

**COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

**2023 Legislative Session**

**Bill 2023-02**

**REVISED CLEAN ENERGY LOAN PROGRAM**

**Introduced by Charles County Commissioners**

FOR THE PURPOSE OF AMENDING THE LOCAL LAW CONCERNING THE MARYLAND COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM TO ENSURE CONSISTENCY WITH THE AMENDED STATE ENABLING LEGISLATION THAT ALLOWS COMMERCIAL PROPERTY OWNERS TO PARTICIPATE IN THE PROGRAM WHEN IMPLEMENTING ENERGY-SAVING IMPROVEMENTS ON THEIR BUILDINGS, INCLUDING BUILDING HEALTH AND AIR QUALITY, ELECTRIC VEHICLE CHARGING, ENVIRONMENTAL REMEDIATION AND RESILIENCE PROJECTS.

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**Date introduced:** 02 / 14 / 2023

**Public Hearing:** 03 / 29 / 2023 In-Person @ 6:00 p.m.

04 / 25 / 2023 Virtual @ 6:00 p.m.

**Commissioners Action:** 04 / 25 / 2023

**Commissioner Votes:** RBC: Y, GB: Y, TC: A, AS: Y, RP: Y

**Pass/Fail:** Pass

**Effective Date:** 06 / 09 / 2023

**Remarks:** \_\_\_\_\_

NOTE: CAPITALS indicate matter added to existing text.  
[Brackets] indicate matter deleted from existing law.

1                                    **COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

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4                                    **2023 Legislative Session**

5  
6 Bill No. 2023-02

7 Chapter. No. 158

8 Introduced by Charles County Commissioners

9 Date of Introduction February 14, 2023

10  
11                                    **BILL**

12 AN ACT concerning

13                                    **REVISED CLEAN ENERGY LOAN PROGRAM**

14  
15                                    FOR THE PURPOSE OF AMENDING THE LOCAL LAW CONCERNING THE  
16 MARYLAND COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM TO  
17 ENSURE CONSISTENCY WITH THE AMENDED STATE ENABLING LEGISLATION THAT  
18 ALLOWS COMMERCIAL PROPERTY OWNERS TO PARTICIPATE IN THE PROGRAM  
19 WHEN IMPLEMENTING ENERGY-SAVING IMPROVEMENTS ON THEIR BUILDINGS,  
20 INCLUDING BUILDING HEALTH AND AIR QUALITY, ELECTRIC VEHICLE CHARGING,  
21 ENVIRONMENTAL REMEDIATION AND RESILIENCE PROJECTS.

22  
23 BY amending:

24                                    Chapter 158-1 through 158-3 – CLEAN ENERGY LOAN PROGRAM

25                                    *Code of Charles County, Maryland*

26                                    *(2022 Edition)*

27  
28                                    **SECTION 1. BE IT ENACTED BY THE COUNTY COMMISSIONERS OF**  
29 **CHARLES COUNTY, MARYLAND, that the Laws of Charles County, Maryland read as**  
30 **follows:**

31                                    Chapter 158

32                                    **CLEAN ENERGY LOAN PROGRAM.**

1 **158-1. CLEAN ENERGY LOAN PROGRAM.**

2 A. Definitions. In this chapter, the following words have the meanings indicated:

3  
4 **CLEAN ENERGY LOAN FINANCING AGREEMENT**

5 An agreement between a property owner and a clean energy lender providing for the terms and  
6 conditions of a clean energy loan.

7  
8 **CLEAN ENERGY LENDER**

9 A private lender providing a clean energy loan.

10  
11 **CLEAN ENERGY LOAN**

12 Any loan made by a private lender to a property owner under the Clean Energy Loan Program.

13  
14 **CLEAN ENERGY LOAN OBLIGATION**

15 All indebtedness and obligations of a property owner to a clean energy lender under a clean  
16 energy LOAN financing agreement.

17  
18 **CLEAN ENERGY LOAN PROGRAM**

19 THE CLEAN ENERGY LOAN PROGRAM AUTHORIZED BY TITLE 1, SUBTITLE 11, OF  
20 THE LOCAL GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND,  
21 THE PURPOSE OF WHICH IS TO PROVIDE LOANS TO PROPERTY OWNERS TO  
22 FINANCE QUALIFYING IMPROVEMENTS TO COMMERCIAL PROPERTY.

