

# HOUSE BILL 1173

C5

3lr0643

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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

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 26, 2013

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Electric and Gas Companies—On-Bill Financing~~  
3 Small Business Energy Assistance Act

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

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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.



1 BY adding to  
 2 Article – Public Utilities  
 3 Section 7–309  
 4 Annotated Code of Maryland  
 5 (2010 Replacement Volume and 2012 Supplement)

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

8 **Article – Public Utilities**

9 **7–309.**

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
 11 MEANINGS INDICATED.

12 (2) “ADVANCE” MEANS FUNDING PROVIDED BY NONUTILITY  
 13 SOURCES INCLUDING AN ENERGY EFFICIENCY COST RECOVERY SURCHARGE TO  
 14 SMALL COMMERCIAL CUSTOMERS TO OFFSET UP-FRONT, NET-REBATE COSTS  
 15 OF ENERGY EFFICIENCY UPGRADES THAT WILL BE RECOVERED IN FULL BY THE  
 16 UTILITY THROUGH THE METER CONSERVATION CHARGE FOR A PRESET NUMBER  
 17 OF BILLING CYCLES AND REMITTED BY THE UTILITY TO THE NONUTILITY  
 18 FUNDING SOURCE.

19 ~~(2)~~ (3) “ENERGY EFFICIENCY UPGRADE” MEANS ~~AN~~  
 20 ~~APPLIANCE~~ EQUIPMENT OR AN IMPROVEMENT TO REAL PROPERTY THAT  
 21 QUALIFIES UNDER SUBSECTION ~~(D)(1)(H)~~ (E)(1)(I) OF THIS SECTION.

22 (4) “LOAN” MEANS FUNDING PROVIDED BY A THIRD-PARTY  
 23 LENDER TO A SMALL COMMERCIAL CUSTOMER FOR AN ENERGY EFFICIENCY  
 24 UPGRADE THAT WILL BE RECOVERED THROUGH A METER CONSERVATION  
 25 CHARGE AND REMITTED BY THE UTILITY COMPANY TO THE THIRD-PARTY  
 26 LENDER.

27 ~~(3)~~ (5) “METER CONSERVATION CHARGE” MEANS A CHARGE  
 28 PLACED ON A CUSTOMER’S ACCOUNT BY WHICH A UTILITY COMPANY MAY  
 29 RECOVER THE COSTS, INCLUDING FINANCING COSTS, FOR AN ENERGY  
 30 EFFICIENCY UPGRADE MADE TO THE CUSTOMER’S PROPERTY UNDER THE  
 31 PROGRAM.

32 ~~(4)~~ (6) “PROGRAM” MEANS THE ~~ENERGY EFFICIENCY~~  
 33 ~~ON-BILL FINANCING PROGRAM~~ SMALL COMMERCIAL ENERGY EFFICIENCY  
 34 ON-BILL FINANCING PROGRAM AS ESTABLISHED BY THE COMMISSION UNDER  
 35 THIS SECTION.

1           (7) “SMALL COMMERCIAL CUSTOMER” OR “CUSTOMER” MEANS:

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

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

7           ~~(5)~~ (8) (I) “UTILITY COMPANY” MEANS AN ELECTRIC  
8 COMPANY OR A GAS COMPANY THAT THE COMMISSION AUTHORIZES TO OFFER  
9 AN ENERGY EFFICIENCY PROGRAM FUNDED BY AN ENERGY EFFICIENCY COST  
10 RECOVERY SURCHARGE.

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

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

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

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

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

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

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

29           ~~(C)~~ (D) (1) THE PURPOSE OF THE PROGRAM IS SHALL BE TO  
30 ENCOURAGE UTILITY SMALL COMMERCIAL CUSTOMERS TO MAKE ENERGY  
31 EFFICIENCY IMPROVEMENTS TO COMMERCIAL PROPERTIES UPGRADES  
32 THROUGH LOW-OR-NO-INTEREST LOANS ADVANCES REPAID DIRECTLY TO A

1 UTILITY COMPANY OR LOANS REPAID TO A THIRD-PARTY LENDER THROUGH  
 2 THE SMALL COMMERCIAL CUSTOMER'S UTILITY BILL BY MEANS OF THROUGH A  
 3 METER CONSERVATION CHARGE.

4 (2) ~~(H)~~ ~~A~~ THE COMMISSION MAY DIRECT A UTILITY COMPANY  
 5 SHALL TO PARTICIPATE IN THE PROGRAM BY EXTENDING ITSELF OR BY  
 6 ARRANGEMENT WITH A THIRD PARTY LENDER A LOAN TO A MAKING  
 7 AVAILABLE:

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

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

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

17 ~~(H)~~ (4) IN ACCORDANCE WITH SUBSECTION ~~(E)~~ (F) OF  
 18 THIS SECTION, A UTILITY COMPANY THAT PARTICIPATES IN THE PROGRAM MAY  
 19 ENTER INTO AN AGREEMENT WITH ONE OR MORE THIRD-PARTY LENDERS TO  
 20 ALLOW THE THIRD-PARTY LENDER TO EXTEND A LOAN TO A QUALIFYING SMALL  
 21 COMMERCIAL CUSTOMER FOR AN ENERGY EFFICIENCY UPGRADE TO BE PAID  
 22 REPAID THROUGH THE CUSTOMER'S UTILITY BILL THROUGH A METER  
 23 CONSERVATION CHARGE.

