

# HB163 INTRODUCED



1 HB163  
2 9J2DUBP-1  
3 By Representative  
4 RFD: County and Municipal Government  
5 First Read: 13-Jan-26



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SYNOPSIS:

Under the Property Insurance and Energy Reduction Act of Alabama, a county or municipality may issue bonds or notes to finance necessary improvements to existing properties in designated regions to increase energy efficiency and resistance to storm-related events.

This bill would enable a local government to allow private capital to finance qualified projects instead of using government funds.

This bill would also allow a local government to place a lien on the qualifying property for the debt and assign the right to payments toward the lien to the private capital lender.

This bill would revise the application process for qualifying projects.

This bill would prohibit the use of public funds from the state or a local government to repay a loan between the qualifying property owner and the private capital financier, and would provide that the local government shall not guarantee repayment of the debt and shall not be liable for actions taken pursuant to the act.

This bill would repeal the laws allowing a governmental entity or designee to establish a loss



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29 reserve fund for paying delinquent assessments and to  
30 establish regulatory jurisdiction by the state.

31 This bill would rename the act as the Property  
32 Insurance Reduction and Capital Expenditure Act of  
33 Alabama.

34 This bill would also make nonsubstantive,  
35 technical revisions to update the existing code  
36 language to current style.

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A BILL

40

TO BE ENTITLED

41

AN ACT

42

43 Relating to counties and municipalities; to amend  
44 Sections 11-81-240, 11-81-241, 11-81-242, 11-81-243,  
45 11-81-244, 11-81-245, 11-81-246, and 11-81-249, Code of  
46 Alabama 1975, to change the name of the Property Insurance and  
47 Energy Reduction Act of Alabama to the Property Insurance  
48 Reduction and Capital Expenditure Act of Alabama; to enable  
49 local governments to allow private financing of qualified  
50 energy projects; to allow local governments to assess the  
51 qualifying properties with a lien to secure repayment of the  
52 private financing; to allow assignment of the repayment to the  
53 private financier; to revise the application process for  
54 qualifying projects; to add Sections 11-81-251 and 11-81-252  
55 to the Code of Alabama 1975, to provide that imposition of the  
56 local assessment is voluntary; to provide that the local



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57 government shall not guarantee the repayment of the financing;  
58 to repeal Sections 11-81-247 and 11-81-248, Code of Alabama  
59 1975, relating to provisions for a loss reserve fund and  
60 regulatory jurisdiction by the state; to limit liability of a  
61 local government for actions undertaken pursuant to the act;  
62 and to make nonsubstantive, technical revisions to update the  
63 existing code language to current style.

64

65 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

66 Section 1. Sections 11-81-240, 11-81-241, 11-81-242,  
67 11-81-243, 11-81-244, 11-81-245, 11-81-246, and 11-81-249,  
68 Code of Alabama 1975, are amended to read as follows:

69 "§11-81-240

70 This article shall be known and may be cited as the  
71 Property Insurance Reduction and ~~Energy Reduction~~ Capital  
72 Expenditure Act of Alabama."

73 "§11-81-241

74 For the purposes of this article, the following words  
75 ~~shall~~ have the following meanings:

76 (1) ASSESSMENT CONTRACT. The contractual agreement  
77 between a local government and a property owner in which the  
78 property owner voluntarily agrees to have the local government  
79 place an assessment and lien on the benefited property to  
80 secure repayment of Property Insurance Reduction and Capital  
81 Expenditure financing to a capital provider.

82 (2) CAPITAL PROVIDER. The private third-party entity or  
83 entities, including their designee, successor, and assigns,  
84 that provide private financing for Property Insurance and



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85 Capital Expenditure financing and refinancing under this  
86 article.

87 ~~(1) COSTS OF A QUALIFIED PROJECT. All costs including,~~  
88 ~~but not limited to, the following:~~

89 ~~a. All costs of acquisition, by purchase or otherwise,~~  
90 ~~construction, assembly, installation, modification,~~  
91 ~~renovation, or rehabilitation incurred in connection with any~~  
92 ~~qualified project or any part of any qualified project.~~

93 ~~b. All costs of real property, fixtures, or personal~~  
94 ~~property used in or in connection with or necessary for any~~  
95 ~~qualified project or for any facilities related thereto,~~  
96 ~~including, but not limited to, the following:~~

97 ~~1. The cost of all land, estates for years, easements,~~  
98 ~~rights, improvements, water rights, connections for utility~~  
99 ~~services, fees, franchises, permits, approvals, licenses, and~~  
100 ~~certificates.~~

101 ~~2. The cost of securing any franchises, permits,~~  
102 ~~approvals, licenses, or certificates.~~

103 ~~3. The cost of preparation of any application therefor~~  
104 ~~and the cost of all fixtures, machinery, equipment, furniture,~~  
105 ~~and other property used in or in connection with or necessary~~  
106 ~~for any qualified project.~~

107 ~~c. All financing charges and fees and all interest on~~  
108 ~~revenue bonds, notes, or other obligations of a local~~  
109 ~~government which accrues or is paid prior to and during the~~  
110 ~~period of construction of a project and during any additional~~  
111 ~~period as the local government may reasonably determine to be~~  
112 ~~necessary to place the qualified project in operation.~~



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113 ~~d. All costs of engineering, surveying, and~~  
114 ~~architectural and legal services and all expenses incurred by~~  
115 ~~engineers, surveyors, architects, and attorneys in connection~~  
116 ~~with any qualified project.~~

117 ~~e. All expenses for inspection of any qualified~~  
118 ~~project.~~

119 ~~f. All fees of fiscal agents, paying agents, and~~  
120 ~~trustees for bondholders under any trust agreement, indenture~~  
121 ~~of trust, or similar instrument or agreement; all expenses~~  
122 ~~incurred by any fiscal agents, paying agents, and trustees and~~  
123 ~~all other costs and expenses incurred relative to the issuance~~  
124 ~~of any revenue bonds, notes, or other obligations for any~~  
125 ~~qualified project.~~

126 ~~g. All fees of any type charged by a local government~~  
127 ~~in connection with any qualified project.~~

128 ~~h. All expenses incurred in determining the feasibility~~  
129 ~~or practicability of any qualified project.~~

130 ~~i. All costs of plans and specifications for any~~  
131 ~~qualified project.~~

132 ~~j. All costs of title insurance and examinations of~~  
133 ~~title with respect to any qualified project.~~

134 ~~k. Repayment of any assessments made for the advance~~  
135 ~~payment of any part of any of the costs provided in this~~  
136 ~~subdivision, including interest thereon and any other expenses~~  
137 ~~of the assessments.~~

138 ~~l. Administrative expenses of the local government and~~  
139 ~~other expenses as may be necessary or incidental to any~~  
140 ~~qualified project or the financing thereof or the placing of~~



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141 ~~any project in operation.~~

142 ~~m. The establishment of a fund or funds for the~~  
143 ~~creation of a debt service reserve, a renewal and replacement~~  
144 ~~reserve, or other funds or reserves as the local government~~  
145 ~~may approve with respect to the financing and operation of any~~  
146 ~~project and as may be authorized by any bond resolution, trust~~  
147 ~~agreement, indenture of trust, or similar instrument or~~  
148 ~~agreement pursuant to the provisions of which the issuance of~~  
149 ~~any revenue bonds, notes, or other obligations of the local~~  
150 ~~government may be authorized.~~

151 ~~(2)~~ (3) DESIGNATED REGION. An area approved by a local  
152 government for qualified projects pursuant to Section  
153 11-81-242.

154 (4) FINANCING AGREEMENT. The contract between a  
155 property owner and a capital provider in which the property  
156 owner agrees to repay the capital provider for the financing  
157 of qualifying improvements. The term includes, but is not  
158 limited to, details of financing charges, fees, debt  
159 servicing, interest and penalties, terms related to prepayment  
160 and partial payments, billing, collection, and enforcement of  
161 the repayment of the financing.

162 ~~(3)~~ (5) LOCAL GOVERNMENT. Any incorporated municipality,  
163 county, or improvement district in this state.

164 ~~(4)~~ (6) PROGRAM. A program for Property Insurance  
165 Reduction and Capital Expenditure authorized and created by a  
166 local government under this article.

167 (7) PROGRAM ADMINISTRATOR. The department or individual  
168 within a local government designated to administer the



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169 program, or a private independent third party designated by  
170 the local government, provided that the administrative  
171 procedures used conform to this article.

172 (8) PROGRAM GUIDEBOOK. A comprehensive document that  
173 outlines the applicable program and establishes appropriate  
174 guidelines, specifications, underwriting, and approval  
175 criteria, along with standard application forms consistent  
176 with the administration of the program and not detailed in  
177 this article, including the following:

178 a. An assessment contract form between the local  
179 government and the property owner, specifying the terms of  
180 assessment under the program, terms of the financing provided  
181 by a third party, and remedies for default or foreclosure;

182 b. A local government Notice of Assessment and Property  
183 Insurance Reduction and Capital Expenditure lien form; or

184 c. A Notice of Assignment of Assessment and Property  
185 Insurance Reduction and Capital Expenditure lien form between  
186 a local government and a capital provider.

187 ~~(5) (9) QUALIFIED PROJECT or PROJECT. The installation~~  
188 ~~or modification of a qualifying improvement on real property~~  
189 ~~in a designated region under a program adopted by a local~~  
190 ~~government. A property that has at least one qualifying~~  
191 improvement installed. The term includes a new construction,  
192 the adaptive reuse of eligible property with the improvement,  
193 or a property where the qualifying improvement has been  
194 installed and is operational before the application date.

195 ~~(6) (10) QUALIFYING IMPROVEMENT. An improvement fixed to~~  
196 ~~or used upon by an existing building or, facility, or new~~



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197 construction that is part of the ~~real~~ qualified property and  
198 intended to increase energy and water efficiency, lower energy  
199 cost, ~~and community~~ increase building resilience, and harden  
200 or upgrade a property to withstand ~~to~~ storm-related events,  
201 such as high winds and flooding, ~~including~~. This term  
202 includes, but is not limited to, ~~any of the following~~:

203 a. Resiliency improvements, including:

204 1. Wind ~~resistant~~ resistance improvements or programs  
205 that qualify the structure for insurance discounts, including  
206 ~~but not limited to~~, the FORTIFIED Program;

207 2. ~~or improvements~~ Improvements that increase ~~the life~~  
208 ~~safety of occupants~~ occupant safety during tornados,  
209 including, but not limited to, safe rooms that comply with the  
210 International Code Congress (ICC-500) as mandated by the  
211 Alabama Building Commission, ~~or are manufactured or site built~~  
212 under the supervision of a professional or producer member of  
213 the National Storm Shelter Association; and

214 3. Battery or generator storage, electric vehicle  
215 charging infrastructure, or other resilience measures as  
216 deemed acceptable by a local government to provide  
217 strengthening or resilience of a structure against natural  
218 disasters or pandemics.

219 b. Flood mitigation, including:

220 1. Raising a structure above the base flood elevations  
221 to eliminate flood damage;

222 2. Installation of a flood diversion apparatus;

223 3. Electrical, mechanical, plumbing, or other system  
224 improvements that reduce flood damage;



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225 4. Improvements to mitigate or eliminate the potential  
226 for microbial growth or reduce flood insurance premiums; and  
227 5. Any other improvement that reduces repetitive loss  
228 and is recognized by the National Flood Insurance Program,  
229 Community Rating System, or the Federal Emergency Management  
230 Agency (FEMA).

231 ~~b.c.~~ Energy conservation and efficiency ~~improvement,~~  
232 ~~which is a measure~~ improvements installed on the qualifying  
233 property to reduce consumption ~~through conservation or a more~~  
234 ~~efficient use of~~ by conserving or using electricity, natural  
235 gas, propane, or other forms of energy sources more  
236 efficiently ~~on the real property~~, including, but not limited  
237 to, any of the following:

- 238 1. Air sealing.
- 239 2. Installation of insulation.
- 240 3. Installation of energy-efficient heating, cooling,  
241 or ventilation systems.
- 242 4. Building modifications to increase the use of  
243 daylight.
- 244 5. Replacement of windows.
- 245 6. Installation of energy controls or energy efficient  
246 lighting systems.
- 247 7. Installation of electric vehicle charging equipment.
- 248 8. Installation of efficient lighting equipment.
- 249 9. Other improvements that are intended to lead to  
250 demonstrable energy savings.

251 ~~c. Flood mitigation, including, but not limited to, any~~  
252 ~~of the following:~~



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253 ~~1. The raising of a structure above the base flood~~  
254 ~~elevation to eliminate flood damage.~~

255 ~~2. Installation of a flood diversion apparatus.~~

256 ~~3. Electrical, mechanical, plumbing, or other system~~  
257 ~~improvements that reduce flood damage.~~

258 ~~4. Improvements to mitigate or eliminate the potential~~  
259 ~~for microbial growth, or reduce flood insurance premiums.~~

260 ~~5. Any other improvement that reduces repetitive loss~~  
261 ~~that is recognized by the National Flood Insurance Program,~~  
262 ~~Community Rating System, or the Federal Emergency Management~~  
263 ~~Agency (FEMA).~~

264 d. Water conservation, efficiency, and water quality  
265 improvements.

266 ~~(7) (1) REAL QUALIFYING~~ PROPERTY. Real property that  
267 includes commercial, industrial, agricultural, and multifamily  
268 buildings. The term excludes residential property consisting  
269 of fewer than five units ~~and individual residential units of~~  
270 ~~condominiums or cooperatives and limited common elements and~~  
271 ~~common elements attached to or related to the condominium or~~  
272 ~~cooperative units."~~

273 "§11-81-242

274 (a) (1) The governing body of a local government may  
275 designate an area of the local government or may designate the  
276 entire area of the local government, including the  
277 unincorporated and incorporated area of the local government  
278 if applicable, as a region ~~within~~ in which the local  
279 government may ~~provide~~ make available Property Insurance  
280 Reduction and Capital Expenditure financing to the record



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281 ~~owners of real property~~ owner of any qualifying property who  
282 voluntarily agrees to have ~~and impose~~ assessments and a lien  
283 imposed on the owner's property for the repayment of ~~costs of~~  
284 ~~a qualified project~~ the funds advanced for qualified projects.

285 (2) For the purpose of this article, the costs of a  
286 qualifying project shall include, but are not limited to, all  
287 of the following:

288 a. All costs of acquisition, by purchase or otherwise,  
289 construction, assembly, installation, modification,  
290 renovation, rehabilitation, or new construction incurred in  
291 connection with any qualified project or any part of any  
292 qualified project.

293 b. All costs associated with the qualifying property,  
294 fixtures, or personal property used by, connected with, or  
295 necessary for any qualified project or for any related  
296 facilities, including, but not limited to, the following:

297 1. The cost of all land, estates for years, easements,  
298 rights, improvements, water rights, connections for utility  
299 services, fees, franchises, permits, approvals, licenses, and  
300 certificates.

301 2. The costs associated with securing any franchises,  
302 permits, approvals, licenses, or certificates.

303 3. The cost of preparing any application and the cost  
304 of all fixtures, machinery, equipment, furniture, and other  
305 property used by, connected with, or necessary for any  
306 qualified project.

307 c. All financing charges, fees, and all interest on  
308 financing provided by a capital provider under this article.



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309 d. All costs of engineering, surveying, and  
310 architectural and legal services, and all expenses incurred by  
311 engineers, surveyors, architects, and attorneys in connection  
312 with any qualified project.

313 e. All expenses for inspection of any qualified  
314 project.

315 f. All fees of fiscal agents, paying agents, and  
316 trustees for bondholders under any trust agreement, indenture  
317 of trust, or similar instrument or agreement; all expenses  
318 incurred by any fiscal agents, paying agents, trustees, and  
319 all other costs and expenses related to the issuance of any  
320 revenue bonds, notes, or other obligations for any qualified  
321 project.

322 g. All fees of any type charged by a local government  
323 related to any qualified project.

324 h. All expenses incurred in determining the feasibility  
325 or practicability of any qualified project.

326 i. All costs of plans and specifications for any  
327 qualified project.

328 j. All costs of title insurance and examinations of  
329 title related to any qualified project.

330 k. Repayment of any assessments made for the advance  
331 payment of any part of the costs provided specified in this  
332 section, including interest thereon and any other expenses of  
333 the assessments.

334 l. Administrative expenses of the local government and  
335 other expenses as may be necessary or incidental to any  
336 qualified project, its financing, or placing the project in



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337 operation.

338 ~~(2) (3)~~a. A local government ~~may issue bonds or notes or~~  
339 ~~use other~~ shall allow private financing from qualified capital  
340 providers to finance qualified projects under this article.

341 b. ~~Bonds or notes~~ Notes and other financial instruments  
342 issued under this section are not general obligations of the  
343 local government, but are solely payable from ~~any of the~~  
344 ~~following:~~ assessments on qualifying properties benefited by  
345 the improvement.

346 ~~1. Payments of assessments on benefited real property~~  
347 ~~in one or more designated regions under this article.~~

348 ~~2. Reserves established by the local government from~~  
349 ~~grants, bonds, or net proceeds or other lawfully available~~  
350 ~~funds.~~

351 ~~3. Municipal bond insurance, lines of credit, public or~~  
352 ~~private guaranties, standby bond purchase agreements,~~  
353 ~~collateral assignments, mortgages, or any other available~~  
354 ~~means of providing credit support or liquidity.~~

355 ~~(b) An area designated as a region by the governing~~  
356 ~~body of a local government under this section:~~

357 ~~(1) May include the entire area of the local~~  
358 ~~government.~~

359 ~~(2) Must be located wholly within the local~~  
360 ~~government's jurisdiction.~~

361 ~~(c) A local government may designate more than one~~  
362 ~~region. If multiple regions are designated, the regions may be~~  
363 ~~separate, overlapping, or coterminous.~~

364 (b) The local government shall assign the assessment or



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365 the right to payments from the assessment of a property owner  
366 with a qualified project to the capital provider that finances  
367 the qualifying improvements.

368 ~~(d)~~ (c) This article does not apply to residential  
369 property consisting of fewer than five units ~~or individual~~  
370 ~~residential units of condominiums or cooperatives or limited~~  
371 ~~common elements and common elements attached to or related to~~  
372 ~~the condominium or cooperative units."~~

373 "§11-81-243

374 (a) To establish a program under this article, the  
375 governing body of a local government must take the following  
376 actions in the following order:

377 (1) Adopt a resolution of intent that includes all of  
378 the following:

379 a. A finding that financing qualified projects through  
380 assessments is a valid public purpose.

381 b. A statement that the local government intends to  
382 make assessments to repay financing for qualified projects  
383 available to ~~real~~ voluntary and willing qualifying property  
384 owners.

385 c. A description of the types of qualified projects  
386 eligible for the program.

387 d. A description of the boundaries of the designated  
388 region.

389 e. A statement of the time and place for a public  
390 hearing on the proposed program.

391 (2) Hold a public hearing at which the public may  
392 comment on the proposed program.



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393 (3) Adopt a resolution establishing the program and the  
394 terms of the program, including a description of each aspect  
395 of the program that may be amended only after another public  
396 hearing is held.

397 (b) Subject to the terms of the resolution establishing  
398 the program, the governing body of a local government may  
399 amend a program by resolution and may allow the program  
400 administrator to amend the program guidebook without approval  
401 of the local government.

402 (c) A local government may ~~do both of the following:~~

403 (1) Hire and set the compensation of a program  
404 administrator and program staff. ~~;~~ and

405 (2) Contract for professional services necessary to  
406 administer a program.

407 (d) A local government may impose fees to offset the  
408 costs of administering a program in an amount equal to the  
409 lesser of one percent of the principal amount financed or  
410 fifty thousand dollars (\$50,000). ~~The fees authorized by this~~  
411 ~~subsection may be assessed as any of the following:~~

412 ~~(1) A program application fee paid by the real property~~  
413 ~~owner requesting to participate in a program.~~

414 ~~(2) A component of the interest rate on the assessment~~  
415 ~~in the written contract between the local government and the~~  
416 ~~real property owner.~~

417 ~~(3) A combination of subdivisions (1) and (2).~~

418 (e) For the purposes of this section, the governing  
419 body of a local government is not required to review, approve,  
420 or ratify any individual application by a property owner. The



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421 resolution establishing the program shall specify that all  
422 subsequent actions for implementation of the program,  
423 including review and approval, shall be delegated to the  
424 executive or administrative staff of the local government."

425 "§11-81-244

426 (a) A ~~real~~ qualifying property owner and a capital  
427 provider in a designated region may apply to a local  
428 government under a program for ~~funding approval~~ to finance a  
429 qualified project and enter into a written contract with the  
430 local government. ~~Costs of the project incurred by the real~~  
431 ~~property owner or the local government for such purposes may~~  
432 ~~be collected as an assessment, as authorized in Section~~  
433 ~~11-81-242~~ in which the property owner consents to the local  
434 government imposing an assessment and lien on the qualifying  
435 property to repay the financing.

436 (b) A local government may enter into a partnership  
437 with one or more other local governments for the purpose of  
438 providing and financing qualified projects.

439 (c) A qualified program may be administered by a  
440 for-profit or nonprofit organization on behalf of and at the  
441 discretion of the local government.

