

HOUSE BILL 370

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C5

2003 Regular Session  
3r0749  
CF 3r1319

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By: **Delegates Hubbard, Barve, Bobo, Bronrott, Cardin, Conroy, Dumais, Edwards, Feldman, Franchot, Frush, Gaines, Gutierrez, Harrison, Hixson, Kaiser, Kelly, Lee, Love, Madaleno, Mandel, McHale, Moe, Montgomery, Murray, Myers, Niemann, Pendergrass, Ross, Simmons, Stern, Stocksdale, and Walkup**

Introduced and read first time: February 4, 2003  
Assigned to: Economic Matters

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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 authorizing the payment of certain grants 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, inclusive, to be under the new subtitle "Subtitle 7.  
22 Clean Energy Portfolio"  
23 Annotated Code of Maryland  
24 (1998 Volume and 2002 Supplement)

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

1 **Article - Public Utility Companies**

2 SUBTITLE 7. CLEAN ENERGY PORTFOLIO.

3 7-701.

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

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

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

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

15 (1) SOLAR;

16 (2) WIND;

17 (3) QUALIFYING BIOMASS;

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

20 (5) GEOTHERMAL; AND

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

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

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

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

30 1. MILL RESIDUE;

31 2. PRECOMMERCIAL THINNING;

32 3. SLASH; OR



1 (B) THE CLEAN ENERGY PORTFOLIO STANDARD SHALL BE:

2 (1) 0.5% IN 2006;

3 (2) 1% IN 2007;

4 (3) 2% IN 2008;

5 (4) 3% IN 2009;

6 (5) 4% IN 2010;

7 (6) 5% IN 2011;

8 (7) 6% IN 2012; AND

9 (8) 7.5% IN 2013 AND EACH YEAR THEREAFTER.

10 (C) AN ELECTRICITY SUPPLIER SHALL MEET THE CLEAN ENERGY PORTFOLIO  
11 STANDARD FOR A RETAIL ELECTRICITY PRODUCT IN A GIVEN YEAR BY  
12 ACCUMULATING CLEAN ENERGY CREDITS SUCH THAT THE PERCENTAGE THAT  
13 CLEAN ENERGY CREDITS REPRESENT IN RELATION TO THE TOTAL SALES OF THE  
14 RETAIL ELECTRICITY PRODUCT FOR THE YEAR EQUALS OR EXCEEDS THE MINIMUM  
15 PERCENTAGE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

16 7-704.

17 (A) ENERGY MAY BE USED TO MEET THE CLEAN ENERGY PORTFOLIO  
18 STANDARD IF IT IS GENERATED FROM AN ELIGIBLE ENERGY RESOURCE AT A  
19 FACILITY THAT DID NOT PRODUCE ENERGY FROM AN ELIGIBLE ENERGY RESOURCE  
20 BEFORE JANUARY 1, 2003.

21 (B) AN ELECTRICITY SUPPLIER MAY BEGIN ACCUMULATING CLEAN ENERGY  
22 CREDITS UNDER THIS SUBTITLE ON OR AFTER JANUARY 1, 2004.

23 (C) ON OR BEFORE DECEMBER 31, 2013, AN ELECTRICITY SUPPLIER SHALL  
24 RECEIVE DOUBLE CREDIT TOWARD MEETING THE CLEAN ENERGY PORTFOLIO  
25 STANDARD FOR ENERGY DERIVED FROM THE FOLLOWING SOURCES:

26 (1) SOLAR ENERGY; OR

27 (2) FUEL THAT IS:

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

29 (II) USED IN A FUEL CELL.

30 7-705.

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

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

5 (2) (I) IDENTIFYING EACH RETAIL ELECTRICITY PRODUCT THAT DID  
6 NOT COMPLY WITH THE CLEAN ENERGY PORTFOLIO STANDARD DURING THE  
7 PRECEDING YEAR;

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

10 (III) DEMONSTRATING THE COMPLIANCE OF THE OTHER RETAIL  
11 ELECTRICITY PRODUCTS OF THE ELECTRICITY SUPPLIER.

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

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

21 7-706.

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

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

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

28 (D) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO §  
29 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

30 (E) THE TREASURER SHALL HOLD THE FUND AND SHALL INVEST AND  
31 REINVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE  
32 MONEY MAY BE INVESTED AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND  
33 IN CONJUNCTION WITH THE COMMISSION.

34 (F) (1) THE COMMISSION SHALL USE THE FUND TO PROVIDE GRANTS TO  
35 LOCAL GOVERNMENTS AND LOCAL PUBLIC UNITS FOR THE DEVELOPMENT OF  
36 ADDITIONAL CLEAN ENERGY PROJECTS.

1           (2)     THE COMMISSION MAY ESTABLISH A RESERVE AMOUNT TO BE  
2 RETAINED IN THE FUND EACH YEAR.

3           (3)     BY REGULATION THE COMMISSION SHALL ADOPT ELIGIBILITY  
4 CRITERIA FOR PROJECTS AND FACILITIES WHICH MAY RECEIVE GRANTS FROM THE  
5 FUND UNDER THIS SUBSECTION.

6 7-707.

7     BY REGULATION THE COMMISSION SHALL, IN CONSULTATION WITH THE  
8 OFFICE OF THE ATTORNEY GENERAL, IMPOSE SUFFICIENT PENALTIES TO ENSURE  
9 COMPLIANCE WITH THIS SUBTITLE.

10 7-708.

11     (A)     THE COMMISSION SHALL ESTABLISH A MARKET-BASED CLEAN  
12 ELECTRICITY TRADING SYSTEM.

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

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

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

21           (3)     THE CLEARINGHOUSE SHALL PROVIDE CURRENT INFORMATION ON  
22 THE STATUS OF CLEAN ENERGY CREDITS GENERATED OR APPLIED IN THE STATE TO  
23 OWNERS AND THE PUBLIC BY COMPUTER NETWORK ACCESS THROUGH THE  
24 INTERNET AND BY ANY OTHER APPROPRIATE MEANS.

25           (4)     THE COMMISSION SHALL USE THE CLEARINGHOUSE TO MAINTAIN  
26 RECORDS OF TRANSACTIONS INVOLVING THE CREATION AND APPLICATION OF  
27 CLEAN ENERGY CREDITS IN THE STATE.

28 7-709.

29     (A)     CLEAN ENERGY CREDITS SHALL BE USED TO FULFILL THE CLEAN  
30 ENERGY PORTFOLIO STANDARD.

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

34     (C)     AFTER A CLEAN ENERGY CREDIT IS CREATED, THE FIRST SALE OR  
35 TRANSFER OF THE CLEAN ENERGY CREDIT MAY BE MADE ONLY BY THE OWNER OF  
36 THE FACILITY FROM WHICH THE CLEAN ENERGY CREDIT IS DERIVED.

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

4 7-110.

5 THE COMMISSION MAY IMPOSE AN ADMINISTRATIVE FEE ON A CEC  
6 TRANSACTION ONLY TO COVER THE ACTUAL DIRECT COST TO THE COMMISSION OF  
7 PROCESSING THE TRANSACTION.

8 7-111.

9 THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THE  
10 PROVISIONS OF THIS SUBTITLE.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2003.