

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2021, Legislative Day No. 22

Bill No. 105-21

Mr. Julian E Jones, Jr., Chairman
By Request of County Executive

By the County Council, December 20, 2021

A BILL
ENTITLED

AN ACT concerning

The Clean Energy Loan Program

FOR the purpose of making amendments to the Clean Energy Loan Program; adding additional types of financeable projects; revising the amount and duration of the loans; and generally related to amending the Clean Energy Loan Program.

BY repealing and re-enacting, without amendments

Sections 10-15-101 and 10-15-107
Article 10 – Finance
Title 15 – Clean Energy Loan Program
Baltimore County Code, 2015

BY repealing and re-enacting, with amendments

Section 10-15-102 through 10-15-106
Article 10 – Finance
Title 15 – Clean Energy Loan Program
Baltimore County Code, 2015

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that the Laws of Baltimore County read as follows:

4 ARTICLE 10 – FINANCE

5 Title 15 – Clean Energy Loan Program

6
7 § 10-15-101. Definitions.

8 (a) In this subtitle the following words have the meanings indicated.

9 (b) “Clean energy financing agreement” means an agreement between a property owner
10 and a clean energy lender providing for the terms and conditions of a clean energy loan.

11 (c) “Clean energy lender” means a private lender providing a clean energy loan under the
12 program.

13 (d) “Clean Energy Loan” means any loan made by a private lender to a property owner
14 under the program.

15 (e) “Clean Energy Loan Obligation” means all indebtedness and obligations of a
16 property owner to a clean energy lender under a clean energy financing agreement.

17 (f) “Certified General Real Estate Appraiser” means an individual who is certified as a
18 real estate appraiser under Title 16 of the Business Occupations and Professions Article of the
19 Annotated Code of Maryland.

20 (g) “Commercial property” has the meaning stated in § 1-1101 of the Local Government
21 Article of the Annotated Code of Maryland.

22 (h) “Program” means the Clean Energy Loan Program.

1 (i) "Program administrator" means any person or entity chosen by the county to manage
2 the program.

3 (j) "Property owner" means an owner of a commercial property.
4

5 § 10-15-102. Established.

6 In accordance with Title 1, Subtitle 11 of the Local Government Article of the Annotated
7 Code of Maryland, there is a clean energy loan program to finance OR REFINANCE energy
8 AND WATER efficiency projects, [and] ENVIRONMENTAL REMEDIATION PROJECTS,
9 renewable ENERGY PROJECTS, AND RESILIENCY projects.
10

11 § 10-15-103. Participation; Cash Value of Loan.

12 (a) Commercial property owners may participate in the program for nonaccelerating
13 loans[, for a term of up to 20 years].

14 (b) [(1)] The loan amount under this program[:
15

(i)] Shall be at least \$5,000 [and not more than 20% of the:

16 1. Full cash value of the property; or

17 2. Appraised value of the property; and

18 (ii) Together with the outstanding balance of the mortgage or deed of trust
19 may not be more than 90% of the full cash value or the appraised value of the property].

20 [(2) The full cash value is determined by the State Department of Assessments
21 and Taxation.

22 (3) The appraised value must be certified by a certified real estate appraiser not
23 more 12 months before the date of the loan application.]

1 (c) In order to be eligible for a loan, the property owner shall:

2 (1) Have a 100% ownership interest in the property located in Baltimore County
3 for which the improvements are proposed;

4 (2) Demonstrate that the most recent property taxes, assessments and charges on
5 the property have been paid;

6 (3) Provide a copy of written notice to all current holders of a mortgage or deed
7 of trust who have a priority recorded lien on the property and written proof of express consent to
8 the Clean Energy Loan as a priority lien by all current holders of a mortgage or deed of trust on
9 the property THAT IS TO BE FINANCED UNDER THE CLEAN ENERGY LOAN
10 PROGRAM; and

11 (4) Establish that the owner of the commercial property is able to repay the loan
12 provided under the Clean Energy Loan Program, in a manner substantially similar to that
13 required for a mortgage loan under §§ 12-127, 12-311, 12-409.1, 12-925, and 12-1029 of the
14 Commercial Law Article of the Annotated Code of Maryland.

15
16 § 10-15-104. Qualifying Improvements; Costs Incurred in Connection with Qualifying
17 Improvements.

18 (a) The following improvements, either new or replacement, to a new or existing
19 commercial property, qualify as energy OR WATER efficiency, [or] renewable energy,
20 ENVIRONMENTAL REMEDIATION, OR RESILIENCY projects under the Clean Energy
21 Loan Program:

22 (1) Solar energy equipment;

23 (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 CONSTRUCTION, RENOVATION, OR RETROFITTING OF COMMERCIAL PROPERTY THAT IS INTENDED TO REMOVE ENVIRONMENTAL OR HEALTH HAZARDS, INCLUDING PROJECTS THAT PROMOTE INDOOR AIR AND WATER QUALITY, ASBESTOS REMEDIATION, LEAD PAINT REMOVAL, AND MOLD REMEDIATION;

(7) ANY CONSTRUCTION, RENOVATION OR RETROFITTING OF COMMERCIAL PROPERTY THAT IS 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, ENERGY STORAGE; AND

[(6)] (8) Any other improvement approved by the County or the Clean Energy Loan Program Administrator as qualifying as an energy efficiency project or renewable energy project.

1 (b) A Clean Energy Loan may be used to pay for all costs incurred by a property owner
2 in connection with the qualifying improvements, including:

- 3 (1) The cost of an energy audit;
- 4 (2) Feasibility studies and reports;
- 5 (3) Project management, design, installation, and construction of the qualifying
6 improvements;
- 7 (4) Commissioning;
- 8 (5) Energy savings or performance guaranty or insurance;
- 9 (6) Building accreditation;
- 10 (7) Closing costs of the Clean Energy Loan;
- 11 (8) Permitting fees;
- 12 (9) Administrative fees;
- 13 (10) Post-install evaluation, measurement and verification; and
- 14 (11) Building accreditation.

15
16 § 10-15-105. Surcharge.

17 (a) (1) A property owner participating in the Clean Energy Loan Program shall repay
18 the Clean Energy Loan through a surcharge on the property owner's real property tax bill.

19 (2) On receipt of written notice from the Clean Energy Loan Program
20 Administrator of the execution of a Clean Energy Loan Financing Agreement, the County shall,
21 [within 60 days after the date of the Clean Energy Loan Financing Agreement,] add the
22 surcharge to the tax property bill ON JULY 1 OF THE YEAR INDICATED BY THE
23 PAYMENT SCHEDULE OF THE CLEAN ENERGY LOAN FINANCING AGREEMENT.

1 (3) The surcharge shall constitute a first lien on the property from the date it
2 becomes payable until the unpaid surcharge and interest and penalties on the surcharge are paid
3 in full, regardless of a change in ownership, whether voluntary or involuntary.

4 (4) A person or entity that acquires property subject to a surcharge assumes the
5 obligation to pay the surcharge.

6 (5) The County may assign the surcharge lien to the Clean Energy Loan Program
7 Administrator.

8 (b) The surcharge for a Clean Energy Loan shall include the Clean Energy Loan
9 Obligation and any administrative costs incurred by the County, which shall be the actual
10 expenses incurred to administer the program.

11 (c) The property owner shall execute an agreement with the County and the Clean
12 Energy Lender that will be recorded in land records of the county, at the expense of the owner,
13 which shall include:

14 (1) The date the Clean Energy Loan was made to the property owner and the
15 property became subject to the surcharge;

16 (2) The term of the Clean Energy Loan and over which the surcharge will apply
17 to the property;

18 (3) The amount of the Clean Energy Loan Obligation and estimated County
19 administrative costs for the first year;

20 (4) The annual principal and interest amount for each year of the term of the
21 Clean Energy Loan, including any partial year prorated amounts;

22 (5) The prepayment requirements and any prepayment premium that may apply
23 to a prepayable Clean Energy Loan;

1 (6) Notice that the Clean Energy Loan Obligations and the County's
2 administrative costs will be repaid through a surcharge included on the owner's real property tax
3 bill due and payable on the same date as the real property tax bill;

4 (7) Notice that an unpaid Clean Energy Loan surcharge constitutes a first lien on
5 the property that has priority over prior or subsequent liens in favor of private parties and that the
6 surcharge will continue as a lien on the property from the date it becomes payable until the
7 unpaid surcharge and interest and penalties on the surcharge are paid in full, regardless of a
8 change in ownership of the property, whether voluntary or involuntary; and

9 (8) Notice that if payments of surcharges are not timely paid, the surcharge will
10 be collectible as a tax lien through the tax sale process authorized under Tax-Property Article,
11 Title 14, Subtitle 8 of the Annotated Code of Maryland and in accordance with Article 11, Title
12 2, Subtitle 4 of the Code and that an overdue surcharge will be so collected, irrespective of
13 whether real property taxes (or any other taxes, charges, or assessments) are due and owing.

14 (d) (1) In the event of default on the Clean Energy Loan surcharge, the County shall
15 collect the lien in accordance with Article 11, Title 2, Subtitle 4 of the Code, irrespective of
16 whether property taxes (or any other taxes, charges, or assessments) are due and owing.

17 (2) The County may not incur any liability to the Clean Energy Lender or others
18 in the event of default.

19 (e) (1) The County shall have no ownership of the surcharges collected except for
20 administrative costs provided under this title.

21 (2) The County shall pay all surcharge payments in any calendar month to the
22 applicable Clean Energy Lender or the Clean Energy Loan Program Administrator within 30
23 days after the end of the month in which such amounts are collected.

1 (3) The County shall have no obligation to make payments to any Clean Energy
2 Lender with respect to any Clean Energy Loan Obligation other than that portion of surcharge
3 actually collected from a property owner for the repayment of a Clean Energy Loan.

4 (4) Payments received from a property owner shall be credited first to all County
5 taxes, assessments, and charges.

6
7 § 10-15-106. Provision of Clean Energy Loans; Role of the County.

8 (a) (1) Any private lender may provide Clean Energy Loans.

9 (2) (I) A Clean Energy Financing Agreement may contain any terms agreed
10 to by the Clean Energy Lender and the property owner, as permitted by law, for the financing of
11 Clean Energy Loans.

12 (II) THE LOAN MUST BE REPAID OVER A TERM NOT TO
13 EXCEED THE WEIGHTED USEFUL LIFE OF THE PROJECT AS DETERMINED BY THE
14 CLEAN ENERGY LOAN PROGRAM.

15 (b) The County:

16 (1) Shall serve only as a program sponsor to facilitate loan repayment by
17 including the surcharge on the County real property tax bill for the property; and

18 (2) May not:

19 (i) Finance or fund any loan under the program; and

20 (ii) Incur any liability for a loan.

21
22 § 10-15-107. Administration of Program.

1 (a) The Director of Budget and Finance may adopt regulations in accordance with
2 Article 3, Title 7 of the Code to carry out the provisions of this title.

3 (b) The county executive may enter into an agreement with a private entity to administer
4 the program. The agreement is subject to the approval of the county council.

5
6 SECTION 2. AND BE IT FURTHER ENACTED, that this Act shall take effect 45 days
7 after its enactment.



LEGISLATION DETAIL

LEGISLATION

DISPOSITION

ENACTED

EFFECTIVE

AMENDMENTS

ROLL CALL - LEGISLATION

MOTION		SECOND
AYE	NAY	
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Quirk
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Patoka
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Kach
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Jones
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Marks
<input type="checkbox"/>	<input type="checkbox"/>	Councilwoman Bevins
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Crandell

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