

REPRINT

**SUBSTITUTE FOR
SENATE BILL NO. 1253**

(As Passed the Senate May 23, 2000)

A bill to amend 1939 PA 3, entitled

"An act to provide for the regulation and control of public utilities and other services affected with a public interest within this state; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law therein on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to provide for a restructuring of rates for certain utilities; to encourage the utilization of resource recovery facilities; to provide for appeals; to provide appropriations; to declare the effect of this act; to prescribe penalties; and to repeal all acts contrary to this act,"

(MCL 460.1 to 460.8) by adding sections 10h, 10i, 10j, 10k, 10l, 10m, 10n, 10o, and 10z.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 10H. AS USED IN THIS ACT:

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1 (A) "ASSIGNEE" MEANS AN INDIVIDUAL, CORPORATION, OR OTHER
2 LEGALLY RECOGNIZED ENTITY TO WHICH AN INTEREST IN SECURITIZATION
3 PROPERTY IS TRANSFERRED.

4 (B) "COMMISSION" MEANS THE MICHIGAN PUBLIC SERVICE COMMIS-
5 SION IN THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES.

6 (C) "ELECTRIC UTILITY" MEANS THAT TERM AS DEFINED IN
7 SECTION 2 OF THE ELECTRIC TRANSMISSION LINE CERTIFICATION ACT,
8 1995 PA 30, MCL 460.562.

9 (D) "FINANCING ORDER" MEANS AN ORDER OF THE COMMISSION
10 APPROVING THE ISSUANCE OF SECURITIZATION BONDS AND THE CREATION
11 OF SECURITIZATION CHARGES AND ANY CORRESPONDING UTILITY RATE
12 REDUCTIONS.

13 (E) "FINANCING PARTY" MEANS A HOLDER OF SECURITIZATION
14 BONDS, INCLUDING TRUSTEES, COLLATERAL AGENTS, AND OTHER PERSONS
15 ACTING FOR THE BENEFIT OF THE HOLDER.

16 (F) "NONBYPASSABLE CHARGE" MEANS A CHARGE IN A FINANCING
17 ORDER PAYABLE BY A CUSTOMER TO AN ELECTRIC UTILITY OR ITS ASSIGN-
18 EES OR SUCCESSORS REGARDLESS OF THE IDENTITY OF THE CUSTOMER'S
19 ELECTRIC GENERATION SUPPLIER.

20 (G) "QUALIFIED COSTS" MEANS AN ELECTRIC UTILITY'S REGULATORY
21 ASSETS AS DETERMINED BY THE COMMISSION, ADJUSTED BY THE APPLICA-
22 BLE PORTION OF RELATED INVESTMENT TAX CREDITS, PLUS ANY COSTS
23 THAT THE COMMISSION DETERMINES THAT THE ELECTRIC UTILITY WOULD BE
24 UNLIKELY TO COLLECT IN A COMPETITIVE MARKET, INCLUDING, BUT NOT
25 LIMITED TO, RETAIL OPEN ACCESS IMPLEMENTATION COSTS AND THE COSTS
26 OF A COMMISSION APPROVED RESTRUCTURING, BUYOUT OR BUY-DOWN OF A
27 POWER PURCHASE CONTRACT, TOGETHER WITH THE COSTS OF ISSUING,

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1 SUPPORTING, AND SERVICING SECURITIZATION BONDS AND ANY COSTS OF
2 RETIRING AND REFUNDING THE ELECTRIC UTILITY'S EXISTING DEBT AND
3 EQUITY SECURITIES IN CONNECTION WITH THE ISSUANCE OF SECURITIZA-
4 TION BONDS. QUALIFIED COSTS INCLUDE TAXES RELATED TO THE RECOV-
5 ERY OF SECURITIZATION CHARGES.

