

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0308.01 Thomas Morris x4218

SENATE BILL 13-212

SENATE SPONSORSHIP

Jones and Schwartz, Johnston

HOUSE SPONSORSHIP

Tyler,

Senate Committees

Agriculture, Natural Resources, & Energy

House Committees

Transportation & Energy

A BILL FOR AN ACT

101 **CONCERNING INCREASED OPTIONS FOR FINANCING AVAILABLE**
102 **THROUGH THE COLORADO NEW ENERGY IMPROVEMENT**
103 **DISTRICT FOR THE COMPLETION OF NEW ENERGY**
104 **IMPROVEMENTS, AND, IN CONNECTION THEREWITH, ALLOWING**
105 **COMMERCIAL BUILDINGS TO ACCESS DISTRICT FINANCING,**
106 **REQUIRING CONSENT FOR SUBORDINATION OF MORTGAGE LIENS,**
107 **AND FACILITATING PRIVATE THIRD-PARTY FINANCING.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
April 4, 2013

SENATE
Amended 2nd Reading
April 2, 2013

[http://www.leg.state.co.us/bills/summaries.](http://www.leg.state.co.us/bills/summaries/))

The Colorado new energy improvement district (district) currently allows for financing of the completion of new energy improvements only for residential real estate. **Section 2** of the bill allows owners of commercial property to utilize such financing, repeals the maximum 95% loan-to-value requirement for qualified applicants, and repeals the percentage-of-value and dollar caps on allowable new energy improvements. Section 2 also includes fuel cells within the definition of "renewable energy improvement" and includes improvements that increase the overall illumination of a property or bring the property up to building code within the definition of "energy efficiency improvement". **Section 3** directs the governor to appoint 5 members to the district board by September 1, 2013, modifies their qualifications, removes the legislative appointees from the board, and reduces the quorum from 6 to 4 members.

Section 4 directs the district to develop:

- ! A program for the financing of new energy improvements by private third-party financing in addition to by district bonds; and
- ! The parameters for requiring consent in all cases by existing mortgage holders to subordinate the priority of their mortgages to the priority of the district's lien.

Current law includes increased market value and decreased energy bills attributable to a new energy improvement in the calculation of the amount of the special assessment; **section 5** repeals these factors from that calculation and also repeals language that allows special assessments to be prepaid.

If district special assessments are attributable to new energy improvements that were financed by a private third party:

- ! **Section 6** directs the board to credit the proceeds of the special assessments to the private third party; and
- ! **Section 7** specifies that district bonds are not payable from the special assessments.

Section 6 also prohibits county assessors from taking into account any increase in the market value of the eligible real property resulting from the completion of a new energy improvement when assessing the value of the property. Section 7 also affirms that the state will not impair the rights or remedies of private third parties that have financed new energy improvements.

Current law conditionally repeals the district on January 1, 2016. **Section 8** repeals the repeal date.

1 **SECTION 1. Short title.** This act shall be known and may be
2 cited as the "New Energy Jobs Act of 2013".

3 **SECTION 2.** In Colorado Revised Statutes, 32-20-103, **amend**
4 (4), (5) introductory portion, (5) (f), (5) (h), (5) (i), (7), (11), (12)
5 introductory portion, and (14); **repeal** (10) (a); and **add** (1.5) and (5) (j)
6 as follows:

7 **32-20-103. Definitions.** As used in this article, unless the context
8 otherwise requires:

9 (1.5) "COMMERCIAL BUILDING" MEANS ANY REAL PROPERTY
10 OTHER THAN A RESIDENTIAL BUILDING CONTAINING FEWER THAN FIVE
11 DWELLING UNITS AND INCLUDES ANY OTHER IMPROVEMENT OR
12 CONNECTED LAND THAT IS BILLED WITH THE IMPROVEMENT FOR PURPOSES
13 OF AD VALOREM PROPERTY TAXATION.

14 (4) "Eligible real property" means a residential OR COMMERCIAL
15 building, located within a county in which the district has been authorized
16 to conduct the program as required by section 32-20-105 (3), on which or
17 in which a new energy improvement to be financed by the district has
18 been or will be completed.

19 (5) "Energy efficiency improvement" means one or more
20 installations or modifications to eligible real property that are designed to
21 reduce the energy consumption of the property ~~and that are not required~~
22 ~~by a building code as part of new construction or a major renovation~~ and
23 includes, but is not limited to, the following:

24 (f) Replacement or modification of lighting fixtures to increase
25 the energy efficiency of the system; ~~without increasing the overall~~
26 ~~illumination of eligible real property unless the increase in illumination~~
27 ~~is necessary to conform to the applicable building code for the proposed~~

1 lighting system;

2 (h) Daylighting systems; and

3 (i) ~~Any other modification, installation, or remodeling approved~~
4 ~~as a utility cost-savings measure by the district. ELECTRIC VEHICLE~~
5 ~~CHARGING EQUIPMENT ADDED TO THE BUILDING OR ITS ASSOCIATED~~
6 ~~PARKING AREA; AND~~

7 (j) ~~ANY OTHER MODIFICATION, INSTALLATION, OR REMODELING~~
8 ~~APPROVED AS A UTILITY COST-SAVINGS MEASURE BY THE DISTRICT.~~

9 (7) "New energy improvement" means one or more on-site energy
10 efficiency improvements or renewable energy improvements, or both,
11 made to eligible real property that will reduce the energy consumption of
12 or add energy produced from renewable energy sources ~~only~~ WITH
13 REGARD to any portion of the eligible real property. ~~that is used~~
14 ~~predominantly as a place of residency.~~

15 (10) "Qualified applicant" means a person who:

16 (a) ~~Owns eligible real property that has a ratio of loan balance to~~
17 ~~its actual value of ninety-five percent or less at the time the person's~~
18 ~~program application is approved, as shown in the records of the county~~
19 ~~assessor, unless the holder of the deed of trust or mortgage recorded~~
20 ~~against the eligible real property that has priority over all other deeds of~~
21 ~~trust or mortgages recorded against the eligible real property has~~
22 ~~consented in writing to the levying of a special assessment against the~~
23 ~~eligible real property.~~

24 (11) "Reimbursement or a direct payment" means the payment by
25 the district to a district member, or on behalf of ~~such~~ a district member to
26 a contractor that has completed a new energy improvement to the district
27 member's eligible real property, of all or a portion of the cost of

1 completing a new energy improvement. Utility rebates offered to program
2 participants by a qualifying retail utility for the purpose of compliance
3 with renewable energy targets established in section 40-2-124, C.R.S.,
4 ~~shall be~~ ARE subject to the retail rate impact cap established pursuant to
5 section 40-2-124 (1) (g) (I), C.R.S. ~~The maximum amount of~~
6 ~~reimbursement or a direct payment that may be made shall be the lowest~~
7 ~~of the full cost of completing a new energy improvement, twenty percent~~
8 ~~of the actual value, as specified in the records of the county assessor, of~~
9 ~~the eligible real property to which the new energy improvement is made,~~
10 ~~or twenty-five thousand dollars; except that the twenty-five thousand~~
11 ~~dollar limit shall be adjusted by the district for each calendar year~~
12 ~~commencing on or after January 1, 2012, based on the consumer price~~
13 ~~index for the Denver-Boulder-Greeley metropolitan statistical area for the~~
14 ~~state fiscal year that ends in the preceding calendar year.~~

15 (12) "Renewable energy improvement" means one or more
16 fixtures, products, systems, or devices, or an interacting group of fixtures,
17 products, systems, or devices, that directly benefit eligible real property
18 through a qualified community location, as defined in section 30-20-602
19 (4.3), C.R.S., enacted by Senate Bill 10-100, enacted in 2010, or that are
20 installed behind the meter of any eligible real property and that produce
21 energy from renewable resources, including but not limited to,
22 photovoltaic, solar thermal, small wind, low-impact hydroelectric,
23 biomass, FUEL CELL, or geothermal systems such as ground source heat
24 pumps, as may be approved by the district; except that no renewable
25 energy improvement shall be authorized that interferes with a right held
26 by a public utility under a certificate issued by the public utilities
27 commission under article 5 of title 40, C.R.S. Nothing in this article shall

1 limit the right of a public utility, subject to article 3 or 3.5 of title 40,
2 C.R.S., or section 40-9.5-106, C.R.S., to assess fees for the use of its
3 facilities or modify or expand the net metering limitations established in
4 sections 40-9.5-118 and 40-2-124 (7), C.R.S. Primary jurisdiction to hear
5 any disputes as to whether a renewable energy improvement interferes
6 with such a right shall lie:

7 (14) "Special assessment" or "assessment" means a charge levied
8 by the district against eligible real property specially benefited by a new
9 energy improvement for which the district has made or will make
10 reimbursement or a direct payment that is proportional to the benefit
11 received from the new energy improvement and does not exceed the
12 estimated amount of special benefits received OR THE FULL COST OF
13 COMPLETING THE NEW ENERGY IMPROVEMENT.

14 **SECTION 3.** In Colorado Revised Statutes, 32-20-104, **amend**
15 (2) (a) introductory portion, (2) (a) (I), (2) (a) (II), and (3); and repeal (2)
16 (a) (III), (2) (a) (IV), (2) (a) (V), and (2) (a) (VI), as follows:

17 **32-20-104. Colorado new energy improvement district -**
18 **creation - board - meetings - quorum - expenses - records.** (2) (a) The
19 district ~~shall be~~ IS governed by a board of directors, which shall exercise
20 the powers of the district, shall, by a majority vote of a quorum of its
21 members, select from its membership a chair, ~~and a vice-chair,~~ AND
22 SECRETARY, and ~~shall be~~ IS composed of ~~nine~~ SEVEN members, including:

23 (I) The following two ex officio members or their designees:

24 (A) The director of the Colorado energy office created in section
25 24-38.5-101 (1), C.R.S., OR THE DIRECTOR'S DESIGNEE; and

26 (B) The director of the Colorado office of economic development
27 created in section 24-48.5-101 (1), C.R.S.;

1 (II) The following ~~five~~ SIX members appointed by the governor BY
2 SEPTEMBER 1, 2013:

3 (A) One member who has executive-level experience in ~~the~~
4 ~~affordable housing industry~~ COMMERCIAL OR RESIDENTIAL REAL ESTATE
5 DEVELOPMENT;

6 ~~(B) One member who has executive-level experience in the~~
7 ~~lending industry~~ TWO MEMBERS WHO EACH HAVE AT LEAST TEN YEARS OF
8 EXECUTIVE-LEVEL EXPERIENCE WITH ONE OR MORE FINANCIAL
9 INSTITUTIONS, AT LEAST ONE OF WHOM HAS HAD SUCH EXPERIENCE WITH
10 ONE OR MORE FINANCIAL INSTITUTIONS HAVING TOTAL ASSETS OF LESS
11 THAN ONE BILLION DOLLARS;

12 ~~(C) One member who is an attorney licensed to practice law in~~
13 ~~Colorado and who shall serve as the secretary of the board~~ HAS
14 EXECUTIVE-LEVEL EXPERIENCE IN THE UTILITY INDUSTRY;

15 (D) One member who represents the energy efficiency industry;
16 and

17 (E) One member who represents ~~local governments~~ THE
18 RENEWABLE ENERGY INDUSTRY.

19 ~~(III) One member appointed by the president of the senate who~~
20 ~~has executive-level experience in the renewable energy industry;~~

21 ~~(IV) One member appointed by the speaker of the house of~~
22 ~~representatives who has executive-level experience in the financial~~
23 ~~industry;~~

24 ~~(V) One member appointed by the minority leader of the senate~~
25 ~~who has executive-level experience in the utility industry; and~~

26 ~~(VI) One member appointed by the minority leader of the house~~
27 ~~of representatives who has executive-level experience in the housing~~

1 industry.

2 (3) ~~Six~~ FOUR members of the board shall constitute a quorum for
3 the purpose of conducting business and exercising the powers of the
4 board. Action may be taken by the board upon the affirmative vote of at
5 least ~~six~~ FOUR of its members. No vacancy in the membership of the
6 board shall impair the right of a quorum to exercise all the rights and
7 perform all the duties of the board.

8 **SECTION 4.** In Colorado Revised Statutes, 32-20-105, **amend**
9 (3) introductory portion, (3) (d), (3) (e), (3) (g), and (4); and **add** (3) (h)
10 and (3) (i) as follows:

11 **32-20-105. District - purpose - general powers and duties -**
12 **new energy improvement program.** (3) The district shall establish,
13 develop, finance, and administer a new energy improvement program.
14 However, the district may conduct the program within any given county
15 only if the board of county commissioners of the county has adopted a
16 resolution authorizing the district to conduct the program within the
17 county. The DISTRICT SHALL DESIGN THE program ~~shall be designed~~ to
18 allow an owner of eligible real property to apply to join the district,
19 receive reimbursement or a direct payment from the district, and consent
20 to the levying of a special assessment on the eligible real property
21 specially benefited by a new energy improvement for which the district
22 makes reimbursement or a direct payment. The district shall establish an
23 application process for the program ~~which may allow~~ THAT ALLOWS an
24 owner of eligible real property to become a qualified applicant by
25 submitting an application to the district and ~~which~~ THAT may include one
26 or more deadlines for the filing of an application. THE APPLICATION
27 PROCESS MUST REQUIRE THE APPLICANT TO SUBMIT WITH THE

1 APPLICATION A COMMITMENT OF TITLE INSURANCE ISSUED BY A DULY
2 LICENSED COLORADO TITLE INSURANCE COMPANY WITHIN THIRTY DAYS
3 BEFORE THE DATE THE APPLICATION IS SUBMITTED. The district may
4 charge program application fees. In order to administer the program, the
5 district, acting directly or through a program administrator or ~~such~~ other
6 agents, employees, or professionals as the district may appoint, hire,
7 retain, or contract with, MAY AGGREGATE QUALIFIED APPLICANTS INTO
8 ONE OR MORE BOND ISSUES AND shall:

9 (d) Encourage OR REQUIRE, AS DETERMINED BY THE DISTRICT, any
10 qualified applicant to obtain an ~~online or on-site home~~ energy audit in
11 order to ensure the efficient use of new energy improvement funding
12 pursuant to this article;

13 (e) Inform prospective program applicants and qualified
14 applicants of private financing options not provided by the district,
15 including, ~~but not limited to~~ AS APPROPRIATE, home equity loans, ~~and~~
16 home equity lines of credit, COMMERCIAL LOANS, AND COMMERCIAL
17 LINES OF CREDIT that may, with respect to a particular applicant, represent
18 viable alternatives for financing new energy improvements;

19 (g) Take appropriate steps to monitor the quality of new energy
20 improvements for which the district has made reimbursement or a direct
21 payment if deemed necessary by the board, measure the total energy
22 savings achieved by the program, monitor the total number of program
23 participants, the total amount paid to contractors, the number of jobs
24 created by the program, the number of defaults by program participants,
25 and the total losses from the defaults, and calculate the total amount of
26 bonds issued by the district. On or before March 1, ~~2011~~ 2014, and on or
27 before each subsequent March 1, the district shall report to the state,

1 veterans, and military affairs committees of the general assembly, or any
2 successor committees, regarding the information obtained as required by
3 this paragraph (g);

4 (h) DEVELOP PROGRAM GUIDELINES GOVERNING THE TERMS AND
5 CONDITIONS UNDER WHICH PRIVATE THIRD-PARTY FINANCING, OTHER
6 THAN THAT OBTAINED THROUGH ISSUANCE OF A DISTRICT BOND, IS
7 AVAILABLE TO QUALIFIED APPLICANTS THROUGH THE PROGRAM AND, IN
8 CONNECTION THEREWITH, MAY SERVE AS AN AGGREGATING ENTITY FOR
9 THE PURPOSE OF SECURING PRIVATE THIRD-PARTY FINANCING FOR NEW
10 ENERGY IMPROVEMENTS PURSUANT TO THIS ARTICLE; AND

11 (i) IN CONNECTION WITH THE FINANCING OF NEW ENERGY
12 IMPROVEMENTS EITHER BY THIRD PARTIES PURSUANT TO PARAGRAPH (h)
13 OF THIS SUBSECTION (3) OR DISTRICT BONDS AND IN CONSULTATION WITH
14 REPRESENTATIVES FROM THE BANKING INDUSTRY, COUNTIES,
15 MUNICIPALITIES, AND PROPERTY OWNERS, DEVELOP THE PROCESSES TO
16 ENSURE THAT MORTGAGE HOLDER CONSENT IS OBTAINED IN ALL CASES
17 FOR ALL ELIGIBLE REAL PROPERTY PARTICIPATING IN THE PROGRAM TO
18 SUBORDINATE THE PRIORITY OF SUCH MORTGAGES TO THE PRIORITY OF
19 THE LIEN ESTABLISHED IN SECTION 32-20-107.

20 (4) The district shall establish underwriting guidelines that
21 consider program applicants' qualifications, credit-worthiness, home OR
22 COMMERCIAL BUILDING equity, and other appropriate factors, including
23 ~~but not limited to~~ credit reports, credit scores, and loan-to-value ratios,
24 consistent with good and customary lending practices, and as required in
25 order for the district OR THIRD PARTIES to obtain a bond rating necessary
26 for a successful bond sale. The district shall also arrange for an
27 appropriate loss reserve in order to obtain the necessary bond rating.

1 **SECTION 5.** In Colorado Revised Statutes, 32-20-106, **amend**
2 (1) and (2) (b); and **repeal** (2) (a) and (2) (c) as follows:

3 **32-20-106. Special assessments - determination of special**
4 **benefits - notice and hearing requirements - certification of**
5 **assessment roll - manner of collection.** (1) The approval by the district
6 of a program application shall establish the qualified applicant who
7 submitted the application as a district member, include the qualified
8 applicant's eligible real property within the boundaries of the district,
9 entitle the district member to reimbursement or a direct payment, and,
10 subject to the provisions of subsection (3) of this section, constitute the
11 consent of the district member to the levying of a special assessment on
12 the district member's eligible real property in an amount that does not
13 exceed the value of:

14 (a) The special benefit provided to the eligible real property by the
15 new energy improvement; OR

16 (b) THE ELIGIBLE REAL PROPERTY.

17 (2) For the purpose of determining the amount of the special
18 assessment to be levied on a particular unit of eligible real property within
19 the district, "special benefit" includes, but is not limited to:

20 (a) ~~Any increase in the market value of the eligible real property~~
21 ~~resulting from the completion of a new energy improvement;~~

22 (b) Any cost of completing a new energy improvement that is
23 defrayed by reimbursement or a direct payment; AND

24 (c) ~~Any reduction in energy-related utility bills for the eligible real~~
25 ~~property caused by a quantifiable reduction in the energy consumption of~~
26 ~~the eligible real property resulting from the completion of a new energy~~
27 ~~improvement; and~~

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SECTION 6. In Colorado Revised Statutes, 32-20-107, **amend** (1), (2), (4) (b), and (4) (f) as follows:

32-20-107. Special assessment constitutes lien - filing - sale of property for nonpayment. (1) (a) A special assessment, together with all interest thereon and penalties for default in payment thereof, and associated collection costs ~~shall constitute~~ CONSTITUTES, from the date of the recording of the assessing resolution and assessment roll pursuant to subsection (2) of this section, a perpetual lien in the amount assessed against the assessed eligible real property and ~~shall have~~ HAS priority over all other liens; except that:

(I) General tax liens ~~shall~~ have priority over district special assessment liens;

(II) A DISTRICT SPECIAL ASSESSMENT LIEN HAS PRIORITY OVER PREEXISTING LIENS ONLY IF EACH LIENHOLDER CONSENTS AS SPECIFIED IN SECTION 32-20-105 (3) (i) AND EACH CONSENT AND THE ASSESSMENT LIEN ARE RECORDED IN THE REAL ESTATE RECORDS OF THE COUNTY WHERE THE PROPERTY IS LOCATED. BEFORE THE RECORDING OF THE ASSESSMENT LIEN, THE APPLICANT MUST SUBMIT TO THE DISTRICT:

(A) WRITTEN CONSENT TO THE ASSESSMENT BY ALL INDIVIDUALS OR ENTITIES SHOWN ON A COMMITMENT OF TITLE INSURANCE AS HOLDERS OF MORTGAGES OR DEEDS OF TRUST ENCUMBERING THE APPLICANT'S PROPERTY; AND

(B) EVIDENCE THAT THERE ARE NO DELINQUENT TAXES, SPECIAL ASSESSMENTS, OR WATER OR SEWER CHARGES ON THE PROPERTY; THAT THE PROPERTY IS NOT SUBJECT TO A TRUST DEED OR OTHER LIEN ON WHICH THERE IS A RECORDED NOTICE OF DEFAULT, FORECLOSURE, OR

1 DELINQUENCY THAT HAS NOT BEEN CURED; AND THAT THERE ARE NO
2 INVOLUNTARY LIENS, INCLUDING A LIEN ON REAL PROPERTY OR ON THE
3 PROCEEDS OF A CONTRACT RELATING TO REAL PROPERTY, FOR SERVICES,
4 LABOR, OR MATERIALS FURNISHED IN CONNECTION WITH THE
5 CONSTRUCTION OR IMPROVEMENT OF THE PROPERTY; and

6 (III) Liens for assessments imposed by other governmental entities
7 shall have coequal priority with district special assessment liens.

8 (b) Neither the sale of eligible real property in the district to
9 enforce the payment of general ad valorem taxes nor the issuance of a
10 treasurer's deed in connection with ~~such a~~ THE sale shall ~~extinguish~~
11 EXTINGUISHES the lien of a special assessment. If ASSESSED eligible real
12 property assessed is subdivided, the BOARD MAY APPORTION THE
13 assessment lien ~~may be apportioned by the board in such~~ THE manner as
14 ~~may be~~ provided in the assessing resolution.

15 (2) The district shall transmit to a county clerk and recorder of a
16 county that includes eligible real property included in the district copies
17 of the district's assessing resolution after its final adoption by the board
18 and the assessment roll for recording on the land records of each unit of
19 eligible real property assessed within the county as provided in article 30,
20 35, or 36 of title 38, C.R.S. The assessing resolution and assessment roll
21 shall be indexed in the grantor index under the name of the district
22 member and in the grantee index under the Colorado new energy
23 improvement district. In addition, the county clerk and recorder shall file
24 copies of the assessing resolution, after its final adoption by the board,
25 and the assessment roll with the county assessor and the county treasurer.
26 The county assessor is authorized to create separate schedules for each
27 unit of eligible real property assessed within the county pursuant to the

1 resolution. IN ASSESSING THE VALUE OF ELIGIBLE REAL PROPERTY, THE
2 COUNTY ASSESSOR SHALL NOT TAKE INTO ACCOUNT ANY INCREASE IN THE
3 MARKET VALUE OF THE ELIGIBLE REAL PROPERTY RESULTING FROM THE
4 COMPLETION OF A NEW ENERGY IMPROVEMENT.

5 (4) (b) At any sale by a county treasurer of any eligible real
6 property for the purpose of paying a special assessment, the board may
7 purchase the property for the district without paying for the property in
8 cash and shall receive certificates of purchase for the property in the name
9 of the district. The certificates shall be received and credited at their face
10 value, with all interest and penalties accrued, on account of the
11 assessment installment in pursuance of which the sale was made. The
12 ~~certificates~~ BOARD may thereafter ~~be sold by the board~~ SELL THE
13 CERTIFICATES at their face value, with all interest and penalties accrued,
14 and assigned to the purchaser in the name of the district. The BOARD
15 SHALL CREDIT THE proceeds of the sale ~~shall be credited~~ to the fund
16 created by resolution for the payment of ~~such~~ THE assessments,
17 respectively; EXCEPT THAT, IF THE NEW ENERGY IMPROVEMENTS WERE
18 FINANCED UNDER SECTION 32-20-105 (3) (h), THE BOARD SHALL CREDIT
19 THE PROCEEDS OF THE SALE TO THE PRIVATE THIRD PARTY THAT FINANCED
20 THE NEW ENERGY IMPROVEMENTS. If the district has repaid all special
21 assessment bonds in full, the BOARD MAY SELL THE certificates ~~may be~~
22 ~~sold by the board~~ for the best price obtainable at public sale, at auction,
23 or by sealed bids in the same manner and under the same conditions as
24 provided in paragraph (d) of this subsection (4). Such assignments ~~shall~~
25 ~~be~~ ARE without recourse, and the sale and assignments ~~shall~~ operate as a
26 lien in favor of the purchaser and assignee as is provided by law in the
27 case of sale of real estate in default of payment of the general property

1 tax.

