

Hall of the House of Representatives

88th General Assembly - Regular Session, 2011

Amendment Form

Subtitle of House Bill No. 1027

TO PROMOTE THE CONSERVATION OF ENERGY AND NATURAL RESOURCES IN
PRIVATELY OWNED HOMES.

Amendment No. 1 to House Bill No. 1027

Amend House Bill No. 1027 as originally introduced:

Delete SECTION 1 and substitute the following:

"SECTION 1. Arkansas Code Title 8 is amended to add a new chapter to read as follows:

CHAPTER 15 — ENERGY-EFFICIENT HOMES

8-15-101. Title.

This chapter shall be known and may be cited as the "Property Assessed Energy-Efficient Home Improvement District Act".

8-15-102. Definitions.

As used in this chapter:

(1)(A) "Bond" means a revenue bond or note issued under this chapter.



(B) "Bond" includes any other financial obligation authorized by this chapter, the laws of this state, or the Arkansas Constitution;

(2) "Home" means the privately owned residence of a person;

(3) "Major home renovation" means a renovation of a home that costs more than fifty percent (50%) of the home's current appraised value;

(4) "New construction" means a new addition to a home or a complete new home;

(5) "Owner" means an individual who has a title or interest in his or her residential property;

(6) "Property assessed energy-efficient home improvement district" means a district established in this state by law for the express purpose of managing a property assessed energy-efficient home improvement program; and

(7) "Property assessed energy-efficient home improvement program" means a program under which a property owner can finance an energy-efficient improvement and a renewable energy project on his or her residential property.

8-15-103. Legislative findings.

The General Assembly finds that:

(1)(A) Homes can be constructed and renovated using energy-efficient designs and renewable energy projects that save money and reduce the negative environmental impact.

(B) The main objectives of energy-efficient designs and renewable energy projects are to:

(i) Avoid resource depletion of energy, water, and raw materials;

(ii) Prevent environmental degradation throughout the design's life cycle; and

(iii) Create homes that are livable, comfortable, safe, and energy efficient;

(2) Homes can be improved by establishing specific performance criteria and goals for energy-efficient improvements and renewable energy projects that are based on recognized, consensual standards with a scientifically proven basis and a history of successful performance;

(3) It is in the best interest of this state to authorize counties to create districts that make available to their citizens one (1) or more financing programs to fund energy-efficient

improvements or designs and renewable energy projects on newly constructed or renovated residential properties at the request of the homeowner;

(4) These programs will benefit the citizens of this state by:

(A) Decreasing the cost of funds to participating citizens and lowering the aggregate issuance and servicing costs of these loans; and

(B) Making these funds available to rural communities throughout the state that might not otherwise create and finance these programs; and

(5) These programs will further the public purpose of:

(A) Creating jobs and stimulating the state's economy;

(B) Generating significant economic development through the investment of the proceeds of these loans in local communities, including increased sales tax revenue;

(C) Protecting participating citizens from the financial impact of the rising cost of electricity produced from nonrenewable fuels;

(D) Providing positive cash flow in many instances in which the costs of the construction, renovation, or improvements are lower than the energy savings on an average monthly basis;

(E) Providing the citizens of this state with informed choices and additional options for financing construction, renovation, or improvements that may not otherwise be available;

(F) Increasing the value of the newly constructed, renovated, or improved real property for participating citizens;

(G) Improving the state's air quality and conserving natural resources, including water; and

(H) Promoting energy independence and security for the state and the nation.

8-15-104. Immunity.

(a) The powers and duties of a property assessed energy-efficient home improvement district conferred by this chapter are public and governmental functions exercised for a public purpose and for matters of public necessity.

(b) The district and its personnel are immune from suit in tort for the performance of its duties under this chapter unless immunity is expressly waived in writing.

8-15-105. Authority to create.

A county may create a property assessed energy-efficient home improvement district by adoption of an ordinance.

8-15-106. Board of directors.

(a) A property assessed energy-efficient home improvement district created under this chapter shall be operated and controlled by a board of directors.

(b) A board of directors shall manage and control a district created under this chapter, including without limitation the following:

(1) Operations;

(2) Business; and

(3) Affairs.

(c) The board of directors shall be solely responsible for selecting the chair of the board of directors and establishing procedures by which it shall operate.

(d) A director shall not receive compensation in any form for his or her services as a director.

(e) Each director shall be entitled to reimbursement by the district for any necessary expenditures incurred in connection with the performance of his or her general duties as a director.

8-15-107. Membership on the board of directors.

(a) Unless the structure of the board of directors is otherwise specified in the agreement establishing the property assessed energy-efficient home improvement district, the board of directors of a district shall consist of no fewer than five (5) directors as provided under this section.

(b)(1) The board of directors shall include the county judge or his or her designated representative and the mayor or his or her designated representative of each city of the first class that is within the county's boundaries.

(2) If the number of directors is fewer than five (5) after fulfilling the requirements of subdivision (b)(1) of this section, then mayors or designated representatives of the cities of the second class that are within the county's boundaries are appointed to the board of directors in descending order of population as determined by the last federal decennial census until five (5) directors have been appointed.

(c) The designated representative of a county judge or mayor under subsection (b) of this section shall be a qualified elector of the jurisdiction that the designated representative is appointed to represent.

(d) If a city of the second class becomes a city of the first class and is within the county's boundaries, the mayor of that city or his or her designated representative shall become a director.

(e) Membership of cities of the second class on the board of directors shall be adjusted after each federal decennial census.

8-15-108. Terms of directors.

(a) A director who is a public official may serve on the board of directors during his or her term of office as the county judge or mayor of a member of a property assessed energy-efficient home improvement district.

(b) A director who is the designated representative of the mayor or county judge of a member of the district serves at the pleasure of the mayor of that city or the county judge of the county that is a member of the district.

8-15-109. District boards of directors -- Meetings.

(a) The board of directors of a property assessed energy-efficient home improvement district shall hold quarterly meetings and special meetings, as needed, in the courthouse or other location within the county as determined by the board of directors.

(b) The time and place of the quarterly meetings shall be on file in the office of the district board of directors.

8-15-110. District boards of directors -- Powers and duties.

(a) The board of directors of a property assessed energy-efficient home improvement district may:

(1) Enter into agreements and contracts and issue revenue bonds with a governmental entity or a private entity on behalf of the district;

(2) Make and adopt all necessary bylaws for its organization and operation;

(3) Elect officers and employ personnel necessary for its operation;

(4) Operate, maintain, expand, or fund a property assessed energy-efficient home improvement program;

(5) Apply for, receive, and spend grants for any purpose under this chapter;

(6) Enter into agreements and contracts;

(7) Receive property or funds by gift or donation for the finance and support of the district; and

(8) Do all things necessary or appropriate to carry out the powers expressly granted or duties expressly imposed under this chapter.

(b) The board of directors shall adopt rules consistent with this chapter or other law that in its judgment may be necessary for the proper enforcement of this chapter, provided such rules are approved by the district.

8-15-111. Property assessed energy-efficient home improvement programs.

(a) A property assessed energy-efficient home improvement district created under this chapter may establish a property assessed energy-efficient home improvement program to provide loans for the initial acquisition and installation of energy-efficient improvements or designs and renewable energy projects with free and willing privately owned residential property owners for both major home renovation to existing property and to new construction.

(b)(1) The district may, by resolution, authorize a revenue bond or contract with a governmental entity or a private entity to provide the loans under subsection (a).

(2) The resolution shall include without limitation the following:

(A) The kind of renewable energy project or energy-efficient improvement or design for which the loan may be offered;

(B) The proposed arrangement for the loans under the program, including:

(i) A statement concerning the source of funding that will be used to pay for work performed under the loan contract;

(ii) The interest rate and time period during which contracting residential property owners would repay the loan; and

(iii) The method of apportioning all or any portion of the costs incidental to financing, administration, and collection of the arrangement among the consenting residential property owners and the county;

(C) A minimum and maximum aggregate dollar amount that may be financed per property;

(D)(i) A method for setting requests from privately owned residential property owners for financing in priority order if the requests appear likely to exceed the authorization amount of the loans under the program.

