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DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 289

AN ACT TO AMEND TITLE 16 AND TITLE 29 OF THE DELAWARE CODE RELATING TO ENERGY CONSERVATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 76, Title 16 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 7602. Code for Energy Conservation.

4 (a) Except as herein noted, ~~no county or~~ and municipal building or ~~and plumbing code codes~~ shall ~~contain any~~
5 ~~provision which shall be materially at variance with~~ meet the most recent version of the International Code Council (ICC),
6 International Energy Conservation Code (IECC) within 12 months of adoption by the Delaware Energy Office. In effect,
7 the highest available energy conservation code of the ICC/IECC as ~~determined~~ adopted by the Delaware Energy Office
8 shall be the ~~referenced~~ minimum energy code for all new detached 1- and 2-story family dwellings and all other new
9 residential buildings 3 stories or less in height. Energy standards for all other new buildings, to include high-rise residential,
10 shall be established to meet the latest available standard of the American Society of Heating, Refrigerating and Air
11 Conditioning Engineers/Illuminating Engineering Society of North America (ASHRAE/IESNA) as determined by the
12 Delaware Energy Office; provided, however, the respective county or municipal governments may exclude agricultural
13 structures from these provisions. The Delaware Energy Office shall adopt these updates pursuant to Chapter 101 of Title
14 29. However, local jurisdictions may adopt stretch codes based upon codes developed by national or international code
15 authorities including the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) and the
16 International Code Council (ICC). Local jurisdictions may also, through an administrative or regulatory process, provide
17 alternative compliance pathways to meet the provisions of the stretch code or stretch codes being adopted.

18 (b) The Delaware Energy Office, or its successor, shall promulgate procedures for certification of compliance with
19 these codes and standards to be utilized by respective local governments; provided, however, with respect to compliance
20 with these codes and standards, for a commercial building of less than 5,000 square feet in size, the respective local
21 government, rather than requiring that such compliance be certified by licensed engineers or architects, as is required with
22 commercial buildings of 5,000 square feet or more, may elect to utilize a commercial buildings ASHRAE/IESNA

23 Compliance Guide, to include computerized software compliance packages such as the Department of Energy developed
24 COMcheck compliance software for insuring commercial energy code compliance and the Department of Energy
25 developed REScheck compliance software for residential energy code compliance. An alternate compliance method for
26 residential code compliance using ENERGY STAR documentation software may be used in lieu of the REScheck software.
27 Code officials shall allow submission of documents that demonstrate energy efficiency that exceeds the requirements of the
28 code when these state, local or national programs have been demonstrated to exceed the requirements of the code.

29 (c) The Delaware Energy Office, or its successor, in consultation with the Green Building Council of the Home
30 Builders Association of Delaware, shall establish programs to promote the construction of zero net energy homes. A “zero
31 net energy home” or “zero net energy building” is defined as a residence or commercial building that, through the use of
32 energy efficient construction, lighting, appliances and on-site renewable energy generation, results in zero net energy
33 consumption from the utility provider. Therefore, a net zero energy capable home must be energy efficient enough that if
34 the home or building owner chooses to add on-site generation, net zero energy consumption could be achieved. As of
35 December 31, 2025, all new residential building construction in the State of Delaware shall be zero net energy capable. As
36 of December 31, 2030, all new commercial building construction must also be zero net energy capable.

37 Section 2. Amend Chapter 80, Title 29 of the Delaware Code by making deletions as shown by strike through and
38 insertions as shown by underline as follows:

39 § 8059. Sustainable Energy Utility.

40 (h) Expansion of cost-effective energy efficiency programs. — Notwithstanding progress towards the achievement
41 of the energy savings targets in § 1502(a) of Title 26, each affected energy provider shall implement energy efficiency,
42 energy conservation, and peak demand reduction programs that are cost-effective, reliable, and feasible as determined
43 through regulations promulgated pursuant to paragraph (h)(3) of this section and delivered in collaboration with the
44 Sustainable Energy Utility as described herein.

45 (1) Development and delivery of programs. — a. An advisory council consisting of 13 members shall be
46 established by the Secretary and shall include 2 representatives of the Sustainable Energy Utility, and 1
47 representative of each of the following sectors:

- 48 1. Affected energy providers;
- 49 2. Manufacturing;
- 50 3. Agriculture;
- 51 4. Environmental;
- 52 5. Commercial;

- 53 6. Residential; and
54 7. Low-income sectors.

55 The advisory council will assist affected energy providers in the development of energy efficiency, peak demand
56 reduction, and emission-reducing fuel switching programs to meet the requirements of this section and in evaluation,
57 measurement and verification of energy savings. Programs shall be designed to maximize the cost-savings benefits for
58 ratepayers by utilizing private financing and allowance proceeds from the Regional Greenhouse Gas Initiative to the
59 maximum extent practicable and consistent with this section, as the preferred sources of program financing prior to
60 expenditures that would otherwise be eligible for rate recovery. The advisory council shall also recommend adoption of
61 financing mechanisms, including, but not limited to, on-bill financing, property assessed clean energy (“PACE”) models,
62 and other innovative financing tools.

63 h. The advisory council and the Sustainable Energy Utility may collaborate to design programs to promote and
64 support the development and construction of energy efficient housing, including programs to alleviate the potential
65 increased upfront costs caused by the adoption of local stretch codes.

66 ~~h. i.~~ Nothing in this section shall reduce the authority of the Sustainable Energy Utility as defined in this title. The
67 Sustainable Energy Utility, at its discretion, may provide private financing, allowance proceeds from the Regional
68 Greenhouse Gas Initiative, or other financial resources to reduce implementation costs of energy efficiency programs in
69 coordination with the affected energy providers and may collaborate with affected energy providers to provide efficiency
70 programs.

SYNOPSIS

This Act amends Title 16, Chapter 76 of the Delaware Code relating to energy conservation identified in county and municipal building and plumbing codes. Consistent with codes in other States, including New York, Rhode Island, and Washington, among others, this Act requires as a threshold that counties and municipalities must, at minimum, meet the threshold adopted by the Delaware Energy Office (“DEO”). The Act authorizes counties and municipalities to go above the threshold adopted by the DEO.

This Act also amends Title 29, Chapter 80 of the Delaware Code by charging the Energy Efficiency Advisory Council and the Sustainable Energy Utility to collaborate to design programs to promote and support the development and construction of energy efficient housing, including programs to alleviate the potential increased upfront costs caused by the adoption of local stretch codes.

Author: Senator Hansen