



General Assembly

January Session, 2015

Raised Bill No. 6995

LCO No. 4964



Referred to Committee on ENERGY AND TECHNOLOGY

Introduced by:
(ET)

***AN ACT CONCERNING A RESIDENTIAL PROPERTY ASSESSED
CLEAN ENERGY PROGRAM.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 7-121n of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2016*):

3 (a) As used in this section:

4 (1) "Energy improvements" means any renovation or retrofitting of
5 qualifying real property to reduce energy consumption or installation
6 of a [renewable energy] system for clean energy, as defined in section
7 16-245n, to service qualifying real property, [provided such] and that
8 may include related improvements to address water conservation,
9 health and safety issues, including, but not limited to, asbestos, mold
10 and lead remediation, and resiliency measures, including, but not
11 limited to, flood resistant construction and hurricane resistant
12 construction. Any renovation, retrofit or installation [is] shall be
13 permanently fixed to such qualifying real property and may include a
14 third-party ownership arrangement, including, but not limited to, a

15 power purchase agreement and a lease agreement, provided the
16 duration of any such agreement is not less than the lesser of the
17 average estimated useful life of the principal components or ten years;

18 (2) ["Qualifying real property"] "Qualifying residential real
19 property" means a single-family or multifamily residential dwelling
20 [or a nonresidential building, regardless of ownership, that a
21 municipality has determined can benefit from energy improvements]
22 of four or fewer units that meets the qualifications established for the
23 residential sustainable energy program;

24 (3) "Property owner" means an owner or owners of qualifying
25 residential real property who [desires] desire to install energy
26 improvements and [provides] who provide free and willing consent to
27 the contractual assessment against the qualifying residential real
28 property; [and]

29 [(4) "Sustainable energy program" means a municipal program that
30 authorizes a municipality to enter into contractual assessments on
31 qualifying real property with property owners to finance the purchase
32 and installation of energy improvements to qualifying real property
33 within its municipal boundaries.]

34 (4) "Residential sustainable energy program" means a program that
35 facilitates energy improvements and utilizes the benefit assessment
36 authorized by this section as security for the financing of energy
37 improvements;

38 (5) "Municipality" means a municipality, as defined in section 7-369;

39 (6) "Benefit assessment" means the assessment authorized by this
40 section;

41 (7) "Participating municipality" means a municipality that has
42 entered into a written agreement, as approved by its legislative body,
43 with the bank pursuant to which the municipality has agreed to assess,

44 collect, remit and assign benefit assessments to the bank in return for
45 energy improvements for benefited property owners within such
46 municipality and costs reasonably incurred in performing such duties;

47 (8) "Bank" means the Connecticut Green Bank; and

48 (9) "Third-party capital provider" means an entity, other than the
49 bank, that provides loans, leases or power purchase agreements
50 directly to benefited property owners for energy improvements.

51 [(b) Any municipality, that determines it is in the public interest,
52 may establish a sustainable energy program to facilitate the increase of
53 energy efficiency and renewable energy. A municipality shall make
54 such a determination after issuing public notice and providing an
55 opportunity for public comment regarding the establishment of a
56 sustainable energy program.]

57 (b) (1) The bank shall establish a residential sustainable energy
58 program in the state, and in furtherance thereof, is authorized to make
59 appropriations for and issue bonds, notes or other obligations for the
60 purpose of financing (A) energy improvements; (B) related energy
61 audits; and (C) verification reports of the installation and effectiveness
62 of such improvements. The bank may encourage third-party capital
63 providers to provide financing directly to benefited property owners
64 in lieu of or in addition to the bank providing such financing. The
65 bonds, notes, other obligations or other financing provided by third-
66 party capital providers may be secured as to both principal and
67 interest by a pledge of the liens, such other collateral and the revenues
68 to be derived from the residential sustainable energy program,
69 including revenues from benefit assessments on qualifying residential
70 real property, as authorized in this section.

71 (2) When the bank or third-party capital provider has made
72 appropriations for energy improvements for qualifying residential real
73 property or other costs of the residential sustainable energy program,
74 including interest costs and other costs related to the issuance of

75 bonds, notes, other obligations or other financing provided to finance
76 the appropriation, the bank shall require the participating municipality
77 in which the qualifying residential real property is located to levy a
78 benefit assessment against the qualifying residential real property
79 especially benefited thereby.

80 [(c)] (3) [Notwithstanding the provisions of section 7-374 or any
81 other public or special act that limits or imposes] The bank shall
82 develop program guidelines governing the terms and conditions [on
83 municipal bond issues, any municipality that establishes a sustainable
84 energy program under this section may issue bonds, as necessary, for
85 the purpose of financing (1) energy improvements; (2) related energy
86 audits; and (3) renewable energy system feasibility studies and the
87 verification of the installation of such improvements. Such financing
88 shall be secured by special contractual assessments on the qualifying
89 real property] under which funding may be made available to the
90 residential sustainable energy program, in consultation with
91 representatives from the banking industry, municipalities and
92 property owners, and serving as an aggregate entity for the purpose of
93 securing state or private third-party financing for energy
94 improvements pursuant to this section.

