

Montgomery County Regulation on:  
MONTGOMERY COUNTY HOME ENERGY LOAN PROGRAM  
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND  
DEPARTMENT OF FINANCE

Sec. 1. Regulation

**Section I: General Provisions**

A. Authority. In accordance with the authority conferred under Chapter 18A, of the Montgomery County Code, 2004, as amended (hereinafter referred to as the “Code”); the County Executive hereby promulgates this regulation to implement County law pertaining to the administration of the Home Energy Loan Program (hereinafter referred to as the “Program” or “HELP”). The Program provides loans to homeowners, re-paid through the property-tax bill, for energy efficiency and renewable energy improvements.

B. Applicability. This regulation applies to the administration of the program by the County Government and participation in the program by consumers, auditors, contractors and financial entities.

**Section II: Definitions**

For purposes of this regulation, the following words and phrases have the following meanings unless the context clearly indicates otherwise:

1. Amortization Period – The period over which a HELP loan is repaid to the County by a borrower.
  
2. Annual Real Property Tax Bill – The annual real property consolidated tax bill that the County mails each year to property owners in the County.
  
3. Annual Tax Lien Sale – A sale of real property that the County conducts on the second Monday of each June to recover amounts owed in delinquent taxes on real property in the County. Comment: Insert “estate” (JMD)
  
4. Applicant – An owner of a residential property in the County who submits a HELP loan application to the Department of Finance.
  
5. Assessed Value – The full cash value as indicated on the most recent assessment notice from the Maryland Department of Assessments and Taxation. Comment: Insert “of a property” (JMD)

6. Borrower – An applicant who has received a HELP loan.

7. Contractor – An individual or company meeting the program requirements, established by the Department of Environmental Protection to perform work associated with energy audits and energy related home improvements.

8. Cost-Effectiveness – The maximum estimated amount of time it takes for an energy efficiency improvement to pay for itself through reduced energy costs (the “payback” period), as determined by the Department.

9. County – Montgomery County, Maryland.

10. Department – The Department of Environmental Protection or DEP

11. Director – The Director of the Department of Environmental Protection or the Director’s designee.

12. Director of Finance – The Director of the Department of Finance or the Director of the Department of Finance’s designee.

13. Energy Auditor – An individual or company that:

(a) is a participating auditor with the Maryland Home Performance with ENERGY STAR program;

(b) is participating in a utility sponsored Home Performance with ENERGY STAR Program; or

(c) meets any other equivalent requirements approved by the Director as published in the Program Plan.

**Comment:** It is important that Energy Auditor firms participating in this program hold a valid Maryland Home Improvement Commission license. By doing so, the auditors demonstrate (i) a commitment to the home improvement industry, (ii) they are familiar with all of the rules and regulations governing home improvement projects, and (iii) they are backed by meaningful levels of insurance. Also, by requiring this license, the County has an avenue to seek recourse in the event an auditor performs poorly. (JMD)

14. Eligible Cost – The net cost of buying or installing an energy efficiency improvement or renewable energy device, including any part, component, or accessory necessary to operate the improvement or device, less any amount received from a public or private program because the improvement or device is or will be made or installed.

**Comment:** I read this as saying that the County will cover the purchase OR installation of an energy efficiency or renewable energy device. I recommend that the "or" be replaced with "and/or". (PB)

15. Energy Efficiency Improvement – A permanent improvement made to an existing single-family home that:

(a) reduces the consumption of energy in the home, including but not limited to:

(1) caulking and weather-stripping doors and windows;

(2) heating and cooling system efficiency modifications, including:

(A) replacing a burner, furnace, heat pump, or boiler, or an air conditioner with a high efficiency model;

(B) a device to modify flue openings that increases the energy efficiency of the heating system;

(C) any electrical or mechanical furnace ignition system which replaces a standing gas pilot light; and

(D) any tune-up that increases the operating efficiency;

(3) a programmable thermostat;

(4) ceiling, attic, wall or floor insulation;

(5) whole house air sealing;

(6) water heater tune-up, water heater insulation, pipe insulation, or change out to ENERGY STAR qualified water heater;

(7) storm windows or doors or ENERGY STAR qualified window or door replacement;

(8) air distribution system improvements, including duct insulation and air sealing;

**Comment:** Reference to "permanent" is contradicted by inclusion of tune-ups in subpar 2(D) and 3 Par 28: would combine sentences to allow Director, based on DOE or other credible sources... (AM)

**Comment:** Replace with: Reduces the consumption of energy in the home. Eligible improvements include, but are not limited to: (DF)

**Comment:** Energy Efficiency Improvement defines a heating and cooling system to include 4 examples but in sub-part (C) the word "and" implies that all four modifications would need to be made. The "and" should be replaced with an "or." (PB)

**Comment:** What are "devices to modify flue openings that increase the energy efficiency of the heating system?" If the document is referring to flue liners, this seems like it is more of a health and safety issue rather than an "efficiency modification." (JMD)

**Comment:** Comment on allowing devices such as flue dampers (I'm assuming that is what this covers), which may or may not save energy or could potentially cause operational problems (stuck open/close). (EB)

**Comment:** Do you get credit for just going from your current furnace to a minimum efficiency furnace (which in effect does this)? (EB)

(9) any device which controls demand of appliances and aids load management; and

(10) any other conservation device, renewable energy technology, and specific home improvement that the Director finds reduces the consumption of energy in the home as published in the program plan;

(b) meets safety and performance standards set by a nationally recognized testing laboratory for that kind of device, if these standards are available; and

(c) conforms to guidelines published in the Program Plan approved by the Director.

16. ENERGY STAR Rating - The ENERGY STAR rating developed by the U.S. Environmental Protection Agency which rates a product's energy efficiency and other factors.

**Comment:** Which ENERGY STAR Rating? Current one, or regularly updated one. (MC)

17. Environmental Attributes – Environmental benefits for which there are accessible and quantifiable markets. Environmental attributes include renewable energy certificates(RECS) and carbon offsets.

18. Fundamental Health and Safety Remediation or FHSR - means improvements necessary to remedy health or safety issues that may be exacerbated by energy efficiency or renewable energy improvements (e.g., moisture mitigation); alternatively measures necessary to ensure the fundamental function of the improvement.

**Comment:** Delete (DF)

**Comment:** Improvements (DF)

**Comment:** Insert comma (DF)

19. Home Energy Audit - An evaluation of the energy efficiency of a home which includes any test or diagnostic measurement conducted by a certified energy auditor that the Department finds necessary to:

(a) assure that a home's energy efficiency is accurately measured; and

(b) identify cost-effective steps that can be taken to improve a home's energy efficiency.

20. Home Energy Loan Fund or Fund - The fund established under Section 18A-30 of the County Code to provide funding for the Home Energy Loan Program.

21. Home Energy Loan Program (HELP or Program) – The program established under Section 18A-25 of the County Code to assist single-family homeowners to make energy efficiency improvements or install a renewable energy device; establish a loan fund to provide homeowners loans under the Program; and generally amend the environmental sustainability law.

22. Home Energy Yardstick - The U.S. Environmental Protection Agency's ENERGY STAR program tool for assessing the relative performance of existing homes.

23. Home Performance with ENERGY STAR or HPwES - The energy audit and quality assurance program established by the U.S. Environmental Protection Agency (EPA) and adopted by governmental, non-governmental, or utility HPwES program sponsors; who are approved and monitored by the EPA.

24. Home Performance with ENERGY STAR Sponsor or HPwES Sponsor - A non-profit organization, state or local government, or utility that has signed a partnership agreement with the U.S. Environmental Protection Agency to administer a HPwES program.

25. Program Plan - The fundamental operating manual developed by the Director outlining the Program's administration, marketing, education and outreach components.

26. Property Assessment – For the purpose of determining the property assessment for HELP, the assessment is the properties' taxable assessment from the prior year's tax levy plus any Homestead Cap or other credits that would normally reduce the full market assessment on the property.

27. Property Owner or Homeowner – The person who is listed on the County's tax records as the owner of the property where the energy improvements will be installed.

28. Renewable Energy - Energy derived from solar, wind, geothermal, and any other energy source or technology which the Director finds is derived from natural processes that do not involve the consumption of exhaustible resources. Or as defined by the U.S. Department of Energy, U.S. Environmental Protection Agency, Maryland Energy Agency or credible source.

29. Renewable Energy Measure or Device- A measure that:

**Comment:** Program Plan should include the word "guidelines" after the word "programs" (PB)

**Comment:** •Is property assessment the same as "assessed value"? Is there a time difference between the two terms? If they represent the same quantity, but both terms are used for some reason, they should cross-reference each other. If they are different somehow, this definition could include a note saying how it differs from "assessed value". I think readers could get confused between the two. (DF)

**Comment:** It is unclear in the definition of "Property Assessment" why any "Homestead Cap or credits that would normally reduce the full market assessment" would be added to the properties' taxable assessment. Also, is it appropriate to subtract a credit from the assessment? It seems any credits relate to the properties' annual tax bill and not the properties' assessment.(JMD)

**Comment:** Or, energy from any source or technology defined as renewable by the (DF)

**Comment:** Insert "any other", to avoid the implication that the previous agencies are not credible. (SG)

**Comment:** Perhaps require energy be used for the home and not simply be a system on the site? (AM)

(a) converts, or actively uses renewable energy;

(b) is permanently installed on the home or property; and

(c) meets safety and performance standards set by a nationally recognized testing laboratory for that kind of device, if these standards are available.

**Comment:** Insert "or in" (SG)

30. Renewable Energy Product Provider- A specialized contractor installing technologies and products that use renewable energy.

**Comment:** Would it be good for the two terms to be consistent in structure? One way would be to rename the term in item 29 to be "Renewable Energy Product – A measure or device that ...." and continue as is from there, leaving item 30 essentially as is. However, could the word "specialized" in the definition for item 30 cause confusion? Some readers may infer that contractors must provide renewable products only in order to qualify for this designation. I presume that contractors who provide and install both conventional and renewable products could qualify as Renewable Energy Product Providers as long as they meet the criteria set forth later. Would "qualified" or some other descriptor be more helpful than "specialized"? (DF)

31. Single Family Home – Single family detached or attached residential building. A single family home includes a condominium.

### Section III: Program Established

There is a Home Energy Loan Program (HELP) under which the County encourages energy conservation and the use of clean energy by making loans available to residential property owners interested in making energy efficiency and renewable energy improvements to their homes. The loans finance a package of improvements, adhere to defined cost-effectiveness criteria, and are approved based on the results and recommendations of an energy audit. The loans are repaid through the County property tax bill for the home of the borrower.

**Comment:** Insert "or any subsequent owner of the property" (JMD)

**Comment:** Is it important that annual savings exceed annual principal and interest payments? Many projects can have early year annual savings that are smaller than early year annual principal and interest payments, but exhibit very favorable economics over fifteen years. (JMD)

**Comment:** Replace with "Do not" (DF)

**Comment:** I don't understand why the county should fund or help to fund non cost-effective efforts. The county is hurting for cash. We should be getting low hanging fruit and funding or loaning to cost-effective efforts. E.g., I rip off my roof, reinsulated and put on a brand new roof for \$20,000 for the roof, and insulation for \$3000. total \$23000....??

Or in alternative, for part D, for a renewable energy measure, like new roof (mine needs repairs) so I can put solar panels on the roof.

How about including an inspection after asserted "completion of the project", after all the county requires such when you put in a rain garden (I think this is the case, before it will disburse funds even) -- for rain garden it hardly makes sense, but for projects under HELP it does make sense, to ensure it was done properly, hangs an axe over the contractors head, i.e., they don't get paid until the inspection says it was done properly (TS)

### Section IV: Eligible Energy Efficiency and Renewable Energy Measures

The Program provides loans to fund cost-effective energy efficiency and renewable energy improvements. Renewable energy installations that may not satisfy cost-effectiveness criteria may be funded through HELP loans in concert with energy efficiency improvements that collectively achieve a prescribed minimum level of performance.

**Comment:** I read this paragraph as saying that renewable energy products that are not cost-effective can be combined with a separate package of efficiency improvements that meet certain performance criteria in and of themselves; that is, NOT in combination with the renewable energy installation. In other words, this paragraph is placing no requirement at all on cost effectiveness or any other potential benefit of such renewable installations; if efficiency improvements meet the criteria for funding, a renewable ... [1]

A. An energy efficiency improvement or renewable energy measure will be deemed cost-effective if the sum of projected energy cost savings resulting from the improvement or measure is equal to or greater

**Comment:** I presume that cost effective here is determined relative to the costs of the HELP loan only. This leaves the door open for improvements or measures that may not be cost effective from a broader perspective, but this program does not care about that. I raise this point because of a comr ... [2]

**Comment:** Improvements or measures (JMD)

than the sum of principal and interest payments of the loan obtained to finance the improvement or measure over a 15 year amortization period.

**Comment:** Do we want homeowners to be able to finance projects that may be uneconomical at first analysis, but become economical if the homeowner pays for a portion of the project him or herself. In other words, when evaluating these projects, is the cost of the project the total cost of the project or the amount of the total cost that is financed. For example, say a homeowner wants to install an experimental fuel cell system for \$40,000 and the initial analysis determines it is uneconomical. If, by contributing \$20,000 out of pocket, the project is now economical, should this type of project be financed? (JMD)

**Comment:** Insert hyphen i.e. "15-year" (SG)

(1) Projected energy savings will be calculated based on the savings identified by a registered energy auditor, using a broadly accepted software package, or estimates by a renewable energy product provider, using a broadly accepted renewable energy calculator. Energy cost savings must be calculated using energy costs, provided by the Director, based on applicable tariffs and other commonly available energy cost information and published annually in the Program Plan or provided by a widely accepted source (e.g., U.S. Department of Energy).

**Comment:** 15 years may be necessary for renewable energy but would think seven is sufficient for efficiency Par A and Section VII(C) seem to contradict on reduction for other benefits (or am I missing something?) (AM)  
The amortization period is 15 years, which is longer than the average or typical lifetime of some of the products listed in Section II. How does the program handle products with a life expectancy of less than 15 years, say water heaters? (EB)

(2) For the purposes of calculating cost-effectiveness project costs will consist of all necessary labor, services, materials and equipment costs necessary to install the improvement or measure for which the loan was approved. The calculation of project costs will not include the following:

**Comment:** ). The County requires that for an energy efficiency improvement the statement of a registered energy auditor is required. I understand this requirement is based on the need for a comprehensive, unbiased assessment of the home's needs; however, when it comes to renewable energy savings the County is willing to allow a renewable energy product provider (i.e., for- ... [3]

- (a) FHSR necessary to ensure well-being or effective deployment of the measure (e.g., combustion safety improvements); and
- (b) the cost of the initial energy audit, financing, or loan origination fees.

