

CHAPTER 12

GOVERNMENT - SPECIAL DISTRICTS

HOUSE BILL 23-1005

BY REPRESENTATIVE(S) Willford and Titone, Bacon, Bird, Boesenecker, Brown, deGruy Kennedy, Dickson, Duran, English, Epps, Froelich, Garcia, Gonzales-Gutierrez, Hamrick, Herod, Jodeh, Joseph, Kipp, Lieder, Lindsay, Lindstedt, Mabrey, McCormick, Michaelson Jenet, Ortiz, Ricks, Sharbini, Sirota, Snyder, Story, Valdez, Velasco, Vigil, Weissman, Woodrow, Young, McCluskie, Amabile, Daugherty, Marshall, McLachlan;
also SENATOR(S) Jaquez Lewis and Marchman, Cutter, Kolker, Priola, Winter F., Fenberg.

AN ACT

CONCERNING CHANGES TO THE NEW ENERGY IMPROVEMENT PROGRAM, AND, IN CONNECTION THEREWITH, ADDING RESILIENCY IMPROVEMENTS AND WATER EFFICIENCY IMPROVEMENTS TO THE PROGRAM, MODIFYING THE NEW ENERGY IMPROVEMENT DISTRICT'S NOTICE REQUIREMENTS, AND REMOVING THE DISTRICT'S HEARING REQUIREMENT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 32-20-103, **amend** (7); and **add** (5.2), (13.5), and (16) as follows:

32-20-103. Definitions. As used in this article, unless the context otherwise requires:

(5.2) "FINANCING AGREEMENT" MEANS AN AGREEMENT BETWEEN A QUALIFIED APPLICANT AND AN ENTITY PROVIDING PRIVATE THIRD-PARTY FINANCING PURSUANT TO SECTION 32-20-105 (3)(h).

(7) "New energy improvement" means one or more on-site energy efficiency improvements, ~~or~~ renewable energy improvements, ~~or both,~~ RESILIENCY IMPROVEMENTS, OR WATER EFFICIENCY IMPROVEMENTS made to eligible real property that will reduce the energy consumption of or add energy produced from renewable energy sources with regard to any portion of the eligible real property.

(13.5) (a) "RESILIENCY IMPROVEMENT" MEANS ONE OR MORE INSTALLATIONS OR MODIFICATIONS TO ELIGIBLE REAL PROPERTY, WITH A USEFUL LIFE NOT LESS THAN TEN YEARS, THAT ARE DESIGNED TO IMPROVE A PROPERTY'S RESILIENCY BY

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

IMPROVING THE ELIGIBLE REAL PROPERTY'S:

- (I) STRUCTURAL INTEGRITY FOR SEISMIC EVENTS;
- (II) INDOOR AIR QUALITY;
- (III) DURABILITY TO RESIST WIND, FIRE, AND FLOODING;
- (IV) ABILITY TO WITHSTAND AN ELECTRICAL POWER OUTAGE;
- (V) STORM WATER CONTROL MEASURES, INCLUDING STRUCTURAL OR NONSTRUCTURAL MEASURES TO MITIGATE STORM WATER RUNOFF;
- (VI) ABILITY TO MITIGATE THE EFFECTS OF EXTREME TEMPERATURES; AND
- (VII) ABILITY TO MITIGATE ANY OTHER ENVIRONMENTAL HAZARD IDENTIFIED BY THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(b) THE DISTRICT SHALL DEVELOP GUIDELINES THAT DETAIL THE REQUIREMENTS FOR AN INSTALLATION OR MODIFICATION IDENTIFIED IN SUBSECTION (13.5)(a) OF THIS SECTION TO QUALIFY AS A RESILIENCY IMPROVEMENT.

(16) (a) "WATER EFFICIENCY IMPROVEMENT" MEANS ONE OR MORE INSTALLATIONS OR MODIFICATIONS TO ELIGIBLE REAL PROPERTY THAT ARE DESIGNED TO IMPROVE WATER EFFICIENCY BY:

- (I) REDUCING WATER CONSUMPTION; OR
- (II) CONSERVING OR REMEDIATING WATER, IN WHOLE OR IN PART, ON THE ELIGIBLE REAL PROPERTY.

(b) THE DISTRICT SHALL DEVELOP GUIDELINES THAT DETAIL THE REQUIREMENTS FOR AN INSTALLATION OR MODIFICATION IDENTIFIED IN SUBSECTION (16)(a) OF THIS SECTION TO QUALIFY AS A WATER EFFICIENCY IMPROVEMENT.

SECTION 2. In Colorado Revised Statutes, 32-20-106, **amend** (3) as follows:

32-20-106. Special assessments - determination of special benefits - notice requirements - certification of assessment roll - manner of collection.

(3) (a) The district may levy a special assessment against eligible real property specially benefited by a new energy improvement based on the cost to the district of the new energy improvement. The district shall initiate the levy of any special assessment by the adoption of a resolution of the board that sets the special assessment AND approves the preparation of a preliminary special assessment roll and sets a date for a public hearing regarding the special assessment roll. The district shall prepare a preliminary special assessment roll listing all special assessments to be levied. ~~The district may post notice of the hearing on the special assessment on any district internet website and shall, except as specified in section 32-20-111, send notice that the special assessment roll has been completed and notice of a hearing on the special assessment roll no later than thirty days before the hearing date to:~~ AFTER THE DISTRICT COMPLETES THE SPECIAL ASSESSMENT ROLL,

THE DISTRICT SHALL SEND A NOTICE OF ASSESSMENT TO:

(I) Each district member at the postal address or electronic mail address, or both if both are specified, specified in the member's program application; and

(II) Each person, by first-class mail or electronic mail, who has a lien against a unit of eligible real property listed on the assessment roll.

(b) The notice required by ~~paragraph (a) of this subsection (3) shall~~ SUBSECTION (3)(a) OF THIS SECTION MUST specify:

(I) The amount of the special assessment ~~proposed~~ to be levied on the unit of eligible real property owned by the district member or subjected to a lien by the lienholder to whom the notice is sent; AND

(II) ~~That any complaints or objections that are made by a district member or lienholder in writing to the board, and filed in writing on or prior to the date of the hearing, will be heard and determined by the board before the passage of any resolution levying a special assessment; and~~

(III) ~~The date when and place where the hearing will be held at which complaints or objections made in person will be heard.~~

(IV) THAT THE SPECIAL ASSESSMENT, TOGETHER WITH ALL INTEREST THEREON, PENALTIES FOR DEFAULT IN THE PAYMENT THEREOF, AND ASSOCIATED COLLECTION COSTS CONSTITUTES A LIEN IN ACCORDANCE WITH SECTION 32-20-107.

(c) ~~Following the hearing required by paragraph (a) of this subsection (3) and notice pursuant to paragraphs (a) and (b) of this subsection (3), the board shall adopt a resolution resolving all complaints or objections made and levying the special assessments. A district member or lienholder whose complaint or objection is denied by the board shall have thirty days from the date of the denial to appeal the denial to a court of competent jurisdiction. Thereafter, the complaint or objection shall be perpetually barred.~~

SECTION 3. In Colorado Revised Statutes, **amend** 32-20-111 as follows:

32-20-111. Procedure if lien subordination not sought. The provisions of this article 20 pertaining to the requirement of title insurance contained in section 32-20-105 (3) ~~and the provision of notice, objection, and appeal contained in section 32-20-106 (3)(a)(I), (3)(a)(II), (3)(b), and (3)(c), and all sections referencing these sections,~~ do not apply to residential eligible real property if the property owner or private third party that is financing the improvements are not seeking to subordinate the priority of existing mortgages pursuant to section 32-20-105 (3)(i).

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed

pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: March 8, 2023