

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2022 Legislative Session

Bill No. CB-026-2022

Chapter No. _____

Proposed and Presented by Council Member Taveras

Introduced by _____

Co-Sponsors _____

Date of Introduction _____

BILL

1 AN ACT concerning

2 Environmental Sustainability

3 Building Energy Use Benchmarking and Performance Standards

4 For the purpose of stating legislative intent; providing certain definitions; providing for the
5 applicability of this Division; providing for energy use benchmarking; establishing building energy
6 performance standards; providing for data verification, providing for solicitation of compliance
7 information from tenants; establishing a Building Performance Improvement Board; providing for
8 certain building performance improvement plans; providing for extensions and adjustments;
9 providing for an annual report; providing for certain disclosures of benchmarking and energy
10 performance information; providing for regulations; providing for penalties, providing for
11 enforcement; providing for disclosure of covered building benchmarking and performance
12 standards information for certain contracts for sale; establishing a Benchmarking Work Group;
13 and generally regarding building energy use benchmarking and performance standards.

14 BY adding:

15 SUBTITLE 2. ADMINISTRATION.

16 Sections 2-508.01, 2-508.02, 2-508.03, 2-508.04,
17 2-508.05, 2-508.06, 2-508.07, 2-508.08, 2-508.09,
18 2-508.10, 2-508.11, 2-508.12, 2-508.13, 2-508.14,
19 and 2-508.15,

20 The Prince George's County Code
21 (2019 Edition; 2021 Supplement).

1 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
2 Maryland, that Sections 2-508.01, 2-508.02, 2-508.03, 2-508.04, 2-508.05, 2-508.06, 2-508.07, 2-
3 508.08, 2-508.09, 2-508.10, 2-508.11, 2-508.12, 2-508.13, 2-508.14, and 2-508.15 of the Prince
4 George's County Code be and the same are hereby added:

5 **SUBTITLE 2. ADMINISTRATION.**

6 **DIVISION 42A. BUILDING ENERGY USE BENCHMARKING AND PERFORMANCE**
7 **STANDARDS.**

8 **Sec. 2-508.01. Legislative Intent.**

9 (a) The intent of this Division is to engage the commercial and multifamily residential building
10 sector with building energy information crucial to adopting energy conservation and efficiency
11 opportunities; and

12 (b) strengthen the local economy by encouraging more efficient business operations and
13 providing new opportunities for local businesses that provide energy conservation and efficiency
14 services; and

15 (c) spur market transformation by making building performance transparent for the building and
16 tenant market, allowing more accurate evaluation of energy costs, and creating a competitive
17 market for energy efficient buildings; and

18 (d) recognize building owners that have made investments to improve their building energy
19 performance and expand in-house capacity for energy management; and

20 (e) improve the energy performance of covered buildings through established building
21 energy performance standards, therefore, reducing greenhouse gas emissions from the built
22 environment and helping the County achieve its climate action goal of a reduction of fifty (50%)
23 percent greenhouse gas emissions by 2030.

24 **Sec. 2-508.02. Definitions.**

25 (a) In this Division, the following words have the meanings indicated:

26 (1) **Affordable housing** means a dwelling unit whose sale or rental price does not exceed
27 that of a moderately priced dwelling unit or group senior assisted housing.

28 (2) **Benchmark** means to track and input a building's energy consumption data and
29 other relevant building information for 12 consecutive months, as required by the benchmarking
30 tool, to quantify the building's energy use.

31 (3) **Benchmarking tool** means the website-based software, commonly known as **ENERGY**

1 STAR Portfolio Manager, or any successor system, approved by the United States Environmental
2 Protection Agency to track and assess the relative energy use of buildings nationwide.

3 (4) **Building means:**

4 (A) any single structure utilized or intended for supporting or sheltering any
5 occupancy, except if a single structure contains two or more individually metered units operating
6 independently that have stand-alone heating, cooling, hot water, and other mechanical systems,
7 and no shared interior common areas, or

8 (B) two or more structures utilized or intended for supporting or sheltering any
9 occupancy, that:

10 (i) are serviced by a common energy meter.

