

# Enrolled House Bill 4041

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Energy and Environment)

CHAPTER .....

AN ACT

Relating to the facilitation of financing for energy improvements by local governments; amending ORS 223.396; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 223.396 is amended to read:

223.396. (1) As used in this section:

(a) "Energy improvements" means energy efficiency and renewable energy improvements to qualifying real property authorized by:

(A) A local government implementing a program established under [subsection (2) of] this section; or

(B) The State Department of Energy for a loan issued under subsection [(9)] (10) of this section to a local government that establishes a program in cooperation with a local government described in subparagraph (A) of this paragraph.

(b) "Local government" means cities and counties.

(c) "Qualifying real property" means [single-family or] multifamily residential dwellings or commercial or industrial buildings that the local government has determined can be benefited by energy improvements.

(2)(a) Subject to subsection (3) of this section, a local government may establish a program to [make loans to] **assist** owners of record of qualifying real property [for the purpose of paying for] **in financing** cost-effective energy improvements to the qualifying real property.

**(b) A program established pursuant to this subsection may provide for the local government to:**

**(A) Make loans to owners** financed with the net proceeds and interest earnings of revenue bonds authorized by **subsection (9) of** this section[.];

**(B) Facilitate private financing by the owners; or**

**(C) Make loans under subparagraph (A) of this paragraph and facilitate private financing under subparagraph (B) of this paragraph.**

(3) Before establishing a program under this section, the local government shall provide notice to utilities that distribute electric energy or natural gas within the areas in which the local government will operate the program.

(4) A local government that establishes a program under this section may:

(a) Require performance of an energy audit on the qualifying real property before the local government approves a loan for energy improvements to the property;

(b) Impose requirements intended to ensure that the *[loan is consistent with the purpose of the program]* **costs of the improvements financed under this section do not exceed the cumulative energy cost savings of the improvements over the useful life of the improvements;** and

(c) Impose requirements and conditions on loans **or financing agreements** that are designed to ensure timely repayment *[of the loans]*.

(5)(a) If the owner of record of qualifying real property requests *[a loan]* **financing pursuant to a program established** under this section, **subject to subsection (6) of this section**, the local government implementing the program may:

*[(a)]* (A) Enter into a loan agreement with the owner, and any other person benefited by the loan[.]; **or**

(B) **Facilitate a financing agreement for the owner, and any other person benefited by the financing.**

(b) **A loan agreement or financing agreement entered into pursuant to paragraph (a) of this subsection must be** in a principal amount sufficient to pay:

(A) The costs of energy improvements the local government determines will benefit the qualifying real property and the borrowers;

(B) The costs of the energy audit; and

(C) The costs and reserves of the program.

*[(b)]* (c) **A local government acting pursuant to paragraph (a) of this subsection may:**

(A) **If the local government makes a loan**, charge the borrower an interest rate on the principal amount that is sufficient to pay the financing costs of the **loan** program, including loan delinquencies[.]; **and**

*[(c)]* (B) Charge periodic fees to pay for program costs.

(6) **A local government may not enter into a loan agreement, or facilitate a financing agreement, under subsection (5) of this section unless the owner has:**

(a) **Provided written notice to all mortgagees of the qualifying real property that the owner intends to enter into a loan agreement or financing agreement under this section; and**

(b) **Received written consent from the mortgagees stating that the loan agreement or financing agreement entered into under this section does not constitute an event of default or give rise to any remedies under the terms of the mortgage loan agreements.**

*[(6)]* (7) The local government implementing *[the]* a program *[that lends money for qualifying real property]* **established under this section** may:

(a) Secure *[the]* a loan **or financing** with a lien on the benefited qualifying real property in the manner and with the same priority as a lien for assessments for local improvements authorized by ORS 223.393.

(b) Assess the benefited qualifying real property for the amounts due under a loan agreement **or financing agreement.**

(c) Enforce a lien and collect an assessment authorized by this section as provided in ORS 223.505 to 223.650.

(d) Secure a loan **or financing** in any other manner that the local government determines is reasonable.

*[(7)]* (8)(a) In lieu of enforcing liens and collecting assessments as provided in subsection *[(6)]* (7) of this section, a local government may certify the assessment, in the manner provided in ORS 310.060, to the county assessor of each county in which benefited qualifying real property is located.

(b) If the assessments are certified as provided in this subsection, the county assessor shall:

*[(a)]* (A) Enter the assessment upon the county assessment roll against the property described in the certificate, in the manner that other local government assessments are entered;

*[(b)]* (B) Collect, account for and enforce the assessments in the manner that local government taxes are collected, accounted for and enforced; and

*[(c)]* (C) Transfer, as provided by law, the assessments collected to the local government that imposed the assessment.

[(8)] (9) A local government may issue revenue bonds pursuant to ORS 287A.150 to finance [program] the costs of a program established under this section, including the costs of making loans for energy improvements.

[(9)] (10) The State Department of Energy may lend money under the provisions of ORS 470.060 to 470.080 and 470.090 to a local government that establishes a program under this section in co-operation with a local government implementing a program under this section.

**SECTION 2. This 2014 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect on its passage.**

**Passed by House February 13, 2014**

.....  
Ramona J. Line, Chief Clerk of House

.....  
Tina Kotek, Speaker of House

**Passed by Senate February 24, 2014**

.....  
Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2014

**Approved:**

.....M,....., 2014

.....  
John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2014

.....  
Kate Brown, Secretary of State