HOUSE BILL 202

Q1, L6 4lr1198
SB 1016/13 – FIN CF SB 186

By: **Delegate Barkley**
Introduced and read first time: January 16, 2014
Assigned to: Economic Matters

A BILL ENTITLED

AN ACT concerning

Clean Energy Loan Programs – Private Lenders – Collection of Loan Payments

FOR the purpose of authorizing a private lender to provide capital for a commercial loan provided under a local clean energy loan program; providing that, with the consent of any holder of a mortgage or deed of trust on the property, a county or municipality may collect loan payments owed on a commercial loan to a private lender or to a county or municipality through a surcharge on a property owner's property tax bill; providing that an unpaid surcharge constitutes a lien against the property on which it is imposed under certain circumstances; providing that certain provisions of law that apply to a tax lien also apply to a certain lien created under this Act; defining a certain term; and generally relating to the collection of commercial loan payments owed to private lenders under local clean energy loan programs.

BY repealing and reenacting, with amendments,
Article – Local Government
Section 1–1101, 1–1103, and 1–1105
Annotated Code of Maryland
(2013 Volume)

BY repealing and reenacting, without amendments,
Article – Local Government
Section 1–1102 and 1–1104
Annotated Code of Maryland
(2013 Volume)

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

Article – Local Government

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

1–1101.

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

(b) "Bond" means a bond, note, or other similar instrument that a county or municipality issues under this subtitle.

(c) "Chief executive" means the president, chair, mayor, county executive, or any other chief executive officer of a county or municipality.

(D) "COMMERCIAL PROPERTY" MEANS REAL PROPERTY THAT IS:

(1) NOT DESIGNED PRINCIPALLY OR INTENDED FOR HUMAN HABITATION; OR

(2) USED FOR HUMAN HABITATION AND IS IMPROVED BY MORE THAN FOUR SINGLE FAMILY DWELLING UNITS.

[(d)**] (E)** "Program" means a clean energy loan program established under this subtitle.

1–1102.

A county or municipality may enact an ordinance or a resolution to establish a clean energy loan program.

1–1103.

(A) The purpose of a program is to provide loans to:

(1) residential property owners, including low income residential property owners, to finance energy efficiency and renewable energy projects; and

(2) commercial property owners to finance:

(i) energy efficiency projects; and

(ii) renewable energy projects with an electric generating capacity of not more than 100 kilowatts.

(B) A PRIVATE LENDER MAY PROVIDE CAPITAL FOR A LOAN PROVIDED TO A COMMERCIAL PROPERTY OWNER UNDER THE PROGRAM.

1–1104.

(a) An ordinance or resolution enacted under § 1–1102 of this subtitle shall provide for:

(1) eligibility requirements for participation in the program, including eligibility requirements for:

(i) energy efficiency improvements and renewable energy devices; and

(ii) property and property owners; and

(2) loan terms and conditions.

(b) Eligibility requirements under subsection (a) of this section shall include a requirement that the county or municipality give due regard to the property owner's ability to repay a loan provided under the program, in a manner substantially similar to that required for a mortgage loan under §§ 12–127, 12–311, 12–409.1, 12–925, and 12–1029 of the Commercial Law Article.

1–1105.

(a) **[**A**] SUBJECT TO SUBSECTION (C) OF THIS SECTION, A** program shall require a property owner to repay a loan provided under the program through a surcharge on the owner's property tax bill.

(b) **[**A**] EXCEPT FOR A SURCHARGE AUTHORIZED UNDER SUBSECTION (C) OF THIS SECTION, A** county or municipality may not set a surcharge greater than an amount that allows the county or municipality to recover the costs associated with:

(1) issuing bonds to finance the loan; and

(2) administering the program.

(C) WITH THE CONSENT OF ANY HOLDER OF A MORTGAGE OR DEED OF TRUST ON A COMMERCIAL PROPERTY THAT IS TO BE IMPROVED THROUGH A LOAN TO THE COMMERCIAL PROPERTY OWNER UNDER THE PROGRAM:

(1) A COUNTY OR MUNICIPALITY MAY COLLECT LOAN PAYMENTS OWED TO A PRIVATE LENDER OR TO THE COUNTY OR THE MUNICIPALITY FOR A LOAN TO A COMMERCIAL PROPERTY OWNER THROUGH A SURCHARGE ON THE PROPERTY OWNER'S PROPERTY TAX BILL;

(2) AN UNPAID SURCHARGE UNDER THIS SUBSECTION SHALL BE, UNTIL PAID, A LIEN ON THE REAL PROPERTY ON WHICH IT IS IMPOSED FROM THE DATE IT BECOMES PAYABLE; AND

(3) THE PROVISIONS OF TITLE 14, SUBTITLE 8 OF THE TAX – PROPERTY ARTICLE THAT APPLY TO A TAX LIEN SHALL ALSO APPLY TO A LIEN CREATED UNDER THIS SUBSECTION.

[(c)**] (D)** A person who acquires property subject to a surcharge under this section assumes the obligation to pay the surcharge.

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