By: Delegates Kramer, Arora, Carr, Conaway, Frick, George, Guzzone, Luedtke, Rudolph, Simmons, and Wood

Introduced and read first time: February 8, 2013

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 26, 2013

CHAPTER ______

AN ACT concerning

Electric and Gas Companies — On-Bill Financing

Small Business Energy Assistance Act

FOR the purpose of establishing the authorizing the Public Service Commission to establish a Small Commercial Energy Efficiency On-Bill Financing Program; specifying the purpose of the Program; requiring the Commission to require a utility company to participate in the Program; authorizing certain customers to obtain a certain loan for an energy efficiency upgrade under certain circumstances; requiring the Public Service Commission to establish standards for a qualifying energy efficiency upgrade and eligibility requirements for customers; specifying the amount for a meter conservation charge to repay a loan on a utility bill; requiring that a loan for an energy efficiency upgrade on rented property be approved by the landlord or the landlord's agent; authorizing a utility company to enter into a contract with a certain third-party lender to provide certain loans under the Program under certain circumstances; authorizing a utility company to issue a certain request for proposals; specifying criteria for the award of a certain contract; requiring a utility company to remit a certain payment to a third-party lender under certain circumstances; requiring the Commission to establish the terms for a utility company to receive and manage any loan funding sources to subsidize interest-free loans available to certain customers; requiring a utility company to establish a separate fund to manage certain funds; requiring the Commission to adopt certain regulations; defining certain terms; providing for a delayed effective date; and generally relating to energy efficiency.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

Strike-out indicates matter stricken from the bill by amendment or deleted from the law by amendment.
BY adding to

Article – Public Utilities

Section 7–309

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
MARYLAND, That the Laws of Maryland read as follows:

Article – Public Utilities

7–309.

(A) (1) In this section the following words have the
meanings indicated.

(2) “Advance” means funding provided by nonutility
sources including an energy efficiency cost recovery surcharge to
small commercial customers to offset up-front, net-rebate costs
of energy efficiency upgrades that will be recovered in full by the
utility through the meter conservation charge for a preset number
of billing cycles and remitted by the utility to the nonutility
funding source.

(2) (3) “Energy efficiency upgrade” means an
appliance equipment or an improvement to real property that
qualifies under subsection (D)(1)(II) (E)(1)(I) of this section.

(4) “Loan” means funding provided by a third-party
lender to a small commercial customer for an energy efficiency
upgrade that will be recovered through a meter conservation
charge and remitted by the utility company to the third-party
lender.

(4) (5) “Meter conservation charge” means a charge
placed on a customer’s account by which a utility company may
recover the costs, including financing costs, for an energy
efficiency upgrade made to the customer’s property under the
program.

(4) (6) “Program” means the energy efficiency
on-bill financing program as established by the commission under
this section.
(7) “SMALL COMMERCIAL CUSTOMER” OR “CUSTOMER” MEANS:

(I) A NONRESIDENTIAL ELECTRIC COMPANY CUSTOMER WITH A MONTHLY DEMAND OF LESS THAN 60 KW; OR

(II) A NATURAL GAS COMPANY CUSTOMER AS THE COMMISSION DETERMINES FOR EACH UTILITY COMPANY, WHICH THE COMMISSION MAY BASE ON THE RELEVANT TARIFFS OF THE UTILITY COMPANY.

(5) (8) (I) “UTILITY COMPANY” MEANS AN ELECTRIC COMPANY OR A GAS COMPANY THAT THE COMMISSION AUTHORIZES TO OFFER AN ENERGY EFFICIENCY PROGRAM FUNDED BY AN ENERGY EFFICIENCY COST RECOVERY SURCHARGE.

(II) “UTILITY COMPANY” DOES NOT INCLUDE AN ELECTRIC COOPERATIVE.

(B) THERE IS AN ENERGY EFFICIENCY ON-BILL FINANCING PROGRAM.

(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

(1) THE SMALL COMMERCIAL ENERGY EFFICIENCY ON-BILL FINANCING PROGRAM PROMOTE ACCESS TO AFFORDABLE FINANCING FOR SMALL COMMERCIAL CUSTOMERS FOR ENERGY EFFICIENCY UPGRADES;

(2) THE COMMISSION IMPLEMENT THE PROGRAM TO ENSURE THAT IT PROMOTES ACCESS TO AFFORDABLE FINANCING FOR SMALL COMMERCIAL CUSTOMERS FOR ENERGY EFFICIENCY UPGRADES; AND

(3) IN ADOPTING THE PROGRAM AND IN APPROVING THE PARTICIPATION OF A UTILITY COMPANY IN THE PROGRAM, THE COMMISSION SHALL ENSURE THAT THE CAPITAL OF THE UTILITY COMPANY IS NOT USED TO FINANCE AN ADVANCE MADE AVAILABLE TO CUSTOMERS OR TO SUPPORT LOANS OFFERED BY THIRD-PARTY LENDERS UNDER THIS SECTION.

(C) THE COMMISSION MAY ESTABLISH THE SMALL COMMERCIAL ENERGY EFFICIENCY ON-BILL FINANCING PROGRAM UNDER THIS SECTION.

(C) (D) (1) THE PURPOSE OF THE PROGRAM IS TO ENCOURAGE UTILITY SMALL COMMERCIAL CUSTOMERS TO MAKE ENERGY EFFICIENCY IMPROVEMENTS TO COMMERCIAL PROPERTIES UPGRADES THROUGH LOW-OR NO-INTEREST LOANS ADVANCES REPAID DIRECTLY TO A
HOUSE BILL 1173

UTILITY COMPANY OR LOANS REPAYED TO A THIRD-PARTY LENDER THROUGH
THE SMALL COMMERCIAL CUSTOMER’S UTILITY BILL BY MEANS OF THROUGH A
METER CONSERVATION CHARGE.

(2) (I) A THE COMMISSION MAY DIRECT A UTILITY COMPANY
SHALL TO PARTICIPATE IN THE PROGRAM BY EXTENDING ITSELF OR BY
ARRANGEMENT WITH A THIRD-PARTY LENDER A LOAN TO A MAKING
AVAILABLE:

(I) ADVANCES TO SMALL COMMERCIAL CUSTOMERS FOR
ENERGY EFFICIENCY UPGRADES; OR

(II) LOANS BY ARRANGEMENT WITH A THIRD-PARTY
LENDER THAT WILL EXTEND LOANS TO QUALIFYING SMALL COMMERCIAL
CUSTOMER CUSTOMERS FOR AN ENERGY EFFICIENCY UPGRADE.

(3) THE COMMISSION SHALL CONSIDER THE COST IMPACT ON
RATEPAYERS AND THE IMPLEMENTATION CHALLENGES OF AN INDIVIDUAL
UTILITY WHEN DECIDING WHETHER AND HOW A UTILITY COMPANY MAY
PARTICIPATE IN THE PROGRAM.

(4) IN ACCORDANCE WITH SUBSECTION (E) (F) OF
THIS SECTION, A UTILITY COMPANY THAT PARTICIPATES IN THE PROGRAM MAY
ENTER INTO AN AGREEMENT WITH ONE OR MORE THIRD-PARTY LENDERS TO
ALLOW THE THIRD-PARTY LENDER TO EXTEND A LOAN TO A QUALIFYING SMALL
COMMERCIAL CUSTOMER FOR AN ENERGY EFFICIENCY UPGRADE TO BE REPAYED
THROUGH THE CUSTOMER’S UTILITY BILL THROUGH A METER
CONSERVATION CHARGE.

(E) (1) A SMALL COMMERCIAL CUSTOMER MAY OBTAIN A LOAN
FOR AN ENERGY EFFICIENCY UPGRADE UNDER THE PROGRAM IF:

(I) THE COMMISSION DETERMINES THAT THE TYPE OF
UPGRADE FURthers IS WITHIN THE PURPOSE SCOPE OF THE PROGRAM AS
APPROVED BY THE COMMISSION FOR THE UTILITY COMPANY; AND

(II) THE SMALL COMMERCIAL CUSTOMER MEETS
ELIGIBILITY REQUIREMENTS SPECIFIED BY THE UTILITY COMPANY AND
APPROVED BY THE COMMISSION.

(2) (I) A SMALL COMMERCIAL CUSTOMER MAY OBTAIN AN
ADVANCE FOR AN ENERGY EFFICIENCY UPGRADE IF THE COMMISSION
DETERMINES THAT THE TYPE OF UPGRADE IS WITHIN THE SCOPE OF THE
ENERGY EFFICIENCY PROGRAM PREVIOUSLY APPROVED BY THE COMMISSION FOR THE UTILITY COMPANY.

(II) A UTILITY COMPANY MAY NOT BE REQUIRED TO SCREEN FOR CREDIT-RELATED ELIGIBILITY FOR ADVANCES MADE AVAILABLE TO SMALL COMMERCIAL CUSTOMERS.

(2) (3) The meter conservation charge on the utility bill:

(I) SHALL BE A SEPARATE ITEM ON THE CUSTOMER’S BILL;

AND

(II) MAY INCLUDE THE FINANCING COSTS OF THE LOAN.

(3) (4) A LOAN FOR AN ENERGY EFFICIENCY UPGRADE ON RENTED PROPERTY SHALL BE APPROVED BY THE LANDLORD OR THE LANDLORD’S AGENT.

(1) (F) (1) A UTILITY COMPANY MAY ISSUE A REQUEST FOR PROPOSALS TO THIRD-PARTY LENDERS FOR THE PURPOSE OF PROVIDING LOANS TO CUSTOMERS UNDER THE PROGRAM.

(II) The criteria for the request for proposals shall require that a conforming bid include the third-party lender’s interest rates, origination fees, and credit terms.

(III) The utility company shall may award a contract to one or more third-party lenders based on its evaluation of the criteria listed in the request for proposals.

(2) A UTILITY COMPANY THIRD-PARTY LENDER THAT ENTERS INTO IS AWARDED A CONTRACT WITH A THIRD-PARTY LENDER UNDER THIS SECTION SUBSECTION SHALL CONSULT WITH THE THIRD-PARTY LENDER TO ESTABLISH THE TERMS AND PROCESSES UNDER WHICH A CUSTOMER MAY OBTAIN A LOAN UNDER THE PROGRAM BE REQUIRED TO ACCEPT THE UTILITY COMPANY’S PAYMENT POSTING PRIORITY IN ACCORDANCE WITH THE RELEVANT TARIFFS, OR AS DEFINED IN THE UTILITY COMPANY’S CONTRACT WITH A THIRD-PARTY LENDER, FOR ALL METER CONSERVATION CHARGE PAYMENTS MADE BY A SMALL COMMERCIAL CUSTOMER WITH RESPECT TO THE CUMULATIVE CHARGES THAT APPEAR ON EACH UTILITY COMPANY BILL TO THE CUSTOMER.
(3) THE TERMS OF A LOAN FROM A THIRD-PARTY LENDER UNDER THE PROGRAM SHALL BE CONSISTENT WITH SUBSECTION (D) (E) OF THIS SECTION.


(II) A UTILITY COMPANY MAY NOT BE OBLIGED UNDER ANY CIRCUMSTANCES TO REMIT PAYMENT TO A THIRD-PARTY LENDER IF THE SMALL BUSINESS CUSTOMER HAS A BALANCE DUE TO THE UTILITY COMPANY OR ITS AGENT.

(5) A UTILITY COMPANY MAY TERMINATE SERVICE TO A SMALL COMMERCIAL CUSTOMER FOR NONPAYMENT OF THE METER CONSERVATION CHARGE.

(F) (1) THE COMMISSION SHALL ESTABLISH THE TERMS FOR A UTILITY COMPANY TO RECEIVE AND MANAGE ANY LOAN FUNDING SOURCES TO SUBSIDIZE INTEREST-FREE LOANS AVAILABLE TO QUALIFYING CUSTOMERS.

(2) THE COMMISSION SHALL REQUIRE A UTILITY COMPANY TO ESTABLISH A SPECIFIC FUND TO ACCOUNT FOR FUNDS USED TO EXTEND LOANS UNDER THE PROGRAM.

(G) THE IN ESTABLISHING THE PROGRAM, THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM, INCLUDING REGULATIONS THAT SPECIFY:

(1) ELIGIBILITY REQUIREMENTS FOR AN ENERGY EFFICIENCY UPGRADE;

(2) ELIGIBILITY REQUIREMENTS FOR A CUSTOMER SMALL COMMERCIAL CUSTOMERS, INCLUDING GUIDELINES FOR NOTIFYING SMALL COMMERCIAL CUSTOMERS THAT ARE DETERMINED TO BE INELIGIBLE FOR AN ADVANCE OR A LOAN;

(3) REASONABLE LIMITS FOR ADVANCES AND LOANS;
(4) AUTHORITY FOR THE UTILITY TO TERMINATE SERVICE FOR NONPAYMENT OF THE METER CONSERVATION CHARGE;

(5) THE AUTHORITY OF A UTILITY COMPANY TO RECOVER THROUGH AN ENERGY EFFICIENCY COST RECOVERY SURCHARGE:

(i) THE INCREMENTAL COSTS OF IMPLEMENTING AND OPERATING THE PROGRAM, INCLUDING CHANGES TO THE BILLING SYSTEM TO PERFORM THE BILLING FUNCTIONS REQUIRED UNDER THE PROGRAM; AND

(ii) FOR A UTILITY COMPANY THAT HAS NOT IMPLEMENTED RATE DECOUPLING FOR SERVICE TO SMALL COMMERCIAL CUSTOMERS, LOST REVENUES ARISING FROM ENERGY CONSUMPTION REDUCTIONS ACHIEVED UNDER THE PROGRAM, SUBJECT TO THE AUTHORITY OF THE COMMISSION TO ADJUST RELATED RETURNS ON EQUITY OUTSIDE A RATE PROCEEDING UNDER TITLE 4, SUBTITLE 2 OF THIS ARTICLE;

(3)(6) FUNDING SOURCES THAT A UTILITY COMPANY MAY USE TO EXTEND AN INTEREST–FREE LOAN MAKE ADVANCES AVAILABLE; AND

(4)(7) THE RANGE OF INTEREST RATE RATES AND TERMS THAT A UTILITY COMPANY THIRD–PARTY LENDER MAY CHARGE IMPOSE FOR A LOW–INTEREST LOAN, SUBJECT TO APPLICABLE LAWS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013 January 1, 2014.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.