23  
24 **CLEAN ENERGY LOAN PROGRAM ADMINISTRATOR or PROGRAM**  
25 **ADMINISTRATOR**

26 Any person or entity selected by the County to manage the Clean Energy Loan Program.

27  
28 **COMMERCIAL PROPERTY**

29 Has the meaning stated in Title 1, Subtitle 11, of the Local Government Article of the Annotated  
30 Code of Maryland.

31 **DEPARTMENT**

32 The Charles County Department of Fiscal and Administrative Services.

33 **PROPERTY OWNER**

34 An owner of commercial property as defined in this subsection.

35 **SURCHARGE**

36 THE ASSESSMENT LEVIED BY THE COUNTY ON A PROPERTY OWNER'S PROPERTY  
37 TAX BILL TO COLLECT CLEAN ENERGY LOAN PAYMENTS OWED TO A CLEAN  
38 ENERGY LENDER BY THE PROPERTY OWNER AND COSTS OF ADMINISTERING THE  
39 CLEAN ENERGY LOAN PROGRAM IN ACCORDANCE WITH THIS ACT.

40  
41 **SURCHARGE LIEN**

42 THE LIEN AUTOMATICALLY ESTABLISHED UPON THE COUNTY'S LEVY OF THE  
43 SURCHARGE ON THE PROPERTY TAX BILL.

1 (B) **PROGRAM ESTABLISHED; ADMINISTRATION.**

2 (1) There is a Clean Energy Loan Program to finance QUALIFYING IMPROVEMENTS AS  
3 DESCRIBED IN THIS SECTION [~~energy efficiency projects and renewable energy~~  
4 ~~projects~~] in accordance with Title 1, Subtitle 11, of the Local Government Article of the  
5 Annotated Code of Maryland.

6 (2) Rules and regulations, guidelines. The Department may adopt rules and regulations, or  
7 guidelines, to administer the Clean Energy Loan Program consistent with this subtitle.

8 (3) Program administrator. The County Commissioners of Charles County may enter into an  
9 Agreement with a public or private entity to administer the Clean Energy Loan Program.  
10

11 (C) **SCOPE.** Commercial property owners are eligible to participate in the Clean Energy Loan  
12 Program for nonaccelerating loans greater than \$25,000.

13 (D) **ELIGIBILITY.** In order to be eligible for a clean energy loan, the property owner shall:

14 (1) Have a 100% ownership interest in the property located in Charles County for which  
15 improvements are proposed;

16 (2) Obtain an energy audit approved under program guidelines demonstrating that the savings  
17 projected to be obtained from the improvements over the life of the loan equal or exceed the  
18 principal and aggregate interest to be paid over the term of the loan;

19 (3) Demonstrate that the most recent property taxes, liens, special assessments, and charges on  
20 the property have been paid;

21 (4) Provide a copy of written notice to all current holders of a mortgage or deed of trust who  
22 have a priority recorded lien on the property and written proof of express consent to the  
23 clean energy loan as a priority lien by all current holders of a mortgage or deed of trust on  
24 the property; and

25 (5) Establish that the property owner is able to repay the loan provided under the Clean Energy  
26 Loan Program, in a manner substantially similar to that required for a mortgage loan  
27 according to the Commercial Law Article of the Annotated Code of Maryland and any  
28 additional criteria and methods required by the clean energy lender.

29  
30 (E) **QUALIFYING IMPROVEMENTS.** The following improvements, either new or  
31 replacement, qualify FOR [~~as energy efficiency or renewable energy projects under~~] the  
32 Clean Energy Loan Program:

33 (1) ENERGY AND WATER EFFICIENCY PROJECTS; [~~Solar energy equipment~~];

34 (2) RENEWABLE ENERGY PROJECTS INCLUDING BUT NOT LIMITED TO SOLAR  
35 ENERGY EQUIPMENT, GEOTHERMAL ENERGY DEVICES, AND WIND ENERGY  
36 SYSTEMS [~~Geothermal energy devices~~];

1 (3) ENVIRONMENTAL REMEDIATION PROJECTS WHICH MEANS A PROJECT  
2 INTENDED TO REMOVE ENVIRONMENTAL OR HEALTH HAZARDS, AND  
3 INCLUDING PROJECTS THAT PROMOTE INDOOR AIR AND WATER QUALITY,  
4 ASBESTOS REMEDIATION, LEAD PAINT REMOVAL, AND MOLD  
5 REMEDIATION~~[Wind energy systems];~~

