

FINAL

AMENDED
October 6, 2014

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2014, Legislative Day No. 35

Bill No. 68-14

Introduced by Mr. Jones

By the County Council, September 2, 2014

Introduced and first read on September 2, 2014
Public Hearing set for and held on October 6, 2014
Public Hearing on AMENDED BILL set for and held on October 20, 2014
Bill Expires November 1, 2014

By Order: Elizabeth E. Jones, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Real Property Taxes – Clean Energy Loan Program and
2 Property Tax Surcharge
3

4 FOR the purpose of defining certain terms; establishing a Clean Energy Loan Program
5 for commercial property owners; establishing the scope of and eligibility for the
6 Clean Energy Loan Program; providing for qualifying criteria; establishing a
7 calculation of the clean energy loan surcharge; providing for a recorded agreement
8 and certain notices; providing for the collection of loan payments; establishing default
9 procedures; providing for financing of a loan under the Program; providing for the
10 application of this Ordinance; and generally related to the Clean Energy Loan
11 Program and real property taxes.
12

13 BY adding: §§ 4-2-401 through 4-2-403 to be under the new subtitle “Subtitle 4. Clean
14 Energy Loan Program”.
15 Anne Arundel County Code (2005, as amended)
16

17 SECTION 1. *Be it enacted by the County Council of Anne Arundel County,*
18 *Maryland,* That Section(s) of the Anne Arundel County Code (2005, as amended) read as
19 follows:
20

21 **ARTICLE 4. FINANCE, TAXATION, AND BUDGET**

22 **TITLE 2. REAL PROPERTY TAXES**
23
24
25

EXPLANATION: CAPITALS indicate new matter added to existing law.
[Brackets] indicate matter stricken from existing law.
Underlining indicates amendments to bill.
~~Strikeover~~ indicates matter stricken from bill by amendment.

1 **4-2-401. Clean Energy Loan Program**

2
3 **(A) Definitions.** IN THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED:

5
6 (1) "CLEAN ENERGY FINANCING AGREEMENT" MEANS AN AGREEMENT BETWEEN
7 A PROPERTY OWNER AND A CLEAN ENERGY LENDER PROVIDING FOR THE TERMS AND
8 CONDITIONS OF A CLEAN ENERGY LOAN.

9
10 (2) "CLEAN ENERGY LENDER" MEANS A PRIVATE LENDER PROVIDING A CLEAN
11 ENERGY LOAN.

12
13 (3) "CLEAN ENERGY LOAN" MEANS ANY LOAN MADE BY A PRIVATE LENDER TO A
14 PROPERTY OWNER UNDER THE CLEAN ENERGY PROGRAM.

15
16 (4) "CLEAN ENERGY LOAN PROGRAM ADMINISTRATOR" MEANS ANY PERSON OR
17 ENTITY SELECTED BY THE COUNTY TO MANAGE THE CLEAN ENERGY LOAN PROGRAM.

18
19 (5) "CLEAN ENERGY LOAN OBLIGATION" MEANS ALL INDEBTEDNESS AND
20 OBLIGATIONS OF A PROPERTY OWNER TO A CLEAN ENERGY LENDER UNDER A CLEAN
21 ENERGY FINANCING AGREEMENT.

22
23 (6) "COMMERCIAL PROPERTY" HAS THE MEANING STATED IN THE LOCAL
24 GOVERNMENT ARTICLE, § 1-1101, OF THE STATE CODE.

25
26 (7) "PROPERTY OWNER" MEANS AN OWNER OF COMMERCIAL PROPERTY AS
27 DEFINED IN THIS SUBSECTION.

28
29 **(A)-(B) Program.** THERE IS A CLEAN ENERGY LOAN PROGRAM TO FINANCE ENERGY
30 EFFICIENCY PROJECTS AND RENEWABLE ENERGY PROJECTS WITH AN ELECTRIC
31 GENERATING CAPACITY OF NOT MORE THAN 100 KILOWATTS, AS PROVIDED IN THE
32 LOCAL GOVERNMENT ARTICLE, §§1-1101 ET SEQ., OF THE STATE CODE. ~~THE CONTROLLER~~
33 ~~SHALL DETERMINE ALL POLICIES FOR OPERATION OF THE PROGRAM.~~

34
35 **(C) Rules and regulations.** THE CONTROLLER MAY ADOPT RULES AND REGULATIONS
36 TO ADMINISTER THE CLEAN ENERGY LOAN PROGRAM CONSISTENT WITH THIS SUBTITLE.

