

HB163 INTRODUCED



1 HB163
2 9J2DUBP-1
3 By Representative Stubbs
4 RFD: County and Municipal Government
5 First Read: 13-Jan-26



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4 SYNOPSIS:

5 Under the Property Insurance and Energy
6 Reduction Act of Alabama, a county or municipality may
7 issue bonds or notes to finance necessary improvements
8 to existing properties in designated regions to
9 increase energy efficiency and resistance to
10 storm-related events.

11 This bill would enable a local government to
12 allow private capital to finance qualified projects
13 instead of using government funds.

14 This bill would also allow a local government to
15 place a lien on the qualifying property for the debt
16 and assign the right to payments toward the lien to the
17 private capital lender.

18 This bill would revise the application process
19 for qualifying projects.

20 This bill would prohibit the use of public funds
21 from the state or a local government to repay a loan
22 between the qualifying property owner and the private
23 capital financier, and would provide that the local
24 government shall not guarantee repayment of the debt
25 and shall not be liable for actions taken pursuant to
26 the act.

27 This bill would repeal the laws allowing a
28 governmental entity or designee to establish a loss



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29 reserve fund for paying delinquent assessments and to
30 establish regulatory jurisdiction by the state.

31 This bill would rename the act as the Property
32 Insurance Reduction and Capital Expenditure Act of
33 Alabama.

34 This bill would also make nonsubstantive,
35 technical revisions to update the existing code
36 language to current style.

37

38

39 A BILL

40 TO BE ENTITLED

41 AN ACT

42

43 Relating to counties and municipalities; to amend
44 Sections 11-81-240, 11-81-241, 11-81-242, 11-81-243,
45 11-81-244, 11-81-245, 11-81-246, and 11-81-249, Code of
46 Alabama 1975, to change the name of the Property Insurance and
47 Energy Reduction Act of Alabama to the Property Insurance
48 Reduction and Capital Expenditure Act of Alabama; to enable
49 local governments to allow private financing of qualified
50 energy projects; to allow local governments to assess the
51 qualifying properties with a lien to secure repayment of the
52 private financing; to allow assignment of the repayment to the
53 private financier; to revise the application process for
54 qualifying projects; to add Sections 11-81-251 and 11-81-252
55 to the Code of Alabama 1975, to provide that imposition of the
56 local assessment is voluntary; to provide that the local



57 government shall not guarantee the repayment of the financing;
58 to repeal Sections 11-81-247 and 11-81-248, Code of Alabama
59 1975, relating to provisions for a loss reserve fund and
60 regulatory jurisdiction by the state; to limit liability of a
61 local government for actions undertaken pursuant to the act;
62 and to make nonsubstantive, technical revisions to update the
63 existing code language to current style.

64

65 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

66 Section 1. Sections 11-81-240, 11-81-241, 11-81-242,
67 11-81-243, 11-81-244, 11-81-245, 11-81-246, and 11-81-249,
68 Code of Alabama 1975, are amended to read as follows:

69 "§11-81-240

70 This article shall be known and may be cited as the
71 Property Insurance Reduction and Energy Reduction Capital
72 Expenditure Act of Alabama."

73 "§11-81-241

74 For the purposes of this article, the following words
75 shall have the following meanings:

76 (1) ASSESSMENT CONTRACT. The contractual agreement
77 between a local government and a property owner in which the
78 property owner voluntarily agrees to have the local government
79 place an assessment and lien on the benefited property to
80 secure repayment of Property Insurance Reduction and Capital
81 Expenditure financing to a capital provider.

82 (2) CAPITAL PROVIDER. The private third-party entity or
83 entities, including their designee, successor, and assigns,
84 that provide private financing for Property Insurance and



85 Capital Expenditure financing and refinancing under this
86 article.

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

89 a. All costs of acquisition, by purchase or otherwise,
90 construction, assembly, installation, modification,
91 renovation, or rehabilitation incurred in connection with any
92 qualified project or any part of any qualified project.

93 b. All costs of real property, fixtures, or personal
94 property used in or in connection with or necessary for any
95 qualified project or for any facilities related thereto,
96 including, but not limited to, the following:

97 1. The cost of all land, estates for years, easements,
98 rights, improvements, water rights, connections for utility
99 services, fees, franchises, permits, approvals, licenses, and
100 certificates.

101 2. The cost of securing any franchises, permits,
102 approvals, licenses, or certificates.

103 3. The cost of preparation of any application therefor
104 and the cost of all fixtures, machinery, equipment, furniture,
105 and other property used in or in connection with or necessary
106 for any qualified project.

107 c. All financing charges and fees and all interest on
108 revenue bonds, notes, or other obligations of a local
109 government which accrues or is paid prior to and during the
110 period of construction of a project and during any additional
111 period as the local government may reasonably determine to be
112 necessary to place the qualified project in operation.



113 d. All costs of engineering, surveying, and
114 architectural and legal services and all expenses incurred by
115 engineers, surveyors, architects, and attorneys in connection
116 with any qualified project.

117 e. All expenses for inspection of any qualified
118 project.

119 f. All fees of fiscal agents, paying agents, and
120 trustees for bondholders under any trust agreement, indenture
121 of trust, or similar instrument or agreement; all expenses
122 incurred by any fiscal agents, paying agents, and trustees and
123 all other costs and expenses incurred relative to the issuance
124 of any revenue bonds, notes, or other obligations for any
125 qualified project.

126 g. All fees of any type charged by a local government
127 in connection with any qualified project.

128 h. All expenses incurred in determining the feasibility
129 or practicability of any qualified project.

130 i. All costs of plans and specifications for any
131 qualified project.

132 j. All costs of title insurance and examinations of
133 title with respect to any qualified project.

134 k. Repayment of any assessments made for the advance
135 payment of any part of any of the costs provided in this
136 subdivision, including interest thereon and any other expenses
137 of the assessments.

138 l. Administrative expenses of the local government and
139 other expenses as may be necessary or incidental to any
140 qualified project or the financing thereof or the placing of



141 ~~any project in operation.~~

142 ~~m. The establishment of a fund or funds for the~~
143 ~~creation of a debt service reserve, a renewal and replacement~~
144 ~~reserve, or other funds or reserves as the local government~~
145 ~~may approve with respect to the financing and operation of any~~
146 ~~project and as may be authorized by any bond resolution, trust~~
147 ~~agreement, indenture of trust, or similar instrument or~~
148 ~~agreement pursuant to the provisions of which the issuance of~~
149 ~~any revenue bonds, notes, or other obligations of the local~~
150 ~~government may be authorized.~~

151 ~~(2)~~ (3) DESIGNATED REGION. An area approved by a local
152 government for qualified projects pursuant to Section
153 11-81-242.

154 (4) FINANCING AGREEMENT. The contract between a
155 property owner and a capital provider in which the property
156 owner agrees to repay the capital provider for the financing
157 of qualifying improvements. The term includes, but is not
158 limited to, details of financing charges, fees, debt
159 servicing, interest and penalties, terms related to prepayment
160 and partial payments, billing, collection, and enforcement of
161 the repayment of the financing.

162 ~~(3)~~ (5) LOCAL GOVERNMENT. Any incorporated municipality,
163 county, or improvement district in this state.

164 ~~(4)~~ (6) PROGRAM. A program for Property Insurance
165 Reduction and Capital Expenditure authorized and created by a
166 local government under this article.

167 (7) PROGRAM ADMINISTRATOR. The department or individual
168 within a local government designated to administer the



169 program, or a private independent third party designated by
170 the local government, provided that the administrative
171 procedures used conform to this article.

172 (8) PROGRAM GUIDEBOOK. A comprehensive document that
173 outlines the applicable program and establishes appropriate
174 guidelines, specifications, underwriting, and approval
175 criteria, along with standard application forms consistent
176 with the administration of the program and not detailed in
177 this article, including the following:

178 a. An assessment contract form between the local
179 government and the property owner, specifying the terms of
180 assessment under the program, terms of the financing provided
181 by a third party, and remedies for default or foreclosure;

182 b. A local government Notice of Assessment and Property
183 Insurance Reduction and Capital Expenditure lien form; or

184 c. A Notice of Assignment of Assessment and Property
185 Insurance Reduction and Capital Expenditure lien form between
186 a local government and a capital provider.

187 (5) (9) QUALIFIED PROJECT ~~or PROJECT. The installation~~
188 ~~or modification of a qualifying improvement on real property~~
189 ~~in a designated region under a program adopted by a local~~
190 ~~government. A property that has at least one qualifying~~
191 ~~improvement installed. The term includes a new construction,~~
192 ~~the adaptive reuse of eligible property with the improvement,~~
193 ~~or a property where the qualifying improvement has been~~
194 ~~installed and is operational before the application date.~~

195 (6) (10) QUALIFYING IMPROVEMENT. An improvement fixed to
196 ~~or used upon by~~ an existing building ~~or,~~ facility, or new



197 construction that is part of the ~~real~~ qualified property and
198 intended to increase energy and water efficiency, lower energy
199 cost, and community increase building resilience, and harden
200 or upgrade a property to withstand ~~to~~ storm-related events,
201 such as high winds and flooding, ~~including~~. This term
202 includes, but is not limited to, ~~any of the following:~~

203 a. Resiliency improvements, including:

204 1. Wind ~~resistant~~ resistance improvements or programs

205 that qualify the structure for insurance discounts, including ~~but not limited to~~, the FORTIFIED Program;

206 2. ~~or improvements~~ Improvements that increase ~~the life~~

207 ~~safety of occupants~~ occupant safety during tornados, including, but not limited to, safe rooms that comply with the

208 International Code Congress (ICC-500) as mandated by the Alabama Building Commission, or are manufactured or site built under the supervision of a professional or producer member of the National Storm Shelter Association; and

209 3. Battery or generator storage, electric vehicle

210 charging infrastructure, or other resilience measures as

211 deemed acceptable by a local government to provide

212 strengthening or resilience of a structure against natural
213 disasters or pandemics.

214 b. Flood mitigation, including:

215 1. Raising a structure above the base flood elevations
216 to eliminate flood damage;

217 2. Installation of a flood diversion apparatus;

218 3. Electrical, mechanical, plumbing, or other system
219 improvements that reduce flood damage;



225 4. Improvements to mitigate or eliminate the potential
226 for microbial growth or reduce flood insurance premiums; and
227 5. Any other improvement that reduces repetitive loss
228 and is recognized by the National Flood Insurance Program,
229 Community Rating System, or the Federal Emergency Management
230 Agency (FEMA).

231 b.c. Energy conservation and efficiency ~~improvement,~~
232 ~~which is a measure~~ improvements installed on the qualifying
233 property to reduce consumption~~through conservation or a more~~
234 ~~efficient use of~~ by conserving or using electricity, natural
235 gas, propane, or other forms of energy sources more
236 ~~efficiently~~on the real property, including, but not limited
237 to, any of the following:

238 1. Air sealing.

239 2. Installation of insulation.

240 3. Installation of energy-efficient heating, cooling,
241 or ventilation systems.

242 4. Building modifications to increase the use of
243 daylight.

244 5. Replacement of windows.

245 6. Installation of energy controls or energy efficient
246 lighting systems.

247 7. Installation of electric vehicle charging equipment.

248 8. Installation of efficient lighting equipment.

249 9. Other improvements that are intended to lead to
250 demonstrable energy savings.

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



253 1. ~~The raising of a structure above the base flood~~
254 ~~elevation to eliminate flood damage.~~
255 2. ~~Installation of a flood diversion apparatus.~~
256 3. ~~Electrical, mechanical, plumbing, or other system~~
257 ~~improvements that reduce flood damage.~~
258 4. ~~Improvements to mitigate or eliminate the potential~~
259 ~~for microbial growth, or reduce flood insurance premiums.~~
260 5. Any other improvement that reduces repetitive loss
261 ~~that is recognized by the National Flood Insurance Program,~~
262 ~~Community Rating System, or the Federal Emergency Management~~
263 ~~Agency (FEMA).~~
264 d. Water conservation, efficiency, and water quality
265 improvements.

266 (7) (11) REAL QUALIFYING PROPERTY. Real property that
267 includes commercial, industrial, agricultural, and multifamily
268 buildings. The term excludes residential property consisting
269 of fewer than five units and individual residential units of
270 condominiums or cooperatives and limited common elements and
271 common elements attached to or related to the condominium or
272 cooperative units."

273 "§11-81-242

274 (a) (1) The governing body of a local government may
275 designate an area of the local government or may designate the
276 entire area of the local government, including the
277 unincorporated and incorporated area of the local government
278 if applicable, as a region within in which the local
279 government may provide make available Property Insurance
280 Reduction and Capital Expenditure financing to the record



281 owners of real property owner of any qualifying property who
282 voluntarily agrees to have ~~and impose~~ assessments and a lien
283 imposed on the owner's property for the repayment of ~~costs of~~
284 ~~a qualified project~~ the funds advanced for qualified projects.

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

288 a. All costs of acquisition, by purchase or otherwise,
289 construction, assembly, installation, modification,
290 renovation, rehabilitation, or new construction incurred in
291 connection with any qualified project or any part of any
292 qualified project.

293 b. All costs associated with the qualifying property,
294 fixtures, or personal property used by, connected with, or
295 necessary for any qualified project or for any related
296 facilities, including, but not limited to, the following:

297 1. The cost of all land, estates for years, easements,
298 rights, improvements, water rights, connections for utility
299 services, fees, franchises, permits, approvals, licenses, and
300 certificates.

301 2. The costs associated with securing any franchises,
302 permits, approvals, licenses, or certificates.

303 3. The cost of preparing any application and the cost
304 of all fixtures, machinery, equipment, furniture, and other
305 property used by, connected with, or necessary for any
306 qualified project.

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



309 d. All costs of engineering, surveying, and
310 architectural and legal services, and all expenses incurred by
311 engineers, surveyors, architects, and attorneys in connection
312 with any qualified project.

313 e. All expenses for inspection of any qualified
314 project.

315 f. All fees of fiscal agents, paying agents, and
316 trustees for bondholders under any trust agreement, indenture
317 of trust, or similar instrument or agreement; all expenses
318 incurred by any fiscal agents, paying agents, trustees, and
319 all other costs and expenses related to the issuance of any
320 revenue bonds, notes, or other obligations for any qualified
321 project.

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

324 h. All expenses incurred in determining the feasibility
325 or practicability of any qualified project.

326 i. All costs of plans and specifications for any
327 qualified project.

328 j. All costs of title insurance and examinations of
329 title related to any qualified project.

330 k. Repayment of any assessments made for the advance
331 payment of any part of the costs provided specified in this
332 section, including interest thereon and any other expenses of
333 the assessments.

334 l. Administrative expenses of the local government and
335 other expenses as may be necessary or incidental to any
336 qualified project, its financing, or placing the project in



337 operation.

338 (2) a. A local government ~~may issue bonds or notes or~~
339 ~~use other~~ shall allow private financing from qualified capital
340 providers to finance qualified projects under this article.

341 b. ~~Bonds or notes~~ Notes and other financial instruments
342 issued under this section are not general obligations of the
343 local government, but are solely payable from ~~any of the~~
344 following: assessments on qualifying properties benefited by
345 the improvement.

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

348 2. ~~Reserves established by the local government from~~
349 ~~grants, bonds, or net proceeds or other lawfully available~~
350 ~~funds.~~

351 3. ~~Municipal bond insurance, lines of credit, public or~~
352 ~~private guaranties, standby bond purchase agreements,~~
353 ~~collateral assignments, mortgages, or any other available~~
354 ~~means of providing credit support or liquidity.~~

355 (b) ~~An area designated as a region by the governing~~
356 ~~body of a local government under this section:~~

357 (1) ~~May include the entire area of the local~~
358 ~~government.~~

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

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

364 (b) The local government shall assign the assessment or



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365 the right to payments from the assessment of a property owner
366 with a qualified project to the capital provider that finances
367 the qualifying improvements.

368 ~~(d)(c)~~ This article does not apply to residential
369 property consisting of fewer than five units ~~or individual~~
370 ~~residential units of condominiums or cooperatives or limited~~
371 ~~common elements and common elements attached to or related to~~
372 ~~the condominium or cooperative units.~~"

373 "§11-81-243

374 (a) To establish a program under this article, the
375 governing body of a local government must take the following
376 actions in the following order:

377 (1) Adopt a resolution of intent that includes all of
378 the following:

379 a. A finding that financing qualified projects through
380 assessments is a valid public purpose.

381 b. A statement that the local government intends to
382 make assessments to repay financing for qualified projects
383 available to ~~real~~ voluntary and willing qualifying property
384 owners.

385 c. A description of the types of qualified projects
386 eligible for the program.

387 d. A description of the boundaries of the designated
388 region.

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

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



393 (3) Adopt a resolution establishing the program and the
394 terms of the program, including a description of each aspect
395 of the program that may be amended only after another public
396 hearing is held.

397 (b) Subject to the terms of the resolution establishing
398 the program, the governing body of a local government may
399 amend a program by resolution and may allow the program
400 administrator to amend the program guidebook without approval
401 of the local government.

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

403 (1) Hire and set the compensation of a program
404 administrator and program staff-; and

405 (2) Contract for professional services necessary to
406 administer a program.

407 (d) A local government may impose fees to offset the
408 costs of administering a program in an amount equal to the
409 lesser of one percent of the principal amount financed or
410 fifty thousand dollars (\$50,000). ~~The fees authorized by this~~
411 ~~subsection may be assessed as any of the following:~~

412 (1) A program application fee paid by the real property
413 owner requesting to participate in a program.

414 (2) A component of the interest rate on the assessment
415 in the written contract between the local government and the
416 real property owner.

417 (3) A combination of subdivisions (1) and (2).



421 resolution establishing the program shall specify that all
422 subsequent actions for implementation of the program,
423 including review and approval, shall be delegated to the
424 executive or administrative staff of the local government."

425 "§11-81-244

426 (a) A real qualifying property owner and a capital
427 provider in a designated region may apply to a local
428 government under a program for funding approval to finance a
429 qualified project and enter into a written contract with the
430 local government. ~~Costs of the project incurred by the real~~
431 ~~property owner or the local government for such purposes may~~
432 ~~be collected as an assessment, as authorized in Section~~
433 ~~11-81-242~~ in which the property owner consents to the local
434 government imposing an assessment and lien on the qualifying
435 property to repay the financing.

436 (b) A local government may enter into a partnership
437 with one or more other local governments for the purpose of
438 providing and financing qualified projects.

439 (c) A qualified program may be administered by a
440 for-profit or nonprofit organization on behalf of and at the
441 discretion of the local government.

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

446 (e) (d) A local government may only enter into a
447 contract ~~only~~ with the record owner of the affected ~~real~~
448 qualifying property in a designated region. A contract entered



449 into pursuant to this section or a summary memorandum of the
450 contract must be recorded in the public records of the court
451 of probate in the county in which the ~~real~~ qualifying property
452 is located by the ~~sponsoring unit of~~ local government ~~within~~
453 ~~five days after the execution of the contract~~. The recorded
454 agreement ~~must~~ shall provide:

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

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

461 (3) ~~, the~~ The amount secured by the lien;

462 (4) ~~, the~~ The maturity date for payment of all amounts
463 secured by the lien;

464 (5) ~~, the~~ The names and addresses of the current owners
465 of the ~~real~~ qualifying property subject to the assessment;

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

467 (7) ~~, the~~ The person or entity filing the notice; and

468 (8) ~~, and a~~ A reference to the statutory assessment lien
469 provided under this article.

470 ~~(f)~~ (e) Prior to entering into a contract, the local
471 government shall ~~reasonably~~ determine all of the following
472 based solely upon information provided in the application:

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



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

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

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

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

~~(g)~~ (f) A qualifying improvement shall be affixed to an existing building or facility that is part of the ~~real~~ qualifying property and shall ~~constitute~~ be considered an improvement to the building or facility ~~or~~, a fixture attached to the building or facility, or part of a new construction of a building or facility.

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

(i) (1) (h) The total amount of any assessment for real property under this section may not exceed 20 percent of the just value of the real property as determined by the county property appraiser. An applicant must provide the following



505 documents to demonstrate that the project intends to benefit
506 the public through energy or water resource conservation,
507 lowering public health costs or risks, or reducing public
508 emergency response costs or risks:-

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

511 a. An energy analysis from a licensed engineering firm,
512 engineer, or other qualified professional listed in the
513 program guidebook; and

514 b. A statement by the author of the analysis that the
515 proposed qualifying improvements are intended to enhance
516 energy or water efficiency or conservation, or to incorporate
517 renewable resources.

518 (2) For resilience improvements, certification from a
519 licensed professional engineer or another qualified
520 professional listed in the program guidebook stating that the
521 qualifying improvements are intended to result in improved
522 resilience.

523 (3) For a new construction, a certified study from a
524 licensed professional engineer, engineering firm or other
525 qualified professional stating that the proposed qualifying
526 improvements are intended to enable the project to exceed the
527 current building code requirements for: (i) energy efficiency;
528 (ii) water efficiency; or (iii) utilizing renewable energy or
529 renewable water; or that the proposed improvements are
530 intended to meet or exceed resilience standards of the local
531 government's building codes or if none are available, comply
532 with nationally recognized resiliency standards.



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

(i) The approval by the local government shall be based on the application and a finding that the applicant has provided all the information required under this article and program guidelines. Nothing in this approval shall constitute an endorsement, explicit or implicit, that the materials provided in the application are true and correct. An approval under this section is not a warranty, guarantee, validation or endorsement of the information, findings, or conclusions, if any, in the application."

"§11-81-245



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561 (a) (1) Before entering into a written contract with a
562 local government, the ~~real~~ qualifying property owner shall
563 provide, or the local government shall obtain, a verified
564 ~~recordable~~ copy of a written consent ~~and subordination~~
565 agreement signed by the holder of each existing mortgage or
566 other lien on the relevant ~~real~~ qualifying property stating
567 that the mortgagee or other lienholder consents to the
568 imposition of the assessment and understands that the priority
569 of the mortgage or other lien is subordinated to the
570 assessment lien. ~~in a~~ The form and substance of the consent
571 shall be approved by the local government. ~~acceptable to each~~
572 ~~mortgagee and other lienholder.~~ The consent ~~and subordination~~
573 agreement must be in a form that may be recorded in the
574 ~~appropriate~~ recording office ~~in~~ of the county or counties
575 where the ~~real~~ qualifying property is located. ~~, and the~~ The
576 consent and ~~subordination agreement with~~ the qualifying
577 property owner's assessment contract shall be recorded in that
578 office.

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

588 (b) At or before the time a purchaser executes a



589 contract for the sale and purchase of any ~~real~~ qualifying
590 property for which a non-ad valorem assessment has been levied
591 under this article and has an unpaid balance due, the seller
592 shall give the prospective purchaser a written disclosure
593 statement in the following form, which shall be set forth in
594 the contract or in a separate writing:

595 "QUALIFYING IMPROVEMENTS FOR ENERGY AND WATER

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

608 "§11-81-246

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



617 summary memorandum date; or (iii) the date on which the notice
618 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 or
624 non-ad valorem tax-; and

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

631 (b) ~~The assessment lien may be enforced by the local~~
632 ~~government in the same manner that an ad valorem or non-ad~~
633 ~~valorem tax lien against real property may be enforced by the~~
634 ~~local government with all redemption rights provided by~~
635 ~~section 40-10-1 et seq. or other applicable law to remain in~~
636 ~~effect~~ The billing, collection, and enforcement of the
637 assessment lien shall be delegated to the capital provider or
638 its assigns. The capital provider's rights and remedies
639 related to any contractual default by the qualifying property
640 owner shall be governed by the terms of the financing
641 agreement and state law. Assessments under this article shall
642 be considered a statutory assessment and shall be superior to
643 all other liens except tax liens.

644 (c) Delinquent installments of the assessments incur



645 interest and penalties ~~in the same manner as delinquent ad~~
646 ~~valorem taxes as specified in the financing agreement.~~

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

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

663 "§11-81-249

664 The imposition of an assessment pursuant to this
665 article is to be made solely at the request of the owner of
666 record of ~~real~~ the qualifying property within a designated
667 region. A local government shall not compel a person who owns
668 ~~real~~ qualifying property in a designated region to enter into
669 a contract to repay the financing of any cost or assessment
670 through assessments under this article."

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

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673 \$11-81-251

674 Public funds from the state or any local government
675 shall not be used to fund or repay a loan between a capital
676 provider and a qualifying property owner. A state or local
677 government shall not pledge, offer, or encumber its full faith
678 and credit for a lien amount through a Property Insurance
679 Reduction and Capital Expenditure program.

680 \$11-81-252

681 The members of the governing body of a local government
682 as well as employees and officials of the local government are
683 not liable, in their official or individual capacity, for any
684 decision, exercise of discretion, or exercise of any rights or
685 responsibilities granted under this chapter.

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

689 Section 4. This act shall become effective on June 1,
690 2026.