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

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

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

32 (2) (I) A SMALL COMMERCIAL CUSTOMER MAY OBTAIN AN  
 33 ADVANCE FOR AN ENERGY EFFICIENCY UPGRADE IF THE COMMISSION  
 34 DETERMINES THAT THE TYPE OF UPGRADE IS WITHIN THE SCOPE OF THE

1 ENERGY EFFICIENCY PROGRAM PREVIOUSLY APPROVED BY THE COMMISSION  
 2 FOR THE UTILITY COMPANY.

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

6 ~~(2)~~ (3) THE METER CONSERVATION CHARGE ON THE UTILITY  
 7 BILL:

8 (I) SHALL BE A SEPARATE ITEM ON THE CUSTOMER'S BILL;  
 9 AND

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

11 ~~(3)~~ (4) ~~A LOAN FOR AN~~ AN ENERGY EFFICIENCY UPGRADE ON  
 12 RENTED PROPERTY SHALL BE APPROVED BY THE LANDLORD OR THE  
 13 LANDLORD'S AGENT.

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

17 (II) THE CRITERIA FOR THE REQUEST FOR PROPOSALS  
 18 SHALL REQUIRE THAT A CONFORMING BID INCLUDE THE THIRD-PARTY  
 19 LENDER'S INTEREST ~~RATE~~ RATES, ORIGINATION FEES, AND CREDIT TERMS.

20 (III) THE UTILITY COMPANY ~~SHALL~~ MAY AWARD A CONTRACT  
 21 TO ONE OR MORE THIRD-PARTY LENDERS BASED ON ITS EVALUATION OF THE  
 22 CRITERIA LISTED IN THE REQUEST FOR PROPOSALS.

23 (2) ~~A UTILITY COMPANY~~ THIRD-PARTY LENDER THAT ENTERS  
 24 INTO IS AWARDED A CONTRACT WITH A THIRD PARTY LENDER UNDER THIS  
 25 SECTION SUBSECTION SHALL CONSULT WITH THE THIRD PARTY LENDER TO  
 26 ESTABLISH THE TERMS AND PROCESSES UNDER WHICH A CUSTOMER MAY  
 27 OBTAIN A LOAN UNDER THE PROGRAM BE REQUIRED TO ACCEPT THE UTILITY  
 28 COMPANY'S PAYMENT POSTING PRIORITY IN ACCORDANCE WITH THE RELEVANT  
 29 TARIFFS, OR AS DEFINED IN THE UTILITY COMPANY'S CONTRACT WITH A  
 30 THIRD-PARTY LENDER, FOR ALL METER CONSERVATION CHARGE PAYMENTS  
 31 MADE BY A SMALL COMMERCIAL CUSTOMER WITH RESPECT TO THE  
 32 CUMULATIVE CHARGES THAT APPEAR ON EACH UTILITY COMPANY BILL TO THE  
 33 CUSTOMER.

1           (3) ~~THE TERMS OF A LOAN FROM A THIRD-PARTY LENDER~~ UNDER  
2 THE PROGRAM SHALL BE CONSISTENT WITH SUBSECTION ~~(D)~~ (E) OF THIS  
3 SECTION.

4           (4) (I) ~~THE~~ SUBJECT TO SUBPARAGRAPH (II) OF THIS  
5 PARAGRAPH AND THE UTILITY COMPANY'S PAYMENT POSTING PRIORITY AS  
6 DEFINED IN THE UTILITY COMPANY'S CONTRACT WITH THE THIRD-PARTY  
7 LENDER, DURING THE TERM OF THE LOAN, THE UTILITY COMPANY SHALL  
8 REMIT THE ~~PAYMENT~~ FINANCING COST COMPONENT OF THE METER  
9 CONSERVATION CHARGE TO THE THIRD-PARTY LENDER ~~EACH MONTH ON~~  
10 ~~BEHALF OF THE CUSTOMER~~ WITHIN THE TIME PERIOD AGREED TO BY THE  
11 UTILITY COMPANY AND THE THIRD-PARTY LENDER.

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

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

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

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

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

28                       (1) ELIGIBILITY REQUIREMENTS FOR AN ENERGY EFFICIENCY  
29 UPGRADE;

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

34                       (3) REASONABLE LIMITS FOR ADVANCES AND LOANS;

1           **(4) AUTHORITY FOR THE UTILITY TO TERMINATE SERVICE FOR**  
2 **NONPAYMENT OF THE METER CONSERVATION CHARGE;**

3           **(5) THE AUTHORITY OF A UTILITY COMPANY TO RECOVER**  
4 **THROUGH AN ENERGY EFFICIENCY COST RECOVERY SURCHARGE;**

5           **(I) THE INCREMENTAL COSTS OF IMPLEMENTING AND**  
6 **OPERATING THE PROGRAM, INCLUDING CHANGES TO THE BILLING SYSTEM TO**  
7 **PERFORM THE BILLING FUNCTIONS REQUIRED UNDER THE PROGRAM; AND**

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

14           **(3) (6) FUNDING SOURCES THAT A UTILITY COMPANY MAY USE**  
15 **TO ~~EXTEND AN INTEREST-FREE LOAN~~ MAKE ADVANCES AVAILABLE; AND**

16           **(4) (7) THE RANGE OF INTEREST ~~RATE~~ RATES AND TERMS THAT**  
17 **A ~~UTILITY COMPANY~~ THIRD-PARTY LENDER MAY ~~CHARGE~~ IMPOSE FOR A**  
18 **~~LOW-INTEREST~~ LOAN, SUBJECT TO APPLICABLE LAWS.**

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

Approved:

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Governor.

\_\_\_\_\_  
Speaker of the House of Delegates.

\_\_\_\_\_  
President of the Senate.