



Sen. Karen McConnaughay

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10000SB1700sam003

LRB100 11334 HLH 26395 a

1 AMENDMENT TO SENATE BILL 1700

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1700 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. If and only if House Bill 2831 of the 100th  
5 General Assembly becomes law as engrossed, then the Property  
6 Assessed Clean Energy Act is amended by changing Sections 5 and  
7 25 as follows:

8 (10000HB2831eng, Sec. 5)

9 Sec. 5. Definitions. As used in this Act:

10 "Alternative energy improvement" means the installation or  
11 upgrade of electrical wiring, outlets, or charging stations to  
12 charge a motor vehicle that is fully or partially powered by  
13 electricity.

14 "Assessment contract" means a voluntary written contract  
15 between the local unit of government and record owner governing  
16 the terms and conditions of financing and assessment under a

1 program.

2 "PACE area" means an area within the jurisdictional  
3 boundaries of a local unit of government created by an  
4 ordinance or resolution of the local unit of government to  
5 provide financing for energy projects under a property assessed  
6 clean energy program. A local unit of government may create  
7 more than one PACE area under the program, and PACE areas may  
8 be separate, overlapping, or coterminous.

9 "Energy efficiency improvement" means equipment, devices,  
10 or materials intended to decrease energy consumption or promote  
11 a more efficient use of electricity, natural gas, propane, or  
12 other forms of energy on property, including, but not limited  
13 to, all of the following:

14 (1) insulation in walls, roofs, floors, foundations,  
15 or heating and cooling distribution systems;

16 (2) storm windows and doors, multi-glazed windows and  
17 doors, heat-absorbing or heat-reflective glazed and coated  
18 window and door systems, and additional glazing,  
19 reductions in glass area, and other window and door system  
20 modifications that reduce energy consumption;

21 (3) automated energy control systems;

22 (4) high efficiency heating, ventilating, or  
23 air-conditioning and distribution system modifications or  
24 replacements;

25 (5) caulking, weather-stripping, and air sealing;

26 (6) replacement or modification of lighting fixtures

1 to reduce the energy use of the lighting system;

2 (7) energy controls or recovery systems;

3 (8) day lighting systems; and

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

7 "Energy project" means the installation or modification of  
8 an alternative energy improvement, energy efficiency  
9 improvement, or water use improvement, or the acquisition,  
10 installation, or improvement of a renewable energy system that  
11 is or will be affixed to new or ~~a stabilized~~ existing property  
12 ~~(not new construction)~~.

13 "Governing body" means the county board or board of county  
14 commissioners of a county, the city council of a city, or the  
15 board of trustees of a village.

16 "Local unit of government" means a county, city, or  
17 village.

18 "Person" means an individual, firm, partnership,  
19 association, corporation, limited liability company,  
20 unincorporated joint venture, trust, or any other type of  
21 entity that is recognized by law and has the title to or  
22 interest in property. "Person" does not include a local unit of  
23 government or a homeowner's or condominium association.

24 "Program administrator" means a for-profit entity or  
25 not-for profit entity that will administer a program on behalf  
26 of or at the discretion of the local unit of government. It or

1 its affiliates, consultants, or advisors shall have done  
2 business as a program administrator or capital provider for a  
3 minimum of 18 months and shall be responsible for arranging  
4 capital for the acquisition of bonds issued by the local unit  
5 of government to finance energy projects.

6 "Property" means ~~privately owned~~ commercial, industrial,  
7 non-residential agricultural, or multi-family (of 5 or more  
8 units) real property located within the local unit of  
9 government, but does not include property owned by ~~a local unit~~  
10 ~~of government or~~ a homeowner's or condominium association.

11 "Property assessed clean energy program" or "program"  
12 means a program as described in Section 10.

13 "Record owner" means the person who is the titleholder or  
14 owner of the beneficial interest in property.

15 "Renewable energy resource" includes energy and its  
16 associated renewable energy credit or renewable energy credits  
17 from wind energy, solar thermal energy, photovoltaic cells and  
18 panels, biodiesel, anaerobic digestion, and hydropower that  
19 does not involve new construction or significant expansion of  
20 hydropower dams. For purposes of this Act, landfill gas  
21 produced in the State is considered a renewable energy  
22 resource. The term "renewable energy resources" does not  
23 include the incineration or burning of any solid material.

24 "Renewable energy system" means a fixture, product,  
25 device, or interacting group of fixtures, products, or devices  
26 on the customer's side of the meter that use one or more

1 renewable energy resources to generate electricity.

2 "Water use improvement" means any fixture, product,  
3 system, device, or interacting group thereof for or serving any  
4 property that has the effect of conserving water resources  
5 through improved water management or efficiency.

6 (Source: 10000HB2831eng.)

7 (10000HB2831eng, Sec. 25)

8 Sec. 25. Contracts with record owners of property.

9 (a) After creation of a program and PACE area, a record  
10 owner of property within the PACE area may apply with the local  
11 unit of government or its program administrator for funding to  
12 finance an energy project.

13 (b) A local unit of government may impose an assessment  
14 under a property assessed clean energy program only pursuant to  
15 the terms of a recorded assessment contract with the record  
16 owner of the property to be assessed.

17 (c) Before entering into an assessment contract with a  
18 record owner under a program, the local unit of government  
19 shall verify all of the following:

20 (1) that the property is within the PACE area;

21 (2) that there are no delinquent taxes, special  
22 assessments, or water or sewer charges on the property;

23 (3) that there are no delinquent assessments on the  
24 property under a property assessed clean energy program;

25 (4) there are no involuntary liens on the property,

1 including, but not limited to, construction or mechanics  
2 liens, lis pendens or judgments against the record owner,  
3 environmental proceedings, or eminent domain proceedings;

4 (5) that no notices of default or other evidence of  
5 property-based debt delinquency have been recorded and not  
6 cured;

7 (6) that the record owner is current on all mortgage  
8 debt on the property, the record owner has not filed for  
9 bankruptcy in the last 2 years, and the property is not an  
10 asset to a current bankruptcy.

11 (7) all work requiring a license under any applicable  
12 law to make a qualifying improvement shall be performed by  
13 a registered contractor that has agreed to adhere to a set  
14 of terms and conditions through a process established by  
15 the local unit of government.

16 (8) the contractors to be used have signed a written  
17 acknowledgement that the local unit of government will not  
18 authorize final payment to the contractor until the local  
19 unit of government has received written confirmation from  
20 the record owner that the improvement was properly  
21 installed and is operating as intended; provided, however,  
22 that the contractor retains all legal rights and remedies  
23 in the event there is a disagreement with the owner;

24 (9) that the amount of the assessment in relation to  
25 the greater of the assessed value of the property or the  
26 appraised value of the property, as determined by a

1 licensed appraiser, does not exceed 25%; and

2 (10) a requirement that an assessment of the existing  
3 water or energy use ~~or and~~ a modeling of expected monetary  
4 savings ~~has have~~ been conducted for any proposed project.

5 (d) At least 30 days before entering into an agreement with  
6 the local unit of government, the record owner shall provide to  
7 the holders or loan servicers of any existing mortgages  
8 encumbering or otherwise secured by the property a notice of  
9 the record owner's intent to enter into an assessment contract  
10 with the local unit of government, together with the maximum  
11 principal amount to be financed and the maximum annual  
12 assessment necessary to repay that amount, along with a request  
13 that the holders or loan servicers of any existing mortgages  
14 consent to the record owner subjecting the property to the  
15 program. A verified copy or other proof of those notices and  
16 the written consent of the existing mortgage holder for the  
17 record owner to enter into the assessment contract and  
18 acknowledging that the existing mortgage will be subordinate to  
19 the financing and assessment agreement and that the local unit  
20 of government can foreclose the property if the assessment is  
21 not paid shall be provided to the local unit of government.

22 (e) A provision in any agreement between a local unit of  
23 government and a public or private power or energy provider or  
24 other utility provider is not enforceable to limit or prohibit  
25 any local unit of government from exercising its authority  
26 under this Section.

1           (f) The record owner has signed a certification that the  
2 local unit of government has complied with the provisions of  
3 this Section, which shall be conclusive evidence as to  
4 compliance with these provisions, but shall not relieve any  
5 contractor, or local unit of government, from any potential  
6 liability.

7           (g) This Section is additional and supplemental to county  
8 and municipal home rule authority and not in derogation of such  
9 authority or limitation upon such authority.

10       (Source: 10000HB2831eng.)

11           Section 99. Effective date. This Act takes effect upon  
12 becoming law or upon the effective date of House Bill 2831 of  
13 the 100th General Assembly, whichever occurs later.".