



Bill Title: House Bill 49, Environment - Building Energy Performance Standards - Compliance and Reporting

Committee: Environment and Transportation

Date: February 11, 2025

Position: Favorable with Amendments

This testimony is offered on behalf of Atlantic Realty Group (ARG). ARG is a family- owned housing provider and property manager that operates over 1,900 apartments in Baltimore City and Baltimore County. The apartments are in naturally occurring affordable housing (NOAH) neighborhoods with average rents of \$1,270 across all locations.

House Bill 49 expands the alternative compliance fee structure to include greenhouse gas emissions resulting from failure to meet direct reduction targets, as well as energy use attributable to noncompliance with energy use intensity (EUI) targets. The bill also introduces an annual reporting fee to cover administrative costs associated with implementing Building Energy Performance Standards (BEPS) and directs alternative compliance fees to the Maryland Strategic Energy Investment Fund.

Atlantic Realty Group has studied the costs to tackle the reduction in greenhouse gas emissions as required under the Climate Solutions Now Act of 2022 and the recent MDE BEPS regulations. Internal estimates put the costs of compliance at \$40,000 per unit. In prior testimony by various condominium groups, they are estimating costs of \$75,000 per unit. Should our small business be required to make the upgrades, rent will have to be increased by \$400 a month. This will greatly impact the already fragile affordable housing stock in Maryland. Additionally, the upgrades will be completed on perfectly good working equipment that has yet to reach the end of its expected life in order to comply.

The work that will occur is not easy and will be disruptive to our residents' comfort of living. In many cases it will require residents to have their tenancy ended at the end of the lease in order for the upgrades to be installed. With limited options in the market, residents will be financially burdened with moving expenses, application fees, security deposit, and rent due on alternate housing. Other considerations are being studied to complete the work while the resident continues to reside during the renovation, but environmental elements may make this work impossible to do while the home is being occupied. Since walls and piping will be disturbed there will be the need for containment areas to ensure lead-paint and asbestos are properly



handled during the renovation process. Residents will lose their choice of energy to heat and cook in their home as the EUI requirements will demand full electrification of the home.

The other concern ARG has about the proposed legislation is how this bill gives the authority to MDE to ration electricity. Requiring an EUI mandate will tell MDE they have the authority to determine the proper temperatures to heat and cool your home. If there is no compliance, then there will be fees to an owner to pay for their residents using too much energy. This presents a health and safety issue for our residents. Rationing of energy is dangerous and EUI data was not intended to be used in this fashion. The proposal of setting compliance fees is counterproductive to the overall goal of lowering greenhouse gas emissions. While the fees will help fund other projects, at some point there will be more fees collected than opportunities to lower greenhouse gas emissions. EUI is being used to manage the utility grid due to inadequate energy policies over the years. ARG has concerns that building owners and ultimately our tenants will be paying the price to manage the energy consumption. EUI is a benchmarking tool for the building being measured.

As someone who served on the Building Energy Transition Implementation Task Force, I am encouraged by the bill that includes the recommendations of the Task Force, however much of what I and other business leaders proposed was not included in the Task Force final report. I encourage the committee to speak with the members of the business community to ensure their voice is finally heard.

HB49 as proposed will have crippling impacts to the safety of residents and unrecoverable financial impacts on the multifamily building owners. It is recommended that the following amendments be considered.

1. Remove all alternative compliance fees
Replace the ACFs with incentives to property owners that meet the EUI and greenhouse gas emission reductions through property tax incentives that lower the property tax or eliminate the tax for a period of time.
2. Funding for resident relocation and vacancy loss
Require loans and grants to pay for residents to be relocated during the renovation process. Building owners should be able to claim losses for vacancy as the proposed projects will exceed the normal vacancy rate.
3. Remove the annual reporting fee
This fee appears to be tied to benchmarking submissions. We could only find one other jurisdiction with such a fee. None in the region (DC, Montgomery, NYC, Boston). The Maryland Department of Environment (MDE) will collect benchmarking data automatically in ENERGY STAR Portfolio Manager.



ENERGY STAR is nationally recognized and does not require any special tools to analyze the data.

4. Remove the site EUI penalty.
The regulations already charge emissions penalties. Site EUI targets are intended to offset grid emissions, so charging site EUI penalties effectively penalizes building owners for the grid not being green. Alternatively, fees should be tied to the grid being 80% green.
5. Adjust and/or waive penalties and fees for multifamily.
Require MDE to waive penalties and fees for multifamily through 2035. The 2035 interim targets are not set required by the Client Solutions Now Act.
6. Cap site EUI and greenhouse gas emissions (GHG) reduction requirements.
Montgomery County is capping the site EUI reduction requirements at 30% from the baseline to ease the cost and burden on building owners.
7. ACPs need to be permanent.
Many buildings will never meet the targets due to the age of the building and other variables. Once it is determined the building has improved to a reasonable level, the building should be compliant without further penalty.
8. Require MDE to expand their definition of financial distress conditions.
Montgomery County has a more favorable definition of "under resourced buildings" that recognizes the challenges of compliance for condos, housing, etc. Under resourced buildings are only required to implement cost effective measures with a simple payback of 10 years. The state standards should align with the county to better account for costs and payback.
9. Include solar for calculating site EUI and include car charging EUI.
Car charging consumes energy and should be included in site EUI calculations. Solar as renewable energy will lower site EUI.
10. Align end of life-cycle replacement with building compliance of EUI
Building owners should not have to replace newer equipment before its useful life. This can be part of the alternative compliance pathway.

For these reasons, we respectfully request a favorable report with amendments on House Bill 49.

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