

2022 -- H 7850

LC005100

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

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

Introduced By: Representatives Kislak, McGaw, Speakman, Edwards, Morales, Cassar,  
Cortvriend, Potter, and Tanzi

Date Introduced: March 04, 2022

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 or buildings, or other public  
13 improvements of any kind to any public real property.

14 ~~(2)~~(3) "Department" means the department of administration.

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

18 (5) "Energy performance rating or assessment score" means a score assigned to a building  
19 based on how efficiently it uses energy relative to other buildings of the same type. The office shall

1 promulgate regulations to establish the scoring system.

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

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

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

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

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

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

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

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

22 (ii) As of January 1, 2022, residential or commercial buildings consisting of not less than  
23 twenty five thousand square feet (25,000 sq. ft.) of gross floor area;

24 (iii) As of January 1, 2025, residential or commercial buildings consisting of not less than  
25 twenty thousand square feet (20,000 sq. ft.) of gross floor area; and

26 (4) As of January 1, 2028, residential or commercial buildings consisting of not less than  
27 fifteen thousand square feet (15,000 sq. ft.) of gross floor area.

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

33 ~~(11)~~ "Major facility project" means:

34 (i) A building construction project larger than five thousand (5,000) gross square feet of

1 occupied or conditioned space, and its public real-property site; or

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

4 ~~(6)~~(12) "Public agency" means every state office, board, commission, committee, bureau,  
5 department, or public institution of higher education.

6 ~~(7)~~(13) "Public facility" means any public institution, public facility, public equipment, or  
7 any physical asset owned, including its public real-property site, leased or controlled in whole or  
8 in part by this state or any agency or political subdivision thereof.

9 (14) "Office " means the office of energy resources.

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

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

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

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

25 **37-24-7. Building performance standards act.**

26 (a) For large buildings, the office shall undertake energy use benchmarking to determine  
27 whether each building utilizes more or less energy, and emits more or less greenhouse gases, than  
28 buildings of comparable size, occupancies and uses, and to inform a statewide analysis of energy  
29 use trends and opportunities to increase energy efficiency and reduce greenhouse gas emissions.  
30 To conduct the benchmarking, the office shall create, procure, or designate an energy use  
31 benchmarking tool and shall provide technical support and assistance on the use of the  
32 benchmarking tool to the owners of buildings subject to this section.

33 (b)(1) To administer this section, the office may designate subcategories within each  
34 building type and occupancy, and may establish different reporting requirements and energy

1 performance standards for each subcategory. In establishing reporting requirements and energy  
2 performance standards, the office may consider whether tenant-occupied units or spaces are  
3 separately metered.

4 (2) Not later than January 31 of each year, beginning in 2023, the owner of each large  
5 building shall report their energy use for the prior calendar year to the office. The office shall  
6 provide a paper form or online portal for the submission of this information. The office shall  
7 determine what information is necessary to request, and will request, at a minimum, the information  
8 in subsection (c) of this section. The owner of a building subject to this section may authorize a gas  
9 or electric distribution company or other third party to report building-specific data to the office,  
10 and the gas or electric distribution company shall report building-specific data to the office upon  
11 such authorization; provided, however, that such authorization shall not relieve an owner from  
12 compliance with this section.

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

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

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

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

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

32 (2) The owner of the building;

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

1 greenhouse gas emissions per square foot in pounds of carbon dioxide equivalent per square foot;

2 (4) The breakdown of the building's energy use by electricity, gas, steam and other sources;  
3 and

4 (5) An energy performance rating or assessment score. The office shall utilize such  
5 practices as are necessary to prevent the public disclosure of personal information regarding owners  
6 and tenants, and maintain a quality assurance process to improve the accuracy and completeness of  
7 the available information. The office shall provide owners with the opportunity to submit  
8 contextual information related to energy use in their buildings and shall disclose such information  
9 on its website upon request by the owner.

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

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

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

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

30 (h)(1) The office shall establish energy performance standards for each building type. The  
31 office shall establish these standards on the following schedule:

32 (i) Buildings owned or leased by a municipality, state agency, or other government or  
33 quasi-government entity consisting of not less than ten thousand square feet (10,000 sq. ft.) of gross  
34 floor area, and residential or commercial buildings consisting of not less than twenty-five thousand

1 square feet (25,000 sq. ft.) of gross floor area: no later than December 31, 2023, and every five (5)  
2 years thereafter;

3 (ii) Residential or commercial buildings consisting of not less than twenty thousand square  
4 feet (20,000 sq. ft.) of gross floor area: no later than December 31, 2026, and every five (5) years  
5 thereafter; and

6 (iii) Residential or commercial buildings consisting of not less than fifteen thousand square  
7 feet (15,000 sq. ft.) of gross floor area: no later than December 31, 2029, and every five (5) years  
8 thereafter.

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

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

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

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

21 (i)(A) For the initial five (5) year compliance cycle, owners of large buildings with an  
22 energy performance rating or assessment score lower than the energy performance standard  
23 established by the office must satisfy one of the following compliance pathways:

24 (B) An energy performance pathway, which shall require a building to demonstrate a  
25 decrease in normalized site energy use averaged over the last two (2) years of the five (5) year  
26 compliance cycle, as compared to the normalized site energy use averaged over the last two (2)  
27 years preceding the first year of the five (5) year compliance cycle; or

28 (ii) An emissions performance pathway, which shall require a building to demonstrate a  
29 decrease in normalized site greenhouse gas emissions over the last two (2) years of the five (5) year  
30 compliance cycle, as compared to the normalized site greenhouse gas emissions averaged over the  
31 two (2) years preceding the first year of the five (5) year compliance cycle; provided that, switching  
32 from oil or another fuel to natural gas for space heating or water heating shall not count toward a  
33 building's compliance with this pathway. The office shall require large buildings subject to the  
34 requirements of this subsection to reduce normalized site energy use or greenhouse gas emissions

1 by at least twenty percent (20%) over the initial five (5) year compliance cycle, and may require  
2 greater reductions if the office finds that it is feasible to do so and will help achieve the state's  
3 enforceable greenhouse gas emissions targets under § 42-6.2-2. The office must hold at least one  
4 public hearing before setting the required reduction in normalized site energy use or greenhouse  
5 gas emissions over the initial five (5) year compliance cycle.

6 (2) For subsequent five (5) year compliance cycles, the office shall establish energy  
7 performance standards and compliance pathways designed to achieve emissions and energy  
8 reduction targets; provided that, the compliance pathways shall maximize the potential to reduce  
9 greenhouse gas emissions from large buildings by at least eighty percent (80%) by 2040, compared  
10 to the baseline level of emissions in 2022, and to achieve the state greenhouse gas emissions limits  
11 under the state's enforceable greenhouse gas emissions targets under § 42-6.2-2.

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

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

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

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

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

27 (iii) Energy performance standards established by the municipality result in reductions in  
28 energy use and greenhouse gas emissions that are comparable to or greater than the standards  
29 established by the office. Municipalities may set lower gross floor area thresholds for buildings  
30 subject to their programs and standards.

31 (2) The office shall review requests from municipalities to establish their own programs,  
32 and the office may deny requests if it is not satisfied that the above conditions are met. The office  
33 shall evaluate any municipal programs established under this subsection at least once every five (5)  
34 years, and may withdraw its approval if municipal programs fail to comply with the above

1 conditions.

2 (3) The office shall include data from all municipalities, including municipalities with their  
3 own energy use benchmarking programs or energy performance standards, in the website  
4 designated in subsection (d) of this section, in the report required under subsection (f) of this  
5 section, and in the review required under subsection (g) of this section.

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

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

32 (3) Alternative compliance payments and fines collected by the office shall be deposited  
33 into a separate account established by the office. Any funds collected shall be used first to pay for  
34 the costs incurred by the office in administering this section, and any remaining funds shall be used



1 to further the objectives of this section, including deep energy retrofits of low-income and  
2 moderate-income housing.

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

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

11 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

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1           This act would create the building performance standards act to create, by way of  
2 benchmarking and reporting, a statewide analysis of energy use and ways to increase energy  
3 efficiency.

4           This act would take effect upon passage.

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