

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2023 Legislative Session

Bill 2023-02

REVISED CLEAN ENERGY LOAN PROGRAM

Introduced by Charles County Commissioners

FOR THE PURPOSE OF AMENDING THE LOCAL LAW CONCERNING THE MARYLAND COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM TO ENSURE CONSISTENCY WITH THE AMENDED STATE ENABLING LEGISLATION THAT ALLOWS COMMERCIAL PROPERTY OWNERS TO PARTICIPATE IN THE PROGRAM WHEN IMPLEMENTING ENERGY-SAVING IMPROVEMENTS ON THEIR BUILDINGS, INCLUDING BUILDING HEALTH AND AIR QUALITY, ELECTRIC VEHICLE CHARGING, ENVIRONMENTAL REMEDIATION AND RESILIENCE PROJECTS.

Date introduced: 02 / 14 / 2023

Public Hearing: 03 / 29 / 2023 In-Person @ 6:00 p.m.

04 / 25 / 2023 Virtual @ 6:00 p.m.

Commissioners Action: 04 / 25 / 2023

Commissioner Votes: RBC: Y, GB: Y, TC: A, AS: Y, RP: Y

Pass/Fail: Pass

Effective Date: 06 / 09 / 2023

Remarks: _____

NOTE: CAPITALS indicate matter added to existing text.
[Brackets] indicate matter deleted from existing law.

1 **COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

2
3
4 **2023 Legislative Session**

5
6 Bill No. 2023-02

7 Chapter. No. 158

8 Introduced by Charles County Commissioners

9 Date of Introduction February 14, 2023

10
11 **BILL**

12 AN ACT concerning

13 **REVISED CLEAN ENERGY LOAN PROGRAM**

14
15 FOR THE PURPOSE OF AMENDING THE LOCAL LAW CONCERNING THE
16 MARYLAND COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM TO
17 ENSURE CONSISTENCY WITH THE AMENDED STATE ENABLING LEGISLATION THAT
18 ALLOWS COMMERCIAL PROPERTY OWNERS TO PARTICIPATE IN THE PROGRAM
19 WHEN IMPLEMENTING ENERGY-SAVING IMPROVEMENTS ON THEIR BUILDINGS,
20 INCLUDING BUILDING HEALTH AND AIR QUALITY, ELECTRIC VEHICLE CHARGING,
21 ENVIRONMENTAL REMEDIATION AND RESILIENCE PROJECTS.

22
23 BY amending:

24 Chapter 158-1 through 158-3 – CLEAN ENERGY LOAN PROGRAM

25 *Code of Charles County, Maryland*

26 *(2022 Edition)*

27
28 **SECTION 1. BE IT ENACTED BY THE COUNTY COMMISSIONERS OF**
29 **CHARLES COUNTY, MARYLAND, that the Laws of Charles County, Maryland read as**
30 **follows:**

31 Chapter 158

32 **CLEAN ENERGY LOAN PROGRAM.**

1 **158-1. CLEAN ENERGY LOAN PROGRAM.**

2 A. Definitions. In this chapter, the following words have the meanings indicated:

3
4 **CLEAN ENERGY LOAN FINANCING AGREEMENT**

5 An agreement between a property owner and a clean energy lender providing for the terms and
6 conditions of a clean energy loan.

7
8 **CLEAN ENERGY LENDER**

9 A private lender providing a clean energy loan.

10
11 **CLEAN ENERGY LOAN**

12 Any loan made by a private lender to a property owner under the Clean Energy Loan Program.

13
14 **CLEAN ENERGY LOAN OBLIGATION**

15 All indebtedness and obligations of a property owner to a clean energy lender under a clean
16 energy LOAN financing agreement.

17
18 **CLEAN ENERGY LOAN PROGRAM**

19 THE CLEAN ENERGY LOAN PROGRAM AUTHORIZED BY TITLE 1, SUBTITLE 11, OF
20 THE LOCAL GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND,
21 THE PURPOSE OF WHICH IS TO PROVIDE LOANS TO PROPERTY OWNERS TO
22 FINANCE QUALIFYING IMPROVEMENTS TO COMMERCIAL PROPERTY.

23
24 **CLEAN ENERGY LOAN PROGRAM ADMINISTRATOR or PROGRAM**
25 **ADMINISTRATOR**

26 Any person or entity selected by the County to manage the Clean Energy Loan Program.

27
28 **COMMERCIAL PROPERTY**

29 Has the meaning stated in Title 1, Subtitle 11, of the Local Government Article of the Annotated
30 Code of Maryland.

31 **DEPARTMENT**

32 The Charles County Department of Fiscal and Administrative Services.

33 **PROPERTY OWNER**

34 An owner of commercial property as defined in this subsection.

35 **SURCHARGE**

36 THE ASSESSMENT LEVIED BY THE COUNTY ON A PROPERTY OWNER'S PROPERTY
37 TAX BILL TO COLLECT CLEAN ENERGY LOAN PAYMENTS OWED TO A CLEAN
38 ENERGY LENDER BY THE PROPERTY OWNER AND COSTS OF ADMINISTERING THE
39 CLEAN ENERGY LOAN PROGRAM IN ACCORDANCE WITH THIS ACT.

40
41 **SURCHARGE LIEN**

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

1 **(B) PROGRAM ESTABLISHED; ADMINISTRATION.**

2 (1) There is a Clean Energy Loan Program to finance QUALIFYING IMPROVEMENTS AS
3 DESCRIBED IN THIS SECTION [~~energy efficiency projects and renewable energy~~
4 ~~projects~~] in accordance with Title 1, Subtitle 11, of the Local Government Article of the
5 Annotated Code of Maryland.

6 (2) Rules and regulations, guidelines. The Department may adopt rules and regulations, or
7 guidelines, to administer the Clean Energy Loan Program consistent with this subtitle.

8 (3) Program administrator. The County Commissioners of Charles County may enter into an
9 Agreement with a public or private entity to administer the Clean Energy Loan Program.

10
11 **(C) SCOPE.** Commercial property owners are eligible to participate in the Clean Energy Loan
12 Program for nonaccelerating loans greater than \$25,000.

13 **(D) ELIGIBILITY.** In order to be eligible for a clean energy loan, the property owner shall:

14 (1) Have a 100% ownership interest in the property located in Charles County for which
15 improvements are proposed;

16 (2) Obtain an energy audit approved under program guidelines demonstrating that the savings
17 projected to be obtained from the improvements over the life of the loan equal or exceed the
18 principal and aggregate interest to be paid over the term of the loan;

19 (3) Demonstrate that the most recent property taxes, liens, special assessments, and charges on
20 the property have been paid;

21 (4) Provide a copy of written notice to all current holders of a mortgage or deed of trust who
22 have a priority recorded lien on the property and written proof of express consent to the
23 clean energy loan as a priority lien by all current holders of a mortgage or deed of trust on
24 the property; and

25 (5) Establish that the property owner is able to repay the loan provided under the Clean Energy
26 Loan Program, in a manner substantially similar to that required for a mortgage loan
27 according to the Commercial Law Article of the Annotated Code of Maryland and any
28 additional criteria and methods required by the clean energy lender.

29
30 **(E) QUALIFYING IMPROVEMENTS.** The following improvements, either new or
31 replacement, qualify FOR [~~as energy efficiency or renewable energy projects under~~] the
32 Clean Energy Loan Program:

33 (1) ENERGY AND WATER EFFICIENCY PROJECTS; [~~Solar energy equipment~~];

34 (2) RENEWABLE ENERGY PROJECTS INCLUDING BUT NOT LIMITED TO SOLAR
35 ENERGY EQUIPMENT, GEOTHERMAL ENERGY DEVICES, AND WIND ENERGY
36 SYSTEMS [~~Geothermal energy devices~~];

(3) ENVIRONMENTAL REMEDIATION PROJECTS WHICH MEANS A PROJECT INTENDED TO REMOVE ENVIRONMENTAL OR HEALTH HAZARDS, AND INCLUDING PROJECTS THAT PROMOTE INDOOR AIR AND WATER QUALITY, ASBESTOS REMEDIATION, LEAD PAINT REMOVAL, AND MOLD REMEDIATION~~[Wind energy systems];~~

(4) RESILIENCY PROJECTS WHICH MEANS A PROJECT INTENDED TO INCREASE THE CAPACITY OF A PROPERTY TO WITHSTAND NATURAL DISASTERS AND THE EFFECTS OF CLIMATE CHANGE INCLUDING FLOOD MITIGATION, STORMWATER MANAGEMENT, A PROJECT TO INCREASE FIRE OR WIND RESISTANCE, A PROJECT TO INCREASE THE CAPACITY OF A NATURAL SYSTEM, AN INUNDATION ADAPTATION PROJECT, ALTERNATIVE VEHICLE CHARGING INFRASTRUCTURE, AND ENERGY STORAGE ~~[Water conservation devices not required by law];~~ AND

(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 as qualifying as an energy efficiency project or renewable energy project.

(F) **QUALIFYING COSTS.** A clean energy loan may be used to pay for all costs incurred by a property owner in connection with the qualifying improvements, including, BUT NOT LIMITED TO, the cost of the energy audit; feasibility studies and reports; project management, 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; and post-install evaluation, measurement and verification; AND, BUILDING ACCREDITATION.

158-2. REAL PROPERTY TAX SURCHARGE.

(A) **REPAYMENT OF LOANS.** Repayment of loans. A property owner participating in the Clean Energy Loan Program shall repay the clean energy loan through a surcharge on his/her real property tax bill. Upon receipt of written notice from the Clean Energy Loan Program

1 Administrator of the execution of a clean energy loan financing agreement, the County shall, on
2 the July full-year billing add the surcharge to the tax property bill. The surcharge shall constitute
3 a first lien on the property from the date it becomes payable until the unpaid surcharge and interest
4 and penalties on the surcharge are paid in full, regardless of a change in ownership, whether
5 voluntary or involuntary. A person or entity that acquires property subject to a surcharge assumes
6 the obligation to pay such surcharge. The County may assign the surcharge lien to the Clean
7 Energy Loan Program Administrator.