442 ~~(d) A local government may incur debt for the purpose~~  
443 ~~of providing the improvements, payable from revenues received~~  
444 ~~from the improved real property, or any other available~~  
445 ~~revenue source authorized by law.~~

446 ~~(e)~~ (d) A local government may only enter into a  
447 contract ~~only~~ with the record owner of the affected ~~real~~  
448 qualifying property in a designated region. A contract entered



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449 into pursuant to this section or a summary memorandum of the  
450 contract must be recorded in the public records of the court  
451 of probate in the county in which the ~~real~~ qualifying property  
452 is located by the ~~sponsoring unit of~~ local government ~~within~~  
453 ~~five days after the execution of the contract~~. The recorded  
454 agreement ~~must~~ shall provide:

455 (1) ~~provide constructive~~ Constructive notice that the  
456 assessment to be levied on the ~~real~~ qualifying property  
457 constitutes a lien as described in Section 11-81-246; ~~The~~  
458 ~~recorded agreement also must~~

459 (2) ~~provide a~~ A legal description of the ~~real~~  
460 qualifying property covered by the lien;

461 (3) ~~the~~ The amount secured by the lien;

462 (4) ~~the~~ The maturity date for payment of all amounts  
463 secured by the lien;

464 (5) ~~the~~ The names and addresses of the current owners  
465 of the ~~real~~ qualifying property subject to the assessment;

466 (6) ~~the~~ The person or entity owed the assessment;

467 (7) ~~the~~ The person or entity filing the notice; and

468 (8) ~~and a~~ A reference to the statutory assessment lien  
469 provided under this article.

470 ~~(f)~~ (e) Prior to entering into a contract, the local  
471 government shall ~~reasonably~~ determine all of the following  
472 based solely upon information provided in the application:

473 (1) That all property taxes and any other assessments  
474 levied on the same bill as property taxes are paid ~~and have~~  
475 ~~not been delinquent for the preceding three years or the real~~  
476 ~~property owner's period of ownership, whichever is less.~~



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477 (2) That there are no involuntary liens, including, but  
478 not limited to, construction liens on the ~~real~~ qualifying  
479 property, which will not be expunged as a consequence of the  
480 financing.

481 ~~(3) That no notices of default or other evidence of~~  
482 ~~property-based debt delinquency have been recorded during the~~  
483 ~~preceding three years or the real property owner's period of~~  
484 ~~ownership, whichever is less.~~

485 ~~(4)~~ (3) That the ~~real~~ qualifying property owner is  
486 current on all mortgage debt on the property.

487 ~~(5) That the improvements are not in excess of the~~  
488 ~~increased value of the real property by reason of special~~  
489 ~~benefits derived from the qualifying improvements.~~

490 ~~(g)~~ (f) A qualifying improvement shall be affixed to an  
491 existing building or facility that is part of the ~~real~~  
492 qualifying property and shall ~~constitute~~ be considered an  
493 improvement to the building or facility ~~or,~~ a fixture attached  
494 to the building or facility, or part of a new construction of  
495 a building or facility.

496 ~~(h)~~ (g) An installation of a qualifying improvement  
497 requiring a license or certification of work under applicable  
498 law or building code must be performed by a contractor or  
499 evaluator properly certified, licensed, or registered in this  
500 state.

501 ~~(i) (1) (h) The total amount of any assessment for real~~  
502 ~~property under this section may not exceed 20 percent of the~~  
503 ~~just value of the real property as determined by the county~~  
504 ~~property appraiser~~ An applicant must provide the following



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505 documents to demonstrate that the project intends to benefit  
506 the public through energy or water resource conservation,  
507 lowering public health costs or risks, or reducing public  
508 emergency response costs or risks:-

509 (1) For an existing building where energy or water  
510 usage improvements are proposed:

511 a. An energy analysis from a licensed engineering firm,  
512 engineer, or other qualified professional listed in the  
513 program guidebook; and

514 b. A statement by the author of the analysis that the  
515 proposed qualifying improvements are intended to enhance  
516 energy or water efficiency or conservation, or to incorporate  
517 renewable resources.

518 (2) For resilience improvements, certification from a  
519 licensed professional engineer or another qualified  
520 professional listed in the program guidebook stating that the  
521 qualifying improvements are intended to result in improved  
522 resilience.

523 (3) For a new construction, a certified study from a  
524 licensed professional engineer, engineering firm or other  
525 qualified professional stating that the proposed qualifying  
526 improvements are intended to enable the project to exceed the  
527 current building code requirements for: (i) energy efficiency;  
528 (ii) water efficiency; or (iii) utilizing renewable energy or  
529 renewable water; or that the proposed improvements are  
530 intended to meet or exceed resilience standards of the local  
531 government's building codes or if none are available, comply  
532 with nationally recognized resiliency standards.



