

SENATE No. 2078

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Barrett

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to establish home energy efficiency ratings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/24/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/6/2023</i>

SENATE No. 2078

By Mr. Barrett, a petition (accompanied by bill, Senate, No. 2078) of Michael J. Barrett, Lindsay N. Sabadosa and James B. Eldridge for legislation to establish home energy efficiency ratings. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to establish home energy efficiency ratings.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Subsection (iv) of paragraph (1) of subsection (c) of section 22 of chapter
2 21A of the General Laws is hereby amended by striking out, the second time it appears, the word
3 “and”.

4 SECTION 2. Subsection (v) of paragraph (1) of subsection (c) of said section 22 of said
5 chapter 21A is hereby amended by striking out the word “.” and inserting in place thereof the
6 following words:- ; and.

7 SECTION 3. Paragraph (1) of subsection (c) of said section 22 of said chapter 21A is
8 hereby further amended by adding the following clause:-

9 (vi) to fund grants to participating municipalities, and to nonprofit community
10 organizations and municipal lighting plants within participating municipalities, for purposes
11 related to participation in the municipal opt-in energy performance rating program established
12 pursuant to section 21 of chapter 25A of the General Laws, including but not limited to,

13 facilitating energy assessments, facilitating energy performance ratings, assisting homeowners
14 and landlords with meeting compliance costs, including but not limited to, the costs of energy
15 assessments and energy performance ratings, and supporting workforce development and
16 training for energy assessors pursuant to chapter 25A.

17 SECTION 4. Subsection (a) of section 19 of chapter 25 of the General Laws is hereby
18 amended by adding, in the first sentence, after the words "demand side management programs"
19 the following words:- , and the municipal opt-in energy performance rating program established
20 pursuant to section 21 of chapter 25A of the General Laws.

21 SECTION 5. Section 3 of chapter 25A of the General Laws is hereby amended by
22 inserting after the definition of "End-user" the following 2 definitions:-

23 "Energy assessment", an on-site evaluation by an energy assessor of the energy
24 performance of a residential dwelling unit, based on the physical characteristics, including
25 renewable energy infrastructure, of the residential dwelling unit, including but not limited to: (a)
26 an energy audit, as defined in this section, delivered as part of the Massachusetts residential
27 conservation service established in chapter 465 of the acts of 1980; (b) a home energy rating
28 conducted by a Home Energy Rating System rater certified by the Residential Energy Services
29 Network; or (c) other energy evaluations specifically designated by the department. For the
30 purposes of this section, an energy assessment shall be valid for 8 years.

31 "Energy assessor", a person or group of persons who conduct energy assessments,
32 calculate energy performance ratings and produce energy scorecards and who have met
33 minimum qualifications and quality assurance protocols established by the department.

34 SECTION 6. Said section 3 of said chapter 25A is hereby further amended by inserting
35 after the definition of “Energy management services” the following definition:-

36 “Energy performance rating”, information of a standardized nature in a standardized
37 format, all as determined by the department, presenting the results of a valid energy assessment
38 conducted by an energy assessor. Such information shall not contain any unnecessary personal
39 data as defined in section 1 of chapter 66A.

40 SECTION 7. Said section 3 of said chapter 25A is hereby further amended by inserting
41 after the definition of “Reseller” the following definition:-

42 “Residential dwelling unit”, any building or dwelling of which 50 percent or more of the
43 gross floor area, including hallways and other common space serving residents but excluding
44 parking, is used for dwelling purposes, or any grouping of residential buildings designated by the
45 department or a municipality as an appropriate reporting unit for the purposes of section 21 of
46 this chapter.

47 SECTION 8. Section 11G of said chapter 25A is hereby amended by inserting after the
48 word "programs," in line 3, the following words:- , including, but not limited to, the use of
49 energy performance ratings.

50 SECTION 9. Said section 11G of said chapter 25A is hereby further amended by
51 inserting after the word “programs,” in line 9, the following words:- , including, but not limited
52 to, the use of energy performance ratings,.

53 SECTION 10. Said chapter 25A is hereby further amended by adding the following
54 section:-

55 Section 21. (a) The department shall develop and implement a municipal opt-in energy
56 performance rating program requiring the conduct of energy assessments, the calculation of
57 energy performance ratings and the sharing of said ratings with buyers or prospective buyers and
58 lessees or prospective lessees before the sale or lease of a residential dwelling unit, including a
59 newly constructed residential dwelling unit, in the commonwealth. Said program shall at a
60 minimum provide for: (1) development of standard requirements, protocols, formats and
61 methodologies for conducting energy assessments and producing and calculating energy
62 performance ratings; (2) the setting of minimum qualifications for energy assessors to produce
63 and calculate energy performance ratings, which may include, but shall not be limited to,
64 standardizing qualifications for energy assessors throughout the commonwealth as well as
65 protocols for assuring the quality of energy assessments and energy performance ratings; (3)
66 training to energy assessors regarding the conduct of energy assessments and the production and
67 calculation of energy performance ratings; (4) development of requirements and protocols
68 regarding the method, manner and format in which energy performance ratings are to be
69 provided to owners, buyers, prospective buyers, lessees, prospective lessees and the department;
70 (5) development of requirements and protocols regarding the method, manner and format in
71 which updated performance ratings are to be provided following modifications to a residential
72 dwelling unit that materially changes its energy performance; (6) provision of grants to
73 participating municipalities and to nonprofit community organizations and municipal lighting
74 plants within participating communities for purposes related to participation in said energy
75 performance rating program, including, but not limited to, facilitating energy assessments,
76 facilitating energy performance ratings, assisting homeowners and landlords with meeting
77 compliance costs, including, but not limited to, the costs of obtaining energy assessments and

78 energy performance ratings, and supporting workforce development and training for energy
79 assessors pursuant to implementation of this section; and (7) provision of grants to energy
80 assessment providers and other similar entities to cover costs associated with adapting home
81 energy assessment methodologies and software to provide the standardized information required
82 for the municipal opt-in energy performance rating program established pursuant to this section
83 and to cover costs associated with the use of historical home energy assessment data that may be
84 utilized to produce energy performance ratings where feasible and practical, as determined by the
85 department.

86 (b) The energy performance rating program shall require: (1) energy assessors to provide
87 the owner, the lessee or lessees, or both where applicable, with an energy performance rating of a
88 residential dwelling unit following an energy assessment of the unit; provided, that assessors
89 shall also provide the rating to the department; and, provided further, that the department may by
90 rule or regulation specify the method, manner and format in which said ratings are to be
91 provided; and (2) an energy performance rating to be provided to buyers or prospective buyers
92 when the property is publicly listed for sale and to lessees or prospective lessees when the
93 property is publicly listed for rent or leasing; provided, that the department may by rule or
94 regulation specify the method, manner and format in which said rating is to be provided; and,
95 provided further, that a landlord of a residential dwelling unit who pays for utility services on
96 behalf of a lessee or tenant shall not be required to acquire and provide energy performance
97 ratings under this section.

98 (c) The department shall, in consultation with the state board of building regulations and
99 standards, promulgate rules and regulations to implement this section, including, but not limited
100 to: (1) the matters specified elsewhere in this section; (2) the process of providing an energy

101 performance rating to a buyer, prospective buyer, lessee or prospective lessee, including whether
102 said rating shall be provided (i) by a seller of the residential dwelling unit; (ii) by a real estate
103 broker or real estate salesman, as defined by section 87PP of chapter 112, acting on behalf of the
104 seller; or (iii) by some other means; (3) the phase-in and implementation schedule, within the
105 bounds permitted by law, of energy performance rating requirements; (4) exemptions to the
106 requirements of this section that it may deem reasonable, which may include exemptions for
107 certain emergency transactions and for owners of residential dwelling units who do not have
108 reasonable access to energy assessments provided without substantial fee to such owners, as
109 determined by the department; and (5) requirements and protocols for producing scorecards from
110 historical energy assessment data, if the department determines that so doing is feasible and
111 practical.

112 (d) The department shall make available voluntary training for real estate brokers,
113 appraisers, lenders, home inspectors and other interested professionals involved in residential
114 real estate transactions on the uses of energy assessments and energy performance ratings and on
115 the requirements, protocols and best practices associated with providing said assessments and
116 performance ratings to buyers, prospective buyers, lessees and prospective lessees.

117 (e) The department shall maintain energy performance ratings received from an energy
118 assessor or shall authorize a third party to maintain said ratings; provided, that individual energy
119 scorecards shall not be disclosed by the department or any such third party without the consent of
120 the owner of the residential dwelling unit, unless otherwise prescribed in this section or
121 permitted by law. Energy performance ratings received by the department pursuant to this section
122 shall not be deemed a public record, as defined in clause 26 of section 7 of chapter 4 and shall

123 not be subject to a request for public records under section 10 of chapter 66; provided, however,
124 that the department may release any aggregation of energy performance ratings.

125 (f) This section shall not be construed to require, or authorize the department to require, a
126 municipality or a municipal lighting plant to participate in the energy performance rating
127 program, including by requiring the provision of an energy performance rating following an
128 energy audit or energy assessment provided through such municipality or plant; provided, that if
129 a municipality or municipal lighting plant opts to participate in the energy performance rating
130 program, such municipality or plant shall be subject to the provisions of this section and any
131 rules or regulations the department may promulgate under this section.

132 SECTION 11. Subsection (a) of section 3 of chapter 465 of the acts of 1980 is hereby
133 amended by adding the following paragraph:-

134 (10) requiring all utilities, with the exception of municipal corporations, to provide
135 customers and the department of energy resources with energy performance ratings as defined in
136 section 3 of chapter 25A of the General Laws, following: (a) an energy audit or energy
137 assessment; or (b) any subsequent modifications to a residential dwelling unit, as defined in said
138 section 3 of said chapter 25A, that materially changes the energy performance of such residential
139 dwelling unit; provided, that utilities shall use historical energy audit data to provide and
140 calculate energy performance ratings if so doing is determined to be feasible and practical by the
141 department pursuant to section 21 of said chapter 25A.

142 SECTION 12. Subsection (g) of section 7 of said chapter 465 is hereby amended by
143 adding the following sentence:- All utilities, with the exception of municipal corporations, shall

144 provide energy performance ratings as defined in section 3 of chapter 25A of the General Laws
145 to the department of energy resources, pursuant to section 21 of said chapter 25A.

146 SECTION 13. To develop and implement the municipal opt-in energy performance rating
147 program required by section 21(a) of chapter 25A of the General Laws, the department of energy
148 resources shall: (a) hold not less than 6 public hearings in geographically diverse locations
149 representing rural, suburban and urban households, at least 2 of which shall be held in
150 communities with a high percentage of middle-income households and at least 2 of which shall
151 be held in communities with a high percentage of low-income households; and (b) establish the
152 municipal opt-in energy performance rating program required by said section 21(a) not earlier
153 than 18 months after the effective date of said section and not later than 30 months after the
154 effective date of said section. Within the bounds permitted by law, the department may vary
155 requirements based on building types and uses. Notwithstanding any special or general law, rule
156 or regulation to the contrary, any municipality may adopt the municipal opt-in energy
157 performance rating program following its establishment.

158 SECTION 14. Not earlier than 18 months after the effective date of section 21(a) of
159 chapter 25A of the General Laws and not later than 30 months after the effective date of said
160 section, the department of energy resources shall require an energy assessor to provide an energy
161 performance rating as provided for in subsection (b) of said section 21 of chapter 25A.

162 SECTION 15. Not earlier than 18 months after the effective date of section 21(a) of
163 chapter 25A of the General Laws and not later than 30 months after the effective date of said
164 section, the department of energy resources shall require an energy performance rating to be
165 provided to buyers or prospective buyers when a property is publicly listed for sale, and to

166 lessees or prospective lessees when a property is publicly listed for rent or leasing, as provided
167 for in subsection (b) of said section 21 of chapter 25A.