

HOUSE BILL 1301

C8, M3

8lr1496

CF 8lr2759

By: **Delegates Frick, McIntosh, Gutierrez, Waldstreicher, Carr, Ali, Barkley, Barve, Beidle, Benson, Bronrott, V. Clagett, Dumais, Feldman, Frush, Gilchrist, Healey, Heller, Hixson, Hucker, Kaiser, Kramer, Lee, Malone, Manno, McComas, Mizeur, Montgomery, Murphy, Nathan-Pulliam, Niemann, Reznik, Rice, Shewell, Simmons, Sossi, and Taylor**

Introduced and read first time: February 8, 2008

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **The Jane E. Lawton Loan Program**

3 FOR the purpose of establishing the Jane E. Lawton Conservation Loan Program;
4 establishing the Jane E. Lawton Conservation Fund to finance the Program;
5 consolidating certain programs administered by the Maryland Energy
6 Administration into the Program; consolidating certain funds into the Fund;
7 providing for the management and composition of the Fund; providing the
8 powers and duties of the Administration with respect to the Program; providing
9 that entities seeking loans under the Program comply with certain application
10 procedures; establishing the purposes for which loans made under the Program
11 may be used; providing that borrowers that receive loans under the Program
12 must document that the anticipated energy cost savings over a defined period
13 after the completion of the project funded by the loan are greater than the cost
14 of the project; providing for repayment of the loans; authorizing the
15 Administration to enter into contracts with third parties to make, service, or
16 sell loans under this Act; prohibiting false statements to be made in
17 applications for loans and providing certain penalties for entities that violate
18 the prohibition; defining certain terms; providing that certain assets, liabilities,
19 and obligations of the programs subject to repeal by this Act shall remain the
20 assets, liabilities, and obligations of the fund established by this Act; and
21 generally relating to the Jane E. Lawton Conservation Loan Program and
22 Conservation Fund.

23 BY repealing

24 Article – State Government

25 Section 9–20A–01 through 9–20A–09 and the subtitle “Subtitle 20A. Energy
26 Efficiency and Economic Development Loan Program”; and 9–2101

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 through 9-2109 and the subtitle “Subtitle 21. Community Energy Loan
2 Program”
3 Annotated Code of Maryland
4 (2004 Replacement Volume and 2007 Supplement)

5 BY adding to
6 Article – State Government
7 Section 9-20A-01 through 9-20A-09 to be under the new subtitle “Subtitle 20A.
8 Jane E. Lawton Conservation Loan Program”
9 Annotated Code of Maryland
10 (2004 Replacement Volume and 2007 Supplement)

11 Preamble

12 WHEREAS, Given current rates of energy consumption, Maryland may face
13 electricity shortages as early as 2011; and

14 WHEREAS, Consumption of energy, particularly energy created by fossil fuels,
15 is directly linked to emission of harmful pollutants that create health risks and
16 contribute to global warming; and

17 WHEREAS, Technology to reduce the consumption of energy and utilization of
18 fossil fuels by State agencies, municipalities, and the private sector does exist, but
19 implementing such technology requires significant capital expenditure; and

20 WHEREAS, The late Delegate Jane E. Lawton was a tireless advocate for
21 protection of our environment and long supported energy efficiency and conservation
22 measures; now, therefore,

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That Section(s) 9-20A-01 through 9-20A-09 and the subtitle “Subtitle
25 20A. Energy Efficiency and Economic Development Loan Program”; and Section(s)
26 9-2101 through 9-2109 and the subtitle “Subtitle 21. Community Energy Loan
27 Program” of Article – State Government of the Annotated Code of Maryland be
28 repealed.

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
30 read as follows:

31 Article – State Government

32 SUBTITLE 20A. THE JANE E. LAWTON CONSERVATION LOAN PROGRAM.

33 9-20A-01.

1 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (B) "ADMINISTRATION" MEANS THE MARYLAND ENERGY
4 ADMINISTRATION.

5 (C) "BORROWER" MEANS AN ELIGIBLE LOCAL JURISDICTION,
6 NONPROFIT ORGANIZATION, OR ELIGIBLE BUSINESS THAT APPLIES AND
7 QUALIFIES FOR A LOAN UNDER THIS PROGRAM.

8 (D) "ELIGIBLE BUSINESS" MEANS A COMMERCIAL ENTERPRISE OR
9 BUSINESS:

10 (1) THAT IS INCORPORATED IN THE STATE; OR

11 (2) WHOSE PRINCIPAL OWNERS ARE STATE RESIDENTS AND THE
12 BUSINESS OF WHICH IS PRINCIPALLY CARRIED OUT IN THE STATE.

13 (E) "ENERGY COST SAVINGS" MEANS THE ACTUAL REDUCTION IN
14 OPERATING EXPENSES RESULTING FROM THE IMPROVED ENERGY EFFICIENCY
15 GENERATED BY AN ENERGY CONSERVATION PROJECT FINANCED UNDER THE
16 PROGRAM.

17 (F) "FUND" MEANS THE JANE E. LAWTON CONSERVATION FUND.

18 (G) (1) "LOCAL JURISDICTION" MEANS ANY COUNTY OR
19 MUNICIPALITY OF THE STATE.

20 (2) "LOCAL JURISDICTION" INCLUDES A BOARD OF EDUCATION
21 OF A COUNTY OR MUNICIPALITY.

22 (H) "MUNICIPALITY" MEANS ANY MUNICIPAL CORPORATION IN THE
23 STATE THAT IS SUBJECT TO THE PROVISIONS OF ARTICLE XI-E OF THE
24 MARYLAND CONSTITUTION OR ANY DULY AUTHORIZED AGENCY OR
25 INSTRUMENTALITY OF THE MUNICIPALITY.

26 (I) "NONPROFIT ORGANIZATION" MEANS A CORPORATION,
27 FOUNDATION, SCHOOL, HOSPITAL, OR OTHER LEGAL ENTITY, NO PART OF THE
28 NET EARNINGS OF WHICH INURE TO THE BENEFIT OF ANY PRIVATE
29 SHAREHOLDER OR INDIVIDUAL HOLDING AN INTEREST IN THE ENTITY.

30 (J) "PROGRAM" MEANS THE JANE E. LAWTON CONSERVATION LOAN
31 PROGRAM.

1 **(K) (1) "PROJECT" MEANS ONE OR MORE IMPROVEMENTS OR**
2 **MODIFICATIONS THAT ENHANCE THE ENERGY EFFICIENCY AND REDUCE THE**
3 **OPERATING EXPENSES OF A STRUCTURE.**

4 **(2) "PROJECT" INCLUDES START-UP OPPORTUNITIES FOR NEW**
5 **BUSINESSES IF THE LOAN WOULD ENHANCE THE ENERGY EFFICIENCY OF THE**
6 **BORROWER'S BUSINESS.**

7 **(3) "PROJECT" DOES NOT INCLUDE IMPROVEMENTS OR**
8 **MODIFICATIONS FOR ENERGY CONSERVATION IN STRUCTURES USED PRIMARILY**
9 **FOR RELIGIOUS OR FRATERNAL ACTIVITIES.**

10 **9-20A-02.**

11 **THERE IS A JANE E. LAWTON CONSERVATION LOAN PROGRAM IN THE**
12 **ADMINISTRATION.**

13 **9-20A-03.**

14 **THE PURPOSE OF THE PROGRAM IS TO PROVIDE FINANCIAL ASSISTANCE**
15 **IN THE FORM OF LOW INTEREST LOANS TO NONPROFIT ORGANIZATIONS, LOCAL**
16 **JURISDICTIONS, AND ELIGIBLE BUSINESSES FOR PROJECTS IN ORDER TO:**

17 **(1) PROMOTE ENERGY CONSERVATION;**

18 **(2) REDUCE CONSUMPTION OF FOSSIL FUELS;**

19 **(3) IMPROVE ENERGY EFFICIENCY; AND**

20 **(4) ENHANCE ENERGY-RELATED ECONOMIC DEVELOPMENT AND**
21 **STABILITY IN BUSINESS, COMMERCIAL, AND INDUSTRIAL SECTORS.**

22 **9-20A-04.**

23 **THE ADMINISTRATION SHALL:**

24 **(1) MANAGE, SUPERVISE, AND ADMINISTER THE PROGRAM;**

25 **(2) ADOPT REGULATIONS TO ENSURE THAT LOANS ARE PROVIDED**
26 **ONLY TO PROJECTS THAT CARRY OUT THE PURPOSE OF THE PROGRAM;**

27 **(3) ATTACH SPECIFIC TERMS TO ANY LOAN THAT ARE**
28 **CONSIDERED NECESSARY TO ENSURE THAT THE PURPOSE OF THE PROGRAM IS**
29 **FULFILLED; AND**

1 (4) DEVELOP PROCEDURES FOR MONITORING PROJECTS TO
2 ASSESS WHETHER THE IMPROVEMENTS OR MODIFICATIONS MADE BY AN
3 ELIGIBLE ENTITY OR BUSINESS THAT HAD RECEIVED A LOAN UNDER THE
4 PROGRAM HAVE RESULTED IN A MEASURABLE REDUCTION IN ENERGY
5 CONSUMPTION.

6 **9-20A-05.**

7 (A) (1) TO RECEIVE A LOAN UNDER THE PROGRAM, A BORROWER
8 MUST FILE AN APPLICATION WITH THE ADMINISTRATION.

9 (2) IF THE BORROWER IS AN ELIGIBLE BUSINESS, THE
10 APPLICATION MUST BE SIGNED BY THE CHIEF OPERATING OFFICER OR AN
11 AUTHORIZED OFFICER OF THE BUSINESS.

12 (3) IF THE BORROWER IS A LOCAL JURISDICTION, THE
13 APPLICATION MUST BE SIGNED BY THE CHIEF ELECTED OFFICER OF THE
14 COUNTY OR MUNICIPALITY, OR IF NONE, BY THE GOVERNING BODY OF THE
15 COUNTY OR MUNICIPALITY IN WHICH THE PROJECT IS LOCATED.

16 (4) IF THE BORROWER IS A PUBLIC SCHOOL, THE APPLICATION
17 MUST BE SIGNED BY THE BOARD OF EDUCATION OF THE COUNTY IN WHICH THE
18 PROJECT IS LOCATED.

19 (B) THE APPLICATION SHALL CONTAIN ANY INFORMATION THE
20 ADMINISTRATION DETERMINES IS NECESSARY, INCLUDING:

21 (1) THE PROJECTED COST TO ACCOMPLISH A PROPOSED
22 PROJECT;

23 (2) IF APPLICABLE, THE AMOUNT OF ENERGY OR FUEL A
24 PROPOSED PROJECT IS EXPECTED TO SAVE OVER A DEFINED PERIOD OF TIME
25 AFTER COMPLETION OF THE PROJECT;

26 (3) THE ANTICIPATED ENVIRONMENTAL BENEFITS IN THE FORM
27 OF REDUCED EMISSIONS OR POLLUTION ATTRIBUTABLE TO THE PROPOSED
28 PROJECT;

29 (4) THE AMOUNT OF COST SAVINGS EXPECTED TO BE GENERATED
30 OVER A DEFINED PERIOD OF TIME AFTER COMPLETION OF THE PROPOSED
31 PROJECT;

1 **(5) A DESCRIPTION OF THE BORROWER'S CONTRIBUTION TO A**
2 **PROPOSED PROJECT AS REQUIRED BY § 9-20A-06 OF THIS SUBTITLE; AND**

3 **(6) ANY ADDITIONAL INFORMATION RELATING TO THE**
4 **BORROWER OR THE PROPOSED PROJECT THAT MAY BE REQUIRED BY THE**
5 **ADMINISTRATION IN ORDER TO ADMINISTER THE PROGRAM.**

6 **9-20A-06.**

7 **(A) LOANS FROM THE FUND MAY BE USED FOR:**

8 **(1) THE COSTS OF IMPLEMENTING PROJECTS, INCLUDING THE**
9 **COSTS OF ALL NECESSARY:**

10 **(I) TECHNICAL ASSESSMENTS;**

11 **(II) STUDIES;**

12 **(III) SURVEYS;**

13 **(IV) PLANS AND SPECIFICATIONS; AND**

14 **(V) START-UP, ARCHITECTURAL, ENGINEERING, OR OTHER**
15 **SPECIAL SERVICES;**

16 **(2) THE COSTS OF PROCURING NECESSARY TECHNOLOGY,**
17 **EQUIPMENT, LICENSES, OR MATERIALS; AND**

18 **(3) THE COSTS OF CONSTRUCTION, REHABILITATION, OR**
19 **MODIFICATION, INCLUDING THE PURCHASE AND INSTALLATION OF ANY**
20 **NECESSARY MACHINERY, EQUIPMENT, OR FURNISHINGS.**

21 **(B) EACH BORROWER SHALL MAKE A CONTRIBUTION TO A PROJECT**
22 **THAT IS OF A TYPE AND AMOUNT ACCEPTABLE TO THE ADMINISTRATION.**

23 **(C) IF THE SOLE OR PRIMARY PURPOSE OF THE PROJECT IS TO REDUCE**
24 **ENERGY CONSUMPTION, THE BORROWER MUST DOCUMENT THAT THE**
25 **ANTICIPATED ENERGY COST SAVINGS OVER A DEFINED PERIOD AFTER THE**
26 **COMPLETION OF THE PROJECT ARE GREATER THAN THE COST OF THE PROJECT.**

27 **(D) LOANS MADE UNDER THE PROGRAM SHALL:**

1 (1) BE REPAYABLE BY THE BORROWER FROM SPECIFIED
2 REVENUES THAT MAY INCLUDE THE ENERGY COST SAVINGS GENERATED BY A
3 PROJECT;

4 (2) BEAR INTEREST AT A RATE THAT THE ADMINISTRATION
5 DETERMINES TO BE NECESSARY AND REASONABLE FOR THE PROJECT; AND

6 (3) BE REPAYABLE IN ACCORDANCE WITH A SCHEDULE THAT THE
7 ADMINISTRATION SETS, WHICH MAY BE ON A DEFERRED PAYMENT BASIS.

8 (E) (1) A BORROWER SHALL PROVIDE ASSURANCES FOR THE
9 REPAYMENT OF A LOAN.

10 (2) THE ASSURANCES:

11 (I) SHALL INCLUDE A PROMISSORY NOTE; AND

12 (II) MAY INCLUDE SUPERIOR OR SUBORDINATE MORTGAGE
13 LIENS, GUARANTEES OF REPAYMENT, OR OTHER FORMS OF COLLATERAL.

14 (F) LOANS MAY BE MADE IN CONJUNCTION WITH, OR IN ADDITION TO,
15 FINANCIAL ASSISTANCE PROVIDED THROUGH OTHER STATE OR FEDERAL
16 PROGRAMS.

17 **9-20A-07.**

18 (A) THERE IS A JANE E. LAWTON CONSERVATION FUND.

19 (B) THE ADMINISTRATION SHALL ADMINISTER THE FUND.

