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LC001327

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS -- THE GREEN BUILDINGS ACT

Introduced By: Representatives Kislak, Edwards, Carson, Donovan, Speakman, McGaw,
Tanzi, Boylan, Potter, and Cortvriend

Date Introduced: February 08, 2023

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 37-24-3 of the General Laws in Chapter 37-24 entitled "The Green
2 Buildings Act" is hereby amended to read as follows:

3 **37-24-3. Definitions.**

4 For purposes of this chapter, the following definitions shall apply:

5 (1) "Commercial building" means a building or multiple buildings on a parcel of which not
6 less than fifty percent (50%) of the gross floor area, including hallways or other common space,
7 but excluding parking, is used for commercial, retail, office, professional, educational or other
8 nonresidential purposes, or any grouping of commercial buildings designated by the department or
9 office as an appropriate reporting unit for the purposes of this section; provided, however, that
10 "commercial building " shall not include a building owned or leased by a municipal or state agency.

11 ~~(1)~~(2) "Construction" means the process of building, altering, repairing, improving, or
12 demolishing forty percent (40%) or more of any public structures, public buildings, public real
13 property or other public improvements of any kind to any public structures, public buildings or
14 public real property.

15 ~~(2)~~(3) "Department" means the department of administration.

16 (4) "Energy " means electricity, natural gas, steam, hot or chilled water, heating oil,
17 propane or other products designated by the office used for heating, cooling, lighting, or water
18 heating, or for powering or fueling other end uses.

19 (5) "Energy performance rating or assessment score" means a score assigned to a building

1 based on how efficiently it uses energy relative to other buildings of the same type. The office shall
2 promulgate regulations to establish the scoring system.

3 (6) "Energy use benchmarking tool " means the ENERGY STAR Portfolio Manager, an
4 online energy use benchmarking tool used by the United States Environmental Protection Agency
5 for reporting and managing the energy performance, water efficiency and greenhouse gas emissions
6 of building, or a tool capable of:

7 (i) Performing all the functions relevant to compliance with this section;

8 (ii) Allowing for reporting by third parties, including, but not limited to, gas distribution
9 and electric distribution companies; and

10 (iii) Exchanging information and data with the ENERGY STAR Portfolio Manager.

11 ~~(7)~~ (7) "Equivalent standard" means a high-performance green building standard, other than
12 LEED, LEED for Neighborhood Development, and SITES, that provides an independent, third-
13 party verification and certification of a rating system or measurement tool, that, when used, leads
14 to outcomes equivalent to, LEED, LEED for Neighborhood Development, and SITES outcomes,
15 in terms of green building, green infrastructure, and green site performance; current accepted
16 equivalent standards include green globes, Northeast collaborative high-performance schools
17 protocol; or other equivalent high-performance green building, green infrastructure, and green site
18 standards accepted by the department.

19 (8) "kBtu" means one thousand (1,000) British thermal units.

20 (9) "Large building " means a building that meets any of the following criteria:

21 (i) Buildings owned or leased by a municipality, state agency, or other government or
22 quasi-government entity consisting of not less than ten thousand square feet (10,000 sq. ft.) of gross
23 floor area;

24 (ii) As of January 1, 2023, residential or commercial buildings consisting of not less than
25 twenty five thousand square feet (25,000 sq. ft.) of gross floor area;

26 (iii) As of January 1, 2026, residential or commercial buildings consisting of not less than
27 twenty thousand square feet (20,000 sq. ft.) of gross floor area; or

28 (4) As of January 1, 2029, residential or commercial buildings consisting of not less than
29 fifteen thousand square feet (15,000 sq. ft.) of gross floor area.

30 ~~(10)~~ (10) "LEED" also, "LEED for Neighborhood Development, and SITES certified
31 standard" means the current version of the U.S. Green Building Council Leadership in Energy and
32 Environmental Design (LEED) green building rating standard referred to as LEED, LEED for
33 Neighborhood Development, and SITES certified. SITES means the U.S. Green Building Council's
34 SITES — The Sustainable SITES Initiative.

