

A-Engrossed
House Bill 3241

Ordered by the House April 21
Including House Amendments dated April 21

Sponsored by Representative MARSH

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.

[Includes single-family dwellings as qualifying property for purposes of local government programs for financing energy improvements and seismic rehabilitation. Provides that lien securing loan or financing entered into or facilitated with respect to single-family dwelling has priority over all other liens and encumbrances other than lien securing first mortgage loan.]

Allows local government to create residential PACE programs to assist owners of single-family dwellings in financing utilities improvements and seismic rehabilitation.

A BILL FOR AN ACT

1
2 Relating to local government improvement financing programs for single-family residences; creating
3 new provisions; and amending ORS 223.001.

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

5 **SECTION 1. (1) As used in this section:**

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

7 (b) **"Single-family dwelling" means a noncommercial one-unit to four-unit residence, in-**
8 **cluding a detached or semidetached residence or a townhome.**

9 (c) **"Utilities improvements" means improvements to a single-family dwelling for any of**
10 **the following purposes:**

11 (A) **Energy efficiency.**

12 (B) **Renewable energy.**

13 (C) **Energy storage.**

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

15 (E) **Water efficiency.**

16 (2)(a) **Subject to subsection (3) of this section, a local government may establish a pro-**
17 **gram to assist owners of record of single-family dwellings in financing cost-effective utilities**
18 **improvements to the single-family dwellings.**

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

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

21 (B) **The State Department of Energy for a loan issued under subsection (10) of this sec-**
22 **tion to a local government that establishes a program in cooperation with a local government**
23 **described in subparagraph (A) of this paragraph.**

24 (c) **A program established pursuant to this subsection may provide for the local govern-**
25 **ment to:**

26 (A) **Make loans to owners financed with the net proceeds and interest earnings of re-**

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 venue bonds authorized by subsection (9) of this section;

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

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

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

8 (4)(a) A local government that establishes a program under this section shall require an
9 owner of a single-family dwelling who requests assistance under this section to submit such
10 financial information as the local government considers necessary to make any determi-
11 nation under this subsection.

12 (b) A local government that establishes a program under this section shall impose re-
13 quirements to ensure that, with respect to a single-family dwelling, the costs of the im-
14 provements financed under this section do not exceed the cumulative cost savings of the
15 improvements over the useful life of the improvements.

16 (c) Notwithstanding paragraph (a) of this subsection, a local government may assist an
17 owner of a single-family dwelling under this section based on an evaluation by the local
18 government of the owner's income and obligations that shows to the satisfaction of the local
19 government that the owner will be able to meet the annual obligations arising from assist-
20 ance under this section.

21 (d) Notwithstanding paragraphs (b) and (c) of this subsection, the local government may
22 not assist an owner under this section if:

23 (A) Any property taxes imposed on the single-family dwelling for which the owner is lia-
24 ble are delinquent;

25 (B) Any payments for debt secured by a mortgage on the single-family dwelling are de-
26 linquent;

27 (C) Any liens on the single-family dwelling are being foreclosed or there are any pending
28 notices of default with respect to debt secured by the single-family dwelling; or

29 (D) The owner is currently seeking relief from creditors under the laws of bankruptcy.

30 (e) The local government may impose any other requirements or conditions on loans or
31 financing agreements that the local government considers necessary or appropriate to en-
32 sure timely repayment.

33 (5)(a) For purposes of subsection (4)(a) of this section, a local government shall require
34 performance of an energy or water audit on a single-family dwelling before the local gov-
35 ernment approves a loan for utilities improvements to the single-family dwelling.

36 (b) An energy or water audit of the single-family dwelling is not required in the circum-
37 stances described in subsection (4)(c) of this section.

38 (6)(a) If the owner of record of a single-family dwelling requests financing pursuant to a
39 program established under this section, the local government implementing the program
40 may:

41 (A) Enter into a loan agreement with the owner, and any other person benefited by the
42 loan; or

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

45 (b) A loan agreement or financing agreement entered into pursuant to paragraph (a) of

1 **this subsection must be in a principal amount that:**

2 **(A) Is sufficient to pay:**

3 **(i) The costs of utilities improvements the local government determines will benefit the**
4 **single-family dwelling and the borrowers;**

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

6 **(iii) The costs and reserves of the program;**

7 **(B) Does not exceed 20 percent of the real market value of the single-family dwelling; and**

8 **(C) When added to any mortgage debt principal outstanding on the single-family dwelling,**
9 **does not exceed the real market value of the single-family dwelling.**

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

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

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

15 **(d)(A) A local government shall charge an owner who receives assistance under this**
16 **section a fee that is equal to the greater of:**

17 **(i) One percent of the amount loaned or financed; or**

18 **(ii) The actual costs incurred by the assessor of the county in which the single-family**
19 **dwelling is located in administering the financing under this section.**

20 **(B) Fees charged and collected under this section may be expended solely for operations**
21 **of the office of the county assessor.**

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

23 **(a) Secure a loan or financing with a lien on the benefited single-family dwelling with the**
24 **same priority, as determined under ORS 223.230 (3), as a lien for assessments for local im-**
25 **provements arising under ORS 223.393.**

26 **(b) Assess the benefited single-family dwelling for the amounts due under a loan agree-**
27 **ment or financing agreement.**

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

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

32 **(8)(a) In lieu of enforcing liens and collecting assessments as provided in subsection (7)**
33 **of this section, a local government may certify the assessment, in the manner provided in**
34 **ORS 310.060, to the county assessor of each county in which benefited single-family dwellings**
35 **are located.**

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

38 **(A) Enter the assessment upon the county assessment roll against the single-family**
39 **dwellings described in the certificate, in the manner that other local government assess-**
40 **ments are entered;**

41 **(B) Collect, account for and enforce the assessments in the manner that local govern-**
42 **ment property taxes are collected, accounted for and enforced; and**

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

45 **(9) A local government may issue revenue bonds pursuant to ORS 287A.150 to finance the**

1 costs of a program established under this section, including the costs of making loans for
2 utilities improvements.

3 (10) The State Department of Energy may lend money under the provisions of ORS
4 470.060 to 470.080 and 470.090 to a local government that establishes a program under this
5 section in cooperation with a local government implementing a program under this section.

6 (11)(a) A local government that establishes a program under this section must adopt
7 consumer protection standards informed by the Best Practice Guidelines for Residential
8 PACE Financing Programs published by the United States Department of Energy on No-
9 vember 18, 2016.

10 (b) The consumer protection standards must address, at a minimum, property owner
11 disclosures, contractor conduct, acceptable products and projects with pricing guidelines,
12 marketing practices, consumer support before and after financing, treatment of protected
13 classes, grievance procedures, data security and privacy matters.

14 (c) The local government shall ensure compliance with the consumer protection stan-
15 dards or enter into an agreement with a public or private third-party administrator to ensure
16 compliance.

17 **SECTION 2.** (1) As used in this section:

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

19 (b) "Seismic rehabilitation" means improvements to single-family dwellings that are:

20 (A) Intended to reduce or prevent harm to persons and property due to the effects of
21 seismic activity on the single-family dwelling; and

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

24 (c) "Single-family dwelling" means a noncommercial one-unit to four-unit residence, in-
25 cluding a detached or semidetached residence or a townhome.

26 (2)(a) A local government may establish a program to assist owners of record of single-
27 family dwellings in financing cost-effective seismic rehabilitation of the single-family
28 dwellings.

29 (b) A program established pursuant to this subsection may provide for the local govern-
30 ment to:

31 (A) Make loans to owners financed with the net proceeds and interest earnings of re-
32 venue bonds authorized by subsection (7) of this section;

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

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

36 (3)(a) A local government that establishes a program under this section shall impose re-
37 quirements to ensure that the loan or financing is consistent with the purposes of the pro-
38 gram and may impose any other requirements or conditions on loans or financing
39 agreements that the local government considers necessary or appropriate to ensure timely
40 repayment.

41 (b) Notwithstanding any other provision of this section, the local government may not
42 assist an owner under this section if:

43 (A) Any property taxes imposed on the single-family dwelling for which the owner is lia-
44 ble are delinquent;

45 (B) Any payments for debt secured by a mortgage on the single-family dwelling are de-

1 **linquent;**

2 **(C) Any liens on the single-family dwelling are being foreclosed or there are any pending**
3 **notices of default with respect to debt secured by the single-family dwelling; or**

4 **(D) The owner is currently seeking relief from creditors under the laws of bankruptcy.**

5 **(4)(a) If the owner of record of a single-family dwelling requests financing pursuant to a**
6 **program established under this section, the local government implementing the program**
7 **may:**

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

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

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

14 **(A) Is sufficient to pay:**

15 **(i) The costs of seismic rehabilitation the local government determines will benefit the**
16 **single-family dwelling and the borrowers; and**

17 **(ii) The costs and reserves of the program;**

18 **(B) Does not exceed 20 percent of the real market value of the single-family dwelling; and**

19 **(C) When added to any mortgage debt principal outstanding on the single-family dwelling,**
20 **does not exceed the real market value of the single-family dwelling.**

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

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

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

26 **(d)(A) A local government shall charge an owner who receives assistance under this**
27 **section a fee that is equal to the greater of:**

28 **(i) One percent of the amount loaned or financed; or**

29 **(ii) The actual costs incurred by the assessor of the county in which the single-family**
30 **dwelling is located in administering the financing under this section.**

31 **(B) Fees charged and collected under this section may be expended solely for operations**
32 **of the office of the county assessor.**

33 **(5) The local government implementing a program established under this section may:**

34 **(a) Secure a loan or financing with a lien on the benefited single-family dwelling with the**
35 **same priority, as determined under ORS 223.230 (3), as a lien for assessments for local im-**
36 **provements arising under ORS 223.393.**

37 **(b) Assess the benefited single-family dwelling for the amounts due under a loan agree-**
38 **ment or financing agreement.**

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

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

43 **(6)(a) In lieu of enforcing liens and collecting assessments as provided in subsection (5)**
44 **of this section, a local government may certify the assessment, in the manner provided in**
45 **ORS 310.060, to the county assessor of each county in which benefited single-family dwellings**

1 are located.

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

4 (A) Enter the assessment upon the county assessment roll against the single-family
5 dwellings described in the certificate, in the manner that other local government assess-
6 ments are entered;

7 (B) Collect, account for and enforce the assessments in the manner that local govern-
8 ment property taxes are collected, accounted for and enforced; and

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

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

13 (8)(a) A local government that establishes a program under this section must adopt
14 consumer protection standards informed by the Best Practice Guidelines for Residential
15 PACE Financing Programs published by the United States Department of Energy on No-
16 vember 18, 2016.

17 (b) The consumer protection standards must address, at a minimum, property owner
18 disclosures, contractor conduct, acceptable products and projects with pricing guidelines,
19 marketing practices, consumer support before and after financing, treatment of protected
20 classes, grievance procedures, data security and privacy matters.

21 (c) The local government shall ensure compliance with the consumer protection stan-
22 dards or enter into an agreement with a public or private third-party administrator to ensure
23 compliance.

24 **SECTION 3.** ORS 223.001 is amended to read:

25 223.001. As used in ORS 223.112 to 223.132, 223.205 to 223.295, 223.297 to 223.314, 223.317 to
26 223.327, 223.387 to 223.399, 223.405 to 223.485, 223.505 to 223.595, 223.605 to 223.650, [223.680,]
27 223.705 to 223.755, 223.765, 223.770, 223.775 and 223.805 to 223.845, unless the context requires oth-
28 erwise:

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

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

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

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

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

41 (B) Including in estimated actual costs the estimated financing costs associated with interim fi-
42 nancing of the local improvement.

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

1 and the formula for apportioning the actual costs to the property.

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

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

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

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

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

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

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

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

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

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

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

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

35