6 (4) RESILIENCY PROJECTS WHICH MEANS A PROJECT INTENDED TO INCREASE  
7 THE CAPACITY OF A PROPERTY TO WITHSTAND NATURAL DISASTERS AND  
8 THE EFFECTS OF CLIMATE CHANGE INCLUDING FLOOD MITIGATION,  
9 STORMWATER MANAGEMENT, A PROJECT TO INCREASE FIRE OR WIND  
10 RESISTANCE, A PROJECT TO INCREASE THE CAPACITY OF A NATURAL  
11 SYSTEM, AN INUNDATION ADAPTATION PROJECT, ALTERNATIVE VEHICLE  
12 CHARGING INFRASTRUCTURE, AND ENERGY STORAGE ~~[Water conservation  
13 devices not required by law];~~ AND

14 (5) Any construction, renovation or retrofitting of commercial property to reduce energy  
15 consumption, including high-efficiency lighting and building systems, heating, ventilation, air  
16 conditioning (HVAC) upgrades, high-efficiency boilers and furnaces, high-efficiency hot water  
17 heating systems, combustion and burner upgrades, fuel switching, heat recovery and steam traps,  
18 building shell or envelope improvements, fenestration improvements, building energy  
19 management systems, and process equipment upgrades; and

20  
21 (6) Any other improvement approved by the County as qualifying as an energy efficiency  
22 project or renewable energy project.

23  
24 (F) **QUALIFYING COSTS.** A clean energy loan may be used to pay for all costs incurred by a  
25 property owner in connection with the qualifying improvements, including, BUT NOT LIMITED  
26 TO, the cost of the energy audit; feasibility studies and reports; project management, design,  
27 installation, and construction of the qualifying improvements; commissioning; energy savings or  
28 performance guaranty or insurance; building accreditation; closing costs of the Clean Energy  
29 Loan; permitting fees; administrative fees; and post-install evaluation, measurement and  
30 verification; AND, BUILDING ACCREDITATION.

31  
32 **158-2. REAL PROPERTY TAX SURCHARGE.**

33 (A) **REPAYMENT OF LOANS.** Repayment of loans. A property owner participating in the  
34 Clean Energy Loan Program shall repay the clean energy loan through a surcharge on his/her real  
35 property tax bill. Upon receipt of written notice from the Clean Energy Loan Program

1 Administrator of the execution of a clean energy loan financing agreement, the County shall, on  
2 the July full-year billing add the surcharge to the tax property bill. The surcharge shall constitute  
3 a first lien on the property from the date it becomes payable until the unpaid surcharge and interest  
4 and penalties on the surcharge are paid in full, regardless of a change in ownership, whether  
5 voluntary or involuntary. A person or entity that acquires property subject to a surcharge assumes  
6 the obligation to pay such surcharge. The County may assign the surcharge lien to the Clean  
7 Energy Loan Program Administrator.

8  
9 (B) **CALCULATION.** The surcharge for a clean energy loan shall include the clean energy loan  
10 obligation and any administrative costs incurred by the County, which shall be the actual expenses  
11 incurred to administer the program.

12  
13 (C) **AGREEMENT.** The property owner shall execute an agreement with the County and the  
14 clean energy lender that will be recorded in the land records of Charles County, at the  
15 expense of the property owner, and which shall include:

- 16 (1) The date the clean energy loan was made to the property owner and the property became  
17 subject to the surcharge;
- 18 (2) The term of the clean energy loan and the term over which the surcharge will apply to the  
19 property;
- 20 (3) The amount of the clean energy loan obligation and estimated County administrative costs  
21 for the first year;
- 22 (4) The annual principal and interest amount for each year of the term of the clean energy loan,  
23 including any partial year prorated amounts;
- 24 (5) The prepayment requirements and any prepayment premium that may apply, if the loan is a  
25 prepayable clean energy loan;
- 26 (6) Agreement by the property owner to repay all clean energy loan obligations and the  
27 County's administrative costs through a surcharge included on the property owner's real  
28 property tax bill due and payable on the same date as the real property tax bill;
- 29 (7) Acknowledgement by the property owner that an unpaid clean energy loan surcharge  
30 constitutes a first lien on the property that has priority over prior or subsequent liens in  
31 favor of private parties, and that the surcharge will continue as a lien on the property from  
32 the date it becomes payable until the unpaid surcharge and interest and penalties on the  
33 surcharge are paid in full, regardless of a change in ownership of the property, whether  
34 voluntary or involuntary; and
- 35 (8) Acknowledgement by the property owner and the lender that the County has no liability for

1 the clean energy loan obligation or any costs associated with the collection of amounts due  
2 under the clean energy LOAN financing agreement; and

3 (9) Acknowledgement by the property owner that an overdue surcharge shall be collected as a  
4 tax lien pursuant to Title 14, Subtitle 8, of the Tax-Property Article of the Annotated Code  
5 of Maryland, and the Charles County Code and that an overdue surcharge will be so  
6 collected, irrespective of whether real property taxes (or any other taxes, charges, or  
7 assessments) are due and owing.

