

Act No. 242
Public Acts of 2017
Approved by the Governor
December 20, 2017
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December 21, 2017
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2017**

Introduced by Senator Booher

ENROLLED SENATE BILL No. 375

AN ACT to amend 2010 PA 270, entitled “An act to authorize local units of government to adopt property assessed clean energy programs and to create districts to promote the use of renewable energy systems and energy efficiency improvements by owners of certain real property; to provide for the financing of such programs through voluntary property assessments, commercial lending, and other means; to authorize a local unit of government to issue bonds, notes, and other evidences of indebtedness and to pay the cost of renewable energy systems and energy efficiency improvements from the proceeds thereof; to provide for the repayment of bonds, notes, and other evidences of indebtedness; to authorize certain fees; to prescribe the powers and duties of certain governmental officers and entities; and to provide for remedies,” by amending sections 3 and 9 (MCL 460.933 and 460.939).

The People of the State of Michigan enact:

Sec. 3. As used in this act:

(a) “Anaerobic digester” means a device for optimizing the anaerobic digestion of biomass for the purpose of recovering biofuel for energy production.

(b) “Anaerobic digester energy system” means an anaerobic digester and the devices used to generate electricity or heat from biogas produced by the anaerobic digester or to store the biogas for the future generation of electricity or heat.

(c) “District” means a district created under a property assessed clean energy program by a local unit of government that lies within the local unit of government’s jurisdictional boundaries. A local unit of government may create more than 1 district under the program, and districts may be separate, overlapping, or coterminous.

(d) “Energy efficiency improvement” means equipment, devices, or materials intended to decrease energy consumption, including, but not limited to, all of the following:

(i) Insulation in walls, roofs, floors, foundations, or heating and cooling distribution systems.

(ii) Storm windows and doors; multi-glazed windows and doors; heat-absorbing or heat-reflective glazed and coated window and door systems; and additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption.

(iii) Automated energy control systems.

(iv) Heating, ventilating, or air-conditioning and distribution system modifications or replacements.

(v) Caulking, weather-stripping, and air sealing.

(vi) Replacement or modification of lighting fixtures to reduce the energy use of the lighting system.

(vii) Energy recovery systems.

(viii) Day lighting systems.

(ix) Installation or upgrade of electrical wiring or outlets to charge a motor vehicle that is fully or partially powered by electricity.

(x) Measures to reduce the usage of water or increase the efficiency of water usage.

(xi) Any other installation or modification of equipment, devices, or materials approved as a utility cost-savings measure by the governing body.

(e) "Energy project" means the installation or modification of an energy efficiency improvement or the acquisition, installation, or improvement of a renewable energy system or anaerobic digester energy system.

(f) "Governing body" means the county board of commissioners of a county, the township board of a township, or the council or other similar elected legislative body of a city or village.

(g) "Local unit of government" means a county, township, city, or village.

(h) "Person" means an individual, firm, partnership, association, corporation, unincorporated joint venture, or trust, organized, permitted, or existing under the laws of this state or any other state, including a federal corporation, or a combination thereof. However, person does not include a local unit of government.

(i) "Property" means privately owned commercial or industrial real property located within the local unit of government.

(j) "Property assessed clean energy program" or "program" means a program as described in section 5(2).

(k) "Record owner" means the person or persons possessed of the most recent fee title or land contract vendee's interest in property as shown by the records of the county register of deeds.

(l) "Renewable energy resource" means a resource that naturally replenishes over a human, not a geological, time frame and that is ultimately derived from solar power, water power, or wind power. Renewable energy resource does not include petroleum, nuclear, natural gas, or coal. A renewable energy resource comes from the sun or from thermal inertia of the earth and minimizes the output of toxic material in the conversion of the energy and includes, but is not limited to, all of the following:

(i) Biomass.

(ii) Solar and solar thermal energy.

(iii) Wind energy.

(iv) Geothermal energy.

(v) Methane gas captured from a landfill.

(m) "Renewable energy system" means a fixture, product, device, or interacting group of fixtures, products, or devices on the customer's side of the meter that use 1 or more renewable energy resources to generate electricity. Renewable energy system includes a biomass stove but does not include an incinerator or digester.

Sec. 9. (1) The report on the proposed program required under section 7 shall include all of the following:

(a) A form of contract between the local unit of government and record owner governing the terms and conditions of financing and assessment under the program.

(b) Identification of an official authorized to enter into a program contract on behalf of the local unit of government.

(c) A maximum aggregate annual dollar amount for all financing to be provided by the local unit of government under the program.

(d) An application process and eligibility requirements for financing energy projects under the program.

(e) A method for determining interest rates on assessment installments, repayment periods, and the maximum amount of an assessment.

(f) Explanation of how assessments will be made and collected consistent with section 13(2).

(g) A plan for raising capital to finance improvements under the program. The plan may include any of the following:

(i) The sale of bonds or notes, subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(ii) Amounts to be advanced by the local unit of government through funds available to it from any other source.

(iii) Owner-arranged financing from a commercial lender. Under owner-arranged financing, the local unit of government may impose an assessment pursuant to section 11 and forward payments to the commercial lender or the record owner may pay the commercial lender directly.

(h) Information regarding all of the following, to the extent known, or procedures to determine the following in the future:

(i) Any reserve fund or funds to be used as security for bonds or notes described in subdivision (g).

(ii) Any application, administration, or other program fees to be charged to record owners participating in the program that will be used to finance costs incurred by the local unit of government as a result of the program.

(i) A requirement that the term of an assessment not exceed the useful life of the energy project paid for by the assessment.

(j) A requirement for an appropriate ratio of the amount of the assessment to the assessed value of the property.

(k) A requirement that the record owner of property subject to a mortgage obtain written consent from the mortgage holder before participating in the program.

(l) Provisions for marketing and participant education.

(m) Provisions for adequate debt service reserve fund.

(n) Quality assurance and antifraud measures.

(o) A requirement that a baseline energy audit be conducted before an energy project is undertaken, to establish future energy savings. After the energy project is completed, the local unit of government shall obtain verification that the renewable energy system, anaerobic digester energy system, or energy efficiency improvement was properly installed and is operating as intended.

(p) For an energy project financed with more than \$250,000.00 in assessments, both of the following:

(i) A requirement for ongoing measurements that establish the savings realized by the record owner from the energy project.

(ii) A requirement that, in the contract for installation of the energy project, the contractor guarantee to the record owner that the energy project will achieve a savings-to-investment ratio greater than 1 and agree to pay the record owner, on an annual basis, any shortfall in savings below this level.

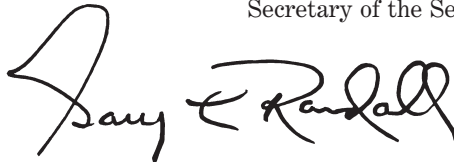
(2) The local unit of government shall make the report available for review on the local unit of government's website or at the office of the clerk or the official authorized to enter contracts on behalf of the local unit of government under the property assessed clean energy program.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor