
By: **Delegates Shriver, Franchot, and Sher**
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Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Electricity Regulation - Clean Energy Portfolio Standard and Credit**
3 **Trading**

4 FOR the purpose of requiring the Public Service Commission to establish a clean
5 energy portfolio standard to apply to all retail electricity products sold in the
6 State, at certain levels in certain years; requiring electricity suppliers to report
7 to the Commission on the compliance of certain products with the clean energy
8 portfolio standard; requiring the payment of a certain compliance fee under
9 certain circumstances; establishing a Clean Energy Fund for certain purposes;
10 providing for the payment of certain funds to certain persons from the Fund;
11 providing for the creation and use of certain clean energy credits; requiring the
12 Commission to establish a certain clean energy trading system; requiring the
13 Commission to develop and maintain a certain clearinghouse for certain
14 purposes; providing for the creation, uses, transfer, and duration of clean energy
15 credits; allowing the Commission to impose a certain fee; requiring the
16 Commission to adopt certain regulations; stating the intent of the General
17 Assembly; defining certain terms; and generally relating to electricity
18 regulation, a clean energy portfolio standard, and market-based trading.

19 BY adding to
20 Article - Public Utility Companies
21 Section 7-701 through 7-711 to be under the new subtitle "Subtitle 7. Clean
22 Energy Portfolio"
23 Annotated Code of Maryland
24 (1998 Volume and 2001 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

Article - Public Utility Companies

SUBTITLE 7. CLEAN ENERGY PORTFOLIO.

7-701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "CLEAN ENERGY CREDIT" OR "CEC" MEANS A CREDIT EQUAL TO 100 KILOWATT HOURS OF RETAIL ELECTRICITY IN THE STATE THAT IS DERIVED FROM ELIGIBLE ENERGY RESOURCES.

(C) "CLEAN ENERGY PORTFOLIO STANDARD" MEANS THE PERCENTAGE OF THE ELECTRICITY IN EACH RETAIL ELECTRICITY PRODUCT IN THE STATE THAT MUST BE DERIVED FROM ELIGIBLE ENERGY RESOURCES UNDER § 7-703 OF THIS SUBTITLE.

(D) "ELIGIBLE ENERGY RESOURCE" MEANS ONE OR MORE OF THE FOLLOWING ENERGY SOURCES:

(1) SOLAR;

(2) WIND;

(3) QUALIFYING BIOMASS;

(4) METHANE FROM THE ANAEROBIC DECOMPOSITION OF ORGANIC MATERIALS IN A LANDFILL OR WASTEWATER TREATMENT PLANT;

(5) GEOTHERMAL; OR

(6) OCEAN, INCLUDING ENERGY FROM WAVES, TIDES, CURRENTS, AND THERMAL DIFFERENCES.

(E) "FUND" MEANS THE CLEAN ENERGY FUND ESTABLISHED UNDER § 7-706 OF THIS SUBTITLE.

(F) (1) "QUALIFYING BIOMASS" MEANS A SOLID, NONHAZARDOUS, CELLULOSIC WASTE MATERIAL THAT IS SEGREGATED FROM OTHER WASTE MATERIALS AND IS DERIVED FROM:

(I) ANY OF THE FOLLOWING FOREST-RELATED RESOURCES, EXCLUDING OLD GROWTH TIMBER:

1. MILL RESIDUE;

2. PRE-COMMERCIAL THINNING;

3. SLASH; OR

1 (5) 4% IN 2010; AND

2 (6) 5% IN 2011 AND EACH YEAR THEREAFTER.

3 (C) THE CLEAN ENERGY PORTFOLIO STANDARD SHALL BE MET BY THE
4 ACCUMULATION OF THE EQUIVALENT AMOUNT OF CLEAN ENERGY CREDITS WHICH
5 EQUAL THE PERCENTAGE REQUIRED UNDER THIS SECTION.

6 7-704.

7 (A) ENERGY IS ELIGIBLE FOR INCLUSION IN MEETING THE CLEAN ENERGY
8 PORTFOLIO STANDARD IF IT IS GENERATED FROM AN ELIGIBLE ENERGY RESOURCE
9 AT A FACILITY THAT DID NOT PRODUCE ENERGY FROM AN ELIGIBLE ENERGY
10 RESOURCE BEFORE JANUARY 1, 2002.

11 (B) ON OR BEFORE DECEMBER 31, 2013, AN ELECTRICITY SUPPLIER SHALL
12 RECEIVE DOUBLE CREDIT TOWARD MEETING THE CLEAN ENERGY PORTFOLIO
13 STANDARD FOR ENERGY DERIVED FROM THE FOLLOWING SOURCES:

14 (1) SOLAR ENERGY; OR

15 (2) FUEL THAT IS:

16 (I) DERIVED FROM AN ELIGIBLE ENERGY RESOURCE; AND

17 (II) USED IN A FUEL CELL.

18 7-705.

19 (A) EACH ELECTRICITY SUPPLIER SHALL SUBMIT AN ANNUAL REPORT TO THE
20 COMMISSION, IN A FORM AND BY A DATE THE COMMISSION SPECIFIES:

21 (1) DEMONSTRATING THAT EACH OF THE RETAIL ELECTRICITY
22 PRODUCTS OF THE ELECTRICITY SUPPLIER COMPLIED WITH THE CLEAN ENERGY
23 PORTFOLIO STANDARD DURING THE PRECEDING YEAR BY SUBMITTING THE
24 REQUIRED AMOUNT OF CLEAN ENERGY CREDITS; OR

25 (2) (I) IDENTIFYING EACH RETAIL ELECTRICITY PRODUCT THAT DID
26 NOT COMPLY WITH THE CLEAN ENERGY PORTFOLIO STANDARD DURING THE
27 PRECEDING YEAR;

28 (II) DEMONSTRATING THE AMOUNT BY WHICH EACH
29 NONCOMPLYING PRODUCT FAILED TO MEET THE STANDARD; AND

30 (III) DEMONSTRATING THE COMPLIANCE OF THE OTHER RETAIL
31 ELECTRICITY PRODUCTS OF THE ELECTRICITY SUPPLIER.

32 (B) THE COMMISSION MAY ALLOW AN ELECTRICITY SUPPLIER TO
33 DEMONSTRATE COMPLIANCE WITH THE CLEAN ENERGY PORTFOLIO STANDARD IN
34 THE SAME REPORT THAT THE COMMISSION REQUIRES FOR FUEL MIX DISCLOSURE
35 UNDER § 7-505(B)(4)(II) OF THIS TITLE.

1 (C) IF A RETAIL ELECTRICITY PRODUCT CONTAINS FEWER KILOWATT HOURS
2 FROM ELIGIBLE ENERGY RESOURCES THAN ARE REQUIRED TO COMPLY WITH THE
3 CLEAN ENERGY PORTFOLIO STANDARD FOR THAT YEAR, THE ELECTRICITY SUPPLIER
4 SHALL PAY A COMPLIANCE FEE OF 2 CENTS FOR EACH KILOWATT HOUR OF
5 SHORTFALL INTO THE CLEAN ENERGY FUND.

6 7-706.

7 (A) THERE IS A MARYLAND CLEAN ENERGY FUND.

8 (B) THE PURPOSE OF THE FUND IS TO ENCOURAGE THE DEVELOPMENT OF
9 GENERATING RESOURCES FOR CLEAN ENERGY IN THE STATE.

10 (C) THE FUND CONSISTS OF COMPLIANCE CHARGES ASSESSED UNDER § 7-705
11 OF THIS SUBTITLE ON RETAIL ELECTRICITY PRODUCTS THAT FAIL TO COMPLY WITH
12 THE CLEAN ENERGY PORTFOLIO STANDARD.

13 (D) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO §
14 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

15 (E) THE TREASURER SHALL HOLD THE FUND AND SHALL INVEST AND
16 REINVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE
17 MONEY MAY BE INVESTED AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND
18 IN CONJUNCTION WITH THE COMMISSION.

19 (F) (1) IN THE SIXTH CALENDAR YEAR AFTER THE FUND COLLECTS
20 COMPLIANCE FEES FOR A GIVEN YEAR, THE COMMISSION SHALL PAY THE
21 COMPLIANCE FEES TO OWNERS OF ELIGIBLE FACILITIES IN THE STATE THAT
22 PRODUCE ELECTRICITY FROM ELIGIBLE ENERGY RESOURCES.

