

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3907

By: Fetgatter

6 AS INTRODUCED

7 An Act relating to counties and county officers;  
8 amending 19 O.S. 2011, Section 460.5, as amended by  
9 Section 1, Chapter 359, O.S.L. 2019 (19 O.S. Supp.  
10 2019, Section 460.5), which relates to the Oklahoma  
11 Energy Independence Act; expanding list of properties  
12 to which the act and certain program apply;  
13 authorizing certain fees and services; directing the  
14 program to determine qualification for certain  
15 financing; authorizing collection of certain funds;  
16 authorizing certain foreclosures and collections;  
17 requiring lender to pay certain costs; and providing  
18 an effective date.

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

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

19 Section 460.5 A. ~~The Oklahoma Energy Independence Act shall~~  
20 ~~apply only to property zoned as commercial property on which~~  
21 ~~property taxes are paid and on which the owners of the property are~~  
22 ~~current in the payment of the property taxes. The Oklahoma Energy~~  
23 ~~Independence Act shall not apply to any property zoned as~~  
24 ~~residential property.~~ Counties are authorized to establish

1 commercial Property Assessed Clean Energy (PACE) programs to  
2 facilitate financing between commercial property owners and private  
3 lenders. The Oklahoma Energy Independence Act and the commercial  
4 PACE program established by the county shall apply only to property  
5 used for commercial, industrial, educational, agricultural or  
6 nonprofit purposes on which property taxes are paid and on which the  
7 owners of the property are current in the payment of the property  
8 taxes. The Oklahoma Energy Independence Act shall not apply to any  
9 property zoned as residential property. Counties may collect fees  
10 for costs incurred in the administration of the PACE program and may  
11 retain third-party professional services for the administration of  
12 the PACE program. County PACE programs shall establish which energy  
13 efficient, water conservation and building resiliency improvements  
14 qualify for financing. County treasurers are authorized to bill and  
15 collect PACE assessments and remit or cause to be remitted  
16 collections to the lender on properties participating in the PACE  
17 program. County treasurers may foreclose PACE liens in the same  
18 manner as ad valorem tax liens on real property. PACE assessments  
19 shall be collected by the county treasurer as other taxes provided  
20 by law.

21 B. The repayment of any loan made pursuant to the Oklahoma  
22 Energy Independence Act shall be upon such terms as may be agreed to  
23 by a property owner and a private lender.

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 shall not accelerate upon default of a mortgage.

9        C. Any loan made pursuant to the Oklahoma Energy Independence  
10 Act shall constitute a lien on the property which is the subject of  
11 the loan only upon the recording of an assessment contract provided  
12 by the county on the property in the office of the county clerk.  
13 Any lien imposed pursuant to the Oklahoma Energy Independence Act  
14 shall run with the property and have the same priority and status as  
15 a lien for unpaid ad valorem property taxes and shall not be  
16 extinguished by virtue of a sale by the county for delinquent  
17 property taxes. The exclusive method of enforcing a lien for  
18 failure to repay any loan made pursuant to the Oklahoma Energy  
19 Independence Act shall be by the local government in the same manner  
20 and with the same priority as the enforcement of a lien for unpaid  
21 ad valorem property taxes. Any costs incurred by the local  
22 government to enforce a lien provided for in this section shall be  
23 paid by the lender.  
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1 D. Only appliances or improvements that are permanently affixed  
2 to the property shall be eligible for financing pursuant to the  
3 Oklahoma Energy Independence Act. Improvements shall be related to  
4 energy efficiency, water conservation or building resiliency and are  
5 available for new construction or improvements on existing buildings  
6 that are commercial properties.

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