8
9 (B) **CALCULATION.** The surcharge for a clean energy loan shall include the clean energy loan
10 obligation and any administrative costs incurred by the County, which shall be the actual expenses
11 incurred to administer the program.

12
13 (C) **AGREEMENT.** The property owner shall execute an agreement with the County and the
14 clean energy lender that will be recorded in the land records of Charles County, at the
15 expense of the property owner, and which shall include:

- 16 (1) The date the clean energy loan was made to the property owner and the property became
17 subject to the surcharge;
- 18 (2) The term of the clean energy loan and the term over which the surcharge will apply to the
19 property;
- 20 (3) The amount of the clean energy loan obligation and estimated County administrative costs
21 for the first year;
- 22 (4) The annual principal and interest amount for each year of the term of the clean energy loan,
23 including any partial year prorated amounts;
- 24 (5) The prepayment requirements and any prepayment premium that may apply, if the loan is a
25 prepayable clean energy loan;
- 26 (6) Agreement by the property owner to repay all clean energy loan obligations and the
27 County's administrative costs through a surcharge included on the property owner's real
28 property tax bill due and payable on the same date as the real property tax bill;
- 29 (7) Acknowledgement by the property owner that an unpaid clean energy loan surcharge
30 constitutes a first lien on the property that has priority over prior or subsequent liens in
31 favor of private parties, and that the surcharge will continue as a lien on the property from
32 the date it becomes payable until the unpaid surcharge and interest and penalties on the
33 surcharge are paid in full, regardless of a change in ownership of the property, whether
34 voluntary or involuntary; and
- 35 (8) Acknowledgement by the property owner and the lender that the County has no liability for

the clean energy loan obligation or any costs associated with the collection of amounts due under the clean energy LOAN financing agreement; and

(9) Acknowledgement by the property owner that an overdue surcharge shall be collected as a tax lien pursuant to Title 14, Subtitle 8, of the Tax-Property Article of the Annotated Code of Maryland, and the Charles County Code and that an overdue surcharge will be so collected, irrespective of whether real property taxes (or any other taxes, charges, or assessments) are due and owing.

(D) **DEFAULT.** If a property owner defaults on the clean energy loan surcharge, the lien will be collected pursuant to Title 14, Subtitle 8, of the Tax-Property Article of the Annotated Code of Maryland, and the Charles County Code, irrespective of whether property taxes (or any other taxes, charges, or assessments) are due and owing. The County shall not incur any liability to the clean energy lender or others in the event of default.

(E) **CREDIT OF PAYMENTS.** Payments received from a property owner shall be credited first to all County taxes, assessments, and charges.

(F) **PAYMENT TO CLEAN ENERGY LENDER.** The County shall forward surcharges, less administrative costs of the County, to the clean energy lenders or the Program Administrator within 30 days of receipt. 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.

(G) **COUNTY LIABILITY.** Except for the obligation to forward surcharges under Subsection F, the County does not incur any liability by participating in the Clean Energy Loan Program and the County shall not incur any liability to the clean energy lenders or others in the event of a default.

158-3. FINANCING.

(A) **PRIVATE LENDERS, TERMS.** The clean energy loans may be provided by any private lender, and a clean energy LOAN 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 CLEAN ENERGY LOAN MUST BE REPAYED OVER A TERM NOT TO EXCEED

1 THE USEFUL LIFE OF THE PROJECT AS DETERMINED BY THE CLEAN ENERGY LOAN
2 PROGRAM.

3
4 (B) **COUNTY ROLE.** The County's role in the Clean Energy Loan Program is limited to
5 sponsoring the Program and collecting and forwarding the surcharges imposed under the Program.
6 The County may not provide clean energy loans or other financing in connection with this
7 Program.

8
9 SECTION 2. *AND BE IT FURTHER ENACTED*, THAT THIS ACT SHALL TAKE EFFECT
10 FORTY-FIVE (45) DAYS FROM THE DATE IT BECOMES LAW.

11
12 ADOPTED this 25th day of April 2023.

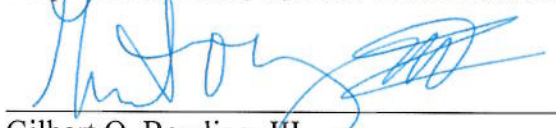
13
14 COUNTY COMMISSIONERS
15 CHARLES COUNTY, MARYLAND

16
17 

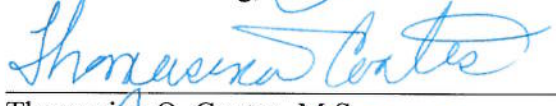
18
19 Reuben B. Collins, II, Esq., President

20
21 

22
23 Ralph E. Patterson, II, M.A. Vice President

24
25 

26
27 Gilbert O. Bowling, III

28
29 

30
31 Thomasina O. Coates, M.S.

32
33 

34
35 Amanda M. Stewart, M. Ed.

36
37 ATTEST.

38 

39
40 Carol A. DeSoto, Clerk to the Commissioners