

SENATE No. 2011

The Commonwealth of Massachusetts

PRESENTED BY:

Rebecca L. Rausch

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing building energy performance standards.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	
<i>Carmin Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>1/21/2019</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/24/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/29/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/31/2019</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>1/31/2019</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/1/2019</i>

SENATE No. 2011

By Ms. Rausch, a petition (accompanied by bill, Senate, No. 2011) of Rebecca L. Rausch, Maria Duaine Robinson, Carmine Lawrence Gentile, Jason M. Lewis and other members of the General Court for legislation to establish building energy performance standards. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act establishing building energy performance standards.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 25A of the General Laws is hereby amended by inserting after
2 section 16 the following section:-

3 Section 17. (a) As used in this section the following words shall have the following
4 meanings unless the context clearly requires otherwise:-

5 Department, the department of energy resources.

6 Energy, any of the following used for purposes of providing heating, cooling, lighting, or
7 water heating, or for powering or fueling other end uses in the building and related facilities:
8 electricity, on-site renewable electricity generation, natural gas, steam, hot or chilled water,
9 heating oil, or other product.

10 Energy Star Performance Rating, an energy score created for a building using the U.S.
11 Environmental Protection Agency's Energy Star Portfolio Manager, an online tool for reporting
12 and managing building energy data.

13 Owner, the owner of record or designated agent.

14 Tenant, any tenant, tenant-stockholder of a cooperative apartment corporation, or
15 condominium unit owner.

16 (b) This section shall apply to all buildings with at least 15,000 square feet of gross floor
17 area. Subsection (c) of this section shall take effect on January 1, 2020. All other subsections of
18 this section shall take effect on January 1, 2022.

19 (c) (1) No later than June 15 of each year, owners of each building subject to this chapter
20 shall accurately report to the department the previous calendar year's energy use of each building
21 and other building characteristics necessary to evaluate absolute and relative energy use
22 intensity. Energy use information shall not include its associated cost. Building owners shall
23 report this information using a system that the department shall designate.

24 (2) Building owners may authorize an energy utility or other third party to report
25 building-specific energy use information on their behalf to the department. Such authorization
26 shall not remove the obligation of building owners to comply with reporting requirements.

27 (3) Where a portion of a building is occupied by a tenant and separately metered by a
28 utility company, the owner of such building may request from such tenant information relating to
29 such tenant's separately metered energy use and other information required for annual reporting
30 under this section, and such tenant shall report such information to such owner. An owner may

31 request information for the previous calendar year no earlier than January 1 and no later than
32 April 15. If a tenant vacates a space before the end of the calendar year, an owner may
33 immediately request such information. Upon receiving such request after the conclusion of the
34 calendar year or after vacating a space, a tenant shall report information to the owner no later
35 than 30 days after receiving the request.

36 (4) Failure of any tenant to report the information required in this section shall not relieve
37 an owner of the obligation to comply with reporting requirements.

38 (5) At the time any occupied building subject to the requirements of this section is
39 transferred, the seller shall provide to the buyer all information necessary for the buyer to report
40 energy use information for the entire year in a timely manner.

41 (6) The department shall make energy use information for all buildings subject to this
42 section available to the public on a state website no later than October 1 of every year. The
43 disclosure shall include, at a minimum, building identification, energy intensity, greenhouse gas
44 emissions per square foot, and an Energy Star performance rating or similar energy performance
45 score where available.

46 (7) Between January 1 and April 1 of each year, the department shall notify building
47 owners of their obligation to input energy use information into the reporting system.

48 (8) Building owners failing to comply with the requirements of this subsection shall be
49 liable for a civil administrative penalty not to exceed \$100 for each day of the violation.

50 (9) A residential tenant shall not be held responsible for paying a penalty, or any portion
51 thereof, for the failure of the building owner to report energy use information in a timely fashion.

52 (10) Municipalities may adopt building energy disclosure requirements or continue to
53 enforce building energy disclosure requirements that have already been adopted; provided, that
54 (i) municipalities must collect all of the information that is required under the disclosure system
55 established by the department; and (ii) municipalities must provide such information on a
56 building-by-building basis to the department, on a reasonable timeframe established by the
57 department. Municipalities with local building energy disclosure requirements may require
58 additional energy use information beyond the information required by the department. In
59 municipalities with local building energy disclosure requirements, the department may exempt
60 building owners from the requirement to report energy use information to the department,
61 provided that said building owners are providing all required energy use information to the
62 municipality in a timely fashion.

63 (d) (1) No later than December 31, 2021, and every 5 years thereafter, the department
64 shall establish property types and building energy performance standards for each property type.
65 The department shall establish reporting and data verification requirements for each 5-year
66 compliance cycle.

67 (2) In developing energy performance standards, the department shall seek to help the
68 commonwealth achieve the requirements of chapter 21N of the General Laws, as well as other
69 global warming, pollution reduction, energy efficiency, and renewable energy policies.

70 (3) The department shall establish campus-wide energy performance standards for post-
71 secondary educational institutions and hospitals with multiple buildings in a single location that
72 are owned by a single entity; provided, that the development of any standard by the department
73 shall be based upon an analysis of the existing building efficiency of each campus and the

74 compliance pathways shall achieve savings comparable to those outlined in section 4 of this
75 section.

76 (4) The department shall set building energy performance standards that are no lower
77 than the median energy performance of buildings of each property type, using Energy Star
78 performance ratings or a similar energy performance scoring system selected by the department.

79 (e) (1) Owners of all buildings that do not meet the building energy performance
80 standards established by the department shall have 5 years from the date of establishment of the
81 standards to meet the standards.

82 (2) The department shall establish multiple compliance pathways for buildings to meet
83 the building energy performance requirements, including: (i) an energy performance pathway,
84 which shall require a building to demonstrate a greater than 20 percent decrease in normalized
85 site energy use intensity averaged over the last 2 years of the 5-year compliance cycle, as
86 compared to the normalized site energy use intensity averaged over the 2 years preceding the
87 first year of the 5-year compliance cycle; (ii) an emissions performance pathway, which shall
88 require a building to demonstrate a greater than 20 percent decrease in greenhouse gas emissions
89 over the last 2 years of the 5-year compliance cycle, as compared to the normalized site
90 emissions averaged over the 2 years preceding the first year of the 5-year compliance cycle,
91 provided that switching from oil to natural gas shall not count toward a building's compliance
92 with this pathway; and (iii) a prescriptive pathway for buildings to achieve compliance by
93 implementing cost-effective energy efficiency measures with savings comparable to the
94 performance pathways.

95 (f) The department shall establish exemption criteria for qualifying buildings to delay
96 compliance with the building energy performance requirements for up to 3 years if the owner
97 demonstrates, to the satisfaction of the department, financial distress, change of ownership,
98 vacancy, major renovation, pending demolition, or other acceptable circumstances determined by
99 the department by regulation.

100 (g) The department shall coordinate with utility companies and the department of public
101 utilities to establish incentive and financial assistance programs for qualifying building owners to
102 meet building energy performance requirements.

103 (h) Owners of buildings failing to comply with the building energy performance
104 requirements at the end of the 5-year compliance period shall pay an alternative compliance
105 penalty established by the department, equal to no less than \$10,000 for each violation or twice
106 the estimated cost that would have been incurred by making the improvements necessary to meet
107 the standards, whichever is greater.