AN ACT to:

(1) require the [Director of the Department of Environmental Protection] Sustainability Working Group to develop a Renewable Energy Action Plan after evaluating options for increasing the use of renewable energy in and by the County, including the feasibility of creating a [Sustainable] Sustainability Energy [Utility] Fund;

(2) prohibit enforcement of certain deed restrictions, covenants, rules, or regulations relating to renewable energy devices;

(3) create a property tax credit for the installation of certain renewable energy devices; and

(4) generally amend the law relating to energy and property tax credits.

By adding
Montgomery County Code
Chapter 18A, Energy Policy
Section [18A-12] 18A-16

Chapter 40, Real Property
Section 40-3A

Chapter 52, Taxation
Section 52-18Q

The County Council for Montgomery County, Maryland approves the following Act:
Sec. 1. Section 18A-12, Section 40-3A, and Section 52-18Q are added as follows:


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

"Department" means the Department of Environmental Protection.

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

"Renewable energy" means the following energy sources or technology:

(1) solar;

(2) wind;

(3) geothermal;

(4) tidal;

(5) methane from anaerobic decomposition of organic materials in a landfill or wastewater treatment plant; and

(6) any other energy source or technology which the Director finds is derived from natural processes that do not involve the consumption of exhaustible resources.

"[[Sustainable Energy Utility]] Sustainability Energy Fund" means a non-profit organization which:

(1) develops end-user markets for products and services relating to energy efficiency and renewable energy; and

(2) serves as a point-of-contact for end-users to obtain information about products and services relating to energy efficiency and renewable energy.

(b) **Study.** The [[Director]] Sustainability Working Group must prepare a Renewable Energy Action Plan after evaluating the costs and benefits of options to increase renewable energy use in and by the County, including the feasibility of creating a [[Sustainable Energy Utility]] Sustainability Energy Fund.

(c) **Initial report.** The [[Director]] Sustainability Working Group must submit a report to the County Executive and County Council by [[July 1, 2008]] January 15, 2009 that identifies the components of the Renewable Energy Action Plan.

(d) **Energy work program.** The County Executive’s energy work program, required by Section 18A-2, must identify any action necessary to implement the Renewable Energy Action Plan.

**40-3A. Renewable energy devices.**

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

"Renewable energy" means the following energy sources or technology:

(1) solar;
(2) wind; and
(3) geothermal.

"Renewable energy device" means a device that:

(1) creates, converts, or actively uses renewable energy; and
(2) meets safety and performance standards set by a nationally recognized testing laboratory for that kind of device.

"Owner of any building" includes a unit owner in a condominium, a lot owner in a homeowner’s association, and a shareholder in a cooperative housing corporation.
(b) **Prohibition.** A person must not create or enforce any deed restriction, covenant, rule, or regulation, or take any other action, which would prohibit the owner of any building from installing a renewable energy device.

(c) **Applicability.**

(1) **[This]** Except as provided in **[subparagraph]** paragraph (2), this Section applies to all deed restrictions, covenants, rules, and regulations adopted before and after this Section became law.

(2) This Section does not apply to a restriction imposed by:

(i) a forest conservation easement; or

(ii) a historic preservation requirement.

[[52-18Q]] **52-18R. Property tax credit — renewable energy.**

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

“**Director**” means the Director of the Department of Finance or the Director’s designee.

“**Eligible cost**” means the cost of buying or installing a solar or geothermal energy device or energy conservation device, including any part, component, or accessory necessary to operate the device, that is installed within 12 months before a property owner submits an application to the Department of Finance under subsection (f).

“**Energy conservation device**” means a device that:

(1) reduces the demands for conventional fuels or efficiency of these fuels, including:

(A) caulking and weatherstripping doors and windows;

(B) furnace efficiency modifications, including:
(i) replacing a burner, furnace, heat pump, or boiler if the replacement substantially increases the energy efficiency of the heating system;

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

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

(C) a programmable thermostat;

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

(E) water heater insulation;

(F) storm windows or doors, multiglazed windows or doors, and heat-absorbed or heat-reflective glazed window or door materials;

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

(H) any other conservation device, renewable energy technology, and specific home improvement that the Director finds necessary to assure that energy conservation measures are effective; and

(2) meets safety and performance standards set by a nationally recognized testing laboratory for that kind of device.

Energy conservation device does not include a standard household appliance, such as a washing machine or clothes dryer.

“Geothermal energy device” means a device that:

(1) uses geothermal energy to heat or cool a structure, to provide hot water for use in the structure, or to generate electricity to be used in the structure; and
meets safety and performance standards set by a nationally recognized testing laboratory for that kind of device.

“Solar energy device” means a device that:

(1) uses solar energy to heat or cool a structure, to provide hot water for use in the structure, or to generate electricity to be used in the structure; and

(2) meets safety and performance standards set by a nationally recognized testing laboratory for that kind of device.

“Tax-Property Article” means the Tax-Property Article of the Maryland Code.

(b) Credit. As authorized by §9-203 of the Tax-Property Article, an owner of an owner-occupied residential property that uses a solar or geothermal energy device or an energy conservation device may receive a credit against the County property tax credit.

(c) Amount of Credit.

(1) The credit allowed under this Section for a geothermal or solar energy device is the [[lesser]] lower of:

[(A) 50% of the eligible costs; or

[(B) $5,000 for a heating system or $1,500 for a hot water supply system.

(2) In any fiscal year, a person must not receive [[more than 1 credit under subsection(c)(1)]] a credit for more than 1 geothermal or solar energy device per property.

(3) In any fiscal year, the credit allowed under this Section for [[an]] eligible costs for all energy conservation [[device is]] devices must not exceed $250 per property.
(d) **Annual aggregate limit.**

(1) Unless a larger amount is approved in the annual operating budget or a Council resolution, during any fiscal year, the total credits granted under this Section must not exceed:

- (A) $250,000 for solar and geothermal energy devices; and
- (B) $250,000 for energy conservation devices.

(2) Credits must be granted in the order in which the Department of Finance receives complete applications under subsection (f).

(3) A complete application that, if granted, would cause the limit set in paragraph (1) of this subsection to be exceeded, must be granted in the next fiscal year or years based on the order in which the Department of Finance received the application.

(e) **Carry Over.**

(1) The amount of a credit in any tax year must not exceed the amount of the County property tax imposed on the property in that tax year.

(2) Any amount of a credit not taken in the tax year in which an application is approved may be carried over for an additional two years.

(3) When a credit is carried over under this subsection, the full amount of the credit must be counted towards the annual aggregate limit established in subsection (d) in the year in which an application is approved.

(f) **Application.**

(1) A property owner must submit an application to the Director on or before the date that the Director sets.
An application must:

(A) be on the form that the Director requires;

(B) demonstrate that the taxpayer is entitled to the credit; and

(C) include a certification from the Department of Permitting Services, indicating that the device for which the credit is sought:

(i) is a solar or geothermal energy device; and

(ii) has been properly installed.

(g) *Applicability.* The credit authorized by this Section applies to any tax year beginning after June 30, 2008.

*Approved:*

Michael J. Knapp, President, County Council

Isiah Leggett, County Executive

Linda M. Lauer, Clerk of the Council

*CLERK'S NOTE: CORRECTED NEW SECTION NUMBER ON LINE 65.*