

CHAPTER 743

(House Bill 1567)

AN ACT concerning

Clean Energy Loan Programs

FOR the purpose of authorizing certain political subdivisions to enact an ordinance or a resolution establishing a Clean Energy Loan Program for a certain purpose; requiring the Program to require a property owner to repay a certain loan through a surcharge on the owner's property tax bill; *requiring the surcharge to be limited to a certain amount*; providing that a person who acquires property subject to a certain surcharge assumes the obligation to pay the surcharge; ~~providing that a certain surcharge constitutes a lien on certain property~~; requiring a certain local law to provide for certain eligibility requirements for participation in the Program and certain loan terms and conditions; authorizing a political subdivision to issue bonds for a certain purpose; establishing procedures for the issuance of certain bonds; authorizing a certain political subdivision to make certain specifications when issuing certain bonds; stating the intent of the General Assembly; requiring certain bonds to be subject to certain requirements and limitations under certain circumstances; ~~requiring that a certain county may not issue certain bonds unless the amount of the bonds is first authorized by the General Assembly~~; providing for the terms and conditions of certain bonds; providing for a certain exemption from certain taxes under certain circumstances; providing that a finding by a political subdivision for certain purposes is conclusive as to certain matters under certain circumstances; defining certain terms; and generally relating to the Clean Energy Loan Programs.

BY adding to

Article 24 – Political Subdivisions – Miscellaneous Provisions

Section 9–1501 through 9–1507 to be under the new subtitle “Subtitle 15. Clean Energy Loan Programs”

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

Article 24 – Political Subdivisions – Miscellaneous Provisions

SUBTITLE 15. CLEAN ENERGY LOAN PROGRAMS.

9–1501.

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

(B) "BOND" MEANS A BOND, NOTE, OR OTHER SIMILAR INSTRUMENT THAT A POLITICAL SUBDIVISION ISSUES UNDER THIS SUBTITLE.

(C) "CHIEF EXECUTIVE" MEANS THE PRESIDENT, CHAIR, MAYOR, COUNTY EXECUTIVE, OR ANY OTHER CHIEF EXECUTIVE OFFICER OF A POLITICAL SUBDIVISION.

(D) "POLITICAL SUBDIVISION" MEANS A COUNTY OR MUNICIPAL CORPORATION.

(E) "PROGRAM" MEANS A CLEAN ENERGY LOAN PROGRAM.

9-1502.

(A) A POLITICAL SUBDIVISION MAY ENACT AN ORDINANCE OR A RESOLUTION ESTABLISHING A CLEAN ENERGY LOAN PROGRAM.

(B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE LOANS TO: ~~RESIDENTIAL~~

(1) RESIDENTIAL PROPERTY OWNERS, INCLUDING LOW INCOME RESIDENTIAL PROPERTY OWNERS, FOR THE FINANCING OF ENERGY EFFICIENCY AND RENEWABLE ENERGY PROJECTS; AND

(2) COMMERCIAL PROPERTY OWNERS FOR THE FINANCING OF:

(I) ENERGY EFFICIENCY PROJECTS; AND

(II) RENEWABLE ENERGY PROJECTS WITH AN ELECTRIC GENERATING CAPACITY OF NOT MORE THAN 100 KILOWATTS.

(C) (1) THE PROGRAM SHALL REQUIRE A PROPERTY OWNER TO REPAY A LOAN PROVIDED UNDER THE PROGRAM THROUGH A SURCHARGE ON THE OWNER'S PROPERTY TAX BILL.

(2) A SURCHARGE SHALL BE LIMITED TO AN AMOUNT THAT ALLOWS THE POLITICAL SUBDIVISION TO RECOVER THE COSTS ASSOCIATED WITH ISSUING BONDS TO FINANCE THE LOAN AND COSTS ASSOCIATED WITH ADMINISTERING THE PROGRAM.

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

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

~~(F)~~ (1) AN ORDINANCE OR RESOLUTION ENACTED UNDER SUBSECTION (A) OF THIS SECTION SHALL PROVIDE FOR:

~~(H)~~ (I) ELIGIBILITY REQUIREMENTS FOR PARTICIPATION IN THE PROGRAM, INCLUDING ELIGIBILITY REQUIREMENTS FOR:

~~(I)~~ 1. ENERGY EFFICIENCY IMPROVEMENTS AND RENEWABLE ENERGY DEVICES; AND

~~(H)~~ 2. PROPERTY AND PROPERTY OWNERS; AND

~~(2)~~ (II) LOAN TERMS AND CONDITIONS.

