SPONSOR: Sen. Hansen & Rep. Heffernan & Rep. Phillips
Sens. Buckson, Hoffner, Lockman, Richardson, Sokola;
Rep. Morrison

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 289
AS AMENDED BY
SENATE AMENDMENT NO. 1

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:

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

§ 7602. Code for Energy Conservation.

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

(b) The Delaware Energy Office, or its successor, shall promulgate procedures for certification of compliance with

these codes and standards to be utilized by respective local governments; provided, however, with respect to compliance with these codes and standards, for a commercial building of less than 5,000 square feet in size, the respective local government, rather than requiring that such compliance be certified by licensed engineers or architects, as is required with commercial buildings of 5,000 square feet or more, may elect to utilize a commercial buildings ASHRAE/IES~~NA~~ Compliance Guide, to include computerized software compliance packages such as the Department of Energy developed COMcheck compliance software for insuring commercial energy code compliance and the Department of Energy developed REScheck compliance software for residential energy code compliance. An alternate compliance method for residential code compliance using ENERGY STAR documentation software may be used in lieu of the REScheck software. Code officials shall allow submission of documents that demonstrate energy efficiency that exceeds the requirements of the code when these state, local or national programs have been demonstrated to exceed the requirements of the code.

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

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

§ 8059. Sustainable Energy Utility.

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

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

1. Affected energy providers;

2. Manufacturing;

3. Agriculture;

4. Environmental;

5. Commercial;

6. Residential; and

7. Low-income sectors.

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

h. The advisory council and the Sustainable Energy Utility may 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.

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