

HARFORD COUNTY BILL NO. 16-025

Brief Title (Clean Energy Loan Program)

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

Mylin A. Dixon

Council Administrator

Date 11/8/16

ENROLLED

Richard C. Plutsky

Council President

Date 11/8/16

BY THE COUNCIL

Read the third time.

Passed: LSD 16-029

Failed of Passage: _____

By Order

Mylin A. Dixon

Council Administrator

Sealed with the County Seal and presented to the County Executive for approval this 9th day of November, 2016 at 3:00 p.m.

Mylin A. Dixon

Council Administrator



BY THE EXECUTIVE

[Signature]

COUNTY EXECUTIVE

APPROVED: Date 11/9/16

BY THE COUNCIL

This Bill No. 16-025 having been approved by the Executive and returned to the Council, becomes law on November 9, 2016.

EFFECTIVE: January 9, 2017

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

BILL NO. 16-025

Introduced by Council President Slutzky at the request of the County Executive
Legislative Day No. 16-025 Date October 4, 2016

AN ACT to add new Article VIII, Clean Energy Loan Program, to Chapter 123, Finance and Taxation, of the Harford County Code, as amended; to provide for the definition of certain terms; to establish a clean energy loan program for commercial property owners; to establish the scope of and eligibility for the clean energy loan program; to provide for qualifying criteria; to establish a calculation of the clean energy loan surcharge, providing for a recorded notice; to provide for the collection of loan payments; to establish default procedures; to provide for financing of a loan under the clean energy loan program; to provide for the application of this Act; and generally relating to the clean energy loan program and real property taxes.

By the Council, October 4, 2016

Introduced, read first time, ordered posted and public hearing scheduled

on: November 1, 2016

at: 7:15 PM

By Order: *Mylin A. Dixon*, Council Administrator

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on November 1, 2016 and concluded on November 1, 2016.

Mylin A. Dixon, Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

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

WHEREAS, Local Government Article, §1-1102 so authorizes counties and municipalities to enact such an act to establish a clean energy loan program.

NOW, THEREFORE,

Section 1. Be It Enacted By The County Council of Harford County, Maryland that new Article VIII, Clean Energy Loan Program, be, and it is hereby, added to Chapter 123, Finance and Taxation, of the Harford County Code, as amended, to read as follows:

Chapter 123. Finance and Taxation

ARTICLE VIII. CLEAN ENERGY LOAN PROGRAM

§ 123-69. CLEAN ENERGY LOAN PROGRAM.

A. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING WORDS SHALL HAVE THE MEANINGS INDICATED:

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

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

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

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

PROGRAM.

CLEAN ENERGY LOAN OBLIGATION – ALL INDEBTEDNESS AND OBLIGATIONS OF A PROPERTY 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, §§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, ANY APPLICABLE FEES AND ADMINISTRATIVE COSTS, COLLECTED FROM A PROPERTY OWNER THROUGH THE COUNTY'S PROPERTY TAX BILLING SYSTEM IN ACCORDANCE WITH THE ACT 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 EFFICIENCY PROJECTS AND RENEWABLE ENERGY PROJECTS ON COMMERCIAL PROPERTIES AS PROVIDED IN MD ANN. CODE, LOCAL GOV'T, §§1-1101, *ET SEQ.*

C. RULES AND REGULATIONS. THE TREASURER MAY ESTABLISH RULES AND REGULATIONS IN ACCORDANCE WITH SECTION 807 OF THE HARFORD COUNTY CHARTER TO ADMINISTER THE PROVISIONS OF THIS ARTICLE.

D. PROGRAM ADMINISTRATOR. THE COUNTY EXECUTIVE MAY ENTER INTO

1 AN AGREEMENT WITH A PRIVATE ENTITY TO ADMINISTER THE CLEAN
2 ENERGY LOAN PROGRAM.

3 E. SCOPE. COMMERCIAL PROPERTY OWNERS ARE ELIGIBLE TO PARTICIPATE
4 IN THE CLEAN ENERGY LOAN PROGRAM FOR NON-ACCELERATING LOANS
5 GREATER THAN \$25,000.

6 F. ELIGIBILITY. IN ORDER TO BE ELIGIBLE FOR A CLEAN ENERGY LOAN, THE
7 PROPERTY OWNER SHALL:

8 (1) HAVE A 100% OWNERSHIP INTEREST IN THE PROPERTY LOCATED IN
9 HARFORD COUNTY FOR WHICH IMPROVEMENTS ARE PROPOSED;

10 (2) DEMONSTRATE THAT THE MOST RECENT PROPERTY TAXES,
11 ASSESSMENTS AND CHARGES ON THE PROPERTY HAVE BEEN PAID;

12 (3) PROVIDE A COPY OF WRITTEN NOTICE TO ALL CURRENT HOLDERS
13 OF A MORTGAGE OR DEED OF TRUST WHO HAVE A PRIORITY
14 RECORDED LIEN ON THE PROPERTY AND WRITTEN PROOF OF
15 EXPRESS CONSENT TO THE CLEAN ENERGY LOAN AS A PRIORITY
16 LIEN BY ALL CURRENT HOLDERS OF A MORTGAGE OR DEED OF
17 TRUST ON THE PROPERTY; AND

18 (4) PROVIDE ALL INFORMATION REQUIRED TO ESTABLISH THAT THE
19 OWNER OF THE COMMERCIAL PROPERTY IS ABLE TO REPAY THE
20 LOAN PROVIDED UNDER THE CLEAN ENERGY LOAN PROGRAM, IN A
21 MANNER SUBSTANTIALLY SIMILAR TO THAT REQUIRED FOR A
22 MORTGAGE LOAN UNDER MD ANN. CODE, COMMERCIAL LAW, §§12-
23 127, 12-311, 12-409.1, 12-925 AND 12-1029.

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

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

22 H. QUALIFYING COSTS. A CLEAN ENERGY LOAN MAY BE USED TO PAY FOR
23 ALL COSTS INCURRED BY A PROPERTY OWNER IN CONNECTION WITH THE

1 QUALIFYING IMPROVEMENTS, INCLUDING THE COST OF AN ENERGY
2 AUDIT; FEASIBILITY STUDIES AND REPORTS; DESIGN, INSTALLATION AND
3 CONSTRUCTION OF THE QUALIFYING IMPROVEMENTS; COMMISSIONING;
4 ENERGY SAVINGS OR PERFORMANCE GUARANTY OR INSURANCE;
5 BUILDING ACCREDITATION; CLOSING COSTS OF THE CLEAN ENERGY LOAN;
6 PERMITTING FEES; ADMINISTRATIVE FEES; POST-INSTALL EVALUATION,
7 MEASUREMENT AND VERIFICATION; AND BUILDING ACCREDITATION.

8 **§ 123-70. REAL PROPERTY TAX SURCHARGE.**

9 A. REPAYMENT OF LOANS. A PROPERTY OWNER PARTICIPATING IN THE
10 CLEAN ENERGY LOAN PROGRAM SHALL REPAY THE CLEAN ENERGY LOAN
11 THROUGH A SURCHARGE ON THEIR REAL PROPERTY TAX BILL. UPON
12 RECEIPT OF WRITTEN NOTICE FROM THE CLEAN ENERGY LOAN PROGRAM
13 ADMINISTRATOR OF THE EXECUTION OF A CLEAN ENERGY LOAN
14 FINANCING AGREEMENT, WHICH MUST BE DELIVERED BY THE CLEAN
15 ENERGY LOAN PROGRAM ADMINISTRATOR TO THE COUNTY NO LATER
16 THAN APRIL 1ST OF EACH YEAR, THE COUNTY SHALL, WITHIN 60 DAYS
17 FROM THE DATE OF THE CLEAN ENERGY LOAN FINANCING AGREEMENT,
18 CONFIRM THAT THE SURCHARGE HAS BEEN ADDED TO THE TAX PROPERTY
19 BILL. THE SURCHARGE SHALL CONSTITUTE A FIRST LIEN ON THE
20 PROPERTY FROM THE DATE IT BECOMES PAYABLE UNTIL THE UNPAID
21 SURCHARGE AND INTEREST AND PENALTIES ON THE SURCHARGE ARE PAID
22 IN FULL, REGARDLESS OF A CHANGE IN OWNERSHIP, WHETHER
23 VOLUNTARY OR INVOLUNTARY. A PERSON OR ENTITY THAT ACQUIRES

1 PROPERTY SUBJECT TO A SURCHARGE ASSUMES THE OBLIGATION TO PAY
2 SUCH SURCHARGE. THE COUNTY MAY ASSIGN THE SURCHARGE LIEN TO
3 THE CLEAN ENERGY LOAN PROGRAM ADMINISTRATOR.

4 B. CALCULATION. THE SURCHARGE FOR A CLEAN ENERGY LOAN SHALL
5 INCLUDE THE CLEAN ENERGY LOAN OBLIGATION AND MAY INCLUDE
6 ADMINISTRATIVE COSTS INCURRED BY THE COUNTY AND CALCULATED IN
7 ACCORDANCE WITH RULES AND REGULATIONS.

8 C. NOTICE OF LEVY AND LIEN OF SURCHARGE. UPON RECEIVING WRITTEN
9 NOTICE FROM THE CLEAN ENERGY LOAN PROGRAM ADMINISTRATOR OF
10 THE EXECUTION OF A CLEAN ENERGY LOAN FINANCING AGREEMENT, THE
11 PROPERTY OWNER SHALL EXECUTE A NOTICE OF LEVY AND LIEN OF
12 SURCHARGE WITH THE COUNTY AND THE CLEAN ENERGY LENDER THAT
13 WILL BE RECORDED IN THE LAND RECORDS OF HARFORD COUNTY, AT THE
14 EXPENSE OF THE PROPERTY OWNER. THE CLEAN ENERGY LOAN PROGRAM
15 ADMINISTRATOR SHALL PROMPTLY FILE SUCH NOTICE OF LEVY AND LIEN
16 OF SURCHARGE IN THE HARFORD COUNTY LAND RECORDS, THEREBY
17 PROVIDING NOTICE TO THIRD PARTIES. A COPY OF THE RECORDED NOTICE
18 SHALL BE PROVIDED TO THE COUNTY WITHIN 5 WORKING DAYS AFTER
19 RECORDATION. SUCH NOTICE SHALL CONTAIN:

- 20 (1) THE DATE THE CLEAN ENERGY LOAN WAS MADE TO THE PROPERTY
21 OWNER AND THE PROPERTY BECAME SUBJECT TO THE SURCHARGE;
22 (2) THE TERM OF THE CLEAN ENERGY LOAN AND OVER WHICH THE
23 SURCHARGE WILL APPLY TO THE PROPERTY;

- 1 (3) THE CLEAN ENERGY LOAN OBLIGATION AND ESTIMATED COUNTY
2 ADMINISTRATIVE COSTS FOR THE FIRST YEAR;
- 3 (4) THE ANNUAL PRINCIPAL AND INTEREST AMOUNT FOR EACH YEAR
4 OF THE TERM OF THE CLEAN ENERGY LOAN, INCLUDING ANY
5 PARTIAL YEAR PRORATED AMOUNTS;
- 6 (5) PREPAYMENT REQUIREMENTS AND ANY PREPAYMENT PREMIUM
7 THAT MAY APPLY TO A PREPAYABLE CLEAN ENERGY LOAN;
- 8 (6) NOTICE THAT THE CLEAN ENERGY LOAN OBLIGATIONS AND THE
9 COUNTY'S ADMINISTRATIVE COSTS WILL BE REPAID THROUGH A
10 SURCHARGE INCLUDED ON THE OWNER'S REAL PROPERTY TAX BILL
11 DUE AND PAYABLE ON THE SAME DATE AS THE REAL PROPERTY TAX
12 BILL;
- 13 (7) NOTICE THAT AN UNPAID CLEAN ENERGY LOAN SURCHARGE
14 CONSTITUTES A FIRST LIEN ON THE PROPERTY THAT HAS PRIORITY
15 OVER PRIOR OR SUBSEQUENT LIENS IN FAVOR OF PRIVATE PARTIES
16 AND THAT THE SURCHARGE WILL CONTINUE AS A LIEN ON THE
17 PROPERTY FROM THE DATE IT BECOMES PAYABLE UNTIL THE
18 UNPAID SURCHARGE AND INTEREST AND PENALTIES ON THE
19 SURCHARGE ARE PAID IN FULL, REGARDLESS OF A CHANGE IN
20 OWNERSHIP OF THE PROPERTY, WHETHER VOLUNTARY OR
21 INVOLUNTARY; AND
- 22 (8) NOTICE THAT IF PAYMENTS OF SURCHARGES ARE NOT TIMELY PAID,
23 THE SURCHARGE WILL BE COLLECTIBLE AS A TAX LIEN THROUGH

1 THE TAX SALE PROCESS AUTHORIZED UNDER MD ANN. CODE, TAX-
2 PROPERTY, TITLE 14, SUBTITLE 8 AND IN ACCORDANCE WITH
3 HARFORD COUNTY CODE §123-32 AND THAT AN OVERDUE
4 SURCHARGE WILL BE SO COLLECTED, IRRESPECTIVE OF WHETHER
5 REAL PROPERTY TAXES (OR ANY OTHER TAXES, CHARGES OR
6 ASSESSMENTS) ARE DUE AND OWING.

7 D. DEFAULT. IN THE EVENT OF DEFAULT ON THE CLEAN ENERGY LOAN
8 SURCHARGE, THE COUNTY SHALL BE REQUIRED TO COLLECT THE LIEN
9 PURSUANT TO MD ANN. CODE, TAX-PROPERTY, TITLE 14, SUBTITLE 8 AND
10 IN ACCORDANCE WITH HARFORD COUNTY CODE §123-32, IRRESPECTIVE OF
11 WHETHER PROPERTY TAXES (OR ANY OTHER TAXES, CHARGES OR
12 ASSESSMENTS) ARE DUE AND OWING. THE COUNTY SHALL NOT INCUR
13 ANY LIABILITY TO THE CLEAN ENERGY LENDER OR OTHERS IN THE EVENT
14 OF DEFAULT.

15 E. PAYMENT TO CLEAN ENERGY LENDER. THE COUNTY SHALL HAVE NO
16 OWNERSHIP OF THE SURCHARGES COLLECTED EXCEPT FOR
17 ADMINISTRATIVE COSTS PROVIDED UNDER THIS ARTICLE. THE
18 TREASURER SHALL PAY ALL SURCHARGE PAYMENTS IN ANY CALENDAR
19 MONTH TO THE APPLICABLE CLEAN ENERGY LENDER OR THE CLEAN
20 ENERGY LOAN PROGRAM ADMINISTRATOR WITHIN 30 DAYS AFTER THE
21 END OF THE MONTH IN WHICH SUCH AMOUNTS ARE COLLECTED. THE
22 COUNTY SHALL HAVE NO OBLIGATION TO MAKE PAYMENTS TO ANY
23 CLEAN ENERGY LENDER WITH RESPECT TO ANY CLEAN ENERGY LOAN

Waiver of responsibility

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.

§ 123-71. FINANCING.

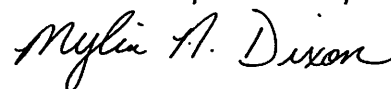
CLEAN ENERGY LOANS MAY BE PROVIDED BY ANY PRIVATE LENDER AND A CLEAN ENERGY FINANCING AGREEMENT MAY CONTAIN ANY TERMS AGREED TO BY THE CLEAN ENERGY LENDER AND THE PROPERTY OWNER, AS PERMITTED BY LAW, FOR THE FINANCING OF CLEAN ENERGY LOANS. THE COUNTY MAY NOT FINANCE OR FUND ANY LOAN UNDER THE PROGRAM, 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.

Section 2. And Be It Further Enacted that this Act shall apply to any commercial property for which a Clean Energy Loan was financed on or after February 1, 2017.

Section 3. And Be It Further Enacted that this Act shall take effect 60 calendar days from the date it becomes law.

EFFECTIVE: January 9, 2017

The Council Administrator does hereby certify that seven (7) copies of this Bill are immediately available for distribution to the public and the press.



Council Administrator