

A-Engrossed
House Bill 4041

Ordered by the House February 12
Including House Amendments dated February 12

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

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Expands energy improvement program by authorizing local governments to facilitate private financing of energy improvements by property owners. **Prohibits local government from entering into loan agreement or facilitating financing agreement under program unless owner of qualifying real property receives written consent from mortgagees.**

Modifies definition of "qualifying real property" to exclude single-family residential dwellings.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the facilitation of financing for energy improvements by local governments; amending
3 ORS 223.396; and declaring an emergency.

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

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

6 223.396. (1) As used in this section:

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

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

10 or

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

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

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

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

21 (b) **A program established pursuant to this subsection may provide for the local govern-**
22 **ment to:**

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

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

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

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

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

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

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

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

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

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

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

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

23 (A) The costs of energy improvements the local government determines will benefit the qualify-
24 ing real property and the borrowers;

25 (B) The costs of the energy audit; and

26 (C) The costs and reserves of the program.

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

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

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

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

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

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

39 [*(6)*] **(7)** The local government implementing [*the*] a program [*that lends money for qualifying real*
40 *property*] **established under this section** may:

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

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

1 (c) Enforce a lien and collect an assessment authorized by this section as provided in ORS
2 223.505 to 223.650.

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

5 [(7)] **(8)(a)** In lieu of enforcing liens and collecting assessments as provided in subsection [(6)]
6 **(7)** of this section, a local government may certify the assessment, in the manner provided in ORS
7 310.060, to the county assessor of each county in which benefited qualifying real property is located.

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

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

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

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

15 [(8)] **(9)** A local government may issue revenue bonds pursuant to ORS 287A.150 to finance
16 [program] **the costs of a program established under this section**, including the costs of making
17 loans for energy improvements.

18 [(9)] **(10)** The State Department of Energy may lend money under the provisions of ORS 470.060
19 to 470.080 and 470.090 to a local government that establishes a program under this section in co-
20 operation with a local government implementing a program under this section.

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

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