

**COUNTY COUNCIL OF CECIL COUNTY, MARYLAND
LEGISLATIVE SESSION DAY 2018-13**

BILL NO. 2018-13 As Amended

Title of Bill: Clean Energy Loan Program

Synopsis: A Bill to establish a clean energy loan program for commercial property owners to finance energy efficient projects and renewable energy projects.

Introduced by: Council President on behalf of the County Executive

Introduced, read first time and ordered posted on: July 17, 2018

Public hearing scheduled for: August 21, 2018 at: 7:00 p.m.

Consideration scheduled on: September 4, 2018

By: James Massey
Council Manager

Public Hearing

Notice of time and place of public hearing and title of Bill have been posted by July 17, 2018 at the County Administration Building, 200 Chesapeake Blvd., Elkton and having been published according to the Charter on August 8, 2018 and August 15, 2018, a public hearing was held on August 21, 2018, and concluded on August 21, 2018.

By: James Massey
Council Manager

Explanation: CAPITAL LETTERS INDICATE LANGUAGE ADDED TO EXISTING DOCUMENT
~~Strike through~~ indicates language deleted from existing document
Underlining indicates language added to document by amendment.
~~Double Strike through~~ indicates language stricken from document by amendment.

1 **WHEREAS**, in accordance with Section 505 of the Cecil County Charter, on April 1, 2018, the County
2 Executive submitted a proposed budget to the County Council for Fiscal Year 2019; and,

3 **WHEREAS**, in accordance with Section 506 of the Cecil County Charter, the County Council held
4 public hearings on the proposed budget submitted by the County Executive for Fiscal Year 2019; and,

5 **WHEREAS**, in accordance with Section 507(b) of the Cecil County Charter, on June 5, 2018, the
6 County Council approved the budget for Fiscal Year 2019; and,

7 **WHEREAS**, Cecil County, Maryland wishes to establish a clean energy loan program to encourage
8 the finance of energy efficient projects and renewable energy projects, as set forth in the Maryland
9 Annotated Code, Local Government Article §§ 1-1101, et seq; and,

10 **WHEREAS**, the implementation of a clean energy loan program requires the enactment, by County
11 Council, of this ordinance adding a new section 45-3 to Part I, Chapter 45 (Finance and Taxation), of the
12 County Code.

13 **NOW THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CECIL COUNTY, MARYLAND**, that
14 new Section 45-3 (Clean Energy Loan Program), be, and it is hereby, added to Part I, Chapter 45, Finance
15 and Taxation Ordinance, Cecil County Code, as amended, to read as follows:

16 **Chapter 45. Finance and Taxation**

17 **§ 45-3. CLEAN ENERGY LOAN PROGRAM.**

18 **A. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING WORDS SHALL HAVE THE**
19 **MEANING INDICATED:**

20 **CLEAN ENERGY FINANCING AGREEMENT – AN AGREEMENT BETWEEN A PROPERTY OWNER AND A**
21 **CLEAN ENERGY LENDER PROVIDING FOR THE TERMS AND CONDITIONS OF A CLEAN ENERGY**
22 **LOAN.**

23 **CLEAN ENERGY LENDER – A PRIVATE LENDER PROVIDING A CLEAN ENERGY LOAN.**

24 **CLEAN ENERGY LOAN – ANY LOAN MADE BY A PRIVATE LENDER TO A PROPERTY OWNER UNDER**
25 **THE CLEAN ENERGY LOAN PROGRAM.**

26 **CLEAN ENERGY LOAN PROGRAM ADMINISTRATOR – ANY PERSON OR ENTITY SELECTED BY THE**
27 **COUNTY TO MANAGE THE CLEAN ENERGY LOAN PROGRAM.**

28 **CLEAN ENERGY LOAN OBLIGATION – ALL INDEBTEDNESS AND OBLIGATIONS OF A PROPERTY**
29 **OWNER TO A CLEAN ENERGY LENDER UNDER A CLEAN ENERGY FINANCING AGREEMENT.**

COMMERCIAL PROPERTY - HAS THE SAME MEANING AS STATED IN MD. ANN. CODE, LOCAL GOV'T
ARTICLE §§ 1-1101, *ET SEQ.*

PROPERTY OWNER – AN OWNER OF COMMERCIAL PROPERTY AS DEFINED IN THIS SUBSECTION.

SURCHARGE – THE REPAYMENT OBLIGATION OF A CLEAN ENERGY LOAN, INCLUDING PRINCIPAL,
INTEREST, AND ANY APPLICATION FEES AND ADMINISTRATIVE COSTS, COLLECTED FROM A
PROPERTY OWNER THROUGH THE COUNTY'S PROPERTY TAX BILLING SYSTEM IN ACCORDANCE
WITH THE BILL AND AS AUTHORIZED BY THIS ARTICLE.

SURCHARGE LIEN – THE LIEN AUTOMATICALLY ESTABLISHED UPON THE COUNTY'S LEVY OF THE
SURCHARGE ON THE PROPERTY TAX BILL.

- B. PROGRAM. THERE IS A CLEAN ENERGY LOAN PROGRAM TO FINANCE ENERGY EFFICIENT
PROJECTS AND RENEWABLE ENERGY PROJECTS ON COMMERCIAL PROPERTIES AS PROVIDED IN
MD. ANN. CODE, LOCAL GOV'T ARTICLE §§ 1-1101, *ET SEQ.*
- C. RULES AND REGULATIONS. THE DIRECTOR OF FINANCE MAY ESTABLISH RULES AND
REGULATIONS IN ACCORDANCE WITH SECTION 502 OF THE CECIL COUNTY CHARTER AND CECIL
COUNTY CODE §45-1 TO ADMINISTER THE PROVISIONS OF THE ARTICLE.
- D. PROGRAM ADMINISTRATOR. THE COUNTY EXECUTIVE MAY ENTER INTO AN AGREEMENT WITH A
PRIVATE ENTITY TO ADMINISTER THE CLEAN ENERGY LOAN PROGRAM.
- E. SCOPE. COMMERCIAL PROPERTY OWNERS ARE ELIGIBLE TO PARTICIPATE IN THE CLEAN ENERGY
LOAN PROGRAM FOR NON-ACCELERATING LOANS GREATER THAN \$25,000.
- F. ELIGIBILITY. IN ORDER TO BE ELIGIBLE FOR A CLEAN ENERGY LOAN, THE PROPERTY OWNER
SHALL:
- (1) HAVE A 100% OWNERSHIP INTEREST IN THE PROPERTY LOCATED IN CECIL COUNTY FOR
WHICH IMPROVEMENTS ARE PROPOSED;
 - (2) DEMONSTRATE THAT THE MOST RECENT PROPERTY TAXES, ASSESSMENTS AND CHARGES ON
THE PROPERTY HAVE BEEN PAID;
 - (3) PROVIDE A COPY OF WRITTEN NOTICE TO ALL CURRENT HOLDERS OF A MORTGAGE OR DEED
OF TRUST WHO HAVE A PRIORITY RECORDED LIEN ON THE PROPERTY AND WRITTEN PROOF
OF EXPRESS CONSENT TO THE CLEAN ENERGY LOAN AS A PRIORITY LIEN BY ALL CURRENT
HOLDERS OF A MORTGAGE OR DEED OF TRUST ON THE PROPERTY; AND

(4) PROVIDE ALL INFORMATION REQUIRED TO ESTABLISH THAT THE OWNER OF THE COMMERCIAL PROPERTY IS ABLE TO REPAY THE LOAN PROVIDED UNDER THE CLEAN ENERGY LOAN PROGRAM, IN A MANNER SUBSTANTIALLY SIMILAR TO THAT REQUIRED FOR A MORTGAGE LOAN UNDER MD ANN. CODE, COMMERCIAL LAW, §§12-127, 12-311, 12-409.1, 12-925 AND 12-1029.

G. QUALIFYING IMPROVEMENTS. THE FOLLOWING IMPROVEMENTS, EITHER NEW OR REPLACEMENT, QUALIFY AS ENERGY EFFICIENCY OR RENEWABLE ENERGY PROJECTS UNDER THE CLEAN ENERGY LOAN PROGRAM:

- (1) SOLAR ENERGY EQUIPMENT;
- (2) GEOTHERMAL ENERGY DEVICES;
- (3) WIND ENERGY SYSTEMS;
- (4) WATER CONSERVATION DEVICES NOT REQUIRED BY LAW;
- (5) ANY CONSTRUCTION, RENOVATION OR RETROFITTING OF COMMERCIAL PROPERTY TO REDUCE ENERGY CONSUMPTION, INCLUDING HIGH EFFICIENCY LIGHTING AND BUILDING SYSTEMS, HEATING VENTILATION AIR CONDITIONING (HVAC) UPGRADES, HIGH EFFICIENCY BOILERS AND FURNACES, HIGH EFFICIENCY HOT WATER HEATING SYSTEMS, COMBUSTION AND BURNER UPGRADES, FUEL SWITCHING, HEAT RECOVERY AND STEAM TRAPS, BUILDING SHELL OR ENVELOPE IMPROVEMENTS, FENESTRATION IMPROVEMENTS, BUILDING ENERGY MANAGEMENT SYSTEMS AND PROCESS EQUIPMENT UPGRADES; AND
- (6) ANY OTHER IMPROVEMENT APPROVED BY THE COUNTY OR THE CLEAN ENERGY LOAN PROGRAM ADMINISTRATOR AS QUALIFYING AS AN ENERGY EFFICIENT PROJECT OR RENEWABLE ENERGY PROJECT.

H. QUALIFYING COSTS. A CLEAN ENERGY LOAN MAY BE USED FOR ALL COSTS INCURRED BY A PROPERTY OWNER IN CONNECTION WITH THE QUALIFYING IMPROVEMENTS, INCLUDING THE COST OF AN ENERGY AUDIT; FEASIBILITY STUDIES AND REPORTS; DESIGN, INSTALLATION AND CONSTRUCTION OF THE QUALIFYING IMPROVEMENTS; COMMISSIONING; ENERGY SAVINGS OR PERFORMANCE GUARANTY OR INSURANCE; BUILDING ACCREDITATION; CLOSING COSTS OF THE CLEAN ENERGY LOAN; PERMITTING FEES; ADMINISTRATIVE FEES; POST INSTALL EVALUATION, MEASUREMENT AND VERIFICATION.

I. REAL PROPERTY TAX SURCHARGE.

- (1) REPAYMENT OF LOANS. A PROPERTY OWNER PARTICIPATING IN THE CLEAN ENERGY LOAN PROGRAM SHALL REPAY THE CLEAN ENERGY LOAN THROUGH A SURCHARGE ON THEIR REAL PROPERTY TAX BILL. UPON RECEIPT OF WRITTEN NOTICE FROM THE CLEAN ENERGY LOAN PROGRAM ADMINISTRATOR OF THE EXECUTION OF A CLEAN ENERGY LOAN FINANCING AGREEMENT, WHICH MUST BE DELIVERED BY THE CLEAN ENERGY PROGRAM ADMINISTRATOR TO THE COUNTY NO LATER THAN ~~APRIL~~ MAY 1ST OF EACH YEAR, THE COUNTY SHALL, WITHIN 60 DAYS FROM THE DATE OF THE CLEAN ENERGY LOAN FINANCING AGREEMENT, CONFIRM THAT THE SURCHARGE HAS BEEN ADDED TO THE TAX PROPERTY BILL. THE SURCHARGE SHALL CONSTITUTE A FIRST LIEN ON THE PROPERTY FROM THE DATE IT BECOMES PAYABLE UNTIL THE UNPAID SURCHARGE AND INTEREST AND PENALTIES ON THE SURCHARGE ARE PAID IN FULL, REGARDLESS OF A CHANGE IN OWNERSHIP, WHETHER VOLUNTARY OR INVOLUNTARY. A PERSON OR ENTITY THAT ACQUIRES PROPERTY SUBJECT TO A SURCHARGE ASSUMES THE OBLIGATION TO PAY SUCH SURCHARGE. THE COUNTY MAY ASSIGN THE SURCHARGE LIEN TO THE CLEAN ENERGY LOAN PROGRAM ADMINISTRATOR.**
- (2) CALCULATION. THE SURCHARGE FOR A CLEAN ENERGY LOAN SHALL INCLUDE THE CLEAN ENERGY LOAN OBLIGATION AND MAY INCLUDE ADMINISTRATIVE COSTS INCURRED BY THE COUNTY AND CALCULATED IN ACCORDANCE WITH RULES AND REGULATIONS.**
- (3) NOTICE OF LEVY AND LIEN SURCHARGE. UPON RECEIVING WRITTEN NOTICE FROM THE CLEAN ENERGY LOAN PROGRAM ADMINISTRATOR OF THE EXECUTION OF A CLEAN ENERGY LOAN FINANCING AGREEMENT, THE PROPERTY OWNER SHALL EXECUTE A NOTICE OF LEVY AND LIEN OF SURCHARGE WITH THE COUNTY AND THE CLEAN ENERGY LENDER THAT WILL BE RECORDED IN THE LAND RECORDS OF CECIL COUNTY, AT THE EXPENSE OF THE PROPERTY OWNER. THE CLEAN ENERGY LOAN PROGRAM ADMINISTRATOR SHALL PROMPTLY FILE SUCH NOTICE OF LEVY AND LIEN OF SURCHARGE IN THE CECIL COUNTY LAND RECORDS, THEREBY PROVIDING NOTICE TO THIRD PARTIES. A COPY OF THE RECORDED NOTICE SHALL BE PROVIDED TO THE COUNTY ~~WITHIN 5 WORKING DAYS AFTER THE RECORDATION~~. SUCH NOTICE SHALL CONTAIN:**

