

# HOUSE BILL 621

C5, P1  
HB 995/12 – ECM

3lr1912  
CF 3lr1913

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By: **Delegates Niemann and Hucker**

Introduced and read first time: February 1, 2013

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Energy Administration – Regulated Sustainable Energy Contract**  
3 **Program**

4 FOR the purpose of authorizing the Maryland Energy Administration to create a  
5 Regulated Sustainable Energy Contract Program to authorize qualified  
6 contractors to provide residential renewable energy installations and residential  
7 energy efficiency measures to residential property owners under certain  
8 regulated sustainable energy contracts; stating the intent of the General  
9 Assembly; requiring the Administration to manage, supervise, and administer a  
10 certain Program; requiring the Administration to adopt certain regulations  
11 under certain circumstances; authorizing the Administration to enter into  
12 certain contracts; authorizing the Administration to collect certain reasonable  
13 fees from qualified contractors; authorizing the Administration to authorize  
14 certain qualified contractors to enter into certain regulated sustainable energy  
15 contracts with certain persons, directly bill certain persons, and enforce  
16 payment under a certain regulated sustainable energy contract according to  
17 certain provisions; authorizing the Administration to limit certain  
18 authorizations in a certain manner or to authorize more than one qualified  
19 contractor to operate in a certain territory or offer certain products; requiring  
20 the Administration to perform a certain study before developing and  
21 implementing a certain Program; authorizing the Administration to develop and  
22 implement a test or pilot program; requiring a regulated sustainable energy  
23 contract to meet certain requirements established by the Administration and to  
24 require certain actions; requiring the Administration, by regulation or order, to  
25 establish certain requirements for a certain regulated sustainable energy  
26 contract; prohibiting a certain qualified contractor from entering into a certain  
27 regulated sustainable energy contract unless certain conditions have been met;  
28 authorizing a property owner to subject property to a certain regulated  
29 sustainable energy contract by recording or authorizing the recordation of the  
30 regulated sustainable energy contract in a certain manner; providing that a  
31 person that acquires property subject to a certain regulated sustainable energy

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 contract assumes a certain obligation; authorizing the Administration to revoke  
2 a certain authorization if the Administration makes a certain determination;  
3 authorizing a certain qualified contractor to collect payments that are in arrears  
4 under a certain regulated sustainable energy contract, by the imposition of a  
5 lien on a certain property in accordance with the Maryland Contract Lien Act;  
6 adding a certain regulated sustainable energy contract recorded under a certain  
7 provision of law to the definition of a “contract” under the Maryland Contract  
8 Lien Act; requiring the Administration to report to the General Assembly on or  
9 before a certain date; defining certain terms; and generally relating to the  
10 Regulated Sustainable Energy Contract Program.

11 BY adding to  
12 Article – State Government  
13 Section 9–20C–01 through 9–20C–08 to be under the new subtitle “Subtitle 20C.  
14 Regulated Sustainable Energy Contracts”  
15 Annotated Code of Maryland  
16 (2009 Replacement Volume and 2012 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – Real Property  
19 Section 14–201(b)  
20 Annotated Code of Maryland  
21 (2010 Replacement Volume and 2012 Supplement)

22 BY repealing and reenacting, without amendments,  
23 Article – Real Property  
24 Section 14–202  
25 Annotated Code of Maryland  
26 (2010 Replacement Volume and 2012 Supplement)

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

29 **Article – State Government**

30 **SUBTITLE 20C. REGULATED SUSTAINABLE ENERGY CONTRACTS.**

31 **9–20C–01.**

32 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
33 **INDICATED.**

34 **(B) “ADMINISTRATION” MEANS THE MARYLAND ENERGY**  
35 **ADMINISTRATION.**

1           **(C) “PROGRAM” MEANS THE REGULATED SUSTAINABLE ENERGY**  
2 **CONTRACT PROGRAM.**

3           **(D) “QUALIFIED CONTRACTOR” MEANS A PERSON AUTHORIZED BY THE**  
4 **ADMINISTRATION UNDER THIS SUBTITLE TO PROVIDE SUSTAINABLE ENERGY**  
5 **PRODUCTS TO RESIDENTIAL PROPERTY OWNERS UNDER A REGULATED**  
6 **SUSTAINABLE ENERGY CONTRACT.**

