

SENATE CS FOR CS FOR HOUSE BILL NO. 374(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 5/1/18

Referred: Rules

Sponsor(s): REPRESENTATIVES WOOL, Parish, Kawasaki, Gara, Kito, Josephson, Spohnholz

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to on-bill financing by a utility for certain energy efficiency and**
2 **conservation improvements."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 42.05 is amended by adding new sections to read:

5 **Article 8A. On-Bill Financing of Energy Efficiency and Conservation Improvements.**

6 **Sec. 42.05.750. On-bill financing of energy efficiency and conservation**
7 **improvements; authorization and eligibility.** (a) A utility may enter into a written
8 on-bill financing agreement with a customer to finance the purchase and installation of
9 a renewable energy system, energy efficiency device, energy storage device, or energy
10 conservation system in a residence or building that is eligible under (b) of this section
11 by assessing a meter conservation charge on the customer's utility bill.

12 (b) A residence or building is eligible for on-bill financing under (a) of this
13 section if, at the time the financing agreement is entered into, the residence or building

14 (1) is occupied or in use; and

1 (2) is not under initial construction.

2 (c) An on-bill financing agreement must clearly state the interest rate to be
3 charged for financing the purchase and installation of the renewable energy system,
4 energy efficiency device, energy storage device, or energy conservation system. The
5 interest shall be set at a rate that is fixed over the term of the agreement.

6 (d) An on-bill financing agreement is not valid under this section unless the
7 utility has offered the customer in writing the option of purchasing a repair and
8 maintenance agreement for the renewable energy system, energy efficiency device,
9 energy storage device, or energy conservation system before the purchase and
10 installation of the system or device. A repair and maintenance agreement under this
11 section must

12 (1) be for a term of not less than the duration of the on-bill financing
13 agreement;

14 (2) benefit the customer and any subsequent owner of the residence or
15 building from whom the utility may recover the costs under the on-bill financing
16 agreement under AS 42.05.753;

17 (3) for a fixed periodic fee, maintain the original function and
18 performance of the renewable energy system, energy efficiency device, energy storage
19 device, or energy conservation system.

20 (e) A customer may decline to purchase a repair and maintenance agreement
21 described under (d) of this section only if the customer enters into an agreement in
22 writing with the utility to pay the balance of the on-bill financing agreement before
23 transferring ownership of the residence or building. At the time of transfer of
24 ownership, the subsequent owner may waive the requirement that the customer pay the
25 balance of the on-bill financing agreement by notifying the utility in writing that the
26 subsequent owner assumes the balance owed on the on-bill financing agreement.

27 (f) The balance owed on an on-bill financing agreement may be paid in full at
28 any time without penalty.

29 (g) Nothing in this section requires a utility to enter into an on-bill financing
30 agreement with a specific customer or for a specific device or system.

31 **Sec. 42.05.751. Meter conservation charge.** (a) A meter conservation charge

1 assessed under AS 42.05.750(a) may only be used to recover the

2 (1) actual costs incurred by the utility for the purchase, installation,
3 and financing of the renewable energy system, energy efficiency device, energy
4 storage device, or energy conservation system, including the administrative costs of
5 the on-bill financing agreement and the cost of filing notice under AS 42.05.752;

6 (2) repayment of costs incurred by a third party that has performed a
7 function under AS 42.05.755; and

8 (3) periodic fee for a repair and maintenance agreement under
9 AS 42.05.750(d).

10 (b) A utility may assess a meter conservation charge on

11 (1) the customer who entered into the on-bill financing agreement; or

12 (2) a subsequent owner of the residence or building under
13 AS 42.05.753.

14 (c) A meter conservation charge must be shown as a separate line item on a
15 customer's bill.

16 (d) A utility may treat a customer's failure to pay a meter conservation charge
17 as a failure to pay the utility account, and the utility may disconnect the utility service
18 for nonpayment of the meter conservation charge, if the utility complies with
19 AS 42.05.381(c), AS 42.20.040, and any other applicable law. A utility may not
20 remove a renewable energy system, energy efficiency device, energy storage device,
21 or energy conservation system for failure to pay a meter conservation charge or when
22 disconnecting service for failure to pay a meter conservation charge.

23 (e) Money collected by a utility as a meter conservation charge is not revenue
24 subject to state taxes under AS 43.20.

25 (f) The billing and collection of a meter conservation charge does not subject a
26 utility to the laws that regulate financial institutions, escrow depositories, or collection
27 agencies. A utility is not responsible for a lending, underwriting, or credit
28 determination for an on-bill financing agreement.

29 **Sec. 42.05.752. Notice of on-bill financing agreement and meter**
30 **conservation charge.** (a) A utility that enters into an on-bill financing agreement shall
31 file notice of the on-bill financing agreement and related meter conservation charge in

1 the recording district in which the residence or building subject to the agreement is
 2 located. Notice under this subsection does not constitute a lien on the property, but is
 3 intended to give an owner of the residence or building notice that the residence or
 4 building is subject to a meter conservation charge. Notice is considered given if it is
 5 sufficient to disclose to prospective owners the existence of the meter conservation
 6 charge, including the balance owed under the on-bill financing agreement, whether the
 7 system or device is covered by a repair and maintenance agreement described in
 8 AS 42.05.750(d), and the length of time the meter conservation charge is expected to
 9 remain in effect.

10 (b) A utility shall file notice of satisfaction when an on-bill financing
 11 agreement is paid in full. Notice of satisfaction shall be filed in the recording district
 12 in which the residence or building subject to the agreement is located.

13 **Sec. 42.05.753. Transferability of on-bill financing balances to subsequent**
 14 **owners.** A utility that enters into an on-bill financing agreement may recover the
 15 balance of the costs allowed under the agreement from a subsequent owner of the
 16 residence or building in which the renewable energy system, energy efficiency device,
 17 energy storage device, or energy conservation system was installed if the utility gives
 18 notice under AS 42.05.752 that the residence or building is subject to the agreement.

19 **Sec. 42.05.754. Rental property.** A utility may recover the costs under an on-
 20 bill financing agreement for a rental property by assessing a meter conservation charge
 21 on a utility bill only if the landlord is responsible for the entire utility bill, including
 22 the meter conservation charge.

23 **Sec. 42.05.755. Third parties; contracting and liability.** (a) A utility may
 24 contract with a third party to perform functions permitted under AS 42.05.750 -
 25 42.05.754, including financing the purchase and installation costs for a renewable
 26 energy system, energy efficiency device, energy storage device, or energy
 27 conservation system. The third party shall comply with AS 42.05.750 - 42.05.754.

28 (b) If the installation, operation, or maintenance of a renewable energy system,
 29 energy efficiency device, energy storage device, or energy conservation system is
 30 performed by a third party,

31 (1) the utility is not liable for the installation, operation, or

1 maintenance of the renewable energy system, energy efficiency device, energy storage
2 device, or energy conservation system;

3 (2) the utility may not provide, nor is there implied, a warranty of
4 merchantability or fitness of the renewable energy system, energy efficiency device,
5 energy storage device, or energy conservation system; and

6 (3) no action may be brought against the utility related to the failure of
7 the renewable energy system, energy efficiency device, energy storage device, or
8 energy conservation system.

9 (c) When a utility contracts with a third party to perform administrative or
10 financing functions,

11 (1) the third party is not liable for the installation, operation, or
12 maintenance of the renewable energy system, energy efficiency device, energy storage
13 device, or energy conservation system;

14 (2) the third party may not provide, nor is there implied, a warranty of
15 merchantability or fitness of the renewable energy system, energy efficiency device,
16 energy storage device, or energy conservation system; and

17 (3) no action may be brought against the third party related to the
18 failure of the renewable energy system, energy efficiency device, energy storage
19 device, or energy conservation system.

20 (d) The provisions of (b) and (c) of this section may not be construed to impair
21 the rights and remedies of a utility customer against any other parties to a transaction
22 involving the purchase or installation of a renewable energy system, energy efficiency
23 device, energy storage device, or energy conservation system.

24 **Sec. 42.05.756. Definitions.** In AS 42.05.750 - 42.05.756,

25 (1) "energy conservation system" includes a fuel-switching system; in
26 this paragraph, "fuel-switching" means the replacement of existing fuel consuming
27 equipment using a particular fuel with equipment that uses another fuel that does not
28 increase greenhouse gas emissions and that

29 (A) is more fuel efficient; or

30 (B) results in lower fuel expenses;

31 (2) "meter conservation charge" means a charge placed on a customer's

1 utility bill by a utility to recover costs under an on-bill financing agreement;
2 (3) "on-bill financing agreement" means an agreement entered into
3 under AS 42.05.750.