ENGROSSED SENATE
BILL NO. 1592

By: Leewright of the Senate

and

Fetgatter of the House

[Oklahoma Energy Independence Act - applicability of act - fees and hire third-party services – counties - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 19 O.S. 2011, Section 460.5, as amended by Section 1, Chapter 359, O.S.L. 2019 (19 O.S. Supp. 2019, Section 460.5), is amended to read as follows:

Section 460.5. A. The Oklahoma Energy Independence Act shall apply ~~only~~ to ~~property zoned as commercial property~~ all properties, except single-family residential properties, on which property taxes are to be paid and on which the owners of the property are current in the payment of the property taxes, if applicable. For the purpose of this act, property that is not classified as single-family residential property shall be classified as commercial property. The Oklahoma Energy Independence Act shall not apply to any property zoned as single-family residential property. Counties are authorized to establish commercial Property Assessed Clean Energy (PACE) programs by resolution, without the prior establishment of a County Energy District Authority, to facilitate ~~financing~~ loans between ~~commercial~~ qualifying property owners and private ~~lenders~~ capital providers. Counties that approve PACE programs are authorized to enter into assessment contracts with property owners and private capital providers in which:

1. The property owner shall be deemed to consent to the levying and collection of annual PACE assessments to repay the loan;

2. The private capital provider shall collect the PACE assessments directly or through a servicer; and

3. The private capital provider shall enforce the lien for an unpaid PACE assessment, pursuant to the provisions of this section. Counties may collect fees for costs incurred in the administration of the PACE program in an amount to be fixed by the applicable board of county commissioners and deposited with the county treasurer as required by law. A county may also retain third-party administrators for the administration of the PACE program.

B. The repayment of any loan made pursuant to the Oklahoma Energy Independence Act shall be ~~upon such terms as may be agreed to by a property owner and a private lender~~ through annual assessments levied by the county and collected under terms agreed to by the property owner and the private capital provider.

1. In the event of a mortgage on the property where a lien is recorded pursuant to the Oklahoma Energy Independence Act, the property owner shall obtain written consent from any mortgage holder

or holders prior to the issuance of any loan pursuant to the Oklahoma Energy Independence Act.

2. Such loans issued in accordance with the Oklahoma Energy Independence Act between a ~~commercial~~ property owner and a private ~~lender~~ capital provider shall not accelerate upon default of a mortgage.

C. ~~Any loan made~~ Assessments levied to repay a loan made pursuant to the Oklahoma Energy Independence Act shall constitute a lien on the property which is the subject of the loan only upon the recording of an assessment contract provided by the county on the property in the office of the county clerk. Any lien imposed pursuant to the Oklahoma Energy Independence Act shall run with the property and have the same priority and status as a lien for unpaid ad valorem property taxes and shall not be extinguished by virtue of a sale by the county for delinquent property taxes or other special assessments. The ~~exclusive~~ method of enforcing a lien for failure to ~~repay~~ pay an assessment related to any loan made pursuant to the Oklahoma Energy Independence Act shall be by the ~~local government~~ private capital provider in the same manner and with the same priority as the enforcement ~~of a lien for unpaid ad valorem property taxes~~ by the holder of any bond or coupon related to a lien for unpaid assessments, as provided by law and pursuant to this subsection. If any assessment levied to repay a loan made pursuant to the Oklahoma Energy Independence Act remains unpaid for six (6) months after payment is due, the private capital provider may file an action in the district court in which the property is located to foreclose the lien of the assessment, statutory delinquent interest, as provided in this subsection, and reasonable legal fees. Any action filed pursuant to this subsection shall not accelerate repayment of the unpaid balance of a loan made pursuant to the Oklahoma Energy Independence Act. Unpaid assessments levied to repay a loan made pursuant to this act shall accrue statutory delinquent interest at the same rate as a late payment penalty for delinquent ad valorem taxes. Judgment in an action to enforce the lien shall order the property to be sold in the manner and form as foreclosure of mortgages on real estate, with appraisement. The sale shall be subject to existing taxes and special assessments, as well as assessments levied to repay a loan made pursuant to the Oklahoma Energy Independence Act.

1. Notwithstanding any other provision of law, the county treasurer, in a sale for delinquent ad valorem property taxes or other special assessments, may collect in that sale assessments levied to repay a loan made pursuant to this act, inclusive of penalties and fees, that are currently due or in arrears, or both, and remit the assessment amounts received to the private capital provider.

2. Notwithstanding any other provision of law, if the county takes title to property subject to a loan made pursuant to the

Oklahoma Energy Independence Act, the county, and not the county resale property fund, shall be responsible for all expenses associated with the preservation of the property and the related assessments that are due will continue to accrue, inclusive of any interest or penalties, and shall not be extinguished.

D. Only appliances or improvements that are permanently affixed to the property shall be eligible for financing pursuant to the Oklahoma Energy Independence Act. Improvements shall be related to energy efficiency, energy sources, water conservation or building resiliency and are available for new construction or improvements on existing buildings that are ~~commercial~~ qualifying properties. County PACE programs shall establish which improvements qualify for financing.

SECTION 2. This act shall become effective November 1, 2020.

Passed the Senate the 12th day of March, 2020.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of __________, 2020.

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Presiding Officer of the House of Representatives