2 (f) The BOARD SHALL CREDIT THE proceeds of any sale of property
3 ~~shall be credited~~ to the appropriate special assessment fund; EXCEPT
4 THAT, IF THE NEW ENERGY IMPROVEMENTS WERE FINANCED UNDER
5 SECTION 32-20-105 (3) (h), THE BOARD SHALL CREDIT THE PROCEEDS OF
6 THE SALE TO THE PRIVATE THIRD PARTY THAT FINANCED THE NEW ENERGY
7 IMPROVEMENTS. The district shall deduct ~~therefrom~~ FROM THE
8 APPROPRIATE SPECIAL ASSESSMENT FUND the necessary expenses in
9 securing deeds and taking proceedings for the sale or foreclosure.

10 **SECTION 7.** In Colorado Revised Statutes, 32-20-108, **amend**
11 (1) and (8) as follows:

12 **32-20-108. Special assessment bonds - legal investment -**
13 **exemption from taxation.** (1) The district shall issue special assessment
14 bonds in an aggregate principal amount of not more than eight hundred
15 million dollars for the purpose of generating the moneys needed to make
16 reimbursement or a direct payment to district members and to pay other
17 costs of the district. ~~The bonds~~ BOARD shall ~~be issued~~ ISSUE THE BONDS
18 pursuant to a resolution of the board or a trust indenture, ~~shall~~ MUST not
19 be secured by an encumbrance, mortgage, or other pledge of real or
20 personal property of the district, and ~~shall be~~ ARE payable from special
21 assessments, OTHER THAN THOSE ATTRIBUTABLE TO PRIVATE
22 THIRD-PARTY FINANCING UNDER SECTION 32-20-105 (3) (h), and any other
23 lawfully pledged district revenues unless the bond resolution or trust
24 indenture specifically limits the source of district revenues from which
25 the bonds are payable. The bonds ~~shall~~ DO not constitute a debt or other
26 financial obligation of the state. The board may adopt one or more
27 resolutions creating special assessment units comprised of multiple units

1 of eligible real property on which the board has levied a special
2 assessment and may issue special assessment bonds payable from special
3 assessments imposed within the entire district, OTHER THAN THOSE
4 ATTRIBUTABLE TO PRIVATE THIRD-PARTY FINANCING UNDER SECTION
5 32-20-105 (3) (h), or from special assessments imposed only within one
6 or more specified special assessment units.

7 (8) (a) The state hereby pledges and agrees with the holders of any
8 bonds, PRIVATE THIRD PARTIES THAT HAVE FINANCED NEW ENERGY
9 IMPROVEMENTS UNDER SECTION 32-20-105 (3) (h), and ~~with~~ those parties
10 who enter into contracts with the district pursuant to this article that the
11 state will not limit, alter, restrict, or impair the rights vested in the district
12 or the rights or obligations of any person with which the district contracts
13 to fulfill the terms of any agreements made pursuant to this article. The
14 state further agrees that it will not in any way impair the rights or
15 remedies of:

16 (I) The holders of bonds until the bonds have been paid or until
17 adequate provision for payment has been made; OR

18 (II) THE PRIVATE THIRD PARTIES THAT HAVE FINANCED NEW
19 ENERGY IMPROVEMENTS UNDER SECTION 32-20-105 (3) (h).

20 (b) The district may include ~~this provision and undertaking for the~~
21 ~~district~~ THE PROVISIONS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION
22 (8) in its bonds OR CONTRACTS WITH PRIVATE THIRD PARTIES THAT HAVE
23 FINANCED NEW ENERGY IMPROVEMENTS UNDER SECTION 32-20-105 (3)
24 (h).

25 **SECTION 8.** In Colorado Revised Statutes, **repeal** 32-20-110 as
26 follows:

27 **32-20-110. Repeal of article - inapplicable if the district has**

1 **outstanding bond obligations.** ~~(1) Except as otherwise provided in~~
2 ~~subsection (2) of this section, this article is repealed, effective January 1,~~
3 ~~2016.~~

4 ~~(2) In accordance with section 32-20-108 (8), this article shall not~~
5 ~~be repealed as provided in subsection (1) of this section if the district has~~
6 ~~issued bonds that have not been repaid in full as of January 1, 2016.~~
7 ~~However, the district shall not accept any new application for the program~~
8 ~~or issue any additional bonds on or after January 1, 2016.~~

9 **SECTION 9. Applicability.** This act applies to conduct occurring
10 on or after the effective date of this act.

11 **SECTION 10. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, and safety.