

SENATE BILL NO. 329—SENATOR KIHUEN

MARCH 18, 2013

JOINT SPONSOR: ASSEMBLYMAN BOBZIEN

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Creates the Account for Clean Energy Loans.
(BDR 58-861)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to energy; creating the Account for Clean Energy Loans; providing, with limited exceptions, that money in the Account must be distributed to energy improvement programs for the purpose of making below-market rate loans for clean energy improvements to residential real property; setting forth the duties and powers of the Director of the Office of Energy with respect to the Account; setting forth the duties and powers of an energy improvement program that makes loans of money distributed to the energy improvement program from the Account; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 6** of this bill establishes the Account for Clean Energy Loans
2 administered by the Director of the Office of Energy, money from which is to be
3 used only to distribute money to energy improvement programs that are established
4 and administered by certain local governments, nonprofit corporations and financial
5 institutions to make loans to qualified borrowers for clean energy improvements to
6 primary residences owned by those qualified borrowers. **Section 7** of this bill
7 requires the Director to adopt certain regulations concerning the energy
8 improvement programs and the use of money in the Account and authorizes the
9 Director to adopt any other regulations necessary to carry out **sections 2-8.5** of this
10 bill. **Section 8** of this bill provides limitations on the use of the money in the
11 Account and authorizes certain local governments, nonprofit corporations and
12 financial institutions to apply to the Director for a distribution of money from the



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13 Account for the purpose of making the loans authorized by **section 6. Section 8.5**
14 of this bill requires certain qualified third parties to comply with the Open Meeting
15 Law in establishing and administering energy improvement programs approved by
16 the Director.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 701 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 8.5, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 8.5, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 3 to 5.5, inclusive, of this act have the meanings*
7 *ascribed to them in those sections.*

8 **Sec. 3.** *“Clean energy improvement” means any repair of or*
9 *addition or improvement to residential real property which reduces*
10 *the consumption of energy at the property or which uses energy*
11 *generated from renewable energy to meet all or a portion of the*
12 *demand for energy at the property.*

13 **Sec. 4.** *“Construction” means the erection, building,*
14 *acquisition, alteration, remodeling, improvement or extension of a*
15 *clean energy improvement and the inspection and supervision of*
16 *such activities and includes, without limitation:*

17 1. *Any preliminary planning to determine the feasibility of a*
18 *clean energy improvement; and*

19 2. *Any other activities reasonably necessary for the*
20 *completion of a clean energy improvement.*

21 **Sec. 4.5.** *“Energy improvement program” means a program*
22 *established and administered by a qualified third party and*
23 *designed, intended or used to make below-market rate loans to*
24 *qualified borrowers for clean energy improvements to primary*
25 *residences owned by those qualified borrowers.*

26 **Sec. 5.** *“Qualified borrower” means a person who is the*
27 *owner of a primary residence and who satisfies the criteria*
28 *established by the Director pursuant to section 7 of this act.*

29 **Sec. 5.5.** *“Qualified third party” means a local government,*
30 *nonprofit corporation or financial institution that establishes and*
31 *administers an energy improvement program approved by the*
32 *Director.*

33 **Sec. 6.** 1. *The Account for Clean Energy Loans is hereby*
34 *created in the State General Fund. The Director shall administer*
35 *the Account.*

36 2. *Except as otherwise provided in section 8 of this act, the*
37 *money in the Account may be used only to provide money to an*



1 *energy improvement program to make below-market rate loans at*
2 *a rate not lower than 3 percent to qualified borrowers for clean*
3 *energy improvements to primary residences owned by those*
4 *qualified borrowers.*

5 3. *Any money provided for the purposes of sections 2 to 8.5,*
6 *inclusive, of this act by gift, grant, donation or legislative*
7 *appropriation and any money from a source identified by the*
8 *Director pursuant to subsection 2 of section 7 of this act must be*
9 *deposited in the State Treasury for credit to the Account. The*
10 *interest and income earned on money in the Account for Clean*
11 *Energy Loans must be credited to the Account.*

12 4. *All money remitted to the State by a qualified third party*
13 *pursuant to section 8 of this act must be deposited in the State*
14 *Treasury for credit to the Account.*

15 5. *All claims against the Account must be paid as other*
16 *claims against the State are paid.*

17 6. *The faith of the State is hereby pledged that the money in*
18 *the Account will not be used for purposes other than those*
19 *authorized by sections 2 to 8.5, inclusive, of this act.*

20 **Sec. 7. 1. The Director shall adopt regulations**
21 **establishing:**

22 (a) *The criteria for approving one or more qualified third*
23 *parties to establish and administer energy improvement programs*
24 *in this State.*

25 (b) *The eligibility requirements for an energy improvement*
26 *program to apply for and receive distributions of money from the*
27 *Account for Clean Energy Loans.*

28 (c) *The eligibility requirements for applicants for loans of*
29 *money distributed to energy improvement programs from the*
30 *Account.*

31 (d) *One or more maximum annual rates of interest, which*
32 *must be below-market rates but which must not be lower than 3*
33 *percent, applicable to loans of money distributed to energy*
34 *improvement programs from the Account.*

35 (e) *Such other terms and conditions applicable to loans of*
36 *money distributed to energy improvement programs from the*
37 *Account as the Director determines are necessary.*

38 2. *In addition to any money available through gift, grant,*
39 *donation or legislative appropriation to carry out the purposes of*
40 *sections 2 to 8.5, inclusive, of this act, the Director shall identify*
41 *any other source of money which may, in the opinion of the*
42 *Director, be used to fund the Account.*

43 3. *The Director may:*



1 (a) Prepare and enter into agreements with the Federal
2 Government for the acceptance of grants of money for the
3 purposes of sections 2 to 8.5, inclusive, of this act.

4 (b) Enter into agreements or cooperate with third parties to
5 provide for enhanced leveraging of money in the Account,
6 additional financing mechanisms or any other program or
7 combination of programs for the purpose of expanding the scope
8 of financial assistance available from the Account.

9 (c) Bind the Office of Energy to terms of any agreements
10 entered into pursuant to paragraphs (a) or (b).

11 (d) Accept gifts, grants and donations from any source for the
12 purpose of carrying out the provisions of sections 2 to 8.5,
13 inclusive, of this act.

14 (e) Adopt such other regulations as are necessary to carry out
15 the provisions of sections 2 to 8.5, inclusive, of this act.

16 4. The Director shall not distribute any money in the Account
17 or commit such money for expenditure for the purposes set forth
18 in sections 2 to 8.5, inclusive, of this act without first obtaining the
19 approval of the Legislature or the Interim Finance Committee if
20 the Legislature is not in session.

21 **Sec. 8. 1.** Except as otherwise provided in subsection 5,
22 money in the Account for Clean Energy Loans, including
23 repayments of principal and interest on loans, and interest and
24 income earned on money in the Account, may only be distributed,
25 upon application by a qualified third party, to the qualified third
26 party and may be used by the qualified third party only to make
27 loans at a rate established by the Director pursuant to paragraph
28 (d) of subsection 1 of section 7 of this act to a qualified borrower
29 for the construction of a clean energy improvement to the primary
30 residence of the qualified borrower.

31 2. A qualified third party may:

32 (a) Apply to the Director for a distribution of money from the
33 Account to make loans to qualified borrowers for the construction
34 of clean energy improvements.

35 (b) Make a loan to a qualified borrower in accordance with the
36 regulations adopted by the Director pursuant to section 7 of this
37 act.

38 3. A qualified third party shall, before approving an applicant
39 for a loan of money distributed to the qualified third party from
40 the Account, consider whether the applicant has received or is
41 eligible to receive from any governmental entity any money or
42 other financial incentive, including, without limitation, any grant,
43 loan, tax credit or abatement of any tax for the purpose of
44 financing in whole or in part the clean energy improvement of the
45 applicant.



1 4. *A qualified third party that makes a loan of money*
2 *distributed to the qualified third party from the Account to a*
3 *qualified borrower shall remit payments of principal and interest*
4 *received from the qualified borrower to the Director for deposit in*
5 *the State Treasury for credit to the Account.*

6 5. *The Director may use the interest earned on money in the*
7 *Account and the interest earned on loans made by a qualified*
8 *third party of money distributed from the Account to defray, in*
9 *whole or in part, the costs and expenses of administering the*
10 *Account and to carry out the purposes of sections 2 to 8.5,*
11 *inclusive, of this act.*

12 **Sec. 8.5.** *In establishing and administering an energy*
13 *improvement program approved by the Director, a qualified third*
14 *party that is recognized as exempt under section 501(c)(3) of the*
15 *Internal Revenue Code, 26 U.S.C. § 501(c)(3), must comply with*
16 *the provisions of chapter 241 of NRS.*

17 **Sec. 9.** This act becomes effective:

18 1. Upon passage and approval for the purpose of adopting
19 regulations and performing any preparatory administrative tasks that
20 are necessary to carry out the provisions of this act; and

21 2. On October 1, 2013, for all other purposes.

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