout Washington DC. Please visit the new Bird House at the Smithsonian's National Zoo and Conservation Biology Institute to see how easy it is to make windows bird friendly.

Esteemed Council Members: Thank you for your serious consideration of the issue. Smithsonian experts are happy to extend expertise to assist with your deliberations.

Committee of the Whole Hearing on Bill 24-710, Migratory Local Wildlife Protection Act of 2022
Testimony of Stephanie P. Dalke, Lights Out DC Volunteer
October 21, 2022

Good afternoon, Council members. My name is Stephanie Dalke and I have been a volunteer with Lights Out DC for eight years--or sixteen migration seasons. I got involved because I wanted to help find solutions to the widespread and senseless but **largely preventable** problem of birds colliding with buildings.

Fortunately, this issue is relatively straightforward to address compared to other conservation challenges. We know better now, and we have effective solutions, such as bird-friendly glass, architectural treatments, or simply using less glass in our building designs. Most people won't notice a difference, and the added cost and effort is minimal when incorporated early in the design process.

Unfortunately, so many of the glassy buildings that have been built here recently will continue killing birds--for decades. With so much more development on the way, we can prevent thousands of bird deaths by implementing this law as soon as possible. Each new building that is constructed without mitigating the glass is a missed opportunity to do better for birds; instead, it worsens the problem.

People find these birds around the city and want to help them, because they do care about nature. Take, for instance, the man who told me about how he found an injured woodpecker in NoMA: he tried to get a box at the nearby 7-11 to carry it over to the Human Rescue Alliance, but all he could find was a hot dog holder, so that is what he used to get it help.

We have made great improvements to our built environment over the last decade or two, such as all of the green stormwater infrastructure and new trees being planted. We have recognized that trying to separate humans from nature is not only impossible, but harmful to us—so, we have greened the city, which adds habitat that birds desperately need, but we have not done anything about the glass problem, despite being recognized as an Urban Bird Treaty City.

Glass is such a senseless way to contribute to the demise of bird species when they are already facing so many threats. We wouldn't let someone go out and shoot 500 native birds in the District each year, and yet we allow buildings to do this for years on end without even a slap on the wrist. These aren't just common birds; many birds we've found are considered Species of Greatest Conservation Need in the District.

It is time to pass this law and make bird-friendly design the default practice going forward, just like we have done with other important values.

Thank you.

Brenda Lee Richardson Testimony
B24-0710 Migratory Local Wildlife Protection Act of 2022
Friday, October 14, 2022

Good day Chairman Mendelson and other distinguished Councilmembers. My name is Brenda Lee Richardson. I am a resident of Ward 8, an eco-feminist and the Coordinator of the Anacostia Parks & Community Collaborative. I am here to support the Migratory Local Wildlife Protection Act. The District of Columbia has been deemed one of the greenest cities in our nation. It is my hope that we will also develop a reputation as a bird friendly urban center as well. I was quite surprised when I learned from Anne Lewis at City Wildlife about the fatal hardship our birds were experiencing with glass building collisions.

It is my hope that developers who do business in Washington, D.C. will also understand the gravity of this situation and willingly support this very important bill. We have a wonderful opportunity to protect the soaring bird population. I am especially interested because we are working closely with Tykee James at the DC Audubon Society to help our children in Ward 8 develop an interest in bird watching.

I understand that effective and inexpensive measures can be taken to address this crisis by including bird-safe glass products that can be incorporated in buildings to prevent these collisions and are readily available, but our building industry is not yet using them. I implore you to pass this legislation to save our beloved birds and support DC's reputation as a sustainable city. Thank you.

B-24-0710 Migratory Local Wildlife Protection Act of 2022

Bonnie Van Dam/Curator of Birds – Detroit Zoological Society

Bird Collision Team Leader – North American Songbird SAFE (Saving Animals From Extinction)

Association of Zoos and Aquariums (AZA)

Good afternoon, I am Bonnie Van Dam, the Detroit Zoo's Curator of Birds. The Detroit Zoo has been committed to preventing bird collisions for our local resident birds and migratory birds for years. We currently have 24 buildings that have been retro-fitted with film or built with bird-safe glass. We have educational graphics and flyers for our visitors explaining this phenomenon and why it is such an important conservation/animal welfare initiative. We have teamed up with local partners on conservation projects as we honor our commitment to the Detroit Urban Bird Treaty. We even sell bird collision products in our gift shop.

Additionally, I am a founding member of the North American Songbird SAFE Program (SAFE, i.e. Saving Animals from Extinction). Our bird collision initiative encompasses the collective strengths of zoos, aquariums, and partners, partners that have/or will be speaking today. Mutually, zoos see more than 180 million visitors a year and support education and conservation activities at our facilities, as well as in the community, state, national and provincial levels.

On behalf of the Association of Zoos and Aquariums - SAFE Bird Collision Team I would like to encourage you to pass this legislation, it will save thousands of birds' lives. As society continues to build buildings with glass windows, it is also society's responsibility to help birds navigate windows, windows are silent and invisible hazards to birds.

Thank you for your time

October 21, 2022

Committee of the Whole (Council)

From: Elizabeth Reid-Wainscoat <ereidwainscoat@biologicaldiversity.org>
Sent: Thursday, October 20, 2022 1:23 AM
To: Committee of the Whole (Council)
Subject: Testimony for the Migratory Local Wildlife Protection Act

Dear D.C. City Council,

My name is Elizabeth and I am registered to give testimony on the Migratory Local Wildlife Protection Act during this Friday's hearing. Below is my testimony, please let me know if you need any further information.

Thank you for your time and consideration.

Sincerely,

Elizabeth

Hello, my name is Elizabeth Reid-Wainscoat and I am speaking on behalf of the Center for Biological Diversity in support of the Migratory Local Wildlife Protection Act. The welfare of human beings is deeply linked to nature and the continued existence of a vast diversity of wild animals and plants. If we are to maintain a livable climate, breathable air and drinkable water, we need to protect and preserve our biodiversity. Additionally, biodiversity plays a central mythic and symbolic role in our language, religion, literature, art, and music, making it a key component of human culture with benefits to society that have not been quantified but are clearly vast.

Unfortunately, biodiversity is declining globally at rates unprecedented in human history, with habitat destruction as the leading cause. The stark reality is that we are eroding the very foundations of our food security, health and quality of life worldwide. If we want to combat this global crisis we need transformative change at every level of government. Today you have an opportunity to be a part of that change. This legislation brings common sense reform to dramatically reduce a well-established threat to thousands of migratory birds. With over one-third of America's native species at increased risk of extinction and a loss of more than 3 billion birds in the past half century, now is the time to act.

If passed, this legislation will not only significantly help individual species, but it would be an investment in protecting avian biodiversity throughout the world. This protection of biodiversity leads to greater ecosystem stability and this is especially important as we continue to experience the impacts of climate change. Ecosystems with higher biodiversity and many populations that are adapted to a wide variety of conditions are more likely to be able to weather disturbances, disease, and climate change.

It is important to remember that from our earliest prehistory, people have never lived in a world with low biodiversity. We've always been dependent on a varied and rich natural environment for both our physical survival and our psychological and spiritual health. As extinctions multiply, and cannot be undone, we tread further and further into unexplored terrain.

We have an opportunity to change course and start prioritizing the health and wellbeing of all life on earth. This legislation represents a minimal change in building design that, if passed, can significantly contribute to the preservation of avian biodiversity in the U.S. and beyond. I strongly urge you to pass this legislation and set a precedent for others to follow. Thank you for your time and consideration.

Elizabeth Reid-Wainscoat (she/her)
Urban Wildlands Campaigner
CENTER for BIOLOGICAL DIVERSITY

660 S. Figueroa Street #1000

Los Angeles, CA 90017

Cell: [REDACTED]

ereidwainscoat@biologicaldiversity.org



Testimony of

Eric J. Jones, MSF
VP of Government Affairs, DC - Commercial
Apartment & Office Building Association of Metropolitan Washington (AOBA)

Before the
Committee of the Whole

Public Hearing

On

B24-0710, the “Migratory Local Wildlife Protection Act of 2022”

Good afternoon, Chairman Mendelson and members of the Committee of the Whole (COW) my name is Eric J. Jones, MSF and I am the Vice President of Government Affairs, DC - Commercial for the Apartment & Office Building Association of Metro Washington (AOBA). AOBA is the premier trade association for the apartment and office building industry representing more than 172 million square feet of commercial office space and 400,000 residential units in the District, Maryland, and Virginia. I am here to day to provide testimony on B14-710, the "Migratory Local Wildlife Protection Act of 2022".

Background

As introduced the legislation would mandate that as of January 1, 2023, that all new building construction, or improvements to the façade of the building's exterior wall and other elements use bird friendly materials. Additionally, it would also mandate that any new building permit for commercial and/or multi-family residential buildings, institutional facilities shall be constructed with bird friendly materials up to 100 feet above grade. Moreover, the bill would require the Department of Buildings (DOB) to work with the Department of Energy & Environment (DOEE) to issue regulations in addition to establishing a "Bird Friendly Building Fund" to support building owners with compliance of the Act.

As an organization AOBA and our members continue to share in the district's desire to building a more environmentally sustainable city where we all can live, work, and play and will continue to work with city leaders moving forward. We however are unable to support this legislation for a multitude of reasons including is escalated timeline, unknown economic impact, the overly broad scope of the proposal and lack of clarity on the new fund it will create.

The expedited nature of the legislation

As currently drafted the legislations has an effective date of January 1, 2023, which means that in less than 75 days the council would have to mark up the legislation and release a committee print. From there the bill would have to be agenzized, two votes on the legislation would have to be scheduled then you would need to receive mayoral approval and complete a congressional review. Considering that we have the November election, Thanksgiving holiday and Christmas season, this is highly unlikely. Additionally, this doesn't even speak to the promulgation of rules, etc.

