

# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Montgomery County Home Energy Loan Program	<b>Number</b> 2-10
<b>Originating Department</b> Department of Environmental Protection/Department of Finance	<b>Effective Date</b>

Montgomery County Regulation on:

MONTGOMERY COUNTY HOME ENERGY LOAN PROGRAM

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND  
DEPARTMENT OF FINANCE

Issued by: County Executive  
Regulation No. 2-10

Authority: Chapter 18A  
Council Review: Method (2) under Code Section 2A-15  
Register Vol. 27, No. 3

Comment Deadline: April 1, 2010  
Effective Date:  
Sunset Date: None

**Summary:** This regulation establishes the administrative procedures for implementing the Montgomery County Home Energy Loan Program.

**Address:** Written comments on these regulations should be sent to:

Stan Edwards, Chief  
Division of Environmental Policy and Compliance  
Department of Environmental Protection  
255 Rockville Pike  
Rockville, Maryland 20850

Glenn W. Wyman  
Debt and Cash Manager  
Department of Finance  
101 Monroe Street, 15<sup>th</sup> floor  
Rockville, Maryland 20850

**Staff Contact:** For further information or to obtain a copy of this regulation, contact Eric Coffman at (240) 777-7754.



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## Sec. 1. Regulation

### Section I: General Provisions

- A. Authority. In accordance with the authority conferred under Chapter 18A, of the Montgomery County Code, 2004, as amended (hereinafter referred to as the “Code”); the County Executive hereby promulgates this regulation to implement County law pertaining to the administration of the Home Energy Loan Program (hereinafter referred to as the “Program” or “HELP”). The Program provides loans to homeowners, re-paid through the property-tax bill, for energy efficiency and renewable energy improvements.
- B. Applicability. This regulation applies to the administration of the program by the County Government and participation in the program by consumers, auditors, contractors and financial entities.

### Section II: Definitions

For purposes of this regulation, the following words and phrases have the following meanings unless the context clearly indicates otherwise:

1. Amortization Period – The period over which a HELP loan is repaid to the County by a borrower.
2. Annual Real Property Tax Bill – The annual real property consolidated tax bill that the County mails each year to property owners in the County.
3. Annual Tax Lien Sale – A sale of real that the County conducts on the second Monday of each June to recover amounts owed in delinquent taxes on real property in the County.
4. Applicant – An owner of a residential property in the County who submits a HELP loan application to the Department of Finance.
5. Assessed Value – The full cash value as indicated on the most recent assessment notice from the Maryland Department of Assessments and Taxation.
6. Borrower – An applicant who has received a HELP loan.



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7. Contractor – An individual or company meeting the program requirements, established by the Department of Environmental Protection to perform work associated with energy audits and energy related home improvements.
8. Cost-Effectiveness – The maximum estimated amount of time it takes for an energy efficiency improvement to pay for itself through reduced energy costs (the “payback” period), as determined by the Department.
9. County – Montgomery County, Maryland.
10. Department – The Department of Environmental Protection or DEP
11. Director – The Director of the Department of Environmental Protection or the Director’s designee.
12. Director of Finance – The Director of the Department of Finance or the Director of the Department of Finance’s designee.
13. Energy Auditor – An individual or company that:
  - (a) is a participating auditor with the Maryland Home Performance with ENERGY STAR program;
  - (b) is participating in a utility sponsored Home Performance with ENERGY STAR Program; or
  - (c) meets any other equivalent requirements approved by the Director as published in the Program Plan.
14. Eligible Cost – The net cost of buying or installing an energy efficiency improvement or renewable energy device, 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.
15. Energy Efficiency Improvement – A permanent improvement made to an existing single-family home that:
  - (a) reduces the consumption of energy in the home, including but not limited to:

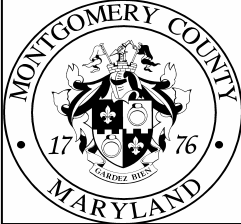


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- (1) caulking and weather-stripping doors and windows;
  - (2) heating and cooling system efficiency modifications, including:
    - (A) replacing a burner, furnace, heat pump, or boiler, or an air conditioner with a high efficiency model;
    - (B) a device to modify flue openings that increases the energy efficiency of the heating system;
    - (C) Any electrical or mechanical furnace ignition system which replaces a standing gas pilot light; and
    - (D) any tune-up that increases the operating efficiency;
  - (3) a programmable thermostat;
  - (4) ceiling, attic, wall or floor insulation;
  - (5) whole house air sealing;
  - (6) water heater tune-up, water heater insulation, pipe insulation, or change out to ENERGY STAR qualified water heater;
  - (7) storm windows or doors or ENERGY STAR qualified window or door replacement;
  - (8) air distribution system improvements, including duct insulation and air sealing;
  - (9) any device which controls demand of appliances and aids load management; and
  - (10) any other conservation device, renewable energy technology, and specific home improvement that the Director finds reduces the consumption of energy in the home as published in the program plan;
- (b) meets safety and performance standards set by a nationally recognized testing laboratory for that kind of device, if these standards are available; and



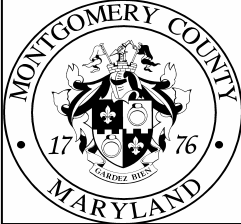
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(c) conforms to guidelines published in the Program Plan approved by the Director.

16. ENERGY STAR Rating - The ENERGY STAR rating developed by the U.S. Environmental Protection Agency which rates a product's energy efficiency and other factors.
17. Environmental Attributes – Environmental benefits for which there are accessible and quantifiable markets. Environmental attributes include renewable energy certificates (RECS) and carbon offsets.
18. Fundamental Health and Safety Remediation or FHSR - means improvements necessary to remedy health or safety issues that may be exacerbated by energy efficiency or renewable energy improvements (e.g., moisture mitigation); alternatively measures necessary to ensure the fundamental function of the improvement.
19. Home Energy Audit - An evaluation of the energy efficiency of a home which includes any test or diagnostic measurement conducted by a certified energy auditor that the Department finds necessary to:
  - (a) assure that a home's energy efficiency is accurately measured; and
  - (b) identify cost-effective steps that can be taken to improve a home's energy efficiency.
20. Home Energy Loan Fund or Fund - The fund established under Section 18A-30 of the County Code to provide funding for the Home Energy Loan Program.
21. Home Energy Loan Program (HELP or Program) – The program established under Section 18A-25 of the County Code to assist single-family homeowners to make energy efficiency improvements or install a renewable energy device; establish a loan fund to provide homeowners loans under the Program; and generally amend the environmental sustainability law.
22. Home Energy Yardstick - The U.S. Environmental Protection Agency's ENERGY STAR program tool for assessing the relative performance of existing homes.
23. Home Performance with ENERGY STAR or HPwES - The energy audit and quality assurance program established by the U.S. Environmental Protection Agency (EPA) and adopted by governmental, non-governmental, or utility HPwES program sponsors; who are approved and monitored by the EPA.



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24. Home Performance with ENERGY STAR Sponsor or HPwES Sponsor - A non-profit organization, state or local government, or utility that has signed a partnership agreement with the U.S. Environmental Protection Agency to administer a HPwES program.
25. Program Plan - The fundamental operating manual developed by the Director outlining the Program's administration, marketing, education and outreach components.
26. Property Assessment – For the purpose of determining the property assessment for HELP, the assessment is the properties' taxable assessment from the prior year's tax levy plus any Homestead Cap or other credits that would normally reduce the full market assessment on the property.
27. Property Owner or Homeowner – The person who is listed on the County's tax records as the owner of the property where the energy improvements will be installed.
28. Renewable Energy - Energy derived from solar, wind, geothermal, and any other energy source or technology which the Director finds is derived from natural processes that do not involve the consumption of exhaustible resources. Or as defined by the U.S. Department of Energy, U.S. Environmental Protection Agency, Maryland Energy Agency or credible source.
29. Renewable Energy Measure or Device- A measure that:
  - (a) converts, or actively uses renewable energy;
  - (b) is permanently installed on the home or property; and
  - (c) meets safety and performance standards set by a nationally recognized testing laboratory for that kind of device, if these standards are available.
30. Renewable Energy Product Provider- A specialized contractor installing technologies and products that use renewable energy.
31. Single Family Home – Single family detached or attached residential building. A single family home includes a condominium.



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### Section III: Program Established

There is a Home Energy Loan Program (HELP) under which the County encourages energy conservation and the use of clean energy by making loans available to residential property owners interested in making energy efficiency and renewable energy improvements to their homes. The loans finance a package of improvements, adhere to defined cost-effectiveness criteria, and are approved based on the results and recommendations of an energy audit. The loans are repaid through the County property tax bill for the home of the borrower.

