

2024 Regular Session

HOUSE BILL NO. 96

BY REPRESENTATIVE GEYMANN

LOCAL GOVERNMENT: Provides for a property assessed clean energy loan program

1 AN ACT

2 To enact Chapter 10-E of Title 33 of the Louisiana Revised Statutes of 1950, to be  
3 comprised of R.S. 33:4550.1 through 4550.4, relative to powers of parish governing  
4 authorities; to authorize parish governing authorities to create property assessed  
5 clean energy and resilience loan programs; to provide for assessments against  
6 improved property; to provide relative to the requirements of any such program; to  
7 provide definitions; to provide limitations; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 10-E of Title 33 of the Louisiana Revised Statutes of 1950,  
10 comprised of R.S. 33:4550.1 through 4550.4, is hereby enacted to read as follows:

11 CHAPTER 10-E. PROPERTY ASSESSED CLEAN ENERGY

12 AND RESILIENCE PROGRAM

13 §4550.1. Definitions

14 The following terms have the meanings ascribed to them unless the context  
15 clearly indicates otherwise:

16 (1) "Capital provider" means any private entity, or its designee, successor,  
17 or assignee, that makes or funds loans under this Chapter.

18 (2) "Eligible improvements" mean permanent improvements affixed to a  
19 structure and intended to accomplish any of the following:

1           (a) Increasing resilience by increasing the capacity of a structure or  
2           infrastructure to withstand natural or manmade disasters or severe weather impacts,  
3           including but not limited to flood mitigation or the mitigation of the impacts of  
4           flooding, natural or nature-based features, storm water management, fire and wind  
5           resistance, energy storage, and micro grids.

6           (b) Providing for environmental remediation by promoting indoor air and  
7           water quality through asbestos remediation, lead paint removal, or mold remediation.

8           (c) Decreasing water consumption or demand by promoting efficient use of  
9           water, addressing safe drinking water, or improving wastewater quality through the  
10          use of efficiency technologies, products, or activities.

11          (d) Decreasing energy consumption or demand through the use of efficiency  
12          technologies, products, or activities that reduce or support the reduction of energy  
13          consumption or the production of alternative energy, including but not limited to a  
14          product, device, or interacting group of products or devices on the property owner's  
15          side of the meter that generate electricity, provide thermal energy, or regulate  
16          temperature.

17          (3) "Program guide" means a comprehensive document that establishes  
18          appropriate guidelines, specifications, underwriting and approval criteria, and any  
19          standard application forms consistent with the purposes of a program and not  
20          detailed in this Chapter.

21          (4) "Property owner" means the property title owner or a tenant under a long  
22          term written lease agreement with the title owner.

23          §4550.2. Establishment of program

24           A. The governing authority of a parish may establish, by ordinance, a  
25           property assessed clean energy and resilience loan program, hereafter in this Chapter  
26           referred to as the "program". The program shall be created for the purpose of  
27           encouraging, accommodating, and enabling financing of eligible improvements. A  
28           parish may administer the program or contract with a third-party program  
29           administrator.

1           B. The ordinance shall authorize the parish to enforce program liens in the  
2           same manner as other parish enforced liens.

3           §4550.3. Financing for eligible improvements

4           A. A property owner may request a loan from a capital provider to cover all  
5           direct and indirect costs related to the installation, modification, or new construction  
6           of eligible improvements to be affixed to the property. The program administrator  
7           shall accept or reject a loan request according to criteria that it establishes and  
8           publishes in the program guide.

9           B. The term for repayment of a loan shall not exceed the weighted average  
10          usefulness of eligible improvements or thirty years, whichever is less.

11          C. The total loan-to-value ratio for all loans secured by the property shall not  
12          exceed one hundred percent. The calculation of equivalent value used to determine  
13          the maximum amount of financing available for a particular property may take into  
14          account the reasonable expected stabilized value of the property with the proposed  
15          eligible improvements installed.

16          D. If there is a nonpayment or default, there shall be no acceleration of the  
17          loan, and a loan delinquency shall exist only for liens not paid when due.

