

HOUSE BILL No. 5640

December 2, 2009, Introduced by Reps. Warren, Smith, Scripps, Robert Jones, Roberts, Liss, Bauer and Meadows and referred to the Committee on Great Lakes and Environment.

A bill to authorize local units of government to adopt property assessed clean energy programs to promote the use of renewable energy systems and energy efficiency improvements by owners of real property; to provide for the financing of such programs; to authorize a local unit of government to issue bonds and make loans from the proceeds of those bonds; to provide for the repayment of loans; to authorize certain fees; to prescribe the powers and duties of certain governmental officers and entities; and to provide for remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "property assessed clean energy act".

3 Sec. 3. As used in this act:

1 (a) "Energy efficiency improvement" means the installation or
2 modification of equipment, devices, or materials intended to
3 decrease electricity or natural gas consumption, including, but not
4 limited to, all of the following:

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

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

12 (iii) Automated energy control systems.

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

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

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

18 (vii) Energy recovery systems.

19 (viii) Day lighting systems.

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

23 (b) "Governing body" means the county board of commissioners
24 of a county, the board of trustees of a township, or the council or
25 other similar elected legislative body of a city or village.

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

1 (d) "Property" means privately owned real property located
2 within the local unit of government.

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

5 (f) "Record owner" means an individual, sole proprietorship,
6 partnership, association, firm, corporation, or other legal entity,
7 possessed of the most recent fee title or land contract vendee's
8 interest in property as shown by the records of the county register
9 of deeds.

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

18 (i) Biomass.

19 (ii) Solar and solar thermal energy.

20 (iii) Wind energy.

21 (iv) Geothermal energy.

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

1 Sec. 5. (1) Pursuant to the procedures provided in section 7,
2 a local unit of government may establish a property assessed clean
3 energy program.

4 (2) Under the program, the local unit of government may enter
5 into a contract with the record owner of property to finance or
6 refinance energy efficiency improvements or the acquisition,
7 installation, and improvement of renewable energy systems on the
8 property. The contract shall provide for the repayment of the loan
9 through assessments upon the property. The financing or refinancing
10 shall include the cost of materials and labor necessary for
11 installation, permit fees, inspection fees, application and
12 administrative fees, bank fees, and all other fees that may be
13 incurred by the local unit of government pursuant to the
14 installation on a specific or pro rata basis.

15 Sec. 7. To establish a property assessed clean energy program,
16 the governing body of a local unit of government shall take the
17 following actions in the following order:

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

20 (i) A finding that the financing of renewable energy systems
21 and energy efficiency improvements is a valid public purpose.

22 (ii) A statement of intent to make financing available to
23 owners of property to be repaid by assessments on the property.

24 (iii) A description of the proposed arrangements for financing
25 the program.

26 (iv) The types of renewable energy systems and energy
27 efficiency improvements that may be financed.

1 (v) Reference to a report on the proposed program as described
2 in section 9(1) and a location where the report is available
3 pursuant to section 9(2).

4 (vi) The time and place for a public hearing on the proposed
5 program.

6 (b) Hold a public hearing at which the public may comment on
7 the proposed program and the report required by section 9.

8 (c) Adopt a resolution establishing the program and setting
9 forth its terms and conditions.

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

12 (a) A form of contract between the local unit of government
13 and property owner or owners governing the terms and conditions of
14 financing and assessment under the program.

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

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

19 (d) An application process and eligibility requirements for a
20 loan under the program.

21 (e) A method for determining loan interest rates and repayment
22 periods and the maximum amount of a loan.

23 (f) Verification that assessments will be levied and collected
24 at the same time and in the same manner as property taxes are
25 levied and collected.

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

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

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

5 (h) Information regarding all of the following:

6 (i) Any reserve fund or funds derived from nontax revenue as
7 security for bonds described in subdivision (g).

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

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

17 Sec. 11. (1) A local unit of government may impose an
18 assessment under a property assessed clean energy program only
19 pursuant to a written contract with the record owner or owners of
20 the property to be assessed.

21 (2) Before entering into a contract with a property owner
22 under a program, the local unit of government shall verify all of
23 the following:

24 (a) That there are no delinquent taxes on the property.

25 (b) That there are no delinquent assessments on the property
26 under a property assessed clean energy program.

27 Sec. 13. (1) An assessment imposed under a property assessed

1 clean energy program and any interest or penalty on such an
2 assessment constitute a lien against the property on which the
3 assessment is imposed until the assessment, interest, or penalty is
4 paid in full. The lien has the same priority and status as other
5 property tax and assessment liens, and the local unit of government
6 has all rights in the case of delinquency in the payment of an
7 assessment as it does with respect to delinquent property taxes.
8 When the underlying debt has been satisfied, the lien shall be
9 removed from the property.

10 (2) Installments for the repayment of a loan under a program
11 shall be included in each summer and winter tax bill issued under
12 the general property tax act, 1893 PA 206, MCL 211.1 to 211.155,
13 and shall be collected at the same time and in the same manner as
14 taxes collected under the general property tax act, 1893 PA 206,
15 MCL 211.1 to 211.155.

16 Sec. 15. (1) A local unit of government may issue bonds or
17 other debt instruments to finance improvements made under a
18 property assessed clean energy program. The bonds or other debt
19 instruments shall be secured by repayment of loans made under the
20 program. The issuance of bonds or other debt instruments under this
21 section is subject to the revised municipal finance act, 2001 PA
22 34, MCL 141.2101 to 141.2821.

23 (2) The bonds or other debt instruments issued under a program
24 are not general obligations of the local unit of government issuing
25 the bonds or other debt instruments. The bonds or other debt
26 instruments are for an essential public and governmental purpose
27 and, together with interest on and income from the bonds or other

1 debt instruments, are exempt from all taxes.