

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

SENATE BILL

No. 635 Session of  
2021

---

INTRODUCED BY YUDICHAK, BOSCOLA, KANE, KEARNEY, MENSCH,  
TARTAGLIONE AND ARGALL, MAY 4, 2021

---

REFERRED TO COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,  
MAY 4, 2021

---

AN ACT

1 Amending Title 12 (Commerce and Trade) of the Pennsylvania  
2 Consolidated Statutes, in property assessed clean energy  
3 program, further providing for purpose, for definitions, for  
4 establishment of a program, for notice to lien holder  
5 required for participation, for scope of work, for lien and  
6 for collection of assessments.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Section 4301 of Title 12 of the Pennsylvania  
10 Consolidated Statutes is amended to read:

11 § 4301. Purpose.

12 This chapter authorizes the establishment of a property  
13 assessed clean energy program in the Commonwealth to ensure that  
14 owners of agricultural, commercial and industrial properties can  
15 obtain low-cost, long-term financing for energy efficiency,  
16 indoor air quality, resiliency improvement, water conservation  
17 and renewable energy projects.

18 Section 2. The definitions of "financial institution,"  
19 "owner financing," "qualified project" and "real property" in

1 section 4302 of Title 12 are amended and the section is amended  
2 by adding definitions to read:

3 § 4302. Definitions.

4 The following words and phrases when used in this chapter  
5 shall have the meanings given to them in this section unless the  
6 context clearly indicates otherwise:

7 \* \* \*

8 "Financial institution." Any person who in the ordinary  
9 course of business extends credit based on a lien, mortgage or  
10 security interest in [real] qualifying commercial property or an  
11 encumbrance of [real] qualifying commercial property or relies  
12 upon a lien, mortgage or security interest in [real] qualifying  
13 commercial property or an encumbrance of [real] qualifying  
14 commercial property to secure a current, contingent or future  
15 payment obligation. The term includes, but is not limited to,  
16 the following:

17 (1) A bank, savings association, trust company, credit  
18 union or a subsidiary or affiliate of a bank, savings  
19 association, trust company or credit union.

20 (2) A person engaged in the mortgage lending business  
21 subject to or exempt from licensing under 7 Pa.C.S. Ch. 61  
22 (relating to mortgage loan industry licensing and consumer  
23 protection).

24 (3) A person subject to or exempt from licensing under  
25 the act of February 19, 1980 (P.L.15, No.9), known as the  
26 Real Estate Licensing and Registration Act.

27 (4) A person registered as a management company or unit  
28 investment trust or treated as a business development company  
29 under the Investment Company Act of 1940 (54 Stat. 789, 15  
30 U.S.C. § 80a-1 et seq.) or is excluded from registration

1 under the Investment Company Act of 1940.

2 (5) An insurance company.

3 (6) A pension or employee health and welfare fund.

4 (7) An association engaged in construction or the  
5 development or improvement of [real] qualifying commercial  
6 property.

7 (8) A condominium or cooperative association or planned  
8 community association.

9 (9) A Federal, State or local agency, authority or an  
10 instrumentality of a government entity that is engaged in the  
11 financing or supports the financing of real estate  
12 development or the purchase or improvement of real estate.

13 "Indoor air quality project." A project which improves  
14 health or performance outcomes by reducing exposure to indoor  
15 airborne contaminants.

16 \* \* \*

17 "Owner financing." A bond provided by a [real] qualifying  
18 commercial property owner or a third-party provider. This term  
19 may include a power purchase agreement.

20 \* \* \*

21 "Qualified project." The installation or modification of a  
22 permanent improvement fixed to [real] qualifying commercial  
23 property that is a clean energy project, resiliency improvement  
24 project, indoor air quality project, water conservation project  
25 or alternative energy system, which generates measurable energy  
26 savings or reductions in water usage or improves the rated  
27 performance in indoor air quality and the installation is  
28 performed by a qualified party in a district. The term includes  
29 installation of alternative energy-generating equipment affixed  
30 to the land or building.

1 ["Real property." Any agricultural, commercial or industrial  
2 land or building owned by an individual, partnership, limited  
3 liability corporation, corporation or nonprofit. The term does  
4 not include multifamily housing or any residential property.]