18          E. In order to qualify for financing, the property owner shall be current on  
19          all outstanding mortgage loans encumbering the property upon which the eligible  
20          improvements are proposed to be installed or constructed.

21          F. An appropriate evaluation, such as energy analysis or renewable energy  
22          system feasibility study, shall be conducted on the property by a qualified  
23          professional to confirm that the improvements meet program requirements and shall  
24          be reviewed by the program administrator prior to approval of the loan.

25          G. If eligible improvements are installed, the program administrator shall  
26          determine that the eligible improvements are installed and all work is completed  
27          satisfactorily before loan funds are distributed to the property owner. In the  
28          alternative, funds for eligible improvements may be disbursed based on multiple  
29          stages of construction completion as specified in financing agreements.

1           H. All eligible improvements financed through the program shall be  
2           performed by duly qualified contractors, subcontractors, or tradesmen pursuant to  
3           program rules that are developed by the program administrator.

4           I.(1) Before a capital provider may enter into a financing agreement to  
5           provide financing for eligible improvements, the capital provider shall receive  
6           written consent from any holder of a lien, mortgage, or security interest in the  
7           property that the property may participate in the program and that the program lien  
8           shall take priority over all other liens, except for ad valorem tax liens. This consent  
9           shall take the form and substance of a written lender consent and subordination  
10           agreement that is acceptable to each prior lienholder in its sole discretion. The  
11           agreement shall be executed by the holder of each mortgage lien on the property and  
12           shall be recorded with the recorder of mortgages for the parish in which the qualified  
13           property is located.

14           (2) The written lender consent and subordination agreement shall evidence  
15           that:

16           (a) The lender acknowledges, approves and consents to the loan and the  
17           recordation of the program lien with the recorder of mortgages against the qualified  
18           property; subordinates the lender's mortgage lien to the program lien, not to exceed  
19           the aggregate amount of due and unpaid loan installments, and acknowledges,  
20           approves, and consents to the recordation of this subordination with the recorder of  
21           mortgages against the property.

22           (b) The property owner is current on payments on loans secured by a  
23           mortgage lien on the qualified property and on property tax payments; the property  
24           owner is not insolvent or in bankruptcy proceedings; the title of the benefitted  
25           property is not in dispute and is submitted to the locality prior to recording of the  
26           program lien.

27           (c) The loan does not constitute a default or an event of default under senior  
28           loan documents.

1           (d) The subordination does not prohibit the lender from pursuing any and all  
2           rights and remedies available by law or in equity to collect from the property owner  
3           securing a loan all amounts due to it under senior loan documents; however, such  
4           enforcement shall be subject to the payment of the due and unpaid loan installments  
5           as set forth in the amortization schedule of the recorded program lien documentation  
6           together with real property taxes due in connection with the ownership of the  
7           property. In addition, the lender shall have the right to cure any nonpayment by the  
8           property owner securing a loan of real property taxes and assessments, including the  
9           program loan, to the same extent as the lender has a right to cure nonpayment of real  
10          property taxes before any lien is foreclosed by the parish.

11           (3) The lender consent and subordination agreement shall further contain all  
12          lender requirements pursuant to subordination of the due and unpaid loan  
13          installments including at a minimum the right to require an escrow account under the  
14          lender's control that contains future unpaid loan installments, the amount of which  
15          shall be determined at the sole and full discretion of the lender.

16           J. An eligible improvement may be made and financed by a lessee under a  
17          lease only if:

18           (1) The remaining lease term equals or exceeds the term of the loan.

19           (2) The lessee is treated as the owner of the eligible improvements.

20           (3) The lessee is legally and primarily responsible for the repayment of the  
21          loan.

22           K. The program administrator may approve a loan application for financing  
23          or refinancing the total costs of eligible improvements filed within thirty-six months  
24          of the issuance of a certificate of occupancy or equivalent compliance document.

25          §4550.4. Repayment of loans

26           A. The parish governing authority shall assess the loan amount, including  
27          capitalized interest and administrative fees, against the property upon which the  
28          eligible improvements are affixed. Loans shