

Massachusetts General Laws Annotated
Part I. Administration of the Government (Ch. 1-182)
Title XXII. Corporations (Ch. 155-182)
Appendix to Chapter 164 (Refs & Annos)
Massachusetts Residential Conservation Service (Refs & Annos)

M.G.L.A. 164 App. § 2-1

§ 2-1. Definitions

Currentness

In this act the following words and phrases shall have the following meanings, unless the context requires otherwise:--

“Agency”, an agency is any office, department, board, commission, division or authority of the state government or any subdivision of the foregoing, but does not include the following: the legislative and judicial departments, the governor and council, or military or naval boards.

“Commissioner”, the commissioner of the division of energy resources.

“Department”, the department of public utilities.

“Customer”, a person which (1) owns or occupies a residential building and (2) receives a bill from a home heating supplier or a utility for energy used in such residential building.

“Federal residential conservation service”, the program described in part I of title II of the National Energy Conservation Policy Act of 1978, [P.L. 95-619](#),¹ and the regulations promulgated thereunder and any additions or amendments thereto.

“Massachusetts residential conservation service” the program described in this act to increase the energy efficiency of residential buildings in the commonwealth including, but not limited to, the federal residential conservation service program.

“Utility”, any electric or gas company, as defined in [section one of chapter one hundred and sixty-four of the General Laws](#) and municipal corporations and other persons, firms, associations, and private corporations referred to in section two of said chapter one hundred and sixty-four or any combination thereof, which during the calendar year nineteen hundred and seventy-nine or any year thereafter sold electricity or gas to residential customers in the commonwealth; provided, however, that any small power producer or cogenerator qualifying under the public utility regulatory policies act shall not be subject to the provisions of this act.

“Person”, a person is any individual, partnership, corporation trust association, utility, agency, or any political subdivision of the commonwealth.

“Program requirements”, a program requirement is any energy conservation measure, renewable resource measure, state measure, energy conserving practice, or any other requirement adopted under this act.

“Ratepayer”, any person that purchases gas or electricity from a utility for purposes other than resale.

“Residential building”, the term residential building means any building used for residential occupancy which (1) is not a new building to which final standards under sections 304(a) and 305 of the Energy Conservation and Production Act² apply and (2) has a system for heating, cooling, or both heating and cooling, living spaces.

“State measure”, an energy saving device or measure which has been adopted under the state plan pursuant to the provisions of this act.

“State plan”, the plan adopted by the division of energy resources specifying the program requirements, how they will be implemented, and who will carry them out under the Massachusetts residential energy conservation service.

Any term defined under the federal laws or regulations referred to herein shall have the same meaning under this act as they have under such laws and regulations, unless such term is inconsistent with a term described herein or any specific provision of this act.

Credits

Added by St.1980, c. 465, § 1. Amended by [St.1989, c. 730, §§ 44, 45](#).

Footnotes

¹ 42 U.S.C.A. § 8201 et seq.

² 42 U.S.C.A. §§ 6833, 6834.

M.G.L.A. 164 App. § 2-1, MA ST 164 App. § 2-1

Current through Chapter 97 of the 2014 2nd Annual Session

Massachusetts General Laws Annotated
Part I. Administration of the Government (Ch. 1-182)
Title XXII. Corporations (Ch. 155-182)
Appendix to Chapter 164 (Refs & Annos)
Massachusetts Residential Conservation Service (Refs & Annos)

M.G.L.A. 164 App. § 2-2

§ 2-2. Statement of policy

Currentness

It is hereby declared that as a result of world petroleum shortages, rising petroleum prices, and excessive reliance on imported petroleum products by the commonwealth, that there now exist high levels of inflation and petroleum supply instability in the commonwealth, conditions that are inhibiting its economic growth and the prosperity of its citizens. Therefore, it is found that it is in the public interest of the commonwealth to promote the prosperity and general welfare of its citizens to establish the Massachusetts residential conservation service and to require all electric and gas utilities to offer on-site energy conservation and renewable energy resource services to their customers, thereby encouraging citizens to take steps to immediately improve the energy efficiency of all residential buildings in the commonwealth.

Credits

Added by St.1980, c. 465, § 2.

M.G.L.A. 164 App. § 2-2, MA ST 164 App. § 2-2
Current through Chapter 97 of the 2014 2nd Annual Session

Massachusetts General Laws Annotated
Part I. Administration of the Government (Ch. 1-182)
Title XXII. Corporations (Ch. 155-182)
Appendix to Chapter 164 (Refs & Annos)
Massachusetts Residential Conservation Service (Refs & Annos)

M.G.L.A. 164 App. § 2-3

§ 2-3. State plan; regulations and program requirements; public advisory committee

Currentness

(a) The commissioner of energy resources is hereby authorized and directed to prepare a state plan and to promulgate such regulations as may be necessary to carry out the purposes of this act which include the following program requirements:

- (1) requiring all utilities to offer the program requirements to all qualified customers,
 - (2) requiring demonstration of the performance or of the installation of no-cost or low-cost energy conservation measures, state measures, energy conserving practices and other appropriate program requirements during energy audits,
 - (3) establishing such registration, certification, training, and inspection programs with respect to energy auditors, suppliers, installers, lenders, and inspectors participating in the state plan as may be necessary or desirable for the protection of the public health, safety, and welfare,
 - (4) establishing and reviewing goals for delivery of energy audits and other program requirements to customers,
 - (5) requiring all utilities, either individually or cooperatively, to publicize the program through mailed program announcements and paid radio and newspaper advertising,
 - (6) establishing a public advisory committee as described in subsection (d),
 - (7) coordinating the Massachusetts residential conservation service and other state or federal laws promoting residential energy conservation, and
 - (8) delegating responsibility to carry out specific provisions of this act, as may be necessary, to any person,
 - (9) any and all other program requirements which are necessary or convenient to carry out (a) the energy audit purposes of this act and (b) the federal residential conservation service program.
- (b) Nothing in this act shall impose a duty upon any customer to implement any measures recommended in an energy audit report.

(c) No person shall disclose the name of a customer or the contents of an energy audit report prepared for such customer to any person other than the customer, a subsequent purchaser of the audited building, the utility serving such customer, the commissioner of energy resources, or their designees, unless the customer or subsequent purchaser waives his right to confidentiality with respect to such information provided, however, that tenants in an audited building shall have the right to inspect the energy audit report for the building in which they live. Energy audit reports shall not be deemed to be a public record as defined in clause Twenty-sixth of [section seven of chapter four of the General Laws](#) and shall not be subject to demand for production under [section ten of chapter sixty-six of the General Laws](#).

(d) The public advisory committee described in subsection (a)(6) shall meet at a minimum on a quarterly basis to review implementation of the Massachusetts residential conservation service and to comment thereon to the secretary of energy resources or his designee. Such committee shall also review and comment on the plans developed by the utilities pursuant to section six, prior to their implementation. The commissioner of energy resources shall make such information and documents available to said committee in a timely fashion to enable it to perform such reviews. Said committee shall file an annual report with the clerk of the house of representatives no later than June thirty of each year. Persons having skills, expertise, and affiliations as follows shall be appointed to the committee by the secretary of energy resources:

- (1) a representative from each individually constituted program;
- (2) a representative of home heating suppliers;
- (3) a representative of savings banks;
- (4) a representative of commercial banks;
- (5) a representative of contractors performing energy conservation retrofits;
- (6) a representative of the residential renewable energy resource industry;
- (7) a registered professional engineer experienced in retrofit and audit technologies;
- (8) a representative from the Massachusetts Community Action Program Directors' Association;
- (9) a representative from the realty profession;
- (10) a representative from an independent, broad-based tenants' advocacy organization;
- (11) a representative from an independent, broad-based senior citizens' advocacy organization;

(12) a representative from an independent broad-based consumer/citizen advocacy organization; and

(13) a representative from the department of public utilities.

Committee members shall be entitled to reimbursement for necessary and reasonable expenses incurred in carrying out their obligations under this act. Such expenses shall be paid from the funds collected by the commissioner of energy resources pursuant to [subsection \(e\) of section seven](#).

Credits

Added by St.1980, c. 465, § 3. Amended by [St.1989, c. 730, §§ 46 to 48](#).

M.G.L.A. 164 App. § 2-3, MA ST 164 App. § 2-3
Current through Chapter 97 of the 2014 2nd Annual Session

End of Document

© 2014 Thomson Reuters. No claim to original U.S. Government Works.

Massachusetts General Laws Annotated

Part I. Administration of the Government (Ch. 1-182)

Title XXII. Corporations (Ch. 155-182)

Appendix to Chapter 164 (Refs & Annos)

Massachusetts Residential Conservation Service (Refs & Annos)

M.G.L.A. 164 App. § 2-4

§ 2-4. Home heating suppliers; participation in state plan

Currentness

A home heating supplier may be permitted by the commissioner of energy resources to participate in the state plan pursuant to the requirements of this act.

Credits

Added by St.1980, c. 465, § 4. Amended by [St.1989, c. 730, § 49](#).

M.G.L.A. 164 App. § 2-4, MA ST 164 App. § 2-4

Current through Chapter 97 of the 2014 2nd Annual Session

End of Document

© 2014 Thomson Reuters. No claim to original U.S. Government Works.

Massachusetts General Laws Annotated
Part I. Administration of the Government (Ch. 1-182)
Title XXII. Corporations (Ch. 155-182)
Appendix to Chapter 164 (Refs & Annos)
Massachusetts Residential Conservation Service (Refs & Annos)

M.G.L.A. 164 App. § 2-5

§ 2-5. Time and manner of offering program to customers

Currentness

All utilities and participating home heating suppliers shall provide the program requirements to customers at such times and in such manner as may be prescribed in the state plan, provided, however, that with respect to a customer that owns or occupies a residential building containing more than four residential units, all utilities and participating home heating suppliers shall be required to commence offering to such customers said program requirements by January first, nineteen hundred and eighty-two, or such earlier date as may be required by federal law for the offering of said program requirements or substantially similar program requirements by any utility with respect to such buildings.

Credits

Added by St.1980, c. 465, § 5.

M.G.L.A. 164 App. § 2-5, MA ST 164 App. § 2-5
Current through Chapter 97 of the 2014 2nd Annual Session

Massachusetts General Laws Annotated
Part I. Administration of the Government (Ch. 1-182)
Title XXII. Corporations (Ch. 155-182)
Appendix to Chapter 164 (Refs & Annos)
Massachusetts Residential Conservation Service (Refs & Annos)

M.G.L.A. 164 App. § 2-6

§ 2-6. Implementation by utilities

Currentness

(a) Within sixty days after the effective date of the state plan, each utility shall submit to the commissioner of energy resources for approval a plan to implement the provisions of this act, including the manner in which a utility plans to meet the goals established by the commissioner of energy resources for utility performance. The implementation plan may include a weatherization program only to the extent that the state plan approved by the United States Department of Energy permits such program. Such program shall conform to the requirements of the state plan and regulations established pursuant to this act and any orders of the United States Department of Energy relating thereto. No weatherization program shall be approved by said commissioner where it would have the effect of making a customer ineligible to receive the energy audit benefits offered under the federal residential conservation service. If a utility fails to submit an acceptable implementation plan to the commissioner of energy resources, the commissioner may prepare an implementation plan for that utility. If at any time, the commissioner determines that a utility's implementation plan is unsatisfactory, he may order that utility to amend its implementation plan.

(b) A utility may apply to the commissioner of energy resources for permission to carry out any activity it is required to undertake under the state plan through a joint effort with one or more other utilities. The procedures for making such applications shall be prescribed by the commissioner of energy resources. The commissioner of energy resources shall approve such application if he finds that said joint effort would be in the public interest and such approval may be rescinded at any time if it is determined that said joint effort is no longer in the public interest. Whenever such application is denied or approval thereof is rescinded, the commissioner of energy resources shall forward to all affected utilities a statement of his reasons for such decision.

Credits

Added by St.1980, c. 465, § 6. Amended by [St.1989, c. 730, §§ 50, 51](#).

M.G.L.A. 164 App. § 2-6, MA ST 164 App. § 2-6
Current through Chapter 97 of the 2014 2nd Annual Session

Massachusetts General Laws Annotated
Part I. Administration of the Government (Ch. 1-182)
Title XXII. Corporations (Ch. 155-182)
Appendix to Chapter 164 (Refs & Annos)
Massachusetts Residential Conservation Service (Refs & Annos)

M.G.L.A. 164 App. § 2-7

§ 2-7. Rates and charges

Currentness

(a) Utilities shall utilize accounts and accounting methods as prescribed under the federal residential conservation service regulations or similar accounts and accounting methods as may be approved by the department to account for income and expenses arising under the Massachusetts residential conservation service.

