

HOUSE BILL 1490

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By: **Delegates Stewart, Wells, Acevero, Fraser-Hidalgo, Love, Palakovich Carr, Ruth, Solomon, and Terrasa**

Introduced and read first time: February 7, 2020

Assigned to: Environment and Transportation and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Building Energy Performance Standards and Greenhouse Gas**
3 **Emissions Reduction Targets**
4 **(Clean Buildings Jobs Act of 2020)**

5 FOR the purpose of requiring the Department of the Environment, in consultation with
6 certain units of government, to adopt regulations on monitoring and reporting
7 greenhouse gas emissions from certain buildings on or before a certain date;
8 requiring the owners of certain buildings to monitor certain greenhouse gas
9 emissions beginning on certain dates and to make certain reports on or before certain
10 dates in certain years; requiring the Department of the Environment, in consultation
11 with certain units of government, to establish certain baselines, targets, and building
12 energy performance targets by regulation on or before a certain date; requiring
13 certain targets to be set with a goal of achieving certain reductions by certain years,
14 consistent with certain provisions of law and based on certain average emission
15 levels; establishing certain requirements for certain building energy performance
16 standards; requiring the Maryland Department of Labor to update the Maryland
17 Building Performance Standards as necessary to conform to certain building energy
18 performance standards; requiring the owner of a certain building to ensure that the
19 building meets certain building energy performance standards on or before certain
20 dates, subject to certain exceptions; authorizing the Department of the Environment
21 to waive compliance with certain building energy performance standards under
22 certain circumstances and subject to certain limitations; requiring the Maryland
23 Energy Administration, in consultation with the Department of the Environment, to
24 establish a program to provide incentives and financial assistance to qualified
25 owners of certain buildings in order to meet certain building energy performance
26 standards; authorizing a certain program to be paid for with funds from the Strategic
27 Energy Investment Fund; requiring the Maryland Energy Administration to report
28 to the Governor and the General Assembly on certain matters on or before a certain
29 date; establishing certain penalties for certain violations of this Act; requiring the
30 Department of the Environment to set certain alternative compliance fees by

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



regulation; providing for the disposition of certain fines and fees; establishing the Building Energy Performance Task Force; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Task Force to advise the Department of the Environment on certain matters and to study and make recommendations regarding certain matters; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before certain dates; defining certain terms; requiring the Department of the Environment to adopt certain regulations; making conforming changes; providing for the termination of certain provisions of this Act; and generally relating to greenhouse gas emissions from buildings.

BY adding to

Article – Environment

Section 2–1601 through 2–1606 to be under the new subtitle “Subtitle 16. Building Energy Performance Standards”

Annotated Code of Maryland

(2013 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government

Section 9–20B–05(a)

Annotated Code of Maryland

(2014 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 9–20B–05(e)(6) and (7) and (f)(10) and (11)

Annotated Code of Maryland

(2014 Replacement Volume and 2019 Supplement)

BY adding to

Article – State Government

Section 9–20B–05(e)(8) and (f)(11)

Annotated Code of Maryland

(2014 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

Article – Environment

SUBTITLE 16. BUILDING ENERGY PERFORMANCE STANDARDS.

2–1601.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS

1 INDICATED.

2 (B) "BUILDING" HAS THE MEANING STATED IN THE INTERNATIONAL
3 BUILDING CODE.

4 (C) "BUILDING CODES ADMINISTRATION" MEANS THE BUILDING CODES
5 ADMINISTRATION IN THE MARYLAND DEPARTMENT OF LABOR.

6 (D) (1) "COVERED BUILDING" MEANS A BUILDING IN THE STATE THAT
7 HAS A GROSS FLOOR AREA OF 25,000 SQUARE FEET OR MORE, EXCLUDING THE
8 PARKING GARAGE AREA.

9 (2) "COVERED BUILDING" DOES NOT INCLUDE:

10 (I) A BUILDING OWNED OR CONTROLLED BY A UNIT OF
11 FEDERAL, STATE, OR LOCAL GOVERNMENT; OR

12 (II) A BUILDING DESIGNATED AS A HISTORIC PROPERTY UNDER
13 FEDERAL, STATE, OR LOCAL LAW.

14 2-1602.

15 (A) ON OR BEFORE JANUARY 1, 2021, THE DEPARTMENT, IN
16 CONSULTATION WITH THE BUILDING CODES ADMINISTRATION AND THE
17 MARYLAND ENERGY ADMINISTRATION, SHALL ADOPT REGULATIONS ON
18 MONITORING AND REPORTING GREENHOUSE GAS EMISSIONS FROM COVERED
19 BUILDINGS.

20 (B) THE OWNER OF A COVERED BUILDING WITH A GROSS FLOOR AREA OF
21 50,000 SQUARE FEET OR MORE SHALL, IN ACCORDANCE WITH REGULATIONS
22 ADOPTED UNDER SUBSECTION (A) OF THIS SECTION:

23 (1) BEGINNING JANUARY 1, 2021, MONITOR GREENHOUSE GAS
24 EMISSIONS FROM THE COVERED BUILDING; AND

25 (2) ON OR BEFORE JULY 1, 2022, AND EACH JULY 1 THEREAFTER,
26 REPORT TO THE DEPARTMENT ON THE LEVEL OF GREENHOUSE GAS EMISSIONS
27 FROM THE COVERED BUILDING DURING THE IMMEDIATELY PRECEDING CALENDAR
28 YEAR.

29 (C) THE OWNER OF A COVERED BUILDING WITH A GROSS FLOOR AREA OF
30 LESS THAN 50,000 SQUARE FEET SHALL, IN ACCORDANCE WITH REGULATIONS
31 ADOPTED UNDER SUBSECTION (A) OF THIS SECTION:

(1) BEGINNING JANUARY 1, 2022, MONITOR GREENHOUSE GAS EMISSIONS FROM THE COVERED BUILDING; AND

(2) ON OR BEFORE JULY 1, 2023, AND EACH JULY 1 THEREAFTER, REPORT TO THE DEPARTMENT ON THE LEVEL OF GREENHOUSE GAS EMISSIONS FROM THE COVERED BUILDING DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR.

2-1603.

(A) BASED ON THE REPORTS SUBMITTED UNDER § 2-1602 OF THIS SUBTITLE, ON OR BEFORE OCTOBER 1, 2024, THE DEPARTMENT, IN CONSULTATION WITH THE BUILDING CODES ADMINISTRATION AND THE MARYLAND ENERGY ADMINISTRATION, SHALL BY REGULATION ESTABLISH:

(1) BASELINES OF THE CURRENT AVERAGE MEDIAN GREENHOUSE GAS EMISSIONS LEVELS FOR DIFFERENT CATEGORIES OF BUILDING, INCLUDING COMMERCIAL, INDUSTRIAL, AND RESIDENTIAL;

(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, 5-YEAR GREENHOUSE GAS EMISSIONS REDUCTION TARGETS FOR DIFFERENT SIZES AND CATEGORIES OF BUILDING; AND

(3) SUBJECT TO SUBSECTION (C) OF THIS SECTION, BUILDING ENERGY PERFORMANCE STANDARDS FOR DIFFERENT SIZES AND CATEGORIES OF BUILDING, AS NECESSARY TO ACHIEVE THE REDUCTION TARGETS ESTABLISHED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(B) CONSISTENT WITH SUBTITLE 12 OF THIS TITLE AND BASED ON AVERAGE REGIONAL GREENHOUSE GAS EMISSION LEVELS FROM THE BUILDING SECTOR IN 2006, GREENHOUSE GAS EMISSIONS REDUCTION TARGETS FOR COVERED BUILDINGS SHALL BE SET WITH A GOAL OF ACHIEVING:

(1) A 40% REDUCTION IN GREENHOUSE GAS EMISSIONS FROM COVERED BUILDINGS BY 2030; AND

(2) A 80% REDUCTION IN GREENHOUSE GAS EMISSIONS FROM COVERED BUILDINGS BY 2050.

(C) THE BUILDING ENERGY PERFORMANCE STANDARDS ADOPTED UNDER THIS SECTION SHALL REQUIRE THAT AT LEAST 75% OF GREENHOUSE GAS EMISSIONS REDUCTIONS REQUIRED UNDER THIS SECTION BE ACHIEVED THROUGH

ENERGY EFFICIENCY MEASURES, ON-SITE FUEL SWITCHING, AND BUILDING TECHNOLOGIES, RATHER THAN THROUGH THE PURCHASE OF RENEWABLE ENERGY CREDITS OR OTHER OFF-SITE MEASURES.

(D) THE MARYLAND DEPARTMENT OF LABOR SHALL UPDATE THE MARYLAND BUILDING PERFORMANCE STANDARDS ADOPTED UNDER TITLE 12, SUBTITLE 5 OF THE PUBLIC SAFETY ARTICLE AS NECESSARY TO CONFORM TO THE BUILDING ENERGY PERFORMANCE STANDARDS ADOPTED UNDER THIS SECTION.

2-1604.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE OWNER OF A COVERED BUILDING SHALL ENSURE THAT THE BUILDING MEETS ALL APPLICABLE BUILDING ENERGY PERFORMANCE STANDARDS ADOPTED UNDER § 2-1603 OF THIS SUBTITLE ON OR BEFORE THE DATES SPECIFIED IN REGULATIONS OF THE DEPARTMENT.

(B) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE DEPARTMENT MAY WAIVE COMPLIANCE WITH THE BUILDING ENERGY PERFORMANCE STANDARDS ADOPTED UNDER § 2-1603 OF THIS SUBTITLE ON A SHOWING BY THE OWNER OF A COVERED BUILDING THAT:

(I) THE OWNER IS BANKRUPT OR IN SEVERE FINANCIAL DISTRESS;

(II) THE COVERED BUILDING HAS UNDERGONE A RECENT CHANGE IN OWNERSHIP;

(III) THE COVERED BUILDING IS:

1. VACANT;

2. SUBJECT TO MAJOR RENOVATION; OR

3. SUBJECT TO PENDING DEMOLITION; OR

(IV) OTHER EXTENUATING CIRCUMSTANCES, IDENTIFIED BY THE DEPARTMENT IN REGULATION, EXIST.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE DEPARTMENT MAY NOT WAIVE COMPLIANCE WITH THE BUILDING ENERGY PERFORMANCE STANDARDS FOR A PERIOD OF MORE THAN 3 YEARS.

(3) THE DEPARTMENT MAY WAIVE COMPLIANCE WITH THE BUILDING ENERGY PERFORMANCE STANDARDS FOR A PERIOD LONGER THAN 3 YEARS FOR A RESIDENTIAL BUILDING CONTAINING FIVE OR MORE DWELLING UNITS, IF:

(I) USE RESTRICTIONS OR OTHER COVENANTS REQUIRE THAT AT LEAST 50% OF THE DWELLING UNITS BE OCCUPIED BY HOUSEHOLDS WITH HOUSEHOLD INCOMES OF LESS THAN OR EQUAL TO 80% OF THE AREA MEDIAN INCOME; OR

(II) THE OWNER OF THE BUILDING DEMONSTRATES THAT AT LEAST 50% OF THE DWELLING UNITS ARE OFFERED FOR RENT AT RATES THAT ARE AFFORDABLE FOR HOUSEHOLDS WITH HOUSEHOLD INCOMES OF LESS THAN OR EQUAL TO 80% OF THE AREA MEDIAN INCOME.

(C) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

2-1605.

(A) THE MARYLAND ENERGY ADMINISTRATION, IN CONSULTATION WITH THE DEPARTMENT, SHALL ESTABLISH A PROGRAM TO PROVIDE INCENTIVES AND FINANCIAL ASSISTANCE TO QUALIFYING OWNERS OF COVERED BUILDINGS IN ORDER TO MEET THE BUILDING ENERGY PERFORMANCE STANDARDS ESTABLISHED UNDER THIS SUBTITLE.

(B) THE INCENTIVE AND FINANCIAL ASSISTANCE PROGRAM MAY BE PAID FOR WITH FUNDS FROM THE STRATEGIC ENERGY INVESTMENT FUND ESTABLISHED UNDER § 9-20B-05 OF THE STATE GOVERNMENT ARTICLE.

(C) ON OR BEFORE OCTOBER 1, 2021, THE MARYLAND ENERGY ADMINISTRATION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON WHETHER ADDITIONAL SOURCES OF FUNDING ARE NECESSARY TO IMPLEMENT THE INCENTIVE AND FINANCIAL ASSISTANCE PROGRAM.

2-1606.

(A) (1) A PERSON WHO VIOLATES § 2-1604(A) OF THIS SUBTITLE SHALL PAY AN ALTERNATIVE COMPLIANCE FEE TO THE DEPARTMENT.

(2) A PERSON WHO VIOLATES ANY OTHER PROVISION OF THIS SUBTITLE, OR A REGULATION ADOPTED UNDER THIS SUBTITLE, SHALL BE SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$500 PER VIOLATION.

(B) THE DEPARTMENT SHALL, BY REGULATION, SET ALTERNATIVE COMPLIANCE FEES AT A LEVEL WHEREBY THE COST OF NONCOMPLIANCE EXCEEDS THE COST OF COMPLIANCE WITH THE BUILDING ENERGY PERFORMANCE STANDARDS ADOPTED UNDER THIS SUBTITLE.

(C) FINES AND FEES COLLECTED UNDER THIS SECTION SHALL BE DEPOSITED INTO THE STRATEGIC ENERGY INVESTMENT FUND ESTABLISHED UNDER § 9-20B-05 OF THE STATE GOVERNMENT ARTICLE.

Article – State Government

9-20B-05.

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

(e) The Fund consists of:

(6) money received from any public or private source for the benefit of the Fund; [and]

(7) money transferred from the Public Service Commission under § 7-207.2(c)(3) of the Public Utilities Article; AND

(8) FINES AND FEES COLLECTED UNDER § 2-1606 OF THE ENVIRONMENT ARTICLE.

(f) The Administration shall use the Fund:

(10) subject to subsections (f-2) and (f-3) of this section, to invest in pre-apprenticeship, youth apprenticeship, and registered apprenticeship programs to establish career paths in the clean energy industry under § 11-708.1 of the Labor and Employment Article, as follows:

(i) \$1,500,000 for grants to pre-apprenticeship jobs training programs under § 11-708.1(c)(2) of the Labor and Employment Article starting in fiscal year 2021 until all amounts are spent; and

(ii) \$6,500,000 for grants to youth apprenticeship jobs training programs and registered apprenticeship jobs training programs under § 11-708.1(c)(4) of the Labor and Employment Article starting in fiscal year 2021 until all amounts are spent; [and]

(11) TO PROVIDE INCENTIVES AND FINANCIAL ASSISTANCE TO QUALIFYING OWNERS OF COVERED BUILDINGS, IN ACCORDANCE WITH THE

PROGRAM DEVELOPED UNDER § 2-1605 OF THE ENVIRONMENT ARTICLE; AND

[(11)] (12) to pay the expenses of the Program.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) There is a Building Energy Performance Task Force.

(b) The Task Force consists of the following members:

(1) the Secretary of the Environment, or the Secretary's designee;

(2) the Secretary of Housing and Community Development, or the Secretary's designee;

(3) the Secretary of Planning, or the Secretary's designee;

(4) the Director of the Maryland Energy Administration, or the Director's designee;

(5) the Director of the Building Codes Administration, or the Director's designee;

(6) the Chair of the Maryland Green Building Council, or the Chair's designee; and

(7) the following members, appointed by the Governor:

(i) one representative of Preservation Maryland;

(ii) one representative of the Apartment and Office Building Association;

(iii) one representative who is an affordable housing developer;

(iv) one representative who is a facilities or property manager for an apartment building;

(v) one representative who is a facilities or property manager for a commercial building;

(vi) one representative from a nonprofit or professional organization that advocates for energy efficient buildings or a low carbon built environment;

(vii) one representative from a business that provides energy efficiency or renewable energy services to large buildings or affordable housing in Maryland;

(viii) one representative who is an architect with experience planning modifications to existing buildings to achieve greenhouse gas emissions reductions; and

(ix) one representative who is a mechanical, electrical, and plumbing engineer or commissioning agent with experience in modifying or replacing systems in order to achieve greenhouse gas emissions reductions.

(c) The Secretary of the Environment shall designate the chair of the Task Force.

(d) The Department of the Environment shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) advise the Department of the Environment on the creation and implementation of Title 2, Subtitle 16 of the Environment Article, as enacted by Section 1 of this Act; and

(2) study and make recommendations regarding:

(i) regulations and amendments to regulations adopted by the Department of the Environment under Title 2, Subtitle 16 of the Environment Article, as enacted by Section 1 of this Act;

(ii) the development of complementary programs and policies aimed at reducing greenhouse gas emissions from the building sector; and

(iii) metrics and recommendations for achieving greenhouse gas emissions reductions from historic properties in a way that does not compromise the historic integrity of the building.

(g) (1) On or before October 1, 2021, the Task Force shall report its preliminary findings and recommendations to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly.

(2) On or before October 1, 2023, the Task Force shall make a final report of its findings and recommendations to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July

1 1, 2020. Section 2 of this Act shall remain effective for a period of 4 years and, at the end of
2 June 30, 2024, Section 2 of this Act, with no further action required by the General
3 Assembly, shall be abrogated and of no further force and effect.