37
38 **(D) Program administrator.** THE COUNTY EXECUTIVE MAY ENTER INTO AN
39 AGREEMENT WITH A PRIVATE ENTITY TO ADMINISTER THE CLEAN ENERGY LOAN
40 PROGRAM.

41
42 **(B) (E) Scope.** COMMERCIAL PROPERTY OWNERS ARE ELIGIBLE TO PARTICIPATE IN
43 THE CLEAN ENERGY LOAN PROGRAM FOR LOANS GREATER THAN \$25,000 FOR A TERM OF
44 UP TO 20 YEARS, ~~WITH INTEREST AT A PREFERRED RATE.~~

45
46 **(C) (F) Eligibility.** IN ORDER TO BE ELIGIBLE FOR A CLEAN ENERGY LOAN, THE
47 PROPERTY OWNER SHALL:

48
49 (1) HAVE A 100% OWNERSHIP INTEREST IN THE PROPERTY LOCATED IN ANNE
50 ARUNDEL COUNTY FOR WHICH IMPROVEMENTS ARE PROPOSED;

51
52 (2) OBTAIN AN ENERGY AUDIT APPROVED UNDER PROGRAM GUIDELINES
53 DEMONSTRATING THAT THE ANNUAL ENERGY SAVINGS PROJECTED TO BE OBTAINED
54 FROM THE IMPROVEMENTS OVER THE LIFE OF THE CLEAN ENERGY LOAN EQUAL OR
55 EXCEED THE ANNUAL REPAYMENT AMOUNT PRINCIPAL AND AGGREGATE INTEREST TO
56 BE PAID OVER THE TERM OF THE LOAN;

1 ~~(3) PROVIDE A NOTARIZED STATEMENT OF THE PROPERTY OWNER'S ASSETS,~~
2 ~~INCOME, AND LIABILITIES AND ANY OTHER DOCUMENTATION REQUESTED BY THE~~
3 ~~COUNTY TO DEMONSTRATE THE OWNERS'S ABILITY TO REPAY THE LOAN;~~

4
5 ~~(4) (3) DEMONSTRATE THAT THE MOST RECENT PROPERTY TAX BILL AND~~
6 ~~INSURANCE HAVE HAS BEEN PAID FOR THE PROPERTY; AND~~
7

8 ~~(6) (4) PROVIDE A COPY OF WRITTEN NOTICE TO ALL CURRENT LIENHOLDERS~~
9 ~~HOLDERS OF A MORTGAGE OR DEED OF TRUST WHO HAVE A PRIORITY RECORDED LIEN~~
10 ~~ON THE PROPERTY AND WRITTEN PROOF OF EXPRESS CONSENT TO THE LOAN AS A~~
11 ~~PRIORITY LIEN BY ALL CURRENT MORTGAGORS OF HOLDERS OF A MORTGAGE OR DEED~~
12 ~~OF TRUST ON THE PROPERTY; AND~~
13

14 ~~(5) ESTABLISH THAT THE OWNER OF THE COMMERCIAL PROPERTY IS ABLE TO~~
15 ~~REPAY THE LOAN BASED ON CRITERIA AND METHODS SET FORTH IN §§ 12-127, 12-311, 12-~~
16 ~~409.1, 12-925, AND 12-1029 OF THE COMMERCIAL LAW ARTICLE OF THE STATE CODE.~~
17

18 ~~(D) (G) Qualifying Improvements.~~ THE FOLLOWING IMPROVEMENTS, EITHER NEW
19 OR REPLACEMENT, QUALIFY AS ENERGY EFFICIENCY OR RENEWABLE ENERGY PROJECTS
20 UNDER THE CLEAN ENERGY LOAN PROGRAM:
21

22 (1) SOLAR ENERGY EQUIPMENT;

23 (2) GEOTHERMAL ENERGY DEVICES;

24 (3) WIND ENERGY SYSTEMS;

25 (4) WATER CONSERVATION DEVICES NOT REQUIRED BY LAW; AND
26
27

28 ~~(4) ENERGY EFFICIENT HEATING AND COOLING SYSTEMS.~~
29
30

31 ~~(5) ANY CONSTRUCTION, RENOVATION OR RETROFITTING OF COMMERCIAL~~
32 ~~PROPERTY TO REDUCE ENERGY CONSUMPTION, INCLUDING, HIGH EFFICIENCY LIGHTING~~
33 ~~AND BUILDING SYSTEMS, HEATING VENTILATION AIR CONDITIONING (HVAC) UPGRADES,~~
34 ~~HIGH EFFICIENCY BOILERS AND FURNACES, HIGH EFFICIENCY HOT WATER HEATING~~
35 ~~SYSTEMS, COMBUSTION AND BURNER UPGRADES, FUEL SWITCHING, HEAT RECOVERY~~
36 ~~AND STEAM TRAPS, BUILDING SHELL OR ENVELOPE IMPROVEMENTS, FENESTRATION~~
37 ~~IMPROVEMENTS, BUILDING ENERGY MANAGEMENT SYSTEMS, AND PROCESS EQUIPMENT~~
38 ~~UPGRADES.~~
39
40

41 ~~(H) Qualifying Costs.~~ A CLEAN ENERGY LOAN MAY BE USED TO PAY FOR ALL COSTS
42 ~~INCURRED BY A PROPERTY OWNER IN CONNECTION WITH THE QUALIFYING~~
43 ~~IMPROVEMENTS, INCLUDING THE COST OF THE ENERGY AUDIT, THE DESIGN,~~
44 ~~INSTALLATION, AND CONSTRUCTION OF THE QUALIFYING IMPROVEMENTS; ENERGY~~
45 ~~SAVINGS OR PERFORMANCE GUARANTY OR INSURANCE; AND CLOSING COSTS OF THE~~
46 ~~CLEAN ENERGY LOAN.~~
47

48 4-2-402. Real property tax surcharge.

49

50 (A) **Repayment of Loans.** A PROPERTY OWNER PARTICIPATING IN THE CLEAN
51 ENERGY LOAN PROGRAM SHALL REPAY THE LOAN THROUGH A SURCHARGE ON THEIR
52 REAL PROPERTY TAX BILL.
53

54 (B) **Calculation.** THE SURCHARGE FOR A CLEAN ENERGY LOAN SHALL INCLUDE
55 THE LOAN PRINCIPAL, ACCRUED INTEREST, CLEAN ENERGY LOAN OBLIGATION AND ANY
56 ADMINISTRATIVE COSTS INCURRED BY THE COUNTY WHICH SHALL BE THE ACTUAL
57 EXPENSES INCURRED TO ADMINISTER THE PROGRAM.

1 (C) **Agreement.** THE PROPERTY OWNER SHALL EXECUTE AN AGREEMENT WITH THE
2 COUNTY AND THE CLEAN ENERGY LENDER THAT WILL BE RECORDED IN LAND RECORDS,
3 AT THE EXPENSE OF THE OWNER, WHICH SHALL INCLUDE: IN WHICH THE OWNER
4 AGREES:

5
6 (1) TO REPAY THE LOAN THROUGH A SURCHARGE ON THE OWNER'S REAL
7 PROPERTY TAX BILL;

8
9 (2) THAT THE LOAN CONSTITUTES A FIRST LIEN ON THE PROPERTY THAT HAS
10 PRIORITY OVER PRIOR OR SUBSEQUENT LIENS IN FAVOR OF PRIVATE PARTIES AND THAT
11 THE SURCHARGE WILL CONTINUE UNTIL THE LOAN, ACCRUED INTEREST AND ALL
12 CHARGES ARE PAID, REGARDLESS OF A CHANGE IN OWNERSHIP OF THE PROPERTY;

13
14 (3) THAT THE LOAN IS SUBJECT TO COLLECTION PURSUANT TO § 4-1-105; AND

15
16 (4) THAT THE OWNER WILL DISCLOSE THE EXISTENCE AND TERMS OF THE LOAN
17 TO ALL PROSPECTIVE PURCHASERS OF THE PROPERTY, INCLUDING THE SURCHARGE
18 AMOUNT, UNLESS THE LOAN IS TO BE REPAID IN FULL AT THE TIME OF SETTLEMENT AND
19 THE LIEN RELEASED FROM THE PROPERTY.

20
21 (1) THE DATE THE CLEAN ENERGY LOAN WAS MADE TO THE PROPERTY OWNER
22 AND THE PROPERTY BECAME SUBJECT TO THE SURCHARGE;

23
24 (2) THE TERM OF THE CLEAN ENERGY LOAN AND OVER WHICH THE SURCHARGE
25 WILL APPLY TO THE PROPERTY;

26
27 (3) THE CLEAN ENERGY LOAN OBLIGATION AND ESTIMATED COUNTY
28 ADMINISTRATIVE COSTS FOR THE FIRST YEAR;

29
30 (4) THE ANNUAL PRINCIPAL AND INTEREST AMOUNT FOR EACH YEAR OF THE
31 TERM OF THE LOAN, INCLUDING ANY PARTIAL YEAR PRORATED AMOUNTS;

32
33 (5) PREPAYMENT REQUIREMENTS AND ANY PREPAYMENT PREMIUM THAT MAY
34 APPLY TO A PREPAYABLE CLEAN ENERGY LOAN;

35
36 (6) AGREEMENT BY THE PROPERTY OWNER TO REPAY ALL CLEAN ENERGY LOAN
37 OBLIGATIONS AND THE COUNTY'S ADMINISTRATIVE COSTS THROUGH A SURCHARGE
38 INCLUDED ON THE OWNER'S REAL PROPERTY TAX BILL DUE AND PAYABLE ON THE
39 SAME DATE AS THE REAL PROPERTY TAX BILL;

40
41 (7) ACKNOWLEDGEMENT BY THE PROPERTY OWNER THAT AN UNPAID CLEAN
42 ENERGY LOAN SURCHARGE CONSTITUTES A FIRST LIEN ON THE PROPERTY THAT HAS
43 PRIORITY OVER PRIOR OR SUBSEQUENT LIENS IN FAVOR OF PRIVATE PARTIES AND THAT
44 THE SURCHARGE WILL CONTINUE AS A LIEN ON THE PROPERTY FROM THE DATE IT
45 BECOMES PAYABLE UNTIL THE UNPAID SURCHARGE AND INTEREST AND PENALTIES ON
46 THE SURCHARGE ARE PAID IN FULL, REGARDLESS OF A CHANGE IN OWNERSHIP OF THE
47 PROPERTY, WHETHER VOLUNTARY OR INVOLUNTARY;

48
49 (8) ACKNOWLEDGEMENT BY THE PROPERTY OWNER AND THE LENDER THAT THE
50 COUNTY HAS NO LIABILITY FOR THE CLEAN ENERGY OBLIGATION OR ANY COSTS
51 ASSOCIATED WITH THE COLLECTION OF AMOUNTS DUE UNDER THE CLEAN ENERGY
52 FINANCING AGREEMENT; AND

53
54 (9) ACKNOWLEDGEMENT BY THE PROPERTY OWNER THAT AN OVERDUE
55 SURCHARGE SHALL BE COLLECTED PURSUANT TO § 4-1-105.
56

1 (D) **Default.** IN THE EVENT OF DEFAULT ON THE CLEAN ENERGY LOAN SURCHARGE,
2 THE LIEN WILL BE COLLECTED PURSUANT TO § 4-1-105. THE COUNTY SHALL NOT INCUR
3 ANY LIABILITY TO THE ~~LIENHOLDER~~ CLEAN ENERGY LENDER OR OTHERS IN THE EVENT
4 OF DEFAULT.

