

SENATE BILL 875

P1, M3

4lr2579
CF HB 1165

By: **Senators Klausmeier and Feldman**

Introduced and read first time: January 31, 2014

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 7, 2014

CHAPTER _____

1 AN ACT concerning

2 **Jane E. Lawton Conservation Loan Program**

3 FOR the purpose of altering the purpose of the Jane E. Lawton Conservation Loan
4 Program; requiring an application for a loan under the Program to include
5 certain information; requiring a borrower to document that certain anticipated
6 energy cost savings according to a certain methodology after the completion of
7 the project are greater than the total cost of the project to the borrower;
8 repealing certain provisions relating to the deposit of a loan under the Jane E.
9 Lawton Conservation Fund into a certain revolving loan fund of a county's
10 economic development commission under certain circumstances; authorizing the
11 Fund to be used to enhance the credit of financings offered by certain eligible
12 banks and other financial institutions for projects; altering the period of time
13 that the Maryland Energy Administration is required to reserve a certain
14 portion of the money from the Fund for certain purposes; repealing certain
15 provisions relating to the sale of excess electricity through certain markets
16 generated by a certain project; authorizing the Administration to use the Fund
17 to enhance the credit of a financing offered by a certain bank or other financial
18 institution for a project; requiring that a certain credit enhancement be used for
19 a certain purpose, facilitate the financing of a certain project, and be offered
20 only to a certain bank or other financial institution; authorizing the
21 Administration to assess a reasonable fee for a certain purpose; requiring the
22 Administration to adopt certain regulations; altering certain definitions;
23 repealing a certain definition; and generally relating to the Jane E. Lawton
24 Conservation Fund.

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 BY repealing and reenacting, with amendments,
2 Article – State Government
3 Section 9–20A–01, 9–20A–03, 9–20A–05(b), 9–20A–06, and 9–20A–07
4 Annotated Code of Maryland
5 (2009 Replacement Volume and 2013 Supplement)

6 BY repealing
7 Article – State Government
8 Section 9–20A–09
9 Annotated Code of Maryland
10 (2009 Replacement Volume and 2013 Supplement)

11 BY adding to
12 Article – State Government
13 Section 9–20A–09
14 Annotated Code of Maryland
15 (2009 Replacement Volume and 2013 Supplement)

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

18 **Article – State Government**

19 9–20A–01.

20 (a) In this subtitle the following words have the meanings indicated.

21 (b) “Administration” means the Maryland Energy Administration.

22 (c) “Borrower” means an eligible local jurisdiction, nonprofit organization, or
23 eligible business that applies and qualifies for a loan under this Program.

24 (d) “Eligible business” means a commercial enterprise or business **THAT IS**
25 **IN GOOD STANDING WITH THE STATE DEPARTMENT OF ASSESSMENTS AND**
26 **TAXATION AND IS:**

27 (1) [that is] incorporated in the State; or

28 (2) [whose principal owners are State residents and the business of
29 which is principally carried out] **REGISTERED TO DO BUSINESS** in the State.

30 (e) “Energy cost savings” means the actual reduction in operating expenses
31 resulting from the [improved energy efficiency generated by an energy conservation]
32 **INSTALLATION, OPERATION, AND MAINTENANCE OF A** project financed under the
33 Program.

1 (f) “Fund” means the Jane E. Lawton Conservation Fund.

2 (g) (1) “Local jurisdiction” means any county or municipality of the State.

3 (2) “Local jurisdiction” includes:

4 (i) a board of education of a county or municipality;

5 (ii) a special district that is established by State law and that
6 operates within a single county;

7 (iii) a special district that is established by a county under public
8 general law; and

9 (iv) an office, board, or department that is established in a
10 county under State law and that is funded, under State law, at least in part by the
11 county governing body.

12 (h) “Municipality” means any municipal corporation in the State that is
13 subject to the provisions of Article XI–E of the Maryland Constitution or any duly
14 authorized agency or instrumentality of the municipality.

15 (i) “Nonprofit organization” means a corporation, foundation, school,
16 hospital, or other legal entity, no part of the net earnings of which inure to the benefit
17 of any private shareholder or individual holding an interest in the entity.

18 (j) “Program” means the Jane E. Lawton Conservation Loan Program.

19 (k) (1) “Project” means[:

20 (i)] one or more improvements or modifications that enhance the
21 energy efficiency and reduce the operating expenses of a structure[; or

22 (ii) installation of infrastructure for renewable energy
23 generation by local jurisdictions and nonprofit organizations] **LOCATED IN**
24 **MARYLAND.**

25 (2) [“Project” includes:

26 (i) start–up opportunities for new businesses if the loan would
27 enhance the energy efficiency of the borrower’s business;

28 (ii) installation of equipment to make buildings self–sustaining
29 and of emergency generating units that use renewable energy resources; and

30 (iii) implementation of methane removal at landfills.

1 (3)] “Project” does not include improvements or modifications for
2 energy conservation or renewable energy generation in structures used primarily for
3 religious or fraternal activities.

4 [(1) “Renewable energy resource” has the meaning stated in § 1–101 of the
5 Public Utilities Article.]

6 9–20A–03.

7 The purpose of the Program is to provide financial assistance in the form of low
8 interest loans to nonprofit organizations, local jurisdictions, and eligible businesses for
9 projects in order to:

10 (1) promote[:

11 (i)] energy conservation;

12 [(ii) the development and use of renewable energy resources in
13 the State;

14 (iii) self–sustaining buildings and emergency generating units
15 that use renewable energy resources; and

16 (iv) the infrastructure for renewable energy generation in the
17 State;]

18 (2) reduce consumption of fossil fuels;

19 (3) improve energy efficiency; and

20 (4) enhance energy–related economic development and stability in
21 [business] **NONPROFIT**, commercial, and industrial sectors.

22 9–20A–05.

23 (b) The application shall contain any information the Administration
24 determines is necessary, including:

25 (1) the projected cost to accomplish a proposed project;

26 (2) [if applicable,] the amount of energy or fuel a proposed project is
27 expected to save over a defined period of time after completion of the project;

28 (3) the anticipated environmental benefits in the form of reduced
29 emissions or pollution attributable to the proposed project;

1 (4) the amount of cost savings expected to be generated over a defined
2 period of time after completion of the proposed project;

3 (5) a description of the borrower's contribution to a proposed project as
4 required by § 9-20A-06 of this subtitle; and

5 (6) any additional information relating to the borrower or the proposed
6 project that may be required by the Administration in order to administer the
7 Program.

8 9-20A-06.

9 (a) Loans from the Fund may be used for:

10 (1) the costs of implementing projects, including the costs of all
11 necessary:

12 (i) technical assessments;

13 (ii) studies;

14 (iii) surveys;

15 (iv) plans and specifications; and

16 (v) start-up, architectural, engineering, or other special
17 services;

18 (2) the costs of procuring necessary technology, equipment, licenses, or
19 materials; and

20 (3) the costs of construction, rehabilitation, or modification, including
21 the purchase and installation of any necessary machinery, equipment, or furnishings.

22 (b) Each borrower shall make a contribution to a project that is of a type and
23 amount acceptable to the Administration.

24 (c) [If the sole or primary purpose of the project is to reduce energy
25 consumption, the] **THE** borrower must document that the anticipated energy cost
26 savings **TO THE BORROWER** over a defined period **ACCORDING TO A**
27 **METHODOLOGY ACCEPTABLE TO THE ADMINISTRATION** after the completion of
28 the project are greater than the **TOTAL** cost of the project **TO THE BORROWER**.

29 (d) Loans made under the Program shall:

1 (1) be repayable by the borrower from specified revenues that may
2 include the energy cost savings generated by a project;

3 (2) bear interest at a rate that the Administration determines to be
4 necessary and reasonable for the project; and

5 (3) be repayable in accordance with a schedule that the
6 Administration sets, which may be on a deferred payment basis.

7 (e) (1) A borrower shall provide assurances for the repayment of a loan.

8 (2) The assurances:

9 (i) shall include a promissory note; and

10 (ii) may include superior or subordinate mortgage liens,
11 guarantees of repayment, or other forms of collateral.

12 (f) Loans may be made in conjunction with, or in addition to, financial
13 assistance provided through other State or federal programs.

14 [(g) (1) A loan under the Fund may be deposited into a revolving loan fund
15 of a county's economic development commission if the county approves the transaction
16 and project for the local jurisdiction.

17 (2) If a county accepts a loan under paragraph (1) of this subsection,
18 the funds deposited from the Fund may be used only for purposes of providing capital
19 for renewable energy infrastructure projects under this subtitle.]

20 9-20A-07.

21 (a) There is a Jane E. Lawton Conservation Fund.

22 (b) The Administration shall administer the Fund.

23 (c) (1) The Fund is a special, nonlapsing fund that is not subject to §
24 7-302 of the State Finance and Procurement Article.

25 (2) The State Treasurer shall hold the Fund and the Comptroller shall
26 account for the Fund.

27 (d) The Fund consists of:

28 (1) money appropriated in the State budget to the Program;

29 (2) money received from any public or private source;

1 (3) interest and investment earnings on the Fund; and

2 (4) repayments and prepayments of principal and interest on loans
3 made from the Fund.

4 (e) The Fund may be used only:

5 (1) to pay the expenses of the Program; [and]

6 (2) to provide loans to eligible borrowers and projects; AND

7 (3) TO ENHANCE THE CREDIT OF A FINANCING OFFERED BY
8 ELIGIBLE BANKS AND OTHER FINANCIAL INSTITUTIONS FOR PROJECTS.

9 (f) (1) The State Treasurer shall invest and reinvest the money of the
10 Fund in the same manner as other State money may be invested.

11 (2) Any investment earnings of the Fund shall be paid into the Fund.

12 (3) Any repayment of principal and interest on loans made from the
13 Fund shall be paid into the Fund.

14 (g) (1) The Administration shall annually reserve **FOR AT LEAST 90**
15 **DAYS** a portion of the money from the Fund that is available for financial assistance
16 under the Program for loans to nonprofit organizations.

17 (2) In a fiscal year in which requests for financial assistance from
18 nonprofit organizations are less than the amount of money reserved under paragraph
19 (1) of this subsection **FOR THE PERIOD DETERMINED BY THE ADMINISTRATION**,
20 the Administration may make the unencumbered or noncommitted portion of the
21 reserve available to other borrowers in the Program.

22 [9-20A-09.

23 (a) A project implemented by a local jurisdiction financed by a loan from the
24 Fund, such as a self-sustaining emergency generating unit, that generates electricity
25 in excess of the amount needed for sustaining the unit may offer the extra electricity
26 for trade through markets operated by PJM Interconnection, LLC.

27 (b) A local jurisdiction that trades electricity under subsection (a) of this
28 section shall use the proceeds to repay its loan obligations under this subtitle.]

29 **9-20A-09.**

1 (A) THE ADMINISTRATION MAY USE THE FUND TO ENHANCE THE
2 CREDIT OF A FINANCING OFFERED BY A BANK OR OTHER FINANCIAL
3 INSTITUTION FOR A PROJECT.

4 (B) A CREDIT ENHANCEMENT ISSUED IN ACCORDANCE WITH
5 SUBSECTION (A) OF THIS SECTION SHALL:

6 (1) CARRY OUT THE PURPOSE OF THE PROGRAM IN A MANNER
7 THE ADMINISTRATION CONSIDERS APPROPRIATE;

8 (2) FACILITATE FINANCING OF AT LEAST ONE PROJECT OF A
9 LOCAL JURISDICTION, NONPROFIT ORGANIZATION, OR ELIGIBLE BUSINESS; AND

10 (3) BE OFFERED ONLY TO A BANK OR OTHER FINANCIAL
11 INSTITUTION IN GOOD STANDING WITH THE STATE DEPARTMENT OF
12 ASSESSMENTS AND TAXATION THAT IS:

13 (I) INCORPORATED IN THE STATE; OR

14 (II) REGISTERED TO DO BUSINESS IN THE STATE.

15 (C) THE ADMINISTRATION MAY ASSESS A REASONABLE FEE TO A
16 PARTICIPATING BANK OR FINANCIAL INSTITUTION FOR THE ADMINISTRATION
17 OF THIS SECTION.

18 (D) THE ADMINISTRATION SHALL ADOPT REGULATIONS TO CARRY OUT
19 THIS SECTION.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 ~~October~~ July 1, 2014.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.