### Section IV: Eligible Energy Efficiency and Renewable Energy Measures

The Program provides loans to fund cost-effective energy efficiency and renewable energy improvements. Renewable energy installations that may not satisfy cost-effectiveness criteria may be funded through HELP loans in concert with energy efficiency improvements that collectively achieve a prescribed minimum level of performance.

- A. An energy efficiency improvement or renewable energy measure will be deemed cost-effective if the sum of projected energy cost savings resulting from the improvement or measure is equal to or greater than the sum of principal and interest payments of the loan obtained to finance the improvement or measure over a 15 year amortization period.
- (1) Projected energy savings will be calculated based on the savings identified by a registered energy auditor, using a broadly accepted software package, or estimates by a renewable energy product provider, using a broadly accepted renewable energy calculator. Energy cost savings must be calculated using energy costs, provided by the Director, based on applicable tariffs and other commonly available energy cost information and published annually in the Program Plan or provided by a widely accepted source (e.g., U.S. Department of Energy).
  - (2) For the purposes of calculating cost-effectiveness project costs will consist of all necessary labor, services, materials and equipment costs necessary to install the improvement or measure for which the loan was approved. The calculation of project costs will not include the following:
    - (a) FHSR necessary to ensure well-being or effective deployment of the measure (e.g., combustion safety improvements); and
    - (b) the cost of the initial energy audit, financing, or loan origination fees.



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Total project costs will not be discounted by public or private incentives from federal, state, or local governments, utilities, or other sources, or by the sale of environmental attributes.

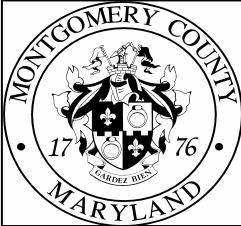
**B. Fundamental Health and Safety Remediation (FHSR).**

- (1) Applicants may receive an additional loan allowance, which will not be included in cost-effectiveness calculations, of up to 10% of the energy efficiency or renewable energy project costs not to exceed \$1,500 for FHSR.
- (2) The loan for FHSR must only be authorized in connection with an energy efficiency improvement or renewable energy measure. The loan funds may only be used for the following purposes:
  - (a) To remediate a structural, mechanical, electrical or other issue that directly jeopardizes the well being of building occupants, quality of the indoor environment, or the durability or longevity of the structure; or
  - (b) To install any other necessary cost-effective energy efficiency or renewable energy measure.

**C. An applicant for a loan to finance energy efficiency improvements and renewable energy measures must satisfy the following requirements:**

- (1) The applicant must have commissioned and received the final report from a registered energy auditor.
- (2) The proposed measures must be identified in the applicant's home energy audit.
- (3) Improvements that are fundamentally dependent on another improvement identified in the home energy audit report must be coupled, where applicable. These specifically include:
  - (a) Insulation and comprehensive air-sealing;
  - (b) Heating, ventilating, and air conditioning (HVAC) unit replacement and duct sealing; and
  - (c) Other devices where significant evidence exists that coupled performance improves overall cost-effectiveness, as may be defined in the Program Plan.
- (3) Applicant must have obtained a cost proposal for the energy efficiency improvement or renewable energy measure from a Registered Contractors.
- (4) In cases where FHSR is required, the applicant must provide cost estimates and the cost cannot exceed the criteria established in Section IV(B).





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- D. Renewable energy measures that do not meet the requirements of Section IV(A) and (C) may also qualify for a loan if:
- (1) The single-family home where the renewable energy measure is to be installed has already achieved a prerequisite level of energy efficiency, equivalent to a score of 7.5 using the ENERGY STAR Home Energy Yard Stick as registered by the applicant's Registered Energy Auditor, or equivalent methodology.
  - (2) The proposed renewable energy measure is part of a package of energy efficiency improvements that collectively meet the cost-effectiveness requirements established in Section IV (A).
  - (3) The proposed renewable energy measure is part of a package of energy efficiency improvements projected, as registered by the applicant's Registered Energy Auditor, to elevate the home to a score of 7.5 on the ENERGY STAR Home Energy Yard Stick or that result in at least a 25% improvement in the energy performance of the applicant's home.

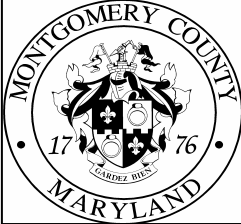
### **Section V: Eligible Properties**

All eligible homes must be located within Montgomery County. Properties eligible for a HELP loan include both attached and detached single family homes and condominium units. If the property for which the loan is requested is a condominium, the work to be performed must be limited to the parts of a building that are under the exclusive control of the property owner. All work must also satisfy any requirements applicable to single family homes.

### **Section V: Eligible Home Energy Audits and Auditors**

All applications for loans for energy efficiency improvements and renewable energy measures must include a comprehensive home energy audit. The home energy audit must satisfy the following requirements:

- A. Audits must be based on the HPwES process developed, promoted and monitored by the U.S. Environmental Protection Agency's ENERGY STAR Program.
- (1) Auditors providing services must be registered home energy auditors as defined in these regulations and the Program Plan.
  - (2) Home energy audits must be based on the Building Performance Institute's (BPI) audit requirements as included in the certification program for building analysts. Auditors must maintain and update their skills commensurate with the requirements of the HPwES and MD HPwES program operated by the Maryland Energy Administration. Within one year, or as



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specified by HPwES or MDHPwES, registered auditors must obtain all necessary training to fulfill skill update or maintenance requirements.

- (3) Audit analysis must be conducted using software accepted by HPwES (e.g., Beacon).
- (4) A formal test-out procedure, including application of a blower door test, must be conducted by the Registered Home Energy Auditor after the installation of energy efficiency improvements.
- (5) In the case of a lapse in both the Maryland Energy Administration's HPwES program and utility sponsorships of HPwES programs, the Director will recommend whether the County should engage in a HPwES sponsorship as a local government.

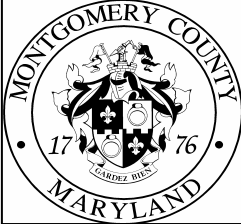
B. In order for the home energy audit to be eligible for the Program, it must comply with HPwES requirements and also:

- (1) Identify a package of cost-effective energy efficiency improvements that meet the requirements of Section IV(A) and, at the request of the applicant, identify a package of cost-effective energy efficiency improvements that are projected to yield annual energy savings greater than the annual principal and interest payment for the improvements;
- (2) Provide projected energy savings from energy efficiency improvements or renewable energy measures to be financed under the program;
- (3) Address all major fuel sources used in the home;
- (4) Identify any public or private financing mechanism that can be used to implement energy efficiency improvements (e.g., property tax credits, federal tax credits, utility incentives);
- (5) Include, or link to, program application and educational materials; and
- (6) Adhere to any additional requirements identified in the Program Plan.

C. An applicant may utilize an audit conducted within 12 months before the effective date of this regulation if the audit satisfies all the requirements of Section V (A) and (B).

## **Section VI: Requirements for Energy Auditors, Contractors, and Renewable Energy Product Providers**

- A. In order to deliver services to homeowners under the Program, all auditors, contractors, and renewable energy product providers must register with the County or its designee.
- B. Energy auditors must:
  - (1) Use the cost-effectiveness calculations and methods identified in Section IV;

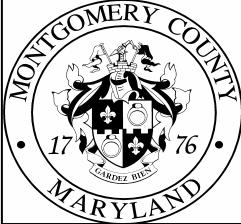


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- (2) Deliver audits adhering to the requirements of Section V and maintain credentials identified within Section V;
  - (3) Adhere to Program marketing and customer education requirements developed by the County;
  - (4) Have satisfactorily resolved any complaints, or received a satisfactory rating from the applicable HPwES sponsor, the County Office of Consumer Protection, and the Better Business Bureau; and
  - (5) Adhere to all other requirements and conditions identified in the Program Plan.
- C. Contractors and energy auditors performing energy efficiency improvements must:
- (1) Maintain an active home improvement contractor's license issued by the Maryland Department of Labor, Licensing and Regulation;
  - (2) Have BPI Envelope Professional certification;
  - (3) Adhere to Program marketing and customer education requirements developed by the County;
  - (4) Have satisfactorily resolved any complaints, or received a satisfactory rating from the applicable HPwES sponsor, the County Office of Consumer Protection, and the Better Business Bureau; and
  - (5) Adhere to all other requirements and conditions identified in the Program Plan.
- D. Renewable energy product providers must:
- (1) Use cost-effectiveness calculations and methods identified in Section IV;
  - (2) Maintain an active home improvement contractor's license issued by the Maryland Department of Labor, Licensing and Regulation;
  - (3) Adhere to Program marketing and customer education requirements developed by the County;
  - (4) Have satisfactorily resolved any complaints, or received a satisfactory rating from the applicable HPwES sponsor, the County Office of Consumer Protection, and the Better Business Bureau; and
  - (5) Adhere to all other requirements and conditions identified in the Program Plan.
- E. All auditors, contractors, and product providers must comply with all applicable permitting and licensing requirements mandated by the County and, if applicable, the municipality.



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- F. The County will not guarantee the performance of improvements funded under the Program. However, the County may revoke the registration of a provider for failure to comply with the requirements of this Section.

### Section VII: Program Financing

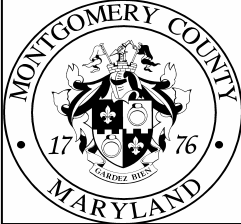
HELP loan payments are a lien on the borrower's property that conveys with the property. Therefore, if title to the property is transferred, the obligation for repayment of the loan and the associated loan payments transfers with the property to the new owner.

#### A. Financial Eligibility

- (1) The applicant must be the record owner of the property.
- (2) Except as provided in Section IV (B), a property owner may only receive one HELP loan per property.
- (3) All real property taxes due and owing on the property must be paid in full. Any property that is in tax sale or has liens against the property, other than mortgage liens, will not be eligible for a HELP loan.
- (4) Applicants must meet the credit eligibility standards of the Program.

#### B. Credit Standards

- (1) An applicant must not have any outstanding debts owed to the County or the State of Maryland. In addition, an applicant must be current on any mortgage or deed of trust debt on the property.
- (2) An applicant must have paid all real property taxes on the property on time for the previous three years.
- (3) The borrower must not be in bankruptcy.
- (4) A title search will be performed for each application by the County, or its designee. The property must be titled in the name of the applicant and there must not be any liens on the property except those liens placed by a mortgage lien holder. A property must have sufficient



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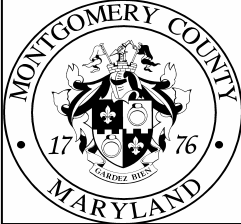
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equity, based on full assessed value, to cover the amount of the HELP loan, minus any first and second mortgage lien placed on the property.

## C. Loan Terms

- (1) All loans must be repaid annually over 15 years.
- (2) The interest rate on loans will be based on the County's cost of funds, as determined by the Director of Finance, used to capitalize the program plus any costs of administration, loan processing, Program marketing any necessary reserve funds.
- (3) Origination and application fees may be levied to cover the cost to the County, or its designee, of loan processing, appraisals, and other program elements. These costs will be non-refundable and identified in the Program Plan.
- (4) Energy improvements must be reasonable in relation to property value. As a guideline, HELP loans are available in amounts not less than \$2,500 and may not exceed 5% of property's assessed value up to a maximum of \$25,000.
- (5) Loan payments on all loans are due on September 30th of each year. The HELP loan payments are included on the annual real property tax bill. Therefore, borrowers that elect to pay their property taxes semi-annually will pay one-half of the loan payment amount by September 30th and the second half of the loan payment by December 31st of that same year.
- (6) Any payment delinquency after the due dates will be subject to special collection through the County's annual property tax lien sale.
- (7) The loan amount and any accrued interest is a first lien on the real property. Under Maryland law, unpaid amounts are collectable by suit or tax sale like all other real property taxes. In addition, interest and penalties accrue on the unpaid balance at the rate of 20% per annum.
- (8) A borrower may pre-pay the entire balance of a HELP loan at any time without penalty. A request for a pay-off balance must be made to the Montgomery County Department of Finance, Attn: Director of Finance. In order to pre-pay a HELP loan, all principal and accrued interest up to the payment date must be paid in full.



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- (9) Partial loan payments are not accepted. However, a borrower may reduce the total amount owed by making a lump sum payment against the outstanding balance of the loan. The single payment will first be applied to interest owed and then to the principal. A new loan balance will be calculated and the annual payment amount will be reduced based on the new loan balance. Lump sum payments must be arranged through the Department of Finance.
- (10) Applicants must indicate, in the initial application and the request for payment, the amount of any energy efficiency or renewable energy incentives received from both public and private sources. The total HELP loan for which the applicant is eligible will be reduced by that amount.

#### D. Application Process

- (1) Applications for the County's Home Energy Loan Program must be completed and submitted to the Montgomery County Departments of Finance, Environmental Protection, or their designee, via the mechanism to be prescribed in the Program Plan. Applications must include the following:
- (a) Completed application form;
  - (b) Copy of audit report clearly indicating auditors recommended actions and annual energy savings;
  - (c) Estimates of project cost and
  - (d) Identifies program contractors
  - (d) Application fees;
  - (e) Releases necessary to process the application, including information to:
    - (i) establish credit-worthiness; and
    - (ii) request energy usage history from applicant's utilities; and
  - (f) Acknowledgement of Program terms and conditions, including agreements from contractors to comply with all applicable federal, state, and local laws.



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- (2) The applicant will receive a confirmation from the County, or its designee, concerning the decision on the applicant's loan application. If the loan is approved, the confirmation letter will indicate the terms and conditions of the loan. The applicant must sign the confirmation letter, agreeing to the terms and conditions of the loan and return the document to the County or its designee.
- (3) If the HELP loan application is not approved and the applicant wishes to seek a reconsideration of the decision, the applicant may request reconsideration from the Director. Any request for reconsideration must be in writing and must include supporting reasons for the request. A request for reconsideration must be made within 10 business days after the Director's decision not to approve a loan application.
- (4) Beginning the first tax levy year following the first disbursement of HELP funds; the annual HELP loan payment will appear on the property owner's annual real property tax bill.

## E. Disbursement of Loan Funds

- (1) Generally, HELP loan funds may be disbursed by the County at the completion of the energy efficiency improvement or renewable energy measure. The property owner must provide the Department, or the County's designee, with a certificate of completion signed by the property owner acknowledging satisfactory completion of the work before any loan funds may be disbursed. The completion certificate must include the following:
  - (a) Confirmation that all improvements noted in the audit report have been completed or an explanation as to why an improvement cannot be completed;
  - (b) Final project costs;
  - (c) Certification by all contractors that applicable County or municipal permitting requirements have been met;
  - (d) Certification that all funding requirements, including any requirements necessary to use federal funds, have been satisfied by all parties and
  - (e) Any diagnostic test-out procedures, administered by the auditor, required by the applicable HPwES sponsor; and



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<b>Originating Department</b> Department of Environmental Protection/Department of Finance	<b>Effective Date</b>

(f) Other information required by the County, as documented in the Program Plan.

- (2) If the Director, or the County's designee, finds that all of the County's requirements have been satisfied, the Director, or the County's designee, must sign the completion certificate before any loan funds may be disbursed.
- (3) After receiving a completion certificate signed by the Director, the Department of Finance must issue a check to the property owner made payable to the contractor.

#### F. Post Loan Administration

- (1) Upon final payment of the HELP loan to the County, the portion of the real property tax bill that is attributable to the HELP loan payment will no longer appear on the annual property tax bill.
- (2) Delinquent loan payments may be collected through the Annual Tax Lien Sale or by any other means authorized by Maryland Code of Regulations Tax Property Act Title 14, section 14-817.
- (3) In the event of a foreclosure by a lending institution during the life of the loan, only the amount of the unpaid HELP loan balance, including accrued interest, fees, charges, or penalties that are due or in default must be paid at the time of foreclosure.
- (4) At any time during the life of the HELP loan, a borrower may pay off the loan prior to maturity. Any amounts due, including but not limited to principal, accrued interest, legal fees due the County or lien holders, and potential penalties must be paid in full to pay-off the loan.

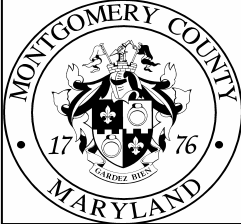
#### VIII: Disclosure Requirements

If the borrower transfers title to the property, the borrower must disclose to the new owner that the new owner must continue to repay the HELP loan through the real property tax bill. The required disclosure occurs in accordance with the seller's obligation to disclose real property tax information to new owners of the property, as described in the Montgomery County Code of Regulations 40.12C.01.01 .

#### Effective Date

This Executive Regulation takes effect upon approval by the County Council.





# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Montgomery County Home Energy Loan Program	<b>Number</b> 2-10
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## Sec. 2. Severability

If a court holds that a portion of this regulation is invalid, the other portions remain in effect.

## Sec. 3. Effective Date

This regulation takes effect 30 days after approval by the County Council.

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Isiah Leggett,  
County Executive

### Distribution:

Clerk, County Council  
County Executive  
Chief Administrative Officer  
County Attorney  
Director, Department of Environmental Protection  
Director of Finance