

# HOUSE BILL 49

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(PRE-FILED)

5lR0290  
CF SB 256

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By: **Chair, Environment and Transportation Committee (By Request –  
Departmental – Environment)**

Requested: October 9, 2024

Introduced and read first time: January 8, 2025

Assigned to: Environment and Transportation

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Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 4, 2025

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Environment – Building Energy Performance Standards – ~~Compliance and~~**  
3 **Reporting Alterations**

4 FOR the purpose of ~~altering an alternative compliance fee paid by certain owners of covered~~  
5 ~~buildings under certain circumstances to include the energy use attributable to the~~  
6 ~~building's failure to meet certain energy targets; requiring certain regulations to~~  
7 ~~include a certain annual reporting fee to cover certain costs; requiring the~~  
8 ~~Department of the Environment to deposit alternative compliance fees into the~~  
9 ~~Maryland Strategic Energy Investment Fund; and generally relating to compliance~~  
10 ~~and reporting for Building Energy Performance Standards~~ altering the requirements  
11 for certain regulations adopted by the Department of the Environment relating to  
12 building energy performance standards to include certain crediting, exclusions, and  
13 considerations, a certain alternative compliance pathway fee for energy use  
14 attributable to a building's failure to meet energy use intensity targets, certain  
15 waivers from certain alternative compliance pathway fees, and a certain annual  
16 reporting fee to cover certain costs; requiring the Department to offer certain  
17 training to help certain energy auditors understand the requirements under the  
18 building energy performance standards and publish a list of energy auditors that  
19 have completed the training; authorizing the Department to certify a building energy  
20 performance standards program adopted by a county under certain circumstances;  
21 requiring the Department to deposit alternative compliance pathway payments into  
22 the Maryland Strategic Energy Investment Fund; and generally relating to building  
23 energy performance standards.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



- 1 BY repealing and reacting, with amendments,  
2 Article – Environment  
3 Section 2–1601 and 2–1602(c)  
4 Annotated Code of Maryland  
5 (2013 Replacement Volume and 2024 Supplement)
- 6 BY adding to  
7 Article – Environment  
8 Section 2–1602(f)  
9 Annotated Code of Maryland  
10 (2013 Replacement Volume and 2024 Supplement)
- 11 BY repealing and reenacting, with amendments,  
12 Article – Environment  
13 Section 2–1602(c)  
14 Annotated Code of Maryland  
15 (2013 Replacement Volume and 2024 Supplement)  
16 (As enacted by Chapter 38 of the Acts of the General Assembly of 2022)
- 17 BY repealing and reenacting, without amendments,  
18 Article – Economic Development  
19 Section 3–201(a) and (d)  
20 Annotated Code of Maryland  
21 (2024 Replacement Volume and 2024 Supplement)
- 22 BY repealing and reenacting, without amendments,  
23 Article – Environment  
24 Section 2–1202(a) and (h)  
25 Annotated Code of Maryland  
26 (2013 Replacement Volume and 2024 Supplement)
- 27 BY repealing and reenacting, without amendments,  
28 Article – Public Utilities  
29 Section 1–101(a) and (h–1)  
30 Annotated Code of Maryland  
31 (2020 Replacement Volume and 2024 Supplement)
- 32 BY repealing and reenacting, without amendments,  
33 Article – State Government  
34 Section 9–20B–05(a) and (b)  
35 Annotated Code of Maryland  
36 (2021 Replacement Volume and 2024 Supplement)
- 37 BY repealing and reenacting, with amendments,  
38 Article – State Government  
39 Section 9–20B–05(e)

1 Annotated Code of Maryland  
2 (2021 Replacement Volume and 2024 Supplement)

3 BY adding to

4 Article – State Government

5 Section 9–20B–05(g–2)

6 Annotated Code of Maryland

7 (2021 Replacement Volume and 2024 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
9 That the Laws of Maryland read as follows:

10 **Article – Environment**

11 2–1602.

12 (c) (1) On or before June 1, 2023, the Department shall adopt regulations to  
13 implement this section.

14 (2) Regulations adopted under this section shall:

15 (i) Subject to items (ii) ~~and (iii), (III), (IV), AND (V)~~ of this  
16 paragraph, include energy use intensity targets by building type;

17 (ii) As necessary, include special provisions or exceptions to account  
18 for:

19 1. Building age;

20 2. Regional differences;

21 3. The unique needs of particular building or occupancy  
22 types, including health care facilities, laboratories, assisted living and nursing facilities,  
23 military buildings, critical infrastructure, and buildings used in life sciences ~~as defined in~~  
24 ~~§ 3–201 of the Economic Development Article; and~~

25 4. The use of district energy systems and biofuels by covered  
26 buildings;

27 **5. CREDITING THE GENERATION OF ON-SITE**  
28 **RENEWABLE ENERGY BY COVERED BUILDINGS TOWARD THEIR ENERGY USE**  
29 **INTENSITY TARGETS;**

30 **6. CREDITING THE GREENHOUSE GAS REDUCTION**  
31 **IMPACT OF THE ON-SITE USE OF BIOMETHANE;**

1                               **7. EXCLUDING THE ENERGY USE AND GREENHOUSE GAS**  
2 **EMISSIONS RELATED TO THE PRODUCTION OF STEAM FOR STERILIZATION IN A**  
3 **HEALTH CARE FACILITY, LABORATORY, ASSISTED LIVING AND NURSING FACILITY,**  
4 **MILITARY BUILDING, OR BUILDING USED IN LIFE SCIENCES;**

5                               **8. EXCLUDING THE ENERGY USE AND GREENHOUSE GAS**  
6 **EMISSIONS RELATED TO THE GENERATION OF EMERGENCY BACKUP POWER AT A**  
7 **HEALTH CARE FACILITY, LABORATORY, ASSISTED LIVING AND NURSING FACILITY,**  
8 **MILITARY BUILDING, CRITICAL INFRASTRUCTURE, OR BUILDING USED IN LIFE**  
9 **SCIENCES; AND**

10                              **9. OPERATIONAL NEEDS, INCLUDING SCALING FACTORS**  
11 **TO ADJUST FOR DIFFERENT OPERATING HOURS;**

12                              (iii) Consider the needs of the owners of covered buildings who:

13                              1. Are not responsible for the design, modification, fixtures,  
14 or equipment of commercial tenants;

15                              2. Do not have access to or control over building energy  
16 systems that are used or controlled by commercial tenants; or

17                              3. Own buildings occupied by commercial tenants who are  
18 responsible for all maintenance of and repairs to the buildings;

19                              (iv) **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, EXEMPT**  
20 **FROM ENERGY USE INTENSITY TARGETS A COVERED BUILDING THAT CONTAINS AN**  
21 **AREA DESIGNED, BUILT, AND OPERATED AS A PERMANENT SENSITIVE**  
22 **COMPARTMENTED INFORMATION FACILITY AND IS OPERATED BY AN AGENCY OR**  
23 **CONTRACTOR OF:**

24                              **1. THE U.S. GENERAL SERVICES ADMINISTRATION;**

25                              **2. A. THE U.S. DEPARTMENT OF DEFENSE;**

26                              **B. THE NATIONAL SECURITY AGENCY;**

27                              **C. THE U.S. DEPARTMENT OF HOMELAND SECURITY;**

28 **OR**

29                              **D. ANY OTHER U.S. INTELLIGENCE AGENCY; OR**

30                              **3. THE STATE;**

1 (V) EXEMPT AN OWNER OF A COVERED BUILDING FROM  
 2 ENERGY USE INTENSITY REPORTING REQUIREMENTS IF:

3 1. THE COVERED BUILDING MEETS THE CRITERIA  
 4 UNDER ITEM (IV) OF THIS PARAGRAPH; AND

5 2. THE TENANT OR OCCUPANT DOES NOT PROVIDE  
 6 ENERGY USE INFORMATION TO THE OWNER OF THE COVERED BUILDING DUE TO  
 7 CONCERNS ABOUT THE CONFIDENTIALITY OF THE BUILDING'S SECURE AREA;

8 (VI) Provide maximum flexibility to the owners of covered buildings  
 9 to comply with building energy performance standards;

10 (VII) Subject to paragraph (4) of this subsection AND  
 11 SUBSECTION (F) OF THIS SECTION, include an alternative compliance pathway allowing  
 12 the owner of a covered building to pay a fee for ~~greenhouse~~

13 1. ~~GREENHOUSE~~ gas emissions attributable to the  
 14 building's failure to meet direct greenhouse gas emissions reduction targets; ~~and~~

15 2. ~~ENERGY USE ATTRIBUTABLE TO THE BUILDING'S~~  
 16 ~~FAILURE TO MEET ENERGY USE INTENSITY TARGETS;~~

17 (VIII) SUBJECT TO PARAGRAPH (4)(II) OF THIS SUBSECTION AND  
 18 SUBSECTION (F) OF THIS SECTION, INCLUDE AN ALTERNATIVE COMPLIANCE  
 19 PATHWAY ALLOWING THE OWNER OF A COVERED BUILDING TO PAY A FEE OF 5  
 20 CENTS PER THOUSAND BRITISH THERMAL UNITS OF ENERGY, ADJUSTED FOR  
 21 INFLATION USING 2020 AS THE BASELINE YEAR FOR CALCULATING THE  
 22 ADJUSTMENT, FOR ENERGY USE ATTRIBUTABLE TO THE BUILDING'S FAILURE TO  
 23 MEET ENERGY USE INTENSITY TARGETS;

24 (IX) ALLOW THE OWNER OF A COVERED BUILDING TO REQUEST  
 25 A ONE-TIME WAIVER, FOR THE ENTIRE BUILDING, FROM PAYING AN ALTERNATIVE  
 26 COMPLIANCE PATHWAY FEE UNDER ITEMS (VII) AND (VIII) OF THIS PARAGRAPH  
 27 THROUGH NOT LATER THAN 2039 FOR ENERGY OR EMISSIONS ATTRIBUTABLE TO  
 28 CONTINUED OPERATION OF EQUIPMENT INSTALLED BEFORE 2025 FOR THE  
 29 EXPECTED AVERAGE REMAINING LIFESPAN OF THAT EQUIPMENT, AS IDENTIFIED BY  
 30 A PUBLICLY AVAILABLE DATABASE SELECTED BY THE DEPARTMENT, BY:

31 1. SUBMITTING TO THE DEPARTMENT, AT LEAST 1 YEAR  
 32 BEFORE THE REQUESTED WAIVER WOULD TAKE EFFECT;

1                   A. AN INVENTORY OF DESCRIPTIONS, SERIAL NUMBERS,  
2 AND INSTALLATION DATES OF THE EQUIPMENT THAT PROVIDES THE BASIS OF THE  
3 WAIVER APPLICATIONS; AND

4                   B. A PLAN PREPARED BY AN ENERGY AUDITOR THAT  
5 COMPLETED THE TRAINING REQUIRED UNDER PARAGRAPH (7) OF THIS SUBSECTION  
6 DETAILING THE DATES THAT SPECIFIC PROJECTS WILL BE COMPLETED AND THE  
7 ENERGY USE INTENSITY AND GREENHOUSE GAS EMISSIONS SAVINGS THAT WILL  
8 RESULT FROM THE PROJECTS;

9                   2. DEMONSTRATING IN THE PLAN PREPARED UNDER  
10 ITEM 1B OF THIS ITEM HOW THE BUILDING WILL COME INTO COMPLIANCE WITH THE  
11 FINAL TARGETS BEFORE 2040 WITH MINIMAL RELIANCE ON ALTERNATIVE  
12 COMPLIANCE PATHWAY PAYMENTS;

13                   3. CERTIFYING THAT THE PROJECTS WILL BE  
14 COMPLETED BY THE DATES DETAILED UNDER ITEM 1B OF THIS ITEM, OR THAT THE  
15 EXEMPTED ALTERNATIVE COMPLIANCE PATHWAY FEES WILL BE PAID IF THE  
16 PROJECTS ARE NOT COMPLETED BY THOSE DATES; AND

17                   4. PAYING A FEE TO COVER THE COST FOR THE  
18 DEPARTMENT OR ITS CONTRACTOR TO REVIEW THE PLAN;

19                   (X) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, ALLOW  
20 THE OWNER OF A COVERED BUILDING TO REQUEST A WAIVER FROM PAYING  
21 ALTERNATIVE COMPLIANCE PATHWAY FEES FOR ENERGY USE OR GREENHOUSE GAS  
22 EMISSIONS ASSOCIATED WITH ENERGY OR EMISSIONS REDUCTION MEASURES THAT  
23 THE DEPARTMENT DETERMINES TO BE IMPRACTICABLE OR ECONOMICALLY  
24 INFEASIBLE BY:

25                   1. SUBMITTING TO THE DEPARTMENT, AT LEAST 1 YEAR  
26 BEFORE THE REQUESTED WAIVER WOULD TAKE EFFECT, AN ENGINEERING STUDY  
27 PREPARED BY AN ENERGY AUDITOR THAT COMPLETED THE TRAINING REQUIRED  
28 UNDER PARAGRAPH (7) OF THIS SUBSECTION DETAILING THE PRACTICABILITY OR  
29 IMPRACTICABILITY OR ECONOMIC FEASIBILITY OR INFEASIBILITY OF ENERGY OR  
30 EMISSIONS REDUCTION MEASURES THAT WOULD BE NEEDED TO ACHIEVE THE  
31 ENERGY USE INTENSITY AND DIRECT GREENHOUSE GAS EMISSIONS REDUCTION  
32 TARGETS;

33                   2. DETAILING THE ENERGY USE INTENSITY OR DIRECT  
34 GREENHOUSE GAS EMISSIONS ABOVE TARGET LEVELS THAT WOULD OCCUR IF THE  
35 OWNER OF THE COVERED BUILDING DOES NOT IMPLEMENT THE IMPRACTICABLE OR  
36 ECONOMICALLY INFEASIBLE MEASURES; AND

1                                   **3. PAYING A FEE TO COVER THE COST FOR THE**  
2 **DEPARTMENT OR ITS CONTRACTOR TO REVIEW THE STUDY;**

3                   ~~(VI)~~ **(XI)** To the extent authorized by law, include financial  
4 incentives recommended by the Building Energy Transition Implementation Task Force;  
5 **AND**

6                   ~~(VII)~~ **(XII)** **INCLUDE AN ANNUAL REPORTING FEE OF \$100 PER**  
7 **COVERED BUILDING, ADJUSTED FOR INFLATION, TO COVER THE ADMINISTRATIVE**  
8 **COSTS UNDER THIS SECTION OF THE PROGRAM.**

9                   (3) **(I)** **AN OWNER OF A COVERED BUILDING THAT IS EXEMPT FROM**  
10 **ENERGY USE INTENSITY TARGETS UNDER PARAGRAPH (2)(IV) OF THIS SUBSECTION**  
11 **SHALL PROVIDE AN AFFIDAVIT SIGNED BY AN OFFICER OR PRINCIPAL**  
12 **CONTROLLING MEMBER, SHAREHOLDER, OR PARTNER OF THE OWNER OF THE**  
13 **COVERED BUILDING THAT PROVIDES:**

14                                   **1. THE ADDRESS OF EACH BUILDING FOR WHICH THE**  
15 **EXEMPTION APPLIES; AND**

16                                   **2. A STATEMENT CONFIRMING THAT AS OF THE DATE OF**  
17 **THE AFFIDAVIT THE BUILDING MEETS THE STANDARDS SET FORTH IN PARAGRAPH**  
18 **(2)(IV) OF THIS SUBSECTION.**

19                                   **(II)** **INFORMATION SUBMITTED TO THE DEPARTMENT UNDER**  
20 **PARAGRAPH (2)(IV) OF THIS SUBSECTION AND THIS PARAGRAPH IS EXEMPT FROM**  
21 **DISCLOSURE IN ACCORDANCE WITH § 4-301(A)(2) OF THE GENERAL PROVISIONS**  
22 **ARTICLE.**

23                   (4) **(I)** The Department may not set an alternative compliance fee that  
24 is less than the social cost of greenhouse gases adopted by the Department or the U.S.  
25 Environmental Protection Agency **THAT IS IN THE AMOUNT OF \$190 PER METRIC TON**  
26 **OF EXCESS CARBON DIOXIDE EQUIVALENT, ADJUSTED FOR INFLATION USING 2020**  
27 **AS THE BASELINE YEAR FOR CALCULATING THE ADJUSTMENT.**

28                                   **(II)** **IF A COVERED BUILDING EXERCISES THE ALTERNATIVE**  
29 **COMPLIANCE FEE OPTION FOR BOTH DIRECT GREENHOUSE GAS EMISSIONS**  
30 **TARGETS AND ENERGY USE INTENSITY TARGETS, THE DEPARTMENT SHALL**  
31 **COLLECT ONLY THE HIGHER OF THE TWO FEES.**

32                   (5) **(I)** **A WAIVER GRANTED UNDER PARAGRAPH (2)(X) OF THIS**  
33 **SUBSECTION:**

1                    1. SHALL REMAIN IN EFFECT FOR A PERIOD OF 5 YEARS;  
2 AND

3                    2. MAY BE RENEWED.

4                    (II) IN MAKING A DETERMINATION ON A WAIVER REQUEST  
5 SUBMITTED UNDER PARAGRAPH (2)(X) OF THIS SUBSECTION, THE DEPARTMENT  
6 SHALL:

7                    1. IF A COVERED BUILDING EXERCISES THE  
8 ALTERNATIVE COMPLIANCE FEE OPTION FOR BOTH DIRECT GREENHOUSE GAS  
9 EMISSIONS TARGETS AND ENERGY USE INTENSITY TARGETS, CONSIDER ONLY THE  
10 HIGHER OF THE TWO FEES WHEN CALCULATING AVOIDED COMPLIANCE PATHWAY  
11 PAYMENTS; AND

12                    2. CONSIDER THE AVAILABILITY OF CAPITAL.

13                    ~~(4)~~ (6) THE DEPARTMENT SHALL DEPOSIT AN ALTERNATIVE  
14 COMPLIANCE FEE COLLECTED UNDER THIS SUBSECTION INTO THE MARYLAND  
15 STRATEGIC ENERGY INVESTMENT FUND UNDER § 9-20B-05 OF THE STATE  
16 GOVERNMENT ARTICLE.

17                    (7) (I) THE DEPARTMENT SHALL:

18                    1. OFFER TRAINING TO HELP ENERGY AUDITORS THAT  
19 POSSESS, IN GOOD STANDING, A PROFESSIONAL LICENSE OR CREDENTIAL  
20 RECOGNIZED BY THE DEPARTMENT UNDERSTAND THE REGULATIONS ADOPTED  
21 UNDER THIS SECTION, INCLUDING REQUIREMENTS FOR ALTERNATIVE COMPLIANCE  
22 PLANS AND ENGINEERING STUDIES;

23                    2. PUBLISH A LIST OF ENERGY AUDITORS THAT HAVE  
24 COMPLETED THE TRAINING OFFERED UNDER ITEM 1 OF THIS SUBPARAGRAPH; AND

25                    3. INCLUDE A FEE TO COVER THE COST FOR THE  
26 DEPARTMENT OR ITS CONTRACTOR TO PROVIDE THE TRAINING.

27                    (II) AN OWNER OF A COVERED BUILDING SHALL CONTRACT  
28 WITH AN ENERGY AUDITOR THAT COMPLETED THE TRAINING REQUIRED UNDER  
29 SUBPARAGRAPH (I) OF THIS PARAGRAPH TO SUBMIT AN ENGINEERING PLAN OR  
30 STUDY SEEKING A WAIVER UNDER PARAGRAPH (2)(IX) AND (X) OF THIS SUBSECTION.

31                    (8) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE  
32 DEPARTMENT MAY CERTIFY A BUILDING ENERGY PERFORMANCE STANDARDS



1 PROGRAM ADOPTED BY A COUNTY AND WAIVE THE REQUIREMENT FOR A COVERED  
2 BUILDING TO COMPLY WITH THE STATEWIDE PROGRAM ADOPTED UNDER THIS  
3 SECTION WHEN:

4 1. THE DEPARTMENT DETERMINES, BASED ON A  
5 DEMONSTRATION PROVIDED BY THE COUNTY, THAT THE COUNTY HAS ADOPTED A  
6 BUILDING ENERGY PERFORMANCE STANDARDS PROGRAM THAT IS AT LEAST AS  
7 STRINGENT AS THE STATEWIDE PROGRAM ADOPTED UNDER THIS SECTION; AND

8 2. THE COUNTY ANNUALLY SUBMITS TO THE  
9 DEPARTMENT A COMPLETE LIST OF COVERED BUILDINGS, INCLUDING THEIR  
10 ENERGY USE INTENSITY, DIRECT GREENHOUSE GAS EMISSIONS, AND COMPLIANCE  
11 STATUS WITH THE COUNTY PROGRAM.

12 (II) A COUNTY ADMINISTERING A BUILDING ENERGY  
13 PERFORMANCE STANDARDS PROGRAM CERTIFIED BY THE DEPARTMENT UNDER  
14 SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY TAKE APPROPRIATE ACTIONS TO  
15 ENFORCE THE STANDARDS, INCLUDING:

16 1. ESTABLISHING ALTERNATIVE COMPLIANCE  
17 PATHWAYS FOR COMPLYING WITH ENERGY USE INTENSITY AND DIRECT  
18 GREENHOUSE GAS EMISSIONS REQUIREMENTS ESTABLISHED IN THE STANDARDS;

19 2. IMPOSING AND COLLECTING ALTERNATIVE  
20 COMPLIANCE FEES IN THE SAME AMOUNT AND MANNER ALLOWED BY THE  
21 DEPARTMENT UNDER THIS SECTION; AND

22 3. IMPOSING AND COLLECTING PENALTIES IN THE SAME  
23 AMOUNT AND MANNER ALLOWED BY THE DEPARTMENT UNDER § 2-610 OF THIS  
24 TITLE.

25 (9) NOTHING IN THIS SECTION SHALL PRECLUDE A COUNTY FROM  
26 ADOPTING BUILDING ENERGY PERFORMANCE STANDARDS FOR BUILDINGS THAT  
27 ARE NOT COVERED BUILDINGS UNDER THE STATEWIDE PROGRAM ADOPTED UNDER  
28 THIS SECTION.

29 (10) THE DEPARTMENT SHALL MAKE THE NECESSARY APPLICATION  
30 AND FORMS FOR A WAIVER UNDER THIS SECTION AVAILABLE ON THE  
31 DEPARTMENT'S WEBSITE.

32 (F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE  
33 DEPARTMENT MAY NOT:

1 (I) IMPOSE AND COLLECT ALTERNATIVE COMPLIANCE FEES  
 2 UNDER THIS SECTION UNTIL 2032; OR

3 (II) IMPOSE AND COLLECT PENALTIES FOR FAILURE TO  
 4 ACHIEVE BUILDING ENERGY PERFORMANCE STANDARDS UNDER THIS SECTION  
 5 UNTIL 2032.

6 (2) THE PROHIBITION UNDER PARAGRAPH (1)(II) OF THIS  
 7 SUBSECTION DOES NOT APPLY TO THE IMPOSITION AND COLLECTION OF PENALTIES  
 8 FOR FAILURE TO MEET ANY REPORTING REQUIREMENTS UNDER THIS SECTION.

9 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
 10 as follows:

11 **Article – Environment**

12 2–1602.

13 (c) (1) On or before June 1, 2023, the Department shall adopt regulations to  
 14 implement this section.

15 (2) Regulations adopted under this section shall:

16 (i) Subject to items (ii) ~~AND (III), (III), (IV), AND (V)~~ of this  
 17 paragraph, include energy use intensity targets by building type;

18 (ii) As necessary, include special provisions or exceptions to account  
 19 for:

20 1. Building age;

21 2. Regional differences;

22 3. The unique needs of particular building or occupancy  
 23 types, including health care facilities, laboratories, assisted living and nursing facilities,  
 24 military buildings, critical infrastructure, and buildings used in life sciences ~~as defined in~~  
 25 ~~§ 3-201 of the Economic Development Article; and~~

26 4. The use of district energy systems and biofuels by covered  
 27 buildings;

28 5. CREDITING THE GENERATION OF ON-SITE  
 29 RENEWABLE ENERGY BY COVERED BUILDINGS TOWARD THEIR ENERGY USE  
 30 INTENSITY TARGETS;

1                                   **6. CREDITING THE GREENHOUSE GAS REDUCTION**  
 2 **IMPACT OF THE ON-SITE USE OF BIOMETHANE;**

3                                   **7. EXCLUDING THE ENERGY USE AND GREENHOUSE GAS**  
 4 **EMISSIONS RELATED TO THE PRODUCTION OF STEAM FOR STERILIZATION IN A**  
 5 **HEALTH CARE FACILITY, LABORATORY, ASSISTED LIVING AND NURSING FACILITY,**  
 6 **MILITARY BUILDING, OR BUILDING USED IN LIFE SCIENCES;**

7                                   **8. EXCLUDING THE ENERGY USE AND GREENHOUSE GAS**  
 8 **EMISSIONS RELATED TO THE GENERATION OF EMERGENCY BACKUP POWER AT A**  
 9 **HEALTH CARE FACILITY, LABORATORY, ASSISTED LIVING AND NURSING FACILITY,**  
 10 **MILITARY BUILDING, CRITICAL INFRASTRUCTURE, OR BUILDING USED IN LIFE**  
 11 **SCIENCES; AND**

12                                   **9. OPERATIONAL NEEDS, INCLUDING SCALING FACTORS**  
 13 **TO ADJUST FOR DIFFERENT OPERATING HOURS;**

14                                   (iii) Consider the needs of the owners of covered buildings who:

15                                   1. Are not responsible for the design, modification, fixtures,  
 16 or equipment of commercial tenants;

17                                   2. Do not have access to or control over building energy  
 18 systems that are used or controlled by commercial tenants; or

19                                   3. Own buildings occupied by commercial tenants who are  
 20 responsible for all maintenance of and repairs to the buildings;

21                                   (iv) **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, EXEMPT**  
 22 **FROM ENERGY USE INTENSITY TARGETS A COVERED BUILDING THAT CONTAINS AN**  
 23 **AREA DESIGNED, BUILT, AND OPERATED AS A PERMANENT SENSITIVE**  
 24 **COMPARTMENTED INFORMATION FACILITY AND IS OPERATED BY AN AGENCY OR**  
 25 **CONTRACTOR OF:**

26                                   **1. THE U.S. GENERAL SERVICES ADMINISTRATION;**

27                                   **2. A. THE U.S. DEPARTMENT OF DEFENSE;**

28                                   **B. THE NATIONAL SECURITY AGENCY;**

29                                   **C. THE U.S. DEPARTMENT OF HOMELAND SECURITY;**

30 **OR**

31                                   **D. ANY OTHER U.S. INTELLIGENCE AGENCY; OR**

1                                   **3. THE STATE;**

2                                   **(V) EXEMPT AN OWNER OF A COVERED BUILDING FROM**  
 3 **ENERGY USE INTENSITY REPORTING REQUIREMENTS IF:**

4                                   **1. THE COVERED BUILDING MEETS THE CRITERIA**  
 5 **UNDER ITEM (IV) OF THIS PARAGRAPH; AND**

6                                   **2. THE TENANT OR OCCUPANT DOES NOT PROVIDE**  
 7 **ENERGY USE INFORMATION TO THE OWNER OF THE COVERED BUILDING DUE TO**  
 8 **CONCERNS ABOUT THE CONFIDENTIALITY OF THE BUILDING'S SECURE AREA;**

9                                   **(VI) Provide maximum flexibility to the owners of covered buildings**  
 10 **to comply with building energy performance standards;**

11                                   ~~(V)~~ **(VII) Subject to paragraph ~~(9)~~ (4) of this subsection AND**  
 12 **SUBSECTION (F) OF THIS SECTION, include an alternative compliance pathway allowing**  
 13 **the owner of a covered building to pay a fee for ~~greenhouse~~**

14                                   ~~1. GREENHOUSE~~ gas emissions attributable to the  
 15 building's failure to meet direct greenhouse gas emissions reduction targets; ~~and~~

16                                   ~~2. ENERGY USE ATTRIBUTABLE TO THE BUILDING'S~~  
 17 ~~FAILURE TO MEET ENERGY USE INTENSITY TARGETS;~~

18                                   **(VIII) SUBJECT TO PARAGRAPH (4)(II) OF THIS SUBSECTION AND**  
 19 **SUBSECTION (F) OF THIS SECTION, INCLUDE AN ALTERNATIVE COMPLIANCE**  
 20 **PATHWAY ALLOWING THE OWNER OF A COVERED BUILDING TO PAY A FEE OF 5**  
 21 **CENTS PER THOUSAND BRITISH THERMAL UNITS OF ENERGY, ADJUSTED FOR**  
 22 **INFLATION USING 2020 AS THE BASELINE YEAR FOR CALCULATING THE**  
 23 **ADJUSTMENT, FOR ENERGY USE ATTRIBUTABLE TO THE BUILDING'S FAILURE TO**  
 24 **MEET ENERGY USE INTENSITY TARGETS;**

25                                   **(IX) ALLOW THE OWNER OF A COVERED BUILDING TO REQUEST**  
 26 **A ONE-TIME WAIVER, FOR THE ENTIRE BUILDING, FROM PAYING AN ALTERNATIVE**  
 27 **COMPLIANCE PATHWAY FEE UNDER ITEMS (VII) AND (VIII) OF THIS PARAGRAPH**  
 28 **THROUGH NOT LATER THAN 2039 FOR ENERGY OR EMISSIONS ATTRIBUTABLE TO**  
 29 **CONTINUED OPERATION OF EQUIPMENT INSTALLED BEFORE 2025 FOR THE**  
 30 **EXPECTED AVERAGE REMAINING LIFESPAN OF THAT EQUIPMENT, AS IDENTIFIED BY**  
 31 **A PUBLICLY AVAILABLE DATABASE SELECTED BY THE DEPARTMENT, BY:**

32                                   **1. SUBMITTING TO THE DEPARTMENT, AT LEAST 1 YEAR**  
 33 **BEFORE THE REQUESTED WAIVER WOULD TAKE EFFECT;**

1           **A. AN INVENTORY OF DESCRIPTIONS, SERIAL NUMBERS,**  
2 **AND INSTALLATION DATES OF THE EQUIPMENT THAT PROVIDES THE BASIS OF THE**  
3 **WAIVER APPLICATIONS; AND**

4           **B. A PLAN PREPARED BY AN ENERGY AUDITOR THAT**  
5 **COMPLETED THE TRAINING REQUIRED UNDER PARAGRAPH (7) OF THIS SUBSECTION**  
6 **DETAILING THE DATES THAT SPECIFIC PROJECTS WILL BE COMPLETED AND THE**  
7 **ENERGY USE INTENSITY AND GREENHOUSE GAS EMISSIONS SAVINGS THAT WILL**  
8 **RESULT FROM THE PROJECTS;**

9           **2. DEMONSTRATING IN THE PLAN PREPARED UNDER**  
10 **ITEM 1B OF THIS ITEM HOW THE BUILDING WILL COME INTO COMPLIANCE WITH THE**  
11 **FINAL TARGETS BEFORE 2040 WITH MINIMAL RELIANCE ON ALTERNATIVE**  
12 **COMPLIANCE PATHWAY PAYMENTS;**

13           **3. CERTIFYING THAT THE PROJECTS WILL BE**  
14 **COMPLETED BY THE DATES DETAILED UNDER ITEM 1B OF THIS ITEM, OR THAT THE**  
15 **EXEMPTED ALTERNATIVE COMPLIANCE PATHWAY FEES WILL BE PAID IF THE**  
16 **PROJECTS ARE NOT COMPLETED BY THOSE DATES; AND**

17           **4. PAYING A FEE TO COVER THE COST FOR THE**  
18 **DEPARTMENT OR ITS CONTRACTOR TO REVIEW THE PLAN;**

19           **(X) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, ALLOW**  
20 **THE OWNER OF A COVERED BUILDING TO REQUEST A WAIVER FROM PAYING**  
21 **ALTERNATIVE COMPLIANCE PATHWAY FEES FOR ENERGY USE OR GREENHOUSE GAS**  
22 **EMISSIONS ASSOCIATED WITH ENERGY OR EMISSIONS REDUCTION MEASURES THAT**  
23 **THE DEPARTMENT DETERMINES TO BE IMPRACTICABLE OR ECONOMICALLY**  
24 **INFEASIBLE BY;**