- (a) THE DATE THE CLEAN ENERGY LOAN WAS MADE TO THE PROPERTY OWNER AND THE PROPERTY BECAME SUBJECT TO THE SURCHARGE;
- (b) THE TERM OF THE CLEAN ENERGY LOAN AND OVER WHICH THE SURCHARGE WILL APPLY TO THE PROPERTY;
- (c) THE CLEAN ENERGY LOAN OBLIGATION AND ESTIMATED COUNTY ADMINISTRATIVE COSTS FOR THE FIRST YEAR;
- (d) THE ANNUAL PRINCIPAL AND INTEREST AMOUNT FOR EACH YEAR OF THE TERM OF THE CLEAN ENERGY LOAN, INCLUDING ANY PARTIAL YEAR PRORATED AMOUNTS;
- (e) PREPAYMENT REQUIREMENTS AND ANY PREPAYMENT PREMIUM THAT MAY APPLY TO A PRE-PAYABLE CLEAN ENERGY LOAN;
- (f) NOTICE THAT THE CLEAN ENERGY LOAN OBLIGATIONS AND THE COUNTY'S ADMINISTRATIVE COSTS WILL BE REPAID THROUGH A SURCHARGE INCLUDED ON THE OWNER'S REAL PROPERTY TAX BILL DUE AND PAYABLE ON THE SAME DATE AS THE REAL PROPERTY TAX BILL;
- (g) NOTICE THAT AN UNPAID CLEAN ENERGY LOAN SURCHARGE CONSTITUTES A FIRST LIEN ON THE PROPERTY THAT HAS PRIORITY OVER PRIOR OR SUBSEQUENT LIENS IN FAVOR OF PRIVATE PARTIES AND THAT THE SURCHARGE WILL CONTINUE AS A LIEN ON THE PROPERTY FROM THE DATE IT BECOMES PAYABLE UNTIL THE UNPAID SURCHARGE AND INTEREST AND PENALTIES ON THE SURCHARGE ARE PAID IN FULL, REGARDLESS OF A CHANGE IN OWNERSHIP OF THE PROPERTY, WHETHER VOLUNTARY OR INVOLUNTARY; AND
- (h) NOTICE THAT IF PAYMENTS OR SURCHARGES ARE NOT TIMELY PAID, THE SURCHARGE WILL BE COLLECTIBLE AS A TAX LIEN THROUGH THE TAX SALE PROCESS AUTHORIZED UNDER MD ANN. CODE, TAX PROPERTY, TITLE 14, SUBTITLE ~~§123-32~~ §8 AND IN ACCORDANCE WITH CECIL COUNTY CODE §45-1 AND THAT AN OVERDUE SURCHARGE WILL BE \$0 COLLECTED, IRRESPECTIVE OF WHETHER REAL PROPERTY TAXES (OR ANY OTHER TAXES, CHARGES OR ASSESSMENTS) ARE DUE AND OWING.

What does the overdue charge constitute?

J. DEFAULT. IN THE EVENT OF DEFAULT ON THE CLEAN ENERGY LOAN SURCHARGE, THE COUNTY SHALL BE REQUIRED TO COLLECT THE LIEN PURSUANT TO MD ANN. CODE, TAX-PROPERTY,

TITLE 14, SUBTITLE 8 AND IN ACCORDANCE WITH CECIL COUNTY CODE §45-1, IRRESPECTIVE OF WHETHER PROPERTY TAXES (OR ANY OTHER TAXES, CHARGES OR ASSESSMENTS) ARE DUE AND OWING. THE COUNTY SHALL NOT INCUR AND LIABILITY TO THE CLEAN ENERGY LENDER OR OTHERS IN THE EVENT OF DEFAULT.