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533 ~~(2) Notwithstanding subdivision (1), an assessment for~~  
534 ~~a qualifying improvement that is supported by an energy, wind~~  
535 ~~or flood mitigation audit is not subject to the limits in this~~  
536 ~~subsection if the audit demonstrates that the annual energy or~~  
537 ~~insurance savings from the qualified improvement equals or~~  
538 ~~exceeds the annual repayment amount of the non-ad valorem~~  
539 ~~assessment. For residential structures, the energy audit shall~~  
540 ~~be conducted by a professional with one or more of the~~  
541 ~~following qualifications or certifications: Residential Energy~~  
542 ~~Services Network Home Energy Rating Systems (HERS), Building~~  
543 ~~Performance Institute Building Analyst (BPI), AEE Residential~~  
544 ~~Energy Auditor (REA), or Professional Engineer with specific~~  
545 ~~experience in energy efficiency. For commercial and industrial~~  
546 ~~facilities, the energy audit shall be conducted by a~~  
547 ~~professional with one or more of the following qualifications~~  
548 ~~or certifications: AEE Certified Energy Manager (CEM), AEE~~  
549 ~~Certified Energy Auditor (CEA), or Professional Engineer with~~  
550 ~~specific experience in energy efficiency.~~

551 (i) The approval by the local government shall be based  
552 on the application and a finding that the applicant has  
553 provided all the information required under this article and  
554 program guidelines. Nothing in this approval shall constitute  
555 an endorsement, explicit or implicit, that the materials  
556 provided in the application are true and correct. An approval  
557 under this section is not a warranty, guarantee, validation or  
558 endorsement of the information, findings, or conclusions, if  
559 any, in the application."

560 "§11-81-245



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561 (a) (1) Before entering into a written contract with a  
562 local government, the ~~real~~ qualifying property owner shall  
563 provide, or the local government shall obtain, a verified  
564 ~~recordable~~ copy of a written consent ~~and subordination~~  
565 agreement signed by the holder of each existing mortgage or  
566 other lien on the relevant ~~real~~ qualifying property stating  
567 that the mortgagee or other lienholder consents to the  
568 imposition of the assessment and understands that the priority  
569 of the mortgage or other lien is subordinated to the  
570 assessment lien. ~~in a~~ The form and substance of the consent  
571 shall be approved by the local government. ~~acceptable to each~~  
572 ~~mortgagee and other lienholder.~~ The consent ~~and subordination~~  
573 agreement must be in a form that may be recorded in the  
574 ~~appropriate~~ recording office ~~in of~~ the county or counties  
575 where the ~~real~~ qualifying property is located. ~~and the~~ The  
576 consent and ~~subordination agreement with~~ the qualifying  
577 property owner's assessment contract shall be recorded in that  
578 office.

579 (2) This subsection does not limit in any way the  
580 rights or authority of any mortgagee or other lienholder under  
581 any agreement or applicable law, except that a provision of a  
582 deed of trust, mortgage, or other agreement between a  
583 lienholder and a qualifying property owner which provides for  
584 the acceleration of any payment solely as a result of entering  
585 into an agreement to finance an assessment pursuant to this  
586 article is unenforceable if the mortgagee or lienholder  
587 executes a consent agreement pursuant to subdivision (1).

588 (b) At or before the time a purchaser executes a



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589 contract for the sale and purchase of any ~~real~~ qualifying  
590 property for which a non-ad valorem assessment has been levied  
591 under this article and has an unpaid balance due, the seller  
592 shall give the prospective purchaser a written disclosure  
593 statement in the following form, which shall be set forth in  
594 the contract or in a separate writing:

595 "QUALIFYING IMPROVEMENTS FOR ENERGY AND WATER  
596 EFFICIENCY, RENEWABLE ENERGY, AND RESILIENCY ~~TO STORM-RELATED~~  
597 ~~EVENTS~~. This ~~real~~ qualifying property being purchased is  
598 located within the jurisdiction of a local government that has  
599 placed an assessment on the ~~real~~ qualifying property pursuant  
600 to Section 11-81-242. The assessment is for a qualifying  
601 improvement to the ~~real~~ property relating to energy and water  
602 efficiency, renewable energy, or ~~and community~~ resilience ~~to~~  
603 ~~storm-related events, such as high winds and flooding~~ and is  
604 not based on the value of the ~~real~~ qualifying property. You  
605 are encouraged to contact the county property appraiser's  
606 office to learn more about this and other assessments that may  
607 be provided by law."

608 "§11-81-246

609 (a) An assessment under this article ~~and~~, including any  
610 interest or penalties on the assessment, shall constitute a  
611 lien on the qualifying property for the principal amount of  
612 the financing, subject to the requirement in Section 11-81-245  
613 to obtain a signed consent from all lienholders. This lien:

614 (1) ~~Is~~ Shall be a lien against the ~~real~~ qualifying  
615 property on which the assessment is imposed effective from the  
616 earliest of: (i) the date of the assessment contract; (ii) the



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617 summary memorandum date; or (iii) the date on which the notice  
618 of contractual assessment is recorded-;

619 (2) ~~Subject to the requirement in Section~~  
620 ~~11-81-245(a) (1) to obtain and record in the proper recording~~  
621 ~~office an executed consent and subordination agreement from~~  
622 ~~existing mortgagees and other lienholders, has~~ Shall have the  
623 same priority status as a lien for any other ad valorem or  
624 non-ad valorem tax-; and

625 (3) ~~Is a lien that runs~~ Shall run with the ~~real~~  
626 qualifying property., ~~and the~~ The portion of the assessment  
627 under the assessment contract that has not yet become due  
628 shall not be included in any enforcement action and is not  
629 accelerated or eliminated by foreclosure of a property tax  
630 lien or any other foreclosure, public or private.

631 (b) ~~The assessment lien may be enforced by the local~~  
632 ~~government in the same manner that an ad valorem or non-ad~~  
633 ~~valorem tax lien against real property may be enforced by the~~  
634 ~~local government with all redemption rights provided by~~  
635 ~~Section 40-10-1 et seq. or other applicable law to remain in~~  
636 ~~effect~~ The billing, collection, and enforcement of the  
637 assessment lien shall be delegated to the capital provider or  
638 its assigns. The capital provider's rights and remedies  
639 related to any contractual default by the qualifying property  
640 owner shall be governed by the terms of the financing  
641 agreement and state law. Assessments under this article shall  
642 be considered a statutory assessment and shall be superior to  
643 all other liens except tax liens.

644 (c) Delinquent installments of the assessments incur



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645 interest and penalties ~~in the same manner as delinquent ad~~  
646 ~~valorem taxes~~ as specified in the financing agreement.

647 (d) ~~A local government may recover costs and expenses,~~  
648 ~~including attorney's fees, in a suit to collect a delinquent~~  
649 ~~installment of an assessment~~ Delinquent interest and penalties  
650 incurred as specified in the financing agreement shall be  
651 included in any enforcement action.

652 (e) ~~Provided, however, that in~~ In any action to enforce  
653 an assessment lien, the person ~~or entity~~ enforcing the  
654 assessment lien must serve the holders of all mortgages and  
655 other liens with notice ~~about~~ of the enforcement action at  
656 least 60 days before any hearing or other action is taken with  
657 respect to the enforcement action. Service upon a domestic or  
658 foreign corporation or other entity shall be made by serving  
659 the registered agent of the entity if a registered agent has  
660 been appointed. ~~;~~ ~~otherwise~~ If no registered agent has been  
661 appointed, service shall be in accordance with Rule 4 of the  
662 Alabama Rules of Civil Procedure."

663 "§11-81-249

664 The imposition of an assessment pursuant to this  
665 article is to be made solely at the request of the owner of  
666 record of ~~real~~ the qualifying property within a designated  
667 region. A local government shall not compel a person who owns  
668 ~~real~~ qualifying property in a designated region to enter into  
669 a contract to repay the financing of any cost or assessment  
670 through assessments under this article."

671 Section 2. Sections 11-81-251 and 11-81-252 are added  
672 to the Code of Alabama 1975, to read as follows:



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673 §11-81-251

674 Public funds from the state or any local government  
675 shall not be used to fund or repay a loan between a capital  
676 provider and a qualifying property owner. A state or local  
677 government shall not pledge, offer, or encumber its full faith  
678 and credit for a lien amount through a Property Insurance  
679 Reduction and Capital Expenditure program.

680 §11-81-252

681 The members of the governing body of a local government  
682 as well as employees and officials of the local government are  
683 not liable, in their official or individual capacity, for any  
684 decision, exercise of discretion, or exercise of any rights or  
685 responsibilities granted under this chapter.

686 Section 3. Sections 11-81-247 and 11-81-248, Code of  
687 Alabama 1975, providing for a loss reserve fund and regulatory  
688 jurisdiction by the state, are repealed.

689 Section 4. This act shall become effective on June 1,  
690 2026.