

SUBSTITUTE FOR
SENATE BILL NO. 375

A bill to amend 2010 PA 270, entitled
"Property assessed clean energy act,"
by amending sections 3 and 9 (MCL 460.933 and 460.939).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (A) "ANAEROBIC DIGESTER" MEANS A DEVICE FOR OPTIMIZING THE
3 ANAEROBIC DIGESTION OF BIOMASS FOR THE PURPOSE OF RECOVERING
4 BIOFUEL FOR ENERGY PRODUCTION.

5 (B) "ANAEROBIC DIGESTER ENERGY SYSTEM" MEANS AN ANAEROBIC
6 DIGESTER AND THE DEVICES USED TO GENERATE ELECTRICITY OR HEAT FROM
7 BIOGAS PRODUCED BY THE ANAEROBIC DIGESTER OR TO STORE THE BIOGAS
8 FOR THE FUTURE GENERATION OF ELECTRICITY OR HEAT.

9 (C) ~~(a)~~"District" means a district created under a property
10 assessed clean energy program by a local unit of government that

1 lies within the local unit of government's jurisdictional
2 boundaries. A local unit of government may create more than 1
3 district under the program, and districts may be separate,
4 overlapping, or coterminous.

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

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

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

15 (iii) Automated energy control systems.

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

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

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

21 (vii) Energy recovery systems.

22 (viii) Day lighting systems.

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

26 (x) Measures to reduce the usage of water or ~~increases~~

27 **INCREASE** the efficiency of water usage.

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

4 (E) ~~(e)~~—"Energy project" means the installation or
5 modification of an energy efficiency improvement or the
6 acquisition, installation, or improvement of a renewable energy
7 system **OR ANAEROBIC DIGESTER ENERGY SYSTEM.**

8 (F) ~~(d)~~—"Governing body" means the county board of
9 commissioners of a county, the township board of a township, or the
10 council or other similar elected legislative body of a city or
11 village.

12 (G) ~~(e)~~—"Local unit of government" means a county, township,
13 city, or village.

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

20 (I) ~~(g)~~—"Property" means privately owned commercial or
21 industrial real property located within the local unit of
22 government.

23 (J) ~~(h)~~—"Property assessed clean energy program" or "program"
24 means a program as described in section 5(2).

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

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

9 (i) Biomass.

10 (ii) Solar and solar thermal energy.

11 (iii) Wind energy.

12 (iv) Geothermal energy.

13 (v) Methane gas captured from a landfill.

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

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

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

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

27 (c) A maximum aggregate annual dollar amount for all financing

1 to be provided by the local unit of government under the program.

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (l) Provisions for marketing and participant education.

9 (m) Provisions for adequate debt service reserve fund.

10 (n) Quality assurance and antifraud measures.

11 (o) A requirement that a baseline energy audit be conducted
12 before an energy project is undertaken, to establish future energy
13 savings. After the energy project is completed, the local unit of
14 government shall obtain verification that the renewable energy
15 system, **ANAEROBIC DIGESTER ENERGY SYSTEM**, or energy efficiency
16 improvement was properly installed and is operating as intended.

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

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

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

26 (2) The local unit of government shall make the report
27 available for review on the local unit of government's website or

1 at the office of the clerk or the official authorized to enter
2 contracts on behalf of the local unit of government under the
3 property assessed clean energy program.

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