23 (2) (I) THE PAYMENT SHALL BE MADE PRO RATA BASED ON THE
24 KILOWATT HOURS OF ELECTRICITY THAT THE ELIGIBLE FACILITIES PRODUCE FROM
25 ELIGIBLE ENERGY RESOURCES IN THE YEAR PRECEDING PAYMENT TO THE OWNERS,
26 UP TO 2 CENTS FOR EACH KILOWATT HOUR.

27 (II) THE COMMISSION SHALL DEFER TO A LATER YEAR ANY
28 PAYMENT OF A PORTION OF COMPLIANCE FEES FROM THE FUND THAT WOULD
29 EXCEED 2 CENTS FOR EACH KILOWATT HOUR.

30 (3) THE COMMISSION SHALL ADOPT, BY REGULATION OR ORDER,
31 ELIGIBILITY CRITERIA FOR OWNERS AND FACILITIES WHICH MAY RECEIVE
32 COMPLIANCE FEES FROM THE FUND UNDER THIS SUBSECTION.

33 7-707.

34 BY REGULATION OR ORDER, THE COMMISSION SHALL, IN CONSULTATION WITH
35 THE OFFICE OF THE ATTORNEY GENERAL, IMPOSE SUFFICIENT PENALTIES TO
36 ENSURE COMPLIANCE WITH THIS SUBTITLE.

1 7-708.

2 (A) THE COMMISSION SHALL ESTABLISH A MARKET-BASED CLEAN
3 ELECTRICITY TRADING SYSTEM.

4 (B) THE SYSTEM SHALL FACILITATE THE CREATION AND TRANSFER OF
5 CLEAN ENERGY CREDITS AMONG ELECTRICITY SUPPLIERS.

6 (C) (1) AS PART OF THE MARKET-BASED CLEAN ELECTRICITY TRADING
7 SYSTEM, THE COMMISSION SHALL DEVELOP AND MAINTAIN A CLEARINGHOUSE FOR
8 CEC TRANSACTIONS AMONG ELECTRICITY SUPPLIERS.

9 (2) THE CLEARINGHOUSE SHALL REGISTER CEC TRANSACTIONS AMONG
10 SUPPLIERS, INCLUDING INFORMATION ABOUT THE SOURCE OF THE CLEAN ENERGY
11 CREDITS SOLD OR TRANSFERRED, AND THE PRICE PAID FOR CLEAN ENERGY CREDIT.

12 (3) THE CLEARINGHOUSE SHALL PROVIDE CURRENT INFORMATION OF
13 THE STATUS OF CLEAN ENERGY CREDITS GENERATED OR APPLIED IN THE STATE TO
14 OWNERS AND THE PUBLIC BY MEANS INCLUDING COMPUTER NETWORK ACCESS
15 THROUGH THE INTERNET.

16 (4) THE COMMISSION SHALL USE THE CLEARINGHOUSE TO MAINTAIN
17 RECORDS OF TRANSACTIONS INVOLVING THE CREATION AND APPLICATION OF
18 CLEAN ENERGY CREDITS IN THE STATE.

19 7-709.

20 (A) CLEAN ENERGY CREDITS SHALL BE USED TO FULFILL THE CLEAN
21 ENERGY PORTFOLIO STANDARD.

22 (B) A CLEAN ENERGY CREDIT SHALL CONTINUE IN EXISTENCE AND MAY NOT
23 BE DIMINISHED OR EXTINGUISHED EXCEPT BY THE OWNER OF THE FACILITY FROM
24 WHICH THE CLEAN ENERGY CREDIT IS DERIVED.

25 (C) A CLEAN ENERGY CREDIT MAY INITIALLY BE SOLD OR TRANSFERRED BY
26 THE OWNER OF THE FACILITY FROM WHICH THE CLEAN ENERGY CREDIT IS
27 DERIVED.

28 (D) A CLEAN ENERGY CREDIT MAY NOT BE APPLIED TO A SOURCE LOCATED IN
29 A STATE THAT RESTRICTS THE SALE OR TRANSFER OF CLEAN ENERGY CREDITS INTO
30 MARYLAND.

31 7-110.

32 THE COMMISSION MAY IMPOSE AN ADMINISTRATIVE FEE ON A CEC
33 TRANSACTION ONLY TO COVER THE ACTUAL DIRECT COST TO THE COMMISSION OF
34 PROCESSING THE TRANSACTION.

1 7-111.

2 THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THE
3 PROVISIONS OF THIS SUBTITLE.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
5 effect October 1, 2002.