(b) A utility shall annually submit its proposed operating budget for the Massachusetts residential conservation service to the department for review at least sixty days before it is to become effective. Said operating budget shall enumerate the income and expenses that will be necessary to carry out the state plan during the forthcoming period. After notice and an opportunity to be heard, the department shall, consistent with the state plan, review the reasonableness of the proposed expenditures and approve or approve with modification said operating budget. Such review shall be completed within sixty days after receipt of said operating budget.

A utility may, at any time, on its own motion, or as may be required by the department, amend its operating budget pursuant to procedures as shall be prescribed in the department and which shall include notice and an opportunity for a hearing.

(c) The charge to a customer for the audit of a single family dwelling shall not exceed twenty dollars, and for the audit of a multi-family dwelling said charge shall not exceed three cents per square foot of audited living space, provided that an additional charge for the audit of common areas shall be permitted. Said audit charges may be revised to reflect changes in prices as measured by the consumer price index of the United States Department of Labor, or any similar successor index. The audit charge may be reduced or waived for a low income customer as may be deemed appropriate by the commissioner of energy resources. Within the limits described in this section, the commissioner of energy resources shall establish and may from time to time adjust the audit charge.

(d) The difference between the amount a customer is charged as specified in the preceding subsection and the operating expenses incurred by a utility in carrying out its obligations under the state plan shall be treated as a current operating expense of providing utility service and charged to all ratepayers pursuant to the procedures specified in subsection (f). Such operating expenses include, but are not limited to, the following: (1) public education and program promotion including any on-site demonstrations required to be performed during the energy audit, (2) administrative and general expenses including those associated with energy audits, list distribution, customer billing services, arranging installation and financing and conciliation conferences, (3) supervisory costs as specified in subsection (e), and (4) the performance of energy conserving practices during an energy audit.

(e) The division of energy resources is authorized to annually assess against each utility such amounts as may be necessary to permit said division or department, respectively, to carry out its responsibilities under this act, including, but not limited to, program development, administration and enforcement, certification, training, registration and inspection programs, and

public education and promotion expenses, exclusive of paid advertising. Said assessments shall be based upon the intrastate operating revenues of a utility which are derived from electricity or gas sales within the commonwealth during the preceding calendar year. The division shall apportion estimated costs for the pending fiscal year among all such utilities and shall assess them on a fair and reasonable basis. A utility shall pay such assessments to the commonwealth within thirty days of receipt of notice thereof. Said assessments shall be paid into the General Fund in accordance with [section two of chapter twenty-nine of the General Laws](#). The division shall subsequently apportion actual costs among all such utilities and shall make assessment adjustments for the same for any variation between estimated and actual costs on a fair and reasonable basis. Such estimated and actual costs shall include indirect costs and an amount equal to the cost of fringe benefits as established by the commissioner of administration pursuant to section six B of said chapter twenty-nine.

In the event that a home heating supplier elects to participate in the state plan, the commissioner of energy resources shall determine the appropriate manner of apportioning and assessing program expenses to such participating home heating suppliers.

The commissioner of energy resources may enter into contracts and agreements with any person as may be necessary to carry out the purposes of this act.

(f) Notwithstanding the provisions of [section ninety-four of chapter one hundred and sixty-four of the General Laws](#) the department shall allow an electric or a gas company to recover during each calendar year any expenses that it may incur during said year in carrying out its responsibilities under this act.

No later than ninety days after the effective date of the state plan, the department shall hold a generic proceeding to determine the appropriate method of distributing to all ratepayers of an electric or gas company the costs that are likely to be incurred by such companies in carrying out the state plan. Following such proceedings, the department shall, consistent with the provisions of this act, establish regulations applicable to said companies establishing the method of calculating and billing said charge.

The department shall annually hold public hearings to approve an adjustment to an electric or gas company's rates to reflect its projected expenses as forecasted pursuant to [subsection \(b\) of section seven](#). A hearing shall be commenced within twenty-one days of the filing by a gas or electric company of an application for approval of the department for the imposition of such charge. The department shall render its decision on the imposition of the charge within twenty-one days of such hearing.

