
DIGEST

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HB 766 Engrossed

2016 Regular Session

Broadwater

Abstract: Repeals provisions that authorize local governmental subdivisions to create sustainable energy financing districts.

Present law authorizes the governing authority of any local governmental subdivision otherwise authorized to collect property taxes and to issue and sell bonds to create a special district known as a sustainable energy financing district. Relative to financing for projects, authorizes the local governmental subdivision to incur debt in order to provide to the district sufficient funds to make the loans provided for in present law and authorizes owners of property in the district to request loans from the district to cover the costs of energy-related improvements to the property. Provides for loan criteria, conditions, and terms.

Present law provides that in the event that the property for which an energy improvement loan is sought is encumbered by a mortgage, then the total amount loaned for such property shall not exceed 10% of the reasonable expected fair market value of the property, determined using an appropriate value test.

Present law provides that no owner of immovable property shall be eligible for a loan from a district unless there is available equity in the property and the dollar amount of loans from the district for a particular property shall not exceed the remaining equity value in the property. Prohibits the total loan to value ratio for all loans secured by the immovable property from exceeding 100%. Provides that the calculation of equity value used to determine the maximum amount of financing available for a particular property may take into account the reasonable expected value of the property with the proposed energy improvements installed.

Present law provides that the maximum amount of any assessment to be repaid in any year shall not exceed the amount of principal and interest for the current year based on the amortization schedule for the loan. Prohibits acceleration of the debt in the event of nonpayment or default and provides that tax delinquency shall exist only for assessments not paid when due.

Present law requires the property owner, in order to qualify for financing, to be current on all outstanding mortgage loans encumbering the property upon which energy improvements are proposed and further requires the owner to demonstrate an ability to repay the loan as specified in the program rules.

Present law requires that an appropriate evaluation be conducted on the qualifying real property and reviewed by the district prior to approval of the financing.

Present law requires the district, where energy improvements are proposed to be installed on residential properties, to make written verification that the improvements are installed and all work is completed satisfactorily before program loan funds are disbursed. In the alternative, authorizes disbursement of funds based on multiple stages of completion but prohibits loan funds for a particular stage of completion from being disbursed until the district conducts written verification that the corresponding stage of work is satisfactorily completed.

Present law requires that all energy improvements financed by the program be performed by duly qualified contractors, subcontractors, or tradesmen pursuant to program rules.

Present law requires that prior written notice, by certified mail, return receipt requested, be given to the mortgagee, its successors or assigns, or mortgage servicer of a commercial property for which an energy improvement loan is proposed in the amount of \$100,000 or more. Requires the mortgagee, its successors or assigns, or mortgage servicer to approve or deny the proposed program loan within 30 days of receipt of notice. Provides further with respect to notice requirements.

Present law authorizes the parties to proceed with the program loan without additional notice if the mortgagee, its successors or assigns, or mortgage servicer approves the loan or fails to give a written denial of the loan to the local government subdivision or district within the 30 day period. However, if the mortgagee, its successors or assigns, or mortgage servicer provides a written denial, then the proposed loan shall not be made.

Present law requires that the amount of the loan be assessed against the property and collected in the same manner as ad valorem taxes assessed on the property by the local governmental subdivision. Authorizes the district to enter into agreements with the sheriff or other property tax collector for assessing and collecting the assessment.

Present law requires the local governmental subdivision, in order to secure repayment of loans, to file a statement of lien with the recorder of mortgages for the parish in which the property is located. Further requires that the lien or privilege be for the full amount of the program loan and take effect against third persons upon the filing of the statement of lien. Provides that the lien shall rank equivalent to that of ad valorem taxes or local assessments and liens and privileges as provided in present law (R.S. 9:4821(1)). Provides further with respect to the requirements of the statement of lien.

Present law authorizes the local governmental subdivision, upon failure of the property owner to pay the current year's assessment when due, to enforce the lien and privilege to recover and collect the current year's assessment along with any prior year's delinquent assessment.

Present law provides that the lien and privilege has the same ranking as an ad valorem tax lien on immovable property. Provides that the lien and privilege may be enforced and collected by ordinary civil proceeding, executory process, or by any other applicable state law to enforce and collect the amount due as a property tax lien assessed against the property.

Present law provides that the duration of the effect of recordation of a statement of lien, the method

of reinscription of the statement of lien and the cancellation of recordation of a statement of lien after the effect of recordation has ceased shall be governed by present law governing mortgage records and shall be treated like a mortgage for such purposes.

Present law requires the district, in the event that a program loan is paid in full, to provide written evidence of cancellation and release of its lien and have it recorded in the public mortgage records for the parish where the immovable property is located.

Present law authorizes prepayment of the remaining balance of energy improvement program loans.

Present law requires that a loan financing program for energy improvements for residential property impose requirements and conditions on financing arrangements to ensure timely repayment and require disclosures to borrowers by the district of the risks involved in borrowing, including the risk of foreclosure if a tax delinquency results from default.

Proposed law repeals present law.

(Repeals R.S. 33:130.811-814)