

A BILL ENTITLED

AN ACT concerning

**Public Utilities – Renewable Energy Portfolio Standard – Eligible Sources**

FOR the purpose of prohibiting certain Tier 1 renewable sources from being eligible for inclusion in meeting the renewable energy portfolio standard on and after a certain date; authorizing renewable energy credits generated from certain Tier 1 renewable sources before a certain date to be eligible for inclusion in meeting the renewable energy portfolio standard in accordance with a certain provision of law; altering the definition of “geothermal heating and cooling system”; providing for the application of this Act; and generally relating to the renewable energy portfolio standard.

BY repealing and reenacting, without amendments,

Article – Public Utilities  
Section 7–701(a) and (r) and 7–709(d)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Utilities  
Section 7–701(d) and 7–704(a)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2017 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

**Article – Public Utilities**

7-701.

(a) In this subtitle the following words have the meanings indicated.

(d) “Geothermal heating and cooling system” means a system that:

(1) exchanges thermal energy from groundwater or a shallow ground source to generate thermal energy through a geothermal heat pump or a system of geothermal heat pumps interconnected with any geothermal extraction facility that is:

(i) a closed loop or a series of closed loop systems in which fluid is permanently confined within a pipe or tubing and does not come in contact with the outside environment; or

(ii) an open loop system in which ground or surface water is circulated in an environmentally safe manner directly into the facility and returned to the same aquifer or surface water source;

- (2) meets or exceeds the current federal Energy Star product specification standards;
  - (3) replaces or displaces inefficient space or water heating systems whose primary fuel is electricity or a [nonnatural gas] **COMBUSTION-BASED** fuel source;
  - (4) replaces or displaces inefficient space cooling systems that do not meet federal Energy Star product specification standards;
  - (5) is manufactured, installed, and operated in accordance with applicable government and industry standards; and
  - (6) does not feed electricity back to the grid.
- (r) “Tier 1 renewable source” means one or more of the following types of energy sources:
- (1) solar energy, including energy from photovoltaic technologies and solar water heating systems;
  - (2) wind;
  - (3) qualifying biomass;
  - (4) methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;
  - (5) geothermal, including energy generated through geothermal exchange from or thermal energy avoided by, groundwater or a shallow ground source;
  - (6) ocean, including energy from waves, tides, currents, and thermal differences;
  - (7) a fuel cell that produces electricity from a Tier 1 renewable source under item (3) or (4) of this subsection;
  - (8) a small hydroelectric power plant of less than 30 megawatts in capacity that is licensed or exempt from licensing by the Federal Energy Regulatory Commission;
  - (9) poultry litter-to-energy;
  - (10) waste-to-energy;
  - (11) refuse-derived fuel; and
  - (12) thermal energy from a thermal biomass system.

7-704.

- (a) (1) Energy from a Tier 1 renewable source:

(i) is eligible for inclusion in meeting the renewable energy portfolio standard regardless of when the generating system or facility was placed in service; and

(ii) may be applied to the percentage requirements of the standard for either Tier 1 renewable sources or Tier 2 renewable sources.

(2) (i) **[Energy] EXCEPT AS PROVIDED IN PARAGRAPHS (4) AND (5) OF THIS SUBSECTION, ENERGY** from a Tier 1 renewable source under § 7-701(r)(1), (5), (9), (10), or (11) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard only if the source is connected with the electric distribution grid serving Maryland. **BEGINNING JANUARY 1, 2020, ENERGY FROM A TIER 1 RENEWABLE SOURCE UNDER § 7-701(R)(3), (4), OR (12) OF THIS SUBTITLE IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD ONLY IF THE SOURCE IS CONNECTED WITH THE ELECTRIC DISTRIBUTION GRID SERVING MARYLAND. A RENEWABLE ENERGY CREDIT GENERATED FROM A TIER 1 RENEWABLE SOURCE UNDER § 7-701(R)(3), (4), OR (12) OF THIS SUBTITLE BEFORE JANUARY 1, 2020, IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD IN ACCORDANCE WITH § 7-709(D) OF THIS SUBTITLE.**

(ii) If the owner of a solar generating system in this State chooses to sell solar renewable energy credits from that system, the owner must first offer the credits for sale to an electricity supplier or electric company that shall apply them toward compliance with the renewable energy portfolio standard under § 7-703 of this subtitle.

(3) Energy from a Tier 1 renewable source under § 7-701(r)(8) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard if it is generated at a dam that existed as of January 1, 2004, even if a system or facility that is capable of generating electricity did not exist on that date.

(4) (I) **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, ON OR AFTER JANUARY 1, 2019, ENERGY FROM A TIER 1 RENEWABLE SOURCE UNDER § 7-701(R) (10), OR (11) OF THIS SUBTITLE IS NOT ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD.**

(II) **A RENEWABLE ENERGY CREDIT GENERATED FROM A TIER 1 RENEWABLE SOURCE UNDER § 7-701(R)(10), OR (11) OF THIS SUBTITLE BEFORE JANUARY 1, 2019, IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD IN ACCORDANCE WITH § 7-709(D) OF THIS SUBTITLE.**

(5) **BEGINNING JANUARY 1, 2019, A TIER 1 RENEWABLE SOURCE USING A SOURCE DEFINED UNDER § 7-701(R)(3), (4), (7), (9), OR (12) MAY SELL NO GREATER NUMBER OF RENEWABLE ENERGY CREDITS PER YEAR FROM THEIR FACILITY THAN THE GREATEST NUMBER OF RENEWABLE ENERGY CREDITS THE FACILITY SOLD FOR USE UNDER THIS ACT IN ANY GIVEN YEAR BETWEEN 2004 AND 2016, INCLUSIVE.**

7-709.

(d) (1) Except as authorized under paragraph (2) of this subsection, a renewable energy credit shall exist for 3 years from the date created.

(2) A renewable energy credit may be diminished or extinguished before the expiration of 3 years by:

(i) the electricity supplier that received the credit;

(ii) a nonaffiliated entity of the electricity supplier:

1. that purchased the credit from the electricity supplier receiving the credit; or

2. to whom the electricity supplier otherwise transferred the credit; or

(iii) demonstrated noncompliance by the generating facility with the requirements of § 7–704(f) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any contract for renewable energy credits that existed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.