

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 1592, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Leewright

Leewright-CB-FS-Req#4022
3/10/2020 5:46 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 FLOOR SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1592

By: Leewright of the Senate

and

6 Fetgatter of the House

7
8
9 FLOOR SUBSTITUTE

10 [Oklahoma Energy Independence Act - applicability of
11 act - fees and hire third-party services - counties -
12 effective date]
13

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

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

18 Section 460.5. A. The Oklahoma Energy Independence Act shall
19 apply ~~only to property zoned as commercial property~~ all properties,
20 except single-family residential properties, on which property taxes
21 are to be paid and on which the owners of the property are current
22 in the payment of the property taxes. The Oklahoma Energy
23 Independence Act shall not apply to any property zoned as single-
24 family residential property, if applicable. For the purpose of this

1 act, property that is not classified as single-family residential
2 property shall be classified as commercial property. Counties are
3 authorized to establish commercial Property Assessed Clean Energy
4 (PACE) programs by resolution, without the prior establishment of a
5 County Energy District Authority, to facilitate ~~financing~~ loans
6 ~~between commercial~~ qualifying property owners and private ~~lenders~~
7 capital providers. Counties that approve PACE programs are
8 authorized to enter into assessment contracts with property owners
9 and private capital providers in which the property owner shall be
10 deemed to consent to the levying and collection of annual PACE
11 assessments to repay the loan. The private capital provider shall
12 collect the PACE assessments directly or through a servicer and
13 enforce the lien for an unpaid PACE assessment, pursuant to the
14 provisions of this section. Counties may collect fees for costs
15 incurred in the administration of the PACE program in an amount to
16 be fixed by the applicable board of county commissioners and
17 deposited with the county treasurer as required by law. A county
18 may also retain third-party administrators for the administration of
19 the PACE program.

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

1 1. In the event of a mortgage on the property where a lien is
2 recorded pursuant to the Oklahoma Energy Independence Act, the
3 property owner shall obtain written consent from any mortgage holder
4 or holders prior to the issuance of any loan pursuant to the
5 Oklahoma Energy Independence Act.

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

10 C. ~~Any loan made~~ Assessments levied to repay a loan made
11 pursuant to the Oklahoma Energy Independence Act shall constitute a
12 lien on the property which is the subject of the loan only upon the
13 recording of an assessment contract provided by the county on the
14 property in the office of the county clerk. Any lien imposed
15 pursuant to the Oklahoma Energy Independence Act shall run with the
16 property and have the same priority and status as a lien for unpaid
17 ad valorem property taxes and shall not be extinguished by virtue of
18 a sale by the county for delinquent property taxes or other special
19 assessments. The ~~exclusive~~ method of enforcing a lien for failure
20 to ~~repay~~ pay an assessment related to any loan made pursuant to the
21 Oklahoma Energy Independence Act shall be by the ~~local government~~
22 private capital provider in the same manner and with the same
23 priority as the enforcement ~~of a lien for unpaid ad valorem property~~
24 ~~taxes~~ by the holder of any bond or coupon related to a lien for

1 unpaid assessments, as provided by law and pursuant to this
2 subsection. If any assessment levied to repay a loan made pursuant
3 to the Oklahoma Energy Independence Act remains unpaid for six (6)
4 months after payment is due, the private capital provider may file
5 an action in the district court in which the property is located to
6 foreclose the lien of the assessment, statutory delinquent interest,
7 as provided in this subsection, and reasonable legal fees. Unpaid
8 assessments levied to repay a loan made pursuant to this act shall
9 accrue statutory delinquent interest at the same rate as a late
10 payment penalty for delinquent ad valorem taxes. Judgment in an
11 action to enforce the lien shall order the property to be sold in
12 the manner and form as foreclosure of mortgages on real estate, with
13 appraisement. The sale shall be subject to existing taxes and
14 special assessments.

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

21 2. Notwithstanding any other provision of law, if the county
22 takes title to property subject to a loan made pursuant to the
23 Oklahoma Energy Independence Act, the county, and not the county
24 resale property fund, shall be responsible for all expenses

1 associated with the preservation of the property and the related
2 assessments that are due will continue to accrue, inclusive of any
3 interest or penalties, and shall not be extinguished.

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

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

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14 57-2-4022 CB 3/10/2020 5:46:33 PM
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