11 (ii) have a common heating or cooling system;

12 (iii) share interior common areas; or

13 (iv) whose configuration otherwise prevents an accurate determination of the energy
14 consumption attributable to each individual structure.

15 (5) **Building energy performance standard** means a policy that sets a minimum required
16 level of energy performance for covered buildings.

17 (6) **Building performance improvement plan** means a document in a format approved by
18 the Director submitted by a covered building owner and approved by the Director as described in
19 this Division.

20 (7) **Building type** means a category of covered buildings subject to the same final
21 performance standards.

22 (8) **Certificate of use and occupancy** means the certificate issued by the Director of the
23 Department of Permitting, Inspections and Enforcement that allows a building to be occupied and
24 used.

25 (9) **County-owned covered building** means a building owned by the County
26 whose gross floor area equals or exceeds 10,000 square feet.

27 (10) **Covered building** means a County-owned, Group 1, Group 2, Group 3, Group 4,
28 or Group 5 covered building.

29 (11) **Data center** means a space designed and equipped to meet the needs of high-density
30 computing equipment such as server racks, used for data storage and processing, as defined by the
31 benchmarking tool.

1 (12) **Department** means the Department of the Environment.

2 (13) **Director** means the Director of the Department of the Environment or the Director's
3 designee.

4 (14) **Energy performance score or ENERGY STAR score** means the numerical score
5 produced by the benchmarking tool, or any successor score, that assesses a building's energy
6 performance compared to similar buildings, based on source energy use, operating characteristics,
7 and geographic location.

8 (15) **Energy Use Intensity (EUI)** means a numeric value calculated by the benchmarking tool
9 that represents the energy consumed by a building relative to its size. EUI can be seen as a building
10 "miles per gallon" figure, comparing the energy efficiency of a building in relation to other
11 buildings of similar size.

12 (16) **Final performance standard** means the numeric value of site EUI that each
13 covered building must ultimately achieve or exceed.

14 (17) **Gross floor area** means the total building square footage measured between the principal
15 exterior surfaces of the enclosing fixed walls of a building. Gross floor area consists of all areas
16 inside the building, including lobbies, tenant areas, common areas, meeting rooms, break rooms,
17 the base level of atriums, restrooms, elevator shafts, stairwells, mechanical equipment areas,
18 basements, and storage rooms. Gross floor area does not include exterior spaces, balconies, patios,
19 exterior loading docks, driveways, covered walkways, outdoor play courts (e.g., tennis,
20 basketball), parking, the interstitial space between floors (which house pipes and ventilation), and
21 crawl spaces. Gross floor area is not the same as rentable space, but rather includes all areas inside
22 the building(s).

23 (18) **Group 1 covered building** means a privately owned nonresidential covered building whose
24 gross floor area equals or exceeds 250,000 square feet.

25 (19) **Group 2 covered building** means a privately owned nonresidential covered building whose
26 gross floor area equals or exceeds 50,000 square feet but is less than 250,000 square feet.

27 (20) **Group 3 covered building** means

28 (i) a privately owned nonresidential covered building whose gross floor area equals or
29 exceeds 10,000 square feet but is less than 50,000 square feet; or

30 (ii) a privately owned nonresidential covered building whose gross floor area equals or
31 exceeds 50,000 square feet.

