

**CITY OF BALTIMORE
COUNCIL BILL 16-0692
(First Reader)**

Introduced by: Councilmember Costello, President Young, Councilmembers Scott, Middleton, Henry, Holton, Stokes, Clarke, Spector, Kraft, Mosby, Curran, Welch, Reisinger, Branch
At the request of: CBJ Energy, c/o Claire B. Johnson, President
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Introduced and read first time: June 6, 2016

Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Finance, Department of Public Works, Office of Sustainability, Department of Housing and Community Development

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Property Assessed Clean Energy Loan Program**

3 FOR the purpose of establishing a Property Assessed Clean Energy Loan Program (“PACE Loan
4 Program”) to assist qualifying commercial property owners to finance energy improvements
5 through non-accelerating PACE Loans from participating private lenders; authorizing the
6 City to collect PACE Loan payments owed to a private lender, as well as certain PACE
7 Program administrative costs, through a surcharge on the property owner’s real property tax
8 bill; providing that an unpaid surcharge constitutes a lien on the real property on which it is
9 imposed; providing for the scope of and eligibility for participation in the PACE Loan
10 Program; providing for the administration of the PACE Loan Program; establishing default
11 procedures; defining certain terms; and providing for a special effective date.

12 BY adding

13 Article 28 - Taxes
14 Sections 30-1 through 30-8, to be under the new subtitle,
15 “Subtitle 30. Property Assessed Clean Energy Loan Program”
16 Baltimore City Code
17 (Edition 2000)

18 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
19 Laws of Baltimore City read as follows:

20 **Baltimore City Code**

21 **Article 28. Taxes**

22 **SUBTITLE 30. PROPERTY ASSESSED CLEAN ENERGY LOAN PROGRAM**

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 16-0692

1 **§ 30-1. DEFINITIONS.**

2 (A) *IN GENERAL.*

3 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

4 (B) *ADMINISTRATOR.*

5 “ADMINISTRATOR” MEANS THE CONTRACTOR SELECTED UNDER § 30-3 {“PROGRAM
6 ADMINISTRATION”} OF THIS SUBTITLE TO ADMINISTER THE PACE LOAN PROGRAM FOR
7 THE CITY.

8 (C) *CLEAN ENERGY LENDER.*

9 “CLEAN ENERGY LENDER” MEANS A PRIVATE LENDER WHO PROVIDES A CLEAN ENERGY
10 LOAN TO A COMMERCIAL PROPERTY OWNER UNDER THIS SUBTITLE.

11 (D) *CLEAN ENERGY LOAN.*

12 “CLEAN ENERGY LOAN” MEANS A NON-ACCELERATING LOAN MADE UNDER THIS SUBTITLE
13 BY A CLEAN ENERGY LENDER TO THE OWNER OF A COMMERCIAL PROPERTY.

14 (E) *COMMERCIAL PROPERTY.*

15 (1) *IN GENERAL.*

16 “COMMERCIAL PROPERTY” HAS THE MEANING STATED IN THE ENABLING LAW.

17 (2) *ILLUSTRATIONS.*

18 “COMMERCIAL PROPERTY” INCLUDES ANY INDUSTRIAL, MULTI-FAMILY RESIDENTIAL
19 (4 OR MORE DWELLING UNITS), NON-PROFIT, INSTITUTIONAL, OR AGRICULTURAL
20 PROPERTY THAT MEETS THE ELIGIBILITY REQUIREMENTS OF THIS SUBTITLE.

21 (F) *ENABLING LAW.*

22 “ENABLING LAW” MEANS THE STATE’S LOCAL GOVERNMENT ARTICLE, TITLE 1,
23 SUBTITLE 11 {“CLEAN ENERGY LOAN PROGRAMS”}.

24 (G) *ENERGY EFFICIENCY PROJECT.*

25 “ENERGY EFFICIENT PROJECT” MEANS THE INSTALLATION OF NEW OR REPLACEMENT
26 FIXTURES, PRODUCTS, DEVICES, EQUIPMENT, SYSTEMS, MATERIALS, OR MEASURES THAT:

27 (1) INCREASE A COMMERCIAL PROPERTY’S ENERGY OR WATER EFFICIENCY;

28 (2) DECREASE A COMMERCIAL PROPERTY’S ENERGY OR WATER CONSUMPTION; OR

29 (3) REDUCE A COMMERCIAL PROPERTY’S UTILITY COSTS.

Council Bill 16-0692

1 (H) *ENERGY IMPROVEMENT.*

2 "ENERGY IMPROVEMENT" MEANS AN ENERGY EFFICIENCY PROJECT OR RENEWABLE
3 ENERGY PROJECT THAT QUALIFIES UNDER THIS SUBTITLE.

4 (I) *FINANCE DIRECTOR.*

5 "FINANCE DIRECTOR" MEANS THE DIRECTOR OF THE CITY DEPARTMENT OF FINANCE OR
6 THAT DIRECTOR'S DESIGNEE.

7 (J) *FINANCING AGREEMENT.*

8 "FINANCING AGREEMENT" MEANS AN AGREEMENT BETWEEN A PROPERTY OWNER AND A
9 CLEAN ENERGY LENDER THAT PROVIDES FOR THE TERMS AND CONDITIONS OF A CLEAN
10 ENERGY LOAN.

11 (K) *INCLUDES; INCLUDING.*

12 "INCLUDES" OR "INCLUDING" MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF
13 LIMITATION.

14 (L) *PACE LOAN PROGRAM; PROGRAM.*

15 "PACE LOAN PROGRAM" OR "PROGRAM" MEANS THE PROPERTY ASSESSED CLEAN
16 ENERGY LOAN PROGRAM ESTABLISHED UNDER THIS SUBTITLE.

17 (M) *PERSON.*

18 "PERSON" MEANS:

19 (1) AN INDIVIDUAL;

20 (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, GOVERNMENTAL AGENCY, OR
21 OTHER ENTITY OF ANY KIND; AND

22 (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR
23 REPRESENTATIVE OF ANY KIND.

24 (N) *PROPERTY OWNER.*

25 "PROPERTY OWNER" MEANS THE OWNER OF A NEW OR EXISTING COMMERCIAL PROPERTY
26 LOCATED IN THE CITY.

27 (O) *RENEWABLE ENERGY PROJECT.*

28 (1) *IN GENERAL.*

29 "RENEWABLE ENERGY PROJECT" MEANS THE INSTALLATION OF NEW OR
30 REPLACEMENT RENEWABLE ENERGY TECHNOLOGIES, DEVICES, OR SYSTEMS THAT

Council Bill 16-0692

1 GENERATE ELECTRIC OR THERMAL ENERGY WITH A NAMEPLATE CAPACITY
2 AUTHORIZED BY THE ENABLING LAW.

3 (2) *ILLUSTRATIONS.*

4 “RENEWABLE ENERGY PROJECTS” INCLUDES PROJECTS THAT GENERATE THERMAL OR
5 ELECTRICAL ENERGY BY USING NATURAL RESOURCES SUCH AS SOLAR, WIND, BIOMASS,
6 LANDFILL GAS, MUNICIPAL SOLID WASTE, MARINE OR HYDROKINETIC, OR GEOTHERMAL
7 RESOURCES.

8 (P) *SURCHARGE.*

9 “SURCHARGE” MEANS THE REPAYMENT OBLIGATION OF A CLEAN ENERGY LOAN,
10 INCLUDING PRINCIPAL, INTEREST, AND ADMINISTRATIVE COSTS, COLLECTED FROM A
11 PROPERTY OWNER THROUGH THE CITY’S PROPERTY TAX BILLING SYSTEM.

12 **§ 30-2. PACE PROGRAM ESTABLISHED.**

13 AS AUTHORIZED BY THE ENABLING LAW, THERE IS A PROPERTY ASSESSED CLEAN ENERGY
14 LOAN PROGRAM FOR BALTIMORE CITY.

15 **§ 30-3. PROGRAM ADMINISTRATION – IN GENERAL.**

16 (A) *NATURE OF CITY’S ROLE.*

17 THE MAYOR AND CITY COUNCIL OF BALTIMORE:

18 (1) SERVES ONLY AS A PACE LOAN PROGRAM SPONSOR, FACILITATING THE
19 REPAYMENT OF CLEAN ENERGY LOAN OBLIGATIONS THROUGH THE CITY’S
20 PROPERTY TAX BILLING SYSTEM; AND

21 (2) IS NOT AT ANY TIME LIABLE FOR ANY CLEAN ENERGY LOAN OBLIGATION
22 AUTHORIZED BY THIS SUBTITLE.

