Department of Legislative Services

Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 319 (Senators Hester and Elfreth)
Education, Health, and Environmental Affairs Environment and Transportation

Clean Energy Loan Program - Remediation and Resiliency

This bill expands the types of projects that may be financed under a clean energy loan program enacted by a county or municipality, by adding water efficiency projects, environmental remediation projects, resiliency projects, and, if installed with energy efficiency or renewable energy projects, grid resiliency projects. The bill also establishes that projects can be refinanced under a clean energy loan program and replaces a reference to a property being "improved" through a loan under a program with a reference to a property being "financed" through a loan under the program. The bill requires that an ordinance or resolution that establishes a clean energy loan program include a specified provision, applicable to any project, regarding the repayment term of a loan.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances.

Local Effect: The bill is not expected to materially affect local government finances since current programs – while utilizing the county property tax bill for debt service – are financed through private lenders.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill makes water efficiency projects, environmental remediation projects, resiliency projects, and, if installed with energy efficiency or renewable energy projects, grid resiliency projects eligible to be financed under a clean energy loan program enacted by a county or municipality and establishes that projects may be refinanced under a clean energy loan program.

"Environmental remediation project" means a project that is intended to remove environmental or health hazards, including (1) a project that promotes indoor air and water quality; (2) asbestos remediation; (3) lead paint removal; and (4) mold remediation.

"Resiliency project" means a project that is intended to increase the capacity of a property to withstand natural disasters and the effects of climate change, including (1) a flood mitigation project; (2) a stormwater management project; (3) a project to increase fire or wind resistance; (4) a project to increase the capacity of a natural system; (5) an inundation adaptation project; (6) alternative vehicle charging infrastructure; and (7) energy storage.

"Grid resiliency project" means an energy capital improvement investment that (1) includes energy storage, demand management, and/or other functions that improve reliability of service or provide service during an electrical service disruption and (2) is installed in a manner consistent with applicable Public Service Commission and electric company requirements, including interconnection requirements and franchise requirements.

Eligibility requirements for water efficiency projects, environmental remediation projects, resiliency projects, and grid resiliency projects must be established by the local ordinance or resolution that establishes a clean energy loan program.

A local ordinance or resolution establishing a clean energy loan program also must include a provision, applicable to any project, which requires a loan to be repaid over a term not to exceed the useful life of the project as determined by the program.

Under provisions relating to loan payments under a program being made through a surcharge on the property owner's property tax bill, and an unpaid surcharge being a lien on the property, a reference to the commercial property being "improved" through a loan under the program is changed to a reference to the property being "financed" through a loan under the program.

Current Law: A county or municipality may enact an ordinance or a resolution to establish a clean energy loan program. The purpose of a program is to provide loans to residential property owners, including low income residential property owners, and commercial property owners, to finance energy efficiency projects and renewable energy projects. A private lender may provide capital for a loan provided to a commercial property owner under the program. "Commercial property" is defined as 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.

A clean energy loan program must require a property owner to repay a loan under the program through a surcharge on the owner's property tax bill. A person who acquires property subject to a surcharge assumes the obligation to pay the surcharge. 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. However, with respect to commercial property, with the express 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:

- 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, and costs associated with administering the program, through a surcharge on the property owners' property tax bill;
- an unpaid surcharge is, until paid, a lien on the real property on which it is imposed from the date it becomes payable; and
- specified statutory provisions that apply to a tax lien also apply to a lien created by an unpaid surcharge.

A local ordinance or resolution that establishes a clean energy loan program must provide for:

- eligibility requirements for (1) energy efficiency improvements and renewable energy devices and (2) property and property owners; and
- loan terms and conditions.

Small Business Effect: The bill may have a meaningful impact on small business property owners and small business contractors, to the extent the bill increases the flexibility of the program, including by allowing for water efficiency projects, environmental remediation projects, resiliency projects, or grid resiliency projects to be undertaken that may otherwise be financed on less favorable terms or not undertaken at all. The bill's provision regarding a loan being repaid over a term not to exceed the useful life of the improvement or project may also benefit small business property owners and small business contractors to the extent it increases the viability of financing certain projects in comparison to current local policies regarding the term of a loan that are more restrictive.

Additional Information

Prior Introductions: SB 722 of 2020 passed the Senate with amendments and was referred to the House Economic Matters Committee, but no further action was taken.

Designated Cross File: HB 517 (Delegate C. Watson) - Environment and Transportation.

Information Source(s): Maryland Energy Administration; Maryland Department of the Environment; Maryland Department of Transportation; Department of Natural Resources; Harford, Montgomery, and St. Mary's counties; Maryland Association of Counties; cities of Annapolis and Bowie; Maryland Municipal League; Department of Legislative Services

Fiscal Note History: First Reader - January 26, 2021
rh/lgc Third Reader - March 12, 2021
Revised - Amendment(s) - March 12, 2021

Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510