

HOUSE BILL No. 5397

March 6, 2014, Introduced by Rep. Haveman and referred to the Committee on Energy and Technology.

A bill to authorize certain local units of government that own electric utilities to adopt residential clean energy programs to promote the use of renewable energy systems and energy efficiency improvements by owners of certain real property in certain districts; to provide for the financing of such programs through commercial lending, loans by a nonprofit corporation, utility bill charges, and other means; to authorize local units of government to issue bonds, notes, and other evidences of indebtedness and to pay the cost of renewable energy systems and energy efficiency improvements; 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.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "municipal utility residential clean energy program act".

3 Sec. 3. As used in this act:

4 (a) "District" means a district created under a clean energy
5 program by a municipality.

6 (b) "Energy efficiency improvement" means equipment, devices,
7 or materials intended to decrease energy consumption, including,
8 but not limited to, all of the following:

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

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

16 (iii) Automated energy control systems.

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

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

20 (vi) Lighting fixtures that reduce the energy use of the
21 lighting system.

22 (vii) Energy recovery systems.

23 (viii) Day lighting systems.

1 (ix) Electrical wiring or outlets to charge a motor vehicle
2 that is fully or partially powered by electricity.

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

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

8 (c) "Energy project" means the installation or modification of
9 an energy efficiency improvement or the acquisition, installation,
10 or improvement of a renewable energy system.

11 (d) "Governing body" means the township board of a township or
12 the council or other similar elected legislative body of a city or
13 village.

14 (e) "Municipality" means a city or village that owns an
15 electric utility.

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

22 (g) "Property" means privately owned residential real property
23 located within the municipality.

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

27 (i) "Renewable energy resource" means a resource that

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

8 (i) Biomass.

9 (ii) Solar and solar thermal energy.

10 (iii) Wind energy.

11 (iv) Geothermal energy.

12 (v) Methane gas captured from a landfill.

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

19 (k) "Residential clean energy program" or "program" means a
20 program as described in section 5(2).

21 Sec. 5. (1) Pursuant to section 7, a municipality may do all
22 of the following:

23 (a) Establish a residential clean energy program.

24 (b) From time to time, designate a district or districts
25 within its territorial jurisdiction under the program. Districts
26 may be separate, overlapping, or coterminous.

27 (2) Under a program, the municipality may enter into a

1 contract with the record owner of property within a district to
2 finance or refinance 1 or more energy projects on the property. The
3 financing or refinancing may include the cost of materials and
4 labor necessary for installation, energy audit costs, permit fees,
5 inspection fees, application and administrative fees, bank fees,
6 and all other fees that may be incurred by the record owner for the
7 installation on a specific or pro rata basis, as determined by the
8 municipality.

9 Sec. 7. (1) To establish a residential clean energy program,
10 the governing body of a municipality shall take the following
11 actions in the following order:

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

14 (i) A finding that the financing of energy projects is a valid
15 public purpose.

16 (ii) A statement of intent to provide funds for energy
17 projects, which may be repaid by charges on the electric utility
18 bills for the properties benefited, with the agreement of the
19 record owners.

20 (iii) A description of the proposed arrangements for financing
21 the program.

22 (iv) The types of energy projects that may be financed.

23 (v) Reference to a report on the proposed program as described
24 in section 11(1) and the internet address and office location where
25 the report is available pursuant to section 11(2).

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

1 (b) Hold a public hearing on the proposed program, including
2 the report described under section 11.

3 (c) Adopt a resolution or ordinance establishing the program
4 and setting forth its terms and conditions, including all of the
5 following:

6 (i) Matters required by section 11 to be included in the
7 report. For this purpose, the resolution may incorporate the report
8 or an amended version thereof by reference.

9 (ii) If the program is established by a resolution, a
10 description of which aspects of the program may be amended without
11 a new public hearing and which aspects may be amended only after a
12 new public hearing is held.

13 (2) A residential clean energy program established by
14 resolution or ordinance may be amended by resolution of the
15 governing body or ordinance, respectively. Before the governing
16 body adopts an amendment by resolution, the governing body shall
17 conduct a public hearing if required pursuant to subsection (1)(c).

18 Sec. 9. (1) A residential clean energy program established by
19 a city may be administered by a nonprofit corporation formed under
20 section 40 of the home rule city act, 1909 PA 279, MCL 117.40. The
21 nonprofit corporation may be funded by money appropriated by the
22 city, transferred from the city's municipally owned electric
23 utility, if any, or provided by private sources.

24 (2) A residential clean energy program may provide for
25 financing energy efficiency improvements through loans made to
26 property owners by a nonprofit corporation described in subsection
27 (1) or by private lenders facilitated by the nonprofit corporation.

1 (3) If a nonprofit corporation makes loans to owners of
2 property under subsection (2), all of the following apply:

3 (a) Interest shall be charged on the unpaid balance at a rate
4 of not more than 7% per year.

5 (b) A loan shall be repaid in monthly installments, subject to
6 section 11(1)(i).

7 (c) The lender shall comply with all state and federal laws
8 applicable to the extension of credit for home improvements.

9 (4) The program may provide for billing any fees under section
10 11(1)(h)(ii) and the monthly installment payments as a per-meter
11 charge on the bill for electric services. The payment shall be
12 considered part of the charges for electric services to the
13 property for purposes of enforcement as provided under section 21
14 of the revenue bond act, 1933 PA 94, MCL 141.121.

15 (5) Electric service may be shut off for nonpayment of the
16 per-meter charge under subsection (4) in the same manner and
17 pursuant to the same procedures as used to enforce nonpayment of
18 other charges for electric service. If notice of a loan under the
19 program is recorded with the register of deeds for the county in
20 which the property is located, the obligation to pay the per-meter
21 charge shall run with the land and be binding on future customers
22 contracting for electric service to the property.

23 Sec. 11. (1) The report on the proposed residential clean
24 energy program required under section 7 shall include all of the
25 following:

26 (a) A form of contract between the municipality and record
27 owner governing the terms and conditions of financing under the

1 program.

2 (b) Identification of an official authorized to enter into a
3 program contract on behalf of the municipality.

4 (c) A maximum aggregate annual dollar amount for all financing
5 to be provided by the municipality under the program.

6 (d) An application process and eligibility requirements for
7 financing energy projects under the program, including the classes
8 of property eligible.

9 (e) Subject to section 9(3), a method for determining interest
10 rates on loan installments, repayment periods, and the maximum
11 amount of a loan.

12 (f) An explanation of how monthly installment payments on
13 loans will be billed and collected under section 9(4) or otherwise.

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

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

18 (ii) Amounts to be advanced by the municipality through funds
19 available to it from any other source.

20 (iii) Owner-arranged financing from a commercial lender. Under
21 owner-arranged financing, a municipal electric utility may collect
22 monthly installment payments on the electric utility bills pursuant
23 to section 9(4) and forward payments to the commercial lender or
24 the record owner may pay the commercial lender directly.

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

27 (i) Any reserve fund or funds to be used as security for bonds

1 or notes described in subdivision (g).

2 (ii) Any application, administration, or other program fees to
3 be charged to a record owner participating in the program. The fees
4 shall be used to finance costs incurred by the municipality as a
5 result of the record owner's participation.

6 (i) A requirement that the term for repayment of a loan to a
7 property owner as described in section 9(2) not exceed the
8 anticipated useful life of the energy project paid for by the loan
9 or 120 months, whichever is less.

10 (j) Provisions for marketing and participant education.

11 (k) Provisions for adequate debt service reserve fund.

12 (l) Quality assurance and antifraud measures.

13 (m) A requirement that a baseline energy audit be conducted
14 before an energy project is undertaken, to establish future energy
15 savings. After the energy project is completed, the municipality
16 shall obtain verification that the renewable energy system or
17 energy efficiency improvement was properly installed
18 and is operating as intended.

19 (2) The municipality shall post the report under subsection
20 (1) on the municipality's website, if any, and make the report
21 available for review at the office of the clerk or the official
22 authorized to enter contracts on behalf of the municipality under
23 the residential clean energy program.