7           **(E) “REGULATED SUSTAINABLE ENERGY CONTRACT” MEANS A**  
8 **CONTRACT BETWEEN A RESIDENTIAL PROPERTY OWNER AND A QUALIFIED**  
9 **CONTRACTOR THAT MEETS THE REQUIREMENTS OF § 9-20C-04 OF THIS**  
10 **SUBTITLE.**

11           **(F) “RESIDENTIAL ENERGY EFFICIENCY MEASURE” MEANS A PRODUCT**  
12 **OR AN IMPROVEMENT TO A STRUCTURE THAT, WHEN INSTALLED, RESULTS IN A**  
13 **REDUCTION OF ENERGY USAGE IN THAT STRUCTURE.**

14           **(G) “RESIDENTIAL RENEWABLE ENERGY INSTALLATION” MEANS A**  
15 **PRODUCT THAT, WHEN INSTALLED ON RESIDENTIAL PROPERTY, PROVIDES**  
16 **ENERGY SAVINGS OR GENERATES ENERGY FROM A RENEWABLE SOURCE.**

17 **9-20C-02.**

18           **THIS SUBTITLE IS INTENDED TO PROMOTE ENERGY CONSERVATION AND**  
19 **THE USE OF RENEWABLE ENERGY BY PROVIDING A SECURE FORM OF**  
20 **LONG-TERM FINANCING TO FACILITATE THE IMPLEMENTATION OF**  
21 **RESIDENTIAL RENEWABLE ENERGY INSTALLATIONS AND RESIDENTIAL ENERGY**  
22 **EFFICIENCY MEASURES ON OR IN RESIDENTIAL PROPERTIES.**

23 **9-20C-03.**

24           **(A) THE ADMINISTRATION MAY CREATE A REGULATED SUSTAINABLE**  
25 **ENERGY CONTRACT PROGRAM TO AUTHORIZE QUALIFIED CONTRACTORS TO**  
26 **PROVIDE RESIDENTIAL RENEWABLE ENERGY INSTALLATIONS AND RESIDENTIAL**  
27 **ENERGY EFFICIENCY MEASURES TO RESIDENTIAL PROPERTY OWNERS UNDER**  
28 **REGULATED SUSTAINABLE ENERGY CONTRACTS IN ACCORDANCE WITH THIS**  
29 **SUBTITLE.**

30           **(B) THE ADMINISTRATION SHALL MANAGE, SUPERVISE, AND**  
31 **ADMINISTER A PROGRAM CREATED UNDER THIS SUBTITLE.**

32           **(C) IF THE ADMINISTRATION CREATES A PROGRAM UNDER THIS**  
33 **SUBTITLE, THE ADMINISTRATION SHALL ADOPT REGULATIONS THAT:**

1           **(1) ENSURE THAT FINANCING IS PROVIDED ONLY TO A PROJECT**  
2 **THAT CARRIES OUT THE PURPOSES STATED IN A REGULATED SUSTAINABLE**  
3 **ENERGY CONTRACT;**

4           **(2) ESTABLISH ELIGIBILITY CRITERIA FOR QUALIFIED**  
5 **CONTRACTORS, INCLUDING A REQUIRED MINIMUM LEVEL OF CAPITALIZATION;**

6           **(3) ESTABLISH ELIGIBILITY REQUIREMENTS FOR PROPERTY**  
7 **OWNERS THAT GIVE DUE REGARD TO THE OWNER'S ABILITY TO PAY IN A**  
8 **MANNER SUBSTANTIALLY SIMILAR TO THE REQUIREMENTS FOR A MORTGAGE**  
9 **LOAN UNDER §§ 12-127, 12-311, 12-409.1, 12-925, AND 12-1049 OF THE**  
10 **COMMERCIAL LAW ARTICLE;**

11           **(4) DEFINE AND PLACE LIMITS ON ELIGIBLE RESIDENTIAL**  
12 **RENEWABLE ENERGY INSTALLATIONS AND ELIGIBLE RESIDENTIAL ENERGY**  
13 **EFFICIENCY MEASURES;**

14           **(5) ESTABLISH COST-EFFECTIVENESS REQUIREMENTS FOR**  
15 **ELIGIBLE RESIDENTIAL RENEWABLE ENERGY INSTALLATIONS AND ELIGIBLE**  
16 **RESIDENTIAL ENERGY EFFICIENCY MEASURES;**

17           **(6) ESTABLISH PAYBACK REQUIREMENTS, RATE-OF-RETURN AND**  
18 **INTEREST RATE GUIDELINES, AND LIMITS FOR REGULATED SUSTAINABLE**  
19 **ENERGY CONTRACTS;**

20           **(7) ESTABLISH MECHANISMS FOR INDEPENDENT QUALITY**  
21 **CONTROL AND QUALITY ASSURANCE;**

22           **(8) MARKET THE PROGRAM TO PROPERTY OWNERS AND**  
23 **POTENTIAL QUALIFIED CONTRACTORS; AND**

24           **(9) PROVIDE A PROCESS FOR ADOPTING BRAND NAMES FOR THE**  
25 **PROGRAM AS WELL AS ELEMENTS OF THE PROGRAM.**

26           **(D) THE ADMINISTRATION MAY ENTER INTO CONTRACTS WITH THIRD**  
27 **PARTIES TO ENSURE THAT:**

28           **(1) FINANCING IS PROVIDED ONLY TO PROJECTS THAT CARRY**  
29 **OUT THE TERMS AND CONDITIONS OF REGULATED SUSTAINABLE ENERGY**  
30 **CONTRACTS; AND**

31           **(2) THE PURPOSES OF THE PROGRAM ARE FULFILLED.**

1           **(E) THE ADMINISTRATION MAY COLLECT REASONABLE FEES FROM**  
2 **QUALIFIED CONTRACTORS TO:**

3                   **(1) ENSURE THAT THE PURPOSES OF THE PROGRAM ARE**  
4 **FULFILLED; AND**

5                   **(2) CARRY OUT THE ADMINISTRATION'S DUTIES UNDER THIS**  
6 **SUBTITLE.**

7           **(F) THE ADMINISTRATION MAY AUTHORIZE QUALIFIED CONTRACTORS**  
8 **TO:**

9                   **(1) ENTER INTO REGULATED SUSTAINABLE ENERGY CONTRACTS**  
10 **WITH INDIVIDUAL RESIDENTIAL PROPERTY OWNERS, GROUPS OF RESIDENTIAL**  
11 **PROPERTY OWNERS, OR THE BUILDER OF A NEW RESIDENTIAL STRUCTURE;**

12                   **(2) DIRECTLY BILL, IN ACCORDANCE WITH THE RATE AND**  
13 **PAYMENT SCHEDULES PROVIDED IN THE REGULATED SUSTAINABLE ENERGY**  
14 **CONTRACT, EACH PROPERTY OWNER THAT:**

15                           **(I) IS A PARTY TO A REGULATED SUSTAINABLE ENERGY**  
16 **CONTRACT; OR**

17                           **(II) OWNS PROPERTY SUBJECT TO A REGULATED**  
18 **SUSTAINABLE ENERGY CONTRACT; AND**

19                   **(3) ENFORCE PAYMENT UNDER A REGULATED SUSTAINABLE**  
20 **ENERGY CONTRACT IN ACCORDANCE WITH § 9-20C-08 OF THIS SUBTITLE.**

21           **(G) THE ADMINISTRATION MAY:**

22                   **(1) LIMIT THE AUTHORIZATION OF A QUALIFIED CONTRACTOR TO**  
23 **A PARTICULAR TERRITORY OR SPECIFIED RESIDENTIAL RENEWABLE ENERGY**  
24 **INSTALLATION; AND**

25                   **(2) AUTHORIZE MORE THAN ONE QUALIFIED CONTRACTOR TO**  
26 **OPERATE IN A PARTICULAR TERRITORY OR TO OFFER SPECIFIED RESIDENTIAL**  
27 **RENEWABLE ENERGY INSTALLATION.**

28           **(H) THE ADMINISTRATION:**

1           **(1) BEFORE DEVELOPING AND IMPLEMENTING A PROGRAM,**  
2 **SHALL PERFORM A STUDY TO ASSESS:**

3                   **(I) THE FEASIBILITY OF THE PROGRAM; AND**

4                   **(II) THE ADMINISTRATION'S ABILITIES TO FULFILL ITS**  
5 **DUTIES REGARDING THE PROGRAM UNDER THIS SUBTITLE; AND**

