

HOUSE BILL 49

M3

(5lr0290)

ENROLLED BILL

— *Environment and Transportation/Education, Energy, and the Environment* —

Introduced by **Chair, Environment and Transportation Committee (By Request – Departmental – Environment)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Environment – Building Energy Performance Standards – ~~Compliance and~~**
3 **Reporting Alterations and Analysis**

4 FOR the purpose of ~~altering an alternative compliance fee paid by certain owners of covered~~
5 ~~buildings under certain circumstances to include the energy use attributable to the~~
6 ~~building's failure to meet certain energy targets; requiring certain regulations to~~
7 ~~include a certain annual reporting fee to cover certain costs; requiring the~~
8 ~~Department of the Environment to deposit alternative compliance fees into the~~
9 ~~Maryland Strategic Energy Investment Fund; and generally relating to compliance~~
10 ~~and reporting for Building Energy Performance Standards~~ altering the requirements
11 for certain regulations adopted by the Department of the Environment relating to
12 building energy performance standards to include certain ~~crediting, exclusions, and~~
13 considerations, a certain alternative compliance pathway fee for energy use
14 attributable to a building's failure to meet energy use intensity targets, certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 ~~waivers from certain alternative compliance pathway fees, and a certain annual~~
 2 ~~reporting fee to cover certain costs; requiring the Department to offer certain~~
 3 ~~training to help certain energy auditors understand the requirements under the~~
 4 ~~building energy performance standards and publish a list of energy auditors that~~
 5 ~~have completed the training and a certain annual reporting fee to cover certain costs;~~
 6 ~~authorizing~~ requiring the Department to certify a certain building energy
 7 performance standards program adopted by a county under certain circumstances;
 8 requiring the Department to ~~deposit alternative compliance pathway payments into~~
 9 ~~the Maryland Strategic Energy Investment Fund~~ *conduct a certain analysis*; and
 10 generally relating to building energy performance standards.

11 BY repealing and reacting, with amendments,
 12 Article – Environment
 13 Section ~~2–1601~~ and ~~2–1602(c)~~
 14 Annotated Code of Maryland
 15 (2013 Replacement Volume and 2024 Supplement)

16 ~~BY adding to~~
 17 ~~Article – Environment~~
 18 ~~Section 2–1602(f)~~
 19 ~~Annotated Code of Maryland~~
 20 ~~(2013 Replacement Volume and 2024 Supplement)~~

21 BY repealing and reenacting, with amendments,
 22 Article – Environment
 23 Section ~~2–1602(c)~~
 24 Annotated Code of Maryland
 25 (2013 Replacement Volume and 2024 Supplement)
 26 (As enacted by Chapter 38 of the Acts of the General Assembly of 2022)

27 BY repealing and reenacting, without amendments,
 28 Article – Economic Development
 29 Section ~~3–201(a)~~ and (d)
 30 Annotated Code of Maryland
 31 (2024 Replacement Volume and 2024 Supplement)

32 BY repealing and reenacting, without amendments,
 33 Article – Environment
 34 Section ~~2–1202(a)~~ and (h)
 35 Annotated Code of Maryland
 36 (2013 Replacement Volume and 2024 Supplement)

37 BY repealing and reenacting, without amendments,
 38 Article – Public Utilities
 39 Section ~~1–101(a)~~ and (h–1)
 40 Annotated Code of Maryland
 41 (2020 Replacement Volume and 2024 Supplement)

1 ~~BY repealing and reenacting, without amendments,~~
 2 ~~Article State Government~~
 3 ~~Section 9-20B-05(a) and (b)~~
 4 ~~Annotated Code of Maryland~~
 5 ~~(2021 Replacement Volume and 2024 Supplement)~~

6 ~~BY repealing and reenacting, with amendments,~~
 7 ~~Article State Government~~
 8 ~~Section 9-20B-05(e)~~
 9 ~~Annotated Code of Maryland~~
 10 ~~(2021 Replacement Volume and 2024 Supplement)~~

11 ~~BY adding to~~
 12 ~~Article State Government~~
 13 ~~Section 9-20B-05(g-2)~~
 14 ~~Annotated Code of Maryland~~
 15 ~~(2021 Replacement Volume and 2024 Supplement)~~

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

18 Article – Environment

19 2–1602.