20 (C) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
21 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

22 (2) THE STATE TREASURER SHALL HOLD THE FUND AND THE
23 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

24 (D) THE FUND CONSISTS OF:

25 (1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE
26 PROGRAM, INCLUDING MONEY APPROPRIATED TO THE ENERGY OVERCHARGE
27 RESTITUTION FUND;

28 (2) MONEY RECEIVED FROM ANY PUBLIC OR PRIVATE SOURCE;

1 (3) **INTEREST AND INVESTMENT EARNINGS ON THE FUND; AND**

2 (4) **REPAYMENTS AND PREPAYMENTS OF PRINCIPAL AND**
3 **INTEREST ON LOANS MADE FROM THE FUND.**

4 **(E) THE FUND MAY BE USED ONLY:**

5 (1) **TO PAY THE EXPENSES OF THE PROGRAM; AND**

6 (2) **TO PROVIDE LOANS TO ELIGIBLE BORROWERS AND PROJECTS.**

7 **(F) (1) THE STATE TREASURER SHALL INVEST AND REINVEST THE**
8 **MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE**
9 **INVESTED.**

10 (2) **ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID**
11 **INTO THE FUND.**

12 (3) **ANY REPAYMENT OF PRINCIPAL AND INTEREST ON LOANS**
13 **MADE FROM THE FUND SHALL BE PAID INTO THE FUND.**

14 **(G) (1) THE ADMINISTRATION SHALL ANNUALLY RESERVE A**
15 **PORTION OF THE MONEY FROM THE FUND THAT IS AVAILABLE FOR FINANCIAL**
16 **ASSISTANCE UNDER THE PROGRAM FOR LOANS TO NONPROFIT**
17 **ORGANIZATIONS.**

18 (2) **IN A FISCAL YEAR IN WHICH REQUESTS FOR FINANCIAL**
19 **ASSISTANCE FROM NONPROFIT ORGANIZATIONS ARE LESS THAN THE AMOUNT**
20 **OF MONEY RESERVED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE**
21 **ADMINISTRATION MAY MAKE THE UNENCUMBERED OR NONCOMMITTED**
22 **PORTION OF THE RESERVE AVAILABLE TO OTHER BORROWERS IN THE**
23 **PROGRAM.**

24 **9-20A-08.**

25 **THE ADMINISTRATION MAY ENTER INTO CONTRACTS WITH THIRD**
26 **PARTIES TO MAKE, SERVICE, OR SETTLE LOANS MADE UNDER THIS SUBTITLE.**

27 **9-20A-09.**

28 **(A) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE ANY**
29 **FALSE STATEMENT OR REPORT IN ANY DOCUMENT REQUIRED TO BE FURNISHED**
30 **TO THE ADMINISTRATION BY ANY AGREEMENT RELATING TO FINANCIAL**
31 **ASSISTANCE.**

1 **(B) A PERSON APPLYING FOR FINANCIAL ASSISTANCE MAY NOT**
2 **KNOWINGLY MAKE OR CAUSE TO BE MADE ANY FALSE STATEMENT FOR THE**
3 **PURPOSE OF INFLUENCING ANY ACTION OF THE ADMINISTRATION ON AN**
4 **APPLICATION FOR FINANCIAL ASSISTANCE OR FOR THE PURPOSE OF**
5 **INFLUENCING ANY ACTION OF THE ADMINISTRATION AFFECTING FINANCIAL**
6 **ASSISTANCE ALREADY PROVIDED.**

7 **(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
8 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING**
9 **\$50,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.**

10 SECTION 3. AND BE IT FURTHER ENACTED, That:

11 (a) the assets, liabilities, and obligations of the Community Energy Loan
12 Program and the Energy Efficiency and Economic Development Loan Program, as
13 repealed by Section 1 of this Act, are continued as the assets, liabilities, and
14 obligations of the Jane E. Lawton Conservation Loan Program enacted by Section 2 of
15 this Act; and

16 (b) any loan transacted under the Community Energy Loan Program and the
17 Energy Efficiency and Economic Development Loan Program, as repealed by Section 1
18 of this Act, that was made on or before the effective date of this Act shall remain valid
19 after the effective date of this Act and may be terminated, completed, consummated,
20 or enforced as required or allowed under the Jane E. Lawton Conservation Loan
21 Program, as enacted by Section 2 this Act, as though the repeal had not occurred.

22 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 July 1, 2008.