

**HOUSE . . . . . No. 2919**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Maria Duaine Robinson and 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 to establish building energy performance standards.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>1/18/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>1/18/2019</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>1/21/2019</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>1/23/2019</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>1/25/2019</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>1/25/2019</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>1/31/2019</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>1/28/2019</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>2/1/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/28/2019</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>1/30/2019</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	<i>1/29/2019</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>1/30/2019</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/1/2019</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>2/1/2019</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>	<i>1/28/2019</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>1/31/2019</i>
<i>Bradford Hill</i>	<i>4th Essex</i>	<i>1/30/2019</i>

<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>2/1/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/30/2019</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>1/31/2019</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/1/2019</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>1/28/2019</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>1/31/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/31/2019</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>1/28/2019</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/1/2019</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>	<i>1/31/2019</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>1/31/2019</i>

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By Representative Robinson of Framingham and Senator Rausch, a joint petition (accompanied by bill, House, No. 2919) of Maria Duaine Robinson, Rebecca L. Rausch and others for legislation to establish building energy performance standards. Telecommunications, Utilities and Energy.

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**The Commonwealth of Massachusetts**

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

An Act to establish 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 Chapter 25A of the General Laws is hereby amended by inserting after section 16 the  
2 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.