

**Public Hearing**

**MEMORANDUM**

June 7, 2013

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *AMihill*

SUBJECT: **Public Hearing:** Bill 11-13, Commercial Property Assessed Clean Energy Program - Established

Bill 11-13, Commercial Property Assessed Clean Energy Program - Established, sponsored by Councilmember Berliner, was introduced on April 23, 2013. A Transportation, Infrastructure, Energy and Environment Committee worksession is tentatively scheduled for July 8, 2013 at 9:30 a.m.

Bill 11-13 would establish a Commercial Property Assessed Clean Energy Program to assist qualifying commercial property owners to make energy improvements and establish a revolving loan fund to provide property owners loans under the Program.

This packet contains:

Bill 11-13

Legislative Request Report

Circle #

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Bill No. 11-13  
Concerning: Commercial Property  
Assessed Clean Energy Program -  
Established  
Revised: 4/11/2013 Draft No. 1  
Introduced: April 23, 2013  
Expires: October 23, 2014  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: \_\_\_\_\_  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: Councilmember Berliner

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**AN ACT** to:

- (1) establish a Commercial Property Assessed Clean Energy Program to assist qualifying commercial property owners to make energy improvements;
- (2) establish a revolving loan fund to provide property owners loans under the Program; and
- (3) generally amend the environmental sustainability law.

By adding

Montgomery County Code  
Chapter 18A, Environmental Sustainability  
Article 5  
Sections 18A-33, 18A-34, 18A-35, 18A-36, 18A-37, and 18A-38

<b>Boldface</b>	<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. Article 5 of Chapter 18A (Sections 18A-33, 18A-34, 18A-35,**  
 2 **18A-36, 18A-37, and 18A-38) is added as follows:**

3           **Article 5. Commercial Property Assessed Clean Energy Program**

4 **18A-33. Definitions.**

5           In this Section, the following words have the meanings indicated:

6           Commercial or industrial property means any real property other than a  
 7 residential dwelling with less than five dwelling units.

8           Commercial Property Assessed Clean Energy Program or Program means a  
 9 program that facilitates energy improvements and requires repayment through  
 10 a surcharge on the owner's property tax bill.

11           Department means the Department of Environmental Protection.

12           Director means the Director of the Department or the Director's designee.

13           Eligible cost means the net cost of buying or installing an energy  
 14 improvement, including any part, component, or accessory necessary to  
 15 operate the improvement or device, less any amount received from a public or  
 16 private program because the improvement or device is or will be made or  
 17 installed.

18           Energy improvement means:

- 19           (1) a renovation or retrofitting of qualifying commercial real property to  
 20 reduce energy consumption; or  
 21           (2) the installation of a renewable energy system to service qualifying  
 22 commercial real property.

23           Qualifying commercial real property means any commercial or industrial  
 24 property, regardless of ownership, that meets the qualifications established for  
 25 the Commercial Property Assessed Clean Energy Program.

26 **18A-34. Commercial Property Assessed Clean Energy Program established.**

27           The Director must create and administer a Commercial Property Assessed

28 Clean Energy Program.

29 **18A-35. Eligibility; use of funds.**

30 (a) The Director may loan funds to an owner of a qualifying commercial  
31 real property to fund eligible costs to make an energy improvement on  
32 the property, up to the maximum loan amount set by regulation.

33 (b) Eligibility. To be eligible for a loan under this Program, a property  
34 owner must:

35 (1) have an energy audit or renewable energy system feasibility  
36 analysis on the qualifying commercial real property that assesses  
37 the expected energy cost savings of the energy improvement over  
38 the useful life of the improvement;

39 (2) provide 30 days' written notice to any existing mortgage holder  
40 of the property of the owner's intent to finance the energy  
41 improvement under the Program;

42 (3) obtain the consent of any existing mortgage holder for the loan;  
43 and

44 (4) agree to repay the loan amount borrowed through the County tax  
45 bill for that property, as required by Section 18A-36.

46 (c) Use of funds for an energy improvement.

47 (1) A person may borrow funds for eligible costs to make an energy  
48 improvement.

49 (2) Except as provided in (c)(3), funds must be loaned only for an  
50 energy improvement for which the energy cost savings of the  
51 energy improvement over the useful life of the improvement  
52 exceed the costs of the improvement.

53 (3) Funds may be loaned for an energy improvement that does not  
54 meet the cost criteria in (c)(2) if that improvement is part of a

55 package of improvements financed under the Program that  
 56 cumulatively meets that criteria.

57 (4) Funds may be loaned only for an energy improvement that is  
 58 permanently fixed to a qualifying commercial real property.

59 (d) Disclosure to property owner. The Director must disclose the following  
 60 to a property owner:

61 (1) any cost or risk associated with participating in the Program,  
 62 including any risk related to the failure of the property owner to  
 63 pay the loan and;

64 (2) the interest rate of the loan, including any fees charged to  
 65 administer the Program, and any risk associated with variable  
 66 interest rate financing.

67 (e) Ability to rescind. The Director must notify a property owner that the  
 68 owner may rescind any financing agreement entered into under this  
 69 Article no later than 3 business days after the agreement is made.

70 **18A-36. Repayment of funds; lien.**

71 (a) The owner of qualifying commercial real property must agree to repay  
 72 the loan amount borrowed through the County property tax bill for that  
 73 property.

74 (b) If the property owner sells the property, the seller must disclose that the  
 75 buyer must continue to repay the loan through the property tax bill.

76 (c) The loan amount and any accrued interest constitute a first lien on the  
 77 real property to which the loan applies until paid. The loan amount and  
 78 accrued interest are collectable by suit or tax sale like all other real  
 79 property taxes, to the extent allowed by State law. If the property owner  
 80 does not pay the loan and accrued interest as required, the property may  
 81 be certified to the Department of Finance and the lien may be sold at the

82 tax sale conducted by the County.

83 **18A-37. Regulations.**

84 The Executive must adopt regulations under Method (2) to administer the  
85 Program, including:

- 86 (a) lending standards and priorities;
- 87 (b) minimum and maximum loan amounts;
- 88 (c) interest rates, terms, and conditions;
- 89 (d) application procedures, including necessary supporting documentations;
- 90 (e) criteria for adequate security;
- 91 (f) procedures to refer applicants to other sources of funds, and to  
92 cooperate with other public and private sources of funds;
- 93 (g) procedures to ask the Director to reconsider any denial of a loan or any  
94 decision on interest rates, terms, and conditions;
- 95 (h) procedures for nonpayment or default;
- 96 (i) procedures and requirements for post-installation inspection;
- 97 (j) disclosure requirements for real estate transactions; and
- 98 (k) criteria for loan disbursement.

99 **18A-38. Revolving loan fund.**

100 (1) Definitions. In this Section, the following words have the meanings  
101 indicated:

102 Department means the Department of Finance.

103 Revolving loan fund or Fund means the special, nonlapsing fund to  
104 finance the Commercial Property Assessed Clean Energy Program  
105 established under this Article.

106 (b) The Fund consists of:

107 (1) money appropriated in the County budget for the Program;

108 (2) money received from any public or private source;

- 109                   (3)   interest and investment earnings on the Fund;
- 110                   (4)   repayments and prepayments of principal and interest on loans
- 111                         made from the Fund; and
- 112                   (5)   any other available funds to support the Program.
- 113           (c)   The Department must:
- 114                   (1)   disburse funds and collect payments for a loan made under the
- 115                         Program; and
- 116                   (2)   maintain loan records and provide an annual report to the
- 117                         Department of Environmental Protection.

118   *Approved:*

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Nancy Navarro, President, County Council

Date

120   *Approved:*

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Isiah Leggett, County Executive

Date

122   *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council

Date

## LEGISLATIVE REQUEST REPORT

Bill 11-13

### *Commercial Property Assessed Clean Energy Program - Established*

<b>DESCRIPTION:</b>	Bill 11-13 would establish a Commercial Property Assessed Clean Energy Program to assist qualifying commercial property owners to make energy improvements and establish a revolving loan fund to provide property owners loans under the Program.
<b>PROBLEM:</b>	Making energy efficiency improvements to commercial buildings can be a cost-effective way to reduce greenhouse gas emissions. However, the lack of accessible financing options is a barrier to many property owners and may prevent them from making these energy efficiency improvements
<b>GOALS AND OBJECTIVES:</b>	To establish a program to provide property owners with a financing option to make energy efficiency improvements to their commercial property, thereby reducing energy costs and greenhouse gas emissions.
<b>COORDINATION:</b>	Departments of Environmental Protection, Finance, and Permitting Services.
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Amanda Mihill, Legislative Attorney, 240.777.7815
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	To be researched.
<b>PENALTIES:</b>	N/A

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