

HOUSE BILL 1260

L6, M3, C5

2lr2667
CF 2lr2660

By: **Delegate Frush**

Introduced and read first time: February 10, 2012

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Clean Energy Loan Programs**

3 FOR the purpose of altering the requirements of a certain Clean Energy Loan
4 Program adopted by a political subdivision under certain circumstances;
5 requiring a certain energy audit that is required to be performed before a
6 political subdivision approves a certain loan to identify certain cost-effective
7 energy efficiency projects and renewable energy projects that would generate a
8 certain projected yearly energy cost savings; prohibiting the total amount of a
9 certain loan from exceeding a certain percentage of the assessed value of certain
10 property; requiring that a certain surcharge under local Clean Energy Loan
11 Programs be limited to a certain amount; authorizing the principal of a certain
12 loan to include the cost of a certain energy audit; requiring that the terms of a
13 certain loan include a requirement that the loan be repaid over a certain period;
14 prohibiting a certain loan from being made unless certain conditions are met;
15 requiring a certain political subdivision to send certain notice by first-class
16 certified mail to certain secured parties under certain circumstances;
17 authorizing a certain secured party to collect and hold in escrow certain
18 payments due on a certain loan in a certain manner; providing that a certain
19 surcharge constitutes a lien on certain property; providing that a certain lien
20 has a certain priority; providing that a certain lien is effective against a certain
21 person; providing that a certain lien is not effective against any third party
22 unless a certain notice of the lien is recorded and indexed in a certain manner;
23 requiring the notice of a certain lien to contain certain information; requiring a
24 certain clerk of a certain court to take certain action on the presentation of a
25 release of a certain lien; limiting the liability of a certain loan assessment in
26 certain property foreclosures; prohibiting the outstanding balance of a certain
27 loan from being accelerated or made due in full; authorizing a certain political
28 subdivision to offer the opportunity to participate in a certain Program to
29 certain financial institutions; authorizing a certain political subdivision to refer
30 certain applicants to other sources of funds, cooperate with other public and
31 private sources of funds, and contract with a certain organization to implement,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 administer, or fund a certain Program; requiring a certain Program to comply
2 with certain laws and include certain disclosures and training to certain
3 persons under certain circumstances; requiring the Maryland Energy
4 Administration to adopt certain regulations; requiring the Maryland Clean
5 Energy Center to report yearly to the Governor and the General Assembly on or
6 before a certain date; providing for the application of this Act; and generally
7 relating to local Clean Energy Loan Programs.

8 BY repealing and reenacting, with amendments,
9 Article 24 – Political Subdivisions – Miscellaneous Provisions
10 Section 9–1502
11 Annotated Code of Maryland
12 (2011 Replacement Volume)

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

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

16 9–1502.

17 (a) A political subdivision may enact an ordinance or a resolution
18 establishing a Clean Energy Loan Program **IN ACCORDANCE WITH THIS SECTION.**

19 (b) The purpose of the Program is to provide loans to:

20 (1) Residential property owners, including low income residential
21 property owners, for the financing of energy efficiency and renewable energy projects;
22 and

23 (2) Commercial property owners for the financing of:

24 (i) Energy efficiency projects; and

25 (ii) Renewable energy projects with an electric generating
26 capacity of not more than 100 kilowatts.

27 (c) **(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
28 **PROGRAM SHALL REQUIRE, BEFORE THE POLITICAL SUBDIVISION APPROVES A**
29 **LOAN FOR ENERGY IMPROVEMENTS TO REAL PROPERTY, THE PERFORMANCE**
30 **OF AN ENERGY AUDIT OF THE QUALIFYING REAL PROPERTY BY:**

31 **(i) A PARTICIPATING AUDITOR WITH THE MARYLAND**
32 **HOME PERFORMANCE PROGRAM, AS SPECIFIED BY THE MARYLAND ENERGY**
33 **ADMINISTRATION; OR**

1 **(II) A PERSON WITH SIMILAR TRAINING AND**
2 **QUALIFICATIONS, AS APPROVED BY THE MARYLAND ENERGY ADMINISTRATION**
3 **OR THE MARYLAND CLEAN ENERGY CENTER.**

4 **(2) THE ENERGY AUDIT SHALL IDENTIFY COST-EFFECTIVE**
5 **ENERGY EFFICIENCY PROJECTS AND RENEWABLE ENERGY PROJECTS THAT**
6 **WOULD GENERATE PROJECTED YEARLY ENERGY COST SAVINGS, BASED ON**
7 **PROJECTED ENERGY COSTS, THAT ARE EQUAL TO OR EXCEED THE ESTIMATED**
8 **COST OF THOSE PROJECTS THAT ARE TO BE FINANCED UNDER THE PROGRAM.**

9 **(D) (1) The Program shall require a property owner to repay a loan**
10 **provided under the Program through a surcharge on the owner's property tax bill.**

11 **(2) THE TOTAL LOAN AMOUNT MAY NOT EXCEED 10% OF THE**
12 **ASSESSED VALUE OF THE PROPERTY ACCORDING TO CURRENT COUNTY**
13 **PROPERTY TAX RECORDS.**

14 **(3) A surcharge UNDER PARAGRAPH (1) OF THIS SUBSECTION shall**
15 **be limited to an amount that allows the political subdivision to recover [the]:**

16 **(I) THE PRINCIPAL OF THE LOAN, WHICH MAY INCLUDE**
17 **THE COST OF THE ENERGY AUDIT;**

18 **(II) ANY OUTSTANDING INTEREST ON THE LOAN;**

19 **(III) THE costs associated with issuing bonds to finance the loan;**
20 **and**

21 **(IV) THE costs associated with administering the Program.**

22 **[(d)] (E) A person who acquires property subject to a surcharge under this**
23 **section, whether by purchase or other means, assumes the obligation to pay the**
24 **surcharge.**

25 **[(e)] (F) (1) An ordinance or resolution enacted under subsection (a) of**
26 **this section shall provide for:**

27 **(i) Eligibility requirements for participation in the Program,**
28 **including eligibility requirements for:**

29 1. **Energy efficiency improvements and renewable**
30 **energy devices; and**

31 2. **Property and property owners; and**

1 (ii) Loan terms and conditions.

2 (2) **THE TERMS OF A LOAN UNDER THE PROGRAM SHALL**
3 **INCLUDE A REQUIREMENT THAT THE PROPERTY OWNER REPAY THE LOAN OVER**
4 **A PERIOD NOT TO EXCEED 15 YEARS.**

5 (3) Eligibility requirements under paragraph (1) of this subsection
6 shall include a requirement that the political subdivision, in a manner substantially
7 similar to that required for a mortgage loan under §§ 12–127, 12–311, 12–409.1,
8 12–925, and 12–1029 of the Commercial Law Article, give due regard to the property
9 owner’s ability to repay a loan provided under the Program.

10 (4) **A LOAN MAY NOT BE MADE UNDER THE PROGRAM UNLESS:**

11 (i) **PROPERTY TAXES ARE CURRENT;**

12 (ii) **NO OUTSTANDING AND UNSATISFIED TAX LIENS ARE ON**
13 **THE PROPERTY;**

14 (iii) **THERE ARE NO NOTICES OF DEFAULT OR OTHER**
15 **EVIDENCE OF PROPERTY–BASED DEBT DELINQUENCY FOR THE LESSER OF:**

16 1. **THE 3 YEARS IMMEDIATELY PRECEDING THE**
17 **APPLICATION FOR THE LOAN; OR**

18 2. **THE LENGTH OF TIME THE PROPERTY OWNER HAS**
19 **OWNED THE PROPERTY;**

20 (iv) **THE PROPERTY IS CURRENT ON ALL MORTGAGE DEBT;**
21 **AND**

22 (v) **THE PROPERTY OWNER ENTERS INTO A CONTRACT FOR**
23 **THE ENERGY EFFICIENCY AND RENEWABLE ENERGY PROJECT WITH:**

24 1. **A PARTICIPATING CONTRACTOR WITH THE**
25 **MARYLAND HOME PERFORMANCE PROGRAM, AS SPECIFIED BY THE**
26 **MARYLAND ENERGY ADMINISTRATION; OR**

27 2. **A PERSON WITH SIMILAR TRAINING AND**
28 **QUALIFICATIONS, AS APPROVED BY THE MARYLAND ENERGY ADMINISTRATION**
29 **OR THE MARYLAND CLEAN ENERGY CENTER.**

30 (5) (i) **IF THE PROPERTY IS SUBJECT TO ANY RECORDED**
31 **MORTGAGE OR DEED OF TRUST AT THE TIME THE PROPERTY OWNER APPLIES**

1 FOR PARTICIPATION IN THE PROGRAM, ELIGIBILITY REQUIREMENTS UNDER
2 PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE A REQUIREMENT THAT,
3 AT THE TIME OF THE APPLICATION FOR A LOAN UNDER THE PROGRAM, THE
4 POLITICAL SUBDIVISION SEND NOTICE TO EACH SECURED PARTY UNDER A
5 RECORDED MORTGAGE OR DEED OF TRUST BY FIRST-CLASS CERTIFIED MAIL.

6 (II) A SECURED PARTY UNDER A MORTGAGE OR DEED OF
7 TRUST ON THE PROPERTY MAY COLLECT AND HOLD IN AN ESCROW ACCOUNT
8 PAYMENTS DUE ON A LOAN UNDER THE PROGRAM IN THE SAME MANNER AS THE
9 SECURED PARTY MAY COLLECT AND HOLD IN AN ESCROW ACCOUNT PAYMENTS
10 FOR PROPERTY TAXES OR INSURANCE FOR THE PROPERTY.

11 (G) (1) A SURCHARGE UNDER THIS SECTION, INCLUDING ANY
12 INTEREST AND PENALTY, CONSTITUTES A LIEN AGAINST THE PROPERTY.

13 (2) A LIEN CREATED IN FAVOR OF A POLITICAL SUBDIVISION
14 UNDER THIS SECTION HAS PRIORITY UNDER § 14-805 OF THE TAX - PROPERTY
15 ARTICLE IN THE SAME MANNER AS A TAX LIEN.

16 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
17 PARAGRAPH, ANY LIEN CREATED IN FAVOR OF A POLITICAL SUBDIVISION
18 UNDER THIS SECTION IS EFFECTIVE AGAINST THE PERSON AGAINST WHOSE
19 PROPERTY THE LIEN EXISTS.

20 (II) A LIEN IS NOT EFFECTIVE AGAINST ANY THIRD PARTY
21 UNLESS WRITTEN NOTICE OF THE LIEN IS RECORDED AND INDEXED IN A
22 PERMANENT RECORD MAINTAINED IN THE OFFICE OF THE CLERK OF THE
23 CIRCUIT COURT IN EACH COUNTY IN WHICH THE PROPERTY SUBJECT TO THE
24 LIEN OR ANY PART OF THE PROPERTY IS LOCATED.

25 (4) THE NOTICE REQUIRED IN PARAGRAPH (3)(II) OF THIS
26 SUBSECTION SHALL CONTAIN:

27 (I) THE NAME AND ADDRESS OF THE PERSON AGAINST
28 WHOSE PROPERTY THE LIEN EXISTS;

29 (II) THE NAME AND ADDRESS OF THE POLITICAL
30 SUBDIVISION;

31 (III) THE AMOUNT OF THE LIEN;

32 (IV) A DESCRIPTION OR REFERENCE TO THE PROPERTY
33 SUBJECT TO THE LIEN; AND

1 **(V) THE DATE THE LIEN WAS CREATED.**

2 **(5) ON PRESENTATION OF A RELEASE OF ANY LIEN CREATED IN**
3 **FAVOR OF A POLITICAL SUBDIVISION UNDER THIS SECTION, THE CLERK OF THE**
4 **CIRCUIT COURT IN WHICH THE LIEN IS RECORDED AND INDEXED SHALL:**

5 **(I) RECORD AND INDEX THE RELEASE; AND**

6 **(II) NOTE IN THE LIEN DOCKET THE DATE THE RELEASE IS**
7 **FILED AND THE FACT THAT THE LIEN IS RELEASED.**

8 **(6) (I) THE LIABILITY FOR THE LOAN ASSESSMENT IN**
9 **PROPERTY FORECLOSURES IS LIMITED TO ANY AMOUNT IN ARREARS AT THAT**
10 **TIME.**

11 **(II) THE OUTSTANDING BALANCE OF THE LOAN MAY NOT BE**
12 **ACCELERATED OR MADE DUE IN FULL.**

13 **(H) A POLITICAL SUBDIVISION MAY OFFER THE OPPORTUNITY TO**
14 **PARTICIPATE IN THE PROGRAM TO FINANCIAL INSTITUTIONS INSURED BY THE**
15 **FEDERAL DEPOSIT INSURANCE CORPORATION AND FINANCIAL INSTITUTIONS**
16 **OF THE FARM CREDIT SYSTEM ORGANIZED UNDER THE FARM CREDIT ACT OF**
17 **1971, AS AMENDED.**

18 **(I) THE POLITICAL SUBDIVISION MAY:**

19 **(1) REFER APPLICANTS TO OTHER SOURCES OF FUNDS;**

20 **(2) COOPERATE WITH OTHER PUBLIC AND PRIVATE SOURCES OF**
21 **FUNDS; AND**

22 **(3) CONTRACT WITH A NONPROFIT OR FOR-PROFIT**
23 **ORGANIZATION TO IMPLEMENT, ADMINISTER, OR FUND THE PROGRAM.**

24 **(J) A PROGRAM UNDER THIS SECTION SHALL COMPLY WITH**
25 **APPLICABLE FEDERAL AND STATE CONSUMER LAWS AND INCLUDE ADEQUATE**
26 **DISCLOSURES TO AND TRAINING FOR PROPERTY OWNERS PARTICIPATING IN**
27 **THE PROGRAM.**

28 **(K) THE MARYLAND ENERGY ADMINISTRATION SHALL ADOPT**
29 **REGULATIONS TO CERTIFY PERSONS:**

1 **(1) AS QUALIFIED TO PERFORM AN ENERGY AUDIT UNDER**
2 **SUBSECTION (C) OF THIS SECTION; OR**

3 **(2) AS QUALIFIED TO ACT AS A CONTRACTOR FOR AN ENERGY**
4 **EFFICIENCY PROJECT OR RENEWABLE ENERGY PROJECT FOR WHICH LOANS**
5 **ARE MADE UNDER THIS SECTION.**

6 **(L) ON OR BEFORE FEBRUARY 1 OF EACH YEAR, THE MARYLAND**
7 **CLEAN ENERGY CENTER SHALL REPORT TO THE GOVERNOR AND, IN**
8 **ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE**
9 **GENERAL ASSEMBLY ON ALL CLEAN ENERGY LOAN PROGRAMS ESTABLISHED**
10 **BY POLITICAL SUBDIVISIONS UNDER THIS SECTION.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
12 construed to apply only prospectively and may not be applied or interpreted to have
13 any effect on or application to any Clean Energy Loan Program before the effective
14 date of this Act.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 June 1, 2012.