

HOUSE BILL 1567

L6, M3, C5

(9lr3103)

ENROLLED BILL

—Economic Matters / Finance and Budget and Taxation—

Introduced by ~~Delegate Hecht~~ **Delegates Hecht, Barkley, Braveboy, Burns, Feldman, Haddaway, Harrison, Impallaria, Jameson, King, Kirk, Krysiak, Love, Manno, Mathias, McHale, Minnick, Rudolph, Stifler, Taylor, Vaughn, and Walkup**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Clean Energy Loan Programs**

3 FOR the purpose of authorizing certain political subdivisions to enact an ordinance or
4 a resolution establishing a Clean Energy Loan Program for a certain purpose;
5 requiring the Program to require a property owner to repay a certain loan
6 through a surcharge on the owner's property tax bill; *requiring the surcharge to*
7 *be limited to a certain amount*; providing that a person who acquires property
8 subject to a certain surcharge assumes the obligation to pay the surcharge;
9 ~~providing that a certain surcharge constitutes a lien on certain property~~;
10 requiring a certain local law to provide for certain eligibility requirements for
11 participation in the Program and certain loan terms and conditions; authorizing
12 a political subdivision to issue bonds for a certain purpose; establishing

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.

Italics indicate opposite chamber / conference committee amendments.



1 procedures for the issuance of certain bonds; authorizing a certain political
 2 subdivision to make certain specifications when issuing certain bonds; stating
 3 the intent of the General Assembly; requiring certain bonds to be subject to
 4 certain requirements and limitations under certain circumstances; ~~requiring~~
 5 ~~that a certain county may not issue certain bonds unless the amount of the~~
 6 ~~bonds is first authorized by the General Assembly;~~ providing for the terms and
 7 conditions of certain bonds; providing for a certain exemption from certain taxes
 8 under certain circumstances; providing that a finding by a political subdivision
 9 for certain purposes is conclusive as to certain matters under certain
 10 circumstances; defining certain terms; and generally relating to the Clean
 11 Energy Loan Programs.

12 BY adding to
 13 Article 24 – Political Subdivisions – Miscellaneous Provisions
 14 Section 9–1501 through 9–1507 to be under the new subtitle “Subtitle 15. Clean
 15 Energy Loan Programs”
 16 Annotated Code of Maryland
 17 (2005 Replacement Volume and 2008 Supplement)

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

20 **Article 24 – Political Subdivisions – Miscellaneous Provisions**

21 **SUBTITLE 15. CLEAN ENERGY LOAN PROGRAMS.**

22 **9–1501.**

23 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 24 INDICATED.

25 (B) “BOND” MEANS A BOND, NOTE, OR OTHER SIMILAR INSTRUMENT
 26 THAT A POLITICAL SUBDIVISION ISSUES UNDER THIS SUBTITLE.

27 (C) “CHIEF EXECUTIVE” MEANS THE PRESIDENT, CHAIR, MAYOR,
 28 COUNTY EXECUTIVE, OR ANY OTHER CHIEF EXECUTIVE OFFICER OF A
 29 POLITICAL SUBDIVISION.

30 (D) “POLITICAL SUBDIVISION” MEANS A COUNTY OR MUNICIPAL
 31 CORPORATION.

32 (E) “PROGRAM” MEANS A CLEAN ENERGY LOAN PROGRAM.

33 **9–1502.**

1 (A) A POLITICAL SUBDIVISION MAY ENACT AN ORDINANCE OR A
2 RESOLUTION ESTABLISHING A CLEAN ENERGY LOAN PROGRAM.

3 (B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE LOANS TO:
4 ~~RESIDENTIAL~~

5 (1) RESIDENTIAL PROPERTY OWNERS, INCLUDING LOW INCOME
6 RESIDENTIAL PROPERTY OWNERS, FOR THE FINANCING OF ENERGY EFFICIENCY
7 AND RENEWABLE ENERGY PROJECTS; AND

8 (2) COMMERCIAL PROPERTY OWNERS FOR THE FINANCING OF:

9 (I) ENERGY EFFICIENCY PROJECTS; AND

10 (II) RENEWABLE ENERGY PROJECTS WITH AN ELECTRIC
11 GENERATING CAPACITY OF NOT MORE THAN 100 KILOWATTS.

12 (C) (1) THE PROGRAM SHALL REQUIRE A PROPERTY OWNER TO
13 REPAY A LOAN PROVIDED UNDER THE PROGRAM THROUGH A SURCHARGE ON
14 THE OWNER'S PROPERTY TAX BILL.

15 (2) A SURCHARGE SHALL BE LIMITED TO AN AMOUNT THAT
16 ALLOWS THE POLITICAL SUBDIVISION TO RECOVER THE COSTS ASSOCIATED
17 WITH ISSUING BONDS TO FINANCE THE LOAN AND COSTS ASSOCIATED WITH
18 ADMINISTERING THE PROGRAM.

19 (D) A PERSON WHO ACQUIRES PROPERTY SUBJECT TO A SURCHARGE
20 UNDER THIS SECTION, WHETHER BY PURCHASE OR OTHER MEANS, ASSUMES
21 THE OBLIGATION TO PAY THE SURCHARGE.

22 (E) ~~A SURCHARGE UNDER THIS SECTION, INCLUDING ANY INTEREST~~
23 ~~AND PENALTIES, CONSTITUTES A LIEN AGAINST THE PROPERTY.~~

24 ~~(F)~~ (1) AN ORDINANCE OR RESOLUTION ENACTED UNDER
25 SUBSECTION (A) OF THIS SECTION SHALL PROVIDE FOR:

26 ~~(1)~~ (1) ELIGIBILITY REQUIREMENTS FOR PARTICIPATION IN
27 THE PROGRAM, INCLUDING ELIGIBILITY REQUIREMENTS FOR:

28 ~~(1)~~ 1. ENERGY EFFICIENCY IMPROVEMENTS AND
29 RENEWABLE ENERGY DEVICES; AND

30 ~~(2)~~ 2. PROPERTY AND PROPERTY OWNERS; AND

1 ~~(2)~~ **(II)** **LOAN TERMS AND CONDITIONS.**

2 **(2)** **ELIGIBILITY REQUIREMENTS UNDER PARAGRAPH (1) OF THIS**
3 **SUBSECTION SHALL INCLUDE A REQUIREMENT THAT THE POLITICAL**
4 **SUBDIVISION, IN A MANNER SUBSTANTIALLY SIMILAR TO THAT REQUIRED FOR A**
5 **MORTGAGE LOAN UNDER §§ 12-127, 12-311, 12-409.1, 12-925, AND 12-1029 OF**
6 **THE COMMERCIAL LAW ARTICLE, GIVE DUE REGARD TO THE PROPERTY**
7 **OWNER'S ABILITY TO REPAY A LOAN PROVIDED UNDER THE PROGRAM.**

8 **9-1503.**

9 **(A)** **A POLITICAL SUBDIVISION MAY ISSUE BONDS FOR THE PURPOSE OF**
10 **FINANCING LOANS MADE THROUGH THE PROGRAM.**

11 **(B)** **TO ISSUE A BOND, A POLITICAL SUBDIVISION SHALL ADOPT AN**
12 **ORDINANCE OR A RESOLUTION THAT SPECIFIES THE MAXIMUM PRINCIPAL**
13 **AMOUNT OF THE BOND.**

14 **(C)** **AS THE POLITICAL SUBDIVISION CONSIDERS APPROPRIATE TO**
15 **EFFECT THE PROGRAM, THE ORDINANCE OR RESOLUTION MAY:**

16 **(1)** **SPECIFY THE ITEMS LISTED IN SUBSECTION (D) OF THIS**
17 **SECTION;**

18 **(2)** **AUTHORIZE THE FINANCE BOARD OF THE POLITICAL**
19 **SUBDIVISION TO SPECIFY THOSE ITEMS BY RESOLUTION OR ORDINANCE; OR**

20 **(3)** **AUTHORIZE THE CHIEF EXECUTIVE OF THE POLITICAL**
21 **SUBDIVISION TO SPECIFY THOSE ITEMS BY EXECUTIVE ORDER.**

22 **(D)** **FOR EACH ISSUANCE OF A BOND, THE POLITICAL SUBDIVISION MAY**
23 **SPECIFY:**

24 **(1)** **THE PRINCIPAL AMOUNT;**

25 **(2)** **THE INTEREST RATE OR, FOR FLOATING OR VARIABLE RATES**
26 **OF INTEREST, THE METHOD TO DETERMINE THE INTEREST RATE;**

27 **(3)** **THE MANNER AND TERMS OF SALE, INCLUDING WHETHER BY**
28 **COMPETITIVE OR NEGOTIATED SALE;**

29 **(4)** **THE TIME OF EXECUTION, ISSUANCE, AND DELIVERY;**

30 **(5)** **THE FORM AND DENOMINATION;**

1 (6) THE SOURCE, MANNER, TIMES, AND PLACES TO PAY
2 PRINCIPAL OR INTEREST;

3 (7) CONDITIONS FOR REDEMPTION BEFORE MATURITY;

4 (8) THE PURPOSES FOR WHICH PROCEEDS MAY BE SPENT;

5 (9) THE SOURCE OF SECURITY; AND

6 (10) OTHER PROVISIONS THAT THE GOVERNING BODY OF THE
7 POLITICAL SUBDIVISION DETERMINES ARE NECESSARY OR DESIRABLE TO
8 EFFECT THE PROGRAM.

9 **9-1504.**

10 (A) THE GENERAL ASSEMBLY INTENDS THAT GENERAL OBLIGATION
11 DEBT MAY BE INCURRED BY ISSUING BONDS IF THE PURPOSES FOR THE DEBT
12 INCLUDE THE PURPOSES FOR ISSUING BONDS UNDER THIS SUBTITLE.

13 (B) SUBJECT TO ~~SUBSECTIONS~~ SUBSECTION (C) ~~AND (D)~~ OF THIS
14 SECTION, A POLITICAL SUBDIVISION MAY ISSUE BONDS TO FINANCE LOANS
15 MADE UNDER THE PROGRAM IN ACCORDANCE WITH THE PROCEDURES OF THE
16 POLITICAL SUBDIVISION FOR AUTHORIZATION TO SELL AND ISSUE BONDS.

17 (C) A BOND ISSUED IN ACCORDANCE WITH AN ORDINANCE OR A
18 RESOLUTION THAT PLEDGES THE FULL FAITH AND CREDIT OF A POLITICAL
19 SUBDIVISION IS SUBJECT TO:

20 (1) ANY APPLICABLE REQUIREMENTS OF THE MARYLAND
21 CONSTITUTION AND THE POLITICAL SUBDIVISION'S CHARTER AND LAWS ON
22 REFERENDUM FOR THE ISSUANCE OF GENERAL OBLIGATION DEBT; AND

23 (2) EACH LIMITATION IMPOSED BY PUBLIC GENERAL LAW,
24 PUBLIC LOCAL LAW, OR CHARTER ON GENERAL OBLIGATION DEBT OF THE
25 POLITICAL SUBDIVISION.

26 ~~(D) (1) THIS SUBSECTION DOES NOT APPLY TO A COUNTY THAT IS~~
27 ~~SUBJECT TO ARTICLE 25A OR ARTICLE 25B OF THE CODE.~~

28 ~~(2) A COUNTY MAY NOT ISSUE BONDS THAT ARE SECURED BY THE~~
29 ~~FULL FAITH AND CREDIT OF THE COUNTY UNLESS THE AMOUNT OF BONDS TO~~
30 ~~BE ISSUED BY THE COUNTY UNDER THIS SUBTITLE IS FIRST AUTHORIZED BY~~
31 ~~THE GENERAL ASSEMBLY.~~

1 **9-1505.**

2 (A) **A BOND:**

3 (1) **MAY BE IN BEARER FORM;**

4 (2) **MAY BE REGISTRABLE AS TO PRINCIPAL ALONE OR AS TO**
5 **BOTH PRINCIPAL AND INTEREST; AND**

6 (3) **IS A "SECURITY" UNDER § 8-102 OF THE COMMERCIAL LAW**
7 **ARTICLE, WHETHER OR NOT THE BOND IS ONE OF A CLASS OR SERIES OR IS**
8 **DIVISIBLE INTO A CLASS OR SERIES OF INSTRUMENTS.**

9 (B) (1) **A BOND SHALL BE SIGNED MANUALLY OR IN FACSIMILE BY**
10 **THE CHIEF EXECUTIVE OF THE POLITICAL SUBDIVISION.**

11 (2) **AN OFFICER'S SIGNATURE OR FACSIMILE SIGNATURE ON A**
12 **BOND REMAINS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND**
13 **IS DELIVERED.**

14 (3) **THE SEAL OF THE POLITICAL SUBDIVISION SHALL BE AFFIXED**
15 **TO THE BOND AND ATTESTED BY THE CLERK OR OTHER SIMILAR**
16 **ADMINISTRATIVE OFFICER OF THE POLITICAL SUBDIVISION.**

17 (C) (1) **A BOND SHALL MATURE NOT LATER THAN 40 YEARS AFTER**
18 **THE DATE OF ISSUE.**

19 (2) **BONDS MAY BE ISSUED AS SERIAL BONDS OR TERM BONDS**
20 **WITH PROVISIONS FOR A MANDATORY SINKING FUND OR OTHER ANNUAL**
21 **PRINCIPAL REDEMPTION BEGINNING NOT LATER THAN 3 YEARS AFTER THE**
22 **DATE OF ISSUE.**

23 (D) (1) **A BOND SHALL BE SOLD IN THE MANNER, AT PUBLIC OR**
24 **PRIVATE (NEGOTIATED) SALE, AND ON THE TERMS AT, ABOVE, OR BELOW PAR,**
25 **AS THE POLITICAL SUBDIVISION CONSIDERS BEST.**

26 (2) **A BOND IS NOT SUBJECT TO ARTICLE 31, §§ 9, 10, AND 11 OF**
27 **THE CODE.**

28 **9-1506.**

1 (A) A BOND, THE TRANSFER OF A BOND, THE INTEREST PAYABLE ON A
2 BOND, THE INCOME DERIVED FROM A BOND, AND THE PROFIT REALIZED ON
3 SALE OR EXCHANGE OF A BOND ARE EXEMPT FROM STATE AND LOCAL TAXES.

4 (B) A POLITICAL SUBDIVISION MAY ISSUE BONDS UNDER THIS
5 SUBTITLE WITHOUT REGARD TO THEIR FEDERAL TAX STATUS.

6 9-1507.

7 FOR PURPOSES OF AN ACTION INVOLVING THE VALIDITY OR
8 ENFORCEABILITY OF A BOND OR SECURITY FOR A BOND, A FINDING BY A
9 POLITICAL SUBDIVISION IS CONCLUSIVE AS TO:

10 (1) THE PUBLIC PURPOSE OF AN ACTION TAKEN UNDER THIS
11 SUBTITLE; AND

12 (2) ANY OTHER MATTER RELATING TO THE ISSUANCE OF A BOND.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.