8 (D) **DEFAULT.** If a property owner defaults on the clean energy loan surcharge, the lien will be  
9 collected pursuant to Title 14, Subtitle 8, of the Tax-Property Article of the Annotated Code  
10 of Maryland, and the Charles County Code, irrespective of whether property taxes (or any  
11 other taxes, charges, or assessments) are due and owing. The County shall not incur any  
12 liability to the clean energy lender or others in the event of default.

13 (E) **CREDIT OF PAYMENTS.** Payments received from a property owner shall be credited first  
14 to all County taxes, assessments, and charges.

15  
16 (F) **PAYMENT TO CLEAN ENERGY LENDER.** The County shall forward surcharges, less  
17 administrative costs of the County, to the clean energy lenders or the Program Administrator within  
18 30 days of receipt. THE COUNTY SHALL HAVE NO OBLIGATION TO MAKE PAYMENTS  
19 TO ANY CLEAN ENERGY LENDER WITH RESPECT TO ANY CLEAN ENERGY LOAN  
20 OBLIGATION OTHER THAN THAT PORTION OF SURCHARGE ACTUALLY  
21 COLLECTED FROM A PROPERTY OWNER FOR THE REPAYMENT OF A CLEAN  
22 ENERGY LOAN.

23  
24 (G) **COUNTY LIABILITY.** Except for the obligation to forward surcharges under Subsection  
25 F, the County does not incur any liability by participating in the Clean Energy Loan Program and  
26 the County shall not incur any liability to the clean energy lenders or others in the event of a  
27 default.

28  
29 **158-3. FINANCING.**

30  
31 (A) **PRIVATE LENDERS, TERMS.** The clean energy loans may be provided by any private  
32 lender, and a clean energy LOAN financing agreement may contain any terms agreed to by the  
33 clean energy lender and the property owner, as permitted by law, for the financing of clean energy  
34 loans. THE CLEAN ENERGY LOAN MUST BE REPAYED OVER A TERM NOT TO EXCEED

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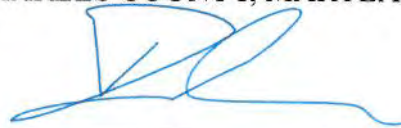
THE USEFUL LIFE OF THE PROJECT AS DETERMINED BY THE CLEAN ENERGY LOAN PROGRAM.

(B) **COUNTY ROLE.** The County's role in the Clean Energy Loan Program is limited to sponsoring the Program and collecting and forwarding the surcharges imposed under the Program. The County may not provide clean energy loans or other financing in connection with this Program.

SECTION 2. *AND BE IT FURTHER ENACTED,* THAT THIS ACT SHALL TAKE EFFECT FORTY-FIVE (45) DAYS FROM THE DATE IT BECOMES LAW.

ADOPTED this 25<sup>th</sup> day of April 2023.

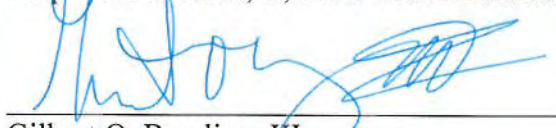
COUNTY COMMISSIONERS  
CHARLES COUNTY, MARYLAND



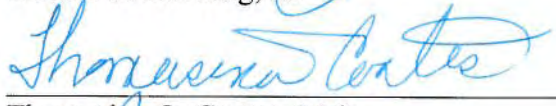
Reuben B. Collins, II, Esq., President



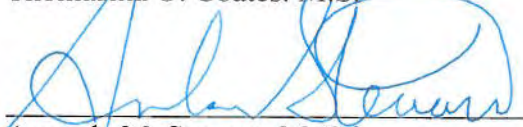
Ralph E. Patterson, II, M.A. Vice President



Gilbert O. Bowling, III



Thomasina O. Coates, M.S.



Amanda M. Stewart, M. Ed.

ATTEST.



Carol A. DeSoto, Clerk to the Commissioners