95 (4) The bank shall adopt general standards to ensure that estimated
96 energy cost savings of the energy improvements over the average
97 estimated useful life of such improvements exceed the costs of such
98 improvements.

99 (5) The bank may establish a loan loss reserve or other credit
100 enhancement program for qualifying residential real property, and the
101 bank may use the services of one or more private, public or quasi-
102 public third-party administrators to administer, provide support or
103 obtain financing for the residential sustainable energy program.

104 [(d)] (1) Any municipality that establishes a sustainable energy
105 program pursuant to this section may partner with another

106 municipality or a state agency to (A) maximize the opportunities for
107 accessing public funds and private capital markets for long-term
108 sustainable financing, and (B) secure state or federal funds available
109 for this purpose.

110 (2) Any municipality that establishes a sustainable energy program
111 and issues bonds pursuant to this section may supplement the security
112 of such bonds with any other legally available funds solely at the
113 municipality's discretion.

114 (3) Any municipality that establishes a sustainable energy program
115 pursuant to this section may use the services of one or more private,
116 public or quasi-public third-party administrators to provide support
117 for the program.]

118 [(e)] (c) Before establishing a program under this section, the
119 [municipality] bank shall provide notice to the electric distribution
120 company, as defined in section 16-1, that services the municipality.

121 [(f)] (d) If [the] a benefited property owner [of record of qualifying
122 real property] requests financing from the bank, or a third-party
123 capital provider, for energy improvements under this section, the
124 [municipality implementing the sustainable energy program] bank
125 shall:

126 [(1)] Require performance of an energy audit or renewable energy
127 system feasibility analysis on the qualifying real property before
128 approving such financing;

129 (2) Enter into a contractual assessment on the qualifying real
130 property with the property owner in a principal amount sufficient to
131 pay the costs of energy improvements and any associated costs the
132 municipality determines will benefit the qualifying real property and
133 may cover any associated costs;]

134 [(3)] (1) Impose requirements and criteria to ensure that the

135 proposed energy improvements are consistent with the purpose of the
136 residential sustainable energy program; and

137 ~~[(4)]~~ (2) Impose requirements and conditions on the financing to
138 ensure timely repayment, including, but not limited to, underwriting
139 criteria and procedures for placing a lien on [a] the qualifying
140 residential real property as security for [which an owner defaults on]
141 repayment of the benefit assessment.

142 (e) (1) The bank or the third-party capital provider may enter into a
143 financing agreement with the property owner of qualifying residential
144 real property. After such agreement is entered into, and upon notice
145 from the bank, the participating municipality shall (A) place a caveat
146 on the land records indicating that a benefit assessment and a lien are
147 anticipated upon completion of energy improvements for such
148 property, or (B) at the direction of the bank, levy the benefit
149 assessment and file a lien on the land records based on the estimated
150 costs of the energy improvements prior to the completion or upon the
151 completion of such improvements.

152 (2) The bank, or the third-party capital provider, shall disclose to the
153 property owner the costs and risks associated with participating in the
154 residential sustainable energy program established by this section and
155 shall disclose to the property owner the terms and conditions of the
156 assessment, including term, payments and remedies for default and
157 foreclosure, including risks related, but not necessarily limited to (A)
158 the failure of the property owner to pay the benefit assessment, (B) the
159 benefit assessment remaining on the property until satisfied, (C) the
160 potential to impair the sale of the property, (D) the potential for
161 violation of certain provisions under any existing indebtedness
162 secured by the benefited property, and (E) the potential for the
163 assessment to be paid off when such indebtedness is refinanced or
164 when the property is sold. The bank, or the third-party capital
165 provider, shall disclose to the property owner the effective interest rate
166 of the benefit assessment, including fees charged by the bank or the

167 third-party capital provider to administer the program. The bank or
168 the third-party capital provider shall notify the property owner that
169 such owner may rescind any financing agreement entered into
170 pursuant to this section not later than three business days after such
171 agreement.

172 [(g)] (f) Prior to entering a contractual assessment, the [municipality]
173 bank or third-party capital provider shall provide each property owner
174 the following notice, which shall be set forth in at least fourteen-point
175 bold type: SEEK LEGAL ADVICE BEFORE PARTICIPATING IN THIS
176 LOAN PROGRAM TO ENSURE UNDERSTANDING OF POTENTIAL
177 CONSEQUENCES, INCLUDING A POSSIBLE DEFAULT UNDER
178 YOUR MORTGAGE.

179 [(h)] (g) Any benefit assessment levied pursuant to this section shall
180 have a term not to exceed the [calculated payback period for] lesser of
181 (1) the average estimated useful life of the installed energy
182 improvements, as determined by [the municipality, and shall have no
183 prepayment penalty. The municipality] a contractor eligible to install
184 such improvements under the residential sustainable energy program
185 and consistent with the guidelines established by the bank, or (2)
186 twenty-five years. The bank or the third-party capital provider shall set
187 a fixed rate of interest or a fixed payment schedule for leases, power
188 purchase agreements or other such approved financing structures for
189 the repayment of the principal assessed amount at the time the benefit
190 assessment is made. Such interest rate, as may be supplemented with
191 state or federal funding as may become available, shall be sufficient to
192 pay the financing costs of the program, including delinquencies.

193 [(i) Assessments] (h) Benefit assessments levied pursuant to this
194 section and the interest, fees and any penalties thereon shall constitute
195 a lien against the qualifying residential real property on which they are
196 made until they are paid. [Such lien] If the agreement for the benefit
197 assessment provides, the benefit assessment shall be [levied and] paid
198 in installments and each installment payment shall be collected in the

199 same manner as the [general] property taxes of the participating
200 municipality on real property, including, in the event of default or
201 delinquency, [with respect to] any penalties, fees and remedies. [and
202 lien priorities, provided such lien shall not have priority over any prior
203 mortgages.]

204 [(j) The area encompassing the sustainable energy program in a
205 municipality may be the entire municipal jurisdiction of the
206 municipality or a subset of such.]

207 (i) Each such lien shall be recorded and released in the manner
208 provided for property tax liens and take precedence over all other liens
209 or encumbrances except a lien for taxes of the municipality on real
210 property, which lien for taxes shall have priority over such benefit
211 assessment lien. To the extent a benefit assessment is paid in
212 installments and any such installment is not paid when due, the
213 benefit assessment lien may be foreclosed, or enforced by levy and sale
214 of such real property in accordance with chapter 204, to the extent of
215 any unpaid installment payments and any penalties, interest and fees
216 related thereto. In the event such benefit assessment lien is foreclosed,
217 or enforced by levy and sale of the real property in accordance with
218 chapter 204, such benefit assessment lien shall survive the judgment of
219 the foreclosure, or levy and sale, to the extent of any unpaid
220 installment payments of the benefit assessment secured by such benefit
221 assessment lien that was not the subject of such judgment, or levy and
222 sale. If the lien is enforced by levy and sale under chapter 204, the
223 references in chapter 204 to (1) "taxpayer" shall mean the benefited
224 property owner, (2) "tax" or "taxes" shall mean the unpaid benefit
225 assessment or the unpaid installment payments of the benefit
226 assessment, as applicable, (3) "collector" shall mean the participating
227 municipality's tax collector, and (4) "municipality" shall mean the then
228 owner and beneficiary of the benefit assessment lien, including any
229 assignees of the participating municipality and the bank. The form of
230 collector's deed pursuant to section 12-158 shall be used in a levy and
231 sale of real property to satisfy a benefit assessment lien.

232 (j) A participating municipality shall assign to the bank, or the third-
 233 party capital provider as applicable, any liens filed by the tax collector,
 234 as provided in the written agreement between the participating
 235 municipality and the bank. The bank or third-party capital provider
 236 may sell or assign, for consideration, any and all liens received from
 237 the participating municipality at its sole discretion. The assignee or
 238 assignees of such liens shall have and possess the same powers and
 239 rights at law or in equity as the participating municipality and its tax
 240 collector would have had if the lien had not been assigned with regard
 241 to the precedence and priority of such lien, the accrual of interest and
 242 the fees and expenses of collection. The assignee shall have the same
 243 rights to enforce such liens as any private party holding a lien on real
 244 property, including, but not limited to, foreclosure and a suit on the
 245 debt. In accordance with subsection (h) of this section, the assignee
 246 shall also have the right to enforce the lien through the levy and sale
 247 procedure under chapter 204. Costs and reasonable attorneys' fees
 248 incurred by the assignee as a result of any foreclosure action or other
 249 legal proceeding brought pursuant to this section and directly related
 250 to the proceeding, including costs and fees incurred in enforcement of
 251 the lien by the levy and sale under section 12-140 and subsection (c) of
 252 section 12-157, shall be taxed in any such proceeding against each
 253 person having title to any property subject to the proceedings. Such
 254 costs and fees may be collected by the assignee at any time after
 255 demand for payment has been made by the assignee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2016	7-121n

Statement of Purpose:
 To create a residential property assessed clean energy program to help state residents finance and procure home energy efficiency improvements for their homes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]