

# SENATE BILL 885

C8, M3

8lr2759  
CF HB 1301

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By: **Senators Madaleno, Forehand, Garagiola, Jones, King, and Lenett**

Introduced and read first time: February 15, 2008

Assigned to: Rules

Re-referred to: Finance, February 22, 2008

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 2008

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## CHAPTER \_\_\_\_\_

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

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 9–20A–01 through 9–20A–09 and the subtitle “Subtitle 20A. Energy  
2 Efficiency and Economic Development Loan Program”; and 9–2101  
3 through 9–2109 and the subtitle “Subtitle 21. Community Energy Loan  
4 Program”  
5 Annotated Code of Maryland  
6 (2004 Replacement Volume and 2007 Supplement)

7 BY adding to  
8 Article – State Government  
9 Section 9–20A–01 through 9–20A–09 to be under the new subtitle “Subtitle 20A.  
10 Jane E. Lawton Conservation Loan Program”  
11 Annotated Code of Maryland  
12 (2004 Replacement Volume and 2007 Supplement)

13 Preamble

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

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

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

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

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

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

33 **Article – State Government**

34 **SUBTITLE 20A. THE JANE E. LAWTON CONSERVATION LOAN PROGRAM.**

35 **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;**

1           (3) ATTACH SPECIFIC TERMS TO ANY LOAN THAT ARE  
2 CONSIDERED NECESSARY TO ENSURE THAT THE PURPOSE OF THE PROGRAM IS  
3 FULFILLED; AND

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

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

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

12           (2) IF THE BORROWER IS AN ELIGIBLE BUSINESS, THE  
13 APPLICATION MUST BE SIGNED BY THE CHIEF OPERATING OFFICER OR AN  
14 AUTHORIZED OFFICER OF THE BUSINESS.

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

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

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

24           (1) THE PROJECTED COST TO ACCOMPLISH A PROPOSED  
25 PROJECT;

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

29           (3) THE ANTICIPATED ENVIRONMENTAL BENEFITS IN THE FORM  
30 OF REDUCED EMISSIONS OR POLLUTION ATTRIBUTABLE TO THE PROPOSED  
31 PROJECT;

1           (4) THE AMOUNT OF COST SAVINGS EXPECTED TO BE GENERATED  
2 OVER A DEFINED PERIOD OF TIME AFTER COMPLETION OF THE PROPOSED  
3 PROJECT;

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

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

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

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

11               (1) THE COSTS OF IMPLEMENTING PROJECTS, INCLUDING THE  
12 COSTS OF ALL NECESSARY:

13                       (I) TECHNICAL ASSESSMENTS;

14                       (II) STUDIES;

15                       (III) SURVEYS;

16                       (IV) PLANS AND SPECIFICATIONS; AND

17                       (V) START-UP, ARCHITECTURAL, ENGINEERING, OR OTHER  
18 SPECIAL SERVICES;

19               (2) THE COSTS OF PROCURING NECESSARY TECHNOLOGY,  
20 EQUIPMENT, LICENSES, OR MATERIALS; AND

21               (3) THE COSTS OF CONSTRUCTION, REHABILITATION, OR  
22 MODIFICATION, INCLUDING THE PURCHASE AND INSTALLATION OF ANY  
23 NECESSARY MACHINERY, EQUIPMENT, OR FURNISHINGS.

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

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

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

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

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

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

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

11                   (2)    **THE ASSURANCES:**

12                           (I)    **SHALL INCLUDE A PROMISSORY NOTE; AND**

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

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

18   **9-20A-07.**

19           (A)    **THERE IS A JANE E. LAWTON CONSERVATION FUND.**

20           (B)    **THE ADMINISTRATION SHALL ADMINISTER THE FUND.**

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

23                   (2)    **THE STATE TREASURER SHALL HOLD THE FUND AND THE**  
24 **COMPROLLER SHALL ACCOUNT FOR THE FUND.**

25           (D)    **THE FUND CONSISTS OF:**

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

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

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

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

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

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

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

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

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

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

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

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

25   **9-20A-08.**

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

28   **9-20A-09.**

29           **(A)    A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE ANY**  
30 **FALSE STATEMENT OR REPORT IN ANY DOCUMENT REQUIRED TO BE FURNISHED**



1 TO THE ADMINISTRATION BY ANY AGREEMENT RELATING TO FINANCIAL  
2 ASSISTANCE.

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

9 (C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A  
10 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING  
11 \$50,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

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

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

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

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.