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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 county;

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

D. "department" means the economic development department;

E. "eligible improvement" means a permanently affixed energy efficiency improvement, renewable energy improvement, water conservation improvement or resiliency

1 improvement installed on eligible property as part of the  
2 construction or renovation of the property;

3 F. "eligible property" means:

4 (1) any privately owned commercial,  
5 industrial, agricultural or multifamily residential real  
6 property with five or more dwelling units, including real  
7 property owned by an entity formally recognized as tax exempt  
8 pursuant to Internal Revenue Code of 1986, as amended; or

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

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

16 H. "industrial revenue bond lease" means the lease  
17 of property by a county or municipality to a person in  
18 connection with a project under the authority of the  
19 Industrial Revenue Bond Act or the County Industrial Revenue  
20 Bond Act;

21 I. "lessee" means a lessee under an industrial  
22 revenue bond lease;

23 J. "local government" means a municipality, county  
24 or other general function governmental unit established by  
25 state law;

1           K. "municipal" or "municipality" means any  
2 incorporated city, town or village, whether incorporated  
3 under general act, special act or special charter,  
4 incorporated counties and H class counties;

5           L. "program" means a special assessment program  
6 that utilizes and conforms to the program guidebook and  
7 uniform special assessment documents established by the  
8 department pursuant to the Improvement Special Assessment  
9 Act;

10           M. "program administrator" means a person  
11 designated by a county to administer a program; "program  
12 administrator" may be the department, the county or a third  
13 party; provided that the administration procedures used  
14 conform to the requirements of the Improvement Special  
15 Assessment Act;

16           N. "program guidebook" means a comprehensive  
17 document created by the department pursuant to the  
18 Improvement Special Assessment Act, including uniform  
19 assessment documents, appropriate guidelines, specifications,  
20 approval criteria and other standard forms consistent with  
21 the administration of a program that are not detailed in the  
22 Improvement Special Assessment Act;

23           O. "project application" means an application  
24 submitted to a program administrator to demonstrate that a  
25 proposed project qualifies for special assessment financing

1 pursuant to a program;

2 P. "region" means a geographical area as  
3 designated by a county pursuant to the Improvement Special  
4 Assessment Act;

5 Q. "renewable energy improvement" means an energy  
6 system that generates energy by use of low- or zero-emissions  
7 generation technology with substantial long-term production,  
8 including solar, wind and geothermal resources, fuel cell  
9 equipment using an electrochemical process to generate  
10 electricity and heat or biomass resources;

11 R. "resiliency improvement" means improvements  
12 that increase the resilience of a property, including air  
13 quality, flood mitigation, storm water management, energy  
14 storage and microgrids, alternative vehicle charging  
15 infrastructure, fire or wind resistance or inundation  
16 adaptation;

17 S. "special assessment" means a voluntary  
18 assessment imposed on a property pursuant to the Improvement  
19 Special Assessment Act for the total amount of special  
20 assessment financing together with interest, penalties, fees  
21 and charges related thereto;

22 T. "special assessment agreement" means a  
23 voluntary agreement of a property owner to allow a county to  
24 place an assessment on the owner's property to repay special  
25 assessment financing pursuant to the Improvement Special

1 Assessment Act;

2 U. "special assessment assignable certificate"  
3 means a document assigning a special assessment lien from the  
4 county to a capital provider in an amount not to exceed the  
5 amount of the special assessment financing for the term of  
6 the special assessment lien;

7 V. "special assessment financing" means the total  
8 amount of financing provided by a capital provider pursuant  
9 to a special assessment financing agreement, including  
10 accrual of interest and penalties, charges, fees and costs of  
11 enforcement of a special assessment lien;

12 W. "special assessment financing agreement" means  
13 a contract pursuant to which a property owner agrees to repay  
14 a capital provider for special assessment financing and to  
15 the terms of the special assessment financing, including the  
16 treatment of prepayment and partial payment of a special  
17 assessment, servicing arrangements, the payment of any  
18 finance charges and fees and accrual of interest and  
19 penalties;

20 X. "special assessment lien" means a lien recorded  
21 in all counties in which the eligible property is located to  
22 secure the special assessment, which assessment remains on  
23 the property until paid in full;

24 Y. "uniform assessment documents" means the forms  
25 of county ordinance, special assessment agreement, special

1 assessment lien, special assessment assignable certificate  
2 and other model documents prepared by the department pursuant  
3 to the Improvement Special Assessment Act for use in the  
4 program; provided, however, the department shall not mandate  
5 a form of special financing agreement that shall be supplied  
6 by a capital provider; and

7 Z. "water conservation improvement" means  
8 measures, equipment or devices that decrease the consumption  
9 of or demand for water, address safe drinking water or  
10 eliminate lead from water used for drinking or cooking."

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

13 "4-55D-5. IMPOSITION OF SPECIAL ASSESSMENT--AMOUNT--  
14 COLLECTION--SPECIAL ASSESSMENT LIEN CREATED.--

15 A. Upon entering into a special assessment  
16 agreement, the county shall record a special assessment lien  
17 on the subject property in the real property records of the  
18 county in which the property is located.

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

- 21 (1) the legal description of the property;  
22 (2) the county assessor's parcel number of  
23 the property;  
24 (3) the grantor's name, which shall be the  
25 same as the property owner on the special assessment

1 agreement;

2 (4) the grantee's name, which shall be the  
3 county in which the property is located;

4 (5) the date on which the special assessment  
5 lien was created;

6 (6) the principal amount of the special  
7 assessment lien;

8 (7) the terms and length of the special  
9 assessment lien; and

10 (8) a copy of the special assessment  
11 agreement.

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

18 D. A special assessment lien runs with the land,  
19 and that portion of the special assessment lien that has not  
20 yet become due is not accelerated or eliminated by  
21 foreclosure of the special assessment lien or any lien for  
22 taxes or assessments imposed by the state, a local government  
23 or taxing district against the property on which the special  
24 assessment lien is imposed.

25 E. A special assessment shall be paid by a

1 property owner unless the property is under an industrial  
2 revenue bond lease, in which case the lessee shall pay the  
3 special assessment, but under no circumstance shall a local  
4 government pay a special assessment.

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

16 G. When the underlying special assessment  
17 financing has been satisfied, the special assessment shall be  
18 removed from the property and the county shall record a  
19 release of the special assessment lien."

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

22 "4-55D-7. SPECIAL ASSESSMENT FINANCING.--

23 A. Special assessment financing shall be provided  
24 by capital providers and disbursed directly by capital  
25 providers to fund eligible improvements subject to a special

1 assessment financing agreement.

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

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

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

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