CREA
COLORADO REAL ESTATE ALLIANCE
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FACT SHEET
CREA & Regulation 28

Situational Analysis

- In the Denver metropolitan area and elsewhere in the state, commercial office buildings and real estate owners are operating in a financially stressful environment due to many circumstances, including:
  - High vacancy rates and rising foreclosures
  - Stagnant demand and declining lease rates
  - Rising interest rates and inflation
  - Supply chain problems
- Denver ranks among the worst performing office markets in the U.S. with a 22% vacancy rate (plus 5% sublease rate going to 10% means one-third of downtown office space is vacant.)
- The latest report from Moody's shows that as of the 2nd quarter of this year, 27% of commercial real estate loans in the country are already delinquent.
- The AQCC is set to hold hearings next month on proposed Regulation 28, which seeks to quantify greenhouse gas emissions that can be attributed to buildings and establish related building performance standards.
- CREA members appreciate the importance of discussions around addressing energy consumption and greenhouse gas emissions from the building sector, but we want to ensure the ways we attain those emissions reductions are reasonable and practical.
- The proposed new rule being advanced by AQCC is inflexible and arbitrary and could have the effect of moving the building sector from a position of financial challenge to financial crisis.

CREA Position on Reg. 28

The proposed new rule being advanced by the AQCC is a set of inflexible, one-size-fits-all building performance standards that many building owners will be unable to meet in the strict timeline provided.

- As it is proposed now, this rule will be imposed on an arbitrary timetable with no consideration for individual circumstances, resulting in higher costs, building abandonment, and widespread non-compliance in Colorado's real estate market.
- CREA members will be on the front lines implementing this proposed rule and are uniquely positioned to understand the challenges of implementation as well as the proposed rule's positive and negative ramifications.
- CREA understands the statutory and policy reasons for seeking reductions in energy consumption and greenhouse gas emissions from the building sector; however, we want to ensure the ways in which we attain those reductions are reasonable and practical.

CREA & Regulation 28, cont.

The costs to comply with these new mandates will potentially push the industry from a position of financial challenge to financial crisis and further contribute to Colorado's housing affordability challenges.

- Building owners may encounter challenges in financing significant and costly building improvements because a reliable source of capital for commercial property developers - life insurance companies – are already turning their backs on the sector due to concerns about rising vacancy rates and falling rents.
- As vacancy rates in commercial buildings continue to rise, this new rule will force significant capital expenses on building owners for things like installing energy-efficient windows or electric HVAC systems.
- The costs and construction planning required to implement the new targets will fall on building owners at a time when they are already grappling with numerous economic challenges.
- Many buildings in Colorado will find it difficult and prohibitively expensive to achieve the updated compliance targets.
- While the proposed rule provides some leniency for affordable housing and "under-resourced buildings," market-rate apartment buildings that do not qualify will face increased costs which will likely be passed on to tenants with higher rents, further impacting the affordability crisis our state is already facing.
- As currently written, Reg 28 will result in higher costs to tenants, both in rents and energy bills, at a time when everyone's bills are already too high.

A robust and equitable renewable energy option should be provided for building owners who may not be able to comply due to high costs or unreasonable targets.

- The renewable energy/distributed generation provisions in the proposed rule are too restrictive, and few building owners will be able to take advantage of them.
- Inflexible standards will further impede our ability to electrify as they do not consider challenges associated with design, building age, access to an electrical supply, existing systems, and other considerations.
- Costs to electrify within the timeframe allowed will be enormous for a large number of buildings in the metro area.

According to data from Building Performance Colorado reports, many Colorado hospitals and medical services buildings will face significant challenges in meeting the proposed energy efficiency targets.

- Hospitals and other medical-related buildings use a significant amount of energy to keep monitors, diagnostic machines, and sanitation equipment running 24 hours a day. New mandates should acknowledge unique situations like these. A one-size fits all approach does not work in this case.
- Costs for medical care are already at an all-time high and these prescriptive building requirements could force decisions about significant capital investments and whether they can remain in business at the existing sites.
- The costs to retrofit a medical facility to comply with Reg. 28 standards will likely be passed on to consumers.

- Even medical facilities that could implement the standards may be required to conduct structural renovations to improve the building shell, replace hundreds of windows, and gut interior walls so that ductwork, piping, and wiring can be upgraded or reconfigured.

In some cases, it will simply be less expensive to demolish the building and construct a new facility.

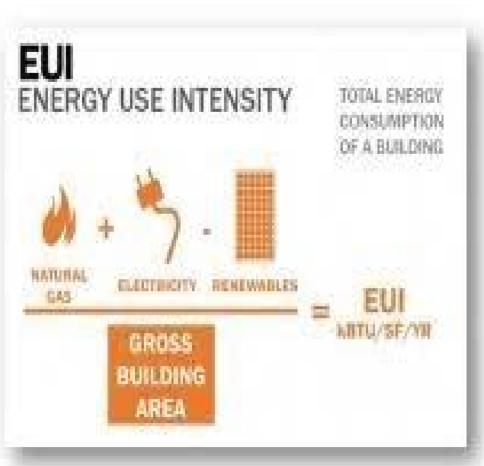
- According to the Colorado Hospital Association's recently released Colorado Hospital Industry Update, expenses trends for Colorado hospitals continue to rise at near double-digit rates and are higher than other states. Total expenses so far in 2023 are 30% higher than pre-pandemic levels, nearly 8% per year, driven by increases in staffing, medical supplies, pharmaceutical costs, and growing administrative costs to support regulatory requirements. The proposed rule will only add to the financial strain on hospitals and medical care facilities.

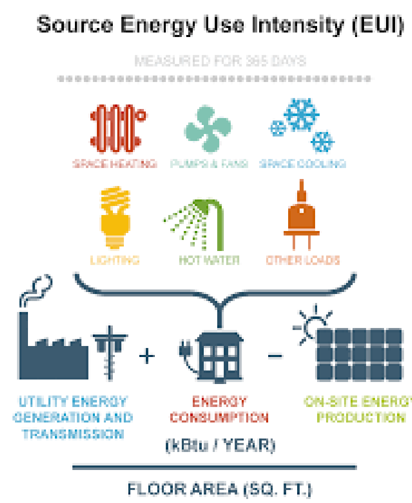
CREA and its members believe that the final rule should be realistic, flexible and predictable.

- The final rule should integrate realistically attainable targets and compliance.
- The final rule should include significant flexibility to ensure the rules can be implemented without forcing building owners to choose between accepting penalties or walking away all together from their buildings.
- The final rule should provide building owners with a clear and predictable process for proposing timeline and target adjustments and securing a timely final decision.

<u>For Reference</u>

- Energy Use Intensity (EUI) refers to the amount of energy used per square foot annually. It's calculated by dividing the total energy consumed by the building in a year by the total gross floor area. Like miles per gallon for cars, EUI is the prime indicator of a building's energy performance.





<u>About the Colorado Real Estate Alliance (CREA)</u>*: Founded in 2016, CREA is a coalition of real estate focused organizations with both residential and commercial interests, including associations and businesses that are involved in real estate construction, service, ownership and management. CREA's mission is to advocate for regulations, legislation and policies that increase real estate ownership and construction affordability, foster safety of residents and workers, sustain and increase workforce development, and provide opportunities to gain access to new markets in the Colorado real estate industry.*