6 (H) "SECURITIZATION BONDS" MEANS BONDS, DEBENTURES, NOTES,
7 CERTIFICATES OF PARTICIPATION, CERTIFICATES OF A BENEFICIAL
8 INTEREST, CERTIFICATES OF OWNERSHIP, OR OTHER EVIDENCES OF
9 INDEBTEDNESS THAT ARE ISSUED BY AN ELECTRIC UTILITY, ITS SUCCES-
10 SORS, OR AN ASSIGNEE UNDER A FINANCING ORDER, THAT HAVE A TERM OF
11 NOT MORE THAN 15 YEARS, AND THAT ARE SECURED BY OR PAYABLE FROM
12 SECURITIZATION PROPERTY. IF CERTIFICATES OF PARTICIPATION, CER-
13 TIFICATES OF BENEFICIAL INTEREST, OR CERTIFICATES OF OWNERSHIP
14 ARE ISSUED, REFERENCES IN THIS ACT TO PRINCIPAL, INTEREST, OR
15 PREMIUM SHALL REFER TO COMPARABLE AMOUNTS UNDER THOSE
16 CERTIFICATES.

17 (I) "SECURITIZATION CHARGES" MEANS NONBYPASSABLE AMOUNTS TO
18 BE CHARGED FOR THE USE OR AVAILABILITY OF ELECTRIC SERVICES,
19 APPROVED BY THE COMMISSION UNDER A FINANCING ORDER TO FULLY
20 RECOVER QUALIFIED COSTS, THAT SHALL BE COLLECTED BY AN ELECTRIC
21 UTILITY, ITS SUCCESSORS, AN ASSIGNEE, OR OTHER COLLECTION AGENTS
22 AS PROVIDED FOR IN THE FINANCING ORDER.

23 (J) "SECURITIZATION PROPERTY" MEANS THE PROPERTY DESCRIBED
24 IN SECTION 10J.

25 SEC. 10I. (1) UPON THE APPLICATION OF AN ELECTRIC UTILITY,
26 IF THE COMMISSION FINDS THAT THE NET PRESENT VALUE OF THE
27 REVENUES TO BE COLLECTED UNDER THE FINANCING ORDER IS LESS THAN

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1 THE AMOUNT THAT WOULD BE RECOVERED OVER THE REMAINING LIFE OF THE
2 QUALIFIED COSTS USING CONVENTIONAL FINANCING METHODS AND THAT THE
3 FINANCING ORDER IS CONSISTENT WITH THE STANDARDS IN SUBSECTION
4 (2), THE COMMISSION SHALL ISSUE A FINANCING ORDER TO ALLOW THE
5 UTILITY TO RECOVER QUALIFIED COSTS.

6 (2) IN A FINANCING ORDER, THE COMMISSION SHALL ENSURE ALL OF
7 THE FOLLOWING:

8 (A) THAT THE PROCEEDS OF THE SECURITIZATION BONDS ARE USED
9 SOLELY FOR THE PURPOSES OF THE REFINANCING OR RETIREMENT OF DEBT
10 OR EQUITY.

11 (B) THAT SECURITIZATION PROVIDES TANGIBLE AND QUANTIFIABLE
12 BENEFITS TO CUSTOMERS OF THE ELECTRIC UTILITY.

13 (C) THAT THE EXPECTED STRUCTURING AND EXPECTED PRICING OF
14 THE SECURITIZATION BONDS WILL RESULT IN THE LOWEST SECURITIZATION
15 CHARGES CONSISTENT WITH MARKET CONDITIONS AND THE TERMS OF THE
16 FINANCING ORDER.

17 (D) THAT THE AMOUNT SECURITIZED DOES NOT EXCEED THE NET
18 PRESENT VALUE OF THE REVENUE REQUIREMENT OVER THE LIFE OF THE
19 PROPOSED SECURITIZATION BONDS ASSOCIATED WITH THE QUALIFIED COSTS
20 SOUGHT TO BE SECURITIZED.

21 (3) THE FINANCING ORDER SHALL DETAIL THE AMOUNT OF QUALIFIED
22 COSTS TO BE RECOVERED AND THE PERIOD OVER WHICH THE SECURITIZA-
23 TION CHARGES ARE TO BE RECOVERED, NOT TO EXCEED 15 YEARS.

24 (4) A FINANCING ORDER IS EFFECTIVE IN ACCORDANCE WITH ITS
25 TERMS, AND THE FINANCING ORDER, TOGETHER WITH THE SECURITIZATION
26 CHARGES AUTHORIZED IN THE ORDER, SHALL BE IRREVOCABLE AND NOT

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1 SUBJECT TO REDUCTION, IMPAIRMENT, OR ADJUSTMENT BY FURTHER ACTION
2 OF THE COMMISSION, EXCEPT AS PROVIDED UNDER SECTION 10K(3).

3 (5) STOCKS, BONDS, NOTES, OR OTHER EVIDENCE OF INDEBTEDNESS
4 ISSUED UNDER A FINANCING ORDER OF THE COMMISSION SHALL BE BINDING
5 IN ACCORDANCE WITH THEIR TERMS NOTWITHSTANDING THAT THE ORDER OF
6 THE COMMISSION IS LATER VACATED, MODIFIED, OR OTHERWISE HELD TO
7 BE INVALID IN WHOLE OR IN PART.

8 (6) THE COMMISSION SHALL AFTER AN EXPEDITED CONTESTED CASE
9 PROCEEDING ISSUE A FINANCING ORDER OR AN ORDER
10 REJECTING THE APPLICATION FOR A FINANCING ORDER NO LATER THAN
11 90 DAYS AFTER THE ELECTRIC UTILITY FILES ITS APPLICATION.

12 (7) A FINANCING ORDER IS ONLY SUBJECT TO REHEARING BY THE
13 COMMISSION ON THE MOTION OF THE APPLICANT FOR SECURITIZATION.

14 (8) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A FINANCING
15 ORDER MAY BE REVIEWED BY THE COURT OF APPEALS UPON A FILING BY A
16 PARTY TO THE COMMISSION PROCEEDING WITHIN 30 DAYS AFTER THE
17 FINANCING ORDER IS ISSUED. ALL APPEALS OF A FINANCING ORDER
18 SHALL BE HEARD AND DETERMINED AS EXPEDITIOUSLY AS POSSIBLE WITH
19 LAWFUL PRECEDENCE OVER OTHER MATTERS. REVIEW ON APPEAL SHALL BE
20 BASED SOLELY ON THE RECORD BEFORE THE COMMISSION AND BRIEFS TO
21 THE COURT AND SHALL BE LIMITED TO WHETHER THE FINANCING ORDER
22 CONFORMS TO THE CONSTITUTION AND LAWS OF THIS STATE AND THE
23 UNITED STATES AND IS WITHIN THE AUTHORITY OF THE COMMISSION UNDER
24 THIS ACT.

25 (9) AT THE REQUEST OF AN ELECTRIC UTILITY, THE COMMISSION
26 MAY ADOPT A FINANCING ORDER PROVIDING FOR RETIRING AND REFUNDING
27 SECURITIZATION BONDS IF THE COMMISSION FINDS THAT THE FUTURE
SECURITIZATION CHARGES REQUIRED TO SERVICE THE NEW SECURITIZATION

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1 BONDS, INCLUDING TRANSACTION COSTS, WILL BE LESS THAN THE FUTURE
2 SECURITIZATION CHARGES REQUIRED TO SERVICE THE SECURITIZATION
3 BONDS BEING REFUNDED. ON THE RETIREMENT OF THE REFUNDED SECURI-
4 TIZATION BONDS, THE COMMISSION SHALL ADJUST THE RELATED SECURITI-
5 ZATION CHARGES ACCORDINGLY.

6 (10) THE COMMISSION SHALL HAVE THE AUTHORITY TO RETAIN
7 FINANCIAL OR LEGAL SERVICES TO ASSIST IN ISSUANCE OF A FINANCING
8 ORDER AND TO REQUIRE THE ELECTRIC UTILITY TO PAY THE COST OF THE
9 SERVICES. THE PAYMENTS SHALL BE INCLUDED AS QUALIFIED COSTS
10 DEFINED IN SECTION 10H(G).

11 SEC. 10J. (1) SECURITIZATION PROPERTY SHALL CONSIST OF THE
12 RIGHTS AND INTERESTS OF AN ELECTRIC UTILITY, OR ITS SUCCESSOR,
13 UNDER A FINANCING ORDER, INCLUDING WITHOUT LIMITATION ALL OF THE
14 FOLLOWING:

15 (A) THE RIGHT TO IMPOSE, COLLECT, AND RECEIVE SECURITIZATION
16 CHARGES AUTHORIZED IN THE FINANCING ORDER IN AN AMOUNT NECESSARY
17 TO PROVIDE THE FULL RECOVERY OF ALL QUALIFIED COSTS.

18 (B) THE RIGHT UNDER THE FINANCING ORDER TO OBTAIN PERIODIC
19 ADJUSTMENTS OF SECURITIZATION CHARGES UNDER SECTION 10K(3).

20 (C) ALL REVENUE, COLLECTIONS, PAYMENTS, MONEY, AND PROCEEDS
21 ARISING OUT OF THE RIGHTS AND INTERESTS DESCRIBED UNDER THIS
22 SUBSECTION.

23 (2) SECURITIZATION PROPERTY SHALL CONSTITUTE A PRESENT PROP-
24 ERTY RIGHT EVEN THOUGH THE IMPOSITION AND COLLECTION OF SECURITI-
25 ZATION CHARGES DEPENDS ON THE FURTHER ACTS OF THE ELECTRIC UTIL-
26 ITY OR OTHERS THAT HAVE NOT YET OCCURRED. THE RIGHTS OF AN
27 ELECTRIC UTILITY TO SECURITIZATION PROPERTY BEFORE ITS SALE TO

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1 ANY ASSIGNEE SHALL BE CONSIDERED A PROPERTY INTEREST IN A
2 CONTRACT. THE FINANCING ORDER SHALL REMAIN IN EFFECT AND THE
3 SECURITIZATION PROPERTY SHALL CONTINUE TO EXIST UNTIL THE COMMIS-
4 SION APPROVED SECURITIZATION BONDS AND EXPENSES RELATED TO THE
5 BONDS HAVE BEEN PAID IN FULL.

6 SEC. 10K. (1) THE INTEREST OF AN ASSIGNEE OR PLEDGEE IN
7 SECURITIZATION PROPERTY AND IN THE REVENUES AND COLLECTIONS ARIS-
8 ING FROM THAT PROPERTY ARE NOT SUBJECT TO SETOFF, COUNTERCLAIM,
9 SURCHARGE, OR DEFENSE BY THE ELECTRIC UTILITY OR ANY OTHER PERSON
10 OR IN CONNECTION WITH THE BANKRUPTCY OF THE ELECTRIC UTILITY OR
11 ANY OTHER ENTITY. A FINANCING ORDER SHALL REMAIN IN EFFECT AND
12 UNABATED NOTWITHSTANDING THE BANKRUPTCY OF THE ELECTRIC UTILITY,
13 ITS SUCCESSORS, OR ASSIGNEES.

14 (2) A FINANCING ORDER SHALL INCLUDE TERMS ENSURING THAT THE
15 IMPOSITION AND COLLECTION OF SECURITIZATION CHARGES AUTHORIZED IN
16 THE ORDER ARE A NONBYPASSABLE CHARGE.

17 (3) A FINANCING ORDER SHALL INCLUDE A MECHANISM REQUIRING
18 THAT SECURITIZATION CHARGES BE REVIEWED AND ADJUSTED BY THE COM-
19 MISSION AT LEAST ANNUALLY, WITHIN 45 DAYS OF THE ANNIVERSARY DATE
20 OF THE ISSUANCE OF THE SECURITIZATION BONDS, TO CORRECT ANY OVER-
21 COLLECTIONS OR UNDERCOLLECTIONS OF THE PRECEDING 12 MONTHS AND TO
22 ENSURE THE EXPECTED RECOVERY OF AMOUNTS SUFFICIENT TO TIMELY PRO-
23 VIDE ALL PAYMENTS OF DEBT SERVICE AND OTHER REQUIRED AMOUNTS AND
24 CHARGES IN CONNECTION WITH THE SECURITIZATION BONDS.

25 SEC. 10L. (1) AN AGREEMENT BY AN ELECTRIC UTILITY OR
26 ASSIGNEE TO TRANSFER SECURITIZATION PROPERTY THAT EXPRESSLY
27 STATES THAT THE TRANSFER IS A SALE OR OTHER ABSOLUTE TRANSFER

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1 SIGNIFIES THAT THE TRANSACTION IS A TRUE SALE AND IS NOT A
2 SECURED TRANSACTION AND THAT TITLE, LEGAL AND EQUITABLE, HAS
3 PASSED TO THE ENTITY TO WHICH THE SECURITIZATION PROPERTY IS
4 TRANSFERRED.

5 (2) A TRUE SALE UNDER THIS SECTION APPLIES REGARDLESS OF
6 WHETHER THE PURCHASER HAS ANY RECOURSE AGAINST THE SELLER, OR ANY
7 OTHER TERM OF THE PARTIES' AGREEMENT, INCLUDING THE SELLER'S
8 RETENTION OF AN EQUITY INTEREST IN THE SECURITIZATION PROPERTY,
9 THE FACT THAT THE ELECTRIC UTILITY ACTS AS A COLLECTOR OF SECURI-
10 TIZATION CHARGES RELATING TO THE SECURITIZATION PROPERTY, OR THE
11 TREATMENT OF THE TRANSFER AS A FINANCING FOR TAX, FINANCIAL
12 REPORTING, OR OTHER PURPOSES.

13 SEC. 10M. (1) A VALID AND ENFORCEABLE LIEN AND SECURITY
14 INTEREST IN SECURITIZATION PROPERTY MAY BE CREATED ONLY BY A
15 FINANCING ORDER AND THE EXECUTION AND DELIVERY OF A SECURITY
16 AGREEMENT WITH A FINANCING PARTY IN CONNECTION WITH THE ISSUANCE
17 OF SECURITIZATION BONDS.

18 (2) THE LIEN AND SECURITY INTEREST SHALL ATTACH AUTOMATI-
19 CALLY FROM THE TIME THAT VALUE IS RECEIVED FOR THE BONDS AND
20 SHALL BE A CONTINUOUSLY PERFECTED LIEN AND SECURITY INTEREST IN
21 THE SECURITIZATION PROPERTY AND ALL PROCEEDS OF THE PROPERTY,
22 WHETHER ACCRUED OR NOT, SHALL HAVE PRIORITY IN THE ORDER OF
23 FILING WHEN A FINANCING STATEMENT HAS BEEN FILED WITH RESPECT TO
24 THE SECURITY INTEREST IN ACCORDANCE WITH THE UNIFORM COMMERCIAL
25 CODE, 1962 PA 174, MCL 440.1101 TO 440.11102, AND TAKE PRECEDENCE
26 OVER ANY SUBSEQUENT JUDICIAL AND OTHER LIEN CREDITOR. IN
27 ADDITION TO THE RIGHTS AND REMEDIES PROVIDED BY THIS ACT, ALL

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1 RIGHTS AND REMEDIES WITH RESPECT TO A SECURITY INTEREST PROVIDED
2 BY THE UNIFORM COMMERCIAL CODE, 1962 PA 174, MCL 440.1101 TO
3 440.11102, SHALL APPLY TO THE SECURITIZATION PROPERTY.

4 (3) TRANSFER OF AN INTEREST IN SECURITIZATION PROPERTY TO AN
5 ASSIGNEE SHALL BE PERFECTED AGAINST ALL THIRD PARTIES, INCLUDING
6 SUBSEQUENT JUDICIAL AND OTHER LIEN CREDITORS, WHEN A FINANCING
7 STATEMENT HAS BEEN FILED WITH RESPECT TO THE TRANSFER IN ACCORD-
8 ANCE WITH THE UNIFORM COMMERCIAL CODE, 1962 PA 174, MCL 440.1101
9 TO 440.11102.

10 (4) THE PRIORITY OF A LIEN AND SECURITY INTEREST UNDER THIS
11 SECTION IS NOT IMPAIRED BY ANY LATER MODIFICATION OF THE FINANC-
12 ING ORDER OR BY THE COMMINGLING OF FUNDS ARISING FROM SECURITIZA-
13 TION CHARGES WITH OTHER FUNDS, AND ANY OTHER SECURITY INTEREST
14 THAT MAY APPLY TO THOSE FUNDS SHALL BE TERMINATED WHEN THEY ARE
15 TRANSFERRED TO A SEGREGATED ACCOUNT FOR THE ASSIGNEE OR A FINANC-
16 ING PARTY. IF SECURITIZATION PROPERTY HAS BEEN TRANSFERRED TO AN
17 ASSIGNEE, ANY PROCEEDS OF THAT PROPERTY SHALL BE HELD IN TRUST
18 FOR THE ASSIGNEE.

19 (5) IN THE EVENT OF DEFAULT BY THE ELECTRIC UTILITY OR ITS
20 SUCCESSORS, IN PAYMENT OF REVENUES ARISING WITH RESPECT TO SECURITIZATION PROPERTY, THE COMMISSION OR A COURT OF APPROPRIATE
21 JURISDICTION, UPON THE APPLICATION OF THE FINANCING PARTY, AND
22 WITHOUT LIMITING ANY OTHER REMEDIES AVAILABLE TO THE FINANCING
23 PARTY, SHALL ORDER THE SEQUESTRATION AND PAYMENT TO THE FINANCING
24 PARTY OF REVENUES ARISING WITH RESPECT TO THE SECURITIZATION
25 PROPERTY. AN ORDER SHALL REMAIN IN FULL FORCE AND EFFECT
26 NOTWITHSTANDING ANY BANKRUPTCY, REORGANIZATION, OR OTHER
27

1 INSOLVENCY PROCEEDINGS WITH RESPECT TO THE DEBTOR, PLEDGOR, OR

2 TRANSFEROR OF THE PROPERTY.

[(6) SECURITIZATION PROPERTY SHALL CONSTITUTE AN ACCOUNT AS THAT TERM IS DEFINED UNDER THE UNIFORM COMMERCIAL CODE, 1962 PA 174, MCL 440.1101 TO 440.11102.

(7) FOR PURPOSES OF THIS ACT AND THE UNIFORM COMMERCIAL CODE, 1962 PA 174, MCL 440.1101 TO 440.11102, SECURITIZATION PROPERTY SHALL BE IN EXISTENCE WHETHER OR NOT THE REVENUE OR PROCEEDS IN RESPECT TO THE PROPERTY HAVE ACCRUED AND WHETHER OR NOT THE VALUE OF THE PROPERTY RIGHT IS DEPENDENT ON THE CUSTOMERS OF AN ELECTRIC UTILITY RECEIVING SERVICE.

(8) CHANGES IN THE FINANCING ORDER OR IN THE CUSTOMER'S SECURITIZATION CHARGES DO NOT AFFECT THE VALIDITY, PERFECTION, OR PRIORITY OF THE SECURITY INTEREST IN THE SECURITIZATION PROPERTY.

(9) THE DESCRIPTION OF SECURITIZATION PROPERTY IN A SECURITY AGREEMENT OR OTHER AGREEMENT OR A FINANCING STATEMENT IS SUFFICIENT IF IT REFERS TO THIS ACT AND THE FINANCING ORDER ESTABLISHING THE SECURITIZATION PROPERTY.

(10) THIS ACT SHALL CONTROL IN ANY CONFLICT BETWEEN THIS ACT AND ANY OTHER LAW OF THIS STATE REGARDING THE ATTACHMENT AND PERFECTION AND THE EFFECT OF PERFECTION AND PRIORITY OF ANY SECURITY INTEREST IN SECURITIZATION PROPERTY.

(11) NOTWITHSTANDING THE PROVISIONS OF THE UNIFORM COMMERCIAL CODE, 1962 PA 174, MCL 440.1101 TO 440.11102, THE LAW OF THE STATE OF MICHIGAN SHALL GOVERN THE PERFECTION AND THE EFFECT OF PERFECTION AND PRIORITY OF ANY SECURITY INTEREST IN SECURITIZATION PROPERTY.]

3 SEC. 10N. (1) SECURITIZATION BONDS ARE NOT A DEBT OR OBLI-
4 GATION OF THE STATE AND ARE NOT A CHARGE ON ITS FULL FAITH AND
5 CREDIT OR TAXING POWER.