**Comment:** Do you mean that energy cost savings must be calculated using energy prices, rather than costs, provided by the Director or some other source? If you are going to accept tariff information from a source such as DOE, do you want to stipulate what minimum level of geographic disaggregation is acceptable for such prices to be used? Much information available from ... [4]

**Comment:** •It isn't clear to me whether or why you need to discuss project costs in conjunction with determining cost effectiveness. In paragraph A., cost effectiveness is defined in terms of energy cost savings relative to the total cost of the loan. If energy savings does not cover the total cost of the project over a 15-year period, but the amount of the project fun ... [5]



Total project costs will not be discounted by public or private incentives from federal, state, or local governments, utilities, or other sources, or by the sale of environmental attributes.

**B. Fundamental Health and Safety Remediation (FHSR).**

(1) Applicants may receive an additional loan allowance, which will not be included in cost-effectiveness calculations, of up to 10% of the energy efficiency or renewable energy project costs not to exceed \$1,500 for FHSR.

**Comment:** Insert space (SG)

(2) The loan for FHSR must only be authorized in connection with an energy efficiency improvement or renewable energy measure. The loan funds may only be used for the following purposes:

**Comment:** Rephrase: The loan for FHSR can be authorized only in conjunction with an energy efficiency improvement or renewable energy product. The loan funds may be used only for the following purposes (DF)

(a) To remediate a structural, mechanical, electrical or other issue that directly jeopardizes the well being of building occupants, quality of the indoor environment, or the durability or longevity of the structure; or

**Comment:** Insert hyphen (SG)

(b) To install any other necessary cost-effective energy efficiency or renewable energy measure.

**Comment:** By "necessary" in this item, do you mean necessary for FHSR? If so, I think that ought to be said (DF)

**C. An applicant for a loan to finance energy efficiency improvements and renewable energy measures must satisfy the following requirements:**

(1) The applicant must have commissioned and received the final report from a registered energy auditor.

(2) The proposed measures must be identified in the applicant's home energy audit.

(3) Improvements that are fundamentally dependent on another improvement identified in the home energy audit report must be coupled, where applicable. These specifically include:

(a) Insulation and comprehensive air-sealing;

(b) Heating, ventilating, and air conditioning (HVAC) unit replacement and duct sealing; and

(c) Other devices where significant evidence exists that coupled performance improves overall cost-effectiveness, as may be defined in the Program Plan.

(3) Applicant must have obtained a cost proposal for the energy efficiency improvement or renewable energy measure from a Registered Contractors.

**Comment:** Should be (4) (MC)

**Comment:** Delete (SG)

(4) In cases where FHSR is required, the applicant must provide cost estimates and the cost cannot exceed the criteria established in Section IV(B).

**Comment:** Should be (5) (MC)

**Comment:** As it is worded, Section IV(B) establishes a criterion limiting the loan size for FHSR, not the total cost of FHSR projects. Is the \$1,500 an implicit limit on the total cost of FHSR, which if exceeded will sink the application for energy efficiency/renewable energy improvements? This looks like another place where a loan is assumed necessary to cover total project costs, but nothing is stated explicitly. I think clarification is needed here (DF)

D. Renewable energy measures that do not meet the requirements of Section IV(A) and (C) may also qualify for a loan if:

(1) The single-family home where the renewable energy measure is to be installed has already achieved a prerequisite level of energy efficiency, equivalent to a score of 7.5 using the ENERGY STAR Home Energy Yard Stick as registered by the applicant's Registered Energy Auditor, or equivalent methodology.

**Comment:** I would also recommend (although much more involved) allowing other rating systems, such as a HERS or LBNL Home Energy Savers, to be used as well. The Yardstick is great to know where you stand relative to the "typical home" but does not evaluate the potential for energy savings related to specific measures, in my opinion. It does say "or equivalent methodology" but I would suggest greater clarification. (EB)

(2) The proposed renewable energy measure is part of a package of energy efficiency improvements that collectively meet the cost-effectiveness requirements established in Section IV (A).

(3) The proposed renewable energy measure is part of a package of energy efficiency improvements projected, as registered by the applicant's Registered Energy Auditor, to elevate the home to a score of 7.5 on the ENERGY STAR Home Energy Yard Stick or that result in at least a 25% improvement in the energy performance of the applicant's home.