Further, from an actual development and building standpoint, most construction projects, new or substantial remodels usually take at the minimum six months to a year of planning before inception. This includes design, cost estimates, plan approvals, etc. and based on the timeline laid out in the bill, it would potentially require businesses to scrap and/or drastically changing plans near the end of the process, which would cause major delays in projects, which could have a negative fiscal impact on all involved.

The Unknown Economic Impact and Human Cost

As we all know, prior to the COVID-19 pandemic the district was one of the most gentrified cities in the country¹ and while we have dropped from the number 1 spot, we aren't a long way off. To better combat this and the competitiveness issues that are enticing downtown businesses to leave for areas such as North Bethesda, National Landing, Reston Town Center, etc. the last thing that the government should be doing is increasing the cost of construction and building by unknown amounts. This is why we are concerned by this legislation, there is no projected cost on this legislation, no economic impact analysis has been conducted and we are yet to see a racial equity study which would measure how this would drive up cost, especially on minority business owners, renters and potential home buyers, many of which are long term residents. As a fourth generation Washingtonian, all I can think of are my friends, neighbors and their children, grandchildren who are continuously priced out of the city and how this would add to that.

The Overly Broad Scope of the Legislation

In the introduction letter that accompanied this legislation, it was stated that over a period of 12 years that there were around 4,000 incidents in which migratory birds crashed into buildings. Additionally, it highlighted that almost all these incidents took place in one section of the city. Yet the legislation doesn't appear to take this into consideration and instead mandates these new building standards over the entire district.

In addition, to ignoring the historical patterns of the migratory birds when selecting the effective area of the legislation, the bill also uses a stat that highlights that each year between 365 million and 1 billion migratory birds die from crashes with glass buildings. The gap in this statistic equates to nearly 900 birds for each district resident. I know this number seems a little strange and out of scope, but so does using the referenced figure to justify a piece of legislation that flies (pun intended) far beyond working to address an issue that impacts no more than 1/5th of the district's geographic footprint with broad overreaching regulations.

Questions About the New Fund

Lastly, Mr. Chairman, the fact that the legislation simply mentions the creation of a new fund without a funding source, targeted goal, landing spot, source of implementation, etc scares us. Too often when funds are created with no direction, they never seem to achieve what they were intended to do. With that, I close my testimony, and thank you for your time. I am available to answer any questions you may have.

¹ National Community Reinvestment Coalition (2020) Gentrification and Disinvestment, "COVID 19 struck a nation that was already struggling



Testimony before the DC Council Committee of the Whole
Hearing on Bill 24-710 the Migratory Local Wildlife Protection Act

October 21, 2022

Good afternoon, council members. My name is Nathan Harrington, and I am the Executive Director of the Ward 8 Woods Conservancy. Our mission is to rejuvenate and enhance the beauty, ecological health, and public enjoyment of the more than 500 acres of forest in Ward 8.

We envision a future in which all Washingtonians can enjoy clean air, clean water, and connection to the natural world in safe, well-maintained public lands. By caring for this small piece of earth, we do our part in the global struggle for a vibrant and livable planet for both people and animals.

Our Ward 8 habitats benefit many native birds, and these and other wild creatures contribute greatly to the public's enjoyment of our woods. But it is troubling to know that our native birds are being killed in great numbers by hitting glass in our man-made environment, especially when there are simple and inexpensive means to prevent these collisions. Passing the Migratory Local Wildlife Protection Act will protect these birds so they can continue to visit our woods -- and so we in turn can continue to enjoy their captivating beauty and song.

Thank you for the opportunity to support this important legislation.



Bringing back the birds

My name is Aniko Totha, coordinator of American Bird Conservancy's Glass Collisions Program. Thank you for allowing me to contribute my testimony. People have been designing bird-friendly buildings as long as they have been building structures – it is only recently that the expanded use of glass has begun to threaten the existence of birds, with hundreds of millions of fatal collisions every year. Luckily, it is possible to retain the advantages of glass, providing clarity of view, insulation and structure, while significantly reducing the risk of collisions by birds. The key to bird-friendly design is to consider birds from the beginning of the design process and that is one of the many reasons legislation is important.

Starting in 2008, when Cook County IL adopted a bird-friendly code, there has been increasing recognition that bird mortality from glass is a serious problem, with legislation the most efficient way to address it on a large scale. More than 30 jurisdictions in the United States, with more pending, now mandate bird-friendly design. This includes San Francisco, Portland, Madison, Chicago and New York City. The Green Building Council's LEED program now includes a credit for addressing bird-collisions, and the Federal General Services Administration has added bird-friendly design to their internal policy document.

Tellingly, the glass industry is recognizing a growing market for bird-friendly materials. American Bird Conservancy maintains an interactive database of bird-friendly products on our website. From a few dozen products in 2011, produced by three companies, that number has grown to almost 200 today, produced by almost 40 companies around the world, with more in the pipeline. Legislation requiring use of bird-friendly materials has driven that growth, providing a range of materials for architects to work with. Hundreds of bird-friendly buildings have now been constructed, including prize winning designs. I strongly urge the City Council to pass **Bill 24-710, Migratory Local Wildlife Protection Act of 2022**, to protect birds, preserving a vital resource.



October 21, 2022

Chairman Mendelson
Committee of the Whole
1350 Pennsylvania Avenue NW
Washington, DC 20004

Subject: Casey Trees Testimony on B24-710, the Migratory Local Wildlife Protection Act of 2022

Good morning, Chairman Mendelson, and members of the Committee of the Whole.

Thank you for the opportunity to testify today on B24-710, the Migratory Local Wildlife Protection Act of 2022. My name is John Boland, and I am the Policy & Advocacy Associate at Casey Trees. Casey Trees' mission is to restore, enhance, and protect the tree canopy of the nation's capital.

DC has one of the most ambitious canopy coverage goals in the country – 40% canopy coverage by 2032. A healthy tree canopy provides many benefits for the District, including stormwater management, heat island cooling, and air quality improvements. However, our trees are not only helpful for District residents - they also benefit our city's wildlife. A co-benefit of increasing our canopy is increasing the available food and habitat for both native and migratory birds. In turn, birds provide symbiotic services such as seed dispersal, pollination, and pest removal, which all contribute to improving the health of our urban tree canopy. By achieving our canopy goals, we provide resources, and more migratory birds will stop in DC; to quote a classic American film: "if you build it, they will come."

If attracting more birds is a benefit of a healthy canopy, we need to plan for their protection. This legislation provides much needed updates to our building design practices that will, without question, help both our local and visiting bird populations. An estimated 365-988 million birds die from building collisions in the U.S. each year; however, these deaths are largely preventable. Without Bird Safe Buildings, the District remains a hazard to birds, especially with the many glass facades we have downtown.

The Convention Center is already an example of how successful this policy change would be. After installing bird-safe film on the windows of the M St walkway, bird strikes were reduced by 85%. Other cities, including San Francisco and New York City, have adopted nearly identical legislation, and have seen similar results with negligible impacts to developers. As DC becomes a greener city, we will attract more birds, and more collisions will occur unless we make our buildings safer for wildlife. To this end, the Council should pass B24-710. At the end of the day, helping birds helps our trees, and helping our trees helps our birds.

Thank you again for the opportunity to testify.

John Boland,
Policy & Advocacy Associate, Casey Trees



POTOMAC
CHAPTER
AMERICAN
SOCIETY OF
LANDSCAPE
ARCHITECTS

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2021-2022**

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Migratory Local Wildlife Protection Act of 2022 (B24-0710)

Craig A. McClure, Member-at-Large
Potomac Chapter of the American Society of Landscape Architects
Hearing Testimony October 21, 2022

Good Afternoon Chairman Mendelson and Councilmembers,

My name is Craig McClure and I am here to represent the Potomac Chapter of the American Society of Landscape Architects in our support of Bill 24-710, Migratory Local Wildlife Protection Act of 2022.

As stewards of the land, landscape architects actively seek to preserve, protect, and enhance the natural landscape and to create built environments that harmoniously coexist with them. While designing spaces for people to improve their lives is integral to our work, the protection of natural systems and wildlife is equally important. Often these aspirations and efforts are intertwined, especially in the urban condition.

A great example of this is the District's initiative led by the Department of Energy and Environment to invest in, maintain, and expand the number of healthy native trees in the District and increase canopy coverage to 40% by 2032. The new habitat created by the improved canopy will attract migrating birds not only to the area, but to the highly built and urbanized areas of the city often characterized by glass building construction. As the tree canopy coverage grows, and the bird population expands, the likely potential for increased bird collisions seems inevitable.

Effective and inexpensive measures are currently available, including bird-safe glass products that can be incorporated in buildings to prevent these collisions. However, these measures are not typically implemented by the development and building industry. By passing this legislation, the measures contained in it will help to inform the development community of the problems associated with glass building construction and bird mortality, ultimately provide guidance on how to design building glazing, and make bird-safe glass more readily available to the industry due to increased demand.

We now have this great opportunity to address this critical problem. The Potomac Chapter of the American Society of Landscape Architects fully supports this legislation and we encourage the Committee to pass it.

Thank you for your time and consideration.



Testimony of Liz DeBarros, CEO, District of Columbia Building Industry
Association

Before the

Committee of the Whole

Chairman Phil Mendelson, Chair

Public Hearing
on

Bill 24-710, Migratory Local Wildlife Protection Act of 2022

October 21, 2022

12:00 PM

Good afternoon Chairman Mendelson, members of the Committee of the Whole, and staff. My name is Liz DeBarros, and I am the Chief Executive Officer of the District of Columbia Building Industry Association (“DCBIA”), the leading voice of real estate development in the District of Columbia. I am also a long-time resident of Ward 7. Thank you for the opportunity to testify on Bill 24-710, Migratory Local Wildlife Protection Act of 2022.

