

**Department of Legislative Services**  
Maryland General Assembly  
2012 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 935

(Delegate Stein)

Environmental Matters

Judicial Proceedings

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**Real Property - Commercial Buildings - Energy Usage**

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This bill requires the landlord of a commercial building with more than 10,000 square feet of interior space to provide, on written request, energy usage information for the building or a space for rent in the building if specified requirements are met.

The bill takes effect January 1, 2013.

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**Fiscal Summary**

**State Effect:** The imposition of new penalty provisions is not anticipated to materially affect State operations or finances.

**Local Effect:** The bill does not directly affect local governmental operations or finances.

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Bill Summary:** Unless there are security reasons to deny the request, a landlord must submit the energy usage information if (1) the request is made by a prospective tenant who has signed a letter of intent; (2) the landlord has access to the energy usage information; and (3) the information is relevant to the proposed use of the premises.

The energy usage information is provided without warranties or representations of any kind, either express or implied, including as to the completeness or suitability of the information for any purpose related to a prospective tenant's use of the commercial building or space.

A landlord who violates the bill's provisions is subject to a fine of up to \$250.

**Current Law:** The Real Property Article does not contain specific disclosure requirements similar in nature to that of the bill that are associated with the sale or lease of commercial property. There are, however, certain disclosure requirements (none related to energy performance) applicable to the sale and lease of residential property.

**Background:**

*U.S. Environmental Protection Agency (EPA) Portfolio Manager/Energy Star Rating*

The EPA Portfolio Manager is an online energy management tool that allows energy and water consumption of buildings to be tracked and assessed and allows the energy performance of certain types of commercial buildings to be rated on a scale of 1 to 100 relative to similar buildings nationwide (Energy Star-rating). Energy Star indicates that a small number of state and local governments have established requirements for Energy Star or equivalent benchmarking/rating of certain public and/or private buildings, including the District of Columbia; the cities of Austin, Denver, New York, and Seattle; and California, Hawaii, Michigan, Ohio, and Washington.

California, for example, has required, since 2009, owners of nonresidential buildings of a specified size to keep energy usage records in a format compatible with the EPA Portfolio Manager and disclose statements of the building's energy usage to potential buyers, lessees, and lenders. In July 2012, the law will apply to owners of nonresidential buildings of all sizes.

There are approximately 18,000 commercial buildings in the State with over 10,000 square feet. According to Energy Star statistics, as of June 30, 2010, just over 2,500 buildings in Maryland had been Energy Star-rated, representing 390 million square feet of floor space.

*MEA Time-of-sale Disclosure Recommendation*

The Maryland Energy Administration (MEA) recommended, in its 2010 *Maryland Energy Outlook*, that time-of-sale disclosure of energy consumption of all residential and commercial buildings for the previous year be required, subject to size limitations. MEA indicated that such disclosure would encourage property owners to invest in energy efficiency to increase the value of their buildings and help consumers make more informed purchases.

**Small Business Effect:** Small businesses that own or develop commercial buildings with over 10,000 square feet of interior space and small businesses that provide energy audits

and/or energy efficiency improvements may be meaningfully impacted by the bill. Additionally, small businesses which rent commercial buildings may be meaningfully impacted by the bill.

Small businesses that own or develop commercial buildings could be positively or negatively impacted by the requirement that energy usage information be disclosed when selling or leasing commercial buildings. How a given business is affected depends on the energy efficiency of the building(s) the business wants to sell or lease and whether there are any barriers to meaningfully improving energy usage. However, the disclosure requirements may mean that a small business that owns or develops a commercial building with low energy costs may be able to more successfully market the building to prospective tenants.

Small businesses that offer energy audits and/or energy efficiency improvements may generate additional business to the extent that the energy usage disclosure requirements by affected commercial buildings leads to an increase in the demand for the services of energy auditors and energy efficiency contractors to make improvements to inefficient buildings.

Finally, a small business that is a prospective tenant of an affected commercial building will more easily be able to compare energy costs with other potential locations.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Public Service Commission, U.S. Environmental Protection Agency, California Energy Commission, Department of Legislative Services

**Fiscal Note History:** First Reader - March 6, 2012  
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