(2) ELIGIBILITY REQUIREMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE A REQUIREMENT THAT THE POLITICAL SUBDIVISION, IN A MANNER SUBSTANTIALLY SIMILAR TO THAT REQUIRED FOR A MORTGAGE LOAN UNDER §§ 12-127, 12-311, 12-409.1, 12-925, AND 12-1029 OF THE COMMERCIAL LAW ARTICLE, GIVE DUE REGARD TO THE PROPERTY OWNER'S ABILITY TO REPAY A LOAN PROVIDED UNDER THE PROGRAM.

9-1503.

(A) A POLITICAL SUBDIVISION MAY ISSUE BONDS FOR THE PURPOSE OF FINANCING LOANS MADE THROUGH THE PROGRAM.

(B) TO ISSUE A BOND, A POLITICAL SUBDIVISION SHALL ADOPT AN ORDINANCE OR A RESOLUTION THAT SPECIFIES THE MAXIMUM PRINCIPAL AMOUNT OF THE BOND.

(C) AS THE POLITICAL SUBDIVISION CONSIDERS APPROPRIATE TO EFFECT THE PROGRAM, THE ORDINANCE OR RESOLUTION MAY:

(1) SPECIFY THE ITEMS LISTED IN SUBSECTION (D) OF THIS SECTION;

(2) AUTHORIZE THE FINANCE BOARD OF THE POLITICAL SUBDIVISION TO SPECIFY THOSE ITEMS BY RESOLUTION OR ORDINANCE; OR

(3) AUTHORIZE THE CHIEF EXECUTIVE OF THE POLITICAL SUBDIVISION TO SPECIFY THOSE ITEMS BY EXECUTIVE ORDER.

(D) FOR EACH ISSUANCE OF A BOND, THE POLITICAL SUBDIVISION MAY SPECIFY:

(1) THE PRINCIPAL AMOUNT;

(2) THE INTEREST RATE OR, FOR FLOATING OR VARIABLE RATES OF INTEREST, THE METHOD TO DETERMINE THE INTEREST RATE;

(3) THE MANNER AND TERMS OF SALE, INCLUDING WHETHER BY COMPETITIVE OR NEGOTIATED SALE;

(4) THE TIME OF EXECUTION, ISSUANCE, AND DELIVERY;

(5) THE FORM AND DENOMINATION;

(6) THE SOURCE, MANNER, TIMES, AND PLACES TO PAY PRINCIPAL OR INTEREST;

(7) CONDITIONS FOR REDEMPTION BEFORE MATURITY;

(8) THE PURPOSES FOR WHICH PROCEEDS MAY BE SPENT;

(9) THE SOURCE OF SECURITY; AND

(10) OTHER PROVISIONS THAT THE GOVERNING BODY OF THE POLITICAL SUBDIVISION DETERMINES ARE NECESSARY OR DESIRABLE TO EFFECT THE PROGRAM.

9-1504.

(A) THE GENERAL ASSEMBLY INTENDS THAT GENERAL OBLIGATION DEBT MAY BE INCURRED BY ISSUING BONDS IF THE PURPOSES FOR THE DEBT INCLUDE THE PURPOSES FOR ISSUING BONDS UNDER THIS SUBTITLE.

(B) SUBJECT TO ~~SUBSECTIONS~~ SUBSECTION (C) ~~AND (D)~~ OF THIS SECTION, A POLITICAL SUBDIVISION MAY ISSUE BONDS TO FINANCE LOANS MADE UNDER THE PROGRAM IN ACCORDANCE WITH THE PROCEDURES OF THE POLITICAL SUBDIVISION FOR AUTHORIZATION TO SELL AND ISSUE BONDS.

(C) A BOND ISSUED IN ACCORDANCE WITH AN ORDINANCE OR A RESOLUTION THAT PLEDGES THE FULL FAITH AND CREDIT OF A POLITICAL SUBDIVISION IS SUBJECT TO:

(1) ANY APPLICABLE REQUIREMENTS OF THE MARYLAND CONSTITUTION AND THE POLITICAL SUBDIVISION'S CHARTER AND LAWS ON REFERENDUM FOR THE ISSUANCE OF GENERAL OBLIGATION DEBT; AND

(2) EACH LIMITATION IMPOSED BY PUBLIC GENERAL LAW, PUBLIC LOCAL LAW, OR CHARTER ON GENERAL OBLIGATION DEBT OF THE POLITICAL SUBDIVISION.

~~**(D) (1) THIS SUBSECTION DOES NOT APPLY TO A COUNTY THAT IS SUBJECT TO ARTICLE 25A OR ARTICLE 25B OF THE CODE.**~~

~~**(2) A COUNTY MAY NOT ISSUE BONDS THAT ARE SECURED BY THE FULL FAITH AND CREDIT OF THE COUNTY UNLESS THE AMOUNT OF BONDS TO BE ISSUED BY THE COUNTY UNDER THIS SUBTITLE IS FIRST AUTHORIZED BY THE GENERAL ASSEMBLY.**~~

9-1505.

(A) A BOND:

(1) MAY BE IN BEARER FORM;

(2) MAY BE REGISTRABLE AS TO PRINCIPAL ALONE OR AS TO BOTH PRINCIPAL AND INTEREST; AND

(3) IS A "SECURITY" UNDER § 8-102 OF THE COMMERCIAL LAW ARTICLE, WHETHER OR NOT THE BOND IS ONE OF A CLASS OR SERIES OR IS DIVISIBLE INTO A CLASS OR SERIES OF INSTRUMENTS.

(B) (1) A BOND SHALL BE SIGNED MANUALLY OR IN FACSIMILE BY THE CHIEF EXECUTIVE OF THE POLITICAL SUBDIVISION.

(2) AN OFFICER'S SIGNATURE OR FACSIMILE SIGNATURE ON A BOND REMAINS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS DELIVERED.

(3) THE SEAL OF THE POLITICAL SUBDIVISION SHALL BE AFFIXED TO THE BOND AND ATTESTED BY THE CLERK OR OTHER SIMILAR ADMINISTRATIVE OFFICER OF THE POLITICAL SUBDIVISION.

(C) (1) A BOND SHALL MATURE NOT LATER THAN 40 YEARS AFTER THE DATE OF ISSUE.

(2) BONDS MAY BE ISSUED AS SERIAL BONDS OR TERM BONDS WITH PROVISIONS FOR A MANDATORY SINKING FUND OR OTHER ANNUAL PRINCIPAL REDEMPTION BEGINNING NOT LATER THAN 3 YEARS AFTER THE DATE OF ISSUE.

(D) (1) A BOND SHALL BE SOLD IN THE MANNER, AT PUBLIC OR PRIVATE (NEGOTIATED) SALE, AND ON THE TERMS AT, ABOVE, OR BELOW PAR, AS THE POLITICAL SUBDIVISION CONSIDERS BEST.

(2) A BOND IS NOT SUBJECT TO ARTICLE 31, §§ 9, 10, AND 11 OF THE CODE.

9-1506.

(A) A BOND, THE TRANSFER OF A BOND, THE INTEREST PAYABLE ON A BOND, THE INCOME DERIVED FROM A BOND, AND THE PROFIT REALIZED ON SALE OR EXCHANGE OF A BOND ARE EXEMPT FROM STATE AND LOCAL TAXES.

(B) A POLITICAL SUBDIVISION MAY ISSUE BONDS UNDER THIS SUBTITLE WITHOUT REGARD TO THEIR FEDERAL TAX STATUS.

9-1507.

FOR PURPOSES OF AN ACTION INVOLVING THE VALIDITY OR ENFORCEABILITY OF A BOND OR SECURITY FOR A BOND, A FINDING BY A POLITICAL SUBDIVISION IS CONCLUSIVE AS TO:

(1) THE PUBLIC PURPOSE OF AN ACTION TAKEN UNDER THIS SUBTITLE; AND

(2) ANY OTHER MATTER RELATING TO THE ISSUANCE OF A BOND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.