

SENATE BILL 26

P1

8lr0082

(PRE-FILED)

By: **Chair, Finance Committee (By Request – Departmental – Maryland Energy Administration)**

Requested: September 21, 2017

Introduced and read first time: January 10, 2018

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **State Agency Loan Program and Jane E. Lawton Conservation Loan Program –**
3 **Merger**

4 FOR the purpose of merging the Jane E. Lawton Conservation Loan Program and the State
5 Agency Loan Program; altering the definition of “borrower” for the purpose of
6 provisions of law governing the Jane E. Lawton Conservation Loan Program to
7 include an eligible State agency; altering the purpose of the Jane E. Lawton
8 Conservation Loan Program to include providing certain financial assistance to State
9 agencies for certain projects; requiring that, if the borrower is a State agency, an
10 application to receive a loan under the Jane E. Lawton Conservation Loan Program
11 be signed by the head of the State agency; exempting State agencies from certain
12 Jane E. Lawton Conservation Loan Program requirements; defining a certain term;
13 altering the definition of “project” to allow Jane E. Lawton Conservation Loan
14 Program loans to be used for certain improvements and modifications in structures
15 used primarily for religious or fraternal activities; providing for the application of
16 this Act; and generally relating to the Jane E. Lawton Conservation Loan Program
17 and the State Agency Loan Program.

18 BY repealing and reenacting, without amendments,
19 Article – State Finance and Procurement
20 Section 6–226(a)(1) and (2)(i)
21 Annotated Code of Maryland
22 (2015 Replacement Volume and 2017 Supplement)

23 BY repealing
24 Article – State Finance and Procurement
25 Section 6–226(a)(2)(ii)5.
26 Annotated Code of Maryland
27 (2015 Replacement Volume and 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
 2 Article – State Government
 3 Section 9–20A–01, 9–20A–03, 9–20A–05, and 9–20A–06
 4 Annotated Code of Maryland
 5 (2014 Replacement Volume and 2017 Supplement)

6 BY renumbering
 7 Article – State Finance and Procurement
 8 Section 6–226(a)(2)(ii)6. through 102., respectively
 9 to be Section 6–226(a)(2)(ii)5. through 101., respectively
 10 Annotated Code of Maryland
 11 (2015 Replacement Volume and 2017 Supplement)

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

14 **Article – State Finance and Procurement**

15 6–226.

16 (a) (1) Except as otherwise specifically provided by law or by regulation of the
 17 Treasurer, the Treasurer shall credit to the General Fund any interest on or other income
 18 from State money that the Treasurer invests.

19 (2) (i) Notwithstanding any other provision of law, and unless
 20 inconsistent with a federal law, grant agreement, or other federal requirement or with the
 21 terms of a gift or settlement agreement, net interest on all State money allocated by the
 22 State Treasurer under this section to special funds or accounts, and otherwise entitled to
 23 receive interest earnings, as accounted for by the Comptroller, shall accrue to the General
 24 Fund of the State.

25 (ii) The provisions of subparagraph (i) of this paragraph do not apply
 26 to the following funds:

27 [5. State Agency Loan Program Fund;]

28 **Article – State Government**

29 9–20A–01.

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

31 (b) “Administration” means the Maryland Energy Administration.

32 (c) “Borrower” means an eligible **STATE AGENCY**, local jurisdiction, nonprofit
 33 organization, or eligible business that applies and qualifies for a loan under this Program.

1 (d) “Eligible business” means a commercial enterprise or business that is in good
2 standing with the State Department of Assessments and Taxation and is:

3 (1) incorporated in the State; or

4 (2) registered to do business in the State.

5 (e) “Energy cost savings” means the actual reduction in operating expenses
6 resulting from the installation, operation, and maintenance of a project financed under the
7 Program.

8 (f) “Fund” means the Jane E. Lawton Conservation Fund.

9 (g) (1) “Local jurisdiction” means any county or municipality of the State.

10 (2) “Local jurisdiction” includes:

11 (i) a board of education of a county or municipality;

12 (ii) a special district that is established by State law and that
13 operates within a single county;

14 (iii) a special district that is established by a county under public
15 general law; and

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

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

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

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

26 (k) [(1)] “Project” means one or more improvements or modifications that
27 enhance the energy efficiency and reduce the operating expenses of a structure located in
28 Maryland.

