

1 AN ACT

2 relating to the voluntary assessment of property owners by a  
3 municipality to finance certain energy conservation improvements.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subtitle A, Title 12, Local Government Code, is  
6 amended by adding Chapter 376 to read as follows:

7 CHAPTER 376. CONTRACTUAL ASSESSMENTS FOR ENERGY EFFICIENCY  
8 IMPROVEMENTS

9 Sec. 376.001. AUTHORIZED FINANCING. An assessment under  
10 this chapter may finance:

11 (1) energy efficiency public improvements to  
12 developed lots for which the costs and time delays of creating an  
13 entity under law to assess the lot would be prohibitively large  
14 relative to the cost of the energy efficiency public improvement to  
15 be financed; and

16 (2) the installation of distributed generation  
17 renewable energy sources or energy efficiency improvements that are  
18 permanently fixed to residential, commercial, industrial, or other  
19 real property.

20 Sec. 376.002. CERTAIN FINANCING PROHIBITED. An assessment  
21 under this chapter may not be used to finance:

22 (1) facilities for undeveloped lots or lots undergoing  
23 development at the time of the assessment; or

24 (2) the purchase or installation of appliances not

1 permanently fixed to real property.

2 Sec. 376.003. CONSENT FOR ASSESSMENT REQUIRED. A  
3 municipality may impose an assessment under this chapter only with  
4 the consent of the owner of the assessed property at the time of the  
5 assessment.

6 Sec. 376.004. DESIGNATION OF AREA FOR ASSESSMENT. (a) The  
7 governing body of a municipality may determine that it is  
8 convenient and advantageous to designate an area of the  
9 municipality within which authorized municipal officials and  
10 property owners may enter into contracts to assess properties for  
11 energy efficiency public improvements described by Section  
12 376.001(1) and make financing arrangements under this chapter.

13 (b) The governing body of a municipality may determine that  
14 it is convenient, advantageous, and in the public interest to  
15 designate an area of the municipality within which authorized  
16 municipal officials and property owners may enter into contracts to  
17 assess properties to finance the installation of distributed  
18 generation renewable energy sources or energy efficiency  
19 improvements that are permanently fixed to real property.

20 (c) An area designated by the governing body of a  
21 municipality under this section may include the entire  
22 municipality.

23 Sec. 376.005. RESOLUTION OF INTENTION TO CONTRACT FOR  
24 ASSESSMENT. (a) To make a determination under Section 376.004, the  
25 governing body of a municipality must adopt a resolution indicating  
26 the governing body's intention to designate an area for assessment.

27 (b) The resolution of intention must:

1           (1) include a statement that the municipality proposes  
2 to make contractual assessment financing available to property  
3 owners;

4           (2) identify the types of energy efficiency public  
5 improvements, distributed generation renewable energy resources,  
6 or energy efficiency improvements that may be financed;

7           (3) describe the boundaries of the area in which  
8 contracts for assessments may be entered into;

9           (4) thoroughly describe the proposed arrangements for  
10 financing the program; and

11           (5) state the time and place for a public hearing and  
12 that interested persons may object to or inquire about the proposed  
13 program at the hearing.

14           (c) If contractual assessments are to be used to finance the  
15 installation of distributed generation renewable energy sources or  
16 energy efficiency improvements that are permanently fixed to real  
17 property, the resolution of intention must state that it is in the  
18 public interest to do so.

19           (d) The resolution shall direct an appropriate municipal  
20 official to:

21                   (1) prepare a report under Section 376.006; and

22                   (2) consult with the appropriate appraisal district or  
23 districts regarding collecting the proposed contractual  
24 assessments with property taxes imposed on the assessed property.

25           Sec. 376.006. REPORT REGARDING ASSESSMENT. An appropriate  
26 municipal official designated in the resolution shall prepare a  
27 report containing:

1           (1) a map showing the boundaries of the area within  
2 which contractual assessments are proposed to be offered;

3           (2) a draft contract specifying the terms that would  
4 be agreed to by the municipality and a property owner within the  
5 contractual assessment area;

6           (3) a statement of municipal policies concerning  
7 contractual assessments including:

8                   (A) identification of types of energy efficiency  
9 public improvements, distributed generation renewable energy  
10 sources, or energy efficiency improvements that may be financed  
11 through the use of contractual assessments;

12                   (B) identification of a municipal official  
13 authorized to enter into contractual assessments on behalf of the  
14 municipality;

15                   (C) a maximum aggregate dollar amount of  
16 contractual assessments;

17                   (D) a method for ranking requests from property  
18 owners for financing through contractual assessments in priority  
19 order if requests appear likely to exceed the authorization amount;  
20 and

21                   (E) a method for ensuring that property owners  
22 requesting financing demonstrate the financial ability to fulfill  
23 financial obligations under the contractual assessments;

24           (4) a plan for raising a capital amount required to pay  
25 for work performed in accordance with contractual assessments that:

26                   (A) may include:

27                           (i) amounts to be advanced by the

1 municipality through funds available to it from any source; and

2 (ii) the sale of bonds or other financing;

3 (B) shall include a statement of or method for  
4 determining the interest rate and period during which contracting  
5 property owners would pay any assessment; and

6 (C) shall provide for:

7 (i) any reserve fund or funds; and

8 (ii) the apportionment of all or any  
9 portion of the costs incidental to financing, administration, and  
10 collection of the contractual assessment program among the  
11 consenting property owners and the municipality; and

12 (5) the results of the consultations with the  
13 appropriate appraisal districts concerning incorporating the  
14 proposed contractual assessments into the assessments of property  
15 taxes.

16 Sec. 376.007. DIRECT PURCHASE BY OWNER. On the written  
17 consent of an authorized municipal official, the proposed  
18 arrangements for financing the program pertaining to the  
19 installation of distributed generation renewable energy sources or  
20 energy efficiency improvements that are permanently fixed to real  
21 property may authorize the property owner to:

22 (1) purchase directly the related equipment and  
23 materials for the installation of the distributed generation  
24 renewable energy sources or energy efficiency improvements; and

25 (2) contract directly for the installation of the  
26 distributed generation renewable energy sources or energy  
27 efficiency improvements.

1       Sec. 376.008. LIEN. An assessment imposed under this  
2 chapter and any interest or penalties on the assessment constitutes  
3 a lien against the lot on which the assessment is imposed until the  
4 assessment, interest, or penalty is paid.

5       SECTION 2. This Act takes effect immediately if it receives  
6 a vote of two-thirds of all the members elected to each house, as  
7 provided by Section 39, Article III, Texas Constitution. If this  
8 Act does not receive the vote necessary for immediate effect, this  
9 Act takes effect September 1, 2009.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1937 was passed by the House on May 15, 2009, by the following vote: Yeas 87, Nays 51, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1937 was passed by the Senate on May 26, 2009, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor