

HB0049/273526/1

BY: Environment and Transportation Committee

AMENDMENTS TO HOUSE BILL 49
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in lines 2 and 3, strike “**Compliance and Reporting**” and substitute “**Alterations**”; strike beginning with “altering” in line 4 down through “Standards” in line 10 and substitute “altering the requirements for certain regulations adopted by the Department of the Environment relating to building energy performance standards to include certain crediting, exclusions, and considerations, a certain alternative compliance pathway fee for energy use attributable to a building’s failure to meet energy use intensity targets, certain waivers from certain alternative compliance pathway fees, and a certain annual reporting fee to cover certain costs; requiring the Department to offer certain training to help certain energy auditors understand the requirements under the building energy performance standards and publish a list of energy auditors that have completed the training; authorizing the Department to certify a building energy performance standards program adopted by a county under certain circumstances; requiring the Department to deposit alternative compliance pathway payments into the Maryland Strategic Energy Investment Fund; and generally relating to building energy performance standards”; in line 13, after “Section” insert “2-1601 and”; after line 15, insert:

“BY adding to

Article - Environment

Section 2-1602(f)

Annotated Code of Maryland

(2013 Replacement Volume and 2024 Supplement)”;

and after line 21, insert:

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“BY repealing and reenacting, without amendments,
Article - Economic Development
Section 3-201(a) and (d)
Annotated Code of Maryland
(2024 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, without amendments,
Article - Environment
Section 2-1202(a) and (h)
Annotated Code of Maryland
(2013 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, without amendments,
Article - Public Utilities
Section 1-101(a) and (h-1)
Annotated Code of Maryland
(2020 Replacement Volume and 2024 Supplement)”.

On page 2, after line 5, insert:

“BY adding to
Article - State Government
Section 9-20B-05(g-2)
Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)”.

AMENDMENT NO. 2

On page 2, in line 13, strike “and (iii)” and substitute “, **(III), (IV), AND (V)**”; strike beginning with “as” in line 21 down through “Article” in line 22; in line 22, strike “and”; and after line 24, insert:

“5. CREDITING THE GENERATION OF ON-SITE RENEWABLE ENERGY BY COVERED BUILDINGS TOWARD THEIR ENERGY USE INTENSITY TARGETS;

6. CREDITING THE GREENHOUSE GAS REDUCTION IMPACT OF THE ON-SITE USE OF BIOMETHANE;

7. EXCLUDING THE ENERGY USE AND GREENHOUSE GAS EMISSIONS RELATED TO THE PRODUCTION OF STEAM FOR STERILIZATION IN A HEALTH CARE FACILITY, LABORATORY, ASSISTED LIVING AND NURSING FACILITY, MILITARY BUILDING, OR BUILDING USED IN LIFE SCIENCES;

8. EXCLUDING THE ENERGY USE AND GREENHOUSE GAS EMISSIONS RELATED TO THE GENERATION OF EMERGENCY BACKUP POWER AT A HEALTH CARE FACILITY, LABORATORY, ASSISTED LIVING AND NURSING FACILITY, MILITARY BUILDING, CRITICAL INFRASTRUCTURE, OR BUILDING USED IN LIFE SCIENCES; AND

9. OPERATIONAL NEEDS, INCLUDING SCALING FACTORS TO ADJUST FOR DIFFERENT OPERATING HOURS;”.

On page 3, in line 1, after “(iv)” insert “SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, EXEMPT FROM ENERGY USE INTENSITY TARGETS A COVERED BUILDING THAT CONTAINS AN AREA DESIGNED, BUILT, AND OPERATED AS A PERMANENT SENSITIVE COMPARTMENTED INFORMATION FACILITY AND IS OPERATED BY AN AGENCY OR CONTRACTOR OF:

1. THE U.S. GENERAL SERVICES ADMINISTRATION;

2. A. THE U.S. DEPARTMENT OF DEFENSE;

(Over)

B. THE NATIONAL SECURITY AGENCY;

C. THE U.S. DEPARTMENT OF HOMELAND SECURITY; OR

D. ANY OTHER U.S. INTELLIGENCE AGENCY; OR

3. THE STATE;

(V) EXEMPT AN OWNER OF A COVERED BUILDING FROM ENERGY USE INTENSITY REPORTING REQUIREMENTS IF:

1. THE COVERED BUILDING MEETS THE CRITERIA UNDER ITEM (IV) OF THIS PARAGRAPH; AND

2. THE TENANT OR OCCUPANT DOES NOT PROVIDE ENERGY USE INFORMATION TO THE OWNER OF THE COVERED BUILDING DUE TO CONCERNS ABOUT THE CONFIDENTIALITY OF THE BUILDING'S SECURE AREA;

(VI);

in line 3, strike "(v)" and substitute "**(VII)**"; in the same line, strike "(3)" and substitute "**(4)**"; in the same line, after "subsection" insert "**AND SUBSECTION (F) OF THIS SECTION**"; in line 4, in each instance, strike the bracket; strike beginning with the colon in line 4 down through "**GREENHOUSE**" in line 5; strike beginning with "and" in line 6 down through "**TARGETS;**" in line 8; after line 8, insert:

"(VIII) SUBJECT TO PARAGRAPH (4)(II) OF THIS SUBSECTION AND SUBSECTION (F) OF THIS SECTION, INCLUDE AN ALTERNATIVE

COMPLIANCE PATHWAY ALLOWING THE OWNER OF A COVERED BUILDING TO PAY A FEE OF 5 CENTS PER THOUSAND BRITISH THERMAL UNITS OF ENERGY, ADJUSTED FOR INFLATION USING 2020 AS THE BASELINE YEAR FOR CALCULATING THE ADJUSTMENT, FOR ENERGY USE ATTRIBUTABLE TO THE BUILDING'S FAILURE TO MEET ENERGY USE INTENSITY TARGETS;

(IX) ALLOW THE OWNER OF A COVERED BUILDING TO REQUEST A ONE-TIME WAIVER, FOR THE ENTIRE BUILDING, FROM PAYING AN ALTERNATIVE COMPLIANCE PATHWAY FEE UNDER ITEMS (VII) AND (VIII) OF THIS PARAGRAPH THROUGH NOT LATER THAN 2039 FOR ENERGY OR EMISSIONS ATTRIBUTABLE TO CONTINUED OPERATION OF EQUIPMENT INSTALLED BEFORE 2025 FOR THE EXPECTED AVERAGE REMAINING LIFESPAN OF THAT EQUIPMENT, AS IDENTIFIED BY A PUBLICLY AVAILABLE DATABASE SELECTED BY THE DEPARTMENT, BY:

1. SUBMITTING TO THE DEPARTMENT, AT LEAST 1 YEAR BEFORE THE REQUESTED WAIVER WOULD TAKE EFFECT:

A. AN INVENTORY OF DESCRIPTIONS, SERIAL NUMBERS, AND INSTALLATION DATES OF THE EQUIPMENT THAT PROVIDES THE BASIS OF THE WAIVER APPLICATIONS; AND

B. A PLAN PREPARED BY AN ENERGY AUDITOR THAT COMPLETED THE TRAINING REQUIRED UNDER PARAGRAPH (7) OF THIS SUBSECTION DETAILING THE DATES THAT SPECIFIC PROJECTS WILL BE COMPLETED AND THE ENERGY USE INTENSITY AND GREENHOUSE GAS EMISSIONS SAVINGS THAT WILL RESULT FROM THE PROJECTS;

(Over)

2. DEMONSTRATING IN THE PLAN PREPARED UNDER ITEM 1B OF THIS ITEM HOW THE BUILDING WILL COME INTO COMPLIANCE WITH THE FINAL TARGETS BEFORE 2040 WITH MINIMAL RELIANCE ON ALTERNATIVE COMPLIANCE PATHWAY PAYMENTS;

3. CERTIFYING THAT THE PROJECTS WILL BE COMPLETED BY THE DATES DETAILED UNDER ITEM 1B OF THIS ITEM, OR THAT THE EXEMPTED ALTERNATIVE COMPLIANCE PATHWAY FEES WILL BE PAID IF THE PROJECTS ARE NOT COMPLETED BY THOSE DATES; AND

4. PAYING A FEE TO COVER THE COST FOR THE DEPARTMENT OR ITS CONTRACTOR TO REVIEW THE PLAN;

(X) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, ALLOW THE OWNER OF A COVERED BUILDING TO REQUEST A WAIVER FROM PAYING ALTERNATIVE COMPLIANCE PATHWAY FEES FOR ENERGY USE OR GREENHOUSE GAS EMISSIONS ASSOCIATED WITH ENERGY OR EMISSIONS REDUCTION MEASURES THAT THE DEPARTMENT DETERMINES TO BE IMPRACTICABLE OR ECONOMICALLY INFEASIBLE BY:

1. SUBMITTING TO THE DEPARTMENT, AT LEAST 1 YEAR BEFORE THE REQUESTED WAIVER WOULD TAKE EFFECT, AN ENGINEERING STUDY PREPARED BY AN ENERGY AUDITOR THAT COMPLETED THE TRAINING REQUIRED UNDER PARAGRAPH (7) OF THIS SUBSECTION DETAILING THE PRACTICABILITY OR IMPRACTICABILITY OR ECONOMIC FEASIBILITY OR INFEASIBILITY OF ENERGY OR EMISSIONS REDUCTION MEASURES THAT WOULD BE NEEDED TO ACHIEVE THE ENERGY USE INTENSITY AND DIRECT GREENHOUSE GAS EMISSIONS REDUCTION TARGETS;

2. DETAILING THE ENERGY USE INTENSITY OR DIRECT GREENHOUSE GAS EMISSIONS ABOVE TARGET LEVELS THAT WOULD OCCUR IF THE OWNER OF THE COVERED BUILDING DOES NOT IMPLEMENT THE IMPRACTICABLE OR ECONOMICALLY INFEASIBLE MEASURES; AND

3. PAYING A FEE TO COVER THE COST FOR THE DEPARTMENT OR ITS CONTRACTOR TO REVIEW THE STUDY;

in lines 9 and 11, strike “(vi)” and “(VII)”, respectively, and substitute “(XI)” and “(XII)”, respectively; in line 11, after “FEE” insert “**OF \$100 PER COVERED BUILDING, ADJUSTED FOR INFLATION,**”; in line 12, strike “UNDER THIS SECTION” and substitute “**OF THE PROGRAM**”; in line 13, after “(3)” insert “**(I) AN OWNER OF A COVERED BUILDING THAT IS EXEMPT FROM ENERGY USE INTENSITY TARGETS UNDER PARAGRAPH (2)(IV) OF THIS SUBSECTION SHALL PROVIDE AN AFFIDAVIT SIGNED BY AN OFFICER OR PRINCIPAL CONTROLLING MEMBER, SHAREHOLDER, OR PARTNER OF THE OWNER OF THE COVERED BUILDING THAT PROVIDES:**

1. THE ADDRESS OF EACH BUILDING FOR WHICH THE EXEMPTION APPLIES; AND

2. A STATEMENT CONFIRMING THAT AS OF THE DATE OF THE AFFIDAVIT THE BUILDING MEETS THE STANDARDS SET FORTH IN PARAGRAPH (2)(IV) OF THIS SUBSECTION.

(II) INFORMATION SUBMITTED TO THE DEPARTMENT UNDER PARAGRAPH (2)(IV) OF THIS SUBSECTION AND THIS PARAGRAPH IS EXEMPT FROM DISCLOSURE IN ACCORDANCE WITH § 4-301(A)(2) OF THE GENERAL PROVISIONS ARTICLE.

(4) (I);

(Over)

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in line 15, after “Agency” insert “THAT IS IN THE AMOUNT OF \$190 PER METRIC TON OF EXCESS CARBON DIOXIDE EQUIVALENT, ADJUSTED FOR INFLATION USING 2020 AS THE BASELINE YEAR FOR CALCULATING THE ADJUSTMENT”; after line 15, insert:

“(II) IF A COVERED BUILDING EXERCISES THE ALTERNATIVE COMPLIANCE FEE OPTION FOR BOTH DIRECT GREENHOUSE GAS EMISSIONS TARGETS AND ENERGY USE INTENSITY TARGETS, THE DEPARTMENT SHALL COLLECT ONLY THE HIGHER OF THE TWO FEES.

(5) (I) A WAIVER GRANTED UNDER PARAGRAPH (2)(X) OF THIS SUBSECTION:

1. SHALL REMAIN IN EFFECT FOR A PERIOD OF 5 YEARS; AND

2. MAY BE RENEWED.

(II) IN MAKING A DETERMINATION ON A WAIVER REQUEST SUBMITTED UNDER PARAGRAPH (2)(X) OF THIS SUBSECTION, THE DEPARTMENT SHALL:

1. IF A COVERED BUILDING EXERCISES THE ALTERNATIVE COMPLIANCE FEE OPTION FOR BOTH DIRECT GREENHOUSE GAS EMISSIONS TARGETS AND ENERGY USE INTENSITY TARGETS, CONSIDER ONLY THE HIGHER OF THE TWO FEES WHEN CALCULATING AVOIDED COMPLIANCE PATHWAY PAYMENTS; AND

2. CONSIDER THE AVAILABILITY OF CAPITAL.”;

in line 16, strike “(4)” and substitute “(6)”; and after line 19, insert:

“(7) (I) THE DEPARTMENT SHALL:

1. OFFER TRAINING TO HELP ENERGY AUDITORS THAT POSSESS, IN GOOD STANDING, A PROFESSIONAL LICENSE OR CREDENTIAL RECOGNIZED BY THE DEPARTMENT UNDERSTAND THE REGULATIONS ADOPTED UNDER THIS SECTION, INCLUDING REQUIREMENTS FOR ALTERNATIVE COMPLIANCE PLANS AND ENGINEERING STUDIES;

2. PUBLISH A LIST OF ENERGY AUDITORS THAT HAVE COMPLETED THE TRAINING OFFERED UNDER ITEM 1 OF THIS SUBPARAGRAPH;
AND

3. INCLUDE A FEE TO COVER THE COST FOR THE DEPARTMENT OR ITS CONTRACTOR TO PROVIDE THE TRAINING.

(II) AN OWNER OF A COVERED BUILDING SHALL CONTRACT WITH AN ENERGY AUDITOR THAT COMPLETED THE TRAINING REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH TO SUBMIT AN ENGINEERING PLAN OR STUDY SEEKING A WAIVER UNDER PARAGRAPH (2)(IX) AND (X) OF THIS SUBSECTION.

(8) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DEPARTMENT MAY CERTIFY A BUILDING ENERGY PERFORMANCE STANDARDS PROGRAM ADOPTED BY A COUNTY AND WAIVE THE REQUIREMENT FOR A COVERED BUILDING TO COMPLY WITH THE STATEWIDE PROGRAM ADOPTED UNDER THIS SECTION WHEN:

(Over)

1. THE DEPARTMENT DETERMINES, BASED ON A DEMONSTRATION PROVIDED BY THE COUNTY, THAT THE COUNTY HAS ADOPTED A BUILDING ENERGY PERFORMANCE STANDARDS PROGRAM THAT IS AT LEAST AS STRINGENT AS THE STATEWIDE PROGRAM ADOPTED UNDER THIS SECTION; AND

2. THE COUNTY ANNUALLY SUBMITS TO THE DEPARTMENT A COMPLETE LIST OF COVERED BUILDINGS, INCLUDING THEIR ENERGY USE INTENSITY, DIRECT GREENHOUSE GAS EMISSIONS, AND COMPLIANCE STATUS WITH THE COUNTY PROGRAM.

(II) A COUNTY ADMINISTERING A BUILDING ENERGY PERFORMANCE STANDARDS PROGRAM CERTIFIED BY THE DEPARTMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY TAKE APPROPRIATE ACTIONS TO ENFORCE THE STANDARDS, INCLUDING:

1. ESTABLISHING ALTERNATIVE COMPLIANCE PATHWAYS FOR COMPLYING WITH ENERGY USE INTENSITY AND DIRECT GREENHOUSE GAS EMISSIONS REQUIREMENTS ESTABLISHED IN THE STANDARDS;

2. IMPOSING AND COLLECTING ALTERNATIVE COMPLIANCE FEES IN THE SAME AMOUNT AND MANNER ALLOWED BY THE DEPARTMENT UNDER THIS SECTION; AND

3. IMPOSING AND COLLECTING PENALTIES IN THE SAME AMOUNT AND MANNER ALLOWED BY THE DEPARTMENT UNDER § 2-610 OF THIS TITLE.

(9) NOTHING IN THIS SECTION SHALL PRECLUDE A COUNTY FROM ADOPTING BUILDING ENERGY PERFORMANCE STANDARDS FOR BUILDINGS THAT

ARE NOT COVERED BUILDINGS UNDER THE STATEWIDE PROGRAM ADOPTED UNDER THIS SECTION.

(F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT MAY NOT:

(I) IMPOSE AND COLLECT ALTERNATIVE COMPLIANCE FEES UNDER THIS SECTION UNTIL 2032; OR

(II) IMPOSE AND COLLECT PENALTIES FOR FAILURE TO ACHIEVE BUILDING ENERGY PERFORMANCE STANDARDS UNDER THIS SECTION UNTIL 2032.

(2) THE PROHIBITION UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION DOES NOT APPLY TO THE IMPOSITION AND COLLECTION OF PENALTIES FOR FAILURE TO MEET ANY REPORTING REQUIREMENTS UNDER THIS SECTION.”.

AMENDMENT NO. 3

On page 3, in line 27, strike “and (iii)” and substitute “, (III), (IV), AND (V)”.

On page 4, strike beginning with “as” in line 5 down through “Article” in line 6; in line 6, strike “and”; after line 8, insert:

“5. CREDITING THE GENERATION OF ON-SITE RENEWABLE ENERGY BY COVERED BUILDINGS TOWARD THEIR ENERGY USE INTENSITY TARGETS;

6. CREDITING THE GREENHOUSE GAS REDUCTION IMPACT OF THE ON-SITE USE OF BIOMETHANE;

(Over)

7. EXCLUDING THE ENERGY USE AND GREENHOUSE GAS EMISSIONS RELATED TO THE PRODUCTION OF STEAM FOR STERILIZATION IN A HEALTH CARE FACILITY, LABORATORY, ASSISTED LIVING AND NURSING FACILITY, MILITARY BUILDING, OR BUILDING USED IN LIFE SCIENCES;

8. EXCLUDING THE ENERGY USE AND GREENHOUSE GAS EMISSIONS RELATED TO THE GENERATION OF EMERGENCY BACKUP POWER AT A HEALTH CARE FACILITY, LABORATORY, ASSISTED LIVING AND NURSING FACILITY, MILITARY BUILDING, CRITICAL INFRASTRUCTURE, OR BUILDING USED IN LIFE SCIENCES; AND

9. OPERATIONAL NEEDS, INCLUDING SCALING FACTORS TO ADJUST FOR DIFFERENT OPERATING HOURS;”;

in line 16, after “(iv)” insert “SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, EXEMPT FROM ENERGY USE INTENSITY TARGETS A COVERED BUILDING THAT CONTAINS AN AREA DESIGNED, BUILT, AND OPERATED AS A PERMANENT SENSITIVE COMPARTMENTED INFORMATION FACILITY AND IS OPERATED BY AN AGENCY OR CONTRACTOR OF:

1. THE U.S. GENERAL SERVICES ADMINISTRATION;

2. A. THE U.S. DEPARTMENT OF DEFENSE;

B. THE NATIONAL SECURITY AGENCY;

C. THE U.S. DEPARTMENT OF HOMELAND

SECURITY; OR

D. ANY OTHER U.S. INTELLIGENCE AGENCY; OR

3. THE STATE;

(v) EXEMPT AN OWNER OF A COVERED BUILDING FROM ENERGY USE INTENSITY REPORTING REQUIREMENTS IF:

1. THE COVERED BUILDING MEETS THE CRITERIA UNDER ITEM (IV) OF THIS PARAGRAPH; AND

2. THE TENANT OR OCCUPANT DOES NOT PROVIDE ENERGY USE INFORMATION TO THE OWNER OF THE COVERED BUILDING DUE TO CONCERNS ABOUT THE CONFIDENTIALITY OF THE BUILDING'S SECURE AREA;

(vi);

in line 18, strike "(v)" and substitute "**(vii)**"; in the same line, strike "(3)" and substitute "**(4)**"; in the same line, after "subsection" insert "**AND SUBSECTION (F) OF THIS SECTION**"; in line 19, in each instance, strike the bracket; strike beginning with the colon in line 19 down through "**GREENHOUSE**" in line 20; strike beginning with "and" in line 21 down through "**TARGETS;**" in line 23; after line 23, insert:

"(viii) SUBJECT TO PARAGRAPH (4)(ii) OF THIS SUBSECTION AND SUBSECTION (F) OF THIS SECTION, INCLUDE AN ALTERNATIVE COMPLIANCE PATHWAY ALLOWING THE OWNER OF A COVERED BUILDING TO PAY A FEE OF 5 CENTS PER THOUSAND BRITISH THERMAL UNITS OF ENERGY, ADJUSTED FOR INFLATION USING 2020 AS THE BASELINE YEAR FOR CALCULATING THE ADJUSTMENT, FOR ENERGY USE ATTRIBUTABLE TO THE BUILDING'S FAILURE TO MEET ENERGY USE INTENSITY TARGETS;

(Over)

(IX) ALLOW THE OWNER OF A COVERED BUILDING TO REQUEST A ONE-TIME WAIVER, FOR THE ENTIRE BUILDING, FROM PAYING AN ALTERNATIVE COMPLIANCE PATHWAY FEE UNDER ITEMS (VII) AND (VIII) OF THIS PARAGRAPH THROUGH NOT LATER THAN 2039 FOR ENERGY OR EMISSIONS ATTRIBUTABLE TO CONTINUED OPERATION OF EQUIPMENT INSTALLED BEFORE 2025 FOR THE EXPECTED AVERAGE REMAINING LIFESPAN OF THAT EQUIPMENT, AS IDENTIFIED BY A PUBLICLY AVAILABLE DATABASE SELECTED BY THE DEPARTMENT, BY:

1. SUBMITTING TO THE DEPARTMENT, AT LEAST 1 YEAR BEFORE THE REQUESTED WAIVER WOULD TAKE EFFECT:

A. AN INVENTORY OF DESCRIPTIONS, SERIAL NUMBERS, AND INSTALLATION DATES OF THE EQUIPMENT THAT PROVIDES THE BASIS OF THE WAIVER APPLICATIONS; AND

B. A PLAN PREPARED BY AN ENERGY AUDITOR THAT COMPLETED THE TRAINING REQUIRED UNDER PARAGRAPH (7) OF THIS SUBSECTION DETAILING THE DATES THAT SPECIFIC PROJECTS WILL BE COMPLETED AND THE ENERGY USE INTENSITY AND GREENHOUSE GAS EMISSIONS SAVINGS THAT WILL RESULT FROM THE PROJECTS;

2. DEMONSTRATING IN THE PLAN PREPARED UNDER ITEM 1B OF THIS ITEM HOW THE BUILDING WILL COME INTO COMPLIANCE WITH THE FINAL TARGETS BEFORE 2040 WITH MINIMAL RELIANCE ON ALTERNATIVE COMPLIANCE PATHWAY PAYMENTS;

3. CERTIFYING THAT THE PROJECTS WILL BE COMPLETED BY THE DATES DETAILED UNDER ITEM 1B OF THIS ITEM, OR THAT THE EXEMPTED ALTERNATIVE COMPLIANCE PATHWAY FEES WILL BE PAID IF THE PROJECTS ARE NOT COMPLETED BY THOSE DATES; AND

4. PAYING A FEE TO COVER THE COST FOR THE DEPARTMENT OR ITS CONTRACTOR TO REVIEW THE PLAN;

(X) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, ALLOW THE OWNER OF A COVERED BUILDING TO REQUEST A WAIVER FROM PAYING ALTERNATIVE COMPLIANCE PATHWAY FEES FOR ENERGY USE OR GREENHOUSE GAS EMISSIONS ASSOCIATED WITH ENERGY OR EMISSIONS REDUCTION MEASURES THAT THE DEPARTMENT DETERMINES TO BE IMPRACTICABLE OR ECONOMICALLY INFEASIBLE BY:

1. SUBMITTING TO THE DEPARTMENT, AT LEAST 1 YEAR BEFORE THE REQUESTED WAIVER WOULD TAKE EFFECT, AN ENGINEERING STUDY PREPARED BY AN ENERGY AUDITOR THAT COMPLETED THE TRAINING REQUIRED UNDER PARAGRAPH (7) OF THIS SUBSECTION DETAILING THE PRACTICABILITY OR IMPRACTICABILITY OR ECONOMIC FEASIBILITY OR INFEASIBILITY OF ENERGY OR EMISSIONS REDUCTION MEASURES THAT WOULD BE NEEDED TO ACHIEVE THE ENERGY USE INTENSITY AND DIRECT GREENHOUSE GAS EMISSIONS REDUCTION TARGETS;

2. DETAILING THE ENERGY USE INTENSITY OR DIRECT GREENHOUSE GAS EMISSIONS ABOVE TARGET LEVELS THAT WOULD OCCUR IF THE OWNER OF THE COVERED BUILDING DOES NOT IMPLEMENT THE IMPRACTICABLE OR ECONOMICALLY INFEASIBLE MEASURES; AND

(Over)

3. PAYING A FEE TO COVER THE COST FOR THE DEPARTMENT OR ITS CONTRACTOR TO REVIEW THE STUDY;

in lines 24 and 26, strike “(vi)” and “(VII)”, respectively, and substitute “(XI)” and “(XII)”, respectively; in line 26, after “FEE” insert “OF \$100 PER COVERED BUILDING, ADJUSTED FOR INFLATION,”; in line 27, strike “UNDER THIS SECTION” and substitute “OF THE PROGRAM”; in line 28, after “(3)” insert “(I) AN OWNER OF A COVERED BUILDING THAT IS EXEMPT FROM ENERGY USE INTENSITY TARGETS UNDER PARAGRAPH (2)(IV) OF THIS SUBSECTION SHALL PROVIDE AN AFFIDAVIT SIGNED BY AN OFFICER OR PRINCIPAL CONTROLLING MEMBER, SHAREHOLDER, OR PARTNER OF THE OWNER OF THE COVERED BUILDING THAT PROVIDES:

1. THE ADDRESS OF EACH BUILDING FOR WHICH THE EXEMPTION APPLIES; AND

2. A STATEMENT CONFIRMING THAT AS OF THE DATE OF THE AFFIDAVIT THE BUILDING MEETS THE STANDARDS SET FORTH IN PARAGRAPH (2)(IV) OF THIS SUBSECTION.

(II) INFORMATION SUBMITTED TO THE DEPARTMENT UNDER PARAGRAPH (2)(IV) OF THIS SUBSECTION AND THIS PARAGRAPH IS EXEMPT FROM DISCLOSURE IN ACCORDANCE WITH § 4-301(A)(2) OF THE GENERAL PROVISIONS ARTICLE.

(4) (I);

in line 30, after “Agency” insert “THAT IS IN THE AMOUNT OF \$190 PER METRIC TON OF EXCESS CARBON DIOXIDE EQUIVALENT, ADJUSTED FOR INFLATION USING 2020 AS THE BASELINE YEAR FOR CALCULATING THE ADJUSTMENT”; and after line 30, insert:

“(II) IF A COVERED BUILDING EXERCISES THE ALTERNATIVE COMPLIANCE FEE OPTION FOR BOTH DIRECT GREENHOUSE GAS EMISSIONS TARGETS AND ENERGY USE INTENSITY TARGETS, THE DEPARTMENT SHALL COLLECT ONLY THE HIGHER OF THE TWO FEES.

(5) (I) A WAIVER GRANTED UNDER PARAGRAPH (2)(X) OF THIS SUBSECTION:

1. SHALL REMAIN IN EFFECT FOR A PERIOD OF 5 YEARS; AND

2. MAY BE RENEWED.

(II) IN MAKING A DETERMINATION ON A WAIVER REQUEST SUBMITTED UNDER PARAGRAPH (2)(X) OF THIS SUBSECTION, THE DEPARTMENT SHALL:

1. IF A COVERED BUILDING EXERCISES THE ALTERNATIVE COMPLIANCE FEE OPTION FOR BOTH DIRECT GREENHOUSE GAS EMISSIONS TARGETS AND ENERGY USE INTENSITY TARGETS, CONSIDER ONLY THE HIGHER OF THE TWO FEES WHEN CALCULATING AVOIDED COMPLIANCE PATHWAY PAYMENTS; AND

2. CONSIDER THE AVAILABILITY OF CAPITAL.”.

On page 5, in line 1, strike “(4)” and substitute “(6)”; and after line 4, insert:

“(7) (I) THE DEPARTMENT SHALL:

(Over)

1. OFFER TRAINING TO HELP ENERGY AUDITORS THAT POSSESS, IN GOOD STANDING, A PROFESSIONAL LICENSE OR CREDENTIAL RECOGNIZED BY THE DEPARTMENT UNDERSTAND THE REGULATIONS ADOPTED UNDER THIS SECTION, INCLUDING REQUIREMENTS FOR ALTERNATIVE COMPLIANCE PLANS AND ENGINEERING STUDIES;

2. PUBLISH A LIST OF ENERGY AUDITORS THAT HAVE COMPLETED THE TRAINING OFFERED UNDER ITEM 1 OF THIS SUBPARAGRAPH; AND

3. INCLUDE A FEE TO COVER THE COST FOR THE DEPARTMENT OR ITS CONTRACTOR TO PROVIDE THE TRAINING.

(II) AN OWNER OF A COVERED BUILDING SHALL CONTRACT WITH AN ENERGY AUDITOR THAT COMPLETED THE TRAINING REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH TO SUBMIT AN ENGINEERING PLAN OR STUDY SEEKING A WAIVER UNDER PARAGRAPHS (2)(IX) AND (X) OF THIS SUBSECTION.

(8) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DEPARTMENT MAY CERTIFY A BUILDING ENERGY PERFORMANCE STANDARDS PROGRAM ADOPTED BY A COUNTY AND WAIVE THE REQUIREMENT FOR A COVERED BUILDING TO COMPLY WITH THE STATEWIDE PROGRAM ADOPTED UNDER THIS SECTION WHEN:

1. THE DEPARTMENT DETERMINES, BASED ON A DEMONSTRATION PROVIDED BY THE COUNTY, THAT THE COUNTY HAS ADOPTED A BUILDING ENERGY PERFORMANCE STANDARDS PROGRAM THAT IS AT LEAST AS STRINGENT AS THE STATEWIDE PROGRAM ADOPTED UNDER THIS SECTION; AND

2. THE COUNTY ANNUALLY SUBMITS TO THE DEPARTMENT A COMPLETE LIST OF COVERED BUILDINGS, INCLUDING THEIR ENERGY USE INTENSITY, DIRECT GREENHOUSE GAS EMISSIONS, AND COMPLIANCE STATUS WITH THE COUNTY PROGRAM.

(II) A COUNTY ADMINISTERING A BUILDING ENERGY PERFORMANCE STANDARDS PROGRAM CERTIFIED BY THE DEPARTMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY TAKE APPROPRIATE ACTIONS TO ENFORCE THE STANDARDS, INCLUDING:

1. ESTABLISHING ALTERNATIVE COMPLIANCE PATHWAYS FOR COMPLYING WITH ENERGY USE INTENSITY AND DIRECT GREENHOUSE GAS EMISSIONS REQUIREMENTS ESTABLISHED IN THE STANDARDS;

2. IMPOSING AND COLLECTING ALTERNATIVE COMPLIANCE FEES IN THE SAME AMOUNT AND MANNER ALLOWED BY THE DEPARTMENT UNDER THIS SECTION; AND

3. IMPOSING AND COLLECTING PENALTIES IN THE SAME AMOUNT AND MANNER ALLOWED BY THE DEPARTMENT UNDER § 2-610 OF THIS TITLE.

(9) NOTHING IN THIS SECTION SHALL PRECLUDE A COUNTY FROM ADOPTING BUILDING ENERGY PERFORMANCE STANDARDS FOR BUILDINGS THAT ARE NOT COVERED BUILDINGS UNDER THE STATEWIDE PROGRAM ADOPTED UNDER THIS SECTION.

(F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT MAY NOT:

(I) IMPOSE AND COLLECT ALTERNATIVE COMPLIANCE FEES UNDER THIS SECTION UNTIL 2032; OR

(II) IMPOSE AND COLLECT PENALTIES FOR FAILURE TO ACHIEVE BUILDING ENERGY PERFORMANCE STANDARDS UNDER THIS SECTION UNTIL 2032.

(2) THE PROHIBITION UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION DOES NOT APPLY TO THE IMPOSITION AND COLLECTION OF PENALTIES FOR FAILURE TO MEET ANY REPORTING REQUIREMENTS UNDER THIS SECTION.”.

AMENDMENT NO. 4

On page 5, after line 6, insert:

“Article – Economic Development

3–201.

(a) In this subtitle the following words have the meanings indicated.

(d) “Life sciences” includes the fields of biotechnology, pharmaceuticals, biomedical technologies, life systems technologies, food sciences, environmental sciences, and biomedical devices.

Article – Environment

2–1202.

(a) In this subtitle the following words have the meanings indicated.

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(h) (1) “Manufacturing” means the process of substantially transforming, or a substantial step in the process of substantially transforming, tangible personal property into a new and different article of tangible personal property by the use of labor or machinery.

(2) “Manufacturing”, when performed by companies primarily engaged in the activities described in paragraph (1) of this subsection, includes:

(i) The operation of saw mills, grain mills, or feed mills;

(ii) The operation of machinery and equipment used to extract and process minerals, metals, or earthen materials or by-products that result from the extracting or processing; and

(iii) Research and development activities.

(3) “Manufacturing” does not include:

(i) Activities that are primarily a service;

(ii) Activities that are intellectual, artistic, or clerical in nature;

(iii) Public utility services, including gas, electric, water, and steam production services;

(iv) The production of cement; or

(v) Any other activity that would not commonly be considered as manufacturing.

2-1601.

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(a) In this subtitle the following words have the meanings indicated.

(b) (1) “Agricultural building” means a structure that is used primarily to cultivate, manufacture, process, or produce agricultural crops, raw materials, products, or commodities.

(2) “Agricultural building” includes a greenhouse.

(c) “Building” has the meaning stated in the International Building Code.

(d) “Commercial building” means a building that is subject to the commercial provisions of the International Energy Conservation Code.

(e) (1) “Covered building” means a building that:

(i) 1. Is a commercial or multifamily residential building in the State; or

2. Is owned by the State; and

(ii) Has a gross floor area of 35,000 square feet or more, excluding the parking garage area.

(2) “Covered building” does not include:

(i) A building designated as a historic property under federal, State, or local law;

(ii) A public or nonpublic elementary or secondary school building;

(iii) **A HOSPITAL;**

(IV) A [manufacturing] building IN WHICH 50% OR MORE OF THE BUILDING’S GROSS FLOOR AREA IS USED FOR MANUFACTURING, AS DEFINED IN § 2–1202 OF THIS ARTICLE; or

[(iv)] (v) An agricultural building.

(f) “CRITICAL INFRASTRUCTURE” HAS THE MEANING STATED IN § 1–101 OF THE PUBLIC UTILITIES ARTICLE.

(G) “Direct greenhouse gas emissions” means greenhouse gas emissions produced on–site by covered buildings.

[(g)] (H) “District energy” means thermal energy generated at one or more central facilities that produce hot water, steam, or chilled water that then flows through a network of insulated underground pipes to provide hot water, space heating, air conditioning, or chilled water to nearby buildings.

(I) “ECONOMICALLY INFEASIBLE” MEANS:

(1) FOR A COVERED BUILDING THAT IS A MULTIFAMILY RESIDENTIAL BUILDING, THE EXPECTED PAYBACK PERIOD FOR AN ENERGY OR EMISSIONS REDUCTION MEASURE IS MORE THAN 10 YEARS, AS OF THE DATE OF SUBMITTAL OF A WAIVER REQUEST TO THE DEPARTMENT UNDER § 2–1602(C)(2)(X) OF THIS SUBTITLE, ACCOUNTING FOR ALL AVAILABLE INCENTIVES AND AVOIDED ALTERNATIVE COMPLIANCE PATHWAY PAYMENTS; AND

(2) FOR A COVERED BUILDING THAT IS NOT A MULTIFAMILY RESIDENTIAL BUILDING, THE EXPECTED PAYBACK PERIOD FOR AN ENERGY OR EMISSIONS REDUCTION MEASURE IS MORE THAN 25 YEARS, AS OF THE DATE OF

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SUBMITTAL OF A WAIVER REQUEST TO THE DEPARTMENT UNDER § 2-1602(C)(2)(X) OF THIS SUBTITLE, ACCOUNTING FOR ALL AVAILABLE INCENTIVES AND AVOIDED ALTERNATIVE COMPLIANCE PATHWAY PAYMENTS.

(J) “ENERGY OR EMISSIONS REDUCTION MEASURE” MEANS A PHYSICAL CHANGE TO A BUILDING OR A CONNECTION TO A DISTRICT ENERGY SYSTEM THAT REDUCES THE BUILDING’S ENERGY USE OR GREENHOUSE GAS EMISSIONS AT THE LOWEST PRACTICABLE COST.

(K) “IMPRACTICABLE” INCLUDES THAT AN ENERGY OR EMISSIONS REDUCTION MEASURE NECESSARY TO COMPLY WITH THIS SUBTITLE CANNOT BE REASONABLY IMPLEMENTED, INCLUDING DUE TO LACK OF EXISTING TECHNOLOGY.

(L) “LIFE SCIENCES” HAS THE MEANING STATED IN § 3-201 OF THE ECONOMIC DEVELOPMENT ARTICLE.

Article – Public Utilities

1-101.

(a) In this division the following words have the meanings indicated.

(h-1) (1) “Critical infrastructure” means assets, systems, and networks, whether physical or virtual, considered by the U.S. Department of Homeland Security to be so vital to the United States that their incapacitation or destruction would have a debilitating effect on one or more of the following:

(i) security;

(ii) national economic security;

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(iii) national public health; or

(iv) safety.

(2) “Critical infrastructure” includes:

(i) a hospital or health care facility; and

(ii) a data center as defined in § 11-239 of the Tax – General Article.”;

in line 25, strike “FEES PAID” and substitute “PATHWAY PAYMENTS”; in the same line, strike “2-1602(C)(2)(V)” and substitute “2-1602(C)(2)(VII)”; and after line 26, insert:

“(G-2)(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, PROCEEDS RECEIVED BY THE FUND FROM ALTERNATIVE COMPLIANCE PATHWAY PAYMENTS UNDER § 2-1602 OF THE ENVIRONMENT ARTICLE SHALL BE USED TO PROVIDE GRANTS AND LOANS TO HELP OWNERS OF COVERED BUILDINGS COMPLY WITH REGULATIONS ADOPTED UNDER § 2-1602 OF THE ENVIRONMENT ARTICLE.

(2) UP TO 10% OF ALTERNATIVE COMPLIANCE PATHWAY PAYMENTS UNDER § 2-1602 OF THE ENVIRONMENT ARTICLE MAY BE USED FOR ADMINISTRATION OF THE GRANTS AND LOANS DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION.”.