

SENATE BILL No. 375

May 10, 2017, Introduced by Senator BOOHER and referred to the Committee on Local Government.

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) "District" means a district created under a property
3 assessed clean energy program by a local unit of government that
4 lies within the local unit of government's jurisdictional
5 boundaries. A local unit of government may create more than 1
6 district under the program, and districts may be separate,
7 overlapping, or coterminous.

8 (b) "Energy efficiency improvement" means equipment, devices,
9 or materials intended to decrease energy consumption, including,

1 but not limited to, all of the following:

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

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

9 (iii) Automated energy control systems.

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

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

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

15 (vii) Energy recovery systems.

16 (viii) Day lighting systems.

17 (ix) Installation or upgrade of electrical wiring or outlets
18 to charge a motor vehicle that is fully or partially powered by
19 electricity.

20 (x) Measures to reduce the usage of water or increases the
21 efficiency of water usage.

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

25 (c) "Energy project" means the installation or modification of
26 an energy efficiency improvement or the acquisition, installation,
27 or improvement of a renewable energy system **OR ANAEROBIC DIGESTER.**

1 (d) "Governing body" means the county board of commissioners
2 of a county, the township board of a township, or the council or
3 other similar elected legislative body of a city or village.

4 (e) "Local unit of government" means a county, township, city,
5 or village.

6 (f) "Person" means an individual, firm, partnership,
7 association, corporation, unincorporated joint venture, or trust,
8 organized, permitted, or existing under the laws of this state or
9 any other state, including a federal corporation, or a combination
10 thereof. However, person does not include a local unit of
11 government.

12 (g) "Property" means privately owned commercial or industrial
13 real property located within the local unit of government.

14 (h) "Property assessed clean energy program" or "program"
15 means a program as described in section 5(2).

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

19 (j) "Renewable energy resource" means a resource that
20 naturally replenishes over a human, not a geological, time frame
21 and that is ultimately derived from solar power, water power, or
22 wind power. Renewable energy resource does not include petroleum,
23 nuclear, natural gas, or coal. A renewable energy resource comes
24 from the sun or from thermal inertia of the earth and minimizes the
25 output of toxic material in the conversion of the energy and
26 includes, but is not limited to, all of the following:

27 (i) Biomass.

1 (ii) Solar and solar thermal energy.

2 (iii) Wind energy.

3 (iv) Geothermal energy.

4 (v) Methane gas captured from a landfill.

5 (k) "Renewable energy system" means a fixture, product,
6 device, or interacting group of fixtures, products, or devices on
7 the customer's side of the meter that use 1 or more renewable
8 energy resources to generate electricity. Renewable energy system
9 includes a biomass stove but does not include an incinerator or
10 digester.

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

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

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

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

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

22 (e) A method for determining interest rates on assessment
23 installments, repayment periods, and the maximum amount of an
24 assessment.

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

27 (g) A plan for raising capital to finance improvements under

1 the program. The plan may include any of the following:

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

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

6 (iii) Owner-arranged financing from a commercial lender. Under
7 owner-arranged financing, the local unit of government may impose
8 an assessment pursuant to section 11 and forward payments to the
9 commercial lender or the record owner may pay the commercial lender
10 directly.

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

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

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

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

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

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

26 (l) Provisions for marketing and participant education.

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

1 (n) Quality assurance and antifraud measures.

2 (o) A requirement that a baseline energy audit be conducted
3 before an energy project is undertaken, to establish future energy
4 savings. After the energy project is completed, the local unit of
5 government shall obtain verification that the renewable energy
6 system, **ANAEROBIC DIGESTER**, or energy efficiency improvement was
7 properly installed and is operating as intended.

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

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

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

17 (2) The local unit of government shall make the report
18 available for review on the local unit of government's website or
19 at the office of the clerk or the official authorized to enter
20 contracts on behalf of the local unit of government under the
21 property assessed clean energy program.

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