23 (B) *SELECTION OF ADMINISTRATOR.*

24 THE FINANCE DIRECTOR, IN CONSULTATION WITH THE BALTIMORE CITY OFFICE OF
25 SUSTAINABILITY, SHALL CONTRACT FOR A PROGRAM ADMINISTRATOR, EITHER:

26 (1) BY EXPANDING THE SCOPE OF AN EXISTING MUNICIPAL CONTRACT VEHICLE;

27 (2) THROUGH A COMPETITIVE PROCUREMENT PROCESS;

28 (3) BY USING AN EXISTING ADMINISTRATOR CONTRACTED THROUGH A COOPERATIVE
29 PURCHASING AGREEMENT OF THE WASHINGTON METROPOLITAN COUNCIL OF
30 GOVERNMENTS; OR

31 (4) BY ENTERING INTO AN AGREEMENT WITH A PRIVATE ENTITY TO ADMINISTER THE
32 PACE LOAN PROGRAM.

Council Bill 16-0692

1 (C) *PROGRAM EXPENSES.*

2 (1) *COSTS.*

3 (I) THE ADMINISTRATIVE COSTS OF THE PACE LOAN PROGRAM SHALL BE BORNE BY
4 THE PROPERTY OWNERS PARTICIPATING IN THE PROGRAM, AND THE SHARE OF
5 ADMINISTRATIVE COSTS APPLICABLE TO AN INDIVIDUAL CLEAN ENERGY LOAN
6 SHALL BE INCLUDED IN THE LOAN'S FINANCING AGREEMENT.

7 (II) THESE ADMINISTRATION COSTS MAY NOT EXCEED THE ACTUAL EXPENSES
8 INCURRED BY THE CITY TO ADMINISTER THE PROGRAM.

9 (2) *FEES.*

10 THE CITY MAY SHALL CHARGE PROPERTY OWNERS WHO PARTICIPATE IN THE PACE
11 LOAN PROGRAM THE FOLLOWING, NON-FINANCEABLE FEES:

12 (I) A REASONABLE APPLICATION FEE; AND

13 (II) RECORDING FEES ASSOCIATED WITH PARTICIPATION IN THE PROGRAM.

14 **§ 30-4. PROGRAM ADMINISTRATION – RULES AND REGULATIONS.**

15 (A) *ADOPTION.*

16 THE FINANCE DIRECTOR, IN CONSULTATION WITH THE PROGRAM ADMINISTRATOR AND
17 THE BALTIMORE CITY OFFICE OF SUSTAINABILITY, SHALL ADOPT RULES AND
18 REGULATIONS TO CARRY OUT THIS SUBTITLE.

19 (B) *CONTENTS.*

20 THESE RULES AND REGULATIONS SHALL:

21 (1) CLEARLY DELINEATE THE RESPECTIVE ROLES AND RESPONSIBILITIES OF PROPERTY
22 OWNERS, CLEAN ENERGY LENDERS, THE PROGRAM ADMINISTRATOR, AND THE
23 FINANCE DIRECTOR; AND

24 (2) INCLUDE:

25 (I) METHODOLOGIES FOR DETERMINING THE ELIGIBILITY OF COMMERCIAL
26 PROPERTIES, PROPERTY OWNERS, AND ENERGY IMPROVEMENTS;

27 (II) MINIMUM UNDERWRITING STANDARDS FOR CLEAN ENERGY LENDERS;

28 (III) THE DOCUMENTATION REQUIRED ON THE ADMINISTRATOR'S REQUEST TO
29 DEMONSTRATE THAT THE ENERGY SAVINGS GENERATED BY AN ENERGY
30 EFFICIENCY PROJECT EXCEED A PROPERTY OWNER'S OBLIGATIONS UNDER A
31 CLEAN ENERGY LOAN FINANCING AGREEMENT;

Council Bill 16-0692

1 (IV) EFFICIENT APPLICATION INTAKE, PROCESSING, AND TRANSACTION CLOSING
2 PROCEDURES;

3 (V) TERMS AND PROVISIONS TO BE INCLUDED IN A NOTICE OF SURCHARGE
4 LEVY TO BE RECORDED IN THE LAND RECORDS OF BALTIMORE CITY;

5 (VI) REQUIRED DATA MANAGEMENT SERVICES THAT CONFORM TO CITY
6 PRACTICES;

7 (VII) THE PROCESS BY WHICH THE CLEAN ENERGY LENDER WILL BE ABLE TO
8 EXERCISE ITS RIGHTS AS A CREDITOR IN THE EVENT OF NON-PAYMENT OR
9 DEFAULT OF A SURCHARGE BY A PROPERTY OWNER;

10 (VIII) PROGRAM OUTREACH STRATEGIES; AND

11 (IX) ANNUAL PROGRAM PARTICIPATION AND PERFORMANCE REPORTING
12 REQUIREMENTS.

13 (C) *FILING WITH LEGISLATIVE REFERENCE.*

14 A COPY OF ALL RULES AND REGULATIONS SHALL BE FILED WITH THE DEPARTMENT OF
15 LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

16 **§ 30-5. ELIGIBILITY OF PROPERTY AND PROPERTY OWNER.**

17 (A) *IN GENERAL.*

18 TO BE ELIGIBLE FOR A CLEAN ENERGY LOAN:

19 (1) THE COMMERCIAL PROPERTY FOR WHICH THE ENERGY IMPROVEMENTS ARE
20 PROPOSED MUST BE LOCATED IN THE CITY; AND

21 (2) THE PROPERTY OWNER MUST:

22 (I) HAVE A 100% OWNERSHIP INTEREST IN THE COMMERCIAL PROPERTY;

23 (II) DEMONSTRATE THAT NO TAXES, ASSESSMENTS, FEES, OR OTHER CHARGES
24 ENCUMBERING THE COMMERCIAL PROPERTY ARE DELINQUENT; AND

25 (III) PROVIDE WRITTEN PROOF THAT ALL CURRENT HOLDERS OF A MORTGAGE
26 OR DEED OF TRUST ON THE COMMERCIAL PROPERTY HAVE EXPRESSLY
27 CONSENTED TO THE CLEAN ENERGY LOAN AND ITS STATUS AS A PRIORITY
28 LIEN ON THE PROPERTY.

29 (B) *ABILITY TO REPAY.*

30 BEFORE ANY CLEAN ENERGY LOAN IS APPROVED UNDER THE PACE LOAN PROGRAM, THE
31 ADMINISTRATOR MUST GIVE DUE REGARD TO THE PROPERTY OWNER'S ABILITY TO REPAY
32 THE LOAN, IN A MANNER SUBSTANTIALLY SIMILAR TO THAT REQUIRED FOR A MORTGAGE

Council Bill 16-0692

1 LOAN UNDER §§ 12-127, 12-311, 12-409.1, 12-925, AND 12-1029 OF THE STATE
2 COMMERCIAL LAW ARTICLE.

3 **§ 30-6. QUALIFYING ENERGY IMPROVEMENTS.**

4 (A) *IN GENERAL.*

5 A PROPERTY OWNER MAY USE THE PACE LOAN PROGRAM TO FINANCE ALL COSTS
6 INCURRED TO PURCHASE, UPGRADE, MODIFY, OR CONSTRUCT QUALIFYING ENERGY
7 IMPROVEMENTS TO A NEW OR EXISTING COMMERCIAL PROPERTY, INCLUDING ALL
8 PROPERTY IMPROVEMENTS NECESSARY TO INSTALL A QUALIFIED ENERGY IMPROVEMENT.

9 (B) *QUALIFYING COSTS.*

10 QUALIFYING ENERGY IMPROVEMENT COSTS INCLUDE:

- 11 (1) ENERGY AUDITS;
- 12 (2) PRE-CONSTRUCTION AND POST-INSTALLATION EVALUATION, MEASUREMENT, AND
13 VERIFICATION SERVICES;
- 14 (3) ENGINEERING, DESIGN, AND FEASIBILITY STUDIES;
- 15 (4) MATERIALS AND LABOR NECESSARY FOR INSTALLATION;
- 16 (5) COMMISSIONING OR RETRO-COMMISSIONING;
- 17 (6) PERFORMANCE GUARANTEES;
- 18 (7) OPERATIONS AND MAINTENANCE SERVICE CONTRACTS, WARRANTIES, OR
19 INSURANCE;
- 20 (8) ACCREDITATION OR CERTIFICATION OF BUILDING ENERGY PERFORMANCE WITH
21 STANDARD-SETTING ORGANIZATIONS APPROVED BY THE ADMINISTRATOR; AND
- 22 (9) FEDERAL, STATE, OR LOCAL REGULATORY COMPLIANCE COSTS REQUIRED TO
23 COMPLETE AN ENERGY IMPROVEMENT.

24 (C) *RENEWABLE ENERGY PROJECTS.*

25 (1) *QUALIFICATIONS.*

26 A RENEWABLE ENERGY PROJECT QUALIFIES AS AN ENERGY IMPROVEMENT UNDER THIS
27 SUBTITLE ONLY IF THE COMMERCIAL PROPERTY CONSUMES ALL OR A PORTION OF THE
28 OUTPUT FROM THE RENEWABLE ENERGY PROJECT.

29 (2) *RESILIENCY BENEFITS.*

30 RENEWABLE ENERGY PROJECTS MAY INCLUDE TECHNOLOGIES THAT PROVIDE
31 RESILIENCY BENEFITS TO THE COMMERCIAL PROPERTY OR THE ELECTRICAL GRID.

Council Bill 16-0692

1 THESE BENEFITS INCLUDE DEMAND MANAGEMENT, ANCILLARY SERVICES, POWER
2 QUALITY, CAPACITY FIRING, OR OTHER BENEFITS DETERMINED BY THE
3 ADMINISTRATOR TO BE CONSISTENT WITH THE PURPOSE OF THIS PROGRAM.

4 **§ 30-7. FINANCING.**

5 (A) *UNDERWRITING STANDARDS.*

6 (1) *MAXIMUM LOAN TERM.*

7 A CLEAN ENERGY LOAN MAY BE FOR A TERM NOT EXCEEDING 25 YEARS.

8 (2) *FINANCING AGREEMENT.*

9 THE FINANCING AGREEMENT MAY CONTAIN ANY TERMS AGREED TO BY THE CLEAN
10 ENERGY LENDER AND THE PROPERTY OWNER, AS PERMITTED BY LAW.

11 (3) *COSTS INCLUDED.*

12 A CLEAN ENERGY LOAN MAY INCLUDE COSTS ASSOCIATED WITH EXECUTING THE
13 FINANCING AGREEMENT, INCLUDING ORIGINATION, LEGAL, AND CLOSING COSTS, BUT
14 EXCLUDING THE NON-FINANCEABLE FEES PROVIDED FOR IN § 30-3(C)(2) {"PROGRAM
15 EXPENSES"} OF THIS SUBTITLE.

16 (B) *TIMING.*

17 THE ADMINISTRATOR MAY APPROVE A CLEAN ENERGY LOAN UP TO 1 YEAR AFTER THE
18 PROPERTY OWNER PLACES QUALIFYING ENERGY IMPROVEMENTS IN SERVICE, AS LONG AS
19 THE PROPERTY OWNER HAS FILED AN INITIAL PACE LOAN APPLICATION PRIOR TO:

20 (1) COMMENCING CONSTRUCTION OF AN ENERGY-IMPROVEMENT PROJECT; OR

21 (2) ALTERING A PREVIOUSLY PROPOSED PROJECT TO INCLUDE QUALIFYING ENERGY
22 IMPROVEMENTS.

23 (C) *PUBLIC FINANCING PRECLUDED.*

24 THE CITY MAY NOT DIRECTLY FINANCE OR FUND ANY CLEAN ENERGY LOANS UNDER THE
25 PACE LOAN PROGRAM.

26 **§ 30-8. SURCHARGE.**

27 (A) *IN GENERAL.*

28 (1) A PROPERTY OWNER PARTICIPATING IN THE PACE LOAN PROGRAM SHALL REPAY THE
29 CLEAN ENERGY LOAN THROUGH A SURCHARGE ON THE PROPERTY OWNER’S REAL
30 PROPERTY TAX BILL.

31 (2) THIS SURCHARGE CONSTITUTES A FIRST LIEN ON THE PROPERTY, WITH PRIORITY OVER
32 ALL PRIOR OR SUBSEQUENT LIENS IN FAVOR OF PRIVATE PARTIES, FROM THE DATE IT

Council Bill 16-0692

1 BECOMES PAYABLE UNTIL THE UNPAID SURCHARGE, INTEREST, AND ANY ASSOCIATED
2 PENALTIES ARE PAID IN FULL.

3 (B) *CALCULATION.*

4 THE AMOUNT OF THE SURCHARGE SHALL BE THE SUM OF:

5 (1) THE TERMS OF INDEBTEDNESS AND OBLIGATIONS AGREED TO IN THE LOAN'S
6 FINANCING AGREEMENT; AND

7 (2) ANY ADMINISTRATIVE COSTS OWED TO THE CITY UNDER THIS SUBTITLE.

8 (C) *TRANSFERABILITY.*

9 IF A PERSON ACQUIRES A COMMERCIAL PROPERTY THAT IS SUBJECT TO A SURCHARGE
10 INCURRED UNDER THIS SUBTITLE, THAT PERSON ASSUMES THE OBLIGATION TO PAY THE
11 SURCHARGE, WHETHER THE ACQUISITION WAS VOLUNTARY OR INVOLUNTARY.

12 (D) *RECORDATION.*

13 (1) WITHIN 30 DAYS OF RECEIVING WRITTEN NOTICE FROM THE ADMINISTRATOR THAT A
14 FINANCING AGREEMENT FOR A CLEAN ENERGY LOAN HAS BEEN EXECUTED, THE
15 FINANCE DIRECTOR SHALL CAUSE A NOTICE OF SURCHARGE LEVY TO BE RECORDED IN
16 THE LAND RECORDS OF BALTIMORE CITY.

17 (2) THE NOTICE OF SURCHARGE LEVY SHALL INCLUDE:

18 (I) THE CLEAN ENERGY LOAN FINANCING AGREEMENT; AND

19 (II) ANY OTHER INFORMATION REQUIRED BY THE RULES AND REGULATIONS
20 ADOPTED UNDER THIS SUBTITLE.

21 (3) THE NOTICE OF SURCHARGE LEVY SHALL BE RECORDED AND RELEASED IN THE
22 MANNER AS THAT PROVIDED FOR OTHER PROPERTY TAX CHARGES OR ASSESSMENTS.

23 (E) *BILLING.*

24 (1) *IN GENERAL.*

25 THE SURCHARGE SHALL BE:

26 (I) BILLED:

27 (A) AS A SEPARATE, CLEARLY DEFINED LINE ITEM ON THE REAL PROPERTY
28 TAX BILL; OR

29 (B) ON A SEPARATE, STAND-ALONE TAX BILL; AND

30 (II) DUE ON THE SAME DATES AS CITY REAL PROPERTY TAXES.

Council Bill 16-0692

1 (2) *INITIAL SURCHARGE.*

2 (I) THE CITY SHALL BILL THE FIRST SURCHARGE DUE BY A PROPERTY OWNER ON THE
3 FIRST TAX BILL AFTER THE ADMINISTRATOR PROVIDES WRITTEN NOTICE TO THE
4 FINANCE DIRECTOR THAT THE ENERGY IMPROVEMENTS FINANCED UNDER THE
5 PACE LOAN PROGRAM HAVE BEEN PLACED IN SERVICE.

6 (II) THIS BILLING PRACTICE DOES NOT IMPACT THE LEGAL RIGHTS AFFORDED A CLEAN
7 ENERGY LENDER UNDER:

8 (A) A VALID, EXECUTED FINANCE AGREEMENT; AND

9 (B) A PROPERLY RECORDED NOTICE OF SURCHARGE LEVY.

10 (F) *DISBURSEMENT.*

11 (1) SURCHARGES COLLECTED BY THE CITY UNDER THIS SUBTITLE SHALL BE DISBURSED TO
12 THE ADMINISTRATOR WITHIN 30 DAYS AFTER THE LAST DAY OF THE MONTH IN WHICH
13 THE AMOUNTS ARE COLLECTED.

14 (2) NEITHER THE CITY NOR THE ADMINISTRATOR SHALL AT ANY TIME POSSESS ANY
15 OWNERSHIP OF A SURCHARGE COLLECTED, EXCEPT FOR THE ADMINISTRATIVE COSTS
16 INCLUDED IN THE SURCHARGE UNDER THIS SUBTITLE.

17 (3) THE CITY IS OBLIGATED TO PAY A CLEAN ENERGY LENDER ONLY THE PORTION OF THE
18 SURCHARGE ACTUALLY COLLECTED TO REPAY THE CLEAN ENERGY LOAN.

19 (G) *REPAYMENT PRIORITY.*

20 PROPERTY TAX COLLECTIONS SHALL BE CREDITED:

21 (1) FIRST, TO ANY NON-PROGRAM UNPAID CITY TAXES, ASSESSMENTS, AND CHARGES;
22 AND

23 (2) THEN, TO PROGRAM SURCHARGES.

24 (H) *DELINQUENCY.*

25 (1) IF A PROPERTY OWNER FAILS TO PAY A SURCHARGE INSTALLMENT IN ACCORDANCE
26 WITH THE TERMS OF THE LOAN FINANCING AGREEMENT, THE FINANCE DIRECTOR
27 SHALL PROVIDE WRITTEN NOTICE OF THE DELINQUENCY TO THE ADMINISTRATOR IN A
28 TIMELY MANNER.

29 (2) AFTER PROVIDING THIS NOTICE TO THE ADMINISTRATOR, THE CITY HAS NO
30 OBLIGATION TO COLLECT UNPAID SURCHARGE PAYMENTS UNTIL A LIEN ATTACHES TO
31 THE PROPERTY.

Council Bill 16-0692

1 (I) *DEFAULT.*

2 (1) IF A PROPERTY OWNER DEFAULTS ON A SURCHARGE, THE FINANCE DIRECTOR SHALL
3 COLLECT THE SURCHARGE AS A TAX LIEN, THROUGH THE TAX SALE PROCESS, IN A
4 MANNER SIMILAR TO OTHER PROPERTY TAX ASSESSMENTS WITH RESPECT TO ANY
5 PENALTIES, FEES, REMEDIES, AND LIEN PRIORITIES AUTHORIZED UNDER STATE TAX-
6 PROPERTY ARTICLE, TITLE 14, SUBTITLE 8.

7 (2) A SURCHARGE LEVIED UNDER THIS SUBTITLE MAY BE FORECLOSED ONLY TO THE
8 EXTENT OF ANY UNPAID INSTALLMENT AND ANY RELATED PENALTIES, INTEREST, AND
9 FEES.

10 (3) THIS COLLECTION PROCESS APPLIES TO AN OVERDUE SURCHARGE, REGARDLESS OF
11 WHETHER REAL PROPERTY TAXES (OR ANY OTHER TAXES, CHARGES, OR ASSESSMENTS)
12 ARE DUE AND OWING.

13 (J) *ASSIGNABILITY.*

14 THE CITY MAY ASSIGN A PACE TAX LIEN TO THE ADMINISTRATOR.

15 (K) *SURVIVABILITY.*

16 IF A PACE TAX LIEN IS FORECLOSED, THE PACE TAX LIEN SHALL SURVIVE THE JUDGMENT
17 OF FORECLOSURE TO THE EXTENT THAT ANY UNPAID SURCHARGE INSTALLMENTS SECURED
18 BY THE LIEN WERE NOT THE SUBJECT OF THAT JUDGMENT.

19 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
20 are not law and may not be considered to have been enacted as a part of this or any prior
21 Ordinance.

22 **SECTION 3. AND BE IT FURTHER ORDAINED,** That:

23 (i) within 60 days of the enactment of this Ordinance, the Finance Director, in
24 consultation with the Baltimore City Office of Sustainability, shall contract for the
25 Program Administrator required by Article 28, § 30-3(b), as enacted by this
26 Ordinance; and

27 (ii) within 120 days of the selection of the Program Administrator, the Finance Director,
28 in consultation with the Program Administrator and the Baltimore City Office of
29 Sustainability, shall adopt the rules and regulations required by Article 28, § 30-4, as
30 enacted by this Ordinance.

31 **SECTION 4. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect when it is
32 enacted and shall apply to any commercial property for which a qualified energy improvement
33 was financed on or after July 1, 2016.