

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification  
District of  
Columbia  
Official Code*

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To amend, on a temporary basis, the Green Building Act of 2006, to add a binding pledge with a potential fine as an alternative to achieving compliance under the Green Building Act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Green Building Compliance Temporary Amendment Act of 2012”.

Sec. 2. The Green Building Act of 2006, effective March 8, 2007 (D.C. Law 16-234; D.C. Official Code § 6-1451.01 *et seq.*), is amended as follows:

(a) Section 2(40) (D.C. Official Code § 6-1451.01(40)) is amended to read as follows:

Note,  
§ 6-1451.01

“(40) “Substantial improvement” means any repair, alteration, addition, or improvement of a building or structure, the cost of which equals or exceeds 50% of the market value of the structure before the improvement or repair is started.”.

(b) Section 4 (D.C. Official Code § 6-1451.03) is amended by adding a new subsection (b)(3) to read as follows:

Note,  
§ 6-1451.03

“(b)(3) For the purposes of this section, the term “LEED” means LEED for New Construction, Core & Shell, Schools, or Retail.”.

(c) Section 6 (D.C. Official Code § 6-1451.05) is amended to read as follows:  
“Sec. 6. Financial security.

Note,  
§ 6-141.05

“(a) Beginning January 1, 2012, an applicant governed by section 4(a) shall provide a financial security, which shall be due and payable prior to receipt of a certificate of occupancy.

“(b)(1) The financial security requirement of subsection (a) of this section may be fulfilled by:

“(A) Evidence of cash deposited in an escrow account in a financial institution in the District in the name of the licensee and the District;

“(B) An irrevocable letter of credit from a financial institution authorized to do business in the District;

“(C) A bond secured by the applicant to ensure compliance with this section; or

“(D) A binding pledge that within 2 years of receipt of the certificate of occupancy the applicant will fulfill or exceed the current edition of the LEED standard for

commercial and institutional buildings at the certified level.

“(2)(A) The binding pledge described in paragraph (1)(D) of this subsection shall be recorded as a covenant in the land records of the District between the applicant and the District in a form that is satisfactory to the District’s Attorney General or his or her delegate.

“(B) The covenant shall bind the applicant and any successors in title to pay any fines levied pursuant to this section.

“(c) If within 2 years of receipt of the certificate of occupancy the project provides evidence that it has fulfilled or exceeded the current edition of the LEED standard for commercial and institutional buildings at the certified level, a financial security previously provided by the applicant in the form of cash, an irrevocable letter of credit, or a bond shall be returned to the applicant.

“(d) If within 2 years of receipt of the certificate of occupancy, the project does not provide evidence that it has fulfilled or exceeded the current edition of the LEED standard for commercial and institutional buildings at the certified level, the Mayor shall:

“(1) Draw down on a financial security provided in the form of cash, an irrevocable letter of credit, or a bond, in whole, or in part, as determined by rulemaking; or

“(2) Levy a fine against an applicant that provided a financial security in the form of a binding pledge as set forth in subsection (f) of this section.

“(e) A financial security in the form of cash, an irrevocable letter of credit, or a bond shall be calculated by square foot as set forth in subsection (f) but shall be discounted by 20% of the amount of the fine described in subsection (f) of this section.

“(f) A fine issued pursuant to subsection (d)(2) of this section shall be calculated as follows:

“(1) In the amount of \$7.50 per square foot of gross floor space if the project is less than 100,000 square feet of gross floor space.

“(2) In the amount of \$10 per square foot, if the project is at least 100,000 square feet of gross floor space.

“(3) Beginning 4 years after receipt of the certificate of occupancy, the applicant shall pay a monthly fine of \$0.02 per square foot to the District for failure to provide evidence that it has fulfilled or exceeded either the current edition of the LEED standard for commercial and institutional buildings at the certified level or the current edition of the LEED standard for existing commercial and institutional buildings at the certified level. The monthly fines shall accumulate but shall be assessed annually.

“(4) The fine described in paragraphs (1) and (2) of this subsection shall not exceed \$3 million; provided, that an annual fine issued pursuant to subsection (f)(3) of this section shall not count toward the \$3 million limit.

“(5) The Mayor may reduce any or all of the fines for good cause.

“(g) The Mayor may, for good cause, issue time extensions to a project; provided, that the Mayor shall not grant more than 3, one-year extensions.

“(h) Fines issued under this section shall be civil penalties.

“(i) Substantial improvements shall be subject to the requirements of this section; provided, that only square feet included in a substantial improvement project shall be calculated for the purposes of a fine.

“(j) The financial security option provided in subsection (b)(1)(C) of this section shall become effective upon the issuance of rules by the Mayor.

“(k) Any payment made to the District for failure to meet the standards required by sections 4 and 7 shall be deposited in the Green Building Fund.

“(l) For purposes of this section, “LEED standard for commercial and institutional buildings” means LEED for New Construction, Core & Shell, Schools, or Retail.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia