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A BILL
24-710

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA



To require that, for building permits for new construction or alterations involving the replacement of all or substantially 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; to prescribe other building elements that must be constructed using bird-friendly materials after October 1, 2024; to require that bird hazard installations be installed with bird friendly materials; and to require that the Department of Buildings, in consultation with The Department of Energy and Environment, issue regulations to aid in implementation of the act.

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

Sec. 2. Definitions.

For purposes of this act, the term:

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

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

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

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

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

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

46 (7) “Material threat factor” means a measure of a bird’s ability to see and avoid a
47 building material; provided, that such measure shall be in accordance with the American Bird

48 Conservancy’s Threat Factor Database or with the American Bird Conservancy’s Bird-friendly
49 Materials Evaluation Program test protocol.

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

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

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

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

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

65 (3) The requirements of paragraph (1) of this subsection may be waived for real
66 property within a historic district where the Historic Preservation Review Board or the Old
67 Georgetown Board issues a recommendation to the Department of Buildings that the compliance

68 with paragraph (1) of this subsection would meaningfully and substantially impact historic
69 elements of the property.

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

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

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

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

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

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

82 “(5A) Education and outreach on the requirements of the Migratory Local
83 Wildlife Protection Act of 2022;”.

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

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

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

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

91 Sec. 5. Rules.

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

96 (b) Regulations promulgated pursuant to subsection (a) of this of this section shall be
97 submitted to the Council for a 45-day period of review. The Council may approve the proposed
98 regulations in whole or in part. If the Council has not approved the regulations upon expiration
99 of the 45-day review period, the regulations shall deem approved.

100 Sec. 6. Applicability.

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

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

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

ENGROSSED ORIGINAL

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

110 Sec. 7. 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. 8. 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.