5 "Qualifying commercial property." As follows:

6 (1) Real property that meets any of the following  
7 criteria:

8 (i) Any real property that is agricultural,  
9 commercial, industrial or multifamily housing with five  
10 or more units owned by an individual, partnership,  
11 limited liability corporation, corporation or nonprofit.

12 (ii) A mixed-use real property of any of the  
13 property types under subparagraph (i), whether land or  
14 building.

15 (2) The term does not include property that is  
16 residential housing with four or fewer units.

17 "Resiliency improvement." Any fixture, product, system,  
18 equipment, device, material or interacting group of fixtures,  
19 products, systems, equipment, devices or materials intended to  
20 increase resiliency or improve the durability of real property,  
21 including flood mitigation, wind resistance, energy storage,  
22 microgrids and backup power generation or otherwise designated  
23 by a local government entity.

24 \* \* \*

25 Section 3. Sections 4303(1)(ii), 4304 introductory paragraph  
26 and (1) and 4305(b) of Title 12 are amended to read:

27 § 4303. Establishment of a program.

28 The following apply:

29 (1) A municipality with a community or economic  
30 development department or county may establish a property

1 assessed clean energy program by adopting an ordinance or  
2 resolution that will establish the program, define the  
3 district and provide other operational standards and  
4 guidelines, which shall include, but not be limited to, the  
5 following:

6 \* \* \*

7 (ii) Develop criteria and procedures to determine  
8 the eligibility of [real] qualifying commercial property  
9 and owners for participation in a program.

10 \* \* \*

11 § 4304. Notice to lien holder required for participation.

12 Before [real] qualifying commercial property may be subject  
13 to an assessment under the program and begin a local financing  
14 or an owner financing of a qualified project, the following  
15 shall occur:

16 (1) Any financial institution holding a lien, mortgage  
17 or security interest in or other encumbrance of the [real]  
18 qualifying commercial property that secures a current, future  
19 or contingent payment obligation must be given written notice  
20 of the [real] qualifying commercial property owner's  
21 intention to participate in the program and acknowledge in  
22 writing to the property owner and municipality or county that  
23 established the program that they have received such notice.

24 \* \* \*

25 § 4305. Scope of work.

26 \* \* \*

27 (b) Verification of completion.--After a qualified project  
28 is completed, the municipality or county shall obtain  
29 verification from the [real] qualifying commercial property  
30 owner and from an independent professional inspector or building

1 code official that the qualified project was properly completed.

2 Section 4. Section 4307(a)(1) and (b) of Title 12 are  
3 amended and the section is amended by adding a subsection to  
4 read:

5 § 4307. Lien.

6 (a) General rule.--An assessment under this chapter,  
7 including past-due amounts and required future payments and any  
8 interest or penalties on the assessment:

9 (1) shall be a first and prior lien against the [real]  
10 qualifying commercial property on which the assessment is  
11 imposed from the date on which the notice of contractual  
12 assessment is recorded and until the assessment, interest or  
13 penalty is satisfied;

14 \* \* \*

15 (b) Lien.--The lien runs with the land and that portion of  
16 the assessment under the assessment contract that has not yet  
17 become due is not eliminated by foreclosure of a property tax  
18 lien. [The] Notwithstanding any other provision of law, the  
19 assessment cannot be accelerated or extinguished until fully  
20 repaid.

21 \* \* \*

22 (f) Collection.--A municipality or county shall utilize the  
23 provisions under the act of July 7, 1947 (P.L.1368, No.542),  
24 known as the Real Estate Tax Sale Law, or the act of May 16,  
25 1923 (P.L.207, No.153), referred to as the Municipal Claim and  
26 Tax Lien Law, to collect delinquent installments of assessments.

27 Section 5. Section 4308(2) of Title 12 is amended to read:

28 § 4308. Collection of assessments.

29 The following apply:

30 \* \* \*

1           (2) The assessment shall be made only upon the [real]  
2     qualifying commercial property whose owner has executed a  
3     written agreement with the governing body agreeing to the  
4     assessment.

5           \* \* \*

6     Section 6. This act shall take effect in 60 days.