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FISCAL AND POLICY NOTE
First Reader

Senate Bill 912
Finance

(Senator Feldman)

**Clean Energy Loan Program - Residential Property - Repayment of Loans
Through Surcharge**

This bill authorizes a private lender to provide capital for a loan to a “residential property” owner to finance energy efficiency and renewable energy projects through a clean energy loan program established by a local government. Generally, a county or municipality may collect loan payments for a residential property improvement in the same manner as authorized for a commercial property improvement under current law – through a surcharge on the owner’s property tax bill. “Residential property” means real property that is (1) designed principally or intended for human habitation and (2) improved by four or fewer single-family dwelling units. The bill does not otherwise change the laws relating to local government clean energy loan programs.

Fiscal Summary

State Effect: None. The bill does not affect State finances or operations.

Local Effect: Minimal. Any additional local government expenditures related to a residential property surcharge are offset by revenue collected through the surcharge. The amount of local government funding for clean energy loan programs is not affected by the bill.

Small Business Effect: Potential minimal. The bill authorizes, but does not require, a private lender to provide capital for a loan to a residential property owner to finance energy efficiency and renewable energy projects. Small businesses that install these projects may benefit from increased demand for their services.

Analysis

Current Law: A county or municipality may enact an ordinance or a resolution to establish a clean energy loan program. The purpose of a clean energy program established by a local government is to provide loans to:

- residential property owners, including low-income residential property owners, to finance energy efficiency and renewable energy projects; and
- commercial property owners to finance (1) energy efficiency projects and (2) renewable energy projects with an electric generating capacity of 100 kilowatts or less.

Subject to the conditions specified below for commercial property, a program must require a property owner to repay a loan through a surcharge on the owner's property tax bill. The surcharge must be limited to an amount that allows the local government to recover the costs associated with issuing bonds to finance the loan and costs associated with administering the program.

With the express consent of any holder of a mortgage or deed of trust on a commercial property that is to be improved through a loan under the program (1) a county or municipality may collect loan payments owed to a private lender or to the county or municipality and costs associated with administering the program, through a surcharge on the property owner's property tax bill; (2) an unpaid surcharge is, until paid, a lien on the real property it is imposed on; and (3) State law provisions applicable to a property tax lien also apply to an unpaid surcharge lien.

A private lender may provide capital for a loan provided to a commercial property owner (not a residential property owner) under the program.

Background: Chapter 743 of 2009 first authorized local governments to enact ordinances or resolutions establishing clean energy loan programs, subject to specified requirements. Chapter 472 of 2014 authorized private lenders to provide capital for a commercial loan provided under a local clean energy loan program.

Property-assessed clean energy (PACE) programs, where payments are made through a property owner's property tax bill, can provide a property owner the benefit of being able to finance costly clean energy improvements over time and have the responsibility for the financing payments be tied to the property rather than the property owner. The Maryland Energy Administration has advised in the past that concerns were raised by some county governments about the legality and appropriateness of using property tax billing and collection mechanisms to recover payments for loans made by private lenders for energy

efficiency and renewable energy improvements. Those concerns had been cited as barriers to implementing PACE programs in the State.

According to the Maryland Clean Energy Center, Montgomery and Anne Arundel counties have enacted local ordinances establishing clean energy loan programs, and Charles, Howard, Frederick, and Queen Anne's counties are in the process of doing so.

Additional Information

Prior Introductions: None.

Cross File: HB 387 (Delegate Barkley) - Economic Matters.

Information Source(s): Maryland Energy Administration; State Department of Assessments and Taxation; Judiciary (Administrative Office of the Courts); Maryland Municipal League; Maryland Clean Energy Center; Charles, Dorchester, and Montgomery counties; Department of Legislative Services

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