

MEMORANDUM

October 19, 2018

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *AM*

SUBJECT: Bill 33-18, Environmental Sustainability – Commercial Property Assessed Clean Energy Program – Property Tax Surcharge

PURPOSE: Public Hearing – no Council votes required

Bill 33-18, Environmental Sustainability – Commercial Property Assessed Clean Energy Program – Property Tax Surcharge, sponsored by Lead Sponsor Councilmember Berliner and Co-Sponsors Councilmembers Katz and Elrich, was introduced on October 2. A Transportation, Infrastructure, Energy and Environment Committee worksession is tentatively scheduled for November 8, 2018 at 9:30 a.m.

Bill 33-18 would require the County to add the property tax surcharge to the property tax bill within a certain timeframe. A memorandum from the Lead Sponsor is on ©5.

This packet contains:	<u>Circle #</u>
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Bill No. 33-18
Concerning: Environmental Sustainability
- Commercial Property Assessed
Clean Energy Program - Property
Tax Surcharge
Revised: 9/27/2018 Draft No. 2
Introduced: October 2, 2018
Expires: April 2, 2020
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Berliner
Co-Sponsors: Councilmembers Katz and Elrich

AN ACT to:

- (1) require the County to add the property tax surcharge to the property tax bill within a certain timeframe; and
- (2) generally amend County laws related to the Commercial Property Assessed Clean Energy Program and environmental sustainability.

By amending

Montgomery County Code
Chapter 18A, Environmental Sustainability
Section 18A-36

Boldface	<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. Section 18A-36 is amended as follows:**

2 **18A-36. Payment of surcharge; lien.**

3 (a) The County must collect the amount financed through a surcharge on
4 the property owner's real property tax bill and forward payments
5 received by the County to the County designated program manager or,
6 if there is no County designated program manager, to the lender no later
7 than 30 days after the payment due dates for real property taxes.
8 Payment due dates for semi-annual real property taxes are September 30
9 for the first installment and December 31 for the second installment, and
10 for annual real property taxes the payment due date is September 30.

11 (b) After receiving written notice from the County designated program
12 manager of the execution of a clean energy loan financing agreement,
13 the County must add the surcharge to the property tax bill on July 1 of
14 the year immediately following execution of the clean energy loan
15 financing agreement.

16 (c) If the property owner sells the qualified property, the buyer must
17 continue to pay the surcharge levied on the annual property tax bill.

18 [(c)] (d) The surcharge and any accrued interest or penalty constitutes a first
19 lien on the real property to which the surcharge applies until paid. An
20 unpaid surcharge will be, until paid, a lien on the qualified property on
21 which it is imposed from the date it becomes payable. The surcharge
22 will accrue interest and penalty and will be treated and collected like all
23 other County property taxes. Any delinquency will be collected through
24 the County Tax Sale process. The provisions of Title 14, Subtitle 8 of
25 the Tax – Property Article of the Maryland Code that apply to a tax lien
26 will also apply to the lien created under this law. Any delinquent
27 surcharge collected through the County Tax Sale process must be

28 forwarded to the County designated program manager or, if there is no
29 County designated program manager, to the lender no later than 30 days
30 after the payment was received.

31 *Approved:*

32

Hans D. Riemer, President, County Council

Date

33 *Approved:*

34

Isiah Leggett, County Executive

Date

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

36

Megan Davey Limarzi, Esq., Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Bill 33-18

Environmental Sustainability – Commercial Property Assessed Clean Energy Program – Property Tax Surcharge

DESCRIPTION: Bill 33-18 would require the County to add the property tax surcharge to the property tax bill within a certain timeframe.

PROBLEM: Currently, the county places the surcharge on a participating property only at the time that the improvements have been completed, leaving a financing gap for the implementation of the improvements and potentially acting as a hurdle to more C-PACE Program projects.

GOALS AND OBJECTIVES: To require the County to add the surcharge to the property tax bill the July 1 following the date of the clean energy loan financing agreement.

COORDINATION: Department of Finance

FISCAL IMPACT: To be requested

ECONOMIC IMPACT: To be requested

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Amanda Mihill, Legislative Attorney 240-777-7815

APPLICATION WITHIN MUNICIPALITIES: CPACE programs are available Countywide

PENALTIES: N/A

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MEMORANDUM

September 25, 2018

TO: Council Colleagues

FROM: Councilmember Roger Berliner

SUBJECT: Bill 33-18 -- Commercial Property Assessed Clean Energy Program

Colleagues, I am writing to ask for your support for legislation I will introduce on October 2 that will eliminate a hurdle for building owners hoping to finance energy efficiency and renewable energy upgrades.

In 2015, we adopted legislation to establish a Commercial Property Assessed Clean Energy (C-PACE) Program in Montgomery County. The C-PACE Program allows commercial building owners to access financing for energy efficiency and renewable energy upgrades secured by the property and repaid via a surcharge on their property tax bills. A number of commercial building owners have taken advantage of the C-PACE Program, making needed repairs while reducing their energy use and impact on the environment.

This legislation would improve the C-PACE Program and bring it in line with virtually every other C-PACE Program in the country by placing the surcharge on a participating property at the time of its financing agreement – before construction of the energy efficiency and renewable energy improvements begin. Currently, the county places the surcharge on a participating property only at the time that the improvements have been completed, leaving a financing gap for the implementation of the improvements and potentially acting as a hurdle to more C-PACE Program projects. At least 32 other jurisdictions use C-PACE Programs in which the surcharge is placed prior to construction of the improvements.

I thank you in advance for your consideration of this legislation and I look forward to working with you as it moves forward.



Roger Berliner