

Chapter 348

(Senate Bill 875)

AN ACT concerning

Jane E. Lawton Conservation Loan Program

FOR the purpose of altering the purpose of the Jane E. Lawton Conservation Loan Program; requiring an application for a loan under the Program to include certain information; requiring a borrower to document that certain anticipated energy cost savings according to a certain methodology after the completion of the project are greater than the total cost of the project to the borrower; repealing certain provisions relating to the deposit of a loan under the Jane E. Lawton Conservation Fund into a certain revolving loan fund of a county's economic development commission under certain circumstances; authorizing the Fund to be used to enhance the credit of financings offered by certain eligible banks and other financial institutions for projects; altering the period of time that the Maryland Energy Administration is required to reserve a certain portion of the money from the Fund for certain purposes; repealing certain provisions relating to the sale of excess electricity through certain markets generated by a certain project; authorizing the Administration to use the Fund to enhance the credit of a financing offered by a certain bank or other financial institution for a project; requiring that a certain credit enhancement be used for a certain purpose, facilitate the financing of a certain project, and be offered only to a certain bank or other financial institution; authorizing the Administration to assess a reasonable fee for a certain purpose; requiring the Administration to adopt certain regulations; altering certain definitions; repealing a certain definition; and generally relating to the Jane E. Lawton Conservation Fund.

BY repealing and reenacting, with amendments,

Article – State Government

Section 9–20A–01, 9–20A–03, 9–20A–05(b), 9–20A–06, and 9–20A–07

Annotated Code of Maryland

(2009 Replacement Volume and 2013 Supplement)

BY repealing

Article – State Government

Section 9–20A–09

Annotated Code of Maryland

(2009 Replacement Volume and 2013 Supplement)

BY adding to

Article – State Government

Section 9–20A–09
 Annotated Code of Maryland
 (2009 Replacement Volume and 2013 Supplement)

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

Article – State Government

9–20A–01.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Administration” means the Maryland Energy Administration.
- (c) “Borrower” means an eligible local jurisdiction, nonprofit organization, or eligible business that applies and qualifies for a loan under this Program.
- (d) “Eligible business” means a commercial enterprise or business **THAT IS IN GOOD STANDING WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION AND IS:**
 - (1) [that is] incorporated in the State; or
 - (2) [whose principal owners are State residents and the business of which is principally carried out] **REGISTERED TO DO BUSINESS** in the State.
- (e) “Energy cost savings” means the actual reduction in operating expenses resulting from the [improved energy efficiency generated by an energy conservation] **INSTALLATION, OPERATION, AND MAINTENANCE OF A** project financed under the Program.
- (f) “Fund” means the Jane E. Lawton Conservation Fund.
- (g) (1) “Local jurisdiction” means any county or municipality of the State.
- (2) “Local jurisdiction” includes:
 - (i) a board of education of a county or municipality;
 - (ii) a special district that is established by State law and that operates within a single county;
 - (iii) a special district that is established by a county under public general law; and

(iv) an office, board, or department that is established in a county under State law and that is funded, under State law, at least in part by the county governing body.

(h) “Municipality” means any municipal corporation in the State that is subject to the provisions of Article XI–E of the Maryland Constitution or any duly authorized agency or instrumentality of the municipality.

(i) “Nonprofit organization” means a corporation, foundation, school, hospital, or other legal entity, no part of the net earnings of which inure to the benefit of any private shareholder or individual holding an interest in the entity.

(j) “Program” means the Jane E. Lawton Conservation Loan Program.

(k) (1) “Project” means[:

(i)] one or more improvements or modifications that enhance the energy efficiency and reduce the operating expenses of a structure[; or

(ii) installation of infrastructure for renewable energy generation by local jurisdictions and nonprofit organizations] **LOCATED IN MARYLAND.**

(2) [“Project” includes:

(i) start–up opportunities for new businesses if the loan would enhance the energy efficiency of the borrower’s business;

(ii) installation of equipment to make buildings self–sustaining and of emergency generating units that use renewable energy resources; and

(iii) implementation of methane removal at landfills.

(3)] “Project” does not include improvements or modifications for energy conservation or renewable energy generation in structures used primarily for religious or fraternal activities.

[(l) “Renewable energy resource” has the meaning stated in § 1–101 of the Public Utilities Article.]

9–20A–03.

The purpose of the Program is to provide financial assistance in the form of low interest loans to nonprofit organizations, local jurisdictions, and eligible businesses for projects in order to:

- (1) promote[:
- (i)] energy conservation;
 - the State; [(ii) the development and use of renewable energy resources in
 - (iii) self-sustaining buildings and emergency generating units that use renewable energy resources; and
 - State;] (iv) the infrastructure for renewable energy generation in the
- (2) reduce consumption of fossil fuels;
- (3) improve energy efficiency; and
- (4) enhance energy-related economic development and stability in [business] THE NONPROFIT, commercial, and industrial sectors.

9-20A-05.

(b) The application shall contain any information the Administration determines is necessary, including:

- (1) the projected cost to accomplish a proposed project;
- (2) [if applicable,] the amount of energy or fuel a proposed project is expected to save over a defined period of time after completion of the project;
- (3) the anticipated environmental benefits in the form of reduced emissions or pollution attributable to the proposed project;
- (4) the amount of cost savings expected to be generated over a defined period of time after completion of the proposed project;
- (5) a description of the borrower's contribution to a proposed project as required by § 9-20A-06 of this subtitle; and
- (6) any additional information relating to the borrower or the proposed project that may be required by the Administration in order to administer the Program.

9-20A-06.

- (a) Loans from the Fund may be used for:
- (1) the costs of implementing projects, including the costs of all necessary:
 - (i) technical assessments;
 - (ii) studies;
 - (iii) surveys;
 - (iv) plans and specifications; and
 - (v) start-up, architectural, engineering, or other special services;
 - (2) the costs of procuring necessary technology, equipment, licenses, or materials; and
 - (3) the costs of construction, rehabilitation, or modification, including the purchase and installation of any necessary machinery, equipment, or furnishings.
- (b) Each borrower shall make a contribution to a project that is of a type and amount acceptable to the Administration.
- (c) [If the sole or primary purpose of the project is to reduce energy consumption, the] **THE** borrower must document that the anticipated energy cost savings **TO THE BORROWER** over a defined period **ACCORDING TO A METHODOLOGY ACCEPTABLE TO THE ADMINISTRATION** after the completion of the project are greater than the **TOTAL** cost of the project **TO THE BORROWER**.
- (d) Loans made under the Program shall:
- (1) be repayable by the borrower from specified revenues that may include the energy cost savings generated by a project;
 - (2) bear interest at a rate that the Administration determines to be necessary and reasonable for the project; and
 - (3) be repayable in accordance with a schedule that the Administration sets, which may be on a deferred payment basis.
- (e) (1) A borrower shall provide assurances for the repayment of a loan.
- (2) The assurances:

(i) shall include a promissory note; and

(ii) may include superior or subordinate mortgage liens, guarantees of repayment, or other forms of collateral.

(f) Loans may be made in conjunction with, or in addition to, financial assistance provided through other State or federal programs.

[(g) (1) A loan under the Fund may be deposited into a revolving loan fund of a county's economic development commission if the county approves the transaction and project for the local jurisdiction.

(2) If a county accepts a loan under paragraph (1) of this subsection, the funds deposited from the Fund may be used only for purposes of providing capital for renewable energy infrastructure projects under this subtitle.]

9-20A-07.

(a) There is a Jane E. Lawton Conservation Fund.

(b) The Administration shall administer the Fund.

(c) (1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund and the Comptroller shall account for the Fund.

(d) The Fund consists of:

(1) money appropriated in the State budget to the Program;

(2) money received from any public or private source;

(3) interest and investment earnings on the Fund; and

(4) repayments and prepayments of principal and interest on loans made from the Fund.

(e) The Fund may be used only:

(1) to pay the expenses of the Program; [and]

(2) to provide loans to eligible borrowers and projects; **AND**

(3) TO ENHANCE THE CREDIT OF A FINANCING OFFERED BY ELIGIBLE BANKS AND OTHER FINANCIAL INSTITUTIONS FOR PROJECTS.

(f) (1) The State Treasurer shall invest and reinvest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be paid into the Fund.

(3) Any repayment of principal and interest on loans made from the Fund shall be paid into the Fund.

(g) (1) The Administration shall annually reserve **FOR AT LEAST 90 DAYS** a portion of the money from the Fund that is available for financial assistance under the Program for loans to nonprofit organizations.

(2) In a fiscal year in which requests for financial assistance from nonprofit organizations are less than the amount of money reserved under paragraph (1) of this subsection **FOR THE PERIOD DETERMINED BY THE ADMINISTRATION**, the Administration may make the unencumbered or noncommitted portion of the reserve available to other borrowers in the Program.

[9-20A-09.

(a) A project implemented by a local jurisdiction financed by a loan from the Fund, such as a self-sustaining emergency generating unit, that generates electricity in excess of the amount needed for sustaining the unit may offer the extra electricity for trade through markets operated by PJM Interconnection, LLC.

(b) A local jurisdiction that trades electricity under subsection (a) of this section shall use the proceeds to repay its loan obligations under this subtitle.]

9-20A-09.

(A) THE ADMINISTRATION MAY USE THE FUND TO ENHANCE THE CREDIT OF A FINANCING OFFERED BY A BANK OR OTHER FINANCIAL INSTITUTION FOR A PROJECT.

(B) A CREDIT ENHANCEMENT ISSUED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION SHALL:

(1) CARRY OUT THE PURPOSE OF THE PROGRAM IN A MANNER THE ADMINISTRATION CONSIDERS APPROPRIATE;

(2) FACILITATE FINANCING OF AT LEAST ONE PROJECT OF A LOCAL JURISDICTION, NONPROFIT ORGANIZATION, OR ELIGIBLE BUSINESS; AND

(3) BE OFFERED ONLY TO A BANK OR OTHER FINANCIAL INSTITUTION IN GOOD STANDING WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION THAT IS:

(I) INCORPORATED IN THE STATE; OR

(II) REGISTERED TO DO BUSINESS IN THE STATE.

(C) THE ADMINISTRATION MAY ASSESS A REASONABLE FEE TO A PARTICIPATING BANK OR FINANCIAL INSTITUTION FOR THE ADMINISTRATION OF THIS SECTION.

(D) THE ADMINISTRATION SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

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

Approved by the Governor, May 5, 2014.