DCBIA recognizes the dangers some buildings create for migratory wildlife and our members continue to support the high standards of the U.S. Green Building Council. However, as written, Bill 24-710 creates an unrealistic timeframe to begin these requirements and a massive change to the building code for a migratory issue that is found to be an issue in a small area of the City. Today, I share our comments on provisions of the proposal that should be re-examined and areas that can be improved given its sweeping impact.

DCBIA suggests moving back the date of applicability for the installation requirements which is in less than three months. Planning for construction typically starts 18 to 36 months before the construction actually begins. It is impractical to require construction that has already been approved of under its current plans to alter materials significantly in such a short period of time. We suggest a minimum of 48 months between the passage of this bill, should it move forward, and its applicability to new construction projects to allow developers to

account for the costs and materials in their plans before undergoing construction with the materials pre-approved prior to the passage of this bill.

Next, we believe this bill should follow New York law in removing its applicability to general substantial improvement and applying only to new construction and alternations involving the replacement of *all* exterior glazing. The bill should not impact interior construction that is nowhere near the windows which would require an entirely separate plan, design, and cost.

Additionally, this bill should allow for the District to waive or reduce any of the requirements upon analysis by a qualified ornithologist that the construction will not pose a danger to migratory birds, as is provided for in Mountain View and other cities in California. Since the requirements of this bill are in place for the protection of the migratory birds, there is no purpose served in requiring changes for buildings that can show they do not pose a threat.

Finally, as you may be aware, the DC Green Building Act is tied to the Green Building Council's rating system. An unintended consequence of the Act is that platinum or gold designations with their large, usually floor-to-ceiling, glass windows on all open sides are now posing the biggest threat to migrating birds.

Therefore, rather than requiring all buildings, especially downtown buildings where the District has a critical interest in encouraging economic growth, to incur more costs and potentially create unappealing building exteriors with various

decals or tape, we believe that this bill would yield the best compromise for both developers and the District if it were to apply only to platinum and gold designated construction projects in the migration pattern neighborhoods. If the more narrowed applicability does not in fact solve the issue, it is at that juncture that the Committee should reconsider the scope and DCBIA would, upon showing that the issue remains in large unresolved, support such an expansion.

Many of our members are concerned about how this bill will affect their current and future projects. We hope we can work together to ensure this—and other pieces of legislation before the Council regarding our built environment—can have the outcome we all want, protecting people and wildlife that need protection, while ensuring we continue to make the economic recovery out of the pandemic.

Thank you for the opportunity to testify. I am happy to answer any questions you may have.

Committee of the Whole (Council)

From: Lora Nunn <lora_nunn@yahoo.com>
Sent: Friday, October 21, 2022 9:09 AM
To: Committee of the Whole (Council)
Subject: Migratory Bird Bill testimony

Good afternoon, Councilmembers. My name is Lora Nunn and I am the Vice President of Friends of Kingman and Heritage Islands. Our mission is to empower the communities surrounding Kingman and Heritage Islands to advocate for the health, protection, and accessibility of this treasured Green Space.

Kingman and Heritage Islands are home to many native wildlife species and are a favorite spot for local birders. Many of the birds that birders find are Species of Greatest Conservation Need, as identified in the District's official Wildlife Action Plan. Birds spotted recently on the islands, for example, include the Brown Thrasher, Scarlet Tanager, Wood Thrush, Veery, and various Warbler species – all SGCN.

Sadly, though, many birds of these valued and dwindling species are being killed by colliding with glass in our built environment. Since we expect continued growth throughout all areas of the city, we must act now to prevent even more fatal bird/glass collisions. Passing the Migratory Local Wildlife Protection Act will ensure that our new buildings will be bird-safe, reducing these tragic collisions and greatly increasing the likelihood that we will be able to spot these beautiful species for years to come at Kingman and Heritage Islands.

Thank you for the opportunity to support this bill.

Lora Nunn
Vice President
Friends of Kingman & Heritage Islands



architecture + interiors

October 20, 2022

The Honorable Phil Mendelson, Chairman
Committee of the Whole
Council of the District of Columbia
1350 Pennsylvania Avenue, NW
Washington, DC 20004

RE: Testimony in support of the Migratory Local Wildlife Protection Act of 2022

Dear Councilmember Mendelson and Members of the Council:

My name is Brian Forehand. I am a DC Resident, a licensed architect, and the principle of nth° architecture + interiors, a small firm practicing in Washington, DC and the surrounding area. I also serve as the chair of the Advocacy Committee of the Washington Chapter of the American Institute of Architects, and it is in that capacity that I address you today on behalf of our over two-thousand members. AIA|DC fully supports the Migratory Local Wildlife Protection Act of 2022 B24-0710 and the proposed implementation of bird friendly design strategies that will reduce the alarming number of bird deaths due to collisions. We believe that the intent of this bill and its implementation is consistent with architects' role to create safe, healthy, and sustainable communities and urge you to advance this legislation and support its passage..

Many jurisdictions have already passed laws mandating bird-friendly design, including San Francisco, Portland, Toronto, and New York City, as well as the states of Illinois and Minnesota. Currently, a law is pending in Congress that would mandate bird-safe design for all federal buildings. By voicing our support, AIA|DC joins with architects in our sister chapters in these locations in supporting similar bird-friendly legislation for the District of Columbia.

We acknowledge that the passage of this measure will necessitate that architects and our partners building industry to respond through the incorporation and implementation of new strategies and products to achieve the state goals. However, as illustrated by the success of similar measures in other large cities, we see this legislation as having a net positive impact on our built environment. Architects and the building industry are adept to addressing ever evolving building codes and best practices in support of safer, healthier, and more sustainable buildings.

In fact, it should be noted that the glazing industry is already responding to the call for bird-friendly building design by producing products compliant with already passed legislation. Bird-friendly glass products are now readily available, highly effective, and have a marginal impact on construction costs. For a building built today using bird-friendly glass, the cost increase typically ranges from only one-tenth to one-half of one percent of the total construction cost. In many cases, a building's design can be inherently bird safe without any additional cost. Furthermore, many of the strategies employed in bird-friendly building design, such as employing screens, louvers, fritting patterns, and other sun control

nth° architecture + interiors

measures, synergistically support LEED and WELL certification by providing improved daylighting, controlling glare, reducing solar heat gain, and providing privacy.

Bird-friendly design can also result in cost savings in energy use by reducing solar heat gain and improving building energy performance. For example, the inclusion of bird-friendly design components in the recent renovation of the Javits Center in New York not only is estimated to have reduced collision deaths by a staggering 90 percent, but these measures also helped to reduce heating, cooling, and lighting costs by 25%. DC has some of the most ambitious energy goals in the country; adding bird-safe measures can only help.

Thank you for the opportunity to speak to you today!

Sincerely,



Brian L. Forehand
AIA | NCARB | IIDA | LEED AP | WELL AP
Chair, AIA|DC Advocacy

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF BUILDINGS**



Public Hearing

B24-0710, the “Migratory Local Wildlife
Protection Act of 2022”

Testimony of
Ernest Chrappah
Acting Director
Department of Buildings

Before the Committee of the Whole
Council of the District of Columbia
The Honorable Phil Mendelson, Chairman

October 21, 2022
12:00 p.m.

Via Virtual Platform

Introduction

Good afternoon, Chairman Mendelson, councilmembers, and staff. I am Ernest Chrappah, Acting Director of the Department of Buildings (DOB). I am here today to provide testimony on Bill 24-710, the “Migratory Local Wildlife Protection Act of 2022”.

This bill would require that all new construction, substantial improvements, and certain design elements (*e.g.*, glazed corners and envelope, windows, and doors adjacent to roof terraces) at commercial, multi-unit residential, institutional, and government-owned buildings be constructed using bird-friendly materials. The bill would also establish a new Bird Friendly Buildings Fund, to be administered by the Mayor, which is intended to provide income-contingent subsidies to assist property owners with the costs of complying with the bill’s requirements, including for retrofits or buildings undergoing substantial renovation.

Environmental and related concerns have always been a consideration in many aspects of District governance. For example, the District has been considered a national leader amongst major American cities for green energy construction for a number of years. The legislative proposal we are discussing today seeks to build upon our city’s longstanding commitment to environmental stewardship in the construction regulatory arena. The bill’s co-introducers have raised some valid points about the safety of migratory wildlife and how it can be impacted by construction materials which are utilized in new or refurbished buildings.

I recognize and appreciate the Council’s intention in introducing this bill. In the building environment, we must always strive to ensure conservation and wildlife protection. However, while DOB supports the intent of this legislation, and is open to exploring ways to achieve some level of parity with other jurisdictions to protect migratory wildlife, we have a number of concerns that I will now discuss in detail.

The District's Construction Environment

First, while I recognize that other jurisdictions have or are moving in the same direction as this bill, the District of Columbia has a very different building environment from other cities with requirements similar to those proposed under this legislation. For example, the Introductory Memorandum accompanying the bill lists requirements in jurisdictions such as New York City and Portland, Oregon, as the source of the proposed concept. However, these are cities that have skyscrapers, whereas the District does not. Given the District's strict building height limits, any major construction proposal adopted by a sister city or other jurisdiction would need to be adapted to meet the unique constraints of District construction limits.

To provide some clarity, research shows that bird collisions typically happen anywhere from ground level to about 40 feet. Provisions set forth in other jurisdictions allow for a percentage of building surface area to be exempted from using bird friendly material. In the District, most buildings are relatively smaller than those in the other cities with these requirements, and as such would require more surface area to be covered to meet the bill's objective. This would pose a significant and relatively unequitable cost to local builders.

Moreover, some of the jurisdictions in the Introductory Memorandum have adopted narrower laws than the one that is proposed here. In San Francisco, for example, the mandatory bird friendly requirements only apply to new buildings and significant renovations that are within an urban bird refuge (*i.e.*, greater than two acres of greenspace or water) or that are within 300 feet of a refuge and have a clear line of sight to it. There is no similar limitation in this bill, which is why we have concerns about the scope of its coverage.