- 1 (21) **Group 4 covered building** means a privately owned multifamily residential or
2 mixed-use covered building whose gross floor area equals or exceeds 250,000 square feet.
- 3 (22) **Group 5 covered building** means a privately owned multifamily residential or
4 mixed-use building whose gross floor area equals or exceeds 10,000 square feet but is less than
5 250,000 square feet.
- 6 (23) **Interim performance standard** means the numeric value of site EUI which covered
7 buildings must achieve or exceed by a fixed date every four (4) years from a covered building's
8 performance baseline.
- 9 (24) **Interior common area** means shared space within a building such as hallways, lobbies,
10 stairwells, and other shared amenities (e.g., gyms, laundry rooms, party rooms).
- 11 (25) **Mixed-use building** means a building that contains both residential units and commercial
12 space.
- 13 (26) **Net site EUI** means site energy use minus energy generated from onsite solar sources divided
14 by the total gross floor area of the building expressed in kBtu/GSF.
- 15 (27) **Newly constructed covered building** means a covered building whose owner has
16 completed construction, received a use and occupancy permit, and can begin benchmarking the
17 building's energy use and other characteristics.
- 18 (28) **Normalized net site energy** means the site energy use by the covered building normalized
19 for weather and other characteristics within the limits of the capabilities of the benchmarking tool
20 and normalized for other factors as determined by the Department minus energy generated from
21 onsite solar sources.
- 22 (29) **Normalized net site EUI** means the total normalized net site energy use consumed by a
23 covered building in one year divided by the total gross floor area of the building expressed in
24 kBtu/GSF.
- 25 (30) **Owner** means an individual or legal entity in whose name a building is titled, or in the case
26 of a community association, the governing body of either a condominium or a cooperative housing
27 corporation.
- 28 (31) **Performance baseline** means the normalized net site EUI for a covered building
29 averaged over two calendar years.
- 30 (32) **Performance metric** means an objectively verifiable numeric measure of normalized site
31 EUI to determine building performance.

1 (33) **Process load** means energy consumed for bona fide purposes other than heating, cooling,
 2 ventilation, domestic hot water, lighting, appliances, Department equipment, data centers, or other
 3 plug loads.

4 (34) **Reported benchmarking information** means the descriptive information about a building,
 5 its operating characteristics, and information generated by the benchmarking tool regarding the
 6 building's energy consumption, efficiency, and performance. Reported benchmarking information
 7 includes the building identification number, address, gross floor area, energy performance score,
 8 site energy use intensity, and annual greenhouse gas emissions.

9 (35) **Site energy use** means all energy used onsite by a covered building to meet the energy loads
 10 of a building, including electricity delivered to the building through the electric grid and generated
 11 onsite with renewable sources; natural gas; district steam; district hot and chilled water; diesel;
 12 propane; fuel oil; wood; coal; and other fuels used onsite. Site energy use does not include
 13 electricity used to charge vehicles.

14 (36) **Site energy use intensity or site EUI** means a numeric value calculated by the
 15 benchmarking tool that represents the energy consumed by a covered building relative to its size
 16 in terms of energy used per square foot of gross floor area per year.

17 (37) **Tenant** means a person or legal entity occupying or holding possession of a building, part of
 18 a building, or premises under a rental agreement.

19 **Sec. 2-508.03. Applicability.**

20 (a) This Division does not apply to a covered building for which more than 50% of the total
 21 gross floor area is used for:

22 (i) public assembly in a building without walls.

23 (ii) industrial uses where most of the energy is consumed for manufacturing,
 24 the generation of electric power or district thermal energy to be consumed offsite, or for other
 25 process loads; or

26 (iii) transportation, communications, or utility infrastructure.

27 **Sec. 2-508.04. Energy use benchmarking.**

28 (a) County-owned covered buildings.

29 (1) No later than June 1, 2023, and every June 1 thereafter, the County must benchmark
 30 any County-owned covered building whose gross floor area equals or exceeds 50,000 square feet
 31 for the previous calendar year and report the benchmarking information to the Department.

1 (2) No later than June 1, 2025, and every June 1 thereafter, the County must benchmark
 2 any County-owned covered building whose gross floor area equals or exceeds 10,000 square feet
 3 but is less than 50,000 square feet for the previous calendar year and report the
 4 benchmarking information to the Department.

5 (b) Group 1 covered buildings. No later than June 1, 2023, and every June 1 thereafter, the owner
 6 of any Group 1 covered building must benchmark the building for the previous calendar year and
 7 report the benchmarking information to the Department.

8 (c) Group 2 covered buildings. No later than June 1, 2023, and every June 1 thereafter, the owner
 9 of any Group 2 covered building must benchmark the building for the previous calendar year and
 10 report the benchmarking information to the Department.

11 (d) Group 3 and Group 4 covered buildings. No later than June 1, 2025, and every June 1
 12 thereafter, the owner of any Group 3 or Group 4 covered building must benchmark the building
 13 for the previous calendar year and report the benchmarking information to the Department.

14 (e) Group 5 covered buildings. No later than June 1, 2027, and every June 1 thereafter, the owner
 15 of any Group 5 covered building must benchmark the building for the previous calendar year and
 16 report the benchmarking information to the Department.

17 (f) Newly constructed covered building. Following the first full calendar year that energy data
 18 can be collected and that the building was occupied, on average, by at least one full-time-
 19 equivalent employee (40 person-hours per week) exclusive of security guards, janitors,
 20 construction workers, landscapers, and other maintenance personnel throughout the calendar year
 21 being reported, the owner of any newly constructed covered building must benchmark the building
 22 and report to the Department no later than June 1 of that following year, and every June 1
 23 thereafter.

24 (g) Waiver. For any time period for which the owner of a covered building documents, in a form
 25 required by regulation, any of the conditions below, the Director may waive the benchmarking
 26 requirements of this Section.

27 (1) Financial distress, defined as a building that:

28 (A) is the subject of a tax lien sale or public auction due to property tax arrearages.

29 (B) is controlled by a court appointed receiver; or

30 (C) was recently acquired by a deed in lieu of foreclosure.

31 (2) On average, less than one full-time-equivalent employee occupied the building

1 during the calendar year being reported.

2 (3) The covered building is newly constructed and has received its certificate of use
 3 and occupancy during the calendar year for which benchmarking is required; or

4 (4) The covered building was demolished or received its demolition permit during the
 5 calendar year for which benchmarking is required.

6 **Sec. 2-508.05 Data Verification.**

7 (a) Verification required. Before the first benchmarking deadline required by Section 2-
 8 508.04, and before each third benchmarking deadline thereafter, the owner of each covered
 9 building must assure that reported benchmarking information for that year is verified by a
 10 recognized data verifier. The verification must be a signed statement by a recognized data verifier
 11 attesting to the accuracy of the information. If the Director requests, the owner of a covered
 12 building must produce the statement available for the most recent year in which verification was
 13 required.

14 (b) Alternative Verification Path. The Director may waive the verification requirements
 15 under this Section if the owner can demonstrate that the building has achieved ENERGY STAR
 16 Certification for at least 6 months of the year being benchmarked.

17 **Sec. 2-508.06. Solicitation of compliance information from tenants.**

18 (a) Solicitation of information from tenant. An owner of a covered building must request relevant
 19 information from any tenant in a covered building no later than March 1 of each year in which
 20 benchmarking is required by Section 2-508.04. If the owner receives notice that a tenant intends
 21 to vacate a unit which is subject to this Section, the owner must request the information within 10
 22 days after receiving the notice to vacate.

23 (b) Tenant response. Within 30 days after receiving a request for information from the building
 24 owner, each tenant of a unit in a covered building must provide the building owner with all
 25 information that the owner cannot otherwise acquire that is necessary to comply with this Article.

26 (c) Failure of tenant to provide information.

27 (1) If any tenant does not provide the information required under this Section to the owner
 28 of a covered building, that fact does not relieve the owner of the obligation to benchmark the
 29 building under Section 2-508.04, using all information otherwise available to the owner.

30 (2) If a tenant of a unit in a covered building does not provide information to the owner of
 31 the building under this Section, the Director must consider the owner to be in compliance with

1 Section 2-508.04 if:

2 (A) the owner shows that the owner requested the tenant to provide the information under
 3 this Section; and

4 (B) the owner benchmarked the building under Section 2-508.04, using all information
 5 otherwise available to the owner.

6 **Sec. 2-508.07. Establishment of building energy performance standards.**

7 (a) Requirement. The Department must develop and implement Building energy performance
 8 standards for covered buildings. The standards must:

9 (1) increase the energy efficiency of existing covered buildings and expedite the
 10 reduction of greenhouse gas emissions from the building sector;

11 (2) use normalized net site EUI as a performance metric wherever feasible or net
 12 site EUI if the Director determines that normalization is not practical as performance metric;

13 (3) account for onsite solar generation in the performance metric;

14 (4) use the benchmarking tool to report building energy performance to the County;

15 and

16 (5) utilize available data sources and best practices to establish interim and final
 17 performance standards.

18 (b) Building types.

19 (1) No later than July 1, 2023, the County Executive must issue regulations establishing
 20 building types for every covered building.

21 (2) Covered buildings within each building type must have shared
 22 characteristics that facilitate the implementation and enforcement of this Division. The Department
 23 may define one or more building types to be identical to ENERGY STAR property type categories.

24 (3) All covered buildings within the same building type category must be subject to
 25 the same final performance standards that facilitate the implementation and enforcement of this
 26 Division.

27 (c) Performance baseline. The performance baseline for each covered building must be
 28 calculated as follows:

29 (1) County-owned covered buildings whose gross floor area equals or exceeds 50,000 square
 30 feet, Group 1 covered buildings, and Group 2 covered buildings: Average of the 2 years with the
 31 highest normalized net site EUI means between calendar year 2024 and calendar year 2027.

1 (2) County-owned covered buildings whose gross floor area is at least 10,000 square
 2 feet but not greater than 50,000 square feet, Group 3, and Group 4 covered buildings: Average of
 3 the 2 years with the highest normalized net site EUI means between calendar year 2026 and
 4 calendar year 2029.

5 (3) Group 5 covered buildings: Average of the 2 years with the highest normalized
 6 net site EUI means between calendar year 2028 and calendar year 2031.

7 (4) Newly constructed covered buildings: Average of the 2 years with the highest
 8 normalized net site EUI means over the first 3 years of benchmarking reporting.

9 (d) Interim and final performance standards.

10 (1) No later than January 1, 2032, the County Executive shall issue regulations
 11 establishing final performance standards for each building type using the normalized site EUI
 12 performance metric wherever feasible or site EUI if the Director determines that normalization is
 13 not practical.

14 (2) The Department must calculate each interim performance standard for each covered
 15 building with the starting point set at the covered building’s performance baseline and continuing
 16 to the final performance standard.

17 (3) Each covered building must demonstrate progress towards the final performance
 18 standard by complying with interim performance standards every 4 years after the performance
 19 baseline year as follows:

20 (A) County-owned covered buildings whose gross floor area equals or exceeds 50,000
 21 square feet, Group 1, and Group 2 covered buildings:

22 (i) Interim performance standards:
 23 December 31, 2026, and evaluated with June 1, 2027, benchmarking, and December 31, 2030,
 24 and evaluated with June 1, 2031, benchmarking.

25 (ii) Final performance standard:
 26 December 31, 2034, and evaluated with June 1, 2035, benchmarking.

27 (B) County-owned covered buildings whose gross floor area is at least 10,000 square
 28 feet but not greater than 50,000 square feet, Group 3, and Group 4 covered buildings:

29 (i) Interim performance standards:
 30 December 31, 2028, evaluated with June 1, 2029, benchmarking, and December 31, 2032,
 31 evaluated with June 1, 2033, benchmarking.

(ii) Final performance standard:

December 31, 2036, evaluated with June 1, 2037, benchmarking.

(C) Group 5 covered buildings:

(i) Interim performance standards:

December 31, 2030, evaluated with June 1, 2031, benchmarking, and December 31, 2034, evaluated with June 1, 2035, benchmarking.

(ii) Final performance standard:

December 31, 2038, evaluated with June 1, 2039, benchmarking.

(D) Newly constructed buildings will be added to a coverage group (Group 1, Group 2, Group 3, Group 4, or Group 5) based on gross floor area and building type:

(i) Interim performance standards:

Evaluated with the first interim standard of the building's coverage group following creation of the performance baseline.

(ii) Final performance standard:

Evaluated with the final performance standard of the building's coverage group, if the performance baseline is created before the final performance standard.

(4) Covered buildings must maintain the final performance standards established by regulation.

(5) Covered buildings must demonstrate compliance with the Interim and final performance standards by reporting building energy benchmarking data to the Department using the benchmarking tool. The Department must determine compliance by comparing the performance metric against the interim or final performance standards for the applicable building type.

Sec. 2-508.08. Building Performance Improvement Board.

(a) Established. The County Executive shall appoint, subject to confirmation by the Council, a Building Performance Improvement Board comprised of 19 voting members. Designees of the Department of the Environment, the Office of Central Services, and the Department of Permitting, Inspections and Enforcement are ex officio nonvoting members of the Board.

(b) Membership. Each voting member of the Board must be a resident of the County or a member of the governing body or staff of an entity doing business in the County. The Board should include:

(1) Representatives of local electricity and natural gas utilities;

(2) Providers of energy efficiency options including solar, geothermal, fuel cells,

1 renewable options and natural energy options and clean energy providers;

2 (3) Providers of dirty energy;

3 (4) Representatives of the Green jobs industry;

4 (5) Building resilience and/or renewable energy services or consulting;

5 (6) Owners or managers of affordable housing;

6 (7) Owners or managers of multifamily residential buildings containing market-

7 rate units;

8 (8) Nonresidential building owners or managers;

9 (9) Technical building design or operations professionals;

10 (10) Providers of facilities, mechanical, or similar engineering services;

11 (11) Commercial or multi-family residential construction finance or investment

12 professionals;

13 (12) Representatives of nonprofit organizations dedicated to climate action, resiliency,

14 public health, green building, economic development, or building decarbonization; and

15 (13) Representatives of nonprofit organizations dedicated to racial equity or

16 environmental justice.

17 (c) Terms. Each voting member serves a 3-year term beginning on January 1. Of the members

18 first appointed, one-third must be appointed for 1-year terms, one-third must be appointed for 2-

19 year terms, and one-third must be appointed for 3-year terms. A member must not serve more than

20 2 consecutive full terms. A member appointed to fill a vacancy serves the rest of the unexpired

21 term. Members continue in the position until their successors are appointed and qualified. The

22 Board must elect one of its members as Chair to be who must serve as such for one calendar year

23 or until a successor is elected.

24 (d) Procedures. The Board must adopt rules to govern its procedures including meeting

25 frequency, managing Chair elections, establishing committees, and other issues that pertain to

26 Board governance.

27 (e) Duties and responsibilities. The Board must generally advise the Department on

28 implementation of building energy performance standards. This includes providing

29 recommendations to the Director on:

30 (1) Building type groupings.

31 (2) Interim and final performance standards for each building type.

1 (3) Managing situations where ownership of a building is transferred, or a building's type
 2 changes.

3 (4) Building performance improvement plan technical review and approval processes.

4 (5) Complementary programs or policies, with particular attention to assistance or
 5 accommodations for challenged or under-resourced sectors, such as affordable housing, non-profit
 6 organizations, and small businesses; and

7 (6) Enforcement of benchmarking requirements and performance standards.

8 (f) Compensation. The members of the Board serve without compensation.

9 **Sec. 2-508.09. Building performance improvement plans**

10 (a) If a covered building owner cannot reasonably meet one or more of the applicable interim
 11 or final performance standards due to economic infeasibility or other circumstances beyond the
 12 owner's control, based on guidelines established by regulation, the owner may submit a proposed
 13 building performance improvement plan to the Department for review and approval by the
 14 Director in consultation with the Building Performance Improvement Board.

15 (b) A building performance improvement plan must include:

16 (1) documentation of economic infeasibility or other circumstances beyond the owner's
 17 control such that interim or final performance standards are not met.

18 (2) a list of potential improvement measures, including engineering
 19 calculations of energy savings and a cost-benefit analysis of each potential improvement measure.

20 (3) a plan and timeline for achieving energy improvements to the building's performance
 21 that will provide cost-effective energy savings based on guidelines established by regulation,
 22 including the estimated savings to be realized by implementing all the cost-effective measures
 23 identified in the plan; and

24 (4) procedures for correcting any noncompliance or deviation from the plan.

25 (c) The owner must submit a building performance improvement plan to the
 26 Department at least 90 days before the deadline for submit documentation of compliance
 27 with interim or final performance standards.

28 (d) If, after consulting with the Building Performance Improvement Board, the Director approves
 29 the building performance improvement plan, the owner must record the building performance
 30 improvement plan as a covenant in the County land records and deliver a certified copy of the
 31 recorded plan to the Department. After the Director receives the certified copy of the recorded

1 plan, the covered building will be deemed to be in compliance with the applicable interim or final
 2 performance standards if the owner fulfills the terms of the building performance improvement
 3 plan within the timeline specified in the plan.

4 **Sec. 2-508.10. Extensions and adjustments.**

5 (a) The Department may establish additional criteria recommended by the Building Performance
 6 Improvement Board for qualified affordable housing, nonprofit buildings, and other buildings as
 7 appropriate to modify compliance with interim or final performance standards by regulation.

8 (b) The Director, in consultation with the Building Performance Improvement Board, may grant
 9 an extension or adjustment to an interim or final performance standard for a covered building
 10 whose owner submits a request along with documentation at least 90 days before the deadline for
 11 submitting documentation of compliance with an interim or final performance standard if any of
 12 the following conditions apply:

13 (1) A demolition permit has been issued or a demolition of the building is planned before
 14 the deadline to comply with the next interim performance standard;

15 (2) The building is in financial distress under Section 2-508.04(g);

16 (3) The building is exempt from real property taxes and the owner can certify by the
 17 statement of a certified public accountant or by affidavit that the owner's revenue less expenses
 18 for the previous (two) 2 years was negative; or

19 (4) The Director determines that strict compliance with those standards would
 20 be economically infeasible, as defined by regulation, due to circumstances beyond the
 21 owner's control.

22 **Sec. 2-508.11. Annual report; disclosure of benchmarking and energy performance**
 23 **information.**

24 (a) Annual report required. By October 1 of each year, the Director must submit a
 25 benchmarking and building performance report to the County Executive and the County
 26 Council. The report must review and evaluate energy efficiency in covered buildings
 27 including:

28 (1) summary statistics on the most recent reported energy benchmarking
 29 information, including information on the completeness and level of data quality of the building
 30 energy data being reported by building type;

31 (2) discussion of any energy efficiency trends, cost savings, job creation and the carbon

1 footprint reduction resulting from energy efficiency improvements;

2 (3) for County-owned covered buildings:

3 (A) the scores of County-owned covered buildings benchmarked; and

4 (B) whether the Director recommends any energy efficiency improvements for
5 specific buildings; and

6 (4) Building energy performance summary statistics, if an interim or final
7 performance standard occurs for a covered building type in the current reporting cycle.

8 (b) Disclosure of benchmarking and building energy performance standard data. The Director
9 must make reported aggregated benchmarking and building energy performance standard data
10 readily available to the public, including on an open data website to be created by the Department
11 and the Director may exempt information from disclosure only to the extent that disclosure is
12 prohibited under federal or state law.

13 (c) Exceptions to disclosure. To the extent allowable under state law, the Director must
14 not make the following readily available to the public:

15 (1) any individually attributable reported benchmarking information from
16 the first calendar year that a covered building is required to benchmark;

17 (2) any individually attributable reported benchmarking or building
18 energy performance standards information relating to a covered building if the disclosure
19 of the covered building's energy use would be harmful to the public interest and national
20 Security; and

21 (3) Building performance improvement plans and associated documentation
22 attributable to an individual covered building.

23 **Sec. 2-508.12. Regulations.**

24 The County Executive shall issue regulations to administer this Division.

25 **Sec. 2-508.13. Penalties; enforcement.**

26 (a) A building owner must not knowingly provide false information required under this
27 Division to the Department. The Director may revoke or modify an extension, adjustment, building
28 performance improvement plan, or compliance with benchmarking or the interim or final
29 performance standards in response to any false information provided by the building owner.

30 (b) Any violation of this Division is a civil penalty of One-Thousand Dollars (\$1,000) for
31 an initial or repeat offense.

1 **Sec. 2-508.14. Disclosure of covered building benchmarking and performance**
 2 **standards information.**

3 (a) Before a buyer signs a contract for the sale of a covered building as defined in
 4 Section 2-508.02, the seller must:

5 (1) disclose to the prospective buyer that the building is subject to building
 6 energy performance standards in Division 42A. Building Energy Use Benchmarking and
 7 Performance Standards; and

8 (2) transfer the following records to the prospective buyer:

9 (A) the benchmarking property record from the benchmarking tool;

10 (B) documentation of data verification; and

11 (C) any other related records relevant to maintain compliance with Division 42A.

12 Building Energy Use Benchmarking and Performance Standards; and\

13 (3) provide to the prospective buyer the following information:

14 (A) performance baseline;

15 (B) interim and final performance standards; and

16 (C) building performance improvement plan.

17 (b) The prospective buyer must indicate, by signing an addendum to the contract or a separate
 18 section of the contract printed in boldface type, that the seller has made the disclosures and
 19 provided the information required by subsection (a) of this Section.

20 **Sec 2-508.15. Benchmarking Work Group.**

21 (a) Established. The County Executive shall appoint, subject to confirmation by the Council,
 22 a Benchmarking Work Group comprised of seven voting members. The Directors or their
 23 designees of the Department of the Environment, the Office of Central Services, and the
 24 Department of Permitting, Inspections and Enforcement are ex officio nonvoting members of the
 25 Benchmarking Work Group.

26 (b) Membership. Each voting member of the Benchmarking Work Group must be a resident of the
 27 County or a member of the governing body or staff of an entity doing business in the County. The
 28 Benchmarking Work Group should include building owners and managers, industry trade
 29 associations, non-profit organizations, and utility companies.

30 (c) Terms. Each voting member serves a 3-year term beginning on January 1. Of the members
 31 first appointed, one-third must be appointed for 1-year terms, one-third must be appointed for 2-

1 year terms, and one-third must be appointed for 3-year terms. A member must not serve more than
2 2 consecutive full terms. A member appointed to fill a vacancy serves the rest of the unexpired
3 term. Members continue in the position until their successors are appointed and qualified. The
4 Benchmarking Work Group must elect one of its members as Chair to be who must serve as such
5 for one calendar year or until a successor is elected.

6 (d) Procedures. The Benchmarking Work Group must adopt rules to govern its procedures
7 including meeting frequency, managing Chair elections, establishing committees, and other issues
8 that pertain to Benchmarking Work Group governance.

9 (e) Duties and responsibilities. The Benchmarking Work Group shall review the implementation
10 of this Act including any recommended amendments to the Act and report to the County Executive
11 and the County Council on a semi-annual basis.

12 (f) Compensation. The members of the Benchmarking Work Group shall serve without
13 compensation.

14 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby
15 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
16 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
17 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words,
18 phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since
19 the same would have been enacted without the incorporation in this Act of any such invalid or
20 unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection, or section.

21 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
22 calendar days after it becomes law.

Adopted this ____ day of _____, 2022.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Calvin S. Hawkins, II
Chair

ATTEST:

Donna J. Brown
Clerk of the Council

APPROVED:

DATE: _____

BY: _____
Angela D. Alsobrooks
County Executive