

HOUSE BILL 634

L5

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By: **Montgomery County Delegation and Prince George's County Delegation**
Introduced and read first time: February 1, 2013
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Washington Suburban Sanitary Commission – Water Conservation On–Bill**
3 **Financing Program**

4 **MC/PG 104–13**

5 FOR the purpose of authorizing the Washington Suburban Sanitary Commission to
6 establish the Water Conservation On–Bill Financing Program for a certain
7 purpose; authorizing the Commission, by resolution, to issue bonds to finance or
8 refinance certain costs of the Program; providing that the bonds are limited
9 obligations, payable solely from certain revenues or certain other money, and do
10 not constitute a pledge of the faith and credit of certain entities; requiring the
11 Commission to determine certain provisions of certain bonds; providing that a
12 certain signature is valid in certain circumstances; establishing that certain
13 bonds are negotiable instruments; authorizing the Commission to sell certain
14 bonds in a certain manner; providing for the use of the proceeds of a certain
15 bond issuance; authorizing certain sources of security or payment for certain
16 bonds; authorizing the Commission to issue certain revenue refunding bonds;
17 authorizing the Commission to enter into a certain trust agreement for a certain
18 purpose; exempting certain bonds and associated funds from certain taxes;
19 requiring the Program to require a customer to repay certain financial
20 assistance through a certain surcharge; providing that a person that acquires
21 property subject to a certain surcharge assumes the obligation to pay the
22 surcharge; providing that a certain surcharge constitutes a lien on certain
23 property; requiring the Program to include certain eligibility requirements,
24 application procedures, a certain financing charge or fee calculation method,
25 standards for determining certain repayment provisions, and loan terms and
26 conditions; providing for the application of certain provisions of law; defining
27 certain terms; and generally relating to the Water Conservation On–Bill
28 Financing Program of the Washington Suburban Sanitary Commission.

29 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Public Utilities
2 Section 22–301 through 22–310 to be under the new subtitle “Subtitle 3. Water
3 Conservation Financing Bonds”; and 25–601 through 25–603 to be under
4 the new subtitle “Subtitle 6. Water Conservation On–Bill Financing
5 Program”
6 Annotated Code of Maryland
7 (2010 Replacement Volume and 2012 Supplement)

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

10 **Article – Public Utilities**

11 **SUBTITLE 3. WATER CONSERVATION FINANCING BONDS.**

12 **22–301.**

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

15 (B) “BOND” MEANS A BOND, NOTE, OR OTHER EVIDENCE OF
16 INDEBTEDNESS OF THE COMMISSION ISSUED UNDER THIS SUBTITLE.

17 (C) “PROGRAM” MEANS THE WATER CONSERVATION ON–BILL
18 FINANCING PROGRAM ESTABLISHED UNDER § 25–602 OF THIS ARTICLE.

19 **22–302.**

20 THIS SUBTITLE DOES NOT APPLY TO DEBT ISSUED BY THE COMMISSION
21 UNDER SUBTITLE 1 OR SUBTITLE 2 OF THIS TITLE.

22 **22–303.**

23 (A) THE COMMISSION MAY ISSUE BONDS TO FINANCE OR REFINANCE
24 ANY OF THE COSTS OF THE PROGRAM, INCLUDING THE COSTS OF:

25 (1) LOANS BY THE COMMISSION TO CUSTOMERS FOR FINANCING
26 WATER CONSERVATION UPGRADES TO RESIDENTIAL OR COMMERCIAL
27 PROPERTY;

28 (2) INITIAL PROGRAM DEVELOPMENT;

29 (3) ADMINISTERING AND MARKETING THE PROGRAM; AND

1 **(4) PREPARING, PRINTING, SELLING, AND ISSUING THE BONDS.**

2 **(B) (1) THE COMMISSION MAY ISSUE BONDS UNDER THIS SUBTITLE**
3 **ONLY IF THE COMMISSION AUTHORIZES THE ISSUANCE BY RESOLUTION.**

4 **(2) THE RESOLUTION MAY AUTHORIZE AN OFFICER OF THE**
5 **COMMISSION TO DETERMINE OR SPECIFY THE MATTERS THAT THIS SUBTITLE**
6 **REQUIRES BE DETERMINED OR SPECIFIED BY THE COMMISSION.**

7 **(C) BONDS ISSUED UNDER THIS SUBTITLE, AND THEIR PRINCIPAL,**
8 **INTEREST, AND ANY PREMIUM:**

9 **(1) ARE LIMITED OBLIGATIONS OF THE COMMISSION;**

10 **(2) ARE PAYABLE SOLELY FROM THE REVENUES IDENTIFIED IN**
11 **THE AUTHORIZING RESOLUTION OR FROM OTHER MONEY MADE AVAILABLE FOR**
12 **THE PAYMENT; AND**

13 **(3) DO NOT CONSTITUTE A PLEDGE OF THE FAITH AND CREDIT OF**
14 **THE COMMISSION OR OF ANY ENTITY WITH TAXING POWER.**

15 **(D) THE COMMISSION SHALL DETERMINE:**

16 **(1) THE DATE OF THE BONDS;**

17 **(2) THE MATURITY DATE OF THE BONDS, WHICH MAY NOT EXCEED**
18 **50 YEARS FROM THE DATE OF ISSUE;**

19 **(3) THE INTEREST RATES ON THE BONDS;**

20 **(4) THE MEDIUM, TIME, AND PLACE OF PAYMENT OF THE**
21 **PRINCIPAL OF AND INTEREST ON THE BONDS;**

22 **(5) THE FORM AND MANNER OF EXECUTING THE BONDS; AND**

23 **(6) THE DENOMINATIONS OF THE BONDS.**

24 **(E) AN OFFICER’S SIGNATURE OR FACSIMILE SIGNATURE ON A BOND**
25 **REMAINS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS**
26 **DELIVERED.**

27 **22-304.**

1 **BONDS ISSUED UNDER THIS SUBTITLE ARE NEGOTIABLE INSTRUMENTS**
2 **UNDER THE LAWS OF THE STATE.**

3 **22-305.**

4 **(A) THE COMMISSION MAY SELL BONDS ISSUED UNDER THIS SUBTITLE:**

5 **(1) AT PUBLIC OR PRIVATE SALE; AND**

6 **(2) IN A MANNER AND FOR A PRICE THAT THE COMMISSION**
7 **DETERMINES TO BE IN THE BEST INTERESTS OF THE COMMISSION.**

8 **(B) ARTICLE 31, §§ 9, 10, AND 11 OF THE CODE DO NOT APPLY TO THE**
9 **ISSUANCE AND SALE OF BONDS AUTHORIZED BY THIS SUBTITLE.**

10 **22-306.**

11 **(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,**
12 **THE PROCEEDS OF EACH BOND ISSUANCE UNDER THIS SUBTITLE SHALL BE**
13 **USED SOLELY FOR THE PROGRAM.**

14 **(2) THE COMMISSION MAY:**

15 **(I) LEND OR OTHERWISE MAKE AVAILABLE THE PROCEEDS**
16 **TO A CUSTOMER TO FINANCE COSTS OF A WATER CONSERVATION UPGRADE;**
17 **AND**

18 **(II) ENTER INTO A FINANCING AGREEMENT OR OTHER**
19 **INSTRUMENT THAT THE COMMISSION DETERMINES IS NECESSARY OR**
20 **DESIRABLE TO EVIDENCE OR SECURE THE LOAN.**

21 **(B) THE PROCEEDS SHALL BE DISTRIBUTED IN THE SAME MANNER AND**
22 **UNDER ANY RESTRICTIONS STATED IN:**

23 **(1) THE AUTHORIZING RESOLUTION OF THE COMMISSION; OR**

24 **(2) THE TRUST AGREEMENT SECURING THE BONDS.**

25 **(C) (1) IF THE PROCEEDS OF THE BONDS ARE LESS THAN THE COSTS**
26 **OF THE PROGRAM, THE COMMISSION, BY RESOLUTION, MAY ISSUE AND SELL**
27 **ADDITIONAL BONDS IN THE SAME MANNER AS THE EARLIER ISSUE TO FUND THE**
28 **AMOUNT OF THE DEFICIT.**

1 **(2) UNLESS OTHERWISE PROVIDED IN THE AUTHORIZING**
2 **RESOLUTION OR IN THE TRUST AGREEMENT SECURING THE BONDS, THE**
3 **ADDITIONAL BONDS SHALL BE:**

4 **(I) CONSIDERED TO BE OF THE SAME ISSUE AS THE**
5 **EARLIER ISSUE; AND**

6 **(II) ENTITLED TO PAYMENT FROM THE SAME FUNDS AS THE**
7 **EARLIER ISSUE, WITHOUT PREFERENCE OR PRIORITY OF THE EARLIER ISSUE.**

8 **(D) IF THE PROCEEDS OF BONDS ISSUED UNDER THIS SUBTITLE**
9 **EXCEED THE COSTS OF THE PROGRAM, THE SURPLUS SHALL BE USED AS THE**
10 **COMMISSION DETERMINES.**

11 **22-307.**

12 **AS DETERMINED BY THE COMMISSION, BONDS ISSUED UNDER THIS**
13 **SUBTITLE MAY BE SECURED BY OR MADE PAYABLE FROM:**

14 **(1) LETTERS OF CREDIT;**

15 **(2) LINES OF CREDIT;**

16 **(3) BOND PURCHASE AGREEMENTS;**

17 **(4) BOND INSURANCE POLICIES;**

18 **(5) GUARANTY AGREEMENTS; AND**

19 **(6) SIMILAR CREDIT ARRANGEMENTS.**

20 **22-308.**

21 **(A) THE COMMISSION MAY PROVIDE BY RESOLUTION FOR THE**
22 **ISSUANCE OF REVENUE REFUNDING BONDS TO REFUND BONDS ISSUED UNDER**
23 **THIS SUBTITLE.**

24 **(B) TO THE EXTENT APPLICABLE, REVENUE REFUNDING BONDS ISSUED**
25 **UNDER THIS SECTION SHALL CONFORM TO THE REQUIREMENTS OF THIS**
26 **SUBTITLE.**

27 **22-309.**

1 **(A) THE COMMISSION MAY ENTER INTO A TRUST AGREEMENT TO**
2 **SECURE BONDS ISSUED UNDER THIS SUBTITLE.**

3 **(B) THE TRUSTEE UNDER THE TRUST AGREEMENT MAY BE A BANK OR**
4 **TRUST COMPANY THAT HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE**
5 **THE STATE.**

6 **(C) THE TRUST AGREEMENT MAY PLEDGE OR ASSIGN REVENUES FROM**
7 **THE PROGRAM AS SPECIFIED BY THE COMMISSION.**

8 **(D) THE TRUST AGREEMENT MAY PROVIDE FOR THE PROTECTION AND**
9 **ENFORCEMENT OF THE RIGHTS AND REMEDIES OF THE BONDHOLDERS BY**
10 **INCLUDING:**

11 **(1) COVENANTS SETTING FORTH THE DUTIES OF THE**
12 **COMMISSION REGARDING THE CUSTODY, SAFEGUARDING, AND APPLICATION OF**
13 **MONEY;**

14 **(2) THE ESTABLISHMENT AND FUNDING OF RESERVE FUNDS; AND**

15 **(3) STATEMENTS OF THE RIGHTS AND REMEDIES OF THE**
16 **BONDHOLDERS AND OF THE TRUSTEE, WHICH MAY RESTRICT THE INDIVIDUAL**
17 **RIGHT OF ACTION OF BONDHOLDERS.**

18 **22-310.**

19 **BONDS ISSUED UNDER THIS SUBTITLE, INCLUDING ANY INTEREST**
20 **PAYABLE ON THE BONDS, INCOME DERIVED FROM THE BONDS, AND PROFIT**
21 **FROM THE SALE OR EXCHANGE OF THE BONDS, ARE EXEMPT FROM STATE AND**
22 **LOCAL TAXES.**

23 **SUBTITLE 6. WATER CONSERVATION ON-BILL FINANCING PROGRAM.**

24 **25-601.**

25 **IN THIS SUBTITLE, “PROGRAM” MEANS THE WATER CONSERVATION**
26 **ON-BILL FINANCING PROGRAM ESTABLISHED UNDER § 25-602 OF THIS**
27 **SUBTITLE.**

28 **25-602.**

29 **(A) THE COMMISSION MAY ESTABLISH THE WATER CONSERVATION**
30 **ON-BILL FINANCING PROGRAM.**

1 **(B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE FINANCIAL**
2 **ASSISTANCE TO CUSTOMERS OF THE COMMISSION FOR WATER CONSERVATION**
3 **UPGRADES TO RESIDENTIAL OR COMMERCIAL PROPERTY THAT IS:**

4 **(1) OWNED BY THE CUSTOMER; AND**

5 **(2) CONNECTED TO THE COMMISSION'S WATER AND SEWER**
6 **SYSTEM.**

7 **(C) THE PROGRAM SHALL REQUIRE A CUSTOMER TO REPAY FINANCIAL**
8 **ASSISTANCE PROVIDED UNDER THE PROGRAM THROUGH A SURCHARGE ON THE**
9 **CUSTOMER'S WATER AND SEWER USAGE BILL IN AN AMOUNT THAT ALLOWS THE**
10 **COMMISSION TO RECOVER:**

11 **(1) THE AMOUNT OF THE LOAN;**

12 **(2) COSTS ASSOCIATED WITH ISSUING BONDS TO FINANCE THE**
13 **LOAN; AND**

14 **(3) COSTS ASSOCIATED WITH IMPLEMENTING, ADMINISTERING,**
15 **AND MARKETING THE PROGRAM.**

16 **(D) A PERSON THAT ACQUIRES PROPERTY SUBJECT TO A SURCHARGE**
17 **UNDER THIS SECTION, WHETHER BY PURCHASE OR OTHER MEANS, ASSUMES**
18 **THE OBLIGATION TO PAY THE SURCHARGE.**

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

21 **(F) THE PROGRAM SHALL INCLUDE:**

22 **(1) ELIGIBILITY REQUIREMENTS, WHICH MAY SPECIFY THE**
23 **WATER CONSERVATION UPGRADES, PROPERTIES, OR PROPERTY OWNERS THAT**
24 **QUALIFY FOR THE PROGRAM;**

25 **(2) PROCEDURES FOR APPLYING FOR THE PROGRAM;**

26 **(3) THE METHOD FOR CALCULATING ANY FINANCING CHARGE OR**
27 **FEE THAT MAY BE ASSESSED UNDER THE PROGRAM;**

28 **(4) STANDARDS FOR DETERMINING THE MAXIMUM CHARGE THAT**
29 **MAY BE ADDED TO EACH BILL AND THE PERIOD OF TIME FOR REPAYMENT; AND**

1 **(5) LOAN TERMS AND CONDITIONS.**

2 **25-603.**

3 **THE COMMISSION MAY ISSUE BONDS FOR THE PURPOSE OF FINANCING**
4 **LOANS MADE THROUGH THE PROGRAM AS PROVIDED IN TITLE 22, SUBTITLE 3**
5 **OF THIS ARTICLE.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2013.