K. PAYMENT TO CLEAN ENERGY LENDER. THE COUNTY SHALL HAVE NO OWNERSHIP OF THE SURCHARGES COLLECTED EXCEPT FOR ADMINISTRATIVE COSTS PROVIDED UNDER THIS ARTICLE. THE DIRECTOR OF FINANCE SHALL PAY ALL SURCHARGE PAYMENTS IN ANY CALENDAR MONTH TO THE APPLICABLE CLEAN ENERGY LENDER OR THE CLEAN ENERGY LOAN PROGRAM ADMINISTRATOR WITHIN 30 DAYS AFTER THE END OF THE MONTH IN WHICH SUCH AMOUNTS ARE COLLECTED. THE COUNTY SHALL HAVE NO OBLIGATION TO MAKE PAYMENTS TO ANY CLEAN ENERGY LENDER WITH RESPECT TO ANY CLEAN ENERGY LOAN OBLIGATION OTHER THAN THAT PORTION OF SURCHARGE ACTUALLY COLLECTED FROM A PROPERTY OWNER FOR THE REPAYMENT OF A CLEAN ENERGY LOAN. PAYMENTS RECEIVED FROM A PROPERTY OWNER SHALL BE CREDITED FIRST TO ALL COUNTY TAXES, ASSESSMENTS AND CHARGES BEFORE BEING CREDITED TO A CLEAN ENERGY LOAN SURCHARGE.

L. FINANCING. CLEAN ENERGY LOANS MAY BE PROVIDED BY A PRIVATE LENDER AND A CLEAN ENERGY FINANCING AGREEMENT MAY CONTAIN ANY TERMS AGREED TO BY THE CLEAN ENERGY LENDER AND THE PROPERTY OWNER, AS PERMITTED BY LAW, FOR THE FINANCING OF CLEAN ENERGY LOANS. THE COUNTY MAY NOT FINANCE OR FUND ANY LOAN UNDER THE PROGRAM, SHALL SERVE ONLY AS A PROGRAM SPONSOR TO FACILITATE LOAN REPAYMENT BY INCLUDING THE SURCHARGE ON THE COUNTY REAL PROPERTY TAX BILL FOR THE PROPERTY, AND SHALL INCUR NO LIABILITY FOR THE LOAN.

BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF CECIL COUNTY, MARYLAND, that this Bill shall apply to any commercial property for which a Clean Energy Loan was financed on or after July 1, 2018.

AND, BE IT FURTHER ENACTED THAT THIS BILL SHALL APPLY TO ANY COMMERCIAL PROPERTY FOR WHICH A CLEAN ENERGY LOAN WAS FINANCED ON OR AFTER JULY 1, 2018.

AND, BE IT FURTHER ENACTED that this Act shall take effect 60 calendar days from the date it becomes law.

CERTIFICATION

I, HEREBY CERTIFY that the above Bill was posted for the public on the public bulletin board with the date, time and location of the public hearing meeting, copies were made available for the public, a copy was distributed to the press, and copy was made available on the Cecil County website.


BY: Council Manager

BILL NO: 2018-13 as amended

Title of Bill: Clean Energy Program

is hereby submitted to the County Council of Cecil County, Maryland for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

James Massey
Council Manager

Date: September 4, 2018

ENROLLED

John Bowlsbey
Council President

Date: September 4, 2018

BY THE COUNCIL

Read the third time.

Passed – LSD 2018-16

Failed of Passage – LSD _____

BY: James Massey
Council Manager

SEALED WITH THE COUNTY SEAL AND PRESENTED TO THE COUNTY EXECUTIVE for approval this

5th day of September, 20 18 at 1:00 am/pm
(within 10 business days from adoption §306)



BY: James Massey
Council Manager

BY THE EXECUTIVE: Chris McElroy
Cecil County Executive

APPROVED Date: 9/6/2018

VETOED Date: _____
(within 10 business days from presentation §306)

BY THE COUNCIL

Bill No. 2018-13 as amended having been approved by the Executive and returned to the Council becomes law

on September 6, 2018 with an effective date of November 5, 2018

BY: James Massey
Council Manager