

Board of Directors
Leisure World Community Corporation
3701 Rossmoor Boulevard
Silver Spring, MD 20906

**TESTIMONY OF THE LEISURE WORLD COMMUNITY CORPORATION
ON FEBRUARY 13, 2025 BEFORE THE SENATE EDUCATION, ENERGY, AND THE ENVIRONMENT
COMMITTEE- SB 256 - ENVIRONMENT - BUILDING ENERGY PERFORMANCE
STANDARDS - COMPLIANCE AND REPORTING**

FAVORABLE WITH AMENDMENTS

Honorable Chair Brian Feldman and Vice Chair Cheryl Kagan and Members of the Senate Education, Energy, the Environment Committee:

This testimony is being submitted on behalf of the Leisure World Community Corporation. Leisure World is a senior (55+) adult community in Silver Spring Maryland, located on 610 acres. The community was constructed over a 60-year period as a self-contained community and has a wide range of property values. The average age of the residents of Leisure World is 78 and many of these seniors are on limited or fixed incomes that are challenged with the current housing costs.

Leisure World supports the goal of reducing greenhouse gases though it must be recognized that our community faces significant challenges in meeting BEPS and associated reporting regulations. At Leisure World there are 32 buildings with over 3000 units that are subject to the Maryland's Building Environmental Performance Standards (BEPS) and impacted by SB 256.

SB 256 amends Maryland Law Article Environment 2-1602 to include two new fees. The bill amends 2-1602(c)(2)(v) by adding an alternative compliance fee paid by owners of buildings subject to BEPS for buildings who fail to meet energy use intensity (EUI) targets that are not expected to be established until 2027. In addition, the bill adds a paragraph 1602(c)(2)(vii) to provide for establishing an annual reporting fee to cover costs of the State in implementing the BEPS requirements.

Leisure World Community Corporation urges the Committee to amend the provisions in SB 256 by adopting the following four amendments for the reasons set out below to provide a more achievable path for addressing climate change:

- 1) Amend 2-1602(c)(2)(v) and (c)(3) to adopt the Montgomery County Building Performance Improvement Plan approach as the Alternative Compliance Pathway for both the failure to meet the greenhouse gas emission targets as well as the failure to meet the EUI targets. A penalty should only be imposed if the Performance Improvement Plan is not met.

- 2) Amend the fee amount proposed in paragraph 2-1602(c)(2)(vii) to be a graduated fee to reflect the effort the Maryland Department of the Environment must expend for a particular building.
- 3) Amend 2-1602 to exempt buildings in jurisdictions that have adopted BEPS requirements having the goal of decreasing energy usage and greenhouse gases.
- 4) Amend section 11-109(d) of the Maryland Condominium Act to clarify that governing bodies of condominiums have the authority to 1) require, if necessary, changes within individual units to meet BEPS targets applicable to their buildings and 2) require unit owners to reimburse condominiums if their actions cause the building to be assessed penalties for the condominium's failure to meet BEPS targets.

I

The provisions of this bill will only increase the housing costs of our residents as well as dwellers in multifamily housing across the State. Specifically, the current law already provides for an alternative compliance pathway by requiring a fee for greenhouse gas emissions attributable to the failure to meet the greenhouse gas emission targets. The reduction of greenhouse gas emissions is the essence of reducing climate change. This greenhouse gas penalty provides sufficient incentive for gaining compliance. It is unnecessary to establish another alternative pathway fee that adds costs to buildings who are in good faith seeking to reduce their energy usage to meet BEPS standards.

SB 256 needs to be amended to provide in 2-1602(c)(2)(v) and (c)(3) a better approach for the Alternative Compliance Pathway for both the failure to meet the greenhouse gas emission targets as well as the failure to meet the EUI targets by adopting the Montgomery County Building Performance Improvement Plan approach to address the failure to meeting BEPS target requirements. Such an approach will reflect the challenges of aging buildings for infrastructure changes that is required by the existing language in 2-1602(c)(2)(ii)(1). Building Performance Plans need to recognize that needed changes cannot always be accommodated within the existing building structures because of sizes of utility closets and building issues such as wiring, electric supply capacity, etc. Pay back issues also need to be considered as changes are costly and must be added to HOA fees that already are a significant challenge for residents given the age of the buildings and the need to increase reserves for aging roofs and other equipment as a result of increased equipment and labor costs. Section 2-1602(c)(3) should be amended so that the penalty amount in that section should only be imposed if there is lack of a good faith effort to implement an approved Building Performance Improvement Plan as proposed above.

II

As to the annual reporting fee of SB 256 in 2-1602(c)(2)(vii), this is a fee to cover the costs associated with implementing current law that benefits all Marylanders. However, this fee is only paid by the buildings subject to BEPS and not all those who benefit from BEPS. This is essentially a tax to cover the administrative cost of government. We recognize that Maryland faces a huge budget issue, but this is a fee that should be paid by all Marylanders not just

building owners. It is unfair to charge just one group of Marylanders to support a program that benefits all Marylanders. It can only result in increased housing costs for those who live in multifamily buildings. Marylanders already face a housing crisis that this legislation will exasperate.

SB 256 needs to be amended, if a fee is deemed necessary, to provide in Section 2-1602(c)(2)(vii) that the amount of the fee reflect the effort the Maryland Department of the Environment must expend for the particular building. It should be tied to the different degrees of building compliance. As proposed, the same fee would be paid by a building that fully meets the emission and EUI targets as a building that substantially misses those targets. For example, at Leisure World there are 13 all electric buildings with 390 units that meet the greenhouse gas targets without adding or changing any existing equipment but given their size must report. Thus, this bill requires the residents of these buildings to increase their HOA fees to pay a fee to demonstrate that they are already in compliance. Why should building residents pay the same fee to demonstrate that they are already in compliance? Buildings that require substantial time and effort of MDE staff should be required to pay a higher fee. Having graduated fees may add to the incentive of meeting the standards.

III

Importantly, SB 256 also needs to be amended to address the challenges when there is more than one jurisdiction that has adopted BEPS requirements with the goal of decreasing energy usage and greenhouse gases. Buildings located in jurisdictions with such BEPS requirements should be exempt from the State's BEPS requirements. Not to do so creates legal confusion and unnecessary costs for meeting different targets, different implementation deadlines, implementing duplicate reporting requirements, implementing different alternative pathways, and facing different penalties for failure to meet requirements. Having dual requirements causes the need to unnecessarily expend limited government resources to implement essentially duplicate programs. Building owners will need to unnecessarily expend additional funds to meet duplicative requirements. The result can only increase costs for Marylanders and make Maryland an undesirable State for businesses and residences. From the Leisure World perspective, it will increase housing costs that are already too high.

Montgomery County is a jurisdiction that has adopted and implemented BEPS requirements. It has hired staff, implemented reporting requirements, and enforced requirements. It is in the final stage of completing its EUI regulations. This effort is years ahead of the State. Maryland should take advantage of the progress of Montgomery County and focus the limited resources of the State on jurisdictions that have not yet established and begun implementing BEPS requirements and programs. **Leisure World strongly believes that SB 256 needs to amend 2-1602 to allow the Montgomery County BEPS program to preempt the State's BEPS program.**

IV

In considering SB 256, the Committee should be aware of an implementation issue for condominiums. In some situations, changes to equipment in common areas of condominiums may not be sufficient to meet BEPS required targets. To meet these targets, equipment or appliance changes within individual units owned in fee simple such as HVAC systems, stoves, and water heaters may be needed especially if unit owners use equipment or appliances fueled by natural gas. However, it is not clear what condominiums can do if individual unit owners who own their units in fee simple refuse to implement changes costing unit owners thousands of dollars. This is because the condominium boards of directors have the authority to address common areas. But absent health and safety needs, it is questionable whether condominiums governing bodies have the legal authority to force individual unit owners to change their appliances and HVAC systems or change temperature settings to reduce energy usage in their Individual owned units.

There is a need for an amendment to section 11-109(d) of the Maryland Condominium Act to clarify the authority for Counsel of Unit Owners or their delegates to have the authority to 1) require, if necessary, changes within individual units to meet BEPS targets applicable to their buildings and 2) require unit owners to reimburse condominiums if their actions cause the building to be assessed penalties for the condominium's failure to meet BEPS targets.

Having this authority is critical for buildings to implement BEPS. To provide such authority absent changes to the Condominium Act, bylaw changes will be needed to be agreed upon by unit owners. However, unit owners may not agree to such changes given the economic impacts and their lifespans. Without this legal authority or agreement by unit owners, the buildings may not meet BEPS targets and thus face penalties. **Alternatively, SB 256 could be amended to require an opinion from the Attorney General as to whether the Condominium Act provides the governing body the authority to 1) require, if necessary, changes within individual units to meet BEPS targets applicable to their buildings and 2) to require unit owners to reimburse condominiums if their actions cause the building to be assessed penalties for the condominium's failure to meet BEPS targets.**

For the above reasons, Leisure World requests amendments to SB 256.

Respectfully submitted,

Patricia Hempstead
Chair of the Board of Directors