

HB163 ENROLLED



1 HB163
2 TBKY895-3
3 By Representative Stubbs
4 RFD: County and Municipal Government
5 First Read: 13-Jan-26



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1 Enrolled, An Act,

2
3 Relating to counties and municipalities; to amend

4 Sections 11-81-240, 11-81-241, 11-81-242, 11-81-243,
5 11-81-244, 11-81-245, 11-81-246, and 11-81-249, Code of

6 Alabama 1975, to change the name of the Property Insurance and
7 Energy Reduction Act of Alabama to the Property Insurance

8 Reduction and Capital Expenditure Act of Alabama; to enable
9 local governments to allow private financing of qualified

10 energy projects; to allow local governments to assess the
11 qualifying properties with a lien to secure repayment of the

12 private financing; to allow assignment of the repayment to the
13 private financier; to revise the application process for

14 qualifying projects; to add Sections 11-81-251 and 11-81-252
15 to the Code of Alabama 1975, to provide that imposition of the

16 local assessment is voluntary; to provide that the local
17 government shall not guarantee the repayment of the financing;

18 to repeal Sections 11-81-247 and 11-81-248, Code of Alabama
19 1975, relating to provisions for a loss reserve fund and

20 regulatory jurisdiction by the state; to limit liability of a
21 local government for actions undertaken pursuant to the act;

22 and to make nonsubstantive, technical revisions to update the
23 existing code language to current style.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Sections 11-81-240, 11-81-241, 11-81-242,
26 11-81-243, 11-81-244, 11-81-245, 11-81-246, and 11-81-249,
27 Code of Alabama 1975, are amended to read as follows:

28 "§11-81-240



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29 This article shall be known and may be cited as the
30 Property Insurance Reduction and ~~Energy Reduction~~ Capital
31 Expenditure Act of Alabama."

32 "§11-81-241

33 For the purposes of this article, the following words
34 ~~shall~~ have the following meanings:

35 (1) ASSESSMENT AGREEMENT. The agreement between a local
36 government and a property owner in which the property owner
37 voluntarily agrees to have the local government place an
38 assessment and lien on the benefited property to secure
39 repayment of Property Insurance Reduction and Capital
40 Expenditure financing to a capital provider.

41 (2) CAPITAL PROVIDER. The private third-party entity or
42 entities, including their designee, successor, and assigns,
43 that provide private financing for Property Insurance and
44 Capital Expenditure financing and refinancing under this
45 article.

46 (3) CONSENT AGREEMENT. The written agreement or
47 agreements between the owner of the qualifying property and
48 all mortgagees or other secured lienholders in which all
49 parties, individually or collectively, consent to the
50 execution of the assessment agreement and imposition of the
51 assessment and acknowledge that the liens of the mortgagees or
52 other lienholders shall be subordinated to the assessment lien
53 established under this article.

54 ~~(1) COSTS OF A QUALIFIED PROJECT. All costs including,~~
55 ~~but not limited to, the following:~~

56 ~~a. All costs of acquisition, by purchase or otherwise,~~



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57 ~~construction, assembly, installation, modification,~~
58 ~~renovation, or rehabilitation incurred in connection with any~~
59 ~~qualified project or any part of any qualified project.~~

60 ~~b. All costs of real property, fixtures, or personal~~
61 ~~property used in or in connection with or necessary for any~~
62 ~~qualified project or for any facilities related thereto,~~
63 ~~including, but not limited to, the following:~~

64 ~~1. The cost of all land, estates for years, easements,~~
65 ~~rights, improvements, water rights, connections for utility~~
66 ~~services, fees, franchises, permits, approvals, licenses, and~~
67 ~~certificates.~~

68 ~~2. The cost of securing any franchises, permits,~~
69 ~~approvals, licenses, or certificates.~~

70 ~~3. The cost of preparation of any application therefor~~
71 ~~and the cost of all fixtures, machinery, equipment, furniture,~~
72 ~~and other property used in or in connection with or necessary~~
73 ~~for any qualified project.~~

74 ~~c. All financing charges and fees and all interest on~~
75 ~~revenue bonds, notes, or other obligations of a local~~
76 ~~government which accrues or is paid prior to and during the~~
77 ~~period of construction of a project and during any additional~~
78 ~~period as the local government may reasonably determine to be~~
79 ~~necessary to place the qualified project in operation.~~

80 ~~d. All costs of engineering, surveying, and~~
81 ~~architectural and legal services and all expenses incurred by~~
82 ~~engineers, surveyors, architects, and attorneys in connection~~
83 ~~with any qualified project.~~

84 ~~e. All expenses for inspection of any qualified~~



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85 ~~project.~~

86 ~~f. All fees of fiscal agents, paying agents, and~~
87 ~~trustees for bondholders under any trust agreement, indenture~~
88 ~~of trust, or similar instrument or agreement; all expenses~~
89 ~~incurred by any fiscal agents, paying agents, and trustees and~~
90 ~~all other costs and expenses incurred relative to the issuance~~
91 ~~of any revenue bonds, notes, or other obligations for any~~
92 ~~qualified project.~~

93 ~~g. All fees of any type charged by a local government~~
94 ~~in connection with any qualified project.~~

95 ~~h. All expenses incurred in determining the feasibility~~
96 ~~or practicability of any qualified project.~~

97 ~~i. All costs of plans and specifications for any~~
98 ~~qualified project.~~

99 ~~j. All costs of title insurance and examinations of~~
100 ~~title with respect to any qualified project.~~

101 ~~k. Repayment of any assessments made for the advance~~
102 ~~payment of any part of any of the costs provided in this~~
103 ~~subdivision, including interest thereon and any other expenses~~
104 ~~of the assessments.~~

105 ~~l. Administrative expenses of the local government and~~
106 ~~other expenses as may be necessary or incidental to any~~
107 ~~qualified project or the financing thereof or the placing of~~
108 ~~any project in operation.~~

109 ~~m. The establishment of a fund or funds for the~~
110 ~~creation of a debt service reserve, a renewal and replacement~~
111 ~~reserve, or other funds or reserves as the local government~~
112 ~~may approve with respect to the financing and operation of any~~



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113 ~~project and as may be authorized by any bond resolution, trust~~
114 ~~agreement, indenture of trust, or similar instrument or~~
115 ~~agreement pursuant to the provisions of which the issuance of~~
116 ~~any revenue bonds, notes, or other obligations of the local~~
117 ~~government may be authorized.~~

118 ~~(2)~~ (4) DESIGNATED REGION. An area approved by a local
119 government for qualified projects pursuant to Section
120 11-81-242.

121 (5) FINANCING AGREEMENT. The contract between a property
122 owner and a capital provider in which the property owner
123 agrees to repay the capital provider for the financing of
124 qualifying improvements. The term includes, but is not limited
125 to, details of financing charges, fees, debt servicing,
126 interest and penalties, terms related to prepayment and
127 partial payments, billing, collection, and enforcement of the
128 repayment of the financing.

129 ~~(3)~~ (6) LOCAL GOVERNMENT. Any incorporated municipality,
130 county, or improvement district in this state.

131 ~~(4)~~ (7) PROGRAM. A program for property insurance
132 reduction and capital expenditure authorized and
133 ~~created~~ designated by a local government under this article.

134 (8) PROGRAM ADMINISTRATOR. The department or individual
135 within a local government designated to administer the
136 program, or a private independent third party designated by
137 the local government, provided that the administrative
138 procedures used conform to this article.

139 (9) PROGRAM GUIDEBOOK. A comprehensive document that
140 outlines the applicable program and establishes appropriate



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141 guidelines, specifications, underwriting, and approval
142 criteria, along with standard application forms consistent
143 with the administration of the program and not detailed in
144 this article, including the following:

145 a. A program application with an attestation by the
146 property owner that he or she has reviewed the contents of the
147 application and all attachments and verified that they are, to
148 the best of their ability, true and correct.

149 b. An assessment agreement form between the local
150 government and the property owner, specifying the terms of
151 assessment under the program, terms of the financing provided
152 by a third party, and remedies for default or foreclosure.

153 c. A local government Notice of Assessment and Property
154 Insurance Reduction and Capital Expenditure lien form.

155 d. A Notice of Assignment of Assessment and Property
156 Insurance Reduction and Capital Expenditure lien form between
157 a local government and a capital provider.

158 e. A consent agreement form for use between the owner
159 of a qualifying property and the mortgagee or other secured
160 lienholder or lienholders that specifies the consent to the
161 execution of the assessment agreement, the imposition of the
162 assessment, and the subordination of the liens to the
163 assessment.

164 ~~(5) (10) QUALIFIED PROJECT or PROJECT. The installation~~
165 ~~or modification of a qualifying improvement on real property~~
166 ~~in a designated region under a program adopted by a local~~
167 ~~government. A property that has at least one qualifying~~
168 ~~improvement installed. The term includes a new construction,~~



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169 the adaptive reuse of eligible property with the improvement,
170 or a property where the qualifying improvement has been
171 installed and is operational before the application date.

172 ~~(6)~~ (11) QUALIFYING IMPROVEMENT. An improvement fixed to
173 ~~or used upon by~~ an existing building ~~or,~~ facility, or new
174 construction that is part of the ~~real~~ qualified property and
175 intended to increase energy and water efficiency, lower energy
176 cost, ~~and community~~ increase building resilience, and harden
177 or upgrade a property to withstand ~~to~~ storm-related events,
178 such as high winds and flooding, ~~including,~~ The term
179 includes, but is not limited to, ~~any of the following:~~

180 a. Resiliency improvements, including:

181 1. Wind-resistant resistance improvements or programs
182 that qualify the structure for insurance discounts, including,
183 ~~but not limited to,~~ the FORTIFIED Program;

184 2. or improvements Improvements that increase ~~the life~~
185 ~~safety of occupants~~ occupant safety during tornados,
186 including, but not limited to, safe rooms that comply with the
187 International Code Congress (ICC-500) as mandated by the
188 Alabama Building Commission, ~~or are manufactured or site built~~
189 under the supervision of a professional or producer member of
190 the National Storm Shelter Association; and

191 3. Battery or generator storage, electric vehicle
192 charging infrastructure, or other resilience measures as
193 deemed acceptable by a local government to provide
194 strengthening or resilience of a structure against natural
195 disasters or pandemics.

196 b. Flood mitigation, including:



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- 197 1. Raising a structure above the base flood elevations
198 to eliminate flood damage;
- 199 2. Installation of a flood diversion apparatus;
200 3. Electrical, mechanical, plumbing, or other system
201 improvements that reduce flood damage;
- 202 4. Improvements to mitigate or eliminate the potential
203 for microbial growth or reduce flood insurance premiums; and
- 204 5. Any other improvement that reduces repetitive loss
205 and is recognized by the National Flood Insurance Program,
206 Community Rating System, or the Federal Emergency Management
207 Agency (FEMA) .
- 208 ~~b.c. Energy conservation and efficiency improvement,~~
209 ~~which is a measure~~ improvements installed on the qualifying
210 property to reduce consumption through conservation or a more
211 efficient use of by conserving or using electricity, natural
212 gas, propane, or other forms of energy sources more
213 efficiently on the real property, including, but not limited
214 to, any of the following:
- 215 1. Air sealing.
- 216 2. Installation of insulation.
- 217 3. Installation of energy-efficient heating, cooling,
218 or ventilation systems.
- 219 4. Building modifications to increase the use of
220 daylight.
- 221 5. Replacement of windows.
- 222 6. Installation of energy controls or energy efficient
223 lighting systems.
- 224 7. Installation of electric vehicle charging equipment.



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225 8. Installation of efficient lighting equipment.

226 9. Other improvements that are intended to lead to
227 demonstrable energy savings.

228 ~~c. Flood mitigation, including, but not limited to, any~~
229 ~~of the following:~~

230 ~~1. The raising of a structure above the base flood~~
231 ~~elevation to eliminate flood damage.~~

232 ~~2. Installation of a flood diversion apparatus.~~

233 ~~3. Electrical, mechanical, plumbing, or other system~~
234 ~~improvements that reduce flood damage.~~

235 ~~4. Improvements to mitigate or eliminate the potential~~
236 ~~for microbial growth, or reduce flood insurance premiums.~~

237 ~~5. Any other improvement that reduces repetitive loss~~
238 ~~that is recognized by the National Flood Insurance Program,~~
239 ~~Community Rating System, or the Federal Emergency Management~~
240 ~~Agency (FEMA).~~

241 d. Water conservation, efficiency, and water quality
242 improvements.

243 ~~(7) (12) REAL QUALIFYING PROPERTY. Real property that~~
244 ~~includes commercial, industrial, agricultural, and multifamily~~
245 ~~buildings. The term excludes residential property consisting~~
246 ~~of fewer than five units and individual residential units of~~
247 ~~condominiums or cooperatives and limited common elements and~~
248 ~~common elements attached to or related to the condominium or~~
249 ~~cooperative units.~~"

250 "§11-81-242

251 (a) (1) The governing body of a local government may
252 designate an area of the local government or may designate the



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253 entire area of the local government, including the
254 unincorporated and incorporated area of the local government
255 if applicable, as a region ~~within~~ in which the local
256 government may ~~provide~~ make available a property insurance
257 reduction and capital expenditure financing program to the
258 record ~~owners of real property~~ owner of any qualifying
259 property who voluntarily agrees to have ~~and impose~~ assessments
260 and a lien imposed on the owner's property for the repayment
261 of ~~costs of a qualified project~~ the funds advanced for
262 qualified projects.

263 (2) For the purpose of this article, the costs of a
264 qualifying project shall include, but are not limited to, all
265 of the following:

266 a. All costs of acquisition, by purchase or otherwise,
267 construction, assembly, installation, modification,
268 renovation, rehabilitation, or new construction incurred in
269 connection with any qualified project or any part of any
270 qualified project.

271 b. All costs associated with the qualifying property,
272 fixtures, or personal property used by, connected with, or
273 necessary for any qualified project or for any related
274 facilities, including, but not limited to, the following:

275 1. The cost of all land, estates for years, easements,
276 rights, improvements, water rights, connections for utility
277 services, fees, franchises, permits, approvals, licenses, and
278 certificates.

279 2. The costs associated with securing any franchises,
280 permits, approvals, licenses, or certificates.



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281 3. The cost of preparing any application and the cost
282 of all fixtures, machinery, equipment, furniture, and other
283 property used by, connected with, or necessary for any
284 qualified project.

285 c. All financing charges, fees, and all interest on
286 financing provided by a capital provider under this article.

287 d. All costs of engineering, surveying, and
288 architectural and legal services, and all expenses incurred by
289 engineers, surveyors, architects, and attorneys in connection
290 with any qualified project.

291 e. All expenses for inspection of any qualified
292 project.

293 f. All fees of fiscal agents, paying agents, and
294 trustees for bondholders under any trust agreement, indenture
295 of trust, or similar instrument or agreement; all expenses
296 incurred by any fiscal agents, paying agents, and trustees;
297 and all other costs and expenses related to the issuance of
298 any revenue bonds, notes, or other obligations for any
299 qualified project.

300 g. All fees of any type charged by a local government
301 related to any qualified project.

302 h. All expenses incurred in determining the feasibility
303 or practicability of any qualified project.

304 i. All costs of plans and specifications for any
305 qualified project.

306 j. All costs of title insurance and examinations of
307 title related to any qualified project.

308 k. Repayment of any assessments made for the advance



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309 payment of any part of the costs provided specified in this
310 section, including interest thereon and any other expenses of
311 the assessments.

312 1. Administrative expenses of the local government and
313 other expenses as may be necessary or incidental to any
314 qualified project, its financing, or placing the project in
315 operation.

316 ~~(2)~~ (3)a. A local government participating under this
317 act shall impose a lien, consistent with the consent agreement
318 and assessment agreement, when qualified property owners
319 secure private ~~may issue bonds or notes or use other financing~~
320 from qualified capital providers to finance qualified projects
321 under this article.

322 ~~b. Bonds or notes~~ Notes and other financial instruments
323 issued under this section are not general obligations of the
324 local government, but are solely payable from any of the
325 following: assessments on qualifying properties benefited by
326 the improvement.

327 ~~1. Payments of assessments on benefited real property~~
328 ~~in one or more designated regions under this article.~~

329 ~~2. Reserves established by the local government from~~
330 ~~grants, bonds, or net proceeds or other lawfully available~~
331 ~~funds.~~

332 ~~3. Municipal bond insurance, lines of credit, public or~~
333 ~~private guaranties, standby bond purchase agreements,~~
334 ~~collateral assignments, mortgages, or any other available~~
335 ~~means of providing credit support or liquidity.~~

336 ~~(b) An area designated as a region by the governing~~



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337 ~~body of a local government under this section:~~

338 ~~(1) May include the entire area of the local~~
339 ~~government.~~

340 ~~(2) Must be located wholly within the local~~
341 ~~government's jurisdiction.~~

342 ~~(c) A local government may designate more than one~~
343 ~~region. If multiple regions are designated, the regions may be~~
344 ~~separate, overlapping, or coterminous.~~

345 (b) After execution of the consent agreement or
346 agreements and the assessment agreement, the participating
347 local government shall assign the assessment or the right to
348 payments from the assessment of a property owner with a
349 qualified project to the capital provider that finances the
350 qualifying improvements.

351 ~~(d) (c) This article does not apply to residential~~
352 ~~property consisting of fewer than five units or individual~~
353 ~~residential units of condominiums or cooperatives or limited~~
354 ~~common elements and common elements attached to or related to~~
355 ~~the condominium or cooperative units."~~

356 "§11-81-243

357 (a) To establish a program under this article, the
358 governing body of a local government must take the following
359 actions in the following order:

360 (1) Adopt a resolution of intent that includes all of
361 the following:

362 a. A finding that financing qualified projects through
363 assessments is a valid public purpose.

364 b. A statement that the local government intends to



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365 make assessments according to the assessment agreement, the
366 consent agreement, and the financing agreement to repay
367 financing for qualified projects available to ~~real~~ voluntary
368 and willing qualifying property owners.

369 c. A description of the types of qualified projects
370 eligible for the program.

371 d. A description of the boundaries of the designated
372 region.

373 e. A statement of the time and place for a public
374 hearing on the proposed program.

375 (2) Hold a public hearing at which the public may
376 comment on the proposed program.

377 (3) Following the public hearing ~~Adopt,~~ adopt a
378 resolution establishing the program and the terms of the
379 program, including a description of each aspect of the program
380 that may be amended only after another public hearing is held.

381 (b) Subject to the terms of the resolution establishing
382 the program, the governing body of a local government may
383 amend a program by resolution and may allow the program
384 administrator to amend the program guidebook without approval
385 of the local government.

386 (c) A local government may ~~do both of the following:~~

387 (1) Hire and set the compensation of a program
388 administrator and program staff; and

389 (2) Contract for professional services necessary to
390 administer a program.

391 (d) A local government may impose fees to offset the
392 costs of administering a program in an amount equal to the



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393 lesser of one percent of the principal amount financed or
394 fifty thousand dollars (\$50,000). ~~The fees authorized by this~~
395 ~~subsection may be assessed as any of the following:~~

396 ~~(1) A program application fee paid by the real property~~
397 ~~owner requesting to participate in a program.~~

398 ~~(2) A component of the interest rate on the assessment~~
399 ~~in the written contract between the local government and the~~
400 ~~real property owner.~~

401 ~~(3) A combination of subdivisions (1) and (2).~~

402 (e) For the purposes of this section, the governing
403 body of a local government is not required to review, approve,
404 or ratify any individual application by a property owner."

405 "§11-81-244

406 (a) A real qualifying property owner and a capital
407 provider in a designated region may apply to a local
408 government under a this program ~~for funding~~ to finance a
409 qualified project and enter into a written consent contract
410 agreement ~~with the local government.~~ Costs of the project
411 ~~incurred by the real property owner or the local government~~
412 ~~for such purposes may be collected as an assessment, as~~
413 ~~authorized in Section 11-81-242 in which the property owner~~
414 ~~consents to the local government imposing an assessment and~~
415 ~~lien on the qualifying property to repay the financing.~~

416 (b) A local government may enter into a partnership
417 with one or more other local governments for the purpose of
418 providing and financing qualified projects carrying out the
419 purposes of this article.

420 (c) A qualified program may be administered by a



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421 ~~for-profit~~ for profit or nonprofit organization on behalf of
422 and at the discretion of the local government.

423 ~~(d) A local government may incur debt for the purpose~~
424 ~~of providing the improvements, payable from revenues received~~
425 ~~from the improved real property, or any other available~~
426 ~~revenue source authorized by law.~~

427 ~~(e)~~ (d) A local government may only enter into a
428 ~~contract~~ an assessment agreement ~~only~~ with the record owner of
429 the affected ~~real~~ qualifying property in a designated region.
430 ~~A contract~~ An assessment agreement entered into pursuant to
431 this section or a summary memorandum of the contract must be
432 recorded in the public records of the court of probate in the
433 county in which the ~~real~~ qualifying property is located by the
434 ~~sponsoring unit of local government within five days after the~~
435 ~~execution of the contract.~~ The recorded agreement ~~must~~ shall
436 provide:

437 (1) ~~provide constructive~~ Constructive notice that the
438 assessment to be levied on the ~~real~~ qualifying property
439 constitutes a lien as described in Section 11-81-246; ~~The~~
440 ~~recorded agreement also must~~

441 (2) ~~provide a~~ A legal description of the ~~real~~
442 qualifying property covered by the lien;

443 (3) ~~the~~ The amount secured by the lien;

444 (4) ~~the~~ The maturity date for payment of all amounts
445 secured by the lien;

446 (5) ~~the~~ The names and addresses of the current owners
447 of the ~~real~~ qualifying property subject to the assessment;

448 (6) ~~the~~ The person or entity owed the assessment;



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449 ~~(7), the~~ The person or entity filing the notice; and
450 ~~(8), and a~~ A reference to the statutory assessment lien
451 provided under this article.

452 (9) A copy of the executed consent agreement.

453 ~~(f)~~ (e) Prior to entering into a ~~contract~~ an assessment
454 agreement, the ~~local government~~ owner of a qualified property
455 and the capital provider shall ~~reasonably determine~~ warrant
456 all of the following to the local government in the
457 application:

458 (1) That all property taxes and any other assessments
459 levied on the same bill as property taxes are paid ~~and have~~
460 ~~not been delinquent for the preceding three years or the real~~
461 ~~property owner's period of ownership, whichever is less.~~

462 (2) That there are no involuntary liens, including, but
463 not limited to, construction liens on the ~~real~~ qualifying
464 property, which will not be expunged as a consequence of the
465 financing.

466 ~~(3) That no notices of default or other evidence of~~
467 ~~property-based debt delinquency have been recorded during the~~
468 ~~preceding three years or the real property owner's period of~~
469 ~~ownership, whichever is less.~~

470 ~~(4)~~ (3) That the ~~real~~ qualifying property owner is
471 current on all mortgage debt on the property.

472 ~~(5) That the improvements are not in excess of the~~
473 ~~increased value of the real property by reason of special~~
474 ~~benefits derived from the qualifying improvements.~~

475 ~~(g)~~ (f) A qualifying improvement shall be affixed to an
476 existing building or facility that is part of the ~~real~~



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477 qualifying property and shall—constitute be considered an
478 improvement to the building or facility ~~or,~~ a fixture attached
479 to the building or facility, or part of a new construction of
480 a building or facility.

481 ~~(h)~~ (g) An installation of a qualifying improvement
482 requiring a license or certification of work under applicable
483 law or building code must be performed by a contractor or
484 evaluator properly certified, licensed, or registered in this
485 state.

486 ~~(i) (1) (h)~~ The total amount of any assessment for real
487 property under this section may not exceed 20 percent of the
488 just value of the real property as determined by the county
489 property appraiser Prior to the execution of the assessment
490 agreement, an applicant must provide the following documents
491 to demonstrate that the project intends to benefit the public
492 through energy or water resource conservation, lowering public
493 health costs or risks, or reducing public emergency response
494 costs or risks:—

495 (1) For an existing building where energy or water
496 usage improvements are proposed:

497 a. An energy analysis from a licensed engineering firm,
498 engineer, or other qualified professional listed in the
499 program guidebook; and

500 b. A statement by the author of the analysis that the
501 proposed qualifying improvements are intended to enhance
502 energy or water efficiency or conservation or to incorporate
503 renewable resources.

504 (2) For resilience improvements, certification from a



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505 licensed professional engineer or another qualified
506 professional listed in the program guidebook stating that the
507 qualifying improvements are intended to result in improved
508 resilience.

509 (3) For a new construction, a certified study from a
510 licensed professional engineer, engineering firm, or other
511 qualified professional stating that the proposed qualifying
512 improvements are intended to enable the project to exceed the
513 current building code requirements for: (i) energy efficiency;
514 (ii) water efficiency; or (iii) utilizing renewable energy or
515 renewable water; or that the proposed improvements are
516 intended to meet or exceed resilience standards of the local
517 government's building codes or if none are available, comply
518 with nationally recognized resiliency standards.

519 ~~(2) Notwithstanding subdivision (1), an assessment for~~
520 ~~a qualifying improvement that is supported by an energy, wind~~
521 ~~or flood mitigation audit is not subject to the limits in this~~
522 ~~subsection if the audit demonstrates that the annual energy or~~
523 ~~insurance savings from the qualified improvement equals or~~
524 ~~exceeds the annual repayment amount of the non-ad valorem~~
525 ~~assessment. For residential structures, the energy audit shall~~
526 ~~be conducted by a professional with one or more of the~~
527 ~~following qualifications or certifications: Residential Energy~~
528 ~~Services Network Home Energy Rating Systems (HERS), Building~~
529 ~~Performance Institute Building Analyst (BPI), AEE Residential~~
530 ~~Energy Auditor (REA), or Professional Engineer with specific~~
531 ~~experience in energy efficiency. For commercial and industrial~~
532 ~~facilities, the energy audit shall be conducted by a~~



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533 ~~professional with one or more of the following qualifications~~
534 ~~or certifications: AEE Certified Energy Manager (CEM), AEE~~
535 ~~Certified Energy Auditor (CEA), or Professional Engineer with~~
536 ~~specific experience in energy efficiency.~~

537 (i) (1) The execution of the assessment agreement by the
538 local government shall be based solely on the application, the
539 information required under this article, the program
540 guidelines, and the consent agreement. The assessment
541 agreement shall include the following statement: "Nothing in
542 the acceptance of the application, execution of this
543 agreement, or the placement of the assessment and lien shall
544 constitute an endorsement by the local government, explicit or
545 implicit, that the materials provided in the application are
546 true and correct, nor is the acceptance of the application a
547 warranty, guarantee, validation, or endorsement of the
548 information, findings, or conclusions, if any, in the
549 application. The local government is not liable for the
550 failure of the performance of any of the improvements
551 associated with the application, nor does the local government
552 warrant that any of the improvements are eligible for funding
553 under this article."

554 (2) The assessment agreement shall also include a
555 statement that the local government shall not be involved in
556 decisions to enforce or foreclose on the assessment and lien,
557 and that such authority rests with the capital provider."

558 "§11-81-245

559 (a) (1) Before entering into a written ~~contract~~
560 assessment agreement with a local government, the ~~real~~



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561 qualifying property owner shall provide, or the local
562 government shall obtain, a verified~~-recordable~~ copy of a
563 written consent ~~and subordination~~ agreement signed by the
564 holder of each existing mortgage or other lien on the relevant
565 ~~real~~ qualifying property stating that the mortgagee or other
566 lienholder consents to the imposition of the assessment and
567 understands that the priority of the mortgage or other lien is
568 subordinated to the assessment lien. ~~in a~~ The form and
569 substance of the consent agreement shall acceptable to each
570 ~~mortgagee and other lienholder.~~ comply with the guidebook and
571 this article. The consent ~~and subordination~~ agreement must be
572 in a form that may be recorded in the ~~appropriate~~ recording
573 office ~~in~~ of the county or counties where the ~~real~~ qualifying
574 property is located., ~~and the~~ The consent and ~~subordination~~
575 ~~agreement with~~ the qualifying property owner's assessment
576 ~~contract~~ agreement shall be recorded in that office.

577 (2) This subsection does not limit in any way the
578 rights or authority of any mortgagee or other lienholder under
579 any agreement or applicable law, except that a provision of a
580 deed of trust, mortgage, or other agreement between a
581 lienholder and a qualifying property owner which provides for
582 the acceleration of any payment solely as a result of entering
583 into an agreement to finance an assessment pursuant to this
584 article is unenforceable if the mortgagee or lienholder
585 executes a consent agreement pursuant to subdivision (1).

586 (b) At or before the time a purchaser executes a
587 contract for the sale and purchase of any ~~real~~ qualifying
588 property for which a non-ad valorem assessment has been levied



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589 under this article and has an unpaid balance due, the seller
590 shall give the prospective purchaser a written disclosure
591 statement in the following form, which shall be set forth in
592 the contract or in a separate writing:

593 "QUALIFYING IMPROVEMENTS FOR ENERGY AND WATER
594 EFFICIENCY, RENEWABLE ENERGY, AND RESILIENCY TO STORM-RELATED
595 EVENTS. This ~~real~~ qualifying property being purchased is
596 located within the jurisdiction of a local government that has
597 ~~placed~~ established an assessment on the ~~real~~ qualifying
598 property pursuant to Section 11-81-242 of the Code of Alabama
599 1975. The assessment is for a qualifying improvement to the
600 ~~real~~ property relating to energy and water efficiency,
601 renewable energy, or and community ~~resilience to storm-related~~
602 ~~events, such as high winds and flooding~~ and is not based on
603 the value of the ~~real~~ qualifying property. You are encouraged
604 to contact the county property appraiser's office to learn
605 more about this and other assessments that may be provided by
606 law."

607 "§11-81-246

608 (a) An assessment under this article ~~and,~~ including any
609 interest or penalties on the assessment, shall constitute a
610 lien on the qualifying property for the principal amount of
611 the financing, subject to the requirement in Section 11-81-245
612 to obtain a signed consent agreement from all lienholders.
613 This lien:

614 (1) ~~Is~~ Shall be a lien against the ~~real~~ qualifying
615 property on which the assessment is imposed effective from the
616 earliest of: (i) the date of the assessment agreement; (ii)



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617 the summary memorandum date; or (iii) the date on which the
618 notice of contractual assessment is recorded;

619 ~~(2) Subject to the requirement in Section~~
620 ~~11-81-245(a)(1) to obtain and record in the proper recording~~
621 ~~office an executed consent and subordination agreement from~~
622 ~~existing mortgagees and other lienholders, has~~ Shall have the
623 same priority status as a lien for any other ad valorem tax,
624 or non-ad valorem tax, or a special assessment imposed by a
625 local government; and

626 ~~(3) Is a lien that runs~~ Shall run with the ~~real~~
627 qualifying property, ~~and the~~ The portion of the assessment
628 under the assessment contract that has not yet become due
629 shall not be included in any enforcement action and is not
630 accelerated or eliminated by foreclosure of a property tax
631 lien or any other foreclosure, public or private.

632 (4) Shall not be enforced or collected through the
633 process used to collect and enforce ad valorem taxes under
634 Alabama law.

635 ~~(b) The assessment lien may be enforced by the local~~
636 ~~government in the same manner that an ad valorem or non-ad~~
637 ~~valorem tax lien against real property may be enforced by the~~
638 ~~local government with all redemption rights provided by~~
639 ~~Section 40-10-1 et seq. or other applicable law to remain in~~
640 ~~effect~~ The billing, collection, and enforcement of the
641 assessment lien shall be the sole responsibility of the
642 capital provider or its assigns. The capital provider's rights
643 and remedies related to any contractual default by the
644 qualifying property owner shall be governed by the terms of



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645 the financing agreement and state law. Assessments under this
646 article shall be considered a statutory assessment and shall
647 be superior to all other liens except tax liens and any lien
648 for a special assessment imposed by a local government.

649 (c) Delinquent installments of the assessments incur
650 interest and penalties ~~in the same manner as delinquent ad~~
651 ~~valorem taxes~~ as specified in the financing agreement.

652 (d) ~~A local government may recover costs and expenses,~~
653 ~~including attorney's fees, in a suit to collect a delinquent~~
654 ~~installment of an assessment~~ Delinquent interest and penalties
655 incurred as specified in the financing agreement shall be
656 included in any enforcement action.

657 (e) ~~Provided, however, that in~~ In any action to enforce
658 an assessment lien, the person ~~or entity~~ enforcing the
659 assessment lien must serve the holders of all mortgages and
660 other liens with notice ~~about~~ of the enforcement action at
661 least 60 days before any hearing or other action is taken with
662 respect to the enforcement action. Service upon a domestic or
663 foreign corporation or other entity shall be made by serving
664 the registered agent of the entity if a registered agent has
665 been appointed. ~~;~~ otherwise If no registered agent has been
666 appointed, service shall be in accordance with Rule 4 of the
667 Alabama Rules of Civil Procedure."

668 "§11-81-249

669 The imposition of an assessment pursuant to this
670 article is to be made solely at the request of the owner of
671 record of ~~real~~ the qualifying property within a designated
672 region. A local government shall not compel a person who owns



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673 ~~real~~ qualifying property in a designated region to enter into
674 ~~a contract~~ an assessment agreement to repay the financing of
675 any cost or assessment through assessments under this
676 article."

677 Section 2. Sections 11-81-251 and 11-81-252 are added
678 to the Code of Alabama 1975, to read as follows:

679 §11-81-251

680 Public funds from the state or any local government
681 shall not be used to fund or repay a loan between a capital
682 provider and a qualifying property owner. A state or local
683 government shall not pledge, offer, or encumber its full faith
684 and credit for a lien amount through a property insurance
685 reduction and capital expenditure program.

686 §11-81-252

687 The members of the governing body of a local government
688 as well as employees and officials of the local government are
689 not liable, in their official capacity, for any decision,
690 exercise of discretion, or exercise of any rights or
691 responsibilities granted under this chapter.

692 Section 3. Sections 11-81-247 and 11-81-248, Code of
693 Alabama 1975, providing for a loss reserve fund and regulatory
694 jurisdiction by the state, are repealed.

695 Section 4. This act shall become effective on June 1,
696 2026.

