



Legislation Details (With Text)

File #: 16-0692 **Version:** 0 **Name:** Property Assessed Clean Energy Loan Program
Type: Ordinance **Status:** Enacted
File created: 6/6/2016 **In control:** City Council
On agenda: **Final action:** 10/26/2016
Enactment date: **Enactment #:** 16-533

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

Sponsors: Eric T. Costello, President Young, Brandon M. Scott, Sharon Green Middleton, Bill Henry, Helen L. Holton, Carl Stokes, Mary Pat Clarke, Rochelle Spector, James B. Kraft, Nick Mosby, Robert Curran, Warren Branch, William "Pete" Welch, Edward Reisinger

Indexes: Clean Energy, Loan, Program, Property

Code sections:

Attachments: 1. 16-0692~1st Reader, 2. HCD 16-0692, 3. Office of Sustainability 16-0692, 4. DPW 16-0692, 5. Finance 16-0692 - Report 1, 6. Finance 16-0692 - Report 2, 7. City Solicitor 16-0692, 8. 2nd Reader Amendments 16-0692, 9. 16-0692~3rd Reader

Date	Ver.	Action By	Action	Result
11/14/2016	0	Mayor	Signed by Mayor	
10/24/2016	0	City Council	Approved and Sent to the Mayor	
10/20/2016	0	City Council	3rd Reader, for final passage	
10/20/2016	0	Judiciary and Legislative Investigations	Recommended Favorably with Amendment	
9/27/2016	0	Judiciary and Legislative Investigations	Recommended Favorably with Amendment	Pass
9/20/2016	0	Judiciary and Legislative Investigations	Scheduled for a Public Hearing	
9/20/2016	0	Judiciary and Legislative Investigations		
9/13/2016	0	Judiciary and Legislative Investigations	Worksession	
9/13/2016	0	Judiciary and Legislative Investigations		
7/18/2016	0	Judiciary and Legislative Investigations	Scheduled for a Public Hearing	
6/9/2016	0	The City Council	Refer to Dept. of Housing and Community Development	
6/9/2016	0	The City Council	Refer to Dept. of Finance	

6/9/2016	0	The City Council	Refer to City Solicitor
6/9/2016	0	The City Council	Refer to Dept. of Public Works
6/9/2016	0	The City Council	Refer to Office of Sustainability
6/6/2016	0	City Council	Assigned
6/6/2016	0	City Council	Introduced

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

* WARNING: THIS IS AN UNOFFICIAL, INTRODUCTORY COPY OF THE BILL.
THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER
COPY.
INTRODUCTORY*

CITY OF BALTIMORE
COUNCIL BILL

Introduced by: Councilmember Costello
At the request of: CBJ Energy, c/o Claire B. Johnson, President
Address: 238 East Montgomery Street,, Baltimore, Md. 21320
Telephone: (443) 226-0273

A BILL ENTITLED

AN ORDINANCE concerning
Property Assessed Clean Energy Loan Program

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

BY adding
Article 28 - Taxes
Sections 30-1 through 30-8, to be under the new subtitle,
◆Subtitle 30. Property Assessed Clean Energy Loan Program◆
Baltimore City Code
(Edition 2000)

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

Baltimore City Code

Article 28. Taxes

SUBTITLE 30. PROPERTY ASSESSED CLEAN ENERGY LOAN PROGRAM

◆ 30-1. DEFINITIONS.

(A) IN GENERAL.

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

(B) ADMINISTRATOR.

◆ADMINISTRATOR◆ MEANS THE CONTRACTOR SELECTED UNDER ◆ 30-3 {◆PROGRAM ADMINISTRATION◆} OF THIS SUBTITLE TO ADMINISTER THE PACE LOAN PROGRAM FOR THE CITY.

(C) CLEAN ENERGY LENDER.

◆CLEAN ENERGY LENDER◆ MEANS A PRIVATE LENDER WHO PROVIDES A CLEAN ENERGY LOAN TO A COMMERCIAL PROPERTY OWNER UNDER THIS SUBTITLE.

(D) CLEAN ENERGY LOAN.

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

(E) COMMERCIAL PROPERTY.

(1) IN GENERAL.

◆COMMERCIAL PROPERTY◆ HAS THE MEANING STATED IN THE ENABLING LAW.

(2) ILLUSTRATIONS.

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

(F) ENABLING LAW.

◆ENABLING LAW◆ MEANS THE STATE'S LOCAL GOVERNMENT ARTICLE, TITLE 1, SUBTITLE 11 {◆CLEAN ENERGY LOAN PROGRAMS◆}.

(G) ENERGY EFFICIENCY PROJECT.

◆ENERGY EFFICIENT PROJECT◆ MEANS THE INSTALLATION OF NEW OR REPLACEMENT FIXTURES, PRODUCTS, DEVICES, EQUIPMENT, SYSTEMS, MATERIALS, OR MEASURES

THAT:

- (1) INCREASE A COMMERCIAL PROPERTY'S ENERGY OR WATER EFFICIENCY;
- (2) DECREASE A COMMERCIAL PROPERTY'S ENERGY OR WATER CONSUMPTION; OR
- (3) REDUCE A COMMERCIAL PROPERTY'S UTILITY COSTS.

(H) ENERGY IMPROVEMENT.

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

(I) FINANCE DIRECTOR.

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

(J) FINANCING AGREEMENT.

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

(K) INCLUDES; INCLUDING.

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

(L) PACE LOAN PROGRAM; PROGRAM.

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

(M) PERSON.

PERSON MEANS:

- (1) AN INDIVIDUAL;
- (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, GOVERNMENTAL AGENCY, OR OTHER ENTITY OF ANY KIND; AND
- (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR REPRESENTATIVE OF ANY KIND.

(N) PROPERTY OWNER.

◆PROPERTY OWNER◆ MEANS THE OWNER OF A NEW OR EXISTING COMMERCIAL PROPERTY LOCATED IN THE CITY.

(O) RENEWABLE ENERGY PROJECT.

(1) IN GENERAL.

◆RENEWABLE ENERGY PROJECT◆ MEANS THE INSTALLATION OF NEW OR REPLACEMENT◆ RENEWABLE ENERGY TECHNOLOGIES, DEVICES, OR SYSTEMS THAT GENERATE ELECTRIC OR THERMAL ENERGY WITH A NAMEPLATE CAPACITY AUTHORIZED BY THE ENABLING LAW.

(2) ILLUSTRATIONS.

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

(P) SURCHARGE.

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

◆ 30-2. PACE PROGRAM ESTABLISHED.

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

◆ 30-3. PROGRAM ADMINISTRATION ◆ IN GENERAL.

(A) NATURE OF CITY◆S ROLE.

THE MAYOR AND CITY COUNCIL OF BALTIMORE:

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

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

(B) SELECTION OF ADMINISTRATOR.

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

- (1) BY EXPANDING THE SCOPE OF AN EXISTING MUNICIPAL CONTRACT VEHICLE;
- (2) THROUGH A COMPETITIVE PROCUREMENT PROCESS;
- (3) BY USING AN EXISTING ADMINISTRATOR CONTRACTED THROUGH A COOPERATIVE PURCHASING AGREEMENT OF THE WASHINGTON METROPOLITAN COUNCIL OF GOVERNMENTS; OR
- (4) BY ENTERING INTO AN AGREEMENT WITH A PRIVATE ENTITY TO ADMINISTER THE PACE LOAN PROGRAM.

(C) PROGRAM EXPENSES.

(1) COSTS.

- (I) THE ADMINISTRATIVE COSTS OF THE PACE LOAN PROGRAM SHALL BE BORNE BY THE PROPERTY OWNERS PARTICIPATING IN THE PROGRAM, AND THE SHARE OF ADMINISTRATIVE COSTS APPLICABLE TO AN INDIVIDUAL CLEAN ENERGY LOAN SHALL BE INCLUDED IN THE LOAN'S FINANCING AGREEMENT.
- (II) THESE ADMINISTRATION COSTS MAY NOT EXCEED THE ACTUAL EXPENSES INCURRED BY THE CITY TO ADMINISTER THE PROGRAM.

(2) FEES.

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

- (I) A REASONABLE APPLICATION FEE; AND
- (II) RECORDING FEES ASSOCIATED WITH PARTICIPATION IN THE PROGRAM.

◆ 30-4. PROGRAM ADMINISTRATION ◆ RULES AND REGULATIONS.

(A) ADOPTION.

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

(B) CONTENTS.

THESE RULES AND REGULATIONS SHALL:

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

(2) INCLUDE:

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

(II) MINIMUM UNDERWRITING STANDARDS FOR CLEAN ENERGY LENDERS;

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

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

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

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

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

(VIII) PROGRAM OUTREACH STRATEGIES; AND

(IX) ANNUAL PROGRAM PARTICIPATION AND PERFORMANCE REPORTING REQUIREMENTS.

(C) FILING WITH LEGISLATIVE REFERENCE.

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

◆ 30-5. ELIGIBILITY OF PROPERTY AND PROPERTY OWNER.

(A) IN GENERAL.

TO BE ELIGIBLE FOR A CLEAN ENERGY LOAN:

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

(2) THE PROPERTY OWNER MUST:

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

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

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

(B) ABILITY TO REPAY.

BEFORE ANY CLEAN ENERGY LOAN IS APPROVED UNDER THE PACE LOAN PROGRAM, THE ADMINISTRATOR MUST GIVE DUE REGARD TO THE PROPERTY OWNER'S ABILITY TO REPAY THE LOAN, IN A MANNER SUBSTANTIALLY SIMILAR TO THAT REQUIRED FOR A MORTGAGE LOAN UNDER §§ 12A127, 12A311, 12-409.1, 12-925, AND 12-1029 OF THE STATE COMMERCIAL LAW ARTICLE.

§ 30-6. QUALIFYING ENERGY IMPROVEMENTS.

(A) IN GENERAL.

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

(B) QUALIFYING COSTS.

QUALIFYING ENERGY IMPROVEMENT COSTS INCLUDE:

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

(C) RENEWABLE ENERGY PROJECTS.

(1) QUALIFICATIONS.

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

(2) RESILIENCY BENEFITS.

RENEWABLE ENERGY PROJECTS MAY INCLUDE TECHNOLOGIES THAT PROVIDE RESILIENCY BENEFITS TO THE COMMERCIAL PROPERTY OR THE ELECTRICAL GRID. THESE BENEFITS INCLUDE DEMAND MANAGEMENT, ANCILLARY SERVICES, POWER QUALITY, CAPACITY FIRING, OR OTHER BENEFITS DETERMINED BY THE ADMINISTRATOR TO BE CONSISTENT WITH THE PURPOSE OF THIS PROGRAM.

◆ 30-7. FINANCING.

(A) UNDERWRITING STANDARDS.

(1) MAXIMUM LOAN TERM.

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

(2) FINANCING AGREEMENT.

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

(3) COSTS INCLUDED.

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

(B) TIMING.

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

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

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

(C) PUBLIC FINANCING PRECLUDED.

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

◆ 30-8. SURCHARGE.

(A) IN GENERAL.

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

(2) THIS SURCHARGE CONSTITUTES A FIRST LIEN ON THE PROPERTY, WITH PRIORITY OVER ALL PRIOR OR SUBSEQUENT LIENS IN FAVOR OF PRIVATE PARTIES, FROM THE DATE IT BECOMES PAYABLE UNTIL THE UNPAID SURCHARGE, INTEREST, AND ANY ASSOCIATED PENALTIES ARE PAID IN FULL.

(B) CALCULATION.

THE AMOUNT OF THE SURCHARGE SHALL BE THE SUM OF:

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

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

(C) TRANSFERABILITY.

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

(D) RECORDATION.

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

(2) THE NOTICE OF SURCHARGE LEVY SHALL INCLUDE:

(I) THE CLEAN ENERGY LOAN FINANCING AGREEMENT; AND

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

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

(E) BILLING.

(1) IN GENERAL.

THE SURCHARGE SHALL BE:

(I) BILLED:

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

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

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

(2) INITIAL SURCHARGE.

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

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

(A) A VALID, EXECUTED FINANCE AGREEMENT; AND

(B) A PROPERLY RECORDED NOTICE OF SURCHARGE LEVY.

(F) DISBURSEMENT.

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

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

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

(G) REPAYMENT PRIORITY.

PROPERTY TAX COLLECTIONS SHALL BE CREDITED:

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

(2) THEN, TO PROGRAM SURCHARGES.

(H) DELINQUENCY.

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

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

(I) DEFAULT.

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

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

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

(J) ASSIGNABILITY.

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

(K) SURVIVABILITY.

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

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

SECTION 3. AND BE IT FURTHER ORDAINED, That:

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

(ii) within 120 days of the selection of the Program Administrator, the Finance Director, in consultation with the Program Administrator and the Baltimore City Office of Sustainability, shall

adopt the rules and regulations required by Article 28, §§30▲4, as enacted by this Ordinance.

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

dlr16-1414(4)intro/01Jun16
art28/PACE/aa:me

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