

HOUSE BILL 1567

L6, M3, C5

9lr3103

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

Rules suspended

Introduced and read first time: March 16, 2009

Assigned to: Rules and Executive Nominations

Re-referred to: Economic Matters, March 20, 2009

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 30, 2009

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; providing that a person
7 who acquires property subject to a certain surcharge assumes the obligation to
8 pay the surcharge; providing that a certain surcharge constitutes a lien on
9 certain property; requiring a certain local law to provide for certain eligibility
10 requirements for participation in the Program and certain loan terms and
11 conditions; authorizing a political subdivision to issue bonds for a certain
12 purpose; establishing procedures for the issuance of certain bonds; authorizing a
13 certain political subdivision to make certain specifications when issuing certain
14 bonds; stating the intent of the General Assembly; requiring certain bonds to be
15 subject to certain requirements and limitations under certain circumstances;
16 ~~requiring that a certain county may not issue certain bonds unless the amount~~
17 ~~of the bonds is first authorized by the General Assembly;~~ providing for the
18 terms and conditions of certain bonds; providing for a certain exemption from
19 certain taxes under certain circumstances; providing that a finding by a political
20 subdivision for certain purposes is conclusive as to certain matters under

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 certain circumstances; defining certain terms; and generally relating to the
2 Clean Energy Loan Programs.

3 BY adding to
4 Article 24 – Political Subdivisions – Miscellaneous Provisions
5 Section 9–1501 through 9–1507 to be under the new subtitle “Subtitle 15. Clean
6 Energy Loan Programs”
7 Annotated Code of Maryland
8 (2005 Replacement Volume and 2008 Supplement)

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

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

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

13 **9–1501.**

14 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
15 INDICATED.

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

18 (C) “CHIEF EXECUTIVE” MEANS THE PRESIDENT, CHAIR, MAYOR,
19 COUNTY EXECUTIVE, OR ANY OTHER CHIEF EXECUTIVE OFFICER OF A
20 POLITICAL SUBDIVISION.

21 (D) “POLITICAL SUBDIVISION” MEANS A COUNTY OR MUNICIPAL
22 CORPORATION.

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

24 **9–1502.**

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

27 (B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE LOANS TO:
28 ~~RESIDENTIAL~~

29 (1) RESIDENTIAL PROPERTY OWNERS FOR THE FINANCING OF
30 ENERGY EFFICIENCY AND RENEWABLE ENERGY PROJECTS; AND

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

1 **(I) ENERGY EFFICIENCY PROJECTS; AND**

2 **(II) RENEWABLE ENERGY PROJECTS WITH AN ELECTRIC**
3 **GENERATING CAPACITY OF NOT MORE THAN 100 KILOWATTS.**

4 **(C) THE PROGRAM SHALL REQUIRE A PROPERTY OWNER TO REPAY A**
5 **LOAN PROVIDED UNDER THE PROGRAM THROUGH A SURCHARGE ON THE**
6 **OWNER’S PROPERTY TAX BILL.**

7 **(D) A PERSON WHO ACQUIRES PROPERTY SUBJECT TO A SURCHARGE**
8 **UNDER THIS SECTION, WHETHER BY PURCHASE OR OTHER MEANS, ASSUMES**
9 **THE OBLIGATION TO PAY THE SURCHARGE.**

10 **(E) A SURCHARGE UNDER THIS SECTION, INCLUDING ANY INTEREST**
11 **AND PENALTIES, CONSTITUTES A LIEN AGAINST THE PROPERTY.**

12 **(F) AN ORDINANCE OR RESOLUTION ENACTED UNDER SUBSECTION (A)**
13 **OF THIS SECTION SHALL PROVIDE FOR:**

14 **(1) ELIGIBILITY REQUIREMENTS FOR PARTICIPATION IN THE**
15 **PROGRAM, INCLUDING ELIGIBILITY REQUIREMENTS FOR:**

16 **(I) ENERGY EFFICIENCY IMPROVEMENTS AND RENEWABLE**
17 **ENERGY DEVICES; AND**

18 **(II) PROPERTY AND PROPERTY OWNERS; AND**

19 **(2) LOAN TERMS AND CONDITIONS.**

20 **9-1503.**

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

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

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

28 **(1) SPECIFY THE ITEMS LISTED IN SUBSECTION (D) OF THIS**
29 **SECTION;**

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

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

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

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

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

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

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

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

14 (6) **THE SOURCE, MANNER, TIMES, AND PLACES TO PAY**
15 **PRINCIPAL OR INTEREST;**

16 (7) **CONDITIONS FOR REDEMPTION BEFORE MATURITY;**

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

18 (9) **THE SOURCE OF SECURITY; AND**

19 (10) **OTHER PROVISIONS THAT THE GOVERNING BODY OF THE**
20 **POLITICAL SUBDIVISION DETERMINES ARE NECESSARY OR DESIRABLE TO**
21 **EFFECT THE PROGRAM.**

22 **9-1504.**

23 (A) **THE GENERAL ASSEMBLY INTENDS THAT GENERAL OBLIGATION**
24 **DEBT MAY BE INCURRED BY ISSUING BONDS IF THE PURPOSES FOR THE DEBT**
25 **INCLUDE THE PURPOSES FOR ISSUING BONDS UNDER THIS SUBTITLE.**

26 (B) **SUBJECT TO ~~SUBSECTIONS~~ SUBSECTION (C) ~~AND (D)~~ OF THIS**
27 **SECTION, A POLITICAL SUBDIVISION MAY ISSUE BONDS TO FINANCE LOANS**
28 **MADE UNDER THE PROGRAM IN ACCORDANCE WITH THE PROCEDURES OF THE**
29 **POLITICAL SUBDIVISION FOR AUTHORIZATION TO SELL AND ISSUE BONDS.**

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

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

7 (2) EACH LIMITATION IMPOSED BY PUBLIC GENERAL LAW,
8 PUBLIC LOCAL LAW, OR CHARTER ON GENERAL OBLIGATION DEBT OF THE
9 POLITICAL SUBDIVISION.

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

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

16 **9-1505.**

17 (A) A BOND:

18 (1) MAY BE IN BEARER FORM;

19 (2) MAY BE REGISTRABLE AS TO PRINCIPAL ALONE OR AS TO
20 BOTH PRINCIPAL AND INTEREST; AND

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

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

26 (2) AN OFFICER'S SIGNATURE OR FACSIMILE SIGNATURE ON A
27 BOND REMAINS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND
28 IS DELIVERED.

29 (3) THE SEAL OF THE POLITICAL SUBDIVISION SHALL BE AFFIXED
30 TO THE BOND AND ATTESTED BY THE CLERK OR OTHER SIMILAR
31 ADMINISTRATIVE OFFICER OF THE POLITICAL SUBDIVISION.

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

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

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

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

12 **9-1506.**

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

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

18 **9-1507.**

19 FOR PURPOSES OF AN ACTION INVOLVING THE VALIDITY OR
20 ENFORCEABILITY OF A BOND OR SECURITY FOR A BOND, A FINDING BY A
21 POLITICAL SUBDIVISION IS CONCLUSIVE AS TO:

22 (1) THE PUBLIC PURPOSE OF AN ACTION TAKEN UNDER THIS
23 SUBTITLE; AND

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

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