

Act No. 106
Public Acts of 2023
Approved by the Governor
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**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Senators Camilleri, McDonald Rivet, Singh, Polehanki, Cavanagh, Chang, Wojno, Irwin, Santana, Shink and McCann

ENROLLED SENATE BILL No. 302

AN ACT to amend 2010 PA 270, entitled “An act to authorize local units of government to adopt property assessed clean energy programs and to create districts to promote the use of renewable energy systems and energy efficiency improvements by owners of certain real property; to provide for the financing of such programs through voluntary property assessments, commercial lending, and other means; to authorize a local unit of government to issue bonds, notes, and other evidences of indebtedness and to pay the cost of renewable energy systems and energy efficiency improvements from the proceeds thereof; 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,” by amending section 9 (MCL 460.939), as amended by 2017 PA 242.

The People of the State of Michigan enact:

Sec. 9. (1) The report on the proposed property assessed clean energy program required under section 7 shall include all of the following:

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

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

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

(d) An application process and eligibility requirements for financing projects.

(e) Methods for determining repayment periods, the maximum amount of an assessment, and interest rates on assessment installments.

(f) An explanation of how assessments will be made and collected consistent with section 13(2).

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

(i) The sale of bonds or notes, subject to section 15.

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

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

(h) Procedures to determine in the future or, to the extent known, information regarding each of the following:

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

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

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

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

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

(l) Provisions for marketing and participant education.

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

(n) Quality assurance and antifraud provisions.

(o) A requirement that a baseline energy audit or baseline energy modeling be conducted before an energy project is undertaken, to establish future energy savings. After the energy project is completed, the local unit of government shall obtain verification that the renewable energy system, anaerobic digester energy system, or energy efficiency improvement was properly installed and is operating as intended.

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

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

(ii) Unless waived by the record owner, a requirement that the contractor guarantee to the record owner that the project will achieve a savings-to-investment ratio greater than 1 and agree to pay the record owner, on an annual basis, any shortfall in savings below this level. This subparagraph does not apply to a new construction energy project.

(q) For a new construction energy project, a requirement that the building or other structure exceed applicable requirements of the Michigan uniform energy code, parts 10 and 10a of the construction code, R 408.31059 to 408.31071a and 408.31087 to 408.31099 of the Michigan Administrative Code.

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

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 303 of the 102nd Legislature is enacted into law.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor