

HOUSE BILL NO. 379

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Commerce and Energy

on _____)

(Patron Prior to Substitute--Delegate Sullivan)

A BILL to amend the Code of Virginia by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-987, relating to energy benchmarking; access to data on energy usage in covered buildings; civil penalty.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-987 as follows:

§ 15.2-987. Energy benchmarking; civil penalty.

A. As used in this section:

"Account holder" means a utility's customer with a utility account that receives utility service at a covered building.

"Aggregated data" means the combined measured energy usage data for multiple utility accounts of customers receiving service in a covered building across a given period of time.

"Benchmarking" or "energy benchmarking" means accurately entering into the benchmarking tool all information pertaining to a covered building for a specific period necessary for the benchmarking tool to track and compare the covered building's energy performance against the energy performance of other buildings. This process shall be subject to guidelines established by the Department.

"Benchmarking tool" means the ENERGY STAR Portfolio Manager web-based tool developed by the U.S. Environmental Protection Agency, or any alternative system or tool approved by the Department that rates the performance of a qualifying building in relation to similar buildings and accounts for the impacts of year-to-year weather variations, building size, location, and several operating characteristics.

27 "Covered building" means a building with any of the following properties with one or more utility
28 accounts and a gross floor area of not less than 30,000 square feet: (i) a single building; (ii) one or more
29 buildings held in the condominium form of ownership that combines separate ownership of individual
30 units with common ownership of other elements and governed by a single party or board; or (iii) a campus
31 of two or more buildings that are owned and operated by the same party.

32 "Department" means the Department of Energy.

33 "Energy" means (i) electricity, natural gas, or water sold by a utility to an account of a covered
34 building; (ii) energy that is generated, from renewable, fuel oil, or other sources, on the premises of a
35 covered building from a facility not owned by a utility and that is used to provide heating, cooling, lighting,
36 or water heating, or for powering or fueling other end uses captured by the Energy Star Portfolio Manager;
37 or (iii) any other sources of energy that a locality may designate.

38 "Gross floor area" means the total property area, measured between the outside surface of the
39 exterior walls of the building. "Gross floor area" includes all areas inside the building, including lobbies,
40 tenant areas, common areas, meeting rooms, break rooms, atriums (counting the base level only),
41 restrooms, elevator shafts, stairwells, mechanical equipment areas, basements, and storage rooms.

42 "Owner" means any of the following: (i) the person owning a covered building, as reflected in the
43 land records of the circuit court clerk where the covered building is located, or such person's designee; (ii)
44 the board of the owners' association for a condominium; (iii) the master association of a condominium
45 where the powers of an owners' association are exercised by or delegated to a master association; (iv) the
46 board of directors for a cooperative apartment corporation; or (v) an agent authorized to act on behalf of
47 any of the foregoing subdivisions.

48 "Utility" means a person that sells electricity, natural gas, or water services consumed in a covered
49 building.

50 "Utility account" means an agreement between a utility and its customer under which the utility
51 provides energy to a specified location.

52 B. Any locality may by ordinance require energy benchmarking under which a utility shall, upon
53 request by the owner of a covered building, provide aggregated data for the covered building to the owner.

54 C. The provision of aggregated data for a covered building pursuant to an ordinance adopted under
55 this section shall be subject to the following requirements:

56 1. For a covered building with five or more active utility accounts in which no single utility account
57 is at least 50 percent of the aggregated energy usage, a utility shall provide aggregated data for all utility
58 accounts in the building for each of the 13 prior months;

59 2. For a covered building not described in subdivision 1, a utility shall provide aggregated data for
60 all utility accounts in the building for each of the prior 13 months only if each account holder consents, in
61 writing or electronically, to the provision of the account holder's usage data to the owner or utility. Each
62 utility account holder located in a covered property shall within 30 days of a request by the owner provide
63 consent for provision of account holder's usage data to the owner or provide all information that cannot
64 otherwise be acquired by the owner and that is needed by the owner to comply with the requirements of
65 the ordinance;

66 3. If a condition set forth in subdivision 1 or 2 is satisfied:

67 a. The utility shall provide the aggregated data within 30 business days of receiving the request for
68 the aggregated data from the owner of a covered building; however, the response period may be extended
69 once by 30 additional days when reasonably necessary, taking into account the complexity and number of
70 requests, so long as the utility informs the locality of any such extension within the initial 30-day response
71 period, together with the reason for the extension; and

72 b. The utility shall make available a covered building's usage data to the owner aggregated at
73 monthly intervals;

74 4. Each utility shall maintain records of the energy usage of utility accounts of covered buildings
75 to which the utility provides service for at least the most recent 13 complete calendar months;

76 5. A utility shall not be required to provide energy usage data for any energy that is generated from
77 renewable or other sources on the premises of a covered building from a facility not owned by the utility;
78 and

79 6. The owner and a utility shall not have any liability for the use or disclosure of usage data
80 provided as required by an ordinance adopted in accordance with this section.

81 D. A locality's ordinance may include the following requirements:

82 1. Benchmarking is mandatory for covered buildings;

83 2. Owners shall provide aggregated data that is provided to them pursuant to the ordinance subject
84 to guidelines established by the Department;

85 3. Owners shall be provided reasonable notice of their obligations under the ordinance;

86 4. The ordinance shall be in effect for at least one year before compliance with its reporting
87 provisions may be enforced;

88 5. All buildings owned by the locality with one or more utility accounts and a gross floor area of
89 not less than 10,000 square feet shall be benchmarked for at least one year before the locality requires the
90 owner of any covered building to begin benchmarking pursuant to the ordinance;

91 6. Owners shall provide data for any energy that is generated from renewable or other sources on
92 the premises of a covered building from a facility not owned by a utility via the benchmarking tool subject
93 to ENERGY STAR Portfolio Manager guidelines unless other guidelines are established by the
94 Department;

95 7. Before making a benchmarking submission with respect to a covered property, the owner of the
96 covered property shall run all automated data quality checker functions available within the benchmarking
97 tool and verify that all data has been accurately entered into the benchmarking tool. In order for the
98 benchmarking submission to be considered in compliance with this section, the owner shall correct all
99 missing or incorrect information as identified by the data quality checker prior to submission;

100 8. The locality may publish certain building data obtained pursuant to this ordinance;

101 9. Such other requirements as are germane to the purposes of this section.

102 E. An ordinance adopted under this section shall authorize a locality to exempt a covered building
103 from the requirements of this section for the following reasons:

104 1. The covered building does not have a certificate of occupancy or temporary certificate of
105 occupancy for the year being benchmarked;

106 2. A demolition permit has been issued for the covered building for the year being benchmarked;

