

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0615.01 Kate Meyer

SENATE BILL 11-130

SENATE SPONSORSHIP

Johnston,

HOUSE SPONSORSHIP

Kerr A.,

Senate Committees
Agriculture and Natural Resources

House Committees

A BILL FOR AN ACT

101 CONCERNING AN INCREASE IN THE TRANSPARENCY OF A BUILDING'S
102 ENERGY PERFORMANCE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill requires, on and after January 1, 2012, a qualifying utility to maintain energy consumption data for all commercial buildings to which the utility provides service. Beginning January 1, 2013, a commercial building's owner or operator and a qualifying utility must upload the energy consumption data to a portfolio manager maintained by

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

the United States environmental protection agency for the purpose of generating an energy performance rating.

An owner, operator, or agent of a commercial building is required to disclose the building's energy performance rating to the purchaser or lessee at the time of conveyance and, upon request, to a prospective purchaser or lessee. The requisite disclosure will be phased in as follows:

- ! For commercial buildings greater than 50,000 square feet, the disclosure is required on and after January 1, 2012; and
- ! For all commercial buildings, regardless of size, the disclosure will be required on and after January 1, 2013.

A person who supplies false information in connection with disclosure of an energy performance rating commits a class 1 misdemeanor.

The bill authorizes the real estate commission in the department of regulatory agencies to develop standardized forms for energy performance ratings disclosures.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 2 of title 40, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 **40-2-130. Energy performance rating - record-keeping - rules**
5 **- definitions.** (1) ON AND AFTER JANUARY 1, 2012, A QUALIFYING RETAIL
6 UTILITY SHALL MAINTAIN RECORDS OF THE ENERGY CONSUMPTION DATA
7 OF ALL NONRESIDENTIAL BUILDINGS TO WHICH IT PROVIDES SERVICE. THE
8 DATA MUST BE MAINTAINED FOR AT LEAST THE MOST RECENT TWELVE
9 MONTHS IN A FORMAT COMPATIBLE FOR UPLOADING TO THE PORTFOLIO
10 MANAGER.

11 (2) ON AND AFTER JANUARY 1, 2013:

12 (a) THE OWNER OR OPERATOR OF A NONRESIDENTIAL BUILDING
13 THAT IS BEING LEASED OR SOLD SHALL UPLOAD TO THE PORTFOLIO
14 MANAGER ANY DATA NECESSARY TO GENERATE AN ENERGY
15 PERFORMANCE RATING; AND

16 (b) UPON THE WRITTEN AUTHORIZATION OR SECURE ELECTRONIC

1 AUTHORIZATION OF A NONRESIDENTIAL BUILDING OWNER OR OPERATOR,
2 A QUALIFYING RETAIL UTILITY SHALL UPLOAD THE ENERGY CONSUMPTION
3 DATA FOR THE ACCOUNTS SPECIFIED BY THE BUILDING'S OWNER OR
4 OPERATOR TO THE PORTFOLIO MANAGER IN A FORM THAT DOES NOT
5 DISCLOSE PERSONALLY IDENTIFYING INFORMATION. THE UTILITY SHALL
6 PROVIDE THE OWNER OR OPERATOR WITH THE ENERGY PERFORMANCE
7 RATING GENERATED BY THE PORTFOLIO MANAGER.

8 (3) IN CARRYING OUT THE REQUIREMENTS OF THIS SECTION, A
9 QUALIFYING RETAIL UTILITY SHALL USE ANY METHOD FOR PROVIDING THE
10 SPECIFIED DATA IN ORDER TO MAXIMIZE EFFICIENCY AND MINIMIZE
11 OVERALL PROGRAM COST. A QUALIFYING RETAIL UTILITY MAY RECOVER
12 THE COSTS IT INCURS FROM COMPLYING WITH THIS SECTION ONLY FROM
13 THE CUSTOMERS WHO RECEIVE ENERGY PERFORMANCE RATINGS. A
14 QUALIFYING RETAIL UTILITY IS ENCOURAGED TO CONSULT WITH THE
15 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND THE
16 COMMISSION IN DEVELOPING REASONABLE REPORTING OPTIONS.