20 (c) (1) On or before June 1, 2023, the Department shall adopt regulations to
 21 implement this section.

22 (2) Regulations adopted under this section shall:

23 (i) Subject to items (ii) ~~and (iii), (III), (IV), AND (V)~~ of this
 24 paragraph, include energy use intensity targets by building type;

25 (ii) As necessary, include special provisions or exceptions to account
 26 for:

27 1. Building age;

28 2. Regional differences;

29 3. The unique needs of particular building or occupancy
 30 types, including health care facilities, laboratories, assisted living and nursing facilities,
 31 military buildings, critical infrastructure, and buildings used in life sciences **AS DEFINED**
 32 **IN § 3–201 OF THE ECONOMIC DEVELOPMENT ARTICLE** ~~as defined in § 3–201 of the~~
 33 ~~Economic Development Article; and~~

1 4. The use of district energy systems and biofuels by covered
2 buildings;

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

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

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

12 **8. EXCLUDING THE ENERGY USE AND GREENHOUSE GAS**
13 **EMISSIONS RELATED TO THE GENERATION OF EMERGENCY BACKUP POWER AT A**
14 **HEALTH CARE FACILITY, LABORATORY, ASSISTED LIVING AND NURSING FACILITY,**
15 **MILITARY BUILDING, CRITICAL INFRASTRUCTURE, ~~EXCEPT FOR ANY CRITICAL~~**
16 **~~INFRASTRUCTURE IDENTIFIED UNDER § 1-101(H-1)(2)(H) OF THE PUBLIC~~**
17 **~~UTILITIES ARTICLE,~~ OR BUILDING USED IN LIFE SCIENCES; AND**

18 **~~9. OPERATIONAL NEEDS, INCLUDING SCALING FACTORS~~**
19 **~~TO ADJUST FOR DIFFERENT OPERATING HOURS;~~**

20 (iii) Consider the needs of the owners of covered buildings who:

21 1. Are not responsible for the design, modification, fixtures,
22 or equipment of commercial tenants;

23 2. Do not have access to or control over building energy
24 systems that are used or controlled by commercial tenants; or

25 3. Own buildings occupied by commercial tenants who are
26 responsible for all maintenance of and repairs to the buildings;

27 (iv) **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, EXEMPT**
28 **FROM ENERGY USE INTENSITY TARGETS A COVERED BUILDING THAT CONTAINS AN**
29 **AREA DESIGNED, BUILT, AND OPERATED AS A PERMANENT SENSITIVE**
30 **COMPARTMENTED INFORMATION FACILITY AND IS OPERATED BY AN AGENCY OR**
31 **CONTRACTOR OF:**

32 **1. THE U.S. GENERAL SERVICES ADMINISTRATION;**

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

2 B. THE NATIONAL SECURITY AGENCY;

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

4 OR

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

6 3. THE STATE;

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

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

11 2. THE IN CIRCUMSTANCES WHERE TENANT
12 AUTHORIZATION IS REQUIRED, THE TENANT OR OCCUPANT DOES NOT PROVIDE
13 ENERGY USE INFORMATION TO THE OWNER OF THE COVERED BUILDING DUE TO
14 CONCERNS ABOUT THE CONFIDENTIALITY OF THE BUILDING'S SECURE AREA;

15 (VI) Provide maximum flexibility to the owners of covered buildings
16 to comply with building energy performance standards;

17 (⇌) (VII) Subject to paragraph (⇌) ~~(4)~~ (3) of this subsection ~~AND~~
18 ~~SUBSECTION (F) OF THIS SECTION~~, include an alternative compliance pathway allowing
19 the owner of a covered building to pay a fee for ~~†greenhouse†~~

20 1. ~~GREENHOUSE~~ gas emissions attributable to the
21 building's failure to meet direct greenhouse gas emissions reduction targets; ~~and~~

22 2. ~~ENERGY USE ATTRIBUTABLE TO THE BUILDING'S~~
23 ~~FAILURE TO MEET ENERGY USE INTENSITY TARGETS;~~

24 ~~(VIII) SUBJECT TO PARAGRAPH (4)(II) OF THIS SUBSECTION AND~~
25 ~~SUBSECTION (F) OF THIS SECTION, INCLUDE AN ALTERNATIVE COMPLIANCE~~
26 ~~PATHWAY ALLOWING THE OWNER OF A COVERED BUILDING TO PAY A FEE OF 5~~
27 ~~CENTS PER THOUSAND BRITISH THERMAL UNITS OF ENERGY, ADJUSTED FOR~~
28 ~~INFLATION USING 2020 AS THE BASELINE YEAR FOR CALCULATING THE~~
29 ~~ADJUSTMENT, FOR ENERGY USE ATTRIBUTABLE TO THE BUILDING'S FAILURE TO~~
30 ~~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;~~

~~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~~

~~1 UNDER PARAGRAPH (7) OF THIS SUBSECTION DETAILING THE PRACTICABILITY OR
2 IMPRACTICABILITY OR ECONOMIC FEASIBILITY OR INFEASIBILITY OF ENERGY OR
3 EMISSIONS REDUCTION MEASURES THAT WOULD BE NEEDED TO ACHIEVE THE
4 ENERGY USE INTENSITY AND DIRECT GREENHOUSE GAS EMISSIONS REDUCTION
5 TARGETS;~~

~~6 2. DETAILING THE ENERGY USE INTENSITY OR DIRECT
7 GREENHOUSE GAS EMISSIONS ABOVE TARGET LEVELS THAT WOULD OCCUR IF THE
8 OWNER OF THE COVERED BUILDING DOES NOT IMPLEMENT THE IMPRACTICABLE OR
9 ECONOMICALLY INFEASIBLE MEASURES; AND~~

~~10 3. PAYING A FEE TO COVER THE COST FOR THE
11 DEPARTMENT OR ITS CONTRACTOR TO REVIEW THE STUDY;~~

~~(VI) (XI) (VIII)~~ To the extent authorized by law, include financial incentives recommended by the Building Energy Transition Implementation Task Force;
14 AND

~~(VII) (XII) (IX)~~ INCLUDE AN ANNUAL REPORTING FEE OF \$100 PER COVERED BUILDING, ADJUSTED FOR INFLATION, TO COVER THE ADMINISTRATIVE COSTS UNDER THIS SECTION OF THE PROGRAM.

(3) ~~(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)~~ The Department may not set an alternative compliance fee that is less than the social cost of greenhouse gases adopted by the Department or the U.S. Environmental Protection Agency ~~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.~~

~~(H) 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.~~

~~(H) 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.~~

~~(4) (6) THE DEPARTMENT SHALL DEPOSIT AN ALTERNATIVE COMPLIANCE FEE COLLECTED UNDER THIS SUBSECTION INTO THE MARYLAND STRATEGIC ENERGY INVESTMENT FUND UNDER § 9-20B-05 OF THE STATE GOVERNMENT ARTICLE.~~

~~(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.~~

~~(H) 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) (4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DEPARTMENT MAY SHALL CERTIFY A BUILDING ENERGY PERFORMANCE STANDARDS PROGRAM ADOPTED BY A COUNTY ADMINISTERING A BUILDING ENERGY PERFORMANCE STANDARDS PROGRAM ON OR BEFORE MARCH 1, 2025, AND WAIVE THE REQUIREMENT FOR A COVERED BUILDING BUILDINGS IN THE COUNTY 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 UP TO THE SAME AMOUNT AND IN THE SAME MANNER ALLOWED BY THE DEPARTMENT UNDER THIS SECTION; AND~~

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

1 ~~(9) (5)~~ NOTHING IN THIS SECTION SHALL PRECLUDE A COUNTY
 2 ADMINISTERING A BUILDING ENERGY PERFORMANCE STANDARDS PROGRAM
 3 CERTIFIED BY THE DEPARTMENT UNDER PARAGRAPH (4)(I) OF THIS SUBSECTION
 4 FROM ADOPTING:

5 (I) ADOPTING BUILDING ENERGY PERFORMANCE STANDARDS
 6 FOR BUILDINGS THAT ARE NOT COVERED BUILDINGS UNDER THE STATEWIDE
 7 PROGRAM ADOPTED UNDER THIS SECTION; OR

8 (II) MODIFYING AN ADOPTED BUILDING PERFORMANCE
 9 STANDARDS PROGRAM.

10 ~~(10) THE DEPARTMENT SHALL MAKE THE NECESSARY APPLICATION~~
 11 ~~AND FORMS FOR A WAIVER UNDER THIS SECTION AVAILABLE ON THE~~
 12 ~~DEPARTMENT'S WEBSITE.~~

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

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

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

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

23 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 24 as follows:

25 Article – Environment

26 2–1602.

27 (c) (1) On or before June 1, 2023, the Department shall adopt regulations to
 28 implement this section.

29 (2) Regulations adopted under this section shall:

30 (i) Subject to items (ii) ~~AND (III), (III), (IV), AND (V)~~ of this
 31 paragraph, include energy use intensity targets by building type;

1 (ii) As necessary, include special provisions or exceptions to account
2 for:

3 1. Building age;

4 2. Regional differences;

5 3. The unique needs of particular building or occupancy
6 types, including health care facilities, laboratories, assisted living and nursing facilities,
7 military buildings, critical infrastructure, and buildings used in life sciences **AS DEFINED**
8 **IN § 3-201 OF THE ECONOMIC DEVELOPMENT ARTICLE** ~~as defined in § 3-201 of the~~
9 ~~Economic Development Article; and~~

10 4. The use of district energy systems and biofuels by covered
11 buildings;

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

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

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

21 **8. EXCLUDING THE ENERGY USE AND GREENHOUSE GAS**
22 **EMISSIONS RELATED TO THE GENERATION OF EMERGENCY BACKUP POWER AT A**
23 **HEALTH CARE FACILITY, LABORATORY, ASSISTED LIVING AND NURSING FACILITY,**
24 **MILITARY BUILDING, CRITICAL INFRASTRUCTURE, ~~EXCEPT FOR ANY CRITICAL~~**
25 **~~INFRASTRUCTURE IDENTIFIED UNDER § 1-101(H-1)(2)(II) OF THE PUBLIC~~**
26 **~~UTILITIES ARTICLE,~~ OR BUILDING USED IN LIFE SCIENCES; AND**

27 **9. OPERATIONAL NEEDS, INCLUDING SCALING FACTORS**
28 **TO ADJUST FOR DIFFERENT OPERATING HOURS;**

29 (iii) Consider the needs of the owners of covered buildings who:

30 1. Are not responsible for the design, modification, fixtures,
31 or equipment of commercial tenants;

32 2. Do not have access to or control over building energy
33 systems that are used or controlled by commercial tenants; or

1 3. Own buildings occupied by commercial tenants who are
2 responsible for all maintenance of and repairs to the buildings;

3 (iv) **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, EXEMPT**
4 **FROM ENERGY USE INTENSITY TARGETS A COVERED BUILDING THAT CONTAINS AN**
5 **AREA DESIGNED, BUILT, AND OPERATED AS A PERMANENT SENSITIVE**
6 **COMPARTMENTED INFORMATION FACILITY AND IS OPERATED BY AN AGENCY OR**
7 **CONTRACTOR OF:**

8 **1. THE U.S. GENERAL SERVICES ADMINISTRATION;**

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

10 **B. THE NATIONAL SECURITY AGENCY;**

11 **C. THE U.S. DEPARTMENT OF HOMELAND SECURITY;**

12 **OR**

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

14 **3. THE STATE;**

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

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

19 **2. ~~THE~~ IN CIRCUMSTANCES WHERE TENANT**
20 **AUTHORIZATION IS REQUIRED, THE TENANT OR OCCUPANT DOES NOT PROVIDE**
21 **ENERGY USE INFORMATION TO THE OWNER OF THE COVERED BUILDING DUE TO**
22 **CONCERNS ABOUT THE CONFIDENTIALITY OF THE BUILDING'S SECURE AREA;**

23 (vi) Provide maximum flexibility to the owners of covered buildings
24 to comply with building energy performance standards;

25 ~~(v)~~ (vii) Subject to paragraph ~~(3)~~ ~~(4)~~ (3) of this subsection ~~AND~~
26 ~~SUBSECTION (F) OF THIS SECTION~~, include an alternative compliance pathway allowing
27 the owner of a covered building to pay a fee for ~~greenhouse~~;

28 **1. GREENHOUSE** gas emissions attributable to the
29 building's failure to meet direct greenhouse gas emissions reduction targets; ~~and~~

1 ~~2. ENERGY USE ATTRIBUTABLE TO THE BUILDING'S~~
2 ~~FAILURE TO MEET ENERGY USE INTENSITY TARGETS;~~

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

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

17 ~~1. SUBMITTING TO THE DEPARTMENT, AT LEAST 1 YEAR~~
18 ~~BEFORE THE REQUESTED WAIVER WOULD TAKE EFFECT;~~

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

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

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

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

35 ~~4. PAYING A FEE TO COVER THE COST FOR THE~~
36 ~~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;~~

~~(vi) (XI) (VIII) To the extent authorized by law, include financial incentives recommended by the Building Energy Transition Implementation Task Force; AND~~

~~(vii) (XII) (IX) INCLUDE AN ANNUAL REPORTING FEE OF \$100 PER COVERED BUILDING, ADJUSTED FOR INFLATION, TO COVER THE ADMINISTRATIVE COSTS UNDER THIS SECTION OF THE PROGRAM.~~

~~(3) (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.~~

~~(H) 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) (H) The Department may not set an alternative compliance fee that is less than the social cost of greenhouse gases adopted by the Department or the U.S. Environmental Protection Agency 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.~~

~~(H) 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) (H) 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.~~

~~(H) 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.~~

~~(4) (6) THE DEPARTMENT SHALL DEPOSIT AN ALTERNATIVE COMPLIANCE FEE COLLECTED UNDER THIS SUBSECTION INTO THE MARYLAND STRATEGIC ENERGY INVESTMENT FUND UNDER § 9-20B-05 OF THE STATE GOVERNMENT ARTICLE.~~

~~(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 PARAGRAPHS (2)(IX) AND (X) OF THIS SUBSECTION.~~

~~(8) (4) (i) SUBJECT TO SUBPARAGRAPH (ii) OF THIS PARAGRAPH, THE DEPARTMENT MAY SHALL CERTIFY A BUILDING ENERGY PERFORMANCE STANDARDS PROGRAM ADOPTED BY A COUNTY ADMINISTERING A BUILDING ENERGY PERFORMANCE STANDARDS PROGRAM ON OR BEFORE MARCH 1, 2025, AND WAIVE THE REQUIREMENT FOR A COVERED BUILDING BUILDINGS IN THE COUNTY 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 1. ESTABLISHING ALTERNATIVE COMPLIANCE
 2 PATHWAYS FOR COMPLYING WITH ENERGY USE INTENSITY AND DIRECT
 3 GREENHOUSE GAS EMISSIONS REQUIREMENTS ESTABLISHED IN THE STANDARDS;

4 2. IMPOSING AND COLLECTING ALTERNATIVE
 5 COMPLIANCE FEES ~~IN~~ UP TO THE SAME AMOUNT AND IN THE SAME MANNER
 6 ALLOWED BY THE DEPARTMENT UNDER THIS SECTION; AND

7 3. IMPOSING AND COLLECTING PENALTIES ~~IN~~ UP TO THE
 8 SAME AMOUNT AND IN THE SAME MANNER ALLOWED BY THE DEPARTMENT UNDER
 9 § 2-610 OF THIS TITLE.

10 ~~(9)~~ (5) NOTHING IN THIS SECTION SHALL PRECLUDE A COUNTY
 11 ADMINISTERING A BUILDING ENERGY PERFORMANCE STANDARDS PROGRAM
 12 CERTIFIED BY THE DEPARTMENT UNDER PARAGRAPH (4)(I) OF THIS SUBSECTION
 13 FROM ADOPTING:

14 (I) ADOPTING BUILDING ENERGY PERFORMANCE STANDARDS
 15 FOR BUILDINGS THAT ARE NOT COVERED BUILDINGS UNDER THE STATEWIDE
 16 PROGRAM ADOPTED UNDER THIS SECTION; OR

17 (II) MODIFYING AN ADOPTED BUILDING PERFORMANCE
 18 STANDARDS PROGRAM.

19 ~~(10) THE DEPARTMENT SHALL MAKE THE NECESSARY APPLICATION~~
 20 ~~AND FORMS FOR A WAIVER UNDER THIS SECTION AVAILABLE ON THE~~
 21 ~~DEPARTMENT'S WEBSITE.~~

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

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

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

29 ~~(2) THE PROHIBITION UNDER PARAGRAPH (1)(H) OF THIS~~
 30 ~~SUBSECTION DOES NOT APPLY TO THE IMPOSITION AND COLLECTION OF PENALTIES~~
 31 ~~FOR FAILURE TO MEET ANY REPORTING REQUIREMENTS UNDER THIS SECTION.~~

32 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 33 as follows:

1 Article – Economic Development

2 3–201.

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

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

7 Article – Environment

8 2–1202.

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

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

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

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

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

20 (iii) Research and development activities.

21 (3) “Manufacturing” does not include:

22 (i) Activities that are primarily a service;

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

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

26 (iv) The production of cement; or

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

1 2-1601.

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

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

6 (2) “Agricultural building” includes a greenhouse.

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

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

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

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

13 2. Is owned by the State; and

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

16 (2) “Covered building” does not include:

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

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

20 (iii) **A HOSPITAL;**

21 (IV) A ~~manufacturing~~ building ~~IN WHICH 50% OR MORE OF THE~~
 22 ~~BUILDING’S GROSS FLOOR AREA IS USED FOR MANUFACTURING, AS DEFINED IN §~~
 23 ~~2-1202 OF THIS ARTICLE;~~ or

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

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

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

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

5 ~~(I) “ECONOMICALLY INFEASIBLE” MEANS:~~

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

12 ~~(2) FOR A COVERED BUILDING THAT IS NOT A MULTIFAMILY~~
 13 ~~RESIDENTIAL BUILDING, THE EXPECTED PAYBACK PERIOD FOR AN ENERGY OR~~
 14 ~~EMISSIONS REDUCTION MEASURE IS MORE THAN 25 YEARS, AS OF THE DATE OF~~
 15 ~~SUBMITTAL OF A WAIVER REQUEST TO THE DEPARTMENT UNDER § 2-1602(C)(2)(X)~~
 16 ~~OF THIS SUBTITLE, ACCOUNTING FOR ALL AVAILABLE INCENTIVES AND AVOIDED~~
 17 ~~ALTERNATIVE COMPLIANCE PATHWAY PAYMENTS.~~

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

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

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

27 ~~(I) “MANUFACTURING BUILDING” MEANS A FACILITY IN WHICH~~
 28 ~~MANUFACTURING, AS DEFINED IN § 2-1202 OF THIS ARTICLE, TAKES PLACE.~~

29 Article – Public Utilities

30 1-101.

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

32 (h-1) (1) “Critical infrastructure” means assets, systems, and networks, whether
 33 physical or virtual, considered by the U.S. Department of Homeland Security to be so vital

1 to the United States that their incapacitation or destruction would have a debilitating effect
 2 on one or more of the following:

3 (i) security;

4 (ii) national economic security;

5 (iii) national public health; or

6 (iv) safety.

7 (2) “Critical infrastructure” includes:

8 (i) a hospital or health care facility; and

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

10 ~~Article – State Government~~

11 ~~9-20B-05.~~

12 (a) ~~There is a Maryland Strategic Energy Investment Fund.~~

13 (b) ~~The purpose of the Fund is to implement the Strategic Energy Investment~~
 14 ~~Program.~~

15 (c) ~~The Fund consists of:~~

16 (1) ~~all of the proceeds from the sale of allowances under § 2–1002(g) of the~~
 17 ~~Environment Article;~~

18 (2) ~~money appropriated in the State budget to the Program;~~

19 (3) ~~repayments and prepayments of principal and interest on loans made~~
 20 ~~from the Fund;~~

21 (4) ~~interest and investment earnings on the Fund;~~

22 (5) ~~compliance fees paid under § 7–705 of the Public Utilities Article;~~

23 (6) ~~money received from any public or private source for the benefit of the~~
 24 ~~Fund;~~

25 (7) ~~money transferred from the Public Service Commission under §~~
 26 ~~7–207.2(e)(3) of the Public Utilities Article; [and]~~

27 (8) ~~money distributed under § 2–614.1 of the Tax – General Article; AND~~

~~(9) ALTERNATIVE COMPLIANCE FEES PAID PATHWAY PAYMENTS UNDER § 2-1602(C)(2)(V) 2-1602(C)(2)(VII) OF THE ENVIRONMENT ARTICLE.~~

~~(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.~~

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) The Department of the Environment shall conduct an analysis of the potential costs and benefits of building energy performance standards policy options featuring direct emissions reduction requirements, energy use intensity requirements, and a combination of both requirements that describes, for each scenario:

(1) program design considerations;

(2) greenhouse gas emissions reduction potential;

(3) direct emissions reduction potential;

(4) overall energy savings potential;

(5) peak energy savings potential;

(6) implementation costs to building owners and the Department;

(7) lifecycle costs of the building and equipment and cost-effectiveness for building owners; and

(8) program implementation cost and complexity.

(b) In conducting the analysis required under subsection (a) of this section, the Department shall:

(1) identify policy considerations and recommendations, including potential scenarios, including:

1 (i) a recommendation for calculating an alternative compliance fee
 2 for energy use intensity on covered building owners based on a simple payback period that
 3 takes into account any financial incentives offered to the building owners;

4 (ii) recommendations on how to address covered buildings that,
 5 despite all available incentives including the avoidance of penalties and fees, would not
 6 achieve compliance greenhouse gas emissions reductions and targets; and

7 (iii) recommendations on how to consider county-owned buildings,
 8 community colleges, emergency facilities, manufacturing buildings, and residential
 9 buildings, including considerations of tenants and condominium unit owners; and

10 (2) calculate building benchmarks based on benchmarking data reported to
 11 the Department in accordance with § 2-1602(b) of the Environment Article.

12 (c) On or before December 31, 2026, the Department shall submit the analysis and
 13 recommendations required under this section to the Governor and, in accordance with §
 14 2-1257 of the State Government Article, the General Assembly.

15 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
 16 take effect on the taking effect of the termination provision specified in Section 17 of
 17 Chapter 38 of the Acts of the General Assembly of 2022. If that termination provision takes
 18 effect, Section 1 of this Act, with no further action required by the General Assembly, shall
 19 be abrogated and of no further force and effect. This Act may not be interpreted to have any
 20 effect on that termination provision.

21 SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That, subject to the provisions
 22 of Section ~~4~~ 5 of this Act, this Act shall take effect October 1, 2025.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.