6 (2) THE STATE PLEDGES, FOR THE BENEFIT AND PROTECTION OF THE
7 FINANCING PARTIES AND THE ELECTRIC UTILITY, THAT IT WILL NOT TAKE
8 OR PERMIT ANY ACTION THAT WOULD IMPAIR THE VALUE OF SECURITIZA-
9 TION PROPERTY, REDUCE OR ALTER, EXCEPT AS ALLOWED UNDER SECTION
10 10K(3), OR IMPAIR THE SECURITIZATION CHARGES TO BE IMPOSED, COL-
11 LECTED, AND REMITTED TO FINANCING PARTIES, UNTIL THE PRINCIPAL,
12 INTEREST AND PREMIUM, AND ANY OTHER CHARGES INCURRED AND CON-
13 TRACTS TO BE PERFORMED IN CONNECTION WITH THE RELATED SECURITIZA-
14 TION BONDS HAVE BEEN PAID AND PERFORMED IN FULL. ANY PARTY ISSU-
15 ING SECURITIZATION BONDS IS AUTHORIZED TO INCLUDE THIS PLEDGE IN
16 ANY DOCUMENTATION RELATING TO THOSE BONDS.

17 SEC. 10O. (1) THE ACQUISITION, OWNERSHIP, AND DISPOSITION
18 OF ANY DIRECT INTEREST IN ANY SECURITIZATION BOND SHALL NOT BE
19 TAKEN INTO ACCOUNT IN DETERMINING WHETHER A PERSON IS SUBJECT TO
20 ANY INCOME TAX, SINGLE BUSINESS TAX, FRANCHISE TAX, BUSINESS

21 ACTIVITIES TAX, INTANGIBLE PROPERTY TAX, EXCISE TAX, STAMP TAX,
22 OR ANY OTHER TAX IMPOSED BY THIS STATE OR ANY AGENCY OR POLITICAL
23 SUBDIVISION OF THIS STATE.

24 (2) ANY SUCCESSOR TO AN ELECTRIC UTILITY, WHETHER PURSUANT
25 TO ANY BANKRUPTCY, REORGANIZATION, OR OTHER INSOLVENCY PROCEEDING
26 OR PURSUANT TO ANY MERGER OR ACQUISITION, SALE OR TRANSFER, BY
27 OPERATION OF LAW, AS A RESULT OF ELECTRIC UTILITY RESTRUCTURING

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1 OR OTHERWISE, SHALL PERFORM AND SATISFY ALL OBLIGATIONS OF THE
2 ELECTRIC UTILITY UNDER THE AMENDATORY ACT THAT ADDED THIS SECTION
3 IN THE SAME MANNER AND TO THE SAME EXTENT AS THE ELECTRIC UTILI-
4 TY, INCLUDING, BUT NOT LIMITED TO, COLLECTING AND PAYING TO THE
5 PERSON ENTITLED TO REVENUES WITH RESPECT TO THE SECURITIZATION
6 PROPERTY.

7 (3) AN ASSIGNEE OR FINANCING PARTY SHALL NOT BE CONSIDERED
8 TO BE A PUBLIC UTILITY OR PERSON PROVIDING ELECTRIC SERVICE
9 SOLELY BY VIRTUE OF THE TRANSACTIONS DESCRIBED IN THIS ACT.

10 SEC. 10Z. EFFECTIVE ON THE DATE THE FIRST SECURITIZATION
11 BONDS ARE ISSUED UNDER THIS ACT, IF ANY PROVISION OF THIS ACT OR
12 PORTION OF THIS ACT IS HELD TO BE INVALID OR IS INVALIDATED,
13 SUPERSEDED, REPLACED, REPEALED, OR EXPIRES FOR ANY REASON, THAT
14 OCCURRENCE DOES NOT AFFECT THE VALIDITY OR CONTINUATION OF THE
15 AMENDATORY ACT THAT ADDED THIS SECTION, OR ANY PART OF THOSE PRO-
16 VISIONS, OR ANY OTHER PROVISION OF THIS ACT THAT IS RELEVANT TO
17 THE ISSUANCE, ADMINISTRATION, PAYMENT, RETIREMENT, OR REFUNDING
18 OF SECURITIZATION BONDS OR TO ANY ACTIONS OF THE ELECTRIC UTILI-
19 TY, ITS SUCCESSORS, AN ASSIGNEE, A COLLECTION AGENT, OR A FINANC-
20 ING PARTY, WHICH SHALL REMAIN IN FULL FORCE AND EFFECT.

21 Enacting section 1. This amendatory act does not take
22 effect unless Senate Bill No. 937 of the 90th Legislature is
23 enacted into law.