

**Department of Legislative Services**  
Maryland General Assembly  
2016 Session

**FISCAL AND POLICY NOTE**  
**Third Reader**

Senate Bill 173

(Senator Feldman, *et al.*)

Finance

Economic Matters

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**Local Government - Clean Energy Loan Programs - Commercial Property  
Owners - Renewable Energy Projects**

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This bill removes the electric generating capacity limit on renewable energy projects financed by commercial property owners through a clean energy loan program established by a local government. The bill does not otherwise change the laws relating to local government clean energy loan programs.

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**Fiscal Summary**

**State Effect:** None. The bill does not affect State finances or operations.

**Local Effect:** No effect on local government expenditures for clean energy loan programs. To the extent that the bill encourages larger commercial projects, funding for other projects is reduced. Local government revenues are not affected.

**Small Business Effect:** Potential meaningful. Small businesses may qualify for larger loans under the bill, allowing the businesses to finance larger renewable energy projects. Other small businesses may experience reduced funding for small projects.

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**Analysis**

**Current Law:** A county or municipality may enact an ordinance or a resolution to establish a clean energy loan program. The purpose of a clean energy program established by a local government is to provide loans to:

- residential property owners, including low-income residential property owners, to finance energy efficiency and renewable energy projects; and

- commercial property owners to finance (1) energy efficiency projects and (2) renewable energy projects with an electric generating capacity of 100 kilowatts or less.

A program must require a property owner to repay a loan through a surcharge on the owner's property tax bill. The surcharge must be limited to an amount that allows the local government to recover the costs associated with issuing bonds to finance the loan and costs associated with administering the program.

With the express consent of any holder of a mortgage or deed of trust on a commercial property that is to be improved through a loan under the program (1) a county or municipality may collect loan payments owed to a private lender or to the county or municipality and costs associated with administering the program, through a surcharge on the property owner's property tax bill; (2) an unpaid surcharge is, until paid, a lien on the real property it is imposed on; and (3) State law provisions applicable to a property tax lien also apply to an unpaid surcharge lien.

A private lender may provide capital for a loan provided to a commercial property owner under the program.

**Background:** Chapter 743 of 2009 first authorized local governments to enact ordinances or resolutions establishing clean energy loan programs, subject to specified requirements. Chapter 472 of 2014 authorized private lenders to provide capital for a commercial loan provided under a local clean energy loan program.

Property-assessed clean energy (PACE) programs, where payments are made through a property owner's property tax bill, can provide a property owner the benefit of being able to finance costly clean energy improvements over time and have the responsibility for the financing payments be tied to the property rather than the property owner. The Maryland Energy Administration has advised in the past that concerns were raised by some county governments about the legality and appropriateness of using property tax billing and collection mechanisms to recover payments for loans made by private lenders for energy efficiency and renewable energy improvements. Those concerns had been cited as barriers to implementing PACE programs in the State.

According to the Maryland Clean Energy Center, Montgomery and Anne Arundel counties have enacted local ordinances establishing clean energy loan programs, and Charles, Howard, Frederick, and Queen Anne's counties are in the process of doing so.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 105 (Delegate Clippinger) - Economic Matters.

**Information Source(s):** Public Service Commission, Maryland Clean Energy Center,  
Department of Legislative Services

**Fiscal Note History:** First Reader - January 22, 2016  
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