

Bill No. 33-18
Concerning: Environmental Sustainability
– Commercial Property Assessed
Clean Energy Program – Property
Tax Surcharge
Revised: 11/8/2018 Draft No. 3
Introduced: October 2, 2018
Enacted: November 13, 2018
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Berliner
Co-Sponsors: Councilmembers Katz and Elrich, Council President Riemer,
Councilmember Hucker, Council Vice-President Navarro, and Councilmember Rice

AN ACT to:

- (1) require the County to add the property tax surcharge to the property tax bill within a certain timeframe; and
- (2) generally amend County laws related to the Commercial Property Assessed Clean Energy Program and environmental sustainability.

By amending

Montgomery County Code
Chapter 18A, Environmental Sustainability
Section 18A-36

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 18A-36 is amended as follows:**

2 **18A-35. Eligibility.**

3 In order to be eligible for this Program, the following criteria must be met:

4 (a) *Eligibility.*

5 * * *

6 (3) The property owner must submit the following to the private
7 lender or the County designated lender at the time of application
8 for funding:

9 (A) express written consent of any holder of an existing
10 mortgage or deed of trust on a qualified property; ~~[[and]]~~

11 (B) verification that there are no delinquent fees, taxes, water
12 or sewer charges or other special assessments on the
13 qualified property~~[[.]]~~; and

14 (C) confirmation that the proposed improvements will be
15 properly permitted and permanently affixed to the
16 qualified property and comply with all applicable State and
17 federal statutes and regulations, as determined by the
18 appropriate regulatory authority.

19 * * *

20 (b) *Property assessed clean energy surcharge.*

21 (1) The property owner of qualified property must agree to repay the
22 amount financed through a surcharge levied on the County's real
23 property tax bill for the qualified property.

24 (2) A surcharge ~~[[may]]~~ must be imposed under a written agreement
25 between the County designated lender or private lender and the
26 County. The surcharge will be recorded in land records of the

27 County, at the expense of the owner, within 30 days of the
 28 execution of a clean energy loan financing agreement.

29 (3) As a condition for entering into an agreement under the Program,
 30 the County designated lender or private lender must provide the
 31 County designated program manager and the Department a copy
 32 of the loan documents and documents that verify:

33 (A) the property owner’s ability to repay the Property Assessed
 34 Clean Energy loan in a manner substantially similar to that
 35 required for a mortgage loan;

36 (B) there are no delinquent taxes, special assessments, or water
 37 or sewer charges on the qualified property;

38 (C) there are no delinquent assessments on the qualified
 39 property under the Program;

40 (D) ~~[[the property owner has obtained all necessary permits;~~

41 (E) the improvement is permanently affixed to the qualified
 42 property and complies with all applicable State and federal
 43 statutes and regulations, as determined by the appropriate
 44 regulatory authority;

45 (F)] existing mortgage or deed of trust lender consent;

46 ~~[[G)] (E)~~ appraised value of the qualified property as certified in
 47 the appraisal report submitted by a Certified General Real
 48 Estate Appraiser if the eligibility requirement in 18A-
 49 35(a)(4) is based on the appraised value of the qualified
 50 property;

51 (H)] (F) loan to value documentation; and

52 ~~[[I)] (G)~~ any other financial or program document that the
 53 Director deems necessary.

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18A-36. Payment of surcharge; lien.

- (a) The County must collect the amount financed through a surcharge on the property owner’s real property tax bill and forward payments received by the County to the County designated program manager or, if there is no County designated program manager, to the lender no later than 30 days after the payment due dates for real property taxes. Payment due dates for semi-annual real property taxes are September 30 for the first installment and December 31 for the second installment, and for annual real property taxes the payment due date is September 30.
- (b) After receiving written notice from the County designated program manager of the execution of a clean energy loan financing agreement, the County must add the surcharge to the property tax bill [[on July 1 of the year immediately following execution of the clean energy loan financing agreement]].
- (c) If the property owner sells the qualified property, the buyer must continue to pay the surcharge levied on the annual property tax bill.
- ~~[(c)]~~ (d) The surcharge and any accrued interest or penalty constitutes a first lien on the real property to which the surcharge applies until paid. An unpaid surcharge will be, until paid, a lien on the qualified property on which it is imposed from the date it becomes payable. The surcharge will accrue interest and penalty and will be treated and collected like all other County property taxes. Any delinquency will be collected through the County Tax Sale process. The provisions of Title 14, Subtitle 8 of the Tax – Property Article of the Maryland Code that apply to a tax lien will also apply to the lien created under this law. Any delinquent surcharge collected through the County Tax Sale process must be

81 forwarded to the County designated program manager or, if there is no
82 County designated program manager, to the lender no later than 30 days
83 after the payment was received.

Approved:



Nov 15, 2018

Hans D. Riemer, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Megan Davey Limarzi, Esq., Clerk of the Council

Date