
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1352 Session of
2014

INTRODUCED BY SMITH, FONTANA, YUDICHAK, SCHWANK, COSTA, HUGHES,
STACK, SOLOBAY AND BROWNE, OCTOBER 15, 2014

REFERRED TO LOCAL GOVERNMENT, OCTOBER 15, 2014

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, authorizing assessments for energy
3 improvements in areas designated by municipalities; and
4 imposing a fee.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 53 of the Pennsylvania Consolidated
8 Statutes is amended by adding a chapter to read:

9 CHAPTER 63

10 PENNSTAR - SUSTAINABLE TECHNOLOGY

11 ASSISTANCE FOR RETROFITS

12 Sec.

13 6301. Short title of chapter.

14 6302. Definitions.

15 6303. Exercise of powers.

16 6304. Authorized assessments.

17 6305. Written contract for assessment required.

18 6306. Establishment of program.

19 6307. Designation of area.

- 1 6308. Procedure for establishment of program.
2 6309. Report regarding assessment.
3 6310. Notice to mortgage holder required for participation.
4 6311. Review required.
5 6312. Direct acquisition by owner.
6 6313. Recording of notice of contractual assessment.
7 6314. Lien.
8 6315. Collection of assessments.
9 6316. Bonds or notes.
10 6317. Joint implementation.
11 6318. Prohibited acts.
12 § 6301. Short title of chapter.

13 This chapter shall be known and may be cited as the PennSTAR
14 - Sustainable Technology Assistance for Retrofits Act.

15 § 6302. Definitions.

16 The following words and phrases when used in this chapter
17 shall have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Alternative energy system." Energy generated from
20 alternative energy sources as defined under the act of November
21 30, 2004 (P.L.1672, No.213), known as the Alternative Energy
22 Portfolio Standards Act.

23 "Authorized officer." A person authorized by the governing
24 body of the municipality to perform the duties provided under
25 section 6308 (relating to procedure for establishment of
26 program).

27 "Business." A corporation, partnership, sole proprietorship,
28 limited liability company, business trust or other commercial
29 entity approved by the authority.

30 "Clean energy project." A project which does any of the

1 following:

2 (1) Replaces or supplements an existing energy system
3 that utilizes nonrenewable energy with an energy system that
4 utilizes alternative energy.

5 (2) Facilitates the installation of an alternative
6 energy system in an existing building or a major renovation
7 of a building.

8 (3) Facilitates the retrofit of an existing building to
9 meet high-performance building standards.

10 (4) Installs equipment to facilitate or improve energy
11 conservation or energy efficiency, including heating and
12 cooling equipment and solar thermal equipment.

13 (5) An energy service project.

14 "Department." The Department of Community and Economic
15 Development of the Commonwealth.

16 "Program." A program established under this chapter.

17 "Qualified improvement." A permanent improvement fixed to
18 real property that is intended to decrease energy consumption or
19 demand, including an alternative energy system or clean energy
20 project.

21 "Qualified project." The installation or modification of a
22 qualified improvement.

23 "Real property." Privately owned commercial property owned
24 by a business.

25 "Sustainable technology assistance zone." An area of not
26 more than three square miles, as designated by the Secretary of
27 Community and Economic Development, which has a high number of
28 real properties that could benefit from a qualified improvement
29 or project.

30 § 6303. Exercise of powers.

1 In addition to the authority provided to municipalities by
2 law, the governing body of a municipality that establishes a
3 program in accordance with the requirements of this chapter
4 shall exercise all necessary powers granted by this chapter.

5 § 6304. Authorized assessments.

6 (a) General rule.--An assessment under this chapter may be
7 imposed to repay the financing of qualified projects on real
8 property located in a municipality designated under this
9 chapter.

10 (b) Restrictions.--An assessment under this chapter may not
11 be imposed to repay the financing of:

12 (1) facilities for undeveloped lots or lots undergoing
13 development at the time of the assessment; or

14 (2) the purchase or installation of products or devices
15 not permanently fixed to real property.

16 § 6305. Written contract for assessment required.

17 A municipality may impose an assessment under this chapter
18 only under a written contract with the record owner of the real
19 property to be assessed.

20 § 6306. Establishment of program.

21 (a) General rule.--The governing body of a municipality may
22 determine that it is convenient and advantageous to establish a
23 program under this chapter by adopting a resolution that is
24 consistent with the provisions of this chapter.

25 (b) Contract.--An authorized official of the municipality
26 that establishes a program may enter into a written contract
27 with a record owner of real property in a municipality
28 designated under this chapter to impose an assessment to repay
29 the owner's financing of a qualified project on the owner's
30 property.

1 (c) Municipality financing.--If the program provides for
2 municipality financing, the written contract described by
3 subsection (b) must be a contract to finance the qualified
4 improvement through assessments.

5 (d) Inclusion.--The financing for which assessments are
6 imposed may include:

7 (1) The cost of materials and labor necessary for
8 installation or modification of a qualified improvement.

9 (2) Permit fees.

10 (3) Inspection fees.

11 (4) Lender's fees.

12 (5) Program application and administrative fees.

13 (6) Project development and engineering fees.

14 (7) Third-party review fees, including verification
15 review fees, under section 6311 (relating to review
16 required).

17 (8) Any other fees or costs that may be incurred by the
18 property owner incident to the installation, modification or
19 improvement on a specific or pro rata basis, as determined by
20 the municipality.

21 § 6307. Designation of area.

22 (a) General rule.--The governing body of a municipality may
23 determine that it is convenient and advantageous to designate an
24 area of the municipality as an area within which authorized
25 municipality officials and record owners of real property may
26 enter into written contracts to impose assessments to repay the
27 financing by owners of qualified projects on the owners'
28 property and, if authorized by the municipality program, finance
29 the qualified project.

30 (b) Designation.--An area designated by the governing body

1 of a municipality under this section:

2 (1) may include the entire municipality; and

3 (2) must be located wholly within the municipality's
4 jurisdiction.

5 (c) Multiple areas designated.--A municipality may designate
6 more than one area. If multiple areas are designated, the areas
7 may be separate, overlapping or coterminous.

8 (d) Department designation.--The department, in consultation
9 with a municipality, may designate an area in the municipality
10 as a sustainable technology assistance zone. The Secretary of
11 Community and Economic Development shall designate no more than
12 12 such zones in this Commonwealth. Such zones shall receive
13 preference for funding under the act of July 9, 2008 (1st
14 Sp.Sess., P.L.1873, No.1), known as the Alternative Energy
15 Investment Act.

16 § 6308. Procedure for establishment of program.

17 (a) Establishment.--To establish a program under this
18 chapter, the governing body of a municipality must take the
19 following actions in the following order:

20 (1) Adopt an ordinance of intent that includes:

21 (i) a finding that, if appropriate, financing
22 qualified projects through contractual assessments is a
23 valid public purpose;

24 (ii) a statement that the municipality intends to
25 make contractual assessments to repay financing for
26 qualified projects available to property owners;

27 (iii) a description of the types of qualified
28 projects that may be subject to contractual assessments;

29 (iv) a description of the boundaries of the area;

30 (v) a reference to the report on the proposed

1 program prepared as provided by section 6309 (relating to
2 report regarding assessment) and a statement identifying
3 the location where the report is available for public
4 inspection;

5 (vi) a statement of the time and place for a public
6 hearing on the proposed program; and

7 (vii) a statement identifying the appropriate local
8 official and the appropriate assessor-collector for
9 purposes of consulting regarding collecting the proposed
10 contractual assessments with property taxes imposed on
11 the assessed property.

12 (2) Hold a public hearing at which the public may
13 comment on the proposed program, including the report
14 required by section 6309.

15 (3) Adopt an ordinance establishing the program and the
16 terms of the program, including:

17 (i) each item included in the report under section
18 6309; and

19 (ii) a description of each aspect of the program
20 that may be amended only after another public hearing is
21 held.

22 (b) Establishment resolution.--For purposes of subsection
23 (a)(3)(i), the ordinance may incorporate the report or the
24 amended version of the report, as appropriate, by reference.

25 (c) Amendment of program.--Subject to the terms of the
26 resolution establishing the program as referenced by subsection
27 (a)(3)(ii), the governing body of a municipality may amend a
28 program by ordinance.

29 (d) Municipality duties.--A municipality may:

30 (1) hire and set the compensation of a program

1 administrator and program staff; or

2 (2) contract for professional services necessary to
3 administer a program.

4 (e) Imposition of fees.--A municipality may impose fees to
5 offset the costs of administering a program. The fees authorized
6 by this subsection may be assessed as:

7 (1) a program application fee paid by the property owner
8 requesting to participate in the program;

9 (2) a component of the interest rate on the assessment
10 in the written contract between the municipality and the
11 property owner; or

12 (3) a combination of paragraphs (1) and (2).

13 § 6309. Report regarding assessment.

14 (a) Report.--The report for a proposed program required by
15 section 6308 (relating to procedure for establishment of
16 program) must include:

17 (1) A map showing the boundaries of the proposed area.

18 (2) A form contract between the municipality and the
19 property owner specifying the terms of:

20 (i) assessment under the program; and

21 (ii) financing provided by the municipality.

22 (3) A description of types of qualified projects that
23 may be subject to contractual assessments.

24 (4) A statement identifying a municipality official
25 authorized to enter into written contracts on behalf of the
26 municipality.

27 (5) A plan for raising sufficient capital for
28 municipality financing for qualified projects. This may
29 include bond issuance in accordance with Subpart B of Part
30 VII (relating to indebtedness and borrowing).

1 (6) If bonds will be issued to provide capital to
2 finance qualified projects as part of the program as provided
3 by section 6316 (relating to bonds or notes):

4 (i) a maximum aggregate annual dollar amount for
5 financing through contractual assessments to be provided
6 by the municipality under the program;

7 (ii) a method for ranking requests from property
8 owners for financing through contractual assessments in
9 priority order if requests appear likely to exceed the
10 authorization amount; and

11 (iii) a method for determining:

12 (A) the interest rate and period during which
13 contracting owners would pay an assessment; and

14 (B) the maximum amount of an assessment.

15 (7) A method for ensuring that the period of the
16 contractual assessment does not exceed the useful life of the
17 qualified project that is the basis for the assessment.

18 (8) A description of the application process and
19 eligibility requirements for financing qualified projects to
20 be repaid through contractual assessments under the program.

21 (9) A method as prescribed by subsection (b) for
22 ensuring that property owners requesting to participate in
23 the program demonstrate the financial ability to fulfill
24 financial obligations to be repaid through contractual
25 assessments.

26 (10) A statement explaining the manner in which property
27 will be assessed and assessments will be collected.

28 (11) A statement explaining the lender notice
29 requirement provided by section 6310 (relating to notice to
30 mortgage holder required for participation).

1 (12) A statement explaining the review requirement
2 provided by section 6311 (relating to review required).

3 (13) A description of marketing and participant
4 education services to be provided for the program.

5 (14) A description of quality assurance and antifraud
6 measures to be instituted for the program.

7 (15) The procedures for collecting the proposed
8 contractual assessments.

9 (b) Financial ability.--The method for ensuring a
10 demonstration of financial ability under subsection (a)(10) must
11 be based on appropriate underwriting factors, including:

12 (1) Providing for verification that:

13 (i) The property owner requesting to participate
14 under the program:

15 (A) is the legal owner of the benefited
16 property;

17 (B) is current on mortgage and property tax
18 payments;

19 (C) is not insolvent or in bankruptcy
20 proceedings; and

21 (D) owns property that does not have a loan
22 managed by a Federal agency that restricts
23 participation under this chapter.

24 (ii) The title of the benefited property is not in
25 dispute.

26 (2) Requiring an appropriate ratio of the amount of the
27 assessment to the assessed value of the property.

28 (c) Public inspection.--The municipality shall make the
29 report available for public inspection:

30 (1) On the municipality's Internet website.

1 (2) At the office of the official designated to enter
2 into written contracts on behalf of the municipality under
3 the program.

4 § 6310. Notice to mortgage holder required for participation.

5 Before a municipality may enter into a written contract with
6 a record owner of real property to impose an assessment to repay
7 the financing of a qualified project under this chapter the
8 following shall occur:

9 (1) the holder of any mortgage lien on the property must
10 be given written notice of the owner's intention to
11 participate in a program under this chapter on or before the
12 30th day before the date the written contract for assessment
13 between the owner and the municipality is executed; and

14 (2) a written consent from the holder of the mortgage
15 lien on the property must be obtained.

16 § 6311. Review required.

17 (a) Review required.--A program established under this
18 chapter must require for each proposed qualified project a
19 review of energy baseline conditions and the projected energy
20 savings to establish the projected energy savings.

21 (b) Verification of completion.--After a qualified
22 improvement is completed, the municipality shall obtain
23 verification that the qualified improvement was properly
24 completed and is operating as intended.

25 (c) Third-party review or verification.--A baseline energy
26 review or verification review under this section must be
27 conducted by an independent third party.

28 § 6312. Direct acquisition by owner.

29 The proposed arrangements for financing a qualified
30 improvement may authorize the property owner to:

1 (1) Purchase directly the related equipment and
2 materials for the installation or modification of a qualified
3 improvement.

4 (2) Contract directly, including through lease, power
5 purchase agreement or other service contract, for the
6 installation or modification of a qualified improvement.

7 § 6313. Recording of notice of contractual assessment.

8 (a) Notice.--A municipality that authorizes financing
9 through contractual assessments under this chapter shall file
10 written notice of each contractual assessment in the real
11 property records of the county in which the property is located.

12 (b) Contents of notice.--The notice under subsection (a)
13 must contain:

14 (1) The legal description of the property.

15 (2) The name of each property owner.

16 (3) The total amount of the qualified improvements of
17 the project.

18 (4) The amount and number of assessments to satisfy the
19 qualified improvements.

20 (5) A reference to the statutory assessment lien
21 provided under this chapter.

22 § 6314. Lien.

23 (a) General rule.--A contractual assessment under this
24 chapter and any interest or penalties on the assessment:

25 (1) Is a first and prior lien against the real property
26 on which the assessment is imposed from the date on which the
27 notice of contractual assessment is recorded as provided by
28 section 6313 (relating to recording of notice of contractual
29 assessment) and until the assessment, interest or penalty is
30 satisfied.

1 (2) Has the same priority status as a lien for any other
2 tax imposed by any agency of the Commonwealth or municipality
3 of the Commonwealth.

4 (b) Lien.--The lien runs with the land, and that portion of
5 the assessment under the assessment contract that has not yet
6 become due is not eliminated by foreclosure of a property tax
7 lien.

8 (c) Enforcement.--The assessment lien may be enforced by the
9 municipality in the same manner that a property tax lien against
10 real property may be enforced by the municipality to the extent
11 the enforcement is consistent with the laws of this
12 Commonwealth.

13 (d) Delinquency charge.--Delinquent installments of the
14 assessments incur interest and penalties in the same manner as
15 delinquent property taxes.

16 (e) Costs and expenses.--A municipality may recover costs
17 and expenses, including attorney fees, in a suit to collect a
18 delinquent installment of an assessment in the same manner as in
19 a suit to collect a delinquent property tax.

20 § 6315. Collection of assessments.

21 The governing body of a municipality may contract with the
22 governing body of another taxing unit or another entity,
23 including a county assessor-collector, to perform the duties of
24 the municipality relating to collection of assessments imposed
25 by the municipality under this chapter.

26 § 6316. Bonds or notes.

27 (a) Issuance.--A municipality may issue bonds or notes to
28 finance qualified projects through contractual assessments under
29 this chapter pursuant to the authority of Subpart B of Part VII
30 (relating to indebtedness and borrowing).

1 (b) Restrictions.--Bonds or notes issued under this chapter
2 may not be general obligations of the municipality. The bonds or
3 notes must be secured by one or more of the following as
4 provided by the governing body of the municipality in the
5 resolution or ordinance approving the bonds or notes:

6 (1) Payments of contractual assessments on benefited
7 property in one or more specified areas designated under this
8 chapter.

9 (2) Reserves established by the municipality from
10 grants, bonds or net proceeds or other lawfully available
11 funds.

12 (3) Municipal bond insurance, lines of credit, public or
13 private guaranties, standby bond purchase agreements,
14 collateral assignments, mortgages or any other available
15 means of providing credit support or liquidity.

16 (4) Any other funds lawfully available for purposes
17 consistent with this chapter.

18 (c) First lien.--A municipality pledge of assessments, funds
19 or contractual rights in connection with the issuance of bonds
20 or notes by the municipality under this chapter is a first lien
21 on the assessments, funds or contractual rights pledged in favor
22 of the person to whom the pledge is given, without further
23 action by the municipality. The lien is valid and binding
24 against any other person, with or without notice.

25 (d) Purpose.--Bonds or notes issued under this chapter
26 further an essential public and governmental purpose, including:

27 (1) Improvement of the reliability of the Commonwealth's
28 electrical system.

29 (2) Economic stimulation and development.

30 (3) Enhancement of property values.

1 (4) Enhancement of employment opportunities.

2 (5) Reduction in greenhouse gas emissions.

3 § 6317. Joint implementation.

4 (a) General rule.--Any combination of municipalities may
5 agree to jointly implement or administer a program under this
6 chapter.

7 (b) Single hearing.--If two or more municipalities implement
8 a program jointly, a single public hearing held jointly by the
9 cooperating municipalities is sufficient to satisfy the
10 requirement of section 6308(a)(2) (relating to procedure for
11 establishment of program).

12 (c) Incentives and grants.--The department may establish a
13 program to create incentives for municipalities that agree to
14 jointly implement or administer a program under subsection (a).
15 The department may withhold grants under 12 Pa. Code Ch. 119
16 (relating to councils of government assistance program) from a
17 municipality that refuses to jointly implement or administer a
18 program under subsection (a).

19 § 6318. Prohibited acts.

20 A municipality that establishes an area under this chapter
21 may not:

22 (1) make the issuance of a permit, license or other
23 authorization from the municipality to a person who owns
24 property in the area contingent on the person entering into a
25 written contract to repay the financing of a qualified
26 project through contractual assessments under this chapter;
27 or

28 (2) otherwise compel a person who owns property in the
29 area to enter into a written contract to repay the financing
30 of a qualified project through contractual assessments under

1 this chapter.

2 Section 2. This act shall take effect in 60 days.