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HOUSE BILL 572

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Brian F. Egolf

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 RESIDENTIAL  
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. PURPOSE.--The purpose of the Solar Energy  
Improvement Special Assessment Act is to enable counties to  
promote the health, well-being and security of their  
communities by assisting their citizens in obtaining reliable,  
decentralized, environmentally sound sources of residential  
renewable energy through the use of the special assessment

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1 financing enabled by the establishment of solar energy  
2 improvement special assessments.

3 Section 3. ORDINANCE IMPOSING SOLAR ENERGY SPECIAL  
4 ASSESSMENT.--The board of county commissioners of a county may  
5 provide by ordinance for a solar energy improvement special  
6 assessment to be imposed on a single-family residential  
7 property within the boundaries of the county if the owner of  
8 the property requests the assessment. The purpose of the solar  
9 energy improvement special assessment shall be to increase  
10 access by residents of the county to the benefits of  
11 residential solar technology improvements by participation in a  
12 voluntary special assessment on their residential property,  
13 which can be used to facilitate financing arrangements for the  
14 eligible solar energy improvements.

15 Section 4. IMPLEMENTATION OF SOLAR ENERGY IMPROVEMENT  
16 SPECIAL ASSESSMENT.--A governing body enacting an ordinance  
17 providing for a solar energy improvement special assessment  
18 shall direct the county treasurer to include the solar energy  
19 improvement special assessment in the property tax bill for  
20 property subject to the assessment and to collect the  
21 assessment at the same time and in the same manner as property  
22 taxes are levied and collected if:

23 A. the property owner has submitted a written  
24 application, in a format approved by the county treasurer,  
25 requesting that the solar energy improvement special assessment

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1 be applied to the owner's property for the purpose of financing  
2 an eligible solar energy improvement on the property;

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

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

12 (1) are eligible solar energy improvements;

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

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

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

24 (1) that the financing will be provided by an  
25 entity that has been certified by the financial institutions

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1 division of the regulation and licensing department as a solar  
2 energy improvement financing institution, pursuant to the  
3 provisions of the Solar Energy Improvement Special Assessment  
4 Act;

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

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

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

16 A. The amount of the solar energy improvement  
17 special assessment on a property shall be the amount necessary  
18 to pay the costs of the eligible solar energy improvements, the  
19 costs of the financing of the improvements when due and the  
20 administrative fees collected by the county. Agreements  
21 entered into by the owner of the property with the solar energy  
22 improvement financing institution and submitted pursuant to  
23 this section shall be conclusive regarding the amount that may  
24 be assessed against the property.

25 B. The solar energy improvement special assessment

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

6 C. A solar energy improvement special assessment  
7 shall constitute a lien on the property, which shall be  
8 effective during the period in which the assessment is imposed  
9 and shall have priority co-equal with other property tax liens.

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

12 A. Proceeds from a solar energy improvement special  
13 assessment on a property shall be disbursed by the county  
14 treasurer solely for the purpose of financing the solar energy  
15 improvements to that property and paying the applicable  
16 administrative fees to the county.

17 B. The county treasurer shall enter into an  
18 agreement with the solar energy improvement financing  
19 institution providing financing to the property owner  
20 specifying the procedures by which the treasurer shall transfer  
21 the revenue from the assessment to the institution.

22 Section 7. SOLAR ENERGY IMPROVEMENT FINANCING  
23 INSTITUTIONS--CERTIFICATION OF QUALIFIED ENTITIES.--The  
24 financial institutions division of the regulation and licensing  
25 department shall promulgate rules for the certification of

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1 financial institutions or other entities as solar energy  
2 improvement financing institutions. The rules shall ensure  
3 that a solar energy improvement financing institution is a  
4 member institution of the federal deposit insurance corporation  
5 or the national credit union administration or is an entity  
6 that the financial institutions division finds meets generally  
7 accepted criteria for financial stability and soundness.

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

17 Section 9. DEFINITIONS.--As used in the Solar Energy  
18 Improvement Special Assessment Act:

19 A. "eligible solar energy improvement" means a  
20 photovoltaic or solar thermal system installed on residential  
21 property;

22 B. "governing body" means the county commission of  
23 the county or the county council of an H class county;

24 C. "photovoltaic system" means an energy system  
25 that collects or absorbs sunlight for conversion into

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1 electricity; and

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

6 Section 10. EFFECTIVE DATE.--The effective date of the  
7 provisions of this act is July 1, 2009.

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