

HOUSE BILL 1442

C8, C5

9lr2696

By: **Delegates Walkup, Feldman, Frank, Haddaway, Hecht, McComas, McConkey, Myers, Norman, Riley, Shewell, Smigiel, Sophocleus, and Sossi**

Introduced and read first time: February 26, 2009

Assigned to: Rules and Executive Nominations

Re-referred to: Economic Matters, March 9, 2009

Committee Report: Favorable

House action: Adopted

Read second time: March 23, 2009

CHAPTER _____

1 AN ACT concerning

2 **Jane E. Lawton Conservation Fund – Renewable Energy Projects**

3 FOR the purpose of expanding the purposes of the Jane E. Lawton Conservation Fund
4 to include support of certain renewable energy projects by certain entities;
5 altering the local jurisdictions that may be eligible to receive a loan from the
6 Fund for certain purposes; authorizing certain loans to be deposited in certain
7 funds under certain circumstances; authorizing a local jurisdiction to trade
8 certain electricity on a certain energy market under certain circumstances;
9 defining and altering certain terms; and generally relating to the Jane E.
10 Lawton Conservation Fund and renewable energy infrastructure loans.

11 BY repealing and reenacting, with amendments,
12 Article – State Government
13 Section 9–20A–01, 9–20A–03, 9–20A–06, and 9–20A–09
14 Annotated Code of Maryland
15 (2004 Replacement Volume and 2008 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article – State Government
18 Section 9–20A–02, 9–20A–04, 9–20A–05, 9–20A–07, and 9–20A–08
19 Annotated Code of Maryland
20 (2004 Replacement Volume and 2008 Supplement)

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 BY adding to
2 Article – State Government
3 Section 9–20A–09
4 Annotated Code of Maryland
5 (2004 Replacement Volume and 2008 Supplement)

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

8 **Article – State Government**

9 9–20A–01.

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

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

12 (c) “Borrower” means an eligible local jurisdiction, nonprofit organization, or
13 eligible business that applies and qualifies for a loan under this Program.

14 (d) “Eligible business” means a commercial enterprise or business:

15 (1) that is incorporated in the State; or

16 (2) whose principal owners are State residents and the business of
17 which is principally carried out in the State.

18 (e) “Energy cost savings” means the actual reduction in operating expenses
19 resulting from the improved energy efficiency generated by an energy conservation
20 project financed under the Program.

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

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

23 (2) “Local jurisdiction” includes:

24 (I) a board of education of a county or municipality;

25 (II) **A SPECIAL DISTRICT THAT IS ESTABLISHED BY STATE**
26 **LAW AND THAT OPERATES WITHIN A SINGLE COUNTY;**

27 (III) **A SPECIAL DISTRICT THAT IS ESTABLISHED BY A**
28 **COUNTY UNDER PUBLIC GENERAL LAW; AND**

1 (IV) AN OFFICE, BOARD, OR DEPARTMENT THAT IS
2 ESTABLISHED IN A COUNTY UNDER STATE LAW AND THAT IS FUNDED, UNDER
3 STATE LAW, AT LEAST IN PART BY THE COUNTY GOVERNING BODY.

4 (h) "Municipality" means any municipal corporation in the State that is
5 subject to the provisions of Article XI-E of the Maryland Constitution or any duly
6 authorized agency or instrumentality of the municipality.

7 (i) "Nonprofit organization" means a corporation, foundation, school,
8 hospital, or other legal entity, no part of the net earnings of which inure to the benefit
9 of any private shareholder or individual holding an interest in the entity.

10 (j) "Program" means the Jane E. Lawton Conservation Loan Program.

11 (k) (1) "Project" means:

12 (I) one or more improvements or modifications that enhance the
13 energy efficiency and reduce the operating expenses of a structure; OR

14 (II) INSTALLATION OF INFRASTRUCTURE FOR RENEWABLE
15 ENERGY GENERATION BY LOCAL JURISDICTIONS AND NONPROFIT
16 ORGANIZATIONS.

17 (2) "Project" includes:

18 (I) start-up opportunities for new businesses if the loan would
19 enhance the energy efficiency of the borrower's business;

20 (II) INSTALLATION OF EQUIPMENT TO MAKE BUILDINGS
21 SELF-SUSTAINING AND OF EMERGENCY GENERATING UNITS THAT USE
22 RENEWABLE ENERGY RESOURCES; AND

23 (III) IMPLEMENTATION OF METHANE REMOVAL AT
24 LANDFILLS.

25 (3) "Project" does not include improvements or modifications for
26 energy conservation OR RENEWABLE ENERGY GENERATION in structures used
27 primarily for religious or fraternal activities.

28 (L) "RENEWABLE ENERGY RESOURCE" HAS THE MEANING STATED IN §
29 1-101 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

30 9-20A-02.

31 There is a Jane E. Lawton Conservation Loan Program in the Administration.

1 9–20A–03.

2 The purpose of the Program is to provide financial assistance in the form of low
3 interest loans to nonprofit organizations, local jurisdictions, and eligible businesses for
4 projects in order to:

5 (1) promote:

6 (I) energy conservation;

7 (II) **THE DEVELOPMENT AND USE OF RENEWABLE ENERGY**
8 **RESOURCES IN THE STATE;**

9 (III) **SELF–SUSTAINING BUILDINGS AND EMERGENCY**
10 **GENERATING UNITS THAT USE RENEWABLE ENERGY RESOURCES; AND**

11 (IV) **THE INFRASTRUCTURE FOR RENEWABLE ENERGY**
12 **GENERATION IN THE STATE;**

13 (2) reduce consumption of fossil fuels;

14 (3) improve energy efficiency; and

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

17 9–20A–04.

18 The Administration shall:

19 (1) manage, supervise, and administer the Program;

20 (2) adopt regulations to ensure that loans are provided only to projects
21 that carry out the purpose of the Program;

22 (3) attach specific terms to any loan that are considered necessary to
23 ensure that the purpose of the Program is fulfilled; and

24 (4) develop procedures for monitoring projects to assess whether the
25 improvements or modifications made by an eligible entity or business that had
26 received a loan under the Program have resulted in a measurable reduction in energy
27 consumption.

28 9–20A–05.

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

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

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

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

9 (c) If the sole or primary purpose of the project is to reduce energy
10 consumption, the borrower must document that the anticipated energy cost savings
11 over a defined period after the completion of the project are greater than the cost of
12 the project.

13 (d) Loans made under the Program shall:

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

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

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

20 (e) (1) A borrower shall provide assurances for the repayment of a loan.

21 (2) The assurances:

22 (i) shall include a promissory note; and

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

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

27 **(G) (1) A LOAN UNDER THE FUND MAY BE DEPOSITED INTO A**
28 **REVOLVING LOAN FUND OF A COUNTY'S ECONOMIC DEVELOPMENT COMMISSION**
29 **IF THE COUNTY APPROVES THE TRANSACTION AND PROJECT FOR THE LOCAL**
30 **JURISDICTION.**

1 **(2) IF A COUNTY ACCEPTS A LOAN UNDER PARAGRAPH (1) OF**
2 **THIS SUBSECTION, THE FUNDS DEPOSITED FROM THE FUND MAY BE USED ONLY**
3 **FOR PURPOSES OF PROVIDING CAPITAL FOR RENEWABLE ENERGY**
4 **INFRASTRUCTURE PROJECTS UNDER THIS SUBTITLE.**

5 9-20A-07.

6 (a) There is a Jane E. Lawton Conservation Fund.

7 (b) The Administration shall administer the Fund.

8 (c) (1) The Fund is a special, nonlapsing fund that is not subject to §
9 7-302 of the State Finance and Procurement Article.

10 (2) The State Treasurer shall hold the Fund and the Comptroller shall
11 account for the Fund.

12 (d) The Fund consists of:

13 (1) money appropriated in the State budget to the Program;

14 (2) money received from any public or private source;

15 (3) interest and investment earnings on the Fund; and

16 (4) repayments and prepayments of principal and interest on loans
17 made from the Fund.

18 (e) The Fund may be used only:

19 (1) to pay the expenses of the Program; and

20 (2) to provide loans to eligible borrowers and projects.

21 (f) (1) The State Treasurer shall invest and reinvest the money of the
22 Fund in the same manner as other State money may be invested.

23 (2) Any investment earnings of the Fund shall be paid into the Fund.

24 (3) Any repayment of principal and interest on loans made from the
25 Fund shall be paid into the Fund.

26 (g) (1) The Administration shall annually reserve a portion of the money
27 from the Fund that is available for financial assistance under the Program for loans to
28 nonprofit organizations.

1 (2) In a fiscal year in which requests for financial assistance from
2 nonprofit organizations are less than the amount of money reserved under paragraph
3 (1) of this subsection, the Administration may make the unencumbered or
4 noncommitted portion of the reserve available to other borrowers in the Program.

5 9-20A-08.

6 The Administration may enter into contracts with third parties to make,
7 service, or settle loans made under this subtitle.

8 **9-20A-09.**

9 **(A) A PROJECT IMPLEMENTED BY A LOCAL JURISDICTION FINANCED BY**
10 **A LOAN FROM THE FUND, SUCH AS A SELF-SUSTAINING EMERGENCY**
11 **GENERATING UNIT, THAT GENERATES ELECTRICITY IN EXCESS OF THE AMOUNT**
12 **NEEDED FOR SUSTAINING THE UNIT MAY OFFER THE EXTRA ELECTRICITY FOR**
13 **TRADE THROUGH MARKETS OPERATED BY PJM INTERCONNECTION, LLC.**

14 **(B) A LOCAL JURISDICTION THAT TRADES ELECTRICITY UNDER**
15 **SUBSECTION (A) OF THIS SECTION SHALL USE THE PROCEEDS TO REPAY ITS**
16 **LOAN OBLIGATIONS UNDER THIS SUBTITLE.**

17 **[9-20A-09.] 9-20A-10.**

18 (a) A person may not knowingly make or cause to be made any false
19 statement or report in any document required to be furnished to the Administration by
20 any agreement relating to financial assistance.

21 (b) A person applying for financial assistance may not knowingly make or
22 cause to be made any false statement for the purpose of influencing any action of the
23 Administration on an application for financial assistance or for the purpose of
24 influencing any action of the Administration affecting financial assistance already
25 provided.

26 (c) A person who violates this section is guilty of a misdemeanor and on
27 conviction is subject to a fine not exceeding \$50,000 or imprisonment not exceeding 1
28 year or both.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 July 1, 2009.