1 (11) "Office " means the office of energy resources.

2 (12) "Owner " means the owner of record of a building, or a designated agent thereof,
3 including, but not limited to, the association or organization of unit owners responsible for
4 management in the case of a condominium, the board of directors in the case of a cooperative
5 apartment corporation, and the net lessee in the case of a building subject to a net lease with a term
6 of not less than forty-nine (49) years, inclusive of all renewal options.

7 ~~(13)~~ (13) "Public agency" means every state or municipal office, board, commission,
8 committee, bureau, department, or public institution of education, or any political subdivision
9 thereof.

10 ~~(14)~~ (14) "Public facility" means any public institution, public facility, public equipment, or
11 any physical asset owned, including its public real-property site, leased or controlled in whole or
12 in part by this state, a public agency, a municipality or a political subdivision, that is for public or
13 government use.

14 ~~(15)~~ (15) "Public major facility project" means:

15 (i) A public facility building construction project larger than ten thousand (10,000) gross
16 square feet of occupied or conditioned space, and its public real-property site; or

17 (ii) A public facility building renovation project larger than ten thousand (10,000) gross
18 square feet of occupied or conditioned space, and its public real-property site.

19 (16) "Residential building " means a building or multiple buildings on a parcel of which
20 not less than fifty percent (50%) of the gross floor area, including hallways and other common
21 space serving residents, but excluding parking, is used for dwelling purposes, or any grouping of
22 residential buildings designated by the office or a municipality as an appropriate reporting unit for
23 the purposes of this chapter; provided, however, that "residential building " shall not include a
24 building owned or leased by a municipal or state agency.

25 (17) "Tenant" means any tenant, tenant-stockholder of a cooperative apartment
26 corporation, or condominium unit owner.

27 SECTION 2. Chapter 37-24 of the General Laws entitled "The Green Buildings Act" is
28 hereby amended by adding thereto the following section:

29 **37-24-7. Building performance standards act.**

30 (a) For large buildings, the office shall undertake energy use benchmarking to determine
31 whether each building utilizes more or less energy, and emits more or less greenhouse gases, than
32 buildings of comparable size, occupancies and uses, and to inform a statewide analysis of energy
33 use trends and opportunities to increase energy efficiency and reduce greenhouse gas emissions.
34 To conduct the benchmarking, the office shall create, procure, or designate an energy use

1 benchmarking tool and shall provide technical support and assistance on the use of the
2 benchmarking tool to the owners of buildings subject to this section.

3 (b)(1) To administer this section, the office may designate subcategories within each
4 building type and occupancy, and may establish different reporting requirements and energy
5 performance standards for each subcategory. In establishing reporting requirements and energy
6 performance standards, the office may consider whether tenant-occupied units or spaces are
7 separately metered.

8 (2) Not later than January 31 of each year, beginning in 2024, the owner of each large
9 building shall report their energy use for the prior calendar year to the office. The office shall
10 provide a paper form or online portal for the submission of this information. The office shall
11 determine what information is necessary to request, and will request, at a minimum, the information
12 listed in subsection (c) of this section. The owner of a building subject to this section may authorize
13 a gas or electric distribution company or other third party to report building-specific data to the
14 office, and the gas or electric distribution company shall report building-specific data to the office
15 upon such authorization; provided, however, that such authorization shall not relieve an owner from
16 compliance with this section.

17 (3) Annually, an owner of a large building with separately-metered and tenant-occupied
18 units or spaces shall request from each tenant of the building all information necessary to comply
19 with the requirements of subsection (b)(2) of this section and each tenant shall report the required
20 information to the owner. The owner of a large building may bypass individual authorization and
21 request the electric and gas distribution companies to provide the aggregate energy consumption of
22 all meters in the building, including tenant-occupied units and separately-metered units, and the
23 electric and gas distribution companies shall provide the data to the building owner, separated by
24 month and consumption by source. Failure of an owner to report energy use information to the
25 office shall not impose liability on a tenant.