Scope of Coverage

Continuing with scope of coverage, DOB has concerns about the scale of construction work citywide that would be required under this proposal. Specifically, lines 32-33 state that building permits issued for “substantial improvements” would trigger the requirements of this bill. But requiring installation of “bird friendly materials” for construction involving “substantial improvements” could include any interior renovation project that exceeds 50% of the assessed value of the building. A significant percentage of routine interior renovations would fall within these parameters. As such, the legislation as drafted would require property owners to incur significant costs to modify exterior fenestrations and possibly the building façade. These exterior renovation costs could add up to more than double the amount of the originally-planned interior construction costs and could actually end up discouraging people from making necessary improvements and repairs.

Next, I would like to turn to lines 37-38, which state that “other materials may be used to the extent that they do not exceed an aggregate of 10 sq. ft. within any 10 ft. x 10 ft. square area of the exterior wall.” Importantly, requiring fenestrations that exceed 10 square feet in an area within a building envelope of 100 square feet to use bird friendly material will apply to most apartment building windows in the District. The District of Columbia Building Code requires bedroom windows to be 5.0 to 5.7 square feet in order to meet emergency egress opening requirements. Since the vast majority of windows in the District are double hung, each window will be 10 square feet or greater, which will subject it to the requirements of this bill. Our concern is that very few windows in the District will avoid being caught up in this requirement, and that the costs that this bill will impose on property owners will be prohibitive.

Problematic Definition

Next, I would like to discuss DOB's concerns with one of the bill's definitions. Specifically, lines 76-77 define "bird friendly material" to mean "a material or assembly that has been designed or treated to have maximum material threat factor of 30." While I understand that there is a definition established by the American Bird Conservancy, the language concerning the "threat factor of 30" is not outlined or explained in the text of the legislation. DOB would prefer clearer and more understandable definitions in this bill if it is to proceed to markup and passage.

Bird Friendly Buildings Fund

I would also like to mention that the bill, as currently drafted, does not designate whether DOB, the Department of Energy and Environment (DOEE), or any other specific agency will manage the proposed Bird Friendly Buildings Fund. While this type of delegation is of course at the Mayor's discretion, it would be helpful to get a better understanding of what the bill's sponsors envision with regards to delegation and administration of this fund. Additionally, the bill says that the Fund is being established as a "special fund" and will be subject to authorization in an approved budget and financial plan. However, it is not clear in the bill how this new Fund is actually being funded. We believe this is something that should be fleshed out in the bill.

Alternative Solutions

Next, as I noted in my introductory remarks, while DOB supports the intent of this legislation, we do have serious concerns about its scope of coverage and its implementation. Nevertheless, we are open to alternative solutions. It is important to mention that there are other means for achieving the same goal, and there is no firmly established best practice on affordably and efficiently protecting migratory birds in the building environment. This proposed legislation

raises an important issue, but it should be a part of a broader discussion on what has worked in other jurisdictions and tailoring these practices to fit unique District needs.

Ideally, the District Government should provide local residents with a variety of alternative remedies to address conservation concerns. Since the intention is to support bird habitats, one idea is to require District residents to purchase energy credits. Another alternative to consider is requiring contributions to organizations that are dedicated to the conservation of wetlands and associated upland habitats for waterfowl, other wildlife, and people.

Fiscal Impact

Finally, I would like to flag that this bill will have a fiscal impact on DOB in terms of implementation and enforcement. Additionally, there will also be costs for whichever Executive agency is put in charge of administering the Bird Friendly Buildings Fund.

Conclusion

Chairman Mendelson and members of the Council, thank you for the opportunity to testify. With that, I am happy to answer any questions you may have.

**RESOLUTION OF THE D.C. WARD 3 DEMOCRATIC COMMITTEE IN SUPPORT OF
THE MIGRATORY LOCAL WILDLIFE PROTECTION ACT B24-0710**

Passed on 9/29/22

WHEREAS,

Councilmember Mary Cheh in sending the Migratory Local Wildlife Protection Act to the Secretary of the D.C Council noted:

- Untreated glass—whether it be glass windows, doorways, or large building design elements—poses a significant and growing risk to birds and other migratory local wildlife.
- Each year, anywhere between 365 million and 1 billion birds in the United States die following collisions with glass; in fact, glass collisions are the second leading man-made cause of death for birds.
- Much of this heightened risk is due to the transparency and reflectivity of glass building elements that render birds unable to distinguish between the horizon and a solid building.
- Similarly, migratory birds flying at night may be attracted to and confused by interior lighting.
- As a result, since 1970, North American bird populations have decreased by approximately 29%, in part due to collisions with glass.
- Unfortunately, because the District is situated along the Atlantic flyway, a major migratory route for birds in North America, our local statistics on collisions with glass are just as dire.
- Millions of birds migrate through the District each year, and, due to the proliferation of predominantly glass buildings, thousands are killed.
- Since 2010, City Wildlife has identified nearly 4,500 birds injured or killed by collisions with glass buildings primarily in the area between Union Station and Chinatown; 84% of those collisions were fatal.
- Worse, these numbers are increasing: where City Wildlife’s patrol team identified just over 200 collision birds in 2012, they are now finding almost 700 collision birds in that same corridor.
- Extrapolating this data to the whole District suggests that thousands upon thousands of birds are being injured and killed by glass buildings each year.
- One clear way to protect birds and other migratory animals from the harms of glass building elements is by using bird-friendly glass and by retrofitting existing hazardous building elements with bird-friendly products.
- We know that universal mandates that bird-friendly glass be used in construction could prevent the needless death and injury of millions, if not billions, of birds.

- The District can do its part by prohibiting the use of unsafe building materials that put birds and other migratory wildlife at greatest risk.
- With that in mind, this legislation would require that, by January 1, 2023, all new construction, substantial improvements, and certain design elements (such as glazed corners and envelope, windows, and doors adjacent to roof terraces) at commercial, multi-unit residential, institutional, and government-owned buildings be constructed using bird-friendly materials.
- This language, which was developed in coordination with experts at City Wildlife and the American Bird Conservancy, will help protect birds and migratory wildlife in the District and has the potential to drastically reduce the number of injuries and fatalities due to glass collisions over the next decade.
- We also know that the cost to substitute bird-friendly glass is minimal. In fact, today, many manufacturers offer bird-safe glass and do so at a competitive price.
- The changes in this legislation would bring the District in line with a number of other jurisdictions, including the states of Minnesota and Illinois, as well as more than a dozen other cities, including New York City, Portland, and San Francisco, in passing legislation to protect birds and other migratory wildlife from the harms of untreated glass buildings.
- Of note, the federal Government Services Administration recently adopted bird-friendly guidelines for all GSA buildings¹⁰ and there is pending Congressional legislation mandating bird-friendly design for all federal buildings.

To address these issues Councilmember Mary Cheh, along with Councilmembers Janeese Lewis George, Brooke Pinto, Charles Allen, and Anita Bonds, introduced the “Migratory Local Wildlife Protection Act of 2022”.

Council Chairman Phil Mendelson has scheduled a public hearing for the legislation for Friday, October 21, 2022 at 12:00 pm.

THEREFORE, it is hereby resolved by the Ward Three Democratic Committee (Committee) that:

1. The Committee supports the goal of the MIGRATORY LOCAL WILDLIFE PROTECTION ACT and calls on the Council to pass the bill without delay.
2. The Committee urges Chairman Mendelson to move the bill to mark up and a vote this year
3. That the Committee authorizes the Chair of the Ward 3 Democratic Committee or his designees to take all reasonable actions to implement this resolution.

Passed by:

THE WARD 3 DEMOCRATIC COMMITTEE



CALVIN COOLIDGE SENIOR HIGH SCHOOL

"We Are the C.O.L.T.S: Committed Optimistic Leaders Transforming Society"

Re: Letter of Support for Migratory Local Wildlife Protection Act of 2022

We are AP Seminar students from Calvin Coolidge High School. Recently, we have been researching nature conservation, and learned about issues concerning bird migration. We have been dismayed and hurt to learn that since 1970, we have lost about three billion birds in North America, many of whom die from cats, vehicles, and glass collisions. Today we will be focusing on glass collisions. These deaths are preventable with bird safety glass. During the recent presentation we heard from City Wildlife, we became determined to take action. That's why we are writing this letter to you about supporting the Migratory Local Wildlife Protection Act of 2022.

We are presenting our research to the community on November 9 and have already made so much progress learning about essential topics concerning animal welfare and conservation. These topics include animal cruelty, the relationship between pets and their owners, the emotional and physical connections between animals and humans, the welfare of farm animals and their general involvement within our food system. Learning about these topics for the first time has offered us new perspectives, including on breeding facilities, animal shelters, urbanization, farm systems, public health, animal experimentation, and bird migration. We feel moved to act because we have become more aware of the effects animals have on our lives.

We especially support this bill because of the following reasons we have learned during our research:

- Birds have about 23% three-dimensional vision, giving them a disadvantage when seeing glass because they have poor depth perception.
- They also have a difficult time seeing glass because they can't distinguish reflections in its transparency.
- Birds are also attracted to night lights, but birds migrate during night because the skies are calmer and have less predators. If the lights distract them, they can't migrate.
- The addition of native trees, instead of artificial or invasive trees, attracts and protects native species, including birds.

For these important reasons, we hope that you will hear our voices and pass this bill to make a change for our city and to save the lives of birds. Our voices are important and valuable because we are the future. We live, work, and study in D.C. and we have seen these effects firsthand. We are the future investors, health care workers, artists, veterinarians, lawyers, scientists, and more who will lead the city forward. We wish that when we grow up that we have a nice, clean, healthy environment. Healthy animals and healthy populations are the only way we can have that future. That's why we must start now and make changes. You have the power to make these changes by passing this bill and we hope you use that power for the good of our birds and for us.

Thank you.

AP Seminar Students from Coolidge High School: Natalie Montoya, Kaleb Bland, Tigist Geremew, Renee Plight, Mayrin Zamora, Dontay Chalar, Yadira Ceron, Jalen Young, Landon Lowery
Our AP Seminar Teacher: Dr. Jay Glassie

October 20, 2022

The Government of the District of Columbia

Muriel Bowser, Mayor

Committee of the Whole: Phil Mendelson, Chair cow@dccouncil.us

Re: Migratory Bird Protection Legislation - Testimony

Dear Members of the Committee of the Whole:

I would like to register written testimony in support of Bill 24-710, Migratory Local Wildlife Protection Act of 2022, and Bill 24-785, Greener Government Buildings Amendment Act of 2022.

As stewards of the land and the environment, landscape architects, and especially those who are registered in the District of Columbia, work to preserve, protect, and enhance the natural landscape and to create built environments that harmoniously coexist with the environment. While we work with our colleague architects and other professionals to craft quality designed spaces, we also work to protect natural systems and wildlife in general. Often these aspirations and our efforts are intertwined, and sometimes they are in conflict, especially in urban settings.

A good example of potential and real conflict is the District of Columbia's noteworthy initiative, led by the Department of Energy and Environment (DOEE), to invest in, maintain, and expand the number of healthy native trees in the District and to increase canopy coverage to 40 percent by 2032. The new habitat created by the improved canopy will attract migrating birds not only to the specific neighborhood, but also to the densely urbanized areas of the city often characterized by the construction of new building facades that may be dominated by glass fenestration and glass railings. As research indicates, when tree canopy coverage increases the bird population and migratory patterns will expand resulting in increased bird collisions and increased bird mortality.

Effective and inexpensive measures are currently available, including bird-safe glass products that can be incorporated in buildings to prevent these collisions. However, these measures are not typically implemented by the real estate and building industry. By passing the proposed legislation, the noted measures will help to inform the real estate and development community of the problems associated with glass building construction and bird mortality, will provide guidance on how to design building glazing, and will make bird-safe glass more readily available to the industry due to increased demand.

The proposed legislation will help to rectify a serious environmental problem by requiring bird-safe construction for a significant number of new buildings in our increasingly "green" and beautiful city. As a member of the Potomac Chapter of the American Society of Landscape Architects, I strongly support this legislation and encourage the full Committee to endorse and approve the legislation.

Thank you for your attention and the opportunity to express my support for the legislation.

Respectfully,



daniel straub

October 19, 2022

Phil Mendelson, Chairman
Committee of the Whole
District of Columbia Council
1350 Pennsylvania Avenue, NW, Suite 504
Washington, DC 20004

Re: Letter of support for Migratory Local Wildlife Protection Act of 2022 (B24-0710)

Dear Chairman Mendelson:

We are grateful to you for your many years of support for environmental causes in DC, including your support for the CleanEnergy DC Omnibus Amendment Act, vehicle electrification, and the preservation of Klinge Road as a natural area. We hope you will also be interested in supporting new legislation that will protect the millions of birds that migrate through our city.

The signatories to this letter strongly support passage of the Migratory Local Wildlife Protection Act of 2022. The goal of this bill is to prevent tragic bird/glass collisions in the District of Columbia. There are many reasons that this legislation is needed now:

- Bird/glass collisions are a serious problem. Up to 1 billion birds are killed every year in the US from collisions with glass. Glass collisions are the second leading man-made cause of bird mortality, next to outdoor cats. Birds simply do not see glass and crash into it.
- Bird/glass collisions in DC are increasing every year with the construction of new glass buildings. In 2011, City Wildlife's *Lights Out DC* project documented 212 bird/glass collisions in the small downtown area they monitor between Union Station and the Convention Center/Chinatown. In 2021, more than 700 bird strikes were documented mostly in this same area. 85% of these collisions were fatal.
- Extrapolated, these numbers indicate a likelihood that thousands of birds are being killed in DC every year in glass collisions. *Lights Out DC's* numbers do not account for the many birds that are taken by predators, swept away by maintenance workers, or simply not found by *Lights Out* volunteers. Also, *Lights Out DC* does not monitor growing areas such as the Wharf, K Street west, and the area near Nationals Park where new buildings are going up every year.
- The vast majority of birds killed in glass collisions are valuable neo-tropical migrants, whose populations are in decline throughout the US. A recent scientific study indicates that North American bird populations have declined by 29% since 1970, a loss of nearly 3 billion breeding birds. Most of the species found in DC are in decline, and many are listed in DC's *Wildlife Action Plan* as Species of Greatest Conservation Need. One frequent victim, the Wood Thrush, is DC's official bird.



A portion of *Lights Out DC* birds found, 2021

- Witnessing a bird collision impacts humans, too. Most people are saddened when they witness a bird/glass collision. Children can be traumatized by the experience, and workers in problem buildings often say they dread coming to work in migratory seasons when birds are likely to hit.
- There are many practical solutions to prevent these collisions. Scientists and manufacturers throughout the world have been developing design solutions to this problem for two decades. Bird-friendly glass products are now readily available and are a highly effective means of reducing collisions. Other design solutions like louvers, screens, or solar controls can also be effective in preventing collisions.
- The extra cost for bird-friendly design is small -- and often zero. In some cases, a building is inherently bird safe even without any additional cost if screens, louvers, netting, or solar controls are provided for other reasons, such as to control glare, reduce solar gain, provide privacy, or for aesthetics. In these cases, the marginal cost for bird-friendly design is zero. In cases that do use bird-friendly glass, marginal cost increases typically range from only one-tenth to one-half of one percent of the total construction cost.
- Bird-friendly design can actually save costs in energy use. In New York, renovation of the Javits Center included bird-friendly design components, which helped reduce heating, cooling, and lighting costs by 25%.
- Other jurisdictions, including New York City, have already addressed the problem: DC lags behind. Many jurisdictions have already passed laws mandating bird-friendly design. San Francisco, Portland, Toronto, the states of Illinois and Minnesota, and many other jurisdictions already have laws in place, and a law is pending in Congress that would mandate bird-safe design for federal buildings. In 2020, New York City passed a

law requiring almost all new buildings and substantially remodeled buildings to be bird-friendly. The law is working well and has not required additional administrators to ensure compliance. **It is time for DC to pass a similar law.**

- The building industry has not addressed this problem voluntarily. Even though bird-friendly construction techniques have been available for nearly a decade, only one building in DC has been designed to be bird-friendly (the Bird House at the National Zoo), and many of DC's new buildings are actually dangerous to birds. The American Institute of Architects, City Wildlife, the American Bird Conservancy and others have provided seminars and educational materials to the building industry for years, but bird-friendly measures need legislative action before they will be embraced.

For all these reasons, the undersigned organizations urge passage of the Migratory Local Wildlife Protection Act of 2022 now:

American Bird Conservancy
Anacostia Parks and Community Collaborative (APACC)
Anacostia Riverkeeper
Anacostia Watershed Community Advisory Committee (AWCAC)
Anacostia Watershed Society
Association of Zoos & Aquariums
AZA SAFE (Saving Animals from Extinction) North American Songbird Program
Audubon Naturalist Society
Capital Nature
Casey Trees
City Wildlife
Committee of 100 on the Federal City
DC Audubon
DC Environmental Network
DC Voters for Animals
Friends of Kingman and Heritage Islands
Friends of Oxon Run Park
Humane Rescue Alliance
International Dark-Sky Association D.C. chapter
Potomac Chapter of the American Society of Landscape Architects
Rock Creek Conservancy
Rock Creek Songbirds Habitat Restoration Project
Sierra Club, Washington Chapter
Trees for Capitol Hill
Ward 8 Woods



Breeding pair of Yellowthroats, found together

Chairman Mendelson and members of the Council of DC.

I strongly support Bill 24-710, the Migratory Local Wildlife Protection Act of 2022. I listened to the hearing on October 21st and do not have much to add about the need for this bill beyond the excellent testimony from the various organizations and individuals. I observed that there were few witnesses opposed to the bill, and it was of interest that the representative from the AIA agreed that architects can easily deal with the requirements.

I am an avid birder and have birded in many parts of DC, especially during migration when the variety of birds here is outstanding, although over the years I have noted that numbers seem to be declining. I often bird in one of the Rock Creek Park hotspots, where a volunteer for the Lights Out DC program sometimes brings his finds from his weekly monitoring of window collisions for identification. It has been heartbreaking to see the same species in his bags, collected from downtown sidewalks, as we have just seen flying free in the trees.

In the past, I have sent testimony to council on behalf of the Dupont Citizens Association (as Transportation Committee Chair and current President). Although I expect many of our members would support this bill, I am writing as an individual because this is not a neighborhood issue, per se. However, I will note that DCCA has been involved for many years in efforts to increase and maintain the DC tree canopy, advocated for green roofs, and adopted a DC City Park to maintain. I would hate to think that our and others efforts to green DC are attracting birds to their deaths via window collisions.

Thanks to the many Councilmembers who have co-sponsored this bill, including my own Councilmember, Brooke Pinto.

Susan Volman

October 21, 2022



RE: B24-0710: Migratory Wildlife Protection Act of 2022

Dear Members of the Council and the Committee of the Whole,

Thank you for the opportunity to testify. My name is Jamoni Overby, and I am the District of Columbia Conservation Advocate for Nature Forward (formerly known as Audubon Naturalist Society). For 125 years, Nature Forward has inspired people to enjoy, learn about and protect nature. Our Conservation priorities are human health & access to nature; biodiversity & habitat; fighting the climate crisis; and sustainable land use. The urgency of the climate crisis is evident across our country today, and that urgency underscores the importance of bills like the Migratory Wildlife Protection Act of 2022.

