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**HOUSE BILL NO. 204**

Offered January 10, 2018

Prefiled December 28, 2017

A *BILL to amend the Code of Virginia by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-984, relating to energy benchmarking; access to data on energy usage in covered buildings.*

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Patron—Sullivan

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Referred to Committee on Counties, Cities and Towns

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-984 as follows:**

**§ 15.2-984. Energy benchmarking.**

A. As used in this section:

"Account holder" means a utility's customer with a utility account that receives utility service at a covered building.

"Aggregated data" means the combined measured energy usage data for multiple utility accounts of customers receiving service in a covered building across a given period.

"Benchmarking" or "energy benchmarking" means the obtaining of information on the energy usage of a covered building for a specific period to enable the energy usage to be tracked or compared against the energy usage of other buildings.

"Covered building" means any building with one or more utility accounts and a gross floor area of not less than 50,000 square feet.

"Department" means the Department of Mines, Minerals and Energy.

"Energy" means (i) electricity, natural gas, or water sold by a utility to an account of a covered building; (ii) energy that is generated, from renewable or other sources, on the premises of a covered building from a facility not owned by a utility and that is used to provide heating, cooling, lighting, or water heating, or for powering or fueling other end uses captured by the Energy Star Portfolio Manager; or (iii) any other sources of energy that a locality may designate.

"Energy Star Portfolio Manager" means the tool developed and maintained by the U.S. Environmental Protection Agency to track and assess the energy performance of covered buildings.

"Owner" means the person owning a covered building as reflected in the land records of the circuit court clerk where the covered building is located or the person's designee.

"Utility" means a person that sells electricity, natural gas, or water services consumed in a covered building.

"Utility account" means an agreement between a utility and its customer under which the utility provides energy to a specified location.

B. Any locality may, by ordinance, require energy benchmarking under which a utility shall, upon request by the owner of a covered building, provide aggregated data for a covered building to the owner.

C. The provision of aggregated data for a covered building pursuant to an ordinance adopted under this section shall be subject to the following requirements:

1. For a covered building with three or more active utility accounts in which no single utility account is greater than or equal to 85 percent of the aggregated energy usage, a utility shall provide aggregated data for all utility accounts in the building for each of the 13 prior months;

2. For a covered building not described in subdivision 1, a utility shall provide aggregated data for all utility accounts in the building for each of the prior 13 months only if each account holder consents, in writing or electronically, to the provision of the account holder's usage data to the owner or utility;

3. If a condition set forth in subdivision 1 or 2 is satisfied:

a. The utility shall provide the aggregated data within four weeks of receiving the request for the aggregated data from the owner of a covered building; and

b. The utility shall make available a covered building's usage data to the owner aggregated at monthly intervals;

4. Each utility shall maintain records of the energy usage of covered buildings to which they provide service for at least the most recent 13 complete calendar months;

5. A utility shall not be required to provide energy usage data for any energy that is generated, from renewable or other sources, on the premises of a covered building from a facility not owned by the

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59 utility; and

60 6. The owner and a utility shall not have any liability for the use or disclosure of usage data  
61 provided as required by an ordinance adopted in accordance with this section.

62 D. A locality's ordinance shall include the following requirements:

63 1. Mandatory benchmarking for covered buildings described in subdivision C 1 and voluntary  
64 benchmarking for covered buildings described in subdivision C 2;

65 2. Owners shall only provide aggregated data that is provided to them pursuant to the ordinance to  
66 the Energy Star Portfolio Manager subject to guidelines established by the Department;

67 3. Owners shall be provided reasonable notice of their obligations under the ordinance;

68 4. The ordinance shall be in effect for at least one year before compliance with its reporting  
69 provisions may be enforced;

70 5. All buildings owned by the locality with one or more utility accounts and a gross floor area of not  
71 less than 10,000 square feet shall be benchmarked for at least one year before any covered building is  
72 subject to benchmarking;

73 6. Owners shall provide data for any energy that is generated, from renewable or other sources, on  
74 the premises of a covered building from a facility not owned by a utility to the Energy Star Portfolio  
75 Manager subject to guidelines established by the Department; and

76 7. Such other requirements as are germane to the purposes of this section.

77 E. An ordinance adopted under this section shall authorize a locality to exempt a covered building  
78 from the requirements of this section for the following reasons:

79 1. The covered building does not have a certificate of occupancy or temporary certificate of  
80 occupancy for the year being benchmarked;

81 2. A demolition permit has been issued for the covered building for the year being benchmarked;

82 3. The covered building had average physical occupancy of less than 50 percent for the year being  
83 benchmarked;

84 4. The locality determines that, due to special circumstances unique to the covered building, strict  
85 compliance with provisions of this section would cause undue hardship or would not be in the public  
86 interest; or

87 5. Such other reason as the locality deems consistent with the reasons set forth in subdivisions 1  
88 through 4.

89 F. Any violation of such ordinance shall be punishable by a fine of not more than \$250.

90 2. That the Department of Mines, Minerals and Energy (DMME) shall develop uniform guidelines  
91 for benchmarking under § 15.2-984 of the Code of Virginia. In developing the guidelines, DMME  
92 shall incorporate input from representatives of the Virginia Energy Efficiency Council, the  
93 Virginia Association of Realtors, the Virginia Municipal League, the Virginia Association of  
94 Counties, the Virginia Association for Commercial Real Estate, investor-owned utilities, and  
95 electric cooperatives. DMME shall finalize the uniform guidelines for benchmarking no later than  
96 December 1, 2018.