

Bill No. 11-13  
Concerning: Commercial Property  
Assessed Clean Energy Program -  
Established  
Revised: 10/28/2013 Draft No. 2  
Introduced: April 23, 2013  
Enacted: November 19, 2013  
Executive: December 2, 2013  
Effective: March 3, 2014  
Sunset Date: None  
Ch. 33, Laws of Mont. Co. 2013

## 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) require the Executive to develop a plan to implement a Commercial Property Assessed Clean Energy Program to assist qualifying commercial property owners with energy improvements and;
- (2) generally amend the environmental sustainability law.

By adding

Montgomery County Code  
Chapter 18A, Environmental Sustainability  
Article 5  
Section 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>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<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]] Section 18A-33[[, 18A-34,**  
 2 **18A-35, 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 privately owned commercial or  
 7 industrial real property located in the County.

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 Finance.

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 efficiency improvement means any equipment, device, or material that  
 19 is intended to decrease energy consumption, including:

- 20           (1) insulation in any wall, roof, floor, foundation, or heating and cooling  
 21 distribution system;
- 22           (2) a storm windows or door, multi-glazed window or door, heat-absorbing  
 23 or heat-reflective glazed and coated window and door system; and  
 24 additional glazing, reduction in glass area, and other window and door  
 25 system modification that reduces energy consumption;
- 26           (3) an automated energy control system;
- 27           (4) a heating, ventilating, or air-conditioning and distribution system

- 28                    modification or replacement;
- 29            (5)    caulking, weather-stripping, and air sealing;
- 30            (6)    replacement or modification of a lighting fixture to reduce the energy  
31                    use of the lighting system;
- 32            (7)    an energy recovery system;
- 33            (8)    a day lighting system;
- 34            (9)    the installation or upgrade of electrical wiring or outlets to charge a  
35                    motor vehicle that is fully or partially powered by electricity;
- 36            (10) any measures to reduce the usage of water or increases the efficiency of  
37                    water usage; or
- 38            (11) any other installation or modification of an equipment, device, or  
39                    material approved as a utility cost-savings measure.

40            Qualifying commercial real property means any commercial or industrial  
41                    property that meets the qualifications established for the Commercial Property  
42                    Assessed Clean Energy Program.

43            Renewable energy resource means a resource that naturally replenishes over a  
44                    human, not a geological, time frame and that is ultimately derived from solar  
45                    power, water power, or wind power. Renewable energy resource does not  
46                    include petroleum, nuclear, natural gas, or coal. A renewable energy resource  
47                    comes from the sun or from thermal inertia of the earth and minimizes the  
48                    output of toxic material in the conversion of the energy and includes:

- 49            (1)    biomass;
- 50            (2)    solar and solar thermal energy;
- 51            (3)    wind energy;
- 52            (4)    geothermal energy; and
- 53            (5)    methane gas captured from a landfill.

54            Renewable energy system means a fixture, product, device, or interacting

55 group of fixtures, products, or devices on the customer's side of the meter that  
 56 uses at least one renewable energy resource to generate electricity. *Renewable*  
 57 *energy system* includes a biomass stove, but does not include an incinerator or  
 58 digester.]]

59 **[[18A-34. Commercial Property Assessed Clean Energy Program established.**

60 (a) *Established.* The Director must create and administer a Commercial  
 61 Property Assessed Clean Energy Program.

62 (b) *Bond issuance authorized.* The Director may issue a bond to finance a  
 63 qualifying commercial real property to fund eligible costs to make an  
 64 energy efficiency improvement on the property.

65 (c) *Owner-arranged or lessee-arranged financing.* The Director may enter  
 66 into an agreement regarding repayments to a third party for owner-  
 67 arranged or lessee-arranged financing to fund eligible costs to make an  
 68 energy efficiency improvement on a qualifying commercial real  
 69 property. The agreement regarding repayments must provide for the  
 70 repayment of the cost of the energy efficiency improvement and any  
 71 cost of administering the Program through an assessment on the  
 72 property benefited. The financing may include the cost of materials and  
 73 labor necessary for installation, any permit fee, any inspection fee, any  
 74 application or administrative fee, any bank fee, and any other fee that  
 75 the owner may incur for the installation.]]

76 **[[18A-35. Eligibility; use of funds.**

77 (a) *Eligibility.*

78 (1) A property owner must have an energy audit or renewable energy  
 79 system feasibility analysis on the qualifying commercial real  
 80 property that assesses the expected energy cost savings of the  
 81 energy improvement over the useful life of the improvement.

- 82           (2) A property owner must obtain the consent of any existing  
 83           mortgage holder.
- 84           (3) A property owner must agree to repay the amount financed  
 85           through the County tax bill for that property, as required by  
 86           Section 18A-36.
- 87           (4) An energy efficiency improvement must be permanently fixed to  
 88           a qualifying commercial real property.
- 89           (5) If the cost of an energy efficiency improvement exceeds  
 90           \$250,000, the property owner must provide for ongoing  
 91           measurements to establish the savings realized from the  
 92           improvement.
- 93           (6) Any contract to install an energy efficiency improvement that  
 94           exceeds \$250,000 must require the contractor to guarantee to the  
 95           property owner that the improvement will achieve a savings-to-  
 96           investment ratio greater than 1.

97       (b) Property Tax Assessment

- 98           (1) An assessment may be imposed only under a written contract  
 99           between the Department and the property owner. Before entering  
 100           into a contract under the Program, the Department must verify  
 101           that:
- 102               (A) there are no delinquent taxes, special assessments, or water  
 103               or sewer charges on the property; and
- 104               (B) there are not delinquent assessments on the property under  
 105               a property assessed clean energy program.
- 106           (2) The property tax assessment must not exceed the useful life of the  
 107           energy efficiency improvement.
- 108           (3) The total amount financed must not exceed 10% of the assessed

109 value of the qualifying commercial real property.

110 (c) Disclosure to property owner. The Director must disclose any cost or  
 111 risk associated with participating in the Program, including any risk  
 112 related to the failure of the property owner to pay the property tax  
 113 assessment to a property owner.]]

114 **[[18A-36. Repayment of funds; lien.**

115 (a) The owner of qualifying commercial real property must agree to repay  
 116 the financed amount through the County property tax bill for that  
 117 property.

118 (b) Under owner-arranged financing, the County may impose a property tax  
 119 assessment and forward payments to the third party financier or the  
 120 property owner may pay the third party financier directly.

121 (c) If the property owner sells the property, the seller must disclose that the  
 122 buyer must continue to repay the assessment through the property tax  
 123 bill.

124 (d) The amount financed and any accrued interest constitute a first lien on  
 125 the real property to which the assessment applies until paid. The  
 126 amount financed and accrued interest are collectable by suit or tax sale  
 127 like all other real property taxes, to the extent allowed by State law. If  
 128 the property owner does not pay the amount financed and accrued  
 129 interest as required, the property may be certified to the Department of  
 130 Finance and the lien may be sold at the tax sale conducted by the  
 131 County.]]

132 **[[18A-37. Regulations.**

133 The Executive must adopt regulations under Method (2) to administer the  
 134 Program.]]

135 **Sec. 1. Article 5 of Chapter 18A (Section 18A-33) is added as follows:**

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

137 **18A-33. Commercial Property Assessed Clean Energy Program.**

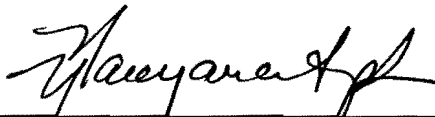
138 (a) Definition. In this Section, Commercial Property Assessed Clean  
 139 Energy Program or Program means a program that facilitates energy  
 140 improvements and requires repayment through a surcharge on the  
 141 owner's property tax bill.

142 (b) The Executive must, by May 19, 2014, prepare a plan for implementing  
 143 a Commercial Property Assessed Clean Energy Program that analyzes  
 144 and provides recommendations on the following elements:

- 145 (1) standards for eligible energy and environmental improvements;  
 146 (2) energy audit or project design review requirements;  
 147 (3) procedures for monitoring project progress and post-installation  
 148 inspections;  
 149 (4) program funding sources;  
 150 (5) lending standards and priorities;  
 151 (6) minimum and maximum loan amounts;  
 152 (7) interest rates, terms, and conditions;  
 153 (8) application procedures, including necessary supporting  
 154 documentation;  
 155 (9) criteria for adequate security;  
 156 (10) procedures to refer applicants to other public and private sources  
 157 of funds and incentives;  
 158 (11) procedures related to decisions on loan acceptance and denial, or  
 159 loan terms and conditions;  
 160 (12) procedures for nonpayment or default;  
 161 (13) disclosure requirements for real estate transactions;  
 162 (14) criteria for loan disbursement; and

163                    (15) any additional requirements necessary for program operation or  
164                    security of loan funds identified by the Executive.

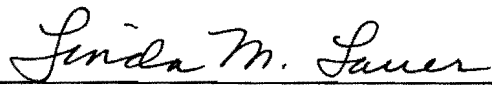
165    *Approved:*

166                        11/21/13  
Nancy Navarro, President, County Council                    Date

167    *Approved:*

168                        Dec 2, 2013  
Isiah Leggett, County Executive                    Date

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

170                        Dec 3, 2013  
Linda M. Lauer, Clerk of the Council                    Date

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