25           **1. SUBMITTING TO THE DEPARTMENT, AT LEAST 1 YEAR**  
26 **BEFORE THE REQUESTED WAIVER WOULD TAKE EFFECT, AN ENGINEERING STUDY**  
27 **PREPARED BY AN ENERGY AUDITOR THAT COMPLETED THE TRAINING REQUIRED**  
28 **UNDER PARAGRAPH (7) OF THIS SUBSECTION DETAILING THE PRACTICABILITY OR**  
29 **IMPRACTICABILITY OR ECONOMIC FEASIBILITY OR INFEASIBILITY OF ENERGY OR**  
30 **EMISSIONS REDUCTION MEASURES THAT WOULD BE NEEDED TO ACHIEVE THE**  
31 **ENERGY USE INTENSITY AND DIRECT GREENHOUSE GAS EMISSIONS REDUCTION**  
32 **TARGETS;**

33           **2. DETAILING THE ENERGY USE INTENSITY OR DIRECT**  
34 **GREENHOUSE GAS EMISSIONS ABOVE TARGET LEVELS THAT WOULD OCCUR IF THE**

1 OWNER OF THE COVERED BUILDING DOES NOT IMPLEMENT THE IMPRACTICABLE OR  
2 ECONOMICALLY INFEASIBLE MEASURES; AND

3 3. PAYING A FEE TO COVER THE COST FOR THE  
4 DEPARTMENT OR ITS CONTRACTOR TO REVIEW THE STUDY;

5 ~~(vi)~~ (XI) To the extent authorized by law, include financial  
6 incentives recommended by the Building Energy Transition Implementation Task Force;  
7 AND

8 ~~(vii)~~ (XII) INCLUDE AN ANNUAL REPORTING FEE OF \$100 PER  
9 COVERED BUILDING, ADJUSTED FOR INFLATION, TO COVER THE ADMINISTRATIVE  
10 COSTS ~~UNDER THIS SECTION~~ OF THE PROGRAM.

11 (3) (I) AN OWNER OF A COVERED BUILDING THAT IS EXEMPT FROM  
12 ENERGY USE INTENSITY TARGETS UNDER PARAGRAPH (2)(IV) OF THIS SUBSECTION  
13 SHALL PROVIDE AN AFFIDAVIT SIGNED BY AN OFFICER OR PRINCIPAL  
14 CONTROLLING MEMBER, SHAREHOLDER, OR PARTNER OF THE OWNER OF THE  
15 COVERED BUILDING THAT PROVIDES:

16 1. THE ADDRESS OF EACH BUILDING FOR WHICH THE  
17 EXEMPTION APPLIES; AND

18 2. A STATEMENT CONFIRMING THAT AS OF THE DATE OF  
19 THE AFFIDAVIT THE BUILDING MEETS THE STANDARDS SET FORTH IN PARAGRAPH  
20 (2)(IV) OF THIS SUBSECTION.

21 (II) INFORMATION SUBMITTED TO THE DEPARTMENT UNDER  
22 PARAGRAPH (2)(IV) OF THIS SUBSECTION AND THIS PARAGRAPH IS EXEMPT FROM  
23 DISCLOSURE IN ACCORDANCE WITH § 4-301(A)(2) OF THE GENERAL PROVISIONS  
24 ARTICLE.

25 (4) (I) The Department may not set an alternative compliance fee that  
26 is less than the social cost of greenhouse gases adopted by the Department or the U.S.  
27 Environmental Protection Agency THAT IS IN THE AMOUNT OF \$190 PER METRIC TON  
28 OF EXCESS CARBON DIOXIDE EQUIVALENT, ADJUSTED FOR INFLATION USING 2020  
29 AS THE BASELINE YEAR FOR CALCULATING THE ADJUSTMENT.

30 (II) IF A COVERED BUILDING EXERCISES THE ALTERNATIVE  
31 COMPLIANCE FEE OPTION FOR BOTH DIRECT GREENHOUSE GAS EMISSIONS  
32 TARGETS AND ENERGY USE INTENSITY TARGETS, THE DEPARTMENT SHALL  
33 COLLECT ONLY THE HIGHER OF THE TWO FEES.

1                   **(5) (i) A WAIVER GRANTED UNDER PARAGRAPH (2)(X) OF THIS**  
2 **SUBSECTION:**

3                   **1. SHALL REMAIN IN EFFECT FOR A PERIOD OF 5 YEARS;**  
4 **AND**

5                   **2. MAY BE RENEWED.**

6                   **(ii) IN MAKING A DETERMINATION ON A WAIVER REQUEST**  
7 **SUBMITTED UNDER PARAGRAPH (2)(X) OF THIS SUBSECTION, THE DEPARTMENT**  
8 **SHALL:**

9                   **1. IF A COVERED BUILDING EXERCISES THE**  
10 **ALTERNATIVE COMPLIANCE FEE OPTION FOR BOTH DIRECT GREENHOUSE GAS**  
11 **EMISSIONS TARGETS AND ENERGY USE INTENSITY TARGETS, CONSIDER ONLY THE**  
12 **HIGHER OF THE TWO FEES WHEN CALCULATING AVOIDED COMPLIANCE PATHWAY**  
13 **PAYMENTS; AND**

14                   **2. CONSIDER THE AVAILABILITY OF CAPITAL.**

15                   ~~**(4)**~~ **(6) THE DEPARTMENT SHALL DEPOSIT AN ALTERNATIVE**  
16 **COMPLIANCE FEE COLLECTED UNDER THIS SUBSECTION INTO THE MARYLAND**  
17 **STRATEGIC ENERGY INVESTMENT FUND UNDER § 9-20B-05 OF THE STATE**  
18 **GOVERNMENT ARTICLE.**

19                   **(7) (i) THE DEPARTMENT SHALL:**

20                   **1. OFFER TRAINING TO HELP ENERGY AUDITORS THAT**  
21 **POSSESS, IN GOOD STANDING, A PROFESSIONAL LICENSE OR CREDENTIAL**  
22 **RECOGNIZED BY THE DEPARTMENT UNDERSTAND THE REGULATIONS ADOPTED**  
23 **UNDER THIS SECTION, INCLUDING REQUIREMENTS FOR ALTERNATIVE COMPLIANCE**  
24 **PLANS AND ENGINEERING STUDIES;**

25                   **2. PUBLISH A LIST OF ENERGY AUDITORS THAT HAVE**  
26 **COMPLETED THE TRAINING OFFERED UNDER ITEM 1 OF THIS SUBPARAGRAPH; AND**

27                   **3. INCLUDE A FEE TO COVER THE COST FOR THE**  
28 **DEPARTMENT OR ITS CONTRACTOR TO PROVIDE THE TRAINING.**

