

**Maryland General Assembly  
Department of Legislative Services**

**Emergency/Proposed Regulations  
Maryland Energy Administration**  
(DLS Control No. 14-159)

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## **Overview and Legal and Fiscal Impact**

These emergency/proposed regulations amend regulations regarding the Jane E. Lawton Energy Conservation Program to make them consistent with Chapter 348 of 2014 and add a new regulation regarding credit enhancements as required under Chapter 348.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

## **Regulations of COMAR Affected**

### **Maryland Energy Administration:**

Maryland Energy Administration: Jane E. Lawton Conservation Program:  
COMAR 14.26.01.01-.04, .06-.09, .12-.15, and .17-.18

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## **Legal Analysis**

### **Background**

Chapter 348 of 2014 amended the Jane E. Lawton Conservation Loan Program to focus on energy efficiency projects rather than both energy efficiency projects and renewable energy projects. Chapter 348 also expanded the uses of the Jane E. Lawton Conservation Fund to include enhancing credit financing offered by eligible banks and other financial institutions for projects, and established requirements for credit enhancements issued through the fund.

### **Summary of Regulations**

The regulations are consistent with Chapter 348 of 2014. Specifically, the regulations:

- amend Regulations .01 (purpose), .02 (scope), .03 (definitions), .04 (eligibility and requirements for loans), .06 (minimum borrower obligations), .07 (terms and conditions of loans), .13 (books and records), .14 (nondiscrimination), .15 (drug-free and alcohol-free policy), and .17 (false statement report) to make them consistent with Chapter 348;
- add new definitions under Regulation .03 for “credit enhancement” and “loan”;

- add a requirement in Regulation .07 that a borrower petition the Maryland Energy Administration for an adjustment of repayment terms or an extended repayment period if the energy cost savings resulting from the project do not equal or exceed the expected repayment schedule for the loan;
- add requirements under Regulation .07 for publication and use of loan agreements, notes, and security agreements;
- specify loan agreement, security agreement, and note requirements under Regulation .07;
- authorize, rather than require, the administration to take specified factors into consideration when prioritizing loans for a fiscal year under Regulation .08; and
- add Regulation .18 to establish a credit enhancement authorization consistent with Chapter 348, including requirements for a bank or other financial institution offering financing enhanced by credit enhancement, eligibility requirements for applying for credit enhancement, application requirements, and factors the administration may consider when determining whether to offer a credit enhancement.

## **Legal Issue**

The regulations present no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The administration cites § 9-20A-04 of the State Government Article as authority for the regulations. Section 9-20A-04 requires the administration to (1) manage, supervise, and administer the Jane E. Lawton Conservation Loan Program; (2) adopt regulations to ensure that loans are provided only to projects that carry out the purpose of the program; (3) attach specific terms to any loan that are considered necessary to ensure that the purpose of the program is fulfilled; and (4) develop procedures for monitoring projects to assess whether the improvements or modification made by an eligible entity or business that had received a loan under the program have resulted in a measurable reduction in energy consumption. Additionally, § 9-20A-09 of the State Government Article, as enacted by Chapter 348 of 2014, authorizes the administration to use the Jane E. Lawton Conservation Fund to enhance credit financing offered by a bank or other financial institution for a project. Section 9-20A-09 also requires the administration to adopt regulations to carry out the section.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

## **Reason for Emergency Status**

The administration has requested emergency status from July 1, 2014 until August 29, 2014, to cover the period until final adoption of permanent nonemergency regulations. This emergency period is within normal timeframes approved by the committee. The administration indicates the emergency status is needed to be in compliance with the July 1, 2014 effective date of Chapter 348 of 2014.

## **Technical Corrections and Special Notes**

The Department of Legislative Services has notified the administration regarding several technical corrections that are needed. The administration has agreed to make several technical corrections.

## **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

## **Agency Estimate of Projected Fiscal Impact**

The Maryland Energy Administration advises that the regulations have no impact on State or local governments. The Department of Legislative Service concurs. The regulations generally implement Chapters 348 and 349 of 2014. The fiscal and policy notes for SB 875 and HB 1165 (enacted as Chapters 348 and 349) of 2014 indicate that the bills may allow for additional utilization of appropriated funding but are not anticipated to have a budgetary impact. The notes also indicate that special fund revenues may increase due to (1) collection of additional fees and (2) additional loan repayments in future years resulting from any increased spending. The regulations should not have any fiscal impact independent of the impacts included in the fiscal and policy notes for SB 875 and HB 1165.

## **Impact on Budget**

There is no impact on the State operating or capital budget.

## **Agency Estimate of Projected Small Business Impact**

The Maryland Energy Administration advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

## **Contact Information**

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