
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1722 Session of
2017

INTRODUCED BY HARPER, COMITTA, WATSON, M. QUINN, MICCARELLI,
MURT, BRIGGS, FRANKEL, V. BROWN, SOLOMON, O'BRIEN, WARREN,
BULLOCK, CHARLTON, BARRAR AND SANTORA, SEPTEMBER 14, 2017

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, SEPTEMBER 14, 2017

AN ACT

1 Amending Title 12 (Commerce and Trade) of the Pennsylvania
2 Consolidated Statutes, in economic development programs,
3 authorizing assessments for energy improvements in districts
4 designated by counties and other municipalities.

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

7 Section 1. Title 12 of the Pennsylvania Consolidated
8 Statutes is amended by adding a chapter to read:

9 CHAPTER 43

10 PROPERTY ASSESSED CLEAN ENERGY PROGRAMS

11 Sec.

12 4301. Purpose of chapter.

13 4302. Definitions.

14 4303. Establishment of program.

15 4304. Notice to mortgage holder required for participation.

16 4305. Review required.

17 4306. Notice.

18 4307. Lien.

1 4308. Collection of assessments.

2 4309. Bonds.

3 4310. Joint implementation.

4 § 4301. Purpose of chapter.

5 This chapter authorizes the establishment of property
6 assessed clean energy programs in this Commonwealth, which is
7 important so that owners of commercial and industrial properties
8 can obtain low-cost, long-term financing for energy efficiency,
9 water conservation and renewable energy projects.

10 § 4302. Definitions.

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

14 "Alternative energy system." Energy generated from
15 alternative energy sources as defined under the act of November
16 30, 2004 (P.L.1672, No.213), known as the Alternative Energy
17 Portfolio Standards Act, or energy sources recognized as
18 alternative energy sources by programs not included in the
19 Alternative Energy Portfolio Standards Act when qualified
20 project applications are approved.

21 "Assessment." A charge against the real property within a
22 district:

23 (1) Levied and collected by the county or municipality
24 that establishes the district.

25 (2) Made only upon the real property whose owner has
26 executed a written agreement with the governing body agreeing
27 to the charge.

28 (3) The proceeds of which can only be used to fund local
29 financing or owner financing.

30 (4) Lasts only for the term of the local financing or

1 owner financing.

2 "Bond." The term includes a public or private financing
3 note, mortgage, loan, deed of trust, instrument, refunding note
4 or other evidence of indebtedness or obligation used to finance
5 a qualified project.

6 "Business." A corporation, partnership, sole proprietorship,
7 limited liability company, business trust or other commercial
8 entity.

9 "Clean energy project." A project that does any of the
10 following:

11 (1) Replaces or supplements an existing energy system
12 that utilizes nonrenewable energy with an alternative energy
13 system.

14 (2) Facilitates the installation of an alternative
15 energy system in an existing building or a major renovation
16 of a building.

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

19 (4) Installs equipment to facilitate or improve energy
20 conservation or energy efficiency, including heating and
21 cooling equipment and solar thermal equipment.

22 "District." An area or group of real properties within a
23 county or municipality, designated by the county or municipality
24 for the purpose of establishing a property assessed clean energy
25 program.

26 "Local financing." A bond provided or facilitated by a
27 municipality, county, district, economic development
28 corporation, related authority or a government sponsored entity.
29 The term does not include general obligation bonds.

30 "Municipality." A city, borough, incorporated town or

1 township.

2 "Owner financing." A bond provided by a real property owner.

3 "Property assessed clean energy program" or "program." A
4 means of financing qualified projects in a district through an
5 assessment.

6 "Qualified party." A contractor or subcontractor that meets
7 the following standards:

8 (1) Possesses all technical qualifications and
9 resources, including equipment, management, technical and
10 craft labor personnel and financial resources necessary to
11 perform the contracted responsibilities or will obtain the
12 contracted responsibilities through the use of qualified
13 subcontractors.

14 (2) Possesses all valid, current licenses, registrations
15 or other certificates required for the contractor or its
16 employees by Federal, State or local law necessary for the
17 type of work required for a qualified project.

18 (3) Does not have any outstanding liability to the
19 county or municipality in which the qualified project is
20 located in the form of tax obligations, fines or other fees,
21 unless the contractor or subcontractor has entered into and
22 is in compliance with a payment agreement with the county or
23 municipality for the taxes, fines or fees.

24 (4) Meets all bonding requirements, as required by
25 applicable law or contract specifications, and all insurance
26 requirements as required by applicable law or contract
27 specifications, including general liability insurance,
28 workers' compensation insurance and unemployment insurance.

29 "Qualified project." The installation or modification of a
30 permanent improvement fixed to real property that is a clean

1 energy project, water conservation project or alternative energy
2 system that generates measurable energy savings or reductions in
3 water usage, the installation or modification of which is
4 performed by a qualified party in a district. The term includes
5 installation of alternative energy generating equipment affixed
6 to the land or building.

7 "Real property." Agricultural, commercial or industrial land
8 or a building owned by an individual, partnership, limited
9 liability corporation, corporation or nonprofit. The term does
10 not include multi-family housing or residential property.

11 "Water conservation project." A project that reduces the
12 usage of water or increases the efficiency of water usage.

13 § 4303. Establishment of program.

14 (a) General rule.--A municipality with a community and
15 economic development department or a county may establish a
16 property assessed clean energy program by adopting an ordinance
17 or resolution that establishes the program, defines the district
18 and provides other operational standards and guidelines, which
19 shall include the following:

20 (1) Requirement of all clean energy projects to comply
21 with national energy efficiency standards.

22 (2) Development of criteria and procedures to determine
23 the eligibility of real property and owners for participation
24 in the program.

25 (3) Other measures as needed to satisfy the requirements
26 of this chapter or to ensure that the program is effective,
27 efficient and fair to property owners.

28 (b) Notice to municipalities.--A county that establishes a
29 program must notify any municipality that may be in the district
30 of their possible inclusion, before a resolution establishing a

1 program is approved. A municipality or county may contract with
2 a third party to administer the program.

3 § 4304. Notice to mortgage holder required for participation.

4 Before real property may be subject to an assessment under
5 the program and begin local financing or owner financing of a
6 qualified project, the following must occur:

7 (1) The holder of any existing lien on the real property
8 must be given written notice of the real property owner's
9 intention to participate in the program and acknowledge in
10 writing to the property owner and the county or municipality
11 that established the program that the holder has received the
12 notice.

13 (2) The holder of any existing lien on the real property
14 must provide written consent to the property owner and the
15 county or municipality that established the program that the
16 property may participate in the program.

17 § 4305. Review required.

18 (a) General rule.--A program shall require for each proposed
19 qualified project a scope of work, energy baseline or water
20 usage baseline and the projected energy savings or water usage
21 reductions in order to establish the viability of the qualified
22 project and the projected energy savings or water usage
23 reductions.

24 (b) Verification of completion.--After a qualified project
25 is completed, the county or municipality shall obtain
26 verification from the real property owner and from an
27 independent professional inspector that the qualified project
28 was properly completed.

29 § 4306. Notice.

30 (a) Notice.--A county or municipality that establishes a

1 program shall publish on a publicly accessible Internet website
2 and make available to the public a notice of each qualified
3 project financed through an assessment.

4 (b) Contents of notice.--The notice under subsection (a)
5 shall contain:

6 (1) The legal description of the property.

7 (2) The name of each property owner.

8 (3) The total amount of the qualified project and a
9 complete description of the qualified project.

10 (4) The assessment needed to satisfy the bond.

11 (5) A reference to the statutory assessment lien
12 provided under this chapter.

13 (6) The financing rate on the bond, the total amount of
14 the bond financing and all financing charges associated with
15 the bond.

16 § 4307. Lien.

17 (a) General rule.--An assessment under this chapter and any
18 interest or penalty on the assessment:

19 (1) Is a first and prior lien against the real property
20 on which the assessment is imposed from the date on which the
21 notice of contractual assessment is recorded and until the
22 assessment, interest or penalty is satisfied.

23 (2) Has the same priority status as a lien for any other
24 tax imposed by any county, municipality or agency of the
25 Commonwealth and is treated as such.

26 (3) In the event the property owner fails to pay
27 assessments due, both past due and the total assessment on
28 the property may be discharged, compromised or abated in the
29 same manner as delinquent property tax obligations.

30 (4) Must be recorded with the title, including all

1 information required under section 4306 (relating to notice)
2 until it is discharged.

3 (b) Lien.--

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

8 (2) No assessment may be accelerated or extinguished
9 until fully paid.

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

15 (d) Delinquency charge.--Delinquent installments of an
16 assessment shall accrue interest and penalties in the same
17 manner as delinquent property taxes.

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

22 § 4308. Collection of assessments.

23 The governing body of a county or municipality that
24 establishes a district shall collect the assessments for the
25 district using the present tax collection process and remit for
26 payment of the local financing or owner financing.

27 § 4309. Bonds.

28 (a) Issuance.--Local financing or owner financing may be
29 used to issue bonds to finance qualified projects.

30 (b) Restrictions.--Bonds issued under this chapter may not

1 be general obligations of the county or municipality.

2 (c) Use of proceeds.--Funds generated from the issuance of a
3 bond may only be used for the following purposes:

4 (1) Design, engineering and project development costs of
5 a qualified project.

6 (2) Infrastructure related to and necessary for a
7 qualified project.

8 (3) Purchase and installation cost of equipment needed
9 for a qualified project.

10 (4) Payment of normal and customary issuance and closing
11 fees of a bond.

12 (5) Normal and customary administrative fees necessary
13 to continue operations of the county or municipality
14 financing agency. The fees can include, but are not limited
15 to, audit and application fees.

16 § 4310. Joint implementation.

17 A combination of counties or municipalities may agree to
18 jointly implement or administer a program under this chapter.

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