

HOUSE BILL 165

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

## INTRODUCED BY

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## AN ACT

RELATING TO LOCAL GOVERNMENT; CLARIFYING THAT SPECIAL ASSESSMENTS UNDER THE IMPROVEMENT SPECIAL ASSESSMENT ACT SHALL BE PAID BY PROPERTY OWNERS OR LESSEES WHO HOLD INDUSTRIAL REVENUE BOND LEASES.

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

**SECTION 1.** Section 4-55D-2 NMSA 1978 (being Laws 2023, Chapter 150, Section 2) is amended to read:

"4-55D-2. DEFINITIONS.--As used in the Improvement Special Assessment Act:

A. "capital provider" means a private entity or its designee, successor or assigns that finances or refinances an eligible improvement pursuant to the Improvement Special Assessment Act.

B. "county" means a county, including an H class

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1 county;

2 C. "county ordinance" means an ordinance adopted by  
3 a county pursuant to the Improvement Special Assessment Act to  
4 establish a program within a designated region;

5 D. "department" means the economic development  
6 department;

7 E. "eligible improvement" means a permanently  
8 affixed energy efficiency improvement, renewable energy  
9 improvement, water conservation improvement or resiliency  
10 improvement installed on eligible property as part of the  
11 construction or renovation of the property;

12 F. "eligible property" means:

13 (1) any privately owned commercial,  
14 industrial, agricultural or multifamily residential real  
15 property with five or more dwelling units, including real  
16 property owned by an entity formally recognized as tax exempt  
17 pursuant to Internal Revenue Code of 1986, as amended; or

18 (2) property interests of a lessee under an  
industrial revenue bond lease for commercial, industrial,  
agricultural or multifamily residential real property with five  
or more dwelling units;

22 G. "energy efficiency improvement" means measures,  
23 equipment or devices that result in a decrease in consumption  
24 of or demand for electricity or natural gas;

25 H. "industrial revenue bond lease" means the lease

1 of property by a county or municipality to a person in  
2 connection with a project under the authority of the Industrial  
3 Revenue Bond Act or the County Industrial Revenue Bond Act;

4 I. "lessee" means a lessee under an industrial  
5 revenue bond lease;

6 [H.] J. "local government" means a municipality,  
7 county or other general function governmental unit established  
8 by state law;

9 [I.] K. "municipal" or "municipality" means any  
10 incorporated city, town or village, whether incorporated under  
11 general act, special act or special charter, incorporated  
12 counties and H class counties;

13 [J.] L. "program" means a special assessment  
14 program that utilizes and conforms to the program guidebook and  
15 uniform special assessment documents established by the  
16 department pursuant to the Improvement Special Assessment Act;

17 [K.] M. "program administrator" means a person  
18 designated by a county to administer a program; "program  
19 administrator" may be the department, the county or a third  
20 party; provided that the administration procedures used conform  
21 to the requirements of the Improvement Special Assessment Act;

22 [L.] N. "program guidebook" means a comprehensive  
23 document created by the department pursuant to the Improvement  
24 Special Assessment Act, including uniform assessment documents,  
25 appropriate guidelines, specifications, approval criteria and

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1 other standard forms consistent with the administration of a  
2 program that are not detailed in the Improvement Special  
3 Assessment Act;

4 [M.] O. "project application" means an application  
5 submitted to a program administrator to demonstrate that a  
6 proposed project qualifies for special assessment financing  
7 pursuant to a program;

8 [N.] P. "region" means a geographical area as  
9 designated by a county pursuant to the Improvement Special  
10 Assessment Act;

11 [O.] Q. "renewable energy improvement" means an  
12 energy system that generates energy by use of low- or zero-  
13 emissions generation technology with substantial long-term  
14 production, including solar, wind and geothermal resources,  
15 fuel cell equipment using an electrochemical process to  
16 generate electricity and heat or biomass resources;

17 [P.] R. "resiliency improvement" means improvements  
18 that increase the resilience of a property, including air  
19 quality, flood mitigation, storm water management, energy  
20 storage and microgrids, alternative vehicle charging  
21 infrastructure, fire or wind resistance or inundation  
22 adaptation;

23 [Q.] S. "special assessment" means a voluntary  
24 assessment imposed on a property pursuant to the Improvement  
25 Special Assessment Act for the total amount of special

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1 assessment financing together with interest, penalties, fees  
2 and charges related thereto;

3 [R.] T. "special assessment agreement" means a  
4 voluntary agreement of a property owner to allow a county to  
5 place an assessment on the owner's property to repay special  
6 assessment financing pursuant to the Improvement Special  
7 Assessment Act;

8 [S.] U. "special assessment assignable certificate"  
9 means a document assigning a special assessment lien from the  
10 county to a capital provider in an amount not to exceed the  
11 amount of the special assessment financing for the term of the  
12 special assessment lien;

13 [T.] V. "special assessment financing" means the  
14 total amount of financing provided by a capital provider  
15 pursuant to a special assessment financing agreement, including  
16 accrual of interest and penalties, charges, fees and costs of  
17 enforcement of a special assessment lien;

18 [U.] W. "special assessment financing agreement"  
19 means a contract pursuant to which a property owner agrees to  
20 repay a capital provider for special assessment financing and  
21 to the terms of the special assessment financing, including the  
22 treatment of prepayment and partial payment of a special  
23 assessment, servicing arrangements, the payment of any finance  
24 charges and fees and accrual of interest and penalties;

25 [V.] X. "special assessment lien" means a lien

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1 recorded in all counties in which the eligible property is  
2 located to secure the special assessment, which assessment  
3 remains on the property until paid in full;

4 [W.] Y. "uniform assessment documents" means the  
5 forms of county ordinance, special assessment agreement,  
6 special assessment lien, special assessment assignable  
7 certificate and other model documents prepared by the  
8 department pursuant to the Improvement Special Assessment Act  
9 for use in the program; provided, however, the department shall  
10 not mandate a form of special financing agreement that shall be  
11 supplied by a capital provider; and

12 [X.] Z. "water conservation improvement" means  
13 measures, equipment or devices that decrease the consumption of  
14 or demand for water, address safe drinking water or eliminate  
15 lead from water used for drinking or cooking."

16 **SECTION 2.** Section 4-55D-5 NMSA 1978 (being Laws 2023,  
17 Chapter 150, Section 5) is amended to read:

18 "4-55D-5. IMPOSITION OF SPECIAL ASSESSMENT--AMOUNT--  
19 COLLECTION--SPECIAL ASSESSMENT LIEN CREATED.--

20 A. Upon entering into a special assessment  
21 agreement, the county shall record a special assessment lien on  
22 the subject property in the real property records of the county  
23 in which the property is located.

24 B. The recording of the lien pursuant to Subsection  
25 A of this section shall include:

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- (1) the legal description of the property;
- (2) the county assessor's parcel number of the property;
- (3) the grantor's name, which shall be the same as the property owner on the special assessment agreement;
- (4) the grantee's name, which shall be the county in which the property is located;
- (5) the date on which the special assessment lien was created;
- (6) the principal amount of the special assessment lien;
- (7) the terms and length of the special assessment lien; and
- (8) a copy of the special assessment agreement.

C. A special assessment lien shall be effective during the period in which the special assessment is imposed and shall have priority superior to all liens, claims and titles except a lien for general ad valorem property taxes or an improvement district lien that is coequal to property taxes.

D. A special assessment lien runs with the land, and that portion of the special assessment lien that has not yet become due is not accelerated or eliminated by foreclosure of the special assessment lien or any lien for taxes or assessments imposed by the state, a local government or taxing

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1 district against the property on which the special assessment  
2 lien is imposed.

3 E. A special assessment shall be paid by a property  
4 owner unless the property is under an industrial revenue bond  
5 lease, in which case the lessee shall pay the special  
6 assessment, but under no circumstance shall a local government  
7 pay a special assessment.

8 [E.] F. Upon entering into a special assessment  
9 agreement, the county shall execute and record a special  
10 assessment assignable certificate from the county to the  
11 appropriate capital provider. The special assessment  
12 assignable certificate shall convey the special assessment lien  
13 including all of the characteristics described in Subsection B  
14 of this section. The holder of the special assessment  
15 assignable certificate shall be solely responsible for the  
16 billing and collection of the related special assessment and  
17 for the enforcement of the special assessment lien.

18 [F.] G. When the underlying special assessment  
19 financing has been satisfied, the special assessment shall be  
20 removed from the property and the county shall record a release  
21 of the special assessment lien."

22 SECTION 3. Section 4-55D-7 NMSA 1978 (being Laws 2023,  
23 Chapter 150, Section 7) is amended to read:

24 "4-55D-7. SPECIAL ASSESSMENT FINANCING.--

25 A. Special assessment financing shall be provided

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1 by capital providers and disbursed directly by capital  
2 providers to fund eligible improvements subject to a special  
3 assessment financing agreement.

4 B. A county [is] or municipality shall not be  
5 liable in any way for the debt of the property owner [is] or  
6 the debt of the special assessment financing, shall not be a  
7 third-party obligor and [is] shall not [pledging] pledge or  
8 [lending] lend its credit to the property owner, [or] the  
9 capital provider or the special assessment financing."

10 SECTION 4. Section 4-55D-10 NMSA 1978 (being Laws 2023,  
11 Chapter 150, Section 10) is amended to read:

12 "4-55D-10. IMMUNITY.--Nothing in the Improvement Special  
13 Assessment Act shall be interpreted to pledge, offer or  
14 encumber the full faith and credit of a county or  
15 municipality."

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