5
6 (E) **Payment to Clean Energy Lender.** THE COUNTY SHALL HAVE NO OWNERSHIP
7 OF THE SURCHARGES COLLECTED EXCEPT FOR ADMINISTRATIVE COSTS PROVIDED
8 UNDER THIS SUBTITLE. THE CONTROLLER SHALL PAY ALL SURCHARGE PAYMENTS IN
9 ANY CALENDAR MONTH TO THE APPLICABLE CLEAN ENERGY LENDER OR THE PROGRAM
10 ADMINISTRATOR WITHIN 30 DAYS AFTER THE END OF THE MONTH IN WHICH SUCH
11 AMOUNTS ARE COLLECTED. THE COUNTY SHALL HAVE NO OBLIGATION TO MAKE
12 PAYMENTS TO ANY CLEAN ENERGY LENDER WITH RESPECT TO ANY CLEAN ENERGY
13 LOAN OBLIGATION OTHER THAN THAT PORTION OF SURCHARGE ACTUALLY COLLECTED
14 FROM A PROPERTY OWNER FOR THE REPAYMENT OF A CLEAN ENERGY LOAN.
15 PAYMENTS RECEIVED FROM A PROPERTY OWNER SHALL BE CREDITED FIRST TO ALL
16 COUNTY TAXES, ASSESSMENTS, AND CHARGES.

17
18
19 ~~4-2-403. Financing. THE COUNTY MAY ENTER INTO ONE OR MORE AGREEMENTS WITH~~
20 ~~PRIVATE OR PUBLIC FUNDING ENTITIES TO PROVIDE FOR THE FINANCING OF CLEAN~~
21 ~~ENERGY LOANS. IN ADDITION, THE COUNTY MAY ASSIGN THE MANAGEMENT OF THE~~
22 ~~PROGRAM TO A PRIVATE ENTITY. CLEAN ENERGY LOANS MAY BE PROVIDED BY ANY~~
23 ~~PRIVATE LENDER AND A CLEAN ENERGY FINANCING AGREEMENT MAY CONTAIN ANY~~
24 ~~TERMS AGREED TO BY THE CLEAN ENERGY LENDER AND THE PROPERTY OWNER, AS~~
25 ~~PERMITTED BY LAW, FOR THE FINANCING OF CLEAN ENERGY LOANS. THE COUNTY MAY~~
26 ~~NOT FINANCE OR FUND ANY LOAN UNDER THE PROGRAM, SHALL SERVE ONLY AS A~~
27 ~~PROGRAM SPONSOR TO FACILITATE LOAN REPAYMENT BY INCLUDING THE SURCHARGE~~
28 ~~ON THE ANNUAL COUNTY REAL PROPERTY TAX BILL FOR THE PROPERTY, AND SHALL~~
29 ~~INCUR NO LIABILITY FOR THE LOAN.~~

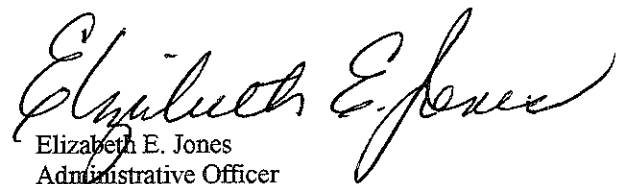
30
31 SECTION 2 . And be it further enacted, That this Ordinance shall apply to any
32 commercial property for which a clean energy loan was financed on or after October 1,
33 2014.

34
35 ~~SECTION 2. 3.~~ And be it further enacted, That this Ordinance shall take effect 45
36 days from the date it becomes law.

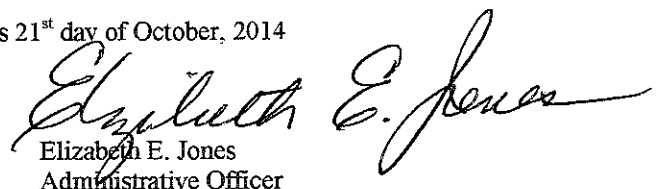
AMENDMENTS ADOPTED: October 6, 2014

READ AND PASSED this 20th day of October, 2014

By Order:


Elizabeth E. Jones
Administrative Officer

PRESENTED to the County Executive for her approval this 21st day of October, 2014


Elizabeth E. Jones
Administrative Officer

APPROVED AND ENACTED this ____*____ day of October, 2014

*Returned Unsigned

Enacted October 31, 2014

Laura Neuman
County Executive

EFFECTIVE DATE: December 15, 2014

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO.
68-14. THE ORIGINAL OF WHICH IS RETAINED IN THE FILES
OF THE COUNTY COUNCIL.


Elizabeth E. Jones
Administrative Officer