6           **(2) MAY DEVELOP AND IMPLEMENT A TEST OR PILOT PROGRAM.**

7 **9-20C-04.**

8           **(A) UNDER A PROGRAM CREATED IN ACCORDANCE WITH § 9-20C-03(A)**  
9 **OF THIS SUBTITLE, A REGULATED SUSTAINABLE ENERGY CONTRACT SHALL:**

10                   **(1) MEET THE REQUIREMENTS ESTABLISHED BY THE**  
11 **ADMINISTRATION UNDER SUBSECTION (B) OF THIS SECTION; AND**

12                   **(2) REQUIRE, FOR EACH PROPERTY SUBJECT TO THE REGULATED**  
13 **SUSTAINABLE ENERGY CONTRACT:**

14                           **(I) THE REGULATED SUSTAINABLE ENERGY CONTRACT TO**  
15 **BE RECORDED IN THE LAND RECORDS IN THE COUNTY IN WHICH EACH**  
16 **PROPERTY IS LOCATED; AND**

17                           **(II) THE QUALIFIED CONTRACTOR TO NOTIFY, BY**  
18 **FIRST-CLASS CERTIFIED MAIL, ANY PARTY THAT HOLDS A RECORDED**  
19 **MORTGAGE OR DEED OF TRUST ON PROPERTY AT THE TIME THAT THE**  
20 **REGULATED SUSTAINABLE ENERGY CONTRACT BECOMES EFFECTIVE OF THE**  
21 **EXISTENCE OF THE REGULATED SUSTAINABLE ENERGY CONTRACT.**

22           **(B) WHEN CREATING A PROGRAM UNDER THIS SUBTITLE, THE**  
23 **ADMINISTRATION SHALL, BY ORDER OR REGULATION, ESTABLISH SPECIFIC**  
24 **REQUIREMENTS FOR A REGULATED SUSTAINABLE ENERGY CONTRACT UNDER**  
25 **THIS SUBTITLE, INCLUDING:**

26                   **(1) TERMS AND CONDITIONS, INCLUDING:**

27                           **(I) INTEREST RATES, SCHEDULES, AND RATES FOR**  
28 **REPAYMENT;**

29                           **(II) TIME FRAMES FOR THE RECORDATION AND NOTICE**  
30 **REQUIRED UNDER SUBSECTION (A)(2) OF THIS SECTION; AND**

1           (III) ANY TERMS AND CONDITIONS REQUIRED TO CREATE  
2 AND ENFORCE A LIEN UNDER THE MARYLAND CONTRACT LIEN ACT, TITLE 14,  
3 SUBTITLE 2 OF THE REAL PROPERTY ARTICLE;

4           (2) ELIGIBILITY REQUIREMENTS FOR PROPERTY OWNERS THAT  
5 GIVE DUE REGARD TO THE OWNER'S ABILITY TO PAY IN A MANNER  
6 SUBSTANTIALLY SIMILAR TO THE REQUIREMENTS FOR A MORTGAGE LOAN  
7 UNDER §§ 12-127, 12-311, 12-409.1, 12-925, AND 12-1049 OF THE  
8 COMMERCIAL LAW ARTICLE; AND

9           (3) MECHANISMS:

10           (I) FOR QUALITY CONTROL; AND

11           (II) TO ENSURE THAT THE SAVINGS TO THE PROPERTY  
12 OWNER UNDER A REGULATED SUSTAINABLE ENERGY CONTRACT OUTWEIGH THE  
13 COST OF THE REGULATED SUSTAINABLE ENERGY CONTRACT.

14 **9-20C-05.**

15           A QUALIFIED CONTRACTOR MAY NOT ENTER INTO A REGULATED  
16 SUSTAINABLE ENERGY CONTRACT UNLESS, FOR EACH PROPERTY THAT WOULD  
17 BE SUBJECT TO THE REGULATED SUSTAINABLE ENERGY CONTRACT:

18           (1) PROPERTY TAXES AND MORTGAGE DEBT ARE CURRENT;

19           (2) THERE ARE NO OUTSTANDING OR UNSATISFIED LIENS; AND

20           (3) THERE ARE NO NOTICES OF DEFAULT OR OTHER EVIDENCE OF  
21 PROPERTY-BASED DEBT DELINQUENCY FOR THE LESSER OF:

22           (I) THE 3 YEARS IMMEDIATELY PRECEDING THE CONTRACT  
23 DATE; OR

24           (II) THE LENGTH OF TIME THAT THE PROPERTY OWNER HAS  
25 OWNED THE PROPERTY.

26 **9-20C-06.**

27           (A) A PROPERTY OWNER MAY SUBJECT PROPERTY TO A REGULATED  
28 SUSTAINABLE ENERGY CONTRACT BY RECORDING OR AUTHORIZING THE

1 RECORDATION OF THE REGULATED SUSTAINABLE ENERGY CONTRACT AMONG  
2 THE LAND RECORDS IN THE COUNTY WHERE THE PROPERTY IS LOCATED.

3 (B) A PERSON WHO ACQUIRES PROPERTY SUBJECT TO A REGULATED  
4 SUSTAINABLE ENERGY CONTRACT, WHETHER BY PURCHASE OR OTHER MEANS,  
5 ASSUMES THE OBLIGATION TO PAY THE QUALIFIED CONTRACTOR IN  
6 ACCORDANCE WITH THE RATE AND PAYMENT SCHEDULES IN THE REGULATED  
7 SUSTAINABLE ENERGY CONTRACT.

8 **9-20C-07.**

9 THE ADMINISTRATION MAY REVOKE THE AUTHORIZATION OF A  
10 QUALIFIED CONTRACTOR UNDER THIS SUBTITLE IF THE ADMINISTRATION  
11 DETERMINES THAT:

12 (1) THE QUALIFIED CONTRACTOR IS NOT COMPLYING WITH THE  
13 TERMS OF THE AUTHORIZATION;

14 (2) THERE ARE AN EXCESSIVE NUMBER OF CONSUMER  
15 COMPLAINTS; OR

16 (3) THE AUTHORIZATION IS NO LONGER SERVING THE PURPOSE  
17 OF THIS SUBTITLE.

18 **9-20C-08.**

19 A QUALIFIED CONTRACTOR MAY COLLECT PAYMENTS UNDER A  
20 REGULATED SUSTAINABLE ENERGY CONTRACT THAT ARE IN ARREARS,  
21 INCLUDING THE PRINCIPAL, INTEREST, LATE CHARGES, COSTS OF COLLECTION,  
22 AND REASONABLE ATTORNEY'S FEES, BY THE IMPOSITION OF A LIEN ON  
23 PROPERTY THAT IS SUBJECT TO THE CONTRACT IN ACCORDANCE WITH THE  
24 MARYLAND CONTRACT LIEN ACT, TITLE 14, SUBTITLE 2 OF THE REAL  
25 PROPERTY ARTICLE.

26 **Article – Real Property**

27 **14-201.**

28 (b) (1) “Contract” means a real covenant running with the land or a  
29 contract recorded among the land records of a county or Baltimore City.

30 (2) “Contract” includes a [declaration]:



1                   **(I) DECLARATION** or bylaws recorded under the provisions of  
2 the Maryland Condominium Act or the Maryland Real Estate Time-Sharing Act; **OR**

3                   **(II) REGULATED SUSTAINABLE ENERGY CONTRACT**  
4 **RECORDED UNDER THE PROVISIONS OF TITLE 9, SUBTITLE 20C OF THE STATE**  
5 **GOVERNMENT ARTICLE.**

6 14-202.

7           (a) A lien on property may be created by a contract and enforced under this  
8 subtitle if:

9                   (1) The contract expressly provides for the creation of a lien; and

10                   (2) The contract expressly describes:

11                           (i) The party entitled to establish and enforce the lien; and

12                           (ii) The property against which the lien may be imposed.

13           (b) A lien may only secure the payment of:

14                   (1) Damages;

15                   (2) Costs of collection;

16                   (3) Late charges permitted by law; and

17                   (4) Attorney's fees provided for in a contract or awarded by a court for  
18 breach of a contract.

19           SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December  
20 31, 2013, the Maryland Energy Administration shall report to the General Assembly,  
21 in accordance with § 2-1246 of the State Government Article, on the Administration's  
22 progress in carrying out the requirements of this Act.

23           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 July 1, 2013.