(ii) Priority shall be given to those requests from privately owned residential property owners who meet established income or assessed property value eligibility requirements;

(E) Identification of a local official authorized to enter into loan contracts on behalf of the district; and

(F) A draft contract specifying the terms and conditions proposed by the district.

(c)(1) The district may combine the loan payment required by the loan contract with the billing for the real property tax assessment for the property where the renewable energy project or the energy-efficient improvement or design is installed.

(2) The district may establish the order in which a loan payment will be applied to the different charges.

(d) The district shall offer private lending institutions the opportunity to participate in a program established under this section.

(e)(1)(A) In order to secure a loan under a program authorized under this section, the district may place a lien equal in value to the loan against the property where the renewable energy project or the energy-efficient improvement or design is being installed.

(B) The lien shall attach to the property when it is filed in the recorder's office for record.

(2)(A) The priority of the lien created under this chapter is determined based on the date of filing of the lien.

(B) The lien is not entitled to any special or senior priority.

(C) A district shall discharge the lien created under this chapter upon full payment of the lien.

(3) If the property is sold, the lien will stay attached to the property and the loan created under this chapter will be owed by the new property owner.

(4) The district may bundle or package the loans for transfer to private lenders in a manner that would allow the liens to remain in full force to secure the loans.

(f)(1) Before the enactment of an ordinance under this section, a public hearing shall be held at which interested persons may object to or inquire about the proposed property assessed energy-efficient home improvement program or any of its particulars.

(2) The public hearing shall be advertised one (1) time a week for two (2) successive weeks in a newspaper of general circulation in the district.

8-15-112. Program guidelines.

The board of directors, together with any third-party administrator it may select, shall determine:

(1) The guidelines of the property assessed energy-efficient home improvement program, including without limitation the applicable underwriting standards for the participants in the program;

(2) The qualifications of the vendors performing such installations;

(3) The mechanisms by which the district will remit the received special assessment payments and any costs reimbursement;

(4) The priority of property tax payments and the special assessments; and

(5) Other matters necessary to implement and administer the program.

8-15-113. Payment by special assessments.

The credit and taxing power of the State of Arkansas will not be pledged for the debt evidenced by the bonds, which will be payable solely from the revenues received from the special assessments on the participants' properties.

8-15-114. Bonds.

(a) A property assessed energy-efficient home improvement district may:

(1) Issue revenue bonds in order to provide the property assessed energy-efficient home improvement program loans authorized by this chapter; and

(2) Create a debt reserve fund of legally available moneys from nonstate sources as partial security for the bonds.

(b) Bonds issued under this chapter and income from the bonds, including any profit made on the sale or transfer of the bonds, are exempt from taxation in this state.

(c) Bonds issued under this chapter shall be authorized by resolution of the board of directors.

(d) The bonds shall have all of the qualities of and shall be deemed to be negotiable instruments under the laws of the State of Arkansas.

(e) The authorizing bond resolution may contain any other terms, covenants, and conditions that the board of directors deems to be reasonable and desirable.

8-15-115. Sale.

The bonds may be sold in such a manner, either at public or private sale, and upon such terms as the board of directors shall determine to be reasonable and expedient for effectuating the purposes of this chapter.

8-15-116. Revolving fund.

(a) A property assessed energy-efficient home improvement district may maintain a revolving fund to be held in trust by a banking institution chosen by the board of directors separate from any other funds and administered by the board of directors.

(b) A district may transfer into its revolving fund money from any permissible source, including:

(1) Bond revenue;

(2) Contributions;

(3) Loans;

(4) Grants; and

(5) Assistance from any governmental entity, private entity, or person.”

The Amendment was read _____

By: Representative D. Altes

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