**Comment:** I presume that a 25% improvement in a home's energy performance equates to the home using 25% less energy. In making this calculation, is electricity consumption counted at 3,412 Btu/kWh, or are generation and transmission losses figured in? Also, does the 25% less energy mean 25% less purchased energy? A PV project, for example, might of itself not change the electricity use of the home, but would substitute for purchased electricity (not to mention sales back to the grid.) Would PV-generated electricity in this example count as zero energy use in determining a home's energy performance? I presume it would. It might be good to add a definition of "energy performance" to Section II. (DF)

## Section V: Eligible Properties

All eligible homes must be located within Montgomery County. Properties eligible for a HELP loan include both attached and detached single family homes and condominium units. If the property for which the loan is requested is a condominium, the work to be performed must be limited to the parts of a building that are under the exclusive control of the property owner. All work must also satisfy any requirements applicable to single family homes.

## Section V: Eligible Home Energy Audits and Auditors

**Comment:** Should be VI (MC)

All applications for loans for energy efficiency improvements and renewable energy measures must include a comprehensive home energy audit. The home energy audit must satisfy the following requirements:

A. Audits must be based on the HPwES process developed, promoted and monitored by the U.S. Environmental Protection Agency's ENERGY STAR Program.

(1) Auditors providing services must be registered home energy auditors as defined in these regulations and the Program Plan.

(2) Home energy audits must be based on the Building Performance Institute's (BPI) audit requirements as included in the certification program for building analysts. Auditors must maintain and update their skills commensurate with the requirements of the HPwES and MDHPwES program operated by the Maryland Energy Administration. Within one year, or as specified by HPwES or MDHPwES, registered auditors must obtain all necessary training to fulfill skill update or maintenance requirements.

**Comment:** It is also important that Energy Auditor firms participating in this program hold both the BPI Building Analyst certification and also the BPI Envelope Professional certification. Only one employee per firm need hold the Envelope Professional certification. These two certifications form a minimum threshold of training needed for a firm to knowledgeably and effectively perform a residential energy audit. (JMD)

(3) Audit analysis must be conducted using software accepted by HPwES (e.g., Beacon).

**Comment:** of what date or event? (DF)

(4) A formal test-out procedure, including application of a blower door test, must be conducted by the Registered Home Energy Auditor after the installation of energy efficiency improvements.

**Comment:** This part requires a test-out procedure after the installation of the energy efficiency improvement. I'm not sure if this test-out is included in the initial energy audit required, but if it is not it may be an unnecessary expense on the part of the homeowner because this section does not say what happens if the test-out results reveal a negative finding (e.g., a worsening effect or no change at all).(PB)

(5) In the case of a lapse in both the Maryland Energy Administration's HPwES program and utility sponsorships of HPwES programs, the Director will recommend whether the County should engage in a HPwES sponsorship as a local government.

B. In order for the home energy audit to be eligible for the Program, it must comply with HPwES requirements and also:

(1) Identify a package of cost-effective energy efficiency improvements that meet the requirements of Section IV(A) and, at the request of the applicant, identify a package of cost-effective energy efficiency improvements that are projected to yield annual energy savings greater than the annual principal and interest payment for the improvements;

**Comment:** Here the issue of "what exactly is meant by cost effective?" comes up again. This item seems to support the contention that cost effectiveness is based upon the energy cost savings and loan costs, not total project costs. IF changes are made in the cost effectiveness wording earlier in the document, there may need to be changes made here as well.(DF)

(2) Provide projected energy savings from energy efficiency improvements or renewable energy measures to be financed under the program;

(3) Address all major fuel sources used in the home;

(4) Identify any public or private financing mechanism that can be used to implement energy efficiency improvements (e.g., property tax credits, federal tax credits, utility incentives);

(5) Include, or link to, program application and educational materials; and

(6) Adhere to any additional requirements identified in the Program Plan.

C. An applicant may utilize an audit conducted within 12 months before the effective date of this regulation if the audit satisfies all the requirements of Section V (A) and (B).

**Section VI: Requirements for Energy Auditors, Contractors, and Renewable Energy Product Providers**

Comment: VII – and etc (MC)

A. In order to deliver services to homeowners under the Program, all auditors, contractors, and renewable energy product providers must register with the County or its designee.

B. Energy auditors must:

- (1) Use the cost-effectiveness calculations and methods identified in Section IV;
- (2) Deliver audits adhering to the requirements of Section V and maintain credentials identified within Section V;
- (3) Adhere to Program marketing and customer education requirements developed by the County;
- (4) Have satisfactorily resolved any complaints, or received a satisfactory rating from the applicable HPwES sponsor, the County Office of Consumer Protection, and the Better Business Bureau; and
- (5) Adhere to all other requirements and conditions identified in the Program Plan.

C. Contractors and energy auditors performing energy efficiency improvements must:

Comment: Insert "or audits" (JMD)

- (1) Maintain an active home improvement contractor's license issued by the Maryland Department of Labor, Licensing and Regulation;
- (2) Have BPI Envelope Professional certification;
- (3) Adhere to Program marketing and customer education requirements developed by the County;
- (4) Have satisfactorily resolved any complaints, or received a satisfactory rating from the applicable HPwES sponsor, the County Office of Consumer Protection, and the Better Business Bureau; and
- (5) Adhere to all other requirements and conditions identified in the Program Plan.

D. Renewable energy product providers must:

- (1) Use cost-effectiveness calculations and methods identified in Section IV;

(2) Maintain an active home improvement contractor’s license issued by the Maryland Department of Labor, Licensing and Regulation;

(3) Adhere to Program marketing and customer education requirements developed by the County;

(4) Have satisfactorily resolved any complaints, or received a satisfactory rating from the applicable HPwES sponsor, the County Office of Consumer Protection, and the Better Business Bureau; and

(5) Adhere to all other requirements and conditions identified in the Program Plan.

E. All auditors, contractors, and product providers must comply with all applicable permitting and licensing requirements mandated by the County and, if applicable, the municipality.

F. The County will not guarantee the performance of improvements funded under the Program. However, the County may revoke the registration of a provider for failure to comply with the requirements of this Section.

## Section VII: Program Financing

HELP loan payments are a lien on the borrower’s property that conveys with the property. Therefore, if title to the property is transferred, the obligation for repayment of the loan and the associated loan payments transfers with the property to the new owner.

### A. Financial Eligibility

(1) The applicant must be the record owner of the property.

**Comment:** “recorded owner” or “owner of record” (DF)

(2) Except as provided in Section IV (B), a property owner may only receive one HELP loan per property.

**Comment:** You should include a time limit? Is the one HELP loan per property in perpetuity? Annual? I would like to think that over time a property owner might want to make both energy efficiency improvements and also renewable energy changes, but not at the same time. You should consider putting a time limit on the condition. (PB)

(3) All real property taxes due and owing on the property must be paid in full. Any property that is in tax sale or has liens against the property, other than mortgage liens, will not be eligible for a HELP loan.

(4) Applicants must meet the credit eligibility standards of the Program.

### B. Credit Standards

(1) An applicant must not have any outstanding debts owed to the County or the State of Maryland. In addition, an applicant must be current on any mortgage or deed of trust debt on the property.

(2) An applicant must have paid all real property taxes on the property on time for the previous three years.

**Comment:** why must the applicant have paid all property taxes on time for the prior three years? Why three years? why not 1, why not 7? and why on time? what if there was something beyond their reach or responsibility that led to them being paid late one of those years? How about instead county ensure they are up to date in paying their taxes. (TS)

(3) The borrower must not be in bankruptcy.

**Comment:** Does this preclude any first time home buyers? (EB)

(4) A title search will be performed for each application by the County, or its designee. The property must be titled in the name of the applicant and there must not be any liens on the property except those liens placed by a mortgage lien holder. A property must have sufficient equity, based on full assessed value, to cover the amount of the HELP loan, minus any first and second mortgage lien placed on the property.

**Comment:** – How will it be determined if a property has "...sufficient equity...to cover the amount of the HELP loan...?" Is it okay to have 100% financing (existing mortgage principal plus HELP loan = assessed value)? This kind of leverage has gotten many homeowners into trouble before. Should a minimum level of equity remain after the addition of a HELP loan (say, 20% of the assessed value of the property)? (JMD)

### C. Loan Terms

(1) All loans must be repaid annually over 15 years.

**Comment:** Move this phrase to the end of the sentence, so that full assessed value and the mortgage subtractions are stated contiguously. (DF)

(2) The interest rate on loans will be based on the County's cost of funds, as determined by the Director of Finance, used to capitalize the program plus any costs of administration, loan processing, Program marketing any necessary reserve funds.

**Comment:** Maybe give a range between which the interest rate will fall – or specify not above x%, to enable homeowners/contractors to estimate payback costs better. (MC)

(3) Origination and application fees may be levied to cover the cost to the County, or its designee, of loan processing, appraisals, and other program elements. These costs will be non-refundable and identified in the Program Plan.

(4) Energy improvements must be reasonable in relation to property value. As a guideline, HELP loans are available in amounts not less than \$2,500 and may not exceed 5% of property's assessed value up to a maximum of \$25,000.

(5) Loan payments on all loans are due on September 30th of each year. The HELP loan payments are included on the annual real property tax bill. Therefore, borrowers that elect to pay their property taxes semi-annually will pay one-half of the loan payment amount by September 30th and the second half of the loan payment by December 31st of that same year.

(6) Any payment delinquency after the due dates will be subject to special collection through the County's annual property tax lien sale.

(7) The loan amount and any accrued interest is a first lien on the real property. Under Maryland law, unpaid amounts are collectable by suit or tax sale like all other real property taxes. In addition, interest and penalties accrue on the unpaid balance at the rate of 20% per annum.

**Comment:** •Should "and penalties" be inserted after "interest"? Or are penalties not included in a first lien in case of default? (DF)

(8) A borrower may pre-pay the entire balance of a HELP loan at any time without penalty. A request for a pay-off balance must be made to the Montgomery County Department of Finance, Attn: Director of Finance. In order to pre-pay a HELP loan, all principal and accrued interest up to the payment date must be paid in full.

(9) Partial loan payments are not accepted. However, a borrower may reduce the total amount owed by making a lump sum payment against the outstanding balance of the loan. The single payment will first be applied to interest owed and then to the principal. A new loan balance will be calculated and the annual payment amount will be reduced based on the new loan balance. Lump sum payments must be arranged through the Department of Finance.

(10) Applicants must indicate, in the initial application and the request for payment, the amount of any energy efficiency or renewable energy incentives received from both public and private sources. The total HELP loan for which the applicant is eligible will be reduced by that amount.

**Comment:** If there is a cap of \$25,000 on HELP loans, does that mean that any project that is eligible for public or private incentives is prohibited from receiving the maximum loan amount? Or could there be a case where a homeowner is proposing a set of improvements with \$40,000 total cost, and is eligible for \$15,000 in Federal, State, and local incentives. Could that homeowner still get a \$25,000 loan? This item reads as if the maximum HELP loan that this homeowner could receive is \$10,000. (DF)

#### D. Application Process

(1) Applications for the County's Home Energy Loan Program must be completed and submitted to the Montgomery County Departments of Finance, Environmental Protection, or their designee, via the mechanism to be prescribed in the Program Plan. Applications must include the following:

**Comment:** What if public and private incentives are available but the homeowner does not apply for them. Will they receive a larger HELP loan than if they sought and received those incentives? Should homeowners be required to seek all generally available public and private incentives before calculating the size of a HELP loan? (JMD)

- (a) Completed application form;
- (b) Copy of audit report clearly indicating auditors recommended actions and annual energy savings;
- (c) Estimates of project cost and \_\_\_\_\_
- (d) Identifies program contractors \_\_\_\_\_
- (d) Application fees; \_\_\_\_\_
- (e) Releases necessary to process the application, including information to:
  - (i) establish credit-worthiness; and
  - (ii) request energy usage history from applicant's utilities; and
- (f) Acknowledgement of Program terms and conditions, including agreements from contractors to comply with all applicable federal, state, and local laws.

**Comment:** is something left off the end? (DF)

**Comment:** To make this statement parallel with others in the series, the statement should be "names of program contractors who will perform the improvements" or something like that. (DF)

**Comment:** e

**Comment:** f

**Comment:** g

(2) The applicant will receive a confirmation from the County, or its designee, concerning the decision on the applicant's loan application. If the loan is approved, the confirmation letter will indicate the terms and conditions of the loan. The applicant must sign the confirmation letter, agreeing to the terms and conditions of the loan and return the document to the County or its designee.

(3) If the HELP loan application is not approved and the applicant wishes to seek a reconsideration of the decision, the applicant may request reconsideration from the Director. Any request for reconsideration must be in writing and must include supporting reasons for the request. A request for reconsideration must be made within 10 business days after the Director's decision not to approve a loan application.

(4) Beginning the first tax levy year following the first disbursement of HELP funds; the annual HELP loan payment will appear on the property owner's annual real property tax bill.

#### E. Disbursement of Loan Funds



(1) Generally, HELP loan funds may be disbursed by the County at the completion of the energy efficiency improvement or renewable energy measure. The property owner must provide the Department, or the County's designee, with a certificate of completion signed by the property owner acknowledging satisfactory completion of the work before any loan funds may be disbursed. The completion certificate must include the following:

**Comment:** This part requires that all improvements in the audit report must be completed. I find this unreasonable. If an audit report indicates a long list of items that should be done, but the homeowner is willing to do one or just a few, they would be barred from this program unless they implemented every audit finding. (PB)

(a) Confirmation that all improvements noted in the audit report have been completed or an explanation as to why an improvement cannot be completed;

(b) Final project costs;

(c) Certification by all contractors that applicable County or municipal permitting requirements have been met;

(d) Certification that all funding requirements, including any requirements necessary to use federal funds, have been satisfied by all parties and

(e) Any diagnostic test-out procedures, administered by the auditor, required by the applicable HPwES sponsor; and

(f) Other information required by the County, as documented in the Program Plan.

**Comment:** requires owner certification with supporting documents; shouldn't the County be able to audit or require more if there is anything questionable? (AM)

(2) If the Director, or the County's designee, finds that all of the County's requirements have been satisfied, the Director, or the County's designee, must sign the completion certificate before any loan funds may be disbursed.

(3) After receiving a completion certificate signed by the Director, the Department of Finance must issue a check to the property owner made payable to the contractor.

#### F. Post Loan Administration

(1) Upon final payment of the HELP loan to the County, the portion of the real property tax bill that is attributable to the HELP loan payment will no longer appear on the annual property tax bill.

(2) Delinquent loan payments may be collected through the Annual Tax Lien Sale or by any other means authorized by Maryland Code of Regulations Tax Property Act Title 14, section 14-817.

(3) In the event of a foreclosure by a lending institution during the life of the loan, only the amount of the unpaid HELP loan balance, including accrued interest, fees, charges, or penalties that are due or in default must be paid at the time of foreclosure.

(4) At any time during the life of the HELP loan, a borrower may pay off the loan prior to maturity. Any amounts due, including but not limited to principal, accrued interest, legal fees due the County or lien holders, and potential penalties must be paid in full to pay-off the loan.

### **VIII: Disclosure Requirements**

If the borrower transfers title to the property, the borrower must disclose to the new owner that the new owner must continue to repay the HELP loan through the real property tax bill. The required disclosure occurs in accordance with the seller's obligation to disclose real property tax information to new owners of the property, as described in the Montgomery County Code of Regulations 40.12C.01.01 .

Effective Date

This Executive Regulation takes effect upon approval by the County Council.

Sec. 2. Severability

If a court holds that a portion of this regulation is invalid, the other portions remain in effect.

Sec. 3. Effective Date

This regulation takes effect 30 days after approval by the County Council.

Isiah Leggett,

County Executive

Distribution:

Clerk, County Council

County Executive

Chief Administrative Officer

County Attorney

Director, Department of Environmental Protection

Director of Finance

**Additional EAQAC Comments:**

1. What happens when the property is sold? Is the loan paid off during the transaction (since it is the first lien), or does it transfer (I would assume the former)? (EB)
2. Has Montgomery County reached out to lenders as well as real estate agents to see if they have any concerns? The lenders to me are important, as the goal should be to create something sustainable, which without private financing, is not likely to last beyond the initial burst. (EB)
3. I believe most homeowners replace their HVAC systems upon system failure. Under the administrative procedures proposed here a homeowner would be hard-pressed to seek an audit first under such dire circumstances. I understand the need for a comprehensive evaluation by a certified auditor, but if you do not address the situation of a homeowner under exigent circumstances you will miss out on a large portion of people who could take advantage of this program. My only recommendation would be to allow an auditor or energy efficient provider (HVAC company) to certify that the replacement unit meets the highest efficiency rating. (PB)

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Page 7: [1] Comment Melitta 3/17/2010 2:19 PM

I read this paragraph as saying that renewable energy products that are not cost-effective can be combined with a separate package of efficiency improvements that meet certain performance criteria in and of themselves; that is, NOT in combination with the renewable energy installation. In other words, this paragraph is placing no requirement at all on cost effectiveness or any other potential benefit of such renewable installations; if efficiency improvements meet the criteria for funding, a renewable installation can ride along with no restrictions. Is that what is meant here? (DF)

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Page 7: [2] Comment Melitta 3/17/2010 1:02 PM

I presume that cost effective here is determined relative to the costs of the HELP loan only. This leaves the door open for improvements or measures that may not be cost effective from a broader perspective, but this program does not care about that. I raise this point because of a comment two bullets down from this one.(DF)

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Page 8: [3] Comment Melitta 15/1/1918 4:36 AM

). The County requires that for an energy efficiency improvement the statement of a registered energy auditor is required. I understand this requirement is based on the need for a comprehensive, unbiased assessment of the home's needs; however, when it comes to renewable energy savings the County is willing to allow a renewable energy product provider (i.e., for-profit company) to give the County the same comprehensive, unbiased estimates. I see the two approaches as contradictory. I would recommend that you allow both energy efficiency and renewable energy product providers to provide estimates "using a broadly accepted software package". As long as both use the accepted methodology you should come out with the same result. (PB)

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Page 8: [4] Comment Melitta 15/1/1918 4:32 AM

Do you mean that energy cost savings must be calculated using energy prices, rather than costs, provided by the Director or some other source? If you are going to accept tariff information from a source such as DOE, do you want to stipulate what minimum level of geographic disaggregation is acceptable for such prices to be used? Much information available from DOE may be for much broader geographic areas, and may not reflect Montgomery County reality (DF)

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Page 8: [5] Comment Melitta 3/17/2010 1:55 PM

It isn't clear to me whether or why you need to discuss project costs in conjunction with determining cost effectiveness. In paragraph A., cost effectiveness is defined in terms of energy cost savings relative to the total cost of the loan. If energy savings does not cover the total cost of the project over a 15-year period, but the amount of the project funded by the loan is covered, is that OK? If it is, a project could be made cost effective relative to the costs associated with the loan simply by restricting the size of the HELP loan until the loan cost falls within the projected energy cost savings. Or is the consideration of cost-effectiveness driven by an implicit assumption that the HELP loan will finance the entire cost of the project? If so, maybe the last sentence of paragraph A. should be clarified to indicate that the principal and interest costs would be for a loan to finance the entire cost of the improvement or measure (less the listed exceptions, of course). Either that, or simply define cost effectiveness in paragraph A in terms of energy savings and total project costs as defined here. (DF)

