

SENATE BILL 26

P1

8lr0082

(PRE-FILED)

By: **Chair, Finance Committee (By Request – Departmental – Maryland Energy Administration)**

Requested: September 21, 2017

Introduced and read first time: January 10, 2018

Assigned to: Finance

Committee Report: Favorable

Senate action: Adopted

Read second time: January 16, 2018

CHAPTER _____

1 AN ACT concerning

2 **State Agency Loan Program and Jane E. Lawton Conservation Loan Program –**
3 **Merger**

4 FOR the purpose of merging the Jane E. Lawton Conservation Loan Program and the State
5 Agency Loan Program; altering the definition of “borrower” for the purpose of
6 provisions of law governing the Jane E. Lawton Conservation Loan Program to
7 include an eligible State agency; altering the purpose of the Jane E. Lawton
8 Conservation Loan Program to include providing certain financial assistance to State
9 agencies for certain projects; requiring that, if the borrower is a State agency, an
10 application to receive a loan under the Jane E. Lawton Conservation Loan Program
11 be signed by the head of the State agency; exempting State agencies from certain
12 Jane E. Lawton Conservation Loan Program requirements; defining a certain term;
13 altering the definition of “project” to allow Jane E. Lawton Conservation Loan
14 Program loans to be used for certain improvements and modifications in structures
15 used primarily for religious or fraternal activities; providing for the application of
16 this Act; and generally relating to the Jane E. Lawton Conservation Loan Program
17 and the State Agency Loan Program.

18 BY repealing and reenacting, without amendments,
19 Article – State Finance and Procurement
20 Section 6–226(a)(1) and (2)(i)
21 Annotated Code of Maryland
22 (2015 Replacement Volume and 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing
2 Article – State Finance and Procurement
3 Section 6–226(a)(2)(ii)5.
4 Annotated Code of Maryland
5 (2015 Replacement Volume and 2017 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – State Government
8 Section 9–20A–01, 9–20A–03, 9–20A–05, and 9–20A–06
9 Annotated Code of Maryland
10 (2014 Replacement Volume and 2017 Supplement)

11 BY renumbering
12 Article – State Finance and Procurement
13 Section 6–226(a)(2)(ii)6. through 102., respectively
14 to be Section 6–226(a)(2)(ii)5. through 101., respectively
15 Annotated Code of Maryland
16 (2015 Replacement Volume and 2017 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

19 **Article – State Finance and Procurement**

20 6–226.

21 (a) (1) Except as otherwise specifically provided by law or by regulation of the
22 Treasurer, the Treasurer shall credit to the General Fund any interest on or other income
23 from State money that the Treasurer invests.

24 (2) (i) Notwithstanding any other provision of law, and unless
25 inconsistent with a federal law, grant agreement, or other federal requirement or with the
26 terms of a gift or settlement agreement, net interest on all State money allocated by the
27 State Treasurer under this section to special funds or accounts, and otherwise entitled to
28 receive interest earnings, as accounted for by the Comptroller, shall accrue to the General
29 Fund of the State.

30 (ii) The provisions of subparagraph (i) of this paragraph do not apply
31 to the following funds:

32 [5. State Agency Loan Program Fund;]

33 **Article – State Government**

34 9–20A–01.

- 1 (a) In this subtitle the following words have the meanings indicated.
- 2 (b) “Administration” means the Maryland Energy Administration.
- 3 (c) “Borrower” means an eligible **STATE AGENCY**, local jurisdiction, nonprofit
4 organization, or eligible business that applies and qualifies for a loan under this Program.
- 5 (d) “Eligible business” means a commercial enterprise or business that is in good
6 standing with the State Department of Assessments and Taxation and is:
- 7 (1) incorporated in the State; or
- 8 (2) registered to do business in the State.
- 9 (e) “Energy cost savings” means the actual reduction in operating expenses
10 resulting from the installation, operation, and maintenance of a project financed under the
11 Program.
- 12 (f) “Fund” means the Jane E. Lawton Conservation Fund.
- 13 (g) (1) “Local jurisdiction” means any county or municipality of the State.
- 14 (2) “Local jurisdiction” includes:
- 15 (i) a board of education of a county or municipality;
- 16 (ii) a special district that is established by State law and that
17 operates within a single county;
- 18 (iii) a special district that is established by a county under public
19 general law; and
- 20 (iv) an office, board, or department that is established in a county
21 under State law and that is funded, under State law, at least in part by the county
22 governing body.
- 23 (h) “Municipality” means any municipal corporation in the State that is subject
24 to the provisions of Article XI–E of the Maryland Constitution or any duly authorized
25 agency or instrumentality of the municipality.
- 26 (i) “Nonprofit organization” means a corporation, foundation, school, hospital, or
27 other legal entity, no part of the net earnings of which inure to the benefit of any private
28 shareholder or individual holding an interest in the entity.
- 29 (j) “Program” means the Jane E. Lawton Conservation Loan Program.
- 30 (k) [(1)] “Project” means one or more improvements or modifications that

1 enhance the energy efficiency and reduce the operating expenses of a structure located in
2 Maryland.

3 [(2) "Project" does not include improvements or modifications for energy
4 conservation or renewable energy generation in structures used primarily for religious or
5 fraternal activities.]

6 (L) (1) "STATE AGENCY" MEANS ANY PERMANENT OR TEMPORARY STATE
7 OFFICE, DEPARTMENT, DIVISION OR UNIT, BUREAU, BOARD, COMMISSION, TASK
8 FORCE, AUTHORITY, INSTITUTION, STATE COLLEGE OR UNIVERSITY, AND ANY
9 OTHER UNIT OF STATE GOVERNMENT, WHETHER EXECUTIVE, LEGISLATIVE, OR
10 JUDICIAL.

11 (2) "STATE AGENCY" INCLUDES ANY SUBUNITS OF STATE
12 GOVERNMENT.

13 9-20A-03.

14 The purpose of the Program is to provide financial assistance in the form of low
15 interest loans to nonprofit organizations, local jurisdictions, STATE AGENCIES, and
16 eligible businesses for projects in order to:

17 (1) promote energy conservation;

18 (2) reduce consumption of fossil fuels;

19 (3) improve energy efficiency; and

20 (4) enhance energy-related economic development and stability in the
21 nonprofit, commercial, and industrial sectors.

22 9-20A-05.

23 (a) (1) To receive a loan under the Program, a borrower must file an
24 application with the Administration.

25 (2) If the borrower is an eligible business, the application must be signed
26 by the chief operating officer or an authorized officer of the business.

27 (3) If the borrower is a local jurisdiction, the application must be signed by
28 the chief elected officer of the county or municipality, or if none, by the governing body of
29 the county or municipality in which the project is located.

30 (4) If the borrower is a public school, the application must be signed by the
31 board of education of the county in which the project is located.

1 **(5) IF THE BORROWER IS A STATE AGENCY, THE APPLICATION MUST**
2 **BE SIGNED BY THE HEAD OF THE STATE AGENCY.**

3 (b) The application shall contain any information the Administration determines
4 is necessary, including:

5 (1) the projected cost to accomplish a proposed project;

6 (2) the amount of energy or fuel a proposed project is expected to save over
7 a defined period of time after completion of the project;

8 (3) the anticipated environmental benefits in the form of reduced emissions
9 or pollution attributable to the proposed project;

10 (4) the amount of cost savings expected to be generated over a defined
11 period of time after completion of the proposed project;

12 (5) a description of the borrower's contribution to a proposed project as
13 required by § 9-20A-06 of this subtitle; and

14 (6) any additional information relating to the borrower or the proposed
15 project that may be required by the Administration in order to administer the Program.

16 9-20A-06.

17 (a) Loans from the Fund may be used for:

18 (1) the costs of implementing projects, including the costs of all necessary:

19 (i) technical assessments;

20 (ii) studies;

21 (iii) surveys;

22 (iv) plans and specifications; and

23 (v) start-up, architectural, engineering, or other special services;

24 (2) the costs of procuring necessary technology, equipment, licenses, or
25 materials; and

26 (3) the costs of construction, rehabilitation, or modification, including the
27 purchase and installation of any necessary machinery, equipment, or furnishings.

28 (b) Each borrower shall make a contribution to a project that is of a type and
29 amount acceptable to the Administration.

1 (c) [The] A borrower **OTHER THAN A STATE AGENCY** must document that the
2 anticipated energy cost savings to the borrower over a defined period according to a
3 methodology acceptable to the Administration after the completion of the project are
4 greater than the total cost of the project to the borrower.

5 (d) Loans made under the Program **TO A BORROWER OTHER THAN A STATE**
6 **AGENCY** shall:

7 (1) be repayable by the borrower from specified revenues that may include
8 the energy cost savings generated by a project;

9 (2) bear interest at a rate that the Administration determines to be
10 necessary and reasonable for the project; and

11 (3) be repayable in accordance with a schedule that the Administration
12 sets, which may be on a deferred payment basis.

13 (e) (1) A borrower **OTHER THAN A STATE AGENCY** shall provide assurances
14 for the repayment of the loan.

15 (2) The assurances:

16 (i) shall include a promissory note; and

17 (ii) may include superior or subordinate mortgage liens, guarantees
18 of repayment, or other forms of collateral.

19 (f) Loans may be made in conjunction with, or in addition to, financial assistance
20 provided through other State or federal programs.

21 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 6–226(a)(2)(ii)6
22 through 102, respectively, of Article – State Finance and Procurement of the Annotated
23 Code of Maryland be renumbered to be Section(s) 6–226(a)(2)(ii)5 through 101, respectively.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to
25 apply only prospectively and may not be applied or interpreted to have any effect on or
26 application to any contract existing before the effective date of this Act.

27 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June
28 1, 2018.