Each year likely thousands of birds are being killed by hitting glass buildings in DC. Since 2010, *Lights Out DC* volunteers have documented more than 4,500 strikes, most in the small downtown area they monitor. 85% of these strikes were fatal. These bird fatalities are increasing in DC as more and more glass buildings are being built. In 2011, 212 birds were found. In 2021, 738 birds were found. Effective and inexpensive measures, including bird-safe glass products, can be incorporated in buildings to prevent these collisions and are readily available, but our building industry is not yet using them. The Migratory Local Wildlife Protection Act calls for most new or substantially remodeled buildings in DC to incorporate these bird-friendly measures. It also establishes the Bird Friendly Buildings Fund to support building owners with compliance with the act.

Why do we need to protect birds?

- These birds are valuable not only in and of themselves, but they also serve to enrich our environment, maintaining the biodiversity upon which we all depend.
- If their populations decline, the entire wildlife chain is disrupted and weakened, and humans lose the ecological services birds provide as key pollinators of our crops, fields, and forests.



- Maintaining bird populations is key to our nation’s resilience. Protecting migratory birds is in line with the city’s sustainability plan, Sustainable DC 2.0, which charts progress on biodiversity in the following areas:
 - Create a habitat connectivity plan to guide restoration of viable, native habitats throughout Washington DC and in coordination with surrounding jurisdictions.
 - Provide informational resources on backyard wildlife habitats, native plant gardening, container, and vertical gardening, and creating pollinator habitats.
 - The District Government will incorporate nature into the places we live, play, and work, to reduce stress and improve health—known as biophilic design. Reducing bird/glass collisions is also listed as a recommended Conservation Action in the District’s 2015 Wildlife Action Plan (Section 6.4.6).
- Birds also contribute to our local economy:
 - Nationally, birdwatching, bird feeding, and bird equipment purchases account for \$41 billion dollars in annual revenue. There are many avid birders in DC and many are members of our local bird interest groups, including Nature Forward (formerly Audubon Naturalist Society), DC Audubon, City Wildlife, and the Rock Creek Songbird Project.

Birds have been lauded in literature, art, and music, and bring beauty and joy to thousands of people in our area. Losing birds to glass collisions is a tragedy, especially when we know how to prevent their deaths.

One clear way to protect birds and other migratory animals from the harms of glass building elements is by using bird-friendly glass and by retrofitting existing hazardous building elements with bird-friendly products. These products are specifically designed to make glass a visible obstacle for birds—all while keeping the glass transparent for human use. Low-cost and low-burden techniques include treating glass with ultraviolet coating, silk-screening, or fritting, or even adhering decals. Many of these techniques are already utilized in building construction, often for purely aesthetic reasons. These glass products are assessed by the American Bird Conservancy (“ABC”) under their Bird Friendly Materials Evaluation Program and have been shown to be incredibly effective at reducing collisions.

The number of birds found has been increasing steadily as new glass buildings are built, especially in the downtown area. In 2011, *Lights Out DC* found 212 birds; they are now finding more than 700 birds a year, most in the limited area that they monitor. This number includes only dead birds and stunned birds that can be caught, so this number is



conservative. Many other birds are stunned but fly away, are taken by predators, or are swept away by cleaning crews before they can be found.

Why we must act now:

As more and more glass buildings are built, the number of casualties will only increase.

- Bird collisions will not go away over time. Birds do not “learn” to avoid glass. In 2015, City Wildlife and DOEE representatives met with managers of the Techworld building at 800 K Street NW to advise them that their building was killing birds. They were told that the building was slated for renovation and that this would be considered. Sadly, the entire building was re-sheathed in non-bird-safe glass. It is now even worse than before.

This is wrong: “green” buildings should not kill birds.

- DC’s green initiatives will add more native trees and landscaped areas to our environment. These will attract even more migrating birds to DC and to areas near glass buildings, increasing the risk of collisions.

The building industry generally will not incorporate bird-friendly measures voluntarily. Legislation is needed now.

- For at least 30 years, the science of bird/glass collisions has been known and publicized, and scientists and wildlife specialists have been assiduously giving presentations to architects, developers, municipal authorities, planners, and other groups during this period. But the message has not changed behaviors.

If passed, this law will save the lives of thousands of migratory birds that land in DC during their spring and fall migrations along the Atlantic flyway. **Please vote in favor of this legislation.** Save our valuable and beloved birds and support DC’s reputation as a sustainable city.

Thank you for your time.

Sincerely,

Jamoni Overby

DC Conservation Advocate

Nature Forward



To: Phil Mendelson, Chair
Committee of the Whole
Council of the District of Columbia
1350 Pennsylvania Avenue, NW, Suite 504
Washington, DC 20004

Separate letter to:
Councilmember Kenyan McDuffie, Ward 5
Council of the district of Columbia
1350 Pennsylvania Avenue, NW, Suite 506
Washington, DC 20004

Dear Chairman Mendelson/Councilmember McDuffie:

We are writing on behalf of the students, staff, and parents of Shining Stars Montessori Academy PCS, a public charter school located at 1740 Randolph Street NE in the District, to express our strong support for the Migratory Local Wildlife Protection Act of 2022.

This legislation is urgently needed to prevent the countless fatal bird/glass collisions that are occurring each year throughout the District. The bird-friendly design measures prescribed in this legislation would prevent these collisions.

Unfortunately, Shining Stars has had many experiences with bird/glass collisions. Our school was designed with a courtyard that is ringed with a glass corridor on three sides. On April 5th and 6th, 2018, the students and staff in our school witnessed a large number of Cedar Waxwings collide with the glass and die in the courtyard. During these two days, at least 35 of these beautiful birds suffered and died in full view of our traumatized students and distressed staff. There was no way our staff could shield these children from the collisions since the corridor is our main route to and from the classrooms. We did the best we could and installed children's art along the corridor to block the view and prevent more collisions, but the children already knew what was happening and were frightened to walk by the glass for fear of seeing and hearing the "thud" of another bird. Over the weekend, another 17 birds died the same way, for a total of 52 birds.

Now, every spring, the school installs flags or art along the corridor in hopes of shielding the students from a repeat of this incident, but these measures aren't fully effective and similar collisions have occurred since then.



We know now that these collisions wouldn't be happening if our courtyard had been designed with bird-friendly glass from the start.

We hope you will accept our experience as an indicator of the importance of bird-friendly building construction. Children should not have to witness such upsetting events at their school -- and adults, as well as children, suffer when we witness these sad collisions, especially when we know that bird-friendly construction techniques could have prevented them. We urge you and your fellow Councilmembers to pass the Migratory Local Wildlife Protection Act of 2022, which will fix this problem.

Thank you for your consideration of our experience.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Regina Rodriguez", with a long, sweeping flourish at the end.

Regina Rodriguez
Executive Director
Shining Stars Montessori Academy PCS



November 3, 2022

Committee of the Whole (COW)
1350 Pennsylvania Avenue, NW
Washington, DC
e. cow@dccouncil.us

Re: Bill 24-710

Dear Committee:

WDG's Sustainability Committee supports the proposed Washington, DC Building Legislation Bill 24-710, the Migratory Local Wildlife Protection Act of 2022.

As a DC-based architectural firm with an extensive portfolio of commercial buildings spanning over eight decades, we are responsible to protect the health, safety, and welfare of the public and our city through our work. Birds are, of course, an integral part of the ecosystem on which we all depend, and we welcome the bill's requirement to reduce the hazards presented by exterior glazing.

The bill's definition of "bird friendly material" as having "a maximum material threat factor of 30" in accordance with "American Bird Conservancy (ABC) Tunnel Tested and Threat Factor3 Certified with score between 20 and 30 or lower" is achievable in the current market, with more products available, making bird-friendly glass more affordable whether through the use of minimal patterns, less reflectivity, special coatings, or other design decisions.

Thank you for your attention to this important issue and for your efforts toward a more sustainable future for the city.

Sincerely,

Esther Christian, AIA, LEED AP
Sustainability Committee Chair

Sean M. Stadler, FAIA, LEED AP
Managing Principal

WDG Architecture, PLLC
1025 Connecticut Avenue NW
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Washington, DC 20036-5424

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Washington DC Dallas TX

**Request for Mitigation Requirements for Bird Glass Collisions in District Buildings
B24-0710 Migratory Local Wildlife Protection Act of 2022**

November 4, 2022

Stella Tarnay
Co-founder and Executive Director
Capital Nature

I am writing to request that the District of Columbia City Council add additional requirements for public buildings performance on bird glass collisions. The current draft of B24-0710 Migratory Local Wildlife Protection Act of 2022 goes a long way to address design and construction of new buildings with requirements for bird-safe glass. However, deadly bird collisions are happening every day on existing District buildings, especially those designed and built in the last twenty years. While our newest District buildings are beautiful, energy-efficient facilities, often designed to LEED standards, their performance with respect to bird safety is often abysmal. A walk next to one of them yesterday brought this home to me.

On November 3rd, I was visiting the Palisades Recreation Center and its adjoining park in preparation for a public program through my nonprofit, Capital Nature. The Center's western side features a partitioned glass wall that infuses the interior sports area with light. Noticing the reflectivity of that glass wall in a green park area with a large tree and community garden beside it, I decided to examine the exterior wall more closely. I found a half-dozen smear marks and fluids throughout the exterior length of the glass wall that evidenced bird strikes. Two in particular were clear indications of a collision, and one still had feathers clinging to the dried liquid. The fact that these marks were there indicated to me that many other collisions may have taken place without leaving a mark, and that all six of the spots I saw happened recently enough not to be washed off by rain. To put it in plain terms: the Palisades DPR facility is a bird-kill site.