Each year the department shall review the income and expenses incurred by an electric company or a gas company during the preceding year in carrying out the Massachusetts residential conservation service. Any differences between the amounts collected and the amounts expended shall be reflected in an adjustment to a company's rates during the current period and any expenses which were unreasonable shall be deducted from the amounts to be charged during such period.

Upon the conclusion of the Massachusetts residential conservation service the department may make such determinations and issue such orders as it determines to adjust each company's rates for deficiencies or surpluses of revenue produced by such charge, and the department may continue said charge in effect for such time as is necessary to accomplish such adjustments.

Any utility not subject to the ratemaking authority of the department as described in chapter one hundred and sixty-four of the General Laws, shall charge all ratepayers for any expenses incurred by said utility in carrying out its responsibilities under this act; provided, however, that said nonregulated utilities shall not be subject to the review of the department as described in this subsection.

(g) All utilities shall maintain complete and accurate records of all matters pertaining to the activities it is required to carry out under the state plan.

The department and the division of energy resources may from time to time request a utility or participating home heating supplier to provide any reports, papers, or documents which are necessary to carry out the purposes of this act, and said utilities and participating home heating suppliers shall provide such items.

Within thirty days after the last day of each year, a utility shall submit to the commissioner of energy resources in such form as he may prescribe, a report of its activities during the preceding year relating to implementation of the state plan. Included in such report shall be a statement with respect to the success or lack of success of a utility in meeting the goals established by the commissioner pursuant to [clause \(4\) of subsection \(a\) of section three](#). Within thirty days after receipt thereof, the commissioner of energy resources shall forward said reports along with a statement of his findings to the joint committee on energy and the house and senate committees on ways and means.

(h) If a utility includes, in a manner prescribed by the department, the Massachusetts residential conservation service as part of an efficiency investment plan prepared and submitted to the department under [section 21 of chapter 25 of the General Laws](#), the utility shall have satisfied the requirements of subsection (b).

(i) For any utility that includes the Massachusetts residential conservation service as part of an efficiency investment plan prepared and submitted to the department under said section 21 of said chapter 25, the department shall review the efficiency investment plan under said section 21 of said chapter 25 and shall not review the plan under subsection (f).

Credits

Added by St.1980, c. 465, § 7. Amended by St.1983, c. 233, § 89; [St.1989, c. 730, §§ 52 to 55](#); [St.1995, c. 38, § 205](#); [St.1997, c. 164, §§ 298 to 300](#); [St.2012, c. 209, § 32, eff. Nov. 1, 2012](#).

M.G.L.A. 164 App. § 2-7, MA ST 164 App. § 2-7
Current through Chapter 97 of the 2014 2nd Annual Session

Massachusetts General Laws Annotated

Part I. Administration of the Government (Ch. 1-182)

Title XXII. Corporations (Ch. 155-182)

Appendix to Chapter 164 (Refs & Annos)

Massachusetts Residential Conservation Service (Refs & Annos)

M.G.L.A. 164 App. § 2-8

§ 2-8. Injuries caused by utilities; hearings; conciliation conferences; violation of plan

Currentness

(a) Any person alleging an injury caused by a utility from an activity carried out under the state plan or from a violation of the state plan may petition the department for relief and the department shall hold a hearing and issue an appropriate order pursuant to this chapter, and chapters twenty-five, thirty A, and one hundred and sixty-four of the General Laws. Whenever it appears that any such utility is causing injury arising from an activity carried out under the state plan or is violating the state plan or any state or federal law related thereto, the department shall, before issuing an order, request the commissioner of energy resources to render an interpretative ruling with respect to any possible violations of the state plan or any laws related thereto. The department shall, consistent with such ruling, order such person to take any action necessary to carry out the state plan or to cease and desist from taking any action violating the state plan or to redress the injury arising from activities carried out under the state plan.

The department shall make available a conciliation conference for the purpose of resolving complaints by eligible customers against a utility which sells, installs, or finances the sale or installation of program requirements.

(b) Utilities and participating home heating suppliers shall make conciliation conferences available to customers for the purpose of resolving complaints against any person other than a utility who sells, installs, or finances the sale or installation of any program measure under the state plan.

