

Chapter 135

(House Bill 170)

AN ACT concerning

Jane E. Lawton Conservation Loan Program – Eligible Borrowers

FOR the purpose of altering the definition of “borrower” for the purpose of provisions of law governing the Jane E. Lawton Conservation Loan Program to include an eligible State agency; altering the purpose of the Jane E. Lawton Conservation Loan Program to include providing certain zero interest loans to certain borrowers, providing certain financial assistance to State agencies for certain projects, and ~~to include~~ providing certain financial assistance for projects that reduce greenhouse gas emissions; requiring that, if the borrower is a State agency, an application to receive a loan under the Jane E. Lawton Conservation Loan Program be signed by the head of the State agency; exempting State agencies from certain Jane E. Lawton Conservation Loan Program requirements; altering the purpose of the Jane E. Lawton Conservation Loan Program to include a certain objective; repealing the State Agency Loan Program Fund; defining a certain term; altering the definition of “project” to allow Jane E. Lawton Conservation Loan Program loans to be used for certain improvements and modifications in structures used primarily for religious or fraternal activities; providing for the application of this Act; and generally relating to the Jane E. Lawton Conservation Loan Program and the State Agency Loan Program.

BY repealing and reenacting, without amendments,
 Article – State Finance and Procurement
 Section 6–226(a)(1) and (2)(i)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2018 Supplement)

BY repealing
 Article – State Finance and Procurement
 Section 6–226(a)(2)(ii)5.
 Annotated Code of Maryland
 (2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
 Article – State Government
 Section 9–20A–01, 9–20A–03, 9–20A–05, and 9–20A–06
 Annotated Code of Maryland
 (2014 Replacement Volume and 2018 Supplement)

BY renumbering
 Article – State Finance and Procurement
 Section 6–226(a)(2)(ii)6. through 113., respectively

to be Section 6–226(a)(2)(ii)5. through 112., respectively
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – State Finance and Procurement

6–226.

(a) (1) Except as otherwise specifically provided by law or by regulation of the Treasurer, the Treasurer shall credit to the General Fund any interest on or other income from State money that the Treasurer invests.

(2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

[5. State Agency Loan Program Fund;]

Article – State Government

9–20A–01.

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

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

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

(d) “Eligible business” means a commercial enterprise or business that is in good standing with the State Department of Assessments and Taxation and is:

(1) incorporated in the State; or

(2) registered to do business in the State.

(e) “Energy cost savings” means the actual reduction in operating expenses resulting from the installation, operation, and maintenance of a project financed under the Program.

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

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

(2) “Local jurisdiction” includes:

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

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

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

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

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

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

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

(k) [(1)] “Project” means one or more improvements or modifications that enhance the energy efficiency and reduce the operating expenses of a structure located in Maryland.

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

(L) (1) “STATE AGENCY” MEANS ANY PERMANENT OR TEMPORARY STATE OFFICE, DEPARTMENT, DIVISION OR UNIT, BUREAU, BOARD, COMMISSION, TASK FORCE, AUTHORITY, INSTITUTION, STATE COLLEGE OR UNIVERSITY, AND ANY OTHER UNIT OF STATE GOVERNMENT, WHETHER EXECUTIVE, LEGISLATIVE, OR JUDICIAL.

(2) “STATE AGENCY” INCLUDES ANY SUBUNITS OF STATE GOVERNMENT.

9–20A–03.

The purpose of the Program is to provide financial assistance in the form of low interest **AND ZERO INTEREST** loans to nonprofit organizations, local jurisdictions, **STATE AGENCIES**, and eligible businesses for projects in order to:

- (1) promote energy conservation;
- (2) reduce consumption of fossil fuels;
- (3) improve energy efficiency; [and]
- (4) enhance energy–related economic development and stability in the nonprofit, commercial, and industrial sectors; **AND**

(5) REDUCE GREENHOUSE GAS EMISSIONS.

9–20A–05.

(a) (1) To receive a loan under the Program, a borrower must file an application with the Administration.

(2) If the borrower is an eligible business, the application must be signed by the chief operating officer or an authorized officer of the business.

(3) If the borrower is a local jurisdiction, the application must be signed by the chief elected officer of the county or municipality, or if none, by the governing body of the county or municipality in which the project is located.

(4) If the borrower is a public school, the application must be signed by the board of education of the county in which the project is located.

(5) IF THE BORROWER IS A STATE AGENCY, THE APPLICATION MUST BE SIGNED BY THE HEAD OF THE STATE AGENCY.

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

- (1) the projected cost to accomplish a proposed project;
- (2) the amount of energy or fuel a proposed project is expected to save over a defined period of time after completion of the project;

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

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

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

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

9-20A-06.

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

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

(i) technical assessments;

(ii) studies;

(iii) surveys;

(iv) plans and specifications; and

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

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

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

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

(c) **[The] A borrower OTHER THAN A STATE AGENCY** must document that the anticipated energy cost savings to the borrower over a defined period according to a methodology acceptable to the Administration after the completion of the project are greater than the total cost of the project to the borrower.

(d) Loans made under the Program **TO A BORROWER OTHER THAN A STATE AGENCY** shall:

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

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

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

(e) (1) A borrower **OTHER THAN A STATE AGENCY** shall provide assurances for the repayment of a loan.

(2) The assurances:

(i) shall include a promissory note; and

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 6–226(a)(2)(ii)6 through 113, respectively, of Article – State Finance and Procurement of the Annotated Code of Maryland be renumbered to be Section(s) 6–226(a)(2)(ii)5 through 112, respectively.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any contract existing before the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

Approved by the Governor, April 18, 2019.