

## SUBTITLE 4. ENERGY CONSERVATION BUILDING STANDARDS

### § 7-401. Definitions.

(a) *In general.*- In this subtitle the following words have the meanings indicated.

(b) *B.T.U.*- "B.T.U." means a British Thermal Unit which is the quantity of heat required to raise the temperature of 1 pound of water 1 degree Fahrenheit.

(c) *Builder.*- "Builder" means:

(1) the person with whom the owner of a building enters into a contract or agreement to be principally responsible for the construction of the building, either individually or as a general contractor; or

(2) the owner of a building, if the owner constructs the building or serves as the owner's own general contractor.

(d)  
*Building.*-

(1) "Building" means any new structure that:

(i) is designed for human use or occupancy;

(ii) provides a method of controlling energy usage within its exterior envelope; and

(iii) as designed, does not have a peak design rate of energy usage per square foot of floor area of less than 3.5 B.T.U. per hour or 1 watt.

(2) "Building" includes any portion of an otherwise excluded new structure if that portion of the structure is primarily for human use or occupancy because the exterior envelopes, heating, venting and air conditioning systems, service water heating, and electrical distribution and illuminating systems are designed for that portion of the structure that is primarily for human use or occupancy.

(3) "Building" does not include:

(i) an addition to an existing structure or a single-family dwelling that is to constitute the principal residence of the builder;

(ii) a structure with a permanent heating and cooling system that utilizes a source other than natural gas, a petroleum product, or electricity;

(iii) an industrialized building as defined in § [12-301 of the Public Safety Article](#) that bears an insignia furnished by the Department of Housing and Community Development under Title [12](#), Subtitle [3 of the Public Safety Article](#); and

(iv) a manufactured home as defined in § [12-301 of the Public Safety Article](#) that bears an insignia issued by the Department of Housing and Community Development under Title [12](#), Subtitle [3 of the Public Safety Article](#).

(e) *Energy Code*.- "Energy Code" means energy conservation standards adopted under COMAR 05.02.07.04 Maryland Building Performance Standards (MBPS) under the authority of Title [12](#), Subtitle [5 of the Public Safety Article](#).

(f) *Political subdivision.*- "Political subdivision" means a county, Baltimore City, or a municipal corporation.

**§ 7-402. Scope of subtitle.**

Except as provided in § 7-406(c) of this subtitle, the provisions of this subtitle do not apply to any building constructed within the boundaries of a political subdivision if:

(1) the political subdivision has adopted the Energy Code; and

(2) the Energy Code adopted by the political subdivision applies to the building being constructed.

, AND WATER COMPANIES/SUBTITLE 4. ENERGY CONSERVATION BUILDING STANDARDS /§ 7-403. Certificate of compliance with Energy Code.

**§ 7-403. Certificate of compliance with Energy Code.**

(a) *Duty of builder.*-

(1) Except as provided in paragraph (2) of this subsection and [§ 7-404 of this](#) subtitle, a builder of any building that is completed after July 1, 1982 shall certify under oath to the electric company designated to provide electric service to the building that the building meets the latest edition of the Energy Code.

(2) If the building was designed while the immediately preceding edition of the Energy Code was in effect and the building was constructed in accordance with the then

preceding edition of the Energy Code, the builder may so certify in order to satisfy the requirements of this section.

(b) *Contents of certificate.*-

(1) The certification shall be made on a form that is provided by the Department of Housing and Community Development.

(2) The certificate shall contain a statement to the effect that any action brought by the first purchaser against the builder under § 7-406(b) of this subtitle may be brought within 3 years after the date on which the builder provided the first purchaser with a copy of the certificate or the waiver as provided in § 7-406(a) of this subtitle.

(c) *Filing certificate.*-

(1) The builder shall file the certificate with the electric company in person or by certified mail, return receipt requested.

(2) If the builder is a corporation, the certificate shall be submitted under oath by an officer of the corporation.

**§ 7-404. Waiver.**

(a) *Applicability.*- Subject to the provisions of this section, the Department of Housing and Community Development may grant a waiver from the certification requirements specified in [§ 7-403 of this](#) subtitle for any building:

(1) to which a significant commitment had been made to its design or construction prior to January 1, 1982; and

(2) for which imposition of energy conservation standards under this subtitle would pose a substantial financial hardship.

(b) *Waiver issued.*- For any waiver granted under this section, the Department shall issue a written statement that clearly identifies the building affected and that specifies that the Department has granted a waiver from the energy conservation requirements of this subtitle.

(c) *Filing waiver.*- To be effective, the builder shall file the statement of waiver issued by the Department of Housing and Community Development in person or by certified mail, return receipt requested, with the electric company designated to provide electric service to the building.

**§ 7-405. Duties of electric company.**

(a) *Electric service.*-

(1) Except as provided in paragraph (2) of this subsection, an electric company may not provide electric service to any building on which construction is completed after July 1, 1982, unless the builder has filed with the company the certificate or statement of waiver that is required under this subtitle.

(2) Paragraph (1) of this subsection does not apply to the temporary provision of electric service for use only during the process of constructing a building.

(b) *Immunity from liability.*- If it is later determined that a building did not conform to

the energy conservation standards to which the builder has certified or that a false waiver was provided to the electric company by the builder, the electric company may not be held liable for that noncompliance.

(c) *Certificates available to public.-*

(1) Certificates and statements of waiver filed with an electric company under this subtitle shall be made available to the public.

(2) The electric company:

(i) shall provide a copy of any certificate or statement of waiver that it has on file to any person on request within a reasonable time not to exceed 5 working days; and

(ii) may charge a reasonable fee for any copy of a certificate or statement of waiver that it provides.

(3) The electric company is not required to retain a certificate or a statement of waiver filed with the electric company under this subsection beyond 3 years from the date the certificate or statement of waiver was filed with the electric company.

**§ 7-406. Duties and liabilities of builder to purchaser.**

(a) *Duty to furnish notice.-*

(1) A builder subject to the provisions of this subtitle shall:

(i) provide the first purchaser of the building with a copy of the certificate that is filed with the electric company; or

(ii) if the builder was issued a waiver under [§ 7-404 of this](#) subtitle, provide the first purchaser with a copy of the statement of waiver.

(2) If the first purchaser of the building resells the building without having occupied or rented it, at the time of the resale, the first purchaser shall provide the next purchaser with the copy of the certificate or the statement of waiver.

(b) *Liability for failure to furnish notice.-*

(1) If a builder fails to comply with the energy conservation standards required for certification under this subtitle, or the builder fails to obtain a statement of waiver under this subtitle, the builder is liable to the first purchaser who either occupies or rents the building for an amount not to exceed \$2,000 and for:

(i) the cost of bringing the building into compliance with the standards required under this subtitle;

(ii) the reasonable attorney's fees and court costs of the purchaser; and

(iii) any reasonable costs incurred by the purchaser in determining that the builder did not comply with the energy conservation standards required under this subtitle.

(2) An action under this subsection may not be brought more than 3 years after the date on which the builder provided the purchaser with a copy of the certificate or the waiver.

(3) If the builder is a corporation and the corporation is dissolved, the purchaser may bring any action authorized under this subsection against any person who was an officer of the corporation at the time that the alleged violation occurred.

(c) *Liability of builder in Energy Code subdivision.-*

(1) In any political subdivision that has adopted the Energy Code, if a builder of a building that is completed after July 1, 1982 willfully deviates from the approved plans for the building, the builder is liable to the first purchaser who either occupies or rents the building for an amount not to exceed \$2,000 and for:

(i) the cost of bringing the building into compliance with the Energy Code;

(ii) the reasonable attorney's fees and court costs of the purchaser; and

(iii) any reasonable costs incurred by the purchaser in determining that the builder did not comply with the Energy Code.

(2) An action under this subsection may not be brought more than 3 years after the date on which a use and occupancy permit is issued for the building by the political subdivision in which the building is located.

(3) If the builder is a corporation and the corporation is dissolved, the purchaser may bring any action authorized under this subsection against any person who was an officer of the corporation at the time that the alleged violation occurred.

(4) The provisions of paragraph (1) of this subsection are in addition to any other

remedies available under State or local law.

**§ 7-407. Penalties.**

(a) *Failure to submit; false document.*- A person who fails or causes another to fail to submit a certification or statement of waiver to an electric company as required by this subtitle and a person who knowingly submits or knowingly causes to be submitted a false certification or statement of waiver, is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000.

(b) *Electric company violation.*- An electric company that knowingly provides service in violation of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000.

**§ 7-408. Short title.**

This subtitle may be cited as the Energy Conservation Building Standards Act.