26 (4) The office shall establish a deadline extension or hardship waiver process for owners
27 who, in the judgment of the office, demonstrate cause for a deadline extension or hardship waiver.

28 (5) If an occupied building subject to the requirements of this section is transferred, the
29 buyer shall make reasonable efforts to report energy use information for the building for the entire
30 calendar year, if practicable.

31 (c)(1) Annually, not later than March 31, the office shall make available on its executive
32 climate change website and dashboard required by § 42-6.2-3(13) energy use information and data
33 for the preceding calendar year for each large building, on a building-by-building basis. For each
34 building, the information made available shall include, but not be limited to:

1 (i) The address of the building and the municipality in which the building is located;

2 (ii) The owner of the building;

3 (iii) The building's total energy use in kBTU, total greenhouse gas emissions in pounds of
4 carbon dioxide equivalent, total square footage, energy intensity in kBTU per square foot and
5 greenhouse gas emissions per square foot in pounds of carbon dioxide equivalent per square foot;

6 (iv) The breakdown of the building's energy use by electricity, gas, steam and other
7 sources; and

8 (v) An energy performance rating or assessment score.

9 (2) The office shall utilize such practices as are necessary to prevent the public disclosure
10 of personal information regarding owners and tenants, and maintain a quality assurance process to
11 improve the accuracy and completeness of the available information. The office shall provide
12 owners with the opportunity to submit contextual information related to energy use in their
13 buildings and shall disclose such information on its website upon request by the owner.

14 (d) The office shall make available to a regional planning agency, municipality or other
15 public agency requesting such information any data set forth in this section.

16 (e) The office shall prepare an annual comprehensive report on the energy performance of
17 large buildings utilizing the information and data collected pursuant to this section. The report shall
18 include, but not be limited to, an analysis of energy performance, greenhouse gas emissions, and
19 energy sources by building size, occupancy, and use. The report shall also include, when available,
20 energy performance and greenhouse gas emissions over time. The report shall be posted on the
21 office's website and sent to the house committee on environment and natural resources and the
22 senate committee on environment and agriculture not later than March 31.

23 (f) On the basis of the comprehensive reports prepared by the office pursuant to subsection
24 (e) of this section and other information and data as deemed necessary by the commissioner of
25 energy resources, the commissioner shall conduct an annual review of trends in the energy
26 performance of large buildings and recommend changes to state laws, regulations, policies, and
27 programs to achieve further energy reductions.

28 (g) The office shall ensure that electric distribution companies provide owners of buildings
29 subject to this section with up-to-date information about energy efficiency opportunities or actions
30 available to increase energy efficiency, including incentives in utility-administered or other energy
31 efficiency programs and changes in energy assessment technology. The office shall prioritize those
32 buildings that have not demonstrated year-to-year improvement in their energy performance rating
33 or assessment score.

34 (h)(1) The office shall establish energy performance standards for each building type. The

1 office shall establish these standards on the following schedule:

2 (i) Buildings owned or leased by a municipality, state agency, or other government or
3 quasi-government entity consisting of not less than ten thousand square feet (10,000 sq. ft.) of gross
4 floor area, and residential or commercial buildings consisting of not less than twenty-five thousand
5 square feet (25,000 sq. ft.) of gross floor area: no later than December 31, 2024, and every five (5)
6 years thereafter;

7 (ii) Residential or commercial buildings consisting of not less than twenty thousand square
8 feet (20,000 sq. ft.) of gross floor area: no later than December 31, 2027, and every five (5) years
9 thereafter; and

10 (iii) Residential or commercial buildings consisting of not less than fifteen thousand square
11 feet (15,000 sq. ft.) of gross floor area: no later than December 31, 2030, and every five (5) years
12 thereafter.

13 (2) The office shall establish reporting and data verification requirements for each five (5)
14 year compliance cycle. These standards shall apply only to large buildings.

15 (3) In developing energy performance standards, the office shall maximize opportunities
16 for the state to achieve the requirements of § 42-6.2-2, as well as other laws and policies related to
17 climate change, emissions reductions, energy efficiency, and renewable energy.

18 (4) The office may establish campus-wide energy performance standards for post-
19 secondary educational institutions and hospitals with multiple buildings in a single location that are
20 owned by a single entity; provided that, the development of any standard by the office shall be
21 based upon an analysis of the existing building efficiency of each campus and the compliance
22 pathways shall achieve savings comparable to those outlined in subsection (i) of this section.

23 (5) The office shall set energy performance standards that are at least as strong as the
24 median energy performance rating or assessment score of large buildings of each building type.

25 (i)(1) For the initial five (5) year compliance cycle, owners of large buildings with an
26 energy performance rating or assessment score lower than the energy performance standard
27 established by the office shall satisfy one of the following compliance pathways:

28 (i) An energy performance pathway, which shall require a building to demonstrate a
29 decrease in normalized site energy use averaged over the last two (2) years of the five (5) year
30 compliance cycle, as compared to the normalized site energy use averaged over the last two (2)
31 years preceding the first year of the five (5) year compliance cycle; or

32 (ii) An emissions performance pathway, which shall require a building to demonstrate a
33 decrease in normalized site greenhouse gas emissions over the last two (2) years of the five (5) year
34 compliance cycle, as compared to the normalized site greenhouse gas emissions averaged over the

1 two (2) years preceding the first year of the five (5) year compliance cycle; provided that, switching
2 from oil or another fuel to natural gas for space heating or water heating shall not count toward a
3 building's compliance with this pathway.

4 (iii) The office shall require large buildings subject to the requirements of this subsection
5 to reduce normalized site energy use or greenhouse gas emissions by at least twenty percent (20%)
6 over the initial five (5) year compliance cycle, and may require greater reductions if the office finds
7 that it is feasible to do so and will help achieve the state's enforceable greenhouse gas emissions
8 targets under § 42-6.2-2. The office shall hold at least one public hearing before setting the required
9 reduction in normalized site energy use or greenhouse gas emissions over the initial five (5) year
10 compliance cycle.

11 (2) For subsequent five (5) year compliance cycles, the office shall establish energy
12 performance standards and compliance pathways designed to achieve emissions and energy
13 reduction targets; provided that, the compliance pathways shall maximize the potential to reduce
14 greenhouse gas emissions from large buildings by at least eighty percent (80%) by 2040, compared
15 to the baseline level of emissions in 2023, and to achieve the state greenhouse gas emissions limits
16 under the state's enforceable greenhouse gas emissions targets under § 42-6.2-2.

17 (j) The office shall establish exemption criteria for large buildings to delay compliance
18 with the energy performance standards for up to three (3) years if the owner demonstrates, to the
19 satisfaction of the office, financial distress, change of ownership, vacancy, major renovation,
20 pending demolition, or other acceptable circumstances determined by the office by regulation.

21 (k) The office shall coordinate with utility companies and the public utilities commission
22 to establish incentive and financial assistance programs for owners to meet energy performance
23 standards.

24 (l)(1) Municipalities may establish and enforce energy use benchmarking programs or
25 energy performance standards for buildings, in lieu of the programs and standards established by
26 the office; provided that, the following conditions are met:

27 (i) The municipality uses an energy use benchmarking tool that collects information similar
28 to the energy use benchmarking tool used by the state;

29 (ii) Annually, not later than July 1, the municipality collects and forwards to the office, on
30 a building-by-building basis, the required energy use information from the previous calendar year,
31 using standardized units of measure and formats established by the office; and

32 (iii) Energy performance standards established by the municipality result in reductions in
33 energy use and greenhouse gas emissions that are comparable to or greater than the standards
34 established by the office. Municipalities may set lower gross floor area thresholds for buildings

1 subject to their programs and standards.