(c) Any person or firm which appears on any list compiled by the division of energy resources under the state plan may be removed from such list for cause by the commissioner of energy resources. Any energy auditor, home heating supplier, installer, supplier, lender, or inspector who the commissioner of energy resources has reason to believe is violating the state plan may be suspended from participation therein before holding a hearing as provided in [section thirteen of chapter thirty A of the General Laws](#), if such action would be in the public interest. Such persons may be permanently removed from said lists only after providing notice and an opportunity for a hearing.

(d) Any utility, energy auditor, home heating supplier, inspector, supplier, installer or lender participating in the state plan who violates any provision of this act or the state plan or an order issued by the commissioner of energy resources or the department under this act shall be subject to a civil penalty in an amount not to exceed twenty-five thousand dollars per violation. The division of energy resources may assess such penalty after providing notice and an opportunity for a hearing. No electric or gas company may require its ratepayers to pay or reimburse it for such penalty.

(e) The division of energy resources may conduct any additional adjudicatory proceedings, which are determined to be necessary or desirable in carrying out the purposes of this act including redress proceedings to be made available to all persons alleging injury arising from an activity carried out under the state plan or from a violation of the state plan by any energy auditor, home

heating supplier, supplier, inspector, installer, or lender participating in the state plan. The commissioner of energy resources may order any person other than a utility which is found to be in violation of the state plan to take any action necessary to carry out the state plan or to cease and desist from taking any action violating the state plan. The commissioner of energy resources may order any such person which has caused an injury arising from an activity carried out under the state plan to redress said injury.

(f) Any order of the commissioner of energy resources under subsection (d) or (e) shall be effective and may be enforced according to its terms and enforcement thereof shall not be suspended or stayed by the entry of an appeal therefrom. The superior court for Suffolk county shall have jurisdiction over appeals of orders of the commissioner of energy resources under this act and shall also have jurisdiction upon application of the commissioner of energy resources to enforce all orders of said commissioner under this act. The burden of proof shall be upon the appealing party to show that the order of the commissioner of energy resources is invalid.

(g) The remedies provided herein are alternative in nature and an aggrieved person shall not be required to seek a particular remedy as a condition precedent to seeking any other remedy.

Credits

Added by St.1980, c. 465, § 8. Amended by [St.1989, c. 730, §§ 56 to 60](#).

M.G.L.A. 164 App. § 2-8, MA ST 164 App. § 2-8
Current through Chapter 97 of the 2014 2nd Annual Session

Massachusetts General Laws Annotated
Part I. Administration of the Government (Ch. 1-182)
Title XXII. Corporations (Ch. 155-182)
Appendix to Chapter 164 (Refs & Annos)
Massachusetts Residential Conservation Service (Refs & Annos)

M.G.L.A. 164 App. § 2-9

§ 2-9. Board of registration; proposal for creation

Currentness

The division of energy resources is hereby authorized and directed to prepare for and submit to the joint committee on energy by January first, nineteen hundred and eighty-one, a proposal for the creation of a board of registration for energy auditors and energy conservation installers doing business within the commonwealth.

Credits

Added by St.1980, c. 465, § 9. Amended by [St.1989, c. 730, § 61](#).

M.G.L.A. 164 App. § 2-9, MA ST 164 App. § 2-9
Current through Chapter 97 of the 2014 2nd Annual Session

End of Document

© 2014 Thomson Reuters. No claim to original U.S. Government Works.

Massachusetts General Laws Annotated
Part I. Administration of the Government (Ch. 1-182)
Title XXII. Corporations (Ch. 155-182)
Appendix to Chapter 164 (Refs & Annos)
Massachusetts Residential Conservation Service (Refs & Annos)

M.G.L.A. 164 App. § 2-10

§ 2-10. Severability

Currentness

The provisions of this act are severable, and if any section or part of any section of this act shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, such judgment or decision shall not affect or impair any other section unless inseparable from the section or part adjudged invalid, but shall be confined in its operations to that section or part directly involved in the controversy on which such judgment shall have been rendered.

Credits

Added by St.1980, c. 465, § 10.

M.G.L.A. 164 App. § 2-10, MA ST 164 App. § 2-10
Current through Chapter 97 of the 2014 2nd Annual Session

End of Document

© 2014 Thomson Reuters. No claim to original U.S. Government Works.