

HOUSE No. 4371

The Commonwealth of Massachusetts



CHARLES D. BAKER
GOVERNOR

OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
· , MA

KARYN POLITO
LIEUTENANT GOVERNOR

April 3, 2018

To the Honorable House of Representatives,

The Baker-Polito Administration is proud to lead the Commonwealth’s efforts to reduce greenhouse gas emissions and meet the ambitious goals of the Global Warming Solutions Act.

Last session, I proposed—and you enacted—landmark energy legislation authorizing the largest procurement of new clean energy resources in the Commonwealth’s history. In the coming years we will be able to draw on a more diverse range of energy sources including hydropower and off-shore wind power. We also established a clean energy standard to require an increasing amount of clean energy to meet the Commonwealth’s electricity demand and a long-term framework for sustainable solar development through the Solar Massachusetts Renewable Target Program. While our progress on reducing emissions in the electric sector has been significant, we need to adopt strategies to reduce emissions from other sectors as well. The building sector, including our homes, is a significant source of greenhouse gas emissions. In 2014, over a quarter of total emissions in Massachusetts came from the residential building sector. By making smart choices as individual homeowners, we can collectively make a significant contribution towards emissions reduction.

I am pleased to submit for your consideration “An Act Relative to Consumer Access to Residential Energy Information.” This legislation ensures that homeowners and prospective home buyers are given access to information about the energy efficiency of residences. Leveraging existing programs provided by utilities and municipal light plants, homeowners and tenants will be able to receive a home energy assessment and energy scorecard at no charge. The

scorecard will present, in a standardized format, an energy efficiency rating of a residence and list improvements that could be made to increase energy efficiency. While no homeowner would be required to make improvements, existing incentive programs will provide significant financial support for many of those who choose to pursue greater energy efficiency and energy bill savings. This legislation also allows for additional funds from the Regional Greenhouse Gas Initiative to be used for residential greenhouse gas mitigation, including through these incentive programs.

The Department of Energy Resources projects that, by 2030, these improvements will likely result in the reduction of hundreds of thousands of tons of greenhouse gas emissions and hundreds of millions of dollars in annual savings for Massachusetts ratepayers. If this legislation is enacted, Massachusetts would lead the nation as the first state to require disclosure of home energy scorecards in connection with a real estate transaction. This program would not only encourage investments in home energy efficiency, reducing energy usage and greenhouse gas emissions here in Massachusetts, but also serve as a model for other states to follow.

Ten years ago, the Legislature took an important first step with the Global Warming Solutions Act. This bill is a significant step forward in achieving the goals set in 2008. I urge your prompt enactment of this legislation.

Respectfully submitted

Charles D. Baker,
Governor

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to consumer access to residential energy information.

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. Clause (iv) of paragraph (1) of subsection (c) of section 22 of chapter 21A
2 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking
3 out, in line 88, the words “and demand response; and” and inserting in place thereof the
4 following words:- demand response, greenhouse gas mitigation and climate change adaptation;.

5 SECTION 2. Said paragraph (1) of said subsection (c) of said section 22 of said chapter
6 21A, as so appearing, is hereby further amended by adding the following 4 clauses:-

7 (vi) to provide assistance with the implementation of residential greenhouse gas
8 mitigation, including but not limited to supporting workforce development and training for
9 energy assessors, as defined in section 3 of chapter 25A, renewable energy investments, and
10 thermal and electric energy efficiency improvements conducted following the provision of an
11 energy scorecard to the owner or lessee of a residential dwelling unit, as defined in said section 3
12 of said chapter 25A, pursuant to section 17 of said chapter 25A;

13 (vii) to reimburse municipal lighting plants that participate in the energy scorecard
14 program established by said section 17 of said chapter 25A, for incremental startup costs
15 associated with providing energy scorecards; and

16 (viii) to provide grants to municipalities and municipal lighting plants that participate in
17 the energy scorecard program, established by said section 17 of said chapter 25A, for energy
18 assessments, as defined in said section 3 of said chapter 25A, and residential greenhouse gas
19 mitigation measures, including but not limited to renewable energy investments and thermal and
20 electric energy efficiency improvements; provided, however, that the department shall annually
21 make available to participating municipal lighting plants a certain percentage of total available
22 RGGI grant funding, which percentage shall be not less than the percentage of statewide annual
23 electric load attributed to municipal lighting plants in the previous year; and

24 (ix) to provide grants to energy assessment providers, software providers and other
25 similar entities for costs associated with adapting home energy assessment methodologies and
26 software to provide the standard information required for an energy scorecard, as defined in said
27 section 3 of said chapter 25A, and the costs associated with the use of historical home energy
28 assessment data to produce an energy scorecard where feasible, as determined by the department
29 pursuant to said section 17 of said chapter 25A.

30 SECTION 3. Subsection (a) of section 19 of chapter 25 of the General Laws, as so
31 appearing, is hereby amended by striking out, in lines 13 to 19, the words “cap and trade
32 pollution control programs, including, but not limited to, and subject to section 22 of chapter
33 21A, not less than 80 per cent of amounts generated by the carbon dioxide allowance trading
34 mechanism established under the Regional Greenhouse Gas Initiative Memorandum of

35 Understanding, as defined in subsection (a) of section 22 of chapter 21A, and the NOx
36 Allowance Trading Program; and (3)”.

37 SECTION 4. Section 3 of chapter 25A of the General Laws, as so appearing, is hereby
38 amended by inserting after the definition of “End-user” the following 2 definitions:-

39 “Energy assessment”, an on-site evaluation of the energy performance of a residential
40 dwelling unit by an energy assessor, based on the physical characteristics, including renewable
41 energy infrastructure, of the residential dwelling unit, including but not limited to: (i) an energy
42 audit delivered under the Massachusetts residential conservation service pursuant to chapter 465
43 of the acts of 1980; (ii) a home energy rating conducted by a Home Energy Rating System rater
44 certified by the Residential Energy Services Network; or (iii) other energy assessments
45 specifically designated by the department.

46 “Energy assessor”, a person or group of persons who conduct energy assessments and
47 who have met the minimum qualifications and quality assurance protocols established by the
48 department, pursuant to subsection (a) of section 17 of chapter 25A.

49 SECTION 5. Said section 3 of said chapter 25A, as so appearing, is hereby further
50 amended by inserting after the definition of “Energy management services” the following
51 definition:-

52 “Energy performance rating”, a standardized numerical score or scores, calculated in a
53 manner determined by the department, resulting from an energy assessment performed by an
54 energy assessor and incorporated into an energy scorecard for a residential dwelling unit.

55 SECTION 6. Said section 3 of said chapter 25A, as so appearing, is hereby further
56 amended by inserting after the definition of “Energy savings” the following definition:-

57 “Energy scorecard”, standard information, as determined by the department, to illustrate
58 the results of an energy assessment performed by an energy assessor; provided that such
59 information shall contain, at a minimum, the address of the residential dwelling unit along with
60 the associated energy performance rating and, where appropriate, recommendations for energy
61 related improvements. Such information shall not contain any other personal data as defined in
62 section 1 of chapter 66A.

63 SECTION 7. Said section 3 of said chapter 25A, as so appearing, is hereby amended by
64 inserting after the definition of “Reseller” the following definition:-

65 “Residential dwelling unit”, a stand-alone residential unit, or a residential unit within a
66 building of up to 4 residential units.

67 SECTION 8. Section 11G of said chapter 25A, as so appearing, is hereby amended by
68 inserting after the word “programs,” in line 9, the following words:- , including, but not limited
69 to, the use of energy scorecards,.

70 SECTION 9. Chapter 25A of the General Laws is hereby amended by adding the
71 following section:-

72 Section 17. (a) The department shall develop and implement an energy scorecard
73 program to promote the disclosure of energy scorecards for residential dwelling units in the
74 commonwealth following an energy assessment by, at a minimum: (1) developing a standard
75 format and methodology for energy scorecards and energy performance ratings; (2) identifying

76 minimum qualifications for energy assessors to produce energy scorecards which may include
77 but not be limited to standardizing qualifications for energy assessors throughout the
78 commonwealth, and protocols for quality assurance of assessments; (3) providing training to
79 energy assessors regarding the production of energy scorecards; (4) developing requirements for
80 the method by which an energy scorecard is provided to the department following an energy
81 assessment; and (5) developing appropriate requirements and guidelines for providing an
82 updated scorecard to the owner or lessee of a residential dwelling unit following any subsequent
83 modifications to a residential dwelling unit that change its energy performance.

84 (b) The energy scorecard program shall require:

85 (1) An energy assessor to provide an energy scorecard to the department and to the
86 owner, lessee, or both, where applicable, of a residential dwelling unit following an energy
87 assessment. Nothing in this section shall preclude an energy assessor from voluntarily providing
88 an energy scorecard to the owner or lessee of a residential dwelling unit following an energy
89 assessment.

90 (2) An energy performance rating to be disclosed to a buyer or potential buyer of a
91 residential dwelling unit when the property is publicly listed for sale, and regardless of whether
92 the property is so listed, an energy scorecard to be disclosed to such buyer or potential buyer at
93 or before the execution of a purchase and sale agreement; provided, however, that the department
94 may specify the manner in which the energy performance rating or energy scorecard is disclosed
95 in accordance with this paragraph and may require the energy scorecard to be disclosed together
96 with the energy performance rating at time of public listing, where technologically feasible.

