AGENDA ITEM #3B
April 23, 2013

Introduction

MEMORANDUM

April 19, 2013

TO: County Council

FROM: Amanda Mihill, Legislative Attorney Mihill

SUBJECT: **Introduction:** Bill 11-13, Commercial Property Assessed Clean Energy Program - Established

Bill 11-13, Commercial Property Assessed Clean Energy Program - Established, sponsored by Councilmember Berliner, is scheduled to be introduced on April 23, 2013. A public hearing is tentatively scheduled for June 11 at 1:30 p.m.

Bill 11-13 would establish a Commercial Property Assessed Clean Energy Program to assist qualifying commercial property owners to make energy improvements and establish a revolving loan fund to provide property owners loans under the Program.

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Bill No. 11-13
Concerning: Commercial Property Assessed Clean Energy Program - Established
Revised: 4/11/2013 Draft No. 1
Introduced: April 23, 2013
Expires: October 23, 2014
Enacted: ______
Executive: ______
Effective: ______
Sunset Date: ______
Ch. ____, Laws of Mont. Co. ______

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Berliner

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) generally amend the environmental sustainability law.

By adding
Montgomery County Code
Chapter 18A, Environmental Sustainability
Article 5
Sections 18A-33, 18A-34, 18A-35, 18A-36, 18A-37, and 18A-38

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets**]**	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets**]]**	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Article 5 of Chapter 18A (Sections 18A-33, 18A-34, 18A-35, 18A-36, 18A-37, and 18A-38) is added as follows:

Article 5. Commercial Property Assessed Clean Energy Program

18A-33. Definitions.

In this Section, the following words have the meanings indicated:

Commercial or industrial property means any real property other than a residential dwelling with less than five dwelling units.

Commercial Property Assessed Clean Energy Program or *Program* means a program that facilitates energy improvements and requires repayment through a surcharge on the owner's property tax bill.

Department means the Department of Environmental Protection.

Director means the Director of the Department or the Director's designee.

Eligible cost means the net cost of buying or installing an energy improvement, 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.

Energy improvement means:

(1) a renovation or retrofitting of qualifying commercial real property to reduce energy consumption; or

(2) the installation of a renewable energy system to service qualifying commercial real property.

Qualifying commercial real property means any commercial or industrial property, regardless of ownership, that meets the qualifications established for the Commercial Property Assessed Clean Energy Program.

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

The Director must create and administer a Commercial Property Assessed

Clean Energy Program.

18A-35. Eligibility; use of funds.

(a) The Director may loan funds to an owner of a qualifying commercial real property to fund eligible costs to make an energy improvement on the property, up to the maximum loan amount set by regulation.

(b) *Eligibility.* To be eligible for a loan under this Program, a property owner must:

(1) have an energy audit or renewable energy system feasibility analysis on the qualifying commercial real property that assesses the expected energy cost savings of the energy improvement over the useful life of the improvement;

(2) provide 30 days' written notice to any existing mortgage holder of the property of the owner's intent to finance the energy improvement under the Program;

(3) obtain the consent of any existing mortgage holder for the loan; and

(4) agree to repay the loan amount borrowed through the County tax bill for that property, as required by Section 18A-36.

(c) *Use of funds for an energy improvement.*

(1) A person may borrow funds for eligible costs to make an energy improvement.

(2) Except as provided in (c)(3), funds must be loaned only for an energy improvement for which the energy cost savings of the energy improvement over the useful life of the improvement exceed the costs of the improvement.

(3) Funds may be loaned for an energy improvement that does not meet the cost criteria in (c)(2) if that improvement is part of a

package of improvements financed under the Program that cumulatively meets that criteria.

(4) Funds may be loaned only for an energy improvement that is permanently fixed to a qualifying commercial real property.

(d) *Disclosure to property owner.* The Director must disclose the following to a property owner:

(1) any cost or risk associated with participating in the Program, including any risk related to the failure of the property owner to pay the loan and;

(2) the interest rate of the loan, including any fees charged to administer the Program, and any risk associated with variable interest rate financing.

(e) *Ability to rescind.* The Director must notify a property owner that the owner may rescind any financing agreement entered into under this Article no later than 3 business days after the agreement is made.

18A-36. Repayment of funds; lien.

(a) The owner of qualifying commercial real property must agree to repay the loan amount borrowed through the County property tax bill for that property.

(b) If the property owner sells the property, the seller must disclose that the buyer must continue to repay the loan through the property tax bill.

(c) The loan amount and any accrued interest constitute a first lien on the real property to which the loan applies until paid. The loan amount and accrued interest are collectable by suit or tax sale like all other real property taxes, to the extent allowed by State law. If the property owner does not pay the loan and accrued interest as required, the property may be certified to the Department of Finance and the lien may be sold at the tax sale conducted by the County.

18A-37. Regulations.

The Executive must adopt regulations under Method (2) to administer the Program, including:

(a) lending standards and priorities;

(b) minimum and maximum loan amounts;

(c) interest rates, terms, and conditions;

(d) application procedures, including necessary supporting documentations;

(e) criteria for adequate security;

(f) procedures to refer applicants to other sources of funds, and to cooperate with other public and private sources of funds;

(g) procedures to ask the Director to reconsider any denial of a loan or any decision on interest rates, terms, and conditions;

(h) procedures for nonpayment or default;

(i) procedures and requirements for post-installation inspection;

(j) disclosure requirements for real estate transactions; and

(k) criteria for loan disbursement.

18A-38. Revolving loan fund.

(1) *Definitions.* In this Section, the following words have the meanings indicated:

Department means the Department of Finance.

Revolving loan fund or *Fund* means the special, nonlapsing fund to finance the Commercial Property Assessed Clean Energy Program established under this Article.

(b) The Fund consists of:

(1) money appropriated in the County budget for the Program;

(2) money received from any public or private source;

(3) interest and investment earnings on the Fund;

(4) repayments and prepayments of principal and interest on loans made from the Fund; and

(5) any other available funds to support the Program.

(c) The Department must:

(1) disburse funds and collect payments for a loan made under the Program; and

(2) maintain loan records and provide an annual report to the Department of Environmental Protection.

Approved:

Nancy Navarro, President, County Council Date

Approved:

Isiah Leggett, County Executive Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Bill 11-13
Commercial Property Assessed Clean Energy Program - Established

DESCRIPTION:	Bill 11-13 would establish a Commercial Property Assessed Clean Energy Program to assist qualifying commercial property owners to make energy improvements and establish a revolving loan fund to provide property owners loans under the Program.
PROBLEM:	Making energy efficiency improvements to commercial buildings can be a cost-effective way to reduce greenhouse gas emissions. However, the lack of accessible financing options is a barrier to many property owners and may prevent them from making these energy efficiency improvements
GOALS AND OBJECTIVES:	To establish a program to provide property owners with a financing option to make energy efficiency improvements to their commercial property, thereby reducing energy costs and greenhouse gas emissions.
COORDINATION:	Departments of Environmental Protection, Finance, and Permitting Services.
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:	To be researched.
PENALTIES:	N/A