



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

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5 A BILL

6 TO BE ENTITLED

7 AN ACT

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9 Relating to counties and municipalities; to amend
10 Sections 11-81-240, 11-81-241, 11-81-242, 11-81-243,
11 11-81-244, 11-81-245, 11-81-246, and 11-81-249, Code of
12 Alabama 1975, to change the name of the Property Insurance and
13 Energy Reduction Act of Alabama to the Property Insurance
14 Reduction and Capital Expenditure Act of Alabama; to enable
15 local governments to allow private financing of qualified
16 energy projects; to allow local governments to assess the
17 qualifying properties with a lien to secure repayment of the
18 private financing; to allow assignment of the repayment to the
19 private financier; to revise the application process for
20 qualifying projects; to add Sections 11-81-251 and 11-81-252
21 to the Code of Alabama 1975, to provide that imposition of the
22 local assessment is voluntary; to provide that the local
23 government shall not guarantee the repayment of the financing;
24 to repeal Sections 11-81-247 and 11-81-248, Code of Alabama
25 1975, relating to provisions for a loss reserve fund and
26 regulatory jurisdiction by the state; to limit liability of a
27 local government for actions undertaken pursuant to the act;
28 and to make nonsubstantive, technical revisions to update the



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29 existing code language to current style.

30 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

31 Section 1. Sections 11-81-240, 11-81-241, 11-81-242,

32 11-81-243, 11-81-244, 11-81-245, 11-81-246, and 11-81-249,

33 Code of Alabama 1975, are amended to read as follows:

34 "§11-81-240

35 This article shall be known and may be cited as the

36 Property Insurance Reduction and Energy Reduction Capital

37 Expenditure Act of Alabama."

38 "§11-81-241

39 For the purposes of this article, the following words

40 shall have the following meanings:

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

115 ~~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.~~

124 ~~(2) (4) DESIGNATED REGION.~~ An area approved by a local
125 government for qualified projects pursuant to Section
126 11-81-242.

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

135 ~~(3) (6) LOCAL GOVERNMENT.~~ Any incorporated municipality,
136 county, or improvement district in this state.

137 ~~(4) (7) PROGRAM.~~ A program for property insurance
138 reduction and capital expenditure authorized and
139 created~~designated~~ by a local government under this article.

140 (8) PROGRAM ADMINISTRATOR. The department or individual



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

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

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

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

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

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

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



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169 assessment.

170 ~~(5) (10) QUALIFIED PROJECT or PROJECT. The installation~~
 171 ~~or modification of a qualifying improvement on real property~~
 172 ~~in a designated region under a program adopted by a local~~
 173 ~~government. A property that has at least one qualifying~~
 174 ~~improvement installed. The term includes a new construction,~~
 175 ~~the adaptive reuse of eligible property with the improvement,~~
 176 ~~or a property where the qualifying improvement has been~~
 177 ~~installed and is operational before the application date.~~

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

186 a. Resiliency improvements, including:

187 1. Wind-resistant resistance improvements or programs
 188 that qualify the structure for insurance discounts, including,

189 ~~but not limited to, the FORTIFIED Program;~~

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



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

202 b. Flood mitigation, including:

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

205 2. Installation of a flood diversion apparatus;

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

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

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

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

221 1. Air sealing.

222 2. Installation of insulation.

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



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225 4. Building modifications to increase the use of
226 daylight.

227 5. Replacement of windows.

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

230 7. Installation of electric vehicle charging equipment.

231 8. Installation of efficient lighting equipment.

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

234 e. Flood mitigation, including, but not limited to, any
235 of the following:

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

238 2. Installation of a flood diversion apparatus.

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

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

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

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

249 (7) (12) REAL QUALIFYING PROPERTY. Real property that
250 includes commercial, industrial, agricultural, and multifamily
251 buildings. The term excludes residential property consisting
252 of fewer than five units and individual residential units of



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

256 "§11-81-242

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

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

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

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



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

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

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

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

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

297 e. All expenses for inspection of any qualified
298 project.

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

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

308 h. All expenses incurred in determining the feasibility



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or practicability of any qualified project.

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

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

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

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

322 (2) (3) a. A local government participating under this
323 act shall impose a lien, consistent with the consent agreement
324 and assessment agreement, when qualified property owners
325 secure private may issue bonds or notes or use other financing
326 from qualified capital providers to finance qualified projects
327 under this article.

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

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

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



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337 funds.

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

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

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

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

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

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

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

362 "§11-81-243

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



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365 actions in the following order:

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

411 "§11-81-244

412 (a) A ~~real~~ qualifying property owner and a capital
413 provider in a designated region may apply to a local
414 government under ~~a~~ this program ~~for funding~~ to finance a
415 qualified project and enter into a written ~~consent~~ contract
416 agreement ~~with the local government~~. ~~Costs of the project~~
417 ~~incurred by the real property owner or the local government~~
418 ~~for such purposes may be collected as an assessment, as~~
419 ~~authorized in Section 11-81-242~~ in which the property owner
420 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; The recorded agreement also must

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



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

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

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

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

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

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

476 ~~(4) (3) That the~~ real qualifying property owner is



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477 current on all mortgage debt on the property.

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

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

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

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

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

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



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505 program guidebook; and

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

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

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

525 ~~(2) Notwithstanding subdivision (1), an assessment for~~
 526 ~~a qualifying improvement that is supported by an energy, wind~~
 527 ~~or flood mitigation audit is not subject to the limits in this~~
 528 ~~subsection if the audit demonstrates that the annual energy or~~
 529 ~~insurance savings from the qualified improvement equals or~~
 530 ~~exceeds the annual repayment amount of the non-ad valorem~~
 531 ~~assessment. For residential structures, the energy audit shall~~
 532 ~~be conducted by a professional with one or more of the~~



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533 ~~following qualifications or certifications: Residential Energy~~
 534 ~~Services Network Home Energy Rating Systems (HERS), Building~~
 535 ~~Performance Institute Building Analyst (BPI), AEE Residential~~
 536 ~~Energy Auditor (REA), or Professional Engineer with specific~~
 537 ~~experience in energy efficiency. For commercial and industrial~~
 538 ~~facilities, the energy audit shall be conducted by a~~
 539 ~~professional with one or more of the following qualifications~~
 540 ~~or certifications: AEE Certified Energy Manager (CEM), AEE~~
 541 ~~Certified Energy Auditor (CEA), or Professional Engineer with~~
 542 ~~specific experience in energy efficiency.~~

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

560 (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."

564 "§11-81-245

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

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



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

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

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

613 "§11-81-246

614 (a) An assessment under this articleand, including any
 615 interest or penalties on the assessment, shall constitute a
 616 lien on the qualifying property for the principal amount of



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

619 This lien:

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

625 (2) ~~Subject to the requirement in Section~~
 626 ~~11-81-245(a)(1) to obtain and record in the proper recording~~
 627 ~~office an executed consent and subordination agreement from~~
 628 ~~existing mortgagees and other lienholders, has~~ Shall have the
 629 same priority status as a lien for any other ad valorem tax,
 630 ~~or~~ non-ad valorem tax, or a special assessment imposed by a
 631 local government~~;~~ and

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

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

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



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

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

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

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



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673 Alabama Rules of Civil Procedure."

674 "§11-81-249

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

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

685 §11-81-251

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

692 §11-81-252

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

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



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