



**House County and Municipal Government Reported
Substitute for HB163**

A BILL

TO BE ENTITLED

AN ACT

Relating to counties and municipalities; to amend Sections 11-81-240, 11-81-241, 11-81-242, 11-81-243, 11-81-244, 11-81-245, 11-81-246, and 11-81-249, Code of Alabama 1975, to change the name of the Property Insurance and Energy Reduction Act of Alabama to the Property Insurance Reduction and Capital Expenditure Act of Alabama; to enable local governments to allow private financing of qualified energy projects; to allow local governments to assess the qualifying properties with a lien to secure repayment of the private financing; to allow assignment of the repayment to the private financier; to revise the application process for qualifying projects; to add Sections 11-81-251 and 11-81-252 to the Code of Alabama 1975, to provide that imposition of the local assessment is voluntary; to provide that the local government shall not guarantee the repayment of the financing; to repeal Sections 11-81-247 and 11-81-248, Code of Alabama 1975, relating to provisions for a loss reserve fund and regulatory jurisdiction by the state; to limit liability of a local government for actions undertaken pursuant to the act; and to make nonsubstantive, technical revisions to update the



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existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§11-81-240

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

"§11-81-241

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

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

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

(3) CONSENT AGREEMENT. The written agreement or agreements between the owner of the qualifying property and all mortgagees or other secured lienholders in which all parties, individually or collectively, consent to the execution of the assessment agreement and imposition of the



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assessment and acknowledge that the liens of the mortgagees or other lienholders shall be subordinated to the assessment lien established under this article.

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

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

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

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

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

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

~~c. All financing charges and fees and all interest on revenue bonds, notes, or other obligations of a local government which accrues or is paid prior to and during the period of construction of a project and during any additional period as the local government may reasonably determine to be~~



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~~necessary to place the qualified project in operation.~~

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

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

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

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

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

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

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

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

~~l. Administrative expenses of the local government and other expenses as may be necessary or incidental to any~~



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~~qualified project or the financing thereof or the placing of
any project in operation.~~

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

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

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

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

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

(8) PROGRAM ADMINISTRATOR. The department or individual



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

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

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

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

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

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

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



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assessment.

~~(5) (10) QUALIFIED PROJECT or PROJECT. The installation or modification of a qualifying improvement on real property in a designated region under a program adopted by a local government. A property that has at least one qualifying improvement installed. The term includes a new construction, the adaptive reuse of eligible property with the improvement, or a property where the qualifying improvement has been installed and is operational before the application date.~~

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

~~a. Resiliency improvements, including:~~

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

~~2. or improvements Improvements that increase the life safety of occupants occupant safety during tornados, including, but not limited to, safe rooms that comply with the 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~~



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

b. Flood mitigation, including:

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

2. Installation of a flood diversion apparatus;

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

4. Improvements to mitigate or eliminate the potential for microbial growth or reduce flood insurance premiums; and

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

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

1. Air sealing.

2. Installation of insulation.

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



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4. Building modifications to increase the use of daylight.

5. Replacement of windows.

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

7. Installation of electric vehicle charging equipment.

8. Installation of efficient lighting equipment.

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

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

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

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

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

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

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

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

~~(7) (12) REAL QUALIFYING~~ PROPERTY. Real property that includes commercial, industrial, agricultural, and multifamily buildings. The term excludes residential property consisting of fewer than five units ~~and individual residential units of~~



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~~condominiums or cooperatives and limited common elements and
common elements attached to or related to the condominium or
cooperative units."~~

"§11-81-242

(a) (1) The governing body of a local government may designate an area of the local government or may designate the entire area of the local government, including the unincorporated and incorporated area of the local government if applicable, as a region ~~within~~ in which the local government may ~~provide~~ make available a property insurance reduction and capital expenditure financing program to the record ~~owners of real property~~ owner of any qualifying property who voluntarily agrees to have ~~and impose~~ assessments and a lien imposed on the owner's property for the repayment of ~~costs of a qualified project~~ the funds advanced for qualified projects.

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

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

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



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

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

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

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

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

e. All expenses for inspection of any qualified project.

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

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

h. All expenses incurred in determining the feasibility



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or practicability of any qualified project.

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

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

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

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

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

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

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

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



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~~funds.~~

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

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

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

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

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

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

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

"§11-81-243

(a) To establish a program under this article, the governing body of a local government must take the following



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actions in the following order:

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

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

b. A statement that the local government intends to make assessments according to the assessment agreement, the consent agreement, and the financing agreement to repay financing for qualified projects available to ~~real~~ voluntary and willing qualifying property owners.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

"§11-81-244

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



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lien on the qualifying property to repay the financing.

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

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

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

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

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

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



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(3), ~~the~~ The amount secured by the lien;
 (4), ~~the~~ The maturity date for payment of all amounts
 secured by the lien;
 (5), ~~the~~ The names and addresses of the current owners
 of the ~~real~~ qualifying property subject to the assessment;
 (6), ~~the~~ The person or entity owed the assessment;
 (7), ~~the~~ The person or entity filing the notice; and
 (8), ~~and a~~ A reference to the statutory assessment lien
 provided under this article.

(9) A copy of the executed consent agreement.

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

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

(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



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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.~~ Prior to the execution of the assessment agreement, an applicant must provide the following documents to demonstrate that the project intends to benefit the public through energy or water resource conservation, lowering public health costs or risks, or reducing public emergency response costs or risks:

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

a. An energy analysis from a licensed engineering firm, engineer, or other qualified professional listed in the



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program guidebook; and

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

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

(3) For a new construction, a certified study from a licensed professional engineer, engineering firm, or other qualified professional stating that the proposed qualifying improvements are intended to enable the project to exceed the current building code requirements for: (i) energy efficiency; (ii) water efficiency; or (iii) utilizing renewable energy or renewable water; or that the proposed improvements are intended to meet or exceed resilience standards of the local government's building codes or if none are available, comply 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~~



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~~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) (1) The execution of the assessment agreement by the local government shall be based solely on the application, the information required under this article, the program guidelines, and the consent agreement. The assessment agreement shall include the following statement: "Nothing in the acceptance of the application, execution of this agreement, or the placement of the assessment and lien shall constitute an endorsement by the local government, explicit or implicit, that the materials provided in the application are true and correct, nor is the acceptance of the application a warranty, guarantee, validation, or endorsement of the information, findings, or conclusions, if any, in the application. The local government is not liable for the failure of the performance of any of the improvements associated with the application, nor does the local government warrant that any of the improvements are eligible for funding under this article."

(2) The assessment agreement shall also include a



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statement that the local government shall not be involved in decisions to enforce or foreclose on the assessment and lien, and that such authority rests with the capital provider."

"§11-81-245

(a) (1) Before entering into a written ~~contract~~ assessment agreement with a local government, the ~~real~~ qualifying property owner shall provide, or the local government shall obtain, a verified ~~recordable~~ copy of a written consent ~~and subordination~~ agreement signed by the holder of each existing mortgage or other lien on the relevant ~~real~~ qualifying property stating that the mortgagee or other lienholder consents to the imposition of the assessment and understands that the priority of the mortgage or other lien is subordinated to the assessment lien. ~~in a~~ The form and substance of the consent agreement shall acceptable to each mortgagee and other lienholder, comply with the guidebook and this article. The consent ~~and subordination~~ agreement must be in a form that may be recorded in the ~~appropriate~~ recording office ~~in of~~ the county or counties where the ~~real~~ qualifying property is located. ~~, and the~~ The consent and ~~subordination agreement with~~ the qualifying property owner's assessment ~~contract~~ agreement shall be recorded in that office.

(2) This subsection does not limit in any way the rights or authority of any mortgagee or other lienholder under any agreement or applicable law, except that a provision of a deed of trust, mortgage, or other agreement between a lienholder and a qualifying property owner which provides for the acceleration of any payment solely as a result of entering



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into an agreement to finance an assessment pursuant to this article is unenforceable if the mortgagee or lienholder executes a consent agreement pursuant to subdivision (1).

(b) At or before the time a purchaser executes a contract for the sale and purchase of any ~~real~~ qualifying property for which a non-ad valorem assessment has been levied under this article and has an unpaid balance due, the seller shall give the prospective purchaser a written disclosure statement in the following form, which shall be set forth in the contract or in a separate writing:

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

"§11-81-246

(a) An assessment under this article ~~and~~, including any interest or penalties on the assessment, shall constitute a lien on the qualifying property for the principal amount of



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the financing, subject to the requirement in Section 11-81-245
to obtain a signed consent agreement from all lienholders.

This lien:

(1) ~~Is~~ Shall be a lien against the ~~real~~ qualifying
property on which the assessment is imposed effective from the
earliest of: (i) the date of the assessment agreement; (ii)
the summary memorandum date; or (iii) the date on which the
notice of contractual assessment is recorded ~~;~~ ;

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

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

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

(b) ~~The assessment lien may be enforced by the local~~
~~government in the same manner that an ad valorem or non-ad~~
~~valorem tax lien against real property may be enforced by the~~
~~local government with all redemption rights provided by~~



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~~Section 40-10-1 et seq. or other applicable law to remain in effect.~~ The billing, collection, and enforcement of the assessment lien shall be the sole responsibility of the capital provider or its assigns. The capital provider's rights and remedies related to any contractual default by the qualifying property owner shall be governed by the terms of the financing agreement and state law. Assessments under this article shall be considered a statutory assessment and shall be superior to all other liens except tax liens and any lien for a special assessment imposed by a local government.

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

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

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



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Alabama Rules of Civil Procedure."

"§11-81-249

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

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

§11-81-251

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

§11-81-252

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

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



**House County and Municipal Government Reported
Substitute for HB163**

701 Section 4. This act shall become effective on June 1,
702 2026.