AN ACT to:
(1) amend the definition for commercial property;
(2) require a third-party lender to record the loan in the County land records;
(3) modify certain eligibility requirements for a loan under the program; and
(4) generally amend County law regarding the Commercial Property Assessed Clean Energy Program.

By amending
Montgomery County Code
Chapter 18A, Environmental Sustainability
Article 5
Sections 18A-33, 18A-34, and 18A-35

The County Council for Montgomery County, Maryland approves the following Act:
Sec. 1. Sections 18A-33, 18A-34, and 18A-35 are amended as follows:

Article 5. Commercial Property Assessed Clean Energy Program


(a) Definitions. In this Section, the following words have the meanings indicated:

Certified General Real Estate Appraiser means an individual who is certified as a certified real estate appraiser for general real estate under Title 16 of the Business Occupations Article of the Maryland Code.

Commercial property means any real property located in the County that is either not designed for or intended for human habitation, or that is used for human habitation as a multi-family dwelling of [4 or] more than 4 rental units.

* * *

18A-34. Commercial Property Assessed Clean Energy Program established.

* * *

(b) Third-party lender.

(1) The Director may enter into an agreement with a third-party lender that is either a County designated lender or a private lender that funds a loan for an improvement. The agreement must provide for the repayment of the loan for the improvement and any cost of administering the Program through a surcharge on the qualified property. The loan may include the cost of materials and labor necessary for installation, any permit fee, any inspection fee, any application or administrative fee, any bank or lender fee, and any other fee that the property owner may incur for the installation of the improvement. The third-party lender must submit a request for collection of each surcharge amount to the County designated
program manager or, if there is no County designated program manager, to the Department no later than April 1 of each year.  

(2) The third-party lender must record a document among the land records of Montgomery County within 30 days of the time the loan is funded, which provides notice of the Commercial Property Assessed Clean Energy loan associated with the property and that the surcharge will be collected and have lien status like all other real property taxes.  

*  *  *

18A-35. Eligibility.  

(a) Eligibility.  

*  *  *

(4) The loan amount under this Program must meet the following criteria:  

(A) The loan amount must be at least $5,000 and [no] not more than 20% of either the full cash value or the appraised value of the qualified property. The full cash value is determined by the Maryland State Department of Assessments and Taxation. The appraised value must be determined by a Certified General Real Estate Appraiser and must have been certified no more than 12 months before the date of the loan application[; and].  

(B) The loan amount, together with the outstanding balance of the mortgage or deed of trust, must be no more than 90% of either the full cash value or the appraised value of the qualified property.  

(b) Property Assessed Clean Energy Surcharge.
(3) As a condition for entering into an agreement under the Program, the County designated lender or private lender must provide the County designated program manager and the Department a copy of the loan documents and documents that verify:

(F) appraised value of the qualified property as certified in the appraisal report submitted by a Certified General Real Estate Appraiser if the eligibility requirement in 18A-35(a)(4) is based on the appraised value of the qualified property;

(G) loan to value documentation; and

[G] [H] any other financial or program document that the Director deems necessary.

* * * *

Approved:

Nancy Floreen, President, County Council  
June 29, 2016

Isiah Leggett, County Executive  
July 7, 2016

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council  
July 8, 2016