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

1 **(L) (1) “STATE AGENCY” MEANS ANY PERMANENT OR TEMPORARY STATE**
2 **OFFICE, DEPARTMENT, DIVISION OR UNIT, BUREAU, BOARD, COMMISSION, TASK**
3 **FORCE, AUTHORITY, INSTITUTION, STATE COLLEGE OR UNIVERSITY, AND ANY**
4 **OTHER UNIT OF STATE GOVERNMENT, WHETHER EXECUTIVE, LEGISLATIVE, OR**
5 **JUDICIAL.**

6 **(2) “STATE AGENCY” INCLUDES ANY SUBUNITS OF STATE**
7 **GOVERNMENT.**

8 9–20A–03.

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

12 (1) promote energy conservation;

13 (2) reduce consumption of fossil fuels;

14 (3) improve energy efficiency; and

15 (4) enhance energy–related economic development and stability in the
16 nonprofit, commercial, and industrial sectors.

17 9–20A–05.

18 (a) (1) To receive a loan under the Program, a borrower must file an
19 application with the Administration.

20 (2) If the borrower is an eligible business, the application must be signed
21 by the chief operating officer or an authorized officer of the business.

22 (3) If the borrower is a local jurisdiction, the application must be signed by
23 the chief elected officer of the county or municipality, or if none, by the governing body of
24 the county or municipality in which the project is located.

25 (4) If the borrower is a public school, the application must be signed by the
26 board of education of the county in which the project is located.

27 **(5) IF THE BORROWER IS A STATE AGENCY, THE APPLICATION MUST**
28 **BE SIGNED BY THE HEAD OF THE STATE AGENCY.**

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

1 (1) the projected cost to accomplish a proposed project;

2 (2) the amount of energy or fuel a proposed project is expected to save over
3 a defined period of time after completion of the project;

4 (3) the anticipated environmental benefits in the form of reduced emissions
5 or pollution attributable to the proposed project;

6 (4) the amount of cost savings expected to be generated over a defined
7 period of time after completion of the proposed project;

8 (5) a description of the borrower's contribution to a proposed project as
9 required by § 9-20A-06 of this subtitle; and

10 (6) any additional information relating to the borrower or the proposed
11 project that may be required by the Administration in order to administer the Program.

12 9-20A-06.

13 (a) Loans from the Fund may be used for:

14 (1) the costs of implementing projects, including the costs of all necessary:

15 (i) technical assessments;

16 (ii) studies;

17 (iii) surveys;

18 (iv) plans and specifications; and

19 (v) start-up, architectural, engineering, or other special services;

20 (2) the costs of procuring necessary technology, equipment, licenses, or
21 materials; and

22 (3) the costs of construction, rehabilitation, or modification, including the
23 purchase and installation of any necessary machinery, equipment, or furnishings.

24 (b) Each borrower shall make a contribution to a project that is of a type and
25 amount acceptable to the Administration.

26 (c) [The] A borrower **OTHER THAN A STATE AGENCY** must document that the
27 anticipated energy cost savings to the borrower over a defined period according to a
28 methodology acceptable to the Administration after the completion of the project are
29 greater than the total cost of the project to the borrower.

1 (d) Loans made under the Program **TO A BORROWER OTHER THAN A STATE**
2 **AGENCY** shall:

3 (1) be repayable by the borrower from specified revenues that may include
4 the energy cost savings generated by a project;

5 (2) bear interest at a rate that the Administration determines to be
6 necessary and reasonable for the project; and

7 (3) be repayable in accordance with a schedule that the Administration
8 sets, which may be on a deferred payment basis.

9 (e) (1) A borrower **OTHER THAN A STATE AGENCY** shall provide assurances
10 for the repayment of the loan.

11 (2) The assurances:

12 (i) shall include a promissory note; and

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

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

17 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 6–226(a)(2)(ii)6
18 through 102, respectively, of Article – State Finance and Procurement of the Annotated
19 Code of Maryland be renumbered to be Section(s) 6–226(a)(2)(ii)5 through 101, respectively.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to
21 apply only prospectively and may not be applied or interpreted to have any effect on or
22 application to any contract existing before the effective date of this Act.

23 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June
24 1, 2018.