

Enrolled House Bill 2132

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 local government programs to finance improvements to real property; amending ORS 223.001, 223.680 and 223.685; and prescribing an effective date.

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

SECTION 1. ORS 223.680 is amended to read:

223.680. (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 this section; or]

[(B) The State Department of Energy for a loan issued under subsection (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)] (a) “Local government” means cities and counties.

[(c)] (b) “Qualifying real property” means multifamily residential dwellings or commercial or industrial buildings that the local government has determined can be benefited by [energy] **utilities** improvements.

(c) “**Utilities improvements**” means **improvements to qualifying real property for any of the following purposes:**

(A) **Energy efficiency.**

(B) **Renewable energy.**

(C) **Energy storage.**

(D) **Smart electric vehicle charging stations.**

(E) **Water efficiency.**

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

(b) **The utilities improvements must be authorized by:**

(A) **A local government implementing a program established under this section; or**

(B) **The State Department of Energy for a loan issued under subsection (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)] (c) 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 **or water** 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 **or water** audit on the qualifying real property before the local government approves a loan for [energy] **utilities** improvements to the property;

(b) Impose requirements intended to ensure that the 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.

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

(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] **utilities** improvements the local government determines will benefit the qualifying real property and the borrowers;

(B) The costs of the energy **or water** audit; and

(C) The costs and reserves of the program.

(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

(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.

(7) The local government implementing a program established under this section may:

(a) Secure a loan or financing with a lien on the benefited qualifying real property [*in the manner and*] with the same priority, **as determined under ORS 223.230 (3)**, as a lien for assessments for local improvements [*authorized by*] **arising under 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.

(8)(a) In lieu of enforcing liens and collecting assessments as provided in subsection [(7)] **(7)(c)** 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) 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) Collect, account for and enforce the assessments in the manner that local government **property** taxes are collected, accounted for and enforced; and

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

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

(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 cooperation with a local government implementing a program under this section.

SECTION 2. ORS 223.685 is amended to read:

223.685. (1) As used in this section:

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

(b) "Qualifying real property" means multifamily residential dwellings or commercial or industrial buildings that the local government has determined can be benefited by seismic rehabilitation.

(c) "Seismic rehabilitation" means improvements to qualifying real property that are:

(A) Intended to reduce or prevent harm to persons and property due to the effects of seismic activity on the qualifying real property; and

(B) Authorized by a local government implementing a program established under this section.

(2)(a) A local government may establish a program to assist owners of record of qualifying real property in financing cost-effective seismic rehabilitation of 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 (8) 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) A local government that establishes a program under this section may:

(a) Impose requirements intended to ensure that the loan or financing is consistent with the purposes of the program; and

(b) Impose requirements and conditions on loans or financing agreements that are designed to ensure timely repayment.

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

(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 agreement.

(b) 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

(B) Charge periodic fees to pay for program costs.

(5) A local government may not enter into a loan agreement, or facilitate a financing agreement, under subsection (4) 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) The local government implementing a program established under this section may:

(a) Secure a loan or financing with a lien on the benefited qualifying real property [*in the manner and*] with the same priority, **as determined under ORS 223.230 (3)**, as a lien for assessments for local improvements [*authorized by*] **arising under** 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 under 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)(a) In lieu of enforcing liens and collecting assessments as provided in subsection [(6)] **(6)(c)** 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) 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) Collect, account for and enforce the assessments in the manner that local government **property** taxes are collected, accounted for and enforced; and

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

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

SECTION 3. ORS 223.001 is amended to read:

223.001. As used in ORS 223.112 to 223.132, 223.205 to 223.295, 223.297 to 223.314, 223.317 to 223.327, 223.387 to 223.399, 223.405 to 223.485, 223.505 to 223.595, 223.605 to 223.650, [223.680,] 223.705 to 223.755, 223.765, 223.770, 223.775 and 223.805 to 223.845, unless the context requires otherwise:

(1) "Actual cost" has the meaning given the term under ORS 310.140.

(2) "Capital construction project" means a project for "capital construction," as defined under ORS 310.140.

(3)(a) "Estimated assessment" means, with respect to each property to be assessed in connection with a local improvement, the total assessment that, at the time of giving notice of the assessment and the right to object or remonstrate, the local government estimates will be levied against the property following completion of the local improvement. The estimate shall be based on the local government's estimate at that time of the actual costs of the local improvement and the proposed formula for apportioning the actual costs to the property.

(b) "Estimated assessment" shall be determined by:

(A) Excluding from estimated actual costs the estimated financing costs associated with any bonds issued to accommodate the payment of the assessment in installments; and

(B) Including in estimated actual costs the estimated financing costs associated with interim financing of the local improvement.

(4) "Final assessment" means, with respect to each property to be assessed in connection with a local improvement, the total assessment levied against the property following completion of the local improvement. The total assessment shall be based on the actual costs of the local improvement and the formula for apportioning the actual costs to the property.

(5)(a) "Financing" means all costs necessary or attributable to acquiring and preserving interim or permanent financing of a local improvement.

(b) The costs of financing may include the salaries, wages and benefits payable to employees of the local government to the extent the same are reasonably allocable to the work or services performed by the employees in connection with the financing of a local improvement or any part thereof. However, as a condition to inclusion of any salaries, wages or benefits payable to employees of a local government as financing costs of a local improvement or any part thereof, the local government shall establish a record keeping system to track the actual work done or services performed by each employee on or in connection with such local improvement.

(c) Financing costs that are to be incurred after the levy of a final assessment may be included in the final assessment based on the local government's reasonable estimate of the financing costs if the local government first documents the basis for the estimate and makes the documentation available to interested persons on request.

(6) "Governing body" means the council, commission, board or other controlling body, however designated, in which the legislative powers of a local government are vested.

(7) "Installment application" means an application filed by a property owner to have a final assessment paid in installments over a period of years.

(8) "Local government" means a local government as defined in ORS 174.116 that has authority to undertake the acquisition, construction, reconstruction, repair, betterment or extension of a local improvement.

(9) "Local improvement" has the meaning given the term under ORS 310.140.

(10) "Lot" means a lot, block or parcel of land.

(11) "Owner" means the owner of the title to real property or the contract purchaser of real property of record as shown on the last available complete assessment roll in the office of the county assessor.

(12) "Recorder" means the auditor, recorder, clerk or other person or officer of a local government serving as clerk of the local government or performing the clerical work of the local government, or other official or employee as the governing body of a local government shall designate to act as recorder.

(13) "Structure" has the meaning given the term under ORS 310.140.

(14) "Treasurer" means the elected or appointed official of a local government, however designated, charged by law with the responsibility for acting as custodian of and investment officer for the public moneys of the local government.

SECTION 4. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

Passed by House April 5, 2017

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 31, 2017

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

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Dennis Richardson, Secretary of State