17 (4) THE COMMISSION MAY PROMULGATE RULES NECESSARY TO
18 FACILITATE THE PURPOSES OF THIS SECTION, INCLUDING FORMS AND
19 GUIDELINES, SPECIFYING WHAT CONSTITUTES NONPERSONAL IDENTIFYING
20 INFORMATION, AND DEVELOPING A PROGRAM MANAGER IF THE UNITED
21 STATES ENVIRONMENTAL PROTECTION AGENCY CEASES TO MAINTAIN A
22 PROGRAM MANAGER.

23 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
24 REQUIRES:

25 (a) "COMMERCIAL BUILDING" MEANS ANY STRUCTURE OR FACILITY
26 OTHER THAN REAL PROPERTY CONTAINING ONE TO FOUR RESIDENTIAL
27 UNITS. "COMMERCIAL BUILDING" DOES NOT INCLUDE SINGLE-FAMILY OR

1 MULTI-FAMILY RESIDENTIAL UNITS, INCLUDING CONDOMINIUMS,
2 TOWNHOUSES, OR HOMES IN A SUBDIVISION WHEN SUCH REAL ESTATE IS
3 SOLD, LEASED, OR OTHERWISE CONVEYED ON A UNIT-BY-UNIT BASIS EVEN
4 THOUGH THE UNITS MAY BE PART OF A LARGER BUILDING OR PARCEL OF
5 REAL PROPERTY CONTAINING MORE THAN FOUR RESIDENTIAL UNITS.

6 (b) "ENERGY CONSUMPTION DATA" MEANS THE MONTHLY AMOUNT
7 OF ENERGY CONSUMED BY A CUSTOMER AS RECORDED BY THE APPLICABLE
8 ENERGY METER FOR THE MOST RECENT TWELVE-MONTH PERIOD.

9 (c) "ENERGY PERFORMANCE RATING" MEANS A NUMERICAL VALUE,
10 DETERMINED BY A PORTFOLIO MANAGER, DESCRIBING THE ENERGY
11 EFFICIENCY OF A COMMERCIAL BUILDING.

12 (d) "PORTFOLIO MANAGER" MEANS THE UNITED STATES
13 ENVIRONMENTAL PROTECTION AGENCY'S ENERGY STAR PORTFOLIO
14 MANAGER OR ITS SUCCESSOR PROGRAM, OR AN EQUIVALENT TOOL
15 DEVELOPED BY THE COMMISSION.

16 (e) "QUALIFYING RETAIL UTILITY" MEANS A CUSTOMER-OWNED OR
17 INVESTOR-OWNED GAS OR ELECTRIC UTILITY THAT SERVES FORTY
18 THOUSAND OR MORE CUSTOMERS IN THE STATE.

19 (6) THIS SECTION APPLIES ONLY TO BUILDINGS FOR WHICH THE
20 PORTFOLIO MANAGER IS ABLE TO PROVIDE AN ENERGY PERFORMANCE
21 RATING.

22 **SECTION 2.** Title 38, Colorado Revised Statutes, is amended BY
23 THE ADDITION OF A NEW ARTICLE to read:

24 **ARTICLE 35.8**

25 **Disclosure of Energy Performance Ratings**

26 **38-35.8-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
27 CONTEXT OTHERWISE REQUIRES:

1 (1) "COMMERCIAL BUILDING" HAS THE MEANING SET FORTH IN
2 SECTION 40-2-130, C.R.S.

3 (2) "ENERGY PERFORMANCE RATING" HAS THE MEANING SET
4 FORTH IN SECTION 40-2-130, C.R.S.

5 **38-35.8-102. Energy performance rating - disclosure required**
6 **- when - penalty for providing false information - rules.** (1) (a) IN
7 ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION, A COMMERCIAL
8 BUILDING OWNER OR OPERATOR, OR THE AGENT OF THE OWNER OR
9 OPERATOR, SHALL DISCLOSE IN WRITING THE BUILDING'S ENERGY
10 PERFORMANCE RATING TO:

11 (I) AT THE TIME OF CONVEYANCE, A PERSON TO WHOM THE
12 OWNER, OPERATOR, OR AGENT IS LEASING, SELLING, OR OTHERWISE
13 CONVEYING AN INTEREST IN THE COMMERCIAL BUILDING; AND

14 (II) UPON REQUEST, A PROSPECTIVE BUYER, LESSEE, OR LENDER
15 FOR THE MOST RECENT CONTINUOUSLY OCCUPIED TWELVE-MONTH PERIOD.

16 (b) UNLESS OTHERWISE REQUIRED BY LAW, A BUILDING OWNER OR
17 OPERATOR, OR HIS OR HER AGENT, WHO DELIVERS AN ENERGY
18 PERFORMANCE RATING TO A PROSPECTIVE BUYER, LESSEE, OR LENDER IS
19 NOT REQUIRED TO PROVIDE ADDITIONAL INFORMATION REGARDING
20 ENERGY CONSUMPTION.

21 (2) THE DISCLOSURE REQUIRED UNDER SUBSECTION (1) OF THIS
22 SECTION IS REQUIRED AS FOLLOWS:

23 (a) ON AND AFTER JANUARY 1, 2012, FOR COMMERCIAL BUILDINGS
24 GREATER THAN FIFTY THOUSAND SQUARE FEET; AND

25 (b) ON AND AFTER JANUARY 1, 2013, FOR ALL COMMERCIAL
26 BUILDINGS.

27 (3) (a) THE DISCLOSURES REQUIRED UNDER SUBSECTION (1) OF

1 THIS SECTION ARE REQUIRED ONLY FOR THOSE BUILDINGS FOR WHICH THE
2 PORTFOLIO MANAGER GENERATES AN ENERGY PERFORMANCE RATING.

3 (b) THE OWNER OR OPERATOR MAY MAKE THE DISCLOSURES
4 REQUIRED UNDER SUBSECTION (1) OF THIS SECTION ON A FORM DEVELOPED
5 BY THE REAL ESTATE COMMISSION UNDER SUBSECTION (5) OF THIS
6 SECTION.

7 (4) A PERSON WHO WILLFULLY OR KNOWINGLY MAKES A FALSE
8 STATEMENT OR PROVIDES FALSE INFORMATION IN CONNECTION WITH
9 PROVIDING A DISCLOSURE UNDER THIS SECTION COMMITS A CLASS 1
10 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED UNDER SECTION
11 18-1.3-501, C.R.S.

12 (5) THE REAL ESTATE COMMISSION CREATED IN SECTION
13 12-61-105, C.R.S., MAY, BY RULE, DEVELOP STANDARDIZED FORMS ON
14 WHICH THE DISCLOSURE REQUIRED UNDER THIS SECTION MAY BE MADE
15 FOR REAL PROPERTY THAT IS SUBJECT TO THE COMMISSION'S JURISDICTION
16 UNDER ARTICLE 61 OF TITLE 12, C.R.S. IN PROMULGATING SUCH RULES,
17 THE REAL ESTATE COMMISSION SHALL CONSULT WITH THE UNITED STATES
18 ENVIRONMENTAL PROTECTION AGENCY, PUBLIC UTILITIES, AND THE PUBLIC
19 UTILITIES COMMISSION CREATED IN SECTION 40-2-101, C.R.S.

20 **SECTION 3. Act subject to petition - effective date.** This act
21 shall take effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly (August
23 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
24 referendum petition is filed pursuant to section 1 (3) of article V of the
25 state constitution against this act or an item, section, or part of this act
26 within such period, then the act, item, section, or part shall not take effect
27 unless approved by the people at the general election to be held in

1 November 2012 and shall take effect on the date of the official
2 declaration of the vote thereon by the governor.