



General Assembly

February Session, 2016

***Raised Bill No. 5563***

LCO No. 2158



Referred to Committee on BANKING

Introduced by:  
(BA)

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

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 Section 7-121n of the general statutes is repealed and the  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, 2017*):

3 (a) As used in this section:

4 (1) ["Energy improvements"] "Qualifying improvements" means any  
5 renovation or retrofitting of qualifying residential real property that is  
6 permanently fixed to such property to reduce energy consumption or  
7 installation of a [renewable energy] system for clean energy, as defined  
8 in section 16-1, to service qualifying real property [, provided such  
9 renovation, retrofit or installation is permanently fixed to such  
10 qualifying real property] and any related improvements to the  
11 qualifying real property to address water conservation, waste  
12 reduction, health and safety issues, including, but not limited to,  
13 asbestos, mold and lead remediation, and resiliency measures,  
14 including, but not limited to, flood resistant construction and  
15 hurricane resistant construction;

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

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

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

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

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

37 (6) "Benefit assessment" means the assessment authorized by this  
38 section;

39 (7) "Participating municipality" means a municipality that has  
40 entered into a written agreement, as approved by its chief officer or its  
41 legislative body, with the bank pursuant to which the municipality has  
42 agreed to assess, collect, remit and assign benefit assessments to the  
43 bank in return for qualifying improvements for benefited property  
44 owners within such municipality and costs reasonably incurred in  
45 performing such duties;

46 (8) "Bank" means the Connecticut Green Bank established pursuant  
47 to section 16-245n; and

48 (9) "Third-party capital provider" means an entity, other than a  
49 bank, that provides financing, leases or power purchase agreements  
50 directly to benefited property owners for qualifying 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. In furtherance of such program, the bank is  
59 authorized to make appropriations for and issue bonds, notes or other  
60 obligations for the purpose of financing (A) qualifying improvements,  
61 (B) related energy audits, and (C) verification reports of the installation  
62 and effectiveness of such improvements. The bank may encourage  
63 third-party capital providers to provide financing directly to benefited  
64 property owners in lieu of or in addition to the bank providing such  
65 financing. The bonds, notes, other obligations or other financing  
66 provided by third-party capital providers may be secured as to both  
67 principal and interest by a (i) pledge of the liens, (ii) such other  
68 collateral, and (iii) revenues to be derived from the residential  
69 sustainable energy program, including revenues from benefit  
70 assessments on qualifying residential real property, as authorized in  
71 this section.

72 (2) When the bank or third-party capital provider has made  
73 appropriations for qualifying improvements for qualifying residential  
74 real property, the participating municipality in which the qualifying  
75 residential real property is located shall, upon notice from the bank or  
76 third-party capital, levy a benefit assessment against the qualifying

77 residential real property benefited by such qualifying improvements.

78 [(c) Notwithstanding the provisions of section 7-374 or any other  
79 public or special act that limits or imposes] (3) The bank shall develop  
80 in consultation with representatives from the banking industry,  
81 municipalities and property owners, program guidelines governing  
82 the terms and conditions. [on municipal bond issues, any municipality  
83 that establishes a sustainable energy program under this section may  
84 issue bonds, as necessary, for the purpose of financing (1) energy  
85 improvements; (2) related energy audits; and (3) renewable energy  
86 system feasibility studies and the verification of the installation of such  
87 improvements. Such financing shall be secured by special contractual  
88 assessments on the qualifying real property.]

89 (4) The bank shall adopt general standards establishing eligible  
90 improvement products and measures that satisfy energy savings,  
91 water conservation or other clean energy sustainability or resiliency  
92 goals consistent with the purpose of the residential sustainable energy  
93 program.

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

99 (6) The bank shall adopt consumer protection standards that any  
100 third-party capital provider or private, public or quasi-public third-  
101 party administrator shall demonstrate compliance with before  
102 participating in the residential sustainable energy program.

103 [(d) (1) Any municipality that establishes a sustainable energy  
104 program pursuant to this section may partner with another  
105 municipality or a state agency to (A) maximize the opportunities for  
106 accessing public funds and private capital markets for long-term  
107 sustainable financing, and (B) secure state or federal funds available

108 for this purpose.

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

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

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

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

125 [(1)] (1) Require performance of an energy audit or renewable energy  
126 system feasibility analysis on the qualifying real property before  
127 approving such financing;

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

133 [(3)] (1) Impose requirements and criteria to ensure that the  
134 proposed [energy] qualifying improvements are consistent with the  
135 purpose of the residential sustainable energy program; and

136 [(4)] (2) Impose requirements and conditions on the financing to

137 ensure timely repayment, including, but not limited to, underwriting  
138 criteria and procedures for placing a lien on [a] the qualifying  
139 residential real property as security for [which an owner defaults on]  
140 repayment of the benefit assessment.