Many District buildings: schools, libraries, and parks and recreation facilities have the characteristics of the Palisades Recreation Center. Renovations and new construction projects almost all feature large glass areas that are reflective during the day and transparent at night, with interior lighting. This is a recipe for disaster when it comes to bird safety. With City Council requesting that private developers step up to make their new projects bird-safe, I think it is up to our public sector to demonstrate best practices. I urge you to consider the following additions to B24-0710:

- Require that all District agencies with public buildings conduct a close inspection for bird safety, and that each agency report the results of those inspections to a designated District entity. Inspections should include an analysis of building features and interviews with relevant building staff.
- Require that agencies with District buildings that are found to have bird-strike features take documented steps to mitigate the danger, to be verified with follow-up inspections.

- Direct a relevant agency to create a full-time position for a wildlife-built environment specialist who will be designated with reviewing and approving mitigation plans, and who will be a resource expert for agencies seeking to make their facilities wildlife (including bird) safe. In the absence of a full-time staff position, a relevant agency should hire expert contractors to perform this function.

I have expressed my support for B24-0710 in oral testimony and an earlier submission. I now urge you to also make the District's existing public buildings bird-safe, as an example for private industry and for our children. The future of biodiversity health is in our hands now - in the public buildings we own and manage **today**. I would like to walk in Palisades park a year from now and see what measures DPR and its sister agencies have taken to mitigate the deadly situation that exists there today.

November 4, 2022

Committee of the Whole
Council of the District of Columbia
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Re: Letter of support for Migratory Local Wildlife Protection Act of 2022 (B24-0710)

Dear Councilmembers,

My name is Barbara Lautenbach and I have been a *Lights Out DC* Volunteer with City Wildlife since 2015. Over this time period I found approximately 650 birds. That does not yet include the birds that I collected during this fall migration, which will add up to another 200+ birds, most of them dead. You can see an image collection of most of those in the attached document. These are birds found by just one person, monitoring a small area in Downtown DC! I have been going out on days that had already been covered by other volunteers, still finding birds because they can hit the glass at different times of the day, depending on sunlight/different light conditions: a window that posed no threat very early in the morning, can, a few hours later, become deadly for the bird, as trees are reflected in the glass that the bird tries to fly to, or the glass looks transparent and indistinguishable from the sky and clouds. You can see examples of some glass windows/fronts in the document as well – it demonstrates very well why birds have collided with glass in those instances. I have been finding birds in the exact same spots of certain buildings, just days apart.

When one reads about the large number of birds that die year after year due to glass collisions it sounds very abstract. To go out during migratory season and find all these beautiful migratory birds on the ground, dead or injured, is another story. It does take a toll. We find birds shortly after they hit the glass and die, their eyes still open and their bodies warm, sometimes dying in our hands or bags. We find them stunned, not moving, with eyes closed, minutes after they hit. In those moments they become vulnerable to predators, could be stepped on, or swept away, mistaken as dead. Birds can lie on their side or on their back, alive, but unable to get back up. We have seen birds injured on the ground, but still able to escape when trying to net them, flying into a tree and still sitting there hours later, showing signs of stress and pain (such as open beak breathing, squinted eyes) and visible injury (for instance swollen eyes). Not only do we witness death, but also a lot of suffering and we have to deal with instances where we cannot help the bird and only hope that it will either recover quickly or won't have to suffer long.

Bird glass collisions also take a human toll: Over the years, I spoke to several security officers and maintenance staff at buildings who have been affected by witnessing bird collisions. I remember one Security Officer who did not want to stand outside the building anymore during certain months of the year, because she had seen birds hitting the glass many times and it made her sick. Another Security Officer was traumatized when a mallard

duck hit the glass and dropped down to the ground right next to her. Another one screamed out aloud when I happened to arrive the very moment a woodpecker hit the building and dropped down dead right in front of us. I met a receptionist who used to bury the birds she found in the small planter outside her building.

We have met Security Personnel at different buildings in the Downtown DC area right now who help us: They call us when they find a dead or injured bird; some put the bird in a paper bag for it to be safe or are even standing right next to it to protect it until we come to pick it up. I was monitoring a building when one of the staff members saw me picking up a dead bird and she was very saddened by it. She organized for security to call every time they find a dead or injured bird. Another Security Officer is training all her new staff about this issue and calls us whenever they find a bird on their patrol.

We do not know how deeply this affects many other Security Officers and building staff that we do not get to talk to; the many cleaners who sweep away many dead birds during migratory season before or after we pass by the building.

Many people admire birds and are fascinated by their incredible abilities to migrate thousands of miles, detecting and using the magnetic field to determine their position and direction. During spring migration, birds may have already been flying thousands of miles from the south, maybe as far away as South American or the Caribbean and are taking a rest in our City to search for food and water. Many of these birds could live between 5-10 years or even longer. Yet their lives get cut short because of a glass window. This is saddening and senseless because it is so easily preventable. On their way south during migration, many birds bring with them the juveniles that were born in spring, that are about to embark on their first long route south. Their lives cut short by an untreated glass window before it even began. A generation lost for this species, many of them already in decline.

What motivates me to go out every day, is to try and save a bird. Even though chances are small, and one must be at the right location at the right time. But still, this makes a difference. It's a wonderful moment, to be able to re-release a bird back to nature (in a safe area of the City), when it was at the brink of death when found, but able to recover after a short while or even after receiving some treatment at City Wildlife. Hopefully it can continue its flight safely to either north or south.

Our City could be made much safer for birds and many bird lives saved if this legislation passes. It would be an important milestone. We will still be finding many victims of glass collisions at the same buildings where we are finding them now. However, hopefully those buildings will - with increased awareness about this topic and bird-friendly building design becoming the norm - follow and retrofit their buildings to make them bird safe. Making the Nation's Capital more bird safe to protect our migratory birds would be a positive statement for other cities to follow in that same direction forward.

Thank you.

Sincerely,

Barbara Lautenbach

SEPTEMBER 2022









OCTOBER 2022

















NOVEMBER 2022



**INTERNATIONAL DARK-SKY ASSOCIATION D.C. CHAPTER
COMMENTS ON THE
MIGRATORY LOCAL WILDLIFE PROTECTION ACT OF 2022
NOVEMBER 4, 2022**

The International Dark-Sky Association (IDA) has a strong interest in reducing the impact of light pollution on human health and the environment. IDA's D.C. chapter supports the Migratory Local Wildlife Protection Act of 2022 and urges that it be strengthened by including provisions that reduce artificial nighttime light that attracts and disorients migrating birds.

The D.C. Comprehensive Plan identifies light pollution as an environmental hazard and states that outdoor lighting should be regulated to conserve energy and "reduce impact on wildlife, particularly migratory birds."

Most bird species, particularly songbirds, migrate at night to avoid predators and to take advantage of cooler temperatures and stable air. The moon and stars also provide navigational clues.

Nighttime lighting used in dense urban areas confuses migratory birds, especially on foggy or rainy nights when cloud cover is low; under these conditions, birds migrate at lower altitudes and are drawn to lights shining from buildings and other structures. This has been called the "beacon effect." Birds become disoriented and entrapped while circling in the illuminated zone and are likely to succumb to exhaustion, predation, or lethal collision.

To mitigate the effects of nighttime light on migrating birds, light from buildings and other structures should be used judiciously – only when it's truly needed – and directed downward instead of into the sky, where it causes urban skyglow that obscures the stars.

Compared to earlier lighting technologies, modern LED fixtures emit more blue-wavelength light, which exacerbates skyglow. This effect can be mitigated by installing lights that have correlated color temperatures of 2700 Kelvin or lower. The lower the Kelvin rating, the less blue light is emitted.

With these mitigation measures in mind, the D.C. chapter of the International Dark-Sky Association urges inclusion of the following provisions in the Migratory Local Wildlife Protection Act:

■ Insert a new section between Line 53 and Line 54:

[Section number] (a) For building permits issued after January 1, 2023, for new construction, substantial improvements, or alterations of commercial buildings, multi-unit residential buildings, institutional facilities, or District-owned or operated buildings:

(1) Architectural lighting and light fixtures mounted on the exterior of the building or facility shall be fully shielded and have a correlated color temperature of 2700 Kelvin or lower.

(2) Interior light fixtures that emit light through windows into the outdoor environment shall be controlled by motion sensors. Override capability by means of manual controls may be provided.

(3) Lighting systems in the building or facility shall have the technical capability to implement the Bird Friendly Lighting-Management Plan required by Subsection (b) of this section.

(b) With the exception of applications for certificates of temporary occupancy, applications for certificates of occupancy submitted after January 1, 2023, for commercial buildings, multi-unit residential buildings, institutional facilities, or District-owned or operated buildings shall include a Bird Friendly Lighting-Management Plan with the following provisions:

(1) Interior light fixtures that emit light through windows into the outdoor environment shall be automatically shut off when no occupants are present.

(2) Architectural lighting shall be shut off between 10 p.m. and 6 a.m. and at all times from March 15 to June 15 and from August 15 to November 15.

(3) Light fixtures mounted on the exterior of the building or facility shall be shut off when the building or facility is not in active use. Lighting for steps, stairs, walkways, and building entrances is exempt from this provision.

■ The above provisions require new definitions in Subsection (f):

"Architectural lighting" shall mean lighting designed to reveal architectural beauty, shape and/or form and for which lighting for any other purpose is incidental.

"Fully shielded" shall mean a light fixture constructed and installed so that all light emitted by the fixture is projected below the horizontal plane through the fixture's lowest light-emitting part.

Adding these provisions to the Migratory Local Wildlife Protection Act would not only strengthen the law's protections for migratory birds but also advance the District's aggressive efforts to reduce carbon emissions as envisioned by the Clean Energy DC Omnibus Amendment Act of 2018. Building energy use – including for lights – accounts for nearly 75 percent of the District's greenhouse gas emissions, according to the D.C. Department of Energy and Environment.

The D.C. chapter of the International Dark-Sky Association emphasizes that our support for the proposed law is not contingent on adoption of our suggested lighting provisions, and we strongly support the legislation in its current form.

Wayne Savage

International Dark-Sky Association D.C. chapter

November 4, 2022

Committee of the Whole (Council)

From: Google Voice <voice-noreply@google.com>
Sent: Thursday, October 20, 2022 8:13 AM
To: cowcommittee@dccouncilcommittees.com
Subject: New voicemail from [REDACTED]



Hello, I'm a DC resident. My name is Christine Powell and live in Ward three, and I'm calling to voice my support for Bill 24-7 10 the migratory local Wildlife protection act of 2022. I much appreciate the council member that I've already signed on to that and really urge the other council members to please sign on in the mayor to pass this to sign the bill when pass this is really a very important for preserving or migratory and local precise. Thank you.

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1600 Amphitheatre Pkwy
Mountain View CA 94043 USA

**COMMITTEE OF THE WHOLE
COMPARATIVE PRINT
BILL 24-710**

D.C. OFFICIAL CODE § 6-1451.07. GREEN BUILDING FUND.

(a) There is established as a special fund the Green Building Fund ("Fund"), which shall be administered by the Mayor in accordance with subsection (c) of this section. The purpose of the Fund is to streamline administrative green building processes, improve sustainability performance outcomes, build capacity of development and administrative oversight professionals in green building skills and knowledge, institutionalize innovation, overcome barriers to achieving high-performance buildings, and continuously promote the sustainability of green building practices in the District.

(b) Monies obtained pursuant to §§ 6-1451.05 and 6-1451.08 shall be deposited into the Fund.

(c) Money in the Fund shall be used for the following:

(1) The following amounts shall be transferred to the Sustainable Energy Trust Fund ("SETF") established by § 8-1774.10:

(A) For each of Fiscal Years 2022, 2023, 2024, and 2025, a minimum of \$900,000; and

(B) For each fiscal year thereafter, 50% of monies in the Fund; and

(2) Costs for at least 3 full-time employees at DCRA, or elsewhere as assigned by the Mayor, whose primary job duties are devoted to technical assistance, plan review, and inspections and monitoring of green buildings;

(3) Additional staff and operating costs to provide training, technical assistance, plan review, inspections and monitoring of green buildings, and green codes development;

(4) Research and development of green building practices;

(5) Education, training, outreach, and other market transformation initiatives;

(5A) Education and outreach on the requirements of the Migratory Local Wildlife Protection Act of 2022;

(6) Seed support for demonstration projects, their evaluation, and when successful, their institutionalization;

(7) Costs incurred to make green building materials accessible to low-income residents; ~~and~~

(8) Income-contingent subsidies to assist District property owners with the costs related to installation of retrofits that meet the requirements of the Migratory Local Wildlife Protection Act of 2022; and

(9) Costs to obtain the audit required by § 6-1453.01.

(d)(1) The money deposited into the Fund but not expended in a fiscal year shall not revert to the unassigned fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

(e) The Mayor may receive and administer grants for the purpose of carrying out the goals of this chapter.

8 **A BILL**
9
10 _____

11 **IN THE COUNCIL OF THE DISTRICT OF COLUMBIA**
12
13 _____
14
15

16 To require that, for building permits for new construction or alterations involving the
17 replacement of all or substantially all exterior glazing issued after October 1, 2024, the
18 facade of the building’s exterior wall envelope and exterior fenestration largely use bird
19 friendly materials; to prescribe other building elements that must be constructed using
20 bird-friendly materials after October 1, 2024; to require that bird hazard installations be
21 installed with bird friendly materials; and to require that the Department of Buildings, in
22 consultation with The Department of Energy and Environment, issue regulations to aid in
23 implementation of the act.
24

25 **BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this**
26 act may be cited as the “Migratory Local Wildlife Protection Act of 2022”.

27 **Sec. 2. Definitions.**

28 For purposes of this act, the term:

29 (1) “Bird friendly material” shall mean a material or assembly that has been
30 designed or treated to have a maximum material threat factor of 30.

31 (2) “Bird hazard installations” shall mean monolithic glazing installations that
32 provide a clear line of sight or mirrored surface on the exterior of buildings, including, but not
33 limited to, awnings, handrails and guards, wind break panels, bus shelter enclosures, skywalk
34 enclosures, and acoustic barriers made of glass or glass-like materials.

35 (3) “Commercial building” means income producing property as identified under
36 zoning classifications that would allow for such uses as office buildings, retail stores, restaurants,
37 bars, taverns, and service facilities pursuant to Chapter 7 of Title 11 of the District of Columbia
38 Municipal Regulations (11 DCMR § 700 *et seq.*).

39 (4) “Fly-through conditions” means one or more panels of glass or glass-like
40 materials that provide a clear line of sight through such elements, creating the illusion of a void
41 leading to the other side, including parallel glass or glass-like material elements when the
42 distance between such elements is 60 feet or less, or a convergence of sides made of glass or
43 glass-like materials creating a perpendicular, acute or obtuse corner.

44 (5) “Glass and glass-like materials” shall include tempered glass, spandrel glass,
45 plexiglass, mirrored products, polished metal, or other glass materials or materials that are
46 transparent or highly reflective.

47 (6) “Institutional facility” means a facility owned or operated by an organization
48 with a social, charitable, educational, or civic purpose, and shall include schools, universities,
49 laboratories, medical and healthcare facilities, residential care facilities and nursing homes,
50 athletic facilities, penal institutions, galleries, performance venues, and museums. The term
51 “institutional facility” does not include churches, mosques, temples, or other houses of worship.

52 (7) “Material threat factor” means a measure of a bird’s ability to see and avoid a
53 building material; provided, that such measure shall be in accordance with the American Bird
54 Conservancy’s Threat Factor Database or with the American Bird Conservancy’s Bird-friendly
55 Materials Evaluation Program test protocol.

56 (8) “Multi-unit residential building” means a residential building with 5 or more
57 dwelling units.

58 (9) “Skywalk” means any above-grade enclosed walkway of any dimension that
59 connects two or more buildings or parts of a building.

60 (10) “Substantially all” means the replacement of 75% or more of exterior
61 glazing.

62 Sec. 3. (a)(1) For building permits issued after October 1, 2024, for new construction, or
63 for alterations involving the replacement of all or substantially all exterior glazing on
64 commercial buildings, multi-unit residential buildings, institutional facilities, or District-owned
65 or operated buildings, each façade of the exterior wall envelope and any exterior fenestration
66 shall be constructed with bird friendly materials up to 100 feet above grade; provided that other
67 materials may be used to the extent that they do not exceed an aggregate of 10 square feet within
68 any 10 feet by 10 feet square area of exterior wall below 100 feet above grade.

69 (2) The requirements of paragraph (1) of this subsection shall be waived for real
70 property designated as a historic landmark pursuant to D.C. Official Code § 6-1103.

71 (3) The requirements of paragraph (1) of this subsection may be waived for real
72 property within a historic district where the Historic Preservation Review Board or the Old
73 Georgetown Board issues a recommendation to the Department of Buildings that the compliance
74 with paragraph (1) of this subsection would meaningfully and substantially impact historic
75 elements of the property.

76 (b) For installations with construction commencing after October 1, 2024:

77 (1) All glazed corners and fly-through conditions located 100 feet or less above
78 grade shall be constructed with bird friendly materials; and

79 (2) The exterior wall envelope and any exterior fenestration installed adjacent to
80 all green roof systems or roof terraces on the same structure shall be constructed with bird

81 friendly materials up to 24 feet above the surface of the green roof system or walking surface,
82 whichever is higher.

83 (c) Bird hazard installations shall be constructed of bird friendly materials regardless of
84 their height above grade.

85 Sec. 4. Section 8(c) of the Green Building Act of 2006, effective March 8, 2007 (D.C.
86 Law 16-234; D.C. Official Code § 6-1451.07(c)) is amended as follows:

87 (a) A new paragraph (5A) is added to read as follows:

88 “(5A) Education and outreach on the requirements of the Migratory Local
89 Wildlife Protection Act of 2022;”.

90 (b) Paragraph (7) is amended by striking the phrase “; and” and inserting a semicolon in
91 its place.

92 (c) Existing paragraph (8) is redesignated as paragraph (9).

93 (d) A new paragraph (8) is inserted to read as follows:

94 “(8) Income-contingent subsidies to assist District property owners with the costs
95 related to installation of retrofits that meet the requirements of the Migratory Local Wildlife
96 Protection Act of 2022; and”.

97 Sec. 5. Rules.

98 (a) The Department of Buildings, in consultation with the Department of Energy and
99 Environment, shall promulgate regulations to implementing the provisions of this act, including
100 establishing standards for bird friendly building design elements and construction. The absence
101 of regulations shall not delay the effective date of this Act or of any provision herein.

102 (b) Regulations promulgated pursuant to subsection (a) of this of this section shall be
103 submitted to the Council for a 45-day period of review. The Council may approve the proposed

104 regulations in whole or in part. If the Council has not approved the regulations upon expiration
105 of the 45-day review period, the regulations shall deem approved.

106 Sec. 6. Applicability.

107 (a) This act shall apply upon the date of inclusion of its fiscal effect in an approved
108 budget and financial plan.

109 (b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in
110 an approved budget and financial plan and provide notice to the Budget Director of the Council
111 of the certification.

112 (c)(1) The Budget Director shall cause the notice of the certification to be published in
113 the District of Columbia Register.

114 (2) The date of publication of the notice of the certification shall not affect the
115 applicability of this act.

116 Sec. 7. Fiscal impact statement.

117 The Council adopts the fiscal impact statement in the committee report as the fiscal
118 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
119 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

120 Sec. 8. Effective date.

121 This act shall take effect following approval by the Mayor (or in the event of veto by the
122 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
123 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
124 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
125 Columbia Register.