29                   **(ii) AN OWNER OF A COVERED BUILDING SHALL CONTRACT**  
30 **WITH AN ENERGY AUDITOR THAT COMPLETED THE TRAINING REQUIRED UNDER**  
31 **SUBPARAGRAPH (I) OF THIS PARAGRAPH TO SUBMIT AN ENGINEERING PLAN OR**

1 STUDY SEEKING A WAIVER UNDER PARAGRAPHS (2)(IX) AND (X) OF THIS  
2 SUBSECTION.

3 (8) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE  
4 DEPARTMENT MAY CERTIFY A BUILDING ENERGY PERFORMANCE STANDARDS  
5 PROGRAM ADOPTED BY A COUNTY AND WAIVE THE REQUIREMENT FOR A COVERED  
6 BUILDING TO COMPLY WITH THE STATEWIDE PROGRAM ADOPTED UNDER THIS  
7 SECTION WHEN:

8 1. THE DEPARTMENT DETERMINES, BASED ON A  
9 DEMONSTRATION PROVIDED BY THE COUNTY, THAT THE COUNTY HAS ADOPTED A  
10 BUILDING ENERGY PERFORMANCE STANDARDS PROGRAM THAT IS AT LEAST AS  
11 STRINGENT AS THE STATEWIDE PROGRAM ADOPTED UNDER THIS SECTION; AND

12 2. THE COUNTY ANNUALLY SUBMITS TO THE  
13 DEPARTMENT A COMPLETE LIST OF COVERED BUILDINGS, INCLUDING THEIR  
14 ENERGY USE INTENSITY, DIRECT GREENHOUSE GAS EMISSIONS, AND COMPLIANCE  
15 STATUS WITH THE COUNTY PROGRAM.

16 (II) A COUNTY ADMINISTERING A BUILDING ENERGY  
17 PERFORMANCE STANDARDS PROGRAM CERTIFIED BY THE DEPARTMENT UNDER  
18 SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY TAKE APPROPRIATE ACTIONS TO  
19 ENFORCE THE STANDARDS, INCLUDING:

20 1. ESTABLISHING ALTERNATIVE COMPLIANCE  
21 PATHWAYS FOR COMPLYING WITH ENERGY USE INTENSITY AND DIRECT  
22 GREENHOUSE GAS EMISSIONS REQUIREMENTS ESTABLISHED IN THE STANDARDS;

23 2. IMPOSING AND COLLECTING ALTERNATIVE  
24 COMPLIANCE FEES IN THE SAME AMOUNT AND MANNER ALLOWED BY THE  
25 DEPARTMENT UNDER THIS SECTION; AND

26 3. IMPOSING AND COLLECTING PENALTIES IN THE SAME  
27 AMOUNT AND MANNER ALLOWED BY THE DEPARTMENT UNDER § 2-610 OF THIS  
28 TITLE.

29 (9) NOTHING IN THIS SECTION SHALL PRECLUDE A COUNTY FROM  
30 ADOPTING BUILDING ENERGY PERFORMANCE STANDARDS FOR BUILDINGS THAT  
31 ARE NOT COVERED BUILDINGS UNDER THE STATEWIDE PROGRAM ADOPTED UNDER  
32 THIS SECTION.



1           **(10) THE DEPARTMENT SHALL MAKE THE NECESSARY APPLICATION**  
2 **AND FORMS FOR A WAIVER UNDER THIS SECTION AVAILABLE ON THE**  
3 **DEPARTMENT’S WEBSITE.**

4           **(F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**  
5 **DEPARTMENT MAY NOT:**

6                       **(I) IMPOSE AND COLLECT ALTERNATIVE COMPLIANCE FEES**  
7 **UNDER THIS SECTION UNTIL 2032; OR**

8                       **(II) IMPOSE AND COLLECT PENALTIES FOR FAILURE TO**  
9 **ACHIEVE BUILDING ENERGY PERFORMANCE STANDARDS UNDER THIS SECTION**  
10 **UNTIL 2032.**

11           **(2) THE PROHIBITION UNDER PARAGRAPH (1)(II) OF THIS**  
12 **SUBSECTION DOES NOT APPLY TO THE IMPOSITION AND COLLECTION OF PENALTIES**  
13 **FOR FAILURE TO MEET ANY REPORTING REQUIREMENTS UNDER THIS SECTION.**

14           SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
15 as follows:

16                               **Article – Economic Development**

17           **3–201.**

18           (a)    In this subtitle the following words have the meanings indicated.

19           (d)    “Life sciences” includes the fields of biotechnology, pharmaceuticals,  
20 biomedical technologies, life systems technologies, food sciences, environmental sciences,  
21 and biomedical devices.

22                               **Article – Environment**

23           **2–1202.**

24           (a)    In this subtitle the following words have the meanings indicated.

25           (h)    (1)   “Manufacturing” means the process of substantially transforming, or a  
26 substantial step in the process of substantially transforming, tangible personal property  
27 into a new and different article of tangible personal property by the use of labor or  
28 machinery.

29           (2)    “Manufacturing”, when performed by companies primarily engaged in  
30 the activities described in paragraph (1) of this subsection, includes:

31                       (i)    The operation of saw mills, grain mills, or feed mills;

1                   (ii) The operation of machinery and equipment used to extract and  
2 process minerals, metals, or earthen materials or by-products that result from the  
3 extracting or processing; and

4                   (iii) Research and development activities.

5           (3) “Manufacturing” does not include:

6                   (i) Activities that are primarily a service;

7                   (ii) Activities that are intellectual, artistic, or clerical in nature;

8                   (iii) Public utility services, including gas, electric, water, and steam  
9 production services;

10                  (iv) The production of cement; or

11                  (v) Any other activity that would not commonly be considered as  
12 manufacturing.

13 2-1601.

14           (a) In this subtitle the following words have the meanings indicated.

15           (b) (1) “Agricultural building” means a structure that is used primarily to  
16 cultivate, manufacture, process, or produce agricultural crops, raw materials, products, or  
17 commodities.

18                  (2) “Agricultural building” includes a greenhouse.

19           (c) “Building” has the meaning stated in the International Building Code.

20           (d) “Commercial building” means a building that is subject to the commercial  
21 provisions of the International Energy Conservation Code.

22           (e) (1) “Covered building” means a building that:

23                   (i) 1. Is a commercial or multifamily residential building in the  
24 State; or

25                               2. Is owned by the State; and

26                   (ii) Has a gross floor area of 35,000 square feet or more, excluding  
27 the parking garage area.

28                  (2) “Covered building” does not include:

1 (i) A building designated as a historic property under federal, State,  
 2 or local law;

3 (ii) A public or nonpublic elementary or secondary school building;

4 (iii) **A HOSPITAL;**

5 (IV) A [manufacturing] building IN WHICH 50% OR MORE OF THE  
 6 BUILDING'S GROSS FLOOR AREA IS USED FOR MANUFACTURING, AS DEFINED IN §  
 7 2-1202 OF THIS ARTICLE; or

8 [(iv)] (V) An agricultural building.

9 (f) **“CRITICAL INFRASTRUCTURE” HAS THE MEANING STATED IN § 1-101 OF**  
 10 **THE PUBLIC UTILITIES ARTICLE.**

11 (G) “Direct greenhouse gas emissions” means greenhouse gas emissions produced  
 12 on-site by covered buildings.

13 [(g)] (H) “District energy” means thermal energy generated at one or more  
 14 central facilities that produce hot water, steam, or chilled water that then flows through a  
 15 network of insulated underground pipes to provide hot water, space heating, air  
 16 conditioning, or chilled water to nearby buildings.

17 (I) **“ECONOMICALLY INFEASIBLE” MEANS:**

18 (1) **FOR A COVERED BUILDING THAT IS A MULTIFAMILY RESIDENTIAL**  
 19 **BUILDING, THE EXPECTED PAYBACK PERIOD FOR AN ENERGY OR EMISSIONS**  
 20 **REDUCTION MEASURE IS MORE THAN 10 YEARS, AS OF THE DATE OF SUBMITTAL OF**  
 21 **A WAIVER REQUEST TO THE DEPARTMENT UNDER § 2-1602(C)(2)(X) OF THIS**  
 22 **SUBTITLE, ACCOUNTING FOR ALL AVAILABLE INCENTIVES AND AVOIDED**  
 23 **ALTERNATIVE COMPLIANCE PATHWAY PAYMENTS; AND**

24 (2) **FOR A COVERED BUILDING THAT IS NOT A MULTIFAMILY**  
 25 **RESIDENTIAL BUILDING, THE EXPECTED PAYBACK PERIOD FOR AN ENERGY OR**  
 26 **EMISSIONS REDUCTION MEASURE IS MORE THAN 25 YEARS, AS OF THE DATE OF**  
 27 **SUBMITTAL OF A WAIVER REQUEST TO THE DEPARTMENT UNDER § 2-1602(C)(2)(X)**  
 28 **OF THIS SUBTITLE, ACCOUNTING FOR ALL AVAILABLE INCENTIVES AND AVOIDED**  
 29 **ALTERNATIVE COMPLIANCE PATHWAY PAYMENTS.**

30 (J) **“ENERGY OR EMISSIONS REDUCTION MEASURE” MEANS A PHYSICAL**  
 31 **CHANGE TO A BUILDING OR A CONNECTION TO A DISTRICT ENERGY SYSTEM THAT**

1 REDUCES THE BUILDING'S ENERGY USE OR GREENHOUSE GAS EMISSIONS AT THE  
 2 LOWEST PRACTICABLE COST.

3 (K) "IMPRACTICABLE" INCLUDES THAT AN ENERGY OR EMISSIONS  
 4 REDUCTION MEASURE NECESSARY TO COMPLY WITH THIS SUBTITLE CANNOT BE  
 5 REASONABLY IMPLEMENTED, INCLUDING DUE TO LACK OF EXISTING TECHNOLOGY.

6 (L) "LIFE SCIENCES" HAS THE MEANING STATED IN § 3-201 OF THE  
 7 ECONOMIC DEVELOPMENT ARTICLE.

### 8 Article – Public Utilities

9 1-101.

10 (a) In this division the following words have the meanings indicated.

11 (h-1) (1) "Critical infrastructure" means assets, systems, and networks, whether  
 12 physical or virtual, considered by the U.S. Department of Homeland Security to be so vital  
 13 to the United States that their incapacitation or destruction would have a debilitating effect  
 14 on one or more of the following:

15 (i) security;

16 (ii) national economic security;

17 (iii) national public health; or

18 (iv) safety.

19 (2) "Critical infrastructure" includes:

20 (i) a hospital or health care facility; and

21 (ii) a data center as defined in § 11-239 of the Tax – General Article.

### 22 Article – State Government

23 9-20B-05.

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

25 (b) The purpose of the Fund is to implement the Strategic Energy Investment  
 26 Program.

27 (e) The Fund consists of:

1 (1) all of the proceeds from the sale of allowances under § 2–1002(g) of the  
2 Environment Article;

3 (2) money appropriated in the State budget to the Program;

4 (3) repayments and prepayments of principal and interest on loans made  
5 from the Fund;

6 (4) interest and investment earnings on the Fund;

7 (5) compliance fees paid under § 7–705 of the Public Utilities Article;

8 (6) money received from any public or private source for the benefit of the  
9 Fund;

10 (7) money transferred from the Public Service Commission under §  
11 7–207.2(c)(3) of the Public Utilities Article; [and]

12 (8) money distributed under § 2–614.1 of the Tax – General Article; AND

13 (9) **ALTERNATIVE COMPLIANCE ~~FEES PAID~~ PATHWAY PAYMENTS**  
14 **UNDER § ~~2–1602(C)(2)(V)~~ 2–1602(C)(2)(VII) OF THE ENVIRONMENT ARTICLE.**

15 **(G-2) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**  
16 **PROCEEDS RECEIVED BY THE FUND FROM ALTERNATIVE COMPLIANCE PATHWAY**  
17 **PAYMENTS UNDER § 2–1602 OF THE ENVIRONMENT ARTICLE SHALL BE USED TO**  
18 **PROVIDE GRANTS AND LOANS TO HELP OWNERS OF COVERED BUILDINGS COMPLY**  
19 **WITH REGULATIONS ADOPTED UNDER § 2–1602 OF THE ENVIRONMENT ARTICLE.**

20 **(2) UP TO 10% OF ALTERNATIVE COMPLIANCE PATHWAY PAYMENTS**  
21 **UNDER § 2–1602 OF THE ENVIRONMENT ARTICLE MAY BE USED FOR**  
22 **ADMINISTRATION OF THE GRANTS AND LOANS DESCRIBED UNDER PARAGRAPH (1)**  
23 **OF THIS SUBSECTION.**

24 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take  
25 effect on the taking effect of the termination provision specified in Section 17 of Chapter 38  
26 of the Acts of the General Assembly of 2022. If that termination provision takes effect,  
27 Section 1 of this Act, with no further action required by the General Assembly, shall be  
28 abrogated and of no further force and effect. This Act may not be interpreted to have any  
29 effect on that termination provision.

30 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions of  
31 Section 4 of this Act, this Act shall take effect October 1, 2025.