

AN ACT

RELATING TO LOCAL GOVERNMENT; ENACTING THE SOLAR ENERGY IMPROVEMENT SPECIAL ASSESSMENT ACT; AUTHORIZING COUNTIES TO IMPOSE, ADMINISTER AND DISBURSE SOLAR ENERGY IMPROVEMENT SPECIAL ASSESSMENTS TO ENCOURAGE THE DEVELOPMENT OF SOLAR ENERGY IMPROVEMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "Solar Energy Improvement Special Assessment Act".

Section 2. DEFINITIONS.--As used in the Solar Energy Improvement Special Assessment Act:

A. "county" means a county, including an H class county;

B. "eligible solar energy improvement" means a photovoltaic or solar thermal system installed on residential or commercial property;

C. "photovoltaic system" means an energy system that collects or absorbs sunlight for conversion into electricity; and

D. "solar thermal system" means an energy system that collects or absorbs solar energy for conversion into heat for the purposes of space heating, space cooling or water heating.

Section 3. ORDINANCE IMPOSING SOLAR ENERGY SPECIAL

ASSESSMENT.--The board of county commissioners of a county may provide by ordinance for a solar energy improvement special assessment to be imposed on a residential or commercial property within the boundaries of the county if the owner of the property requests the assessment. The purpose of the solar energy improvement special assessment shall be to increase access to the benefits of solar technology improvements by participation in a voluntary special assessment on property, which can be used to facilitate financing arrangements for the eligible solar energy improvements.

Section 4. IMPLEMENTATION OF SOLAR ENERGY IMPROVEMENT SPECIAL ASSESSMENT.--A board of county commissioners enacting an ordinance providing for a solar energy improvement special assessment shall direct the county treasurer to include the solar energy improvement special assessment in the property tax bill for property subject to the assessment and to collect the assessment at the same time and in the same manner as property taxes are levied and collected if:

A. the property owner has submitted a written application, in a format approved by the county treasurer, requesting that the solar energy improvement special assessment be applied to the owner's property for the purpose of financing an eligible solar energy improvement on the property;

B. the county assessor has verified that the property owner requesting the solar energy improvement special assessment is the owner of record of the property with respect to which the solar energy improvement special assessment will be levied and that there are no delinquent taxes on the property;

C. the property owner has submitted certification, in a format approved by the county treasurer, that the improvements to the property:

(1) are eligible solar energy improvements;

(2) comply with guidelines for photovoltaic or solar thermal systems established by the energy, minerals and natural resources department; and

(3) will be installed in compliance with the guidelines established by the energy, minerals and natural resources department for installation of photovoltaic or solar thermal systems;

D. the property owner has submitted documentation, in a format approved by the county treasurer, of the proposed financing agreement for the solar energy improvements to the property to establish:

(1) that the financing will be provided by an entity that has been certified by the financial institutions division of the regulation and licensing department as a solar energy improvement financing

institution, pursuant to the provisions of Section 7 of the Solar Energy Improvement Special Assessment Act;

(2) that the financing is for an amount, including principal, interest and administrative fees to the county, that is no more than forty percent of the assessed value of the property according to current county property tax records and that the administrative fees to the county constitute no more than ten percent of the total financing amount;

(3) the annual amount of the solar energy improvement special assessment necessary to satisfy the financing agreement and the number of years the assessment shall be imposed on the property; and

(4) the conditions by which the property owner may prepay and permanently satisfy the debt owed pursuant to the financing agreement and remove the solar improvement special assessment and lien from the property.

Section 5. SOLAR ENERGY IMPROVEMENT SPECIAL ASSESSMENT--AMOUNT--COLLECTION--LIEN CREATED.--

A. The amount of the solar energy improvement special assessment on a property shall be the amount necessary to finance the eligible solar energy improvements, including payment of principal, interest and administrative fees collected by the county; provided that the administrative fees shall not exceed ten percent of the total financing amount.

Agreements entered into by the owner of the property with the solar energy improvement financing institution and submitted pursuant to this section shall be conclusive regarding the amount that may be assessed against the property; provided that, when the underlying debt has been satisfied, the solar energy improvement special assessment shall be removed from the property.

B. The solar energy improvement special assessment shall be levied and collected at the same time and in the same manner as property taxes are levied and collected. Money derived from the imposition and collection of the solar energy improvement special assessment shall be kept separately from other county funds.

C. A solar energy improvement special assessment shall constitute a lien on the property, which shall be effective during the period in which the assessment is imposed and shall have priority co-equal with other property tax liens. The amount of the lien shall not exceed the annual amount of the solar energy improvement special assessment imposed on the property. The lien shall be removed immediately upon satisfaction of the underlying debt giving rise to the assessment and lien.

Section 6. SOLAR ENERGY IMPROVEMENT SPECIAL ASSESSMENT--DISBURSEMENT OF PROCEEDS.--

A. Proceeds from a solar energy improvement

special assessment on a property shall be disbursed by the county treasurer solely for the purpose of financing the solar energy improvements to that property and paying the applicable administrative fees to the county.

B. The county treasurer shall enter into an agreement with the solar energy improvement financing institution providing financing to the property owner specifying the procedures by which the treasurer shall transfer the revenue from the assessment to the institution. The agreement with the solar energy improvement financing institution shall specify that the county is not liable in any way for the debt of the property owner, is not a third party obligor and is not pledging or lending its credit to the property owner or the financing institution.

Section 7. SOLAR ENERGY IMPROVEMENT FINANCING INSTITUTIONS--CERTIFICATION OF QUALIFIED ENTITIES.--The financial institutions division of the regulation and licensing department shall promulgate rules for the certification of financial institutions or other entities as solar energy improvement financing institutions. The rules shall ensure that a solar energy improvement financing institution is a member institution of the federal deposit insurance corporation or the national credit union administration or is an entity that the financial institutions division finds meets generally accepted criteria for financial

stability and soundness.

Section 8. ADDITIONAL CRITERIA PROHIBITED.--A county shall not establish additional criteria for participation by property owners in the solar energy improvement special assessment beyond those set forth in the Solar Energy Improvement Special Assessment Act. A county shall not require, as a condition of being subject to a solar energy improvement special assessment, that a property comply with energy efficiency standards such as energy audits, appliance replacement or energy efficiency improvements.

Section 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2009.