97 (c) The department shall promulgate any rules and regulations necessary to implement
98 this section, including but not limited to regulations to determine, at a minimum, the following:
99 (1) the manner of disclosure of an energy scorecard to a buyer or potential buyer of a residential
100 dwelling unit, including whether an energy scorecard shall be disclosed to a buyer or potential
101 buyer: (i) by a seller of a residential dwelling unit; (ii) by a real estate broker or real estate
102 salesman, as defined by section 87PP of chapter 112, acting on behalf of the seller; or (iii) by
103 some other means; (2) the implementation schedule of the energy scorecard disclosure
104 requirements for residential dwelling units, which may include voluntary early adoption pilot
105 programs for municipalities or municipal lighting plants; and (3) any reasonable exemptions to
106 the requirements of this section, which shall include, but not be limited to, exemptions for certain
107 emergency transactions, for owners of residential dwelling units who do not have reasonable
108 access to energy assessments or scorecards provided without any fee to such owners, as
109 determined by the department, and builders and developers of new residential dwelling units in
110 municipalities that have not adopted the stretch energy code, pursuant to section 94 of chapter
111 143; and (4) any requirements for producing scorecards from historical energy assessment data,
112 where feasible.

113 (d) The department shall make available voluntary training for real estate brokers,
114 appraisers, lenders, home inspectors, and other interested professionals involved in residential
115 real estate transactions on the use of energy scorecards and requirements and best practices
116 associated with providing energy scorecards to prospective buyers.

117 (e) The department may maintain energy scorecards received from an energy assessor or
118 authorize a third party to maintain this information; provided, however, that individual energy
119 scorecards shall not be disclosed by the department or any such third party without the consent of

120 the owner of the residential dwelling unit, unless otherwise prescribed in this section or
121 permitted by law. Energy scorecards received by the department pursuant to this section shall
122 not be deemed to be a public record, as defined in clause 26 of section 7 of chapter 4, and shall
123 not be subject to a request for public records under section 10 of chapter 66; provided however,
124 that the department may release any aggregation of energy scorecard information.

125 (f) This section shall not be construed to require, or authorize the department to require, a
126 municipal lighting plant to participate in the energy scorecard program, including by requiring
127 the provision of an energy scorecard following an energy audit or energy assessment provided
128 through a municipal lighting plant; provided, however, that if a municipal lighting plant
129 voluntarily agrees to participate in the energy scorecard program, such municipal lighting plant
130 shall be subject to the provisions of this section and any rules or regulations of the department
131 promulgated under this section.

132

133 SECTION 10. Section 94 of chapter 143 of the General Laws, as most recently amended
134 by chapter 6 of the acts of 2017, is hereby further amended by adding the following subsection:-

135 (s) In consultation with the department of energy resources, to promulgate rules or
136 regulations as part of the state building code for the submission of an energy scorecard, as
137 defined in section 3 of chapter 25A, to the department of energy resources in accordance with the
138 requirements of section 17 of said chapter 25A, following any energy assessment conducted for
139 compliance with the state building code.

140 SECTION 11. Subsection (a) of section 3 of chapter 465 of the acts of 1980, as most
141 recently amended by chapter 730 of the acts of 1989, is hereby further amended by adding the
142 following paragraph:-

143 (10) requiring all utilities, with the exception of municipal corporations, to provide
144 customers and the department of energy resources with energy scorecards, as defined in section 3
145 of chapter 25A of the General Laws, following: (i) an energy audit, and (ii) any subsequent
146 modifications to a residential dwelling unit, as defined in said section 3 of said chapter 25A, that
147 change the energy performance of such residential dwelling unit; provided, however, that the
148 utilities shall use historical energy audit data to provide energy scorecards, as determined to be
149 feasible by the department pursuant to section 17 of said chapter 25A.

150 SECTION 12. Subsection (g) of section 7 of said chapter 465, as most recently amended
151 by chapter 209 of the acts of 2012, is hereby further amended by adding the following sentence:-
152 All utilities, with the exception of municipal corporations, shall provide energy scorecards as
153 defined in section 3 of chapter 25A of the General Laws to the department of energy resources,
154 pursuant to section 17 of said chapter 25A.

155 SECTION 13. The department of energy resources shall promulgate regulations pursuant
156 to section 9 of this Act before January 1, 2020.

157 SECTION 14. The department of energy resources shall not require an energy assessor to
158 provide energy scorecards, as provided in paragraph (1) of subsection (b) of section 17 of chapter
159 25A of the General Laws, before January 1, 2020.

160 SECTION 15. The department of energy resources shall not require the disclosure of
161 energy performance ratings or energy scorecards, as provided in paragraph (2) of subsection (b)
162 of section 17 of chapter 25A, before January 1, 2021.

163 SECTION 16. Sections 10 through 12, inclusive, of this Act shall take effect on January
164 1, 2020.