

Department of Legislative Services  
Maryland General Assembly  
2022 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 81

(Senator Feldman)

Education, Health, and Environmental Affairs

Environment and Transportation

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**Charter Counties - Enforcement of Local Building Performance Laws (Building Energy Performance Standards Act of 2022)**

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This bill authorizes charter counties to impose civil fines up to \$10 per square foot of gross floor area to enforce local building energy performance laws only if construction on the building was completed at least three years and one day before the fine would be imposed. A charter county must consider the assessed value of a property in determining the civil fine imposed under the bill. The bill defines *gross floor area* as the total indoor property square footage measured between the principal exterior surfaces of the enclosing fixed walls of a building.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** No direct effect on local government finances, as the bill is authorizing in nature. The application of any existing penalty provisions, or new penalties established in conjunction with the bill's provisions, is not expected to materially affect local government finances.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:**

*Forms of County Government in Maryland*

Maryland counties operate under three forms of government: charter home rule, commission, and code home rule. Commission counties cannot enact local laws in areas

where the General Assembly has not expressly granted authority, while charter home rule and code home rule counties have the authority to enact local laws on matters covered under the Express Powers Act. See **Exhibit 1**.

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**Exhibit 1**  
**Forms of County Government**

**Charter Home Rule**

Anne Arundel  
Baltimore  
Cecil  
Dorchester  
Frederick  
Harford  
Howard  
Montgomery  
Prince George's  
Talbot  
Wicomico

**Commission**

Calvert  
Carroll  
Garrett  
St. Mary's  
Somerset  
Washington

**Code Home Rule**

Allegany  
Caroline  
Charles  
Kent  
Queen Anne's  
Worcester

Source: Department of Legislative Services

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*Express Powers Act*

Title 10, Subtitle 2 of the Local Government Article describes the express powers granted to charter counties under Article XI-A, § 2 of the Maryland Constitution. The Express Powers Act grants powers to charter counties to legislate and administer over local affairs. Generally, a charter county may enact, repeal, or amend any local law within the scope of the express powers given. A charter county may also pass any ordinance, resolution, or bylaw that does not conflict with public general law, provided that the overall health, safety, good government, and general welfare of the local community are maintained.

A charter county may provide for the enforcement of an ordinance, a resolution, a bylaw, or a regulation through the imposition of civil and criminal fines. Civil fines, criminal fines and penalties not exceeding \$1,000, and imprisonment not exceeding six months may be imposed for any offense.

Additionally, charter counties may enforce:

- local fair housing laws by fines or penalties that do not exceed the fines or penalties provided in the federal Fair Housing Act Amendments of 1988 for enforcement of similar federal fair housing laws; and
- local employment discrimination or public accommodations discrimination laws by civil fines not exceeding \$5,000 for any offense.

#### *Maryland Building Performance Standards*

The Maryland Department of Labor currently incorporates by reference the International Building Code (2018 Edition), including the International Energy Conservation Code (2018 Edition), with modifications, as Maryland Building Performance Standards. In general, the standards apply to all buildings and structures within the State for which a building permit application is received by a local government.

#### *Energy Conservation Building Standards*

The Energy Conservation Building Standards under Title 7, Subtitle 4 of the Public Utilities Article generally require a builder of any building that is constructed after July 1, 1982, to certify under oath that the building is in compliance with the latest edition of the Energy Code. If a builder fails to comply with the energy conservation standards required for certification, the builder is liable to the first purchaser who either occupies or rents the building for an amount up to \$2,000 and for the cost of bringing the building into compliance with the energy conservation standards.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** HB 61 (Delegate Stewart) - Environment and Transportation.

**Information Source(s):** Anne Arundel, Baltimore, Cecil, Frederick, Harford, Howard, Montgomery, and Prince George's counties; State Department of Assessments and Taxation; Department of Legislative Services

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