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

151 (2) The bank, or the third-party capital provider, shall disclose to the  
152 property owner the costs and risks associated with participating in the  
153 residential sustainable energy program and the terms and conditions  
154 of the assessment, including, but not limited to, term, payments and  
155 remedies for default and foreclosure. Such costs and risks include, but  
156 are not necessarily limited to, (A) the failure of the property owner to  
157 pay the benefit assessment, (B) the benefit assessment remaining on  
158 the property until satisfied, (C) the potential to impede the sale of the  
159 property, (D) the potential for violation of certain provisions under any  
160 existing indebtedness secured by the benefited property, and (E) the  
161 potential for the assessment to be paid off when such indebtedness is  
162 refinanced or when the property is sold. The bank, or the third-party  
163 capital provider, shall disclose to the property owner entering into a  
164 financing agreement the effective interest rate of the benefit  
165 assessment, including, but not limited to, fees charged by the bank or  
166 the third-party capital provider to administer the program. The bank  
167 or the third-party capital provider shall notify the property owner that  
168 such owner may rescind any financing agreement entered into  
169 pursuant to this section not later than three business days after

170 entering into such agreement.

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

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

191 [(i) Assessments] (h) Benefit assessments levied pursuant to this  
192 section and the interest, fees and any penalties thereon shall constitute  
193 a lien against the qualifying residential real property on which they are  
194 made until they are paid. [Such lien] If the agreement for the benefit  
195 assessment provides, the benefit assessment shall be [levied and] paid  
196 in installments and each installment payment shall be collected in the  
197 same manner as the [general] property taxes of the participating  
198 municipality on real property, including, in the event of default or  
199 delinquency, [with respect to] any penalties, fees and remedies. [and  
200 lien priorities, provided such lien shall not have priority over any prior  
201 mortgages.]

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

205 (i) Each such lien levied through the residential sustainable energy  
206 program shall be recorded and released in the manner provided for  
207 property tax liens and shall be subordinate to all liens on the  
208 qualifying residential real property in existence at the time the lien for  
209 the assessment is filed on the property. Each such lien levied through  
210 the residential sustainable energy program shall be superior to any  
211 other lien on the qualifying residential real property recorded after  
212 such filing except a (1) first mortgage on the property, and (2) lien for  
213 taxes of the municipality on real property. To the extent a benefit  
214 assessment is paid in installments and any such installment is not paid  
215 when due, the benefit assessment lien may be foreclosed, or enforced  
216 by levy and sale of such real property in accordance with chapter 204,  
217 to the extent of any unpaid installment payments and any penalties,  
218 interest and fees related thereto. If such benefit assessment lien is  
219 foreclosed, or enforced by levy and sale of the real property in  
220 accordance with chapter 204, such benefit assessment lien shall survive  
221 the judgment of the foreclosure, or levy and sale, to the extent of any  
222 unpaid installment payments of the benefit assessment secured by  
223 such benefit assessment lien that was not the subject of such judgment,  
224 or levy and sale. The form of collector's deed set forth in section 12-158  
225 shall be used in a levy and sale of real property to satisfy a benefit  
226 assessment lien.

227 (j) A participating municipality shall assign to the bank, or the third-  
228 party capital provider as applicable, any liens filed by the tax collector  
229 pursuant to this section, as provided in the written agreement between  
230 the participating municipality and the bank. The bank or third-party  
231 capital provider may sell or assign, for consideration, any and all liens  
232 received from the participating municipality at its sole discretion. The  
233 assignee or assignees of such liens shall have and possess the same  
234 powers and rights at law or in equity as the participating municipality

235 and its tax collector would have had if the lien had not been assigned  
236 with regard to the precedence and priority of such lien, the accrual of  
237 interest, and the fees and expenses of collection. The assignee shall  
238 have the same rights to enforce such liens as any private party holding  
239 a lien on real property, including, but not limited to, foreclosure and a  
240 suit on the debt. In accordance with subsection (h) of this section, the  
241 assignee shall also have the right to enforce the lien through the levy  
242 and sale procedure under chapter 204. Costs and reasonable attorneys'  
243 fees incurred by the assignee as a result of any foreclosure action or  
244 other legal proceeding brought pursuant to this section and directly  
245 related to the proceeding, including costs and fees incurred in  
246 enforcement of the lien by the levy and sale under section 12-140 and  
247 subsection (c) of section 12-157, shall be taxed in any such proceeding  
248 against each person having title to any property subject to the  
249 proceedings. Such costs and fees may be collected by the assignee at  
250 any time after 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, 2017	7-121n

**Statement of Purpose:**

To establish a residential sustainable energy program in the state for the purpose of financing energy improvements.

*[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.]*