2 (2) The office shall review requests from municipalities to establish their own programs,
3 and the office may deny requests if it is not satisfied that the conditions in subsection (1) of this
4 section are met. The office shall evaluate any municipal programs established under this subsection
5 at least once every five (5) years, and may withdraw its approval if municipal programs fail to
6 comply with those conditions.

7 (3) The office shall include data from all municipalities, including municipalities with their
8 own energy use benchmarking programs or energy performance standards, in the website
9 designated in subsection (c) of this section, in the report required under subsection (e) of this
10 section, and in the review required under subsection (f) of this section.

11 (m)(1) Owners of large buildings may pay an alternative compliance payment if their
12 buildings fail to satisfy one of the compliance pathways established in subsection (i) of this section.
13 The amount of the alternative compliance payment shall be set by the office and shall be assessed
14 per metric ton of carbon dioxide equivalent emissions, by which the building falls short of meeting
15 the requirements of subsection (h) of this section. The alternative compliance payment shall be no
16 less than two hundred twenty-five dollars (\$225) per metric ton of carbon dioxide equivalent
17 emissions, and shall be set at an amount ensuring that it is more cost-effective for the owners of the
18 vast majority of large buildings to make the improvements necessary to meet the compliance
19 pathways rather than pay the alternative compliance payment. The office shall revise the amount
20 of the alternative compliance payment at least once every five (5) years. The alternative compliance
21 payment shall be assessed in the final year of the five (5) year compliance period and in every
22 subsequent year that a building fails to satisfy one of the compliance pathways.

23 (2) Owners of large buildings failing to comply with the energy use reporting and
24 benchmarking requirements of this section or knowingly providing false or incomplete information
25 to the office shall be subject to a fine. Owners of large buildings failing to satisfy one of the
26 compliance pathways established in subsection (i) of this section who do not pay an alternative
27 compliance payment to the office, as described in subsection (1) of this section, shall also be subject
28 to a fine. Fines shall be determined by the office and shall be assessed per day that a building owner
29 is not in compliance with the requirements of this section. Fines shall be no less than five hundred
30 dollars (\$500) per day of noncompliance for buildings consisting of not less than twenty-five
31 thousand square feet (25,000 sq. ft.) of gross floor area, three hundred fifty dollars(\$350) per day
32 of noncompliance for buildings consisting of not less than twenty thousand square feet (20,000 sq.
33 ft.) and not greater than twenty-four thousand nine hundred ninety-nine square feet (24,999 sq. ft.)
34 of gross floor area, and two hundred dollars (\$200) per day of noncompliance for buildings

1 consisting of less than twenty thousand square feet (20,000 sq. ft.) of gross floor area. The office
2 may set different levels of fines for different violations of this section.

3 (3) Alternative compliance payments and fines collected by the office shall be deposited
4 into a separate account established by the office. Any funds collected shall be used first to pay for
5 the costs incurred by the office in administering this section, and any remaining funds shall be used
6 to further the objectives of this section, including deep energy retrofits of low-income and
7 moderate-income housing.

8 (4) The office shall take all reasonable steps to inform the owners of large buildings of their
9 obligations under this section.

10 (n) In municipalities that establish their own energy use benchmarking programs or energy
11 performance standards, the municipality and not the office shall assess any alternative compliance
12 payments or fines. Alternative compliance payments and fines assessed by municipalities shall be
13 no less than those described under subsection (m) of this section. Funds collected through
14 alternative compliance payments and fines assessed by a municipality shall be retained by the
15 municipality.

16 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC PROPERTY AND WORKS -- THE GREEN BUILDINGS ACT

1 This act would create building energy performance standards based on the size of
2 buildings, to achieve, by way of benchmarking and reporting, a statewide analysis of energy use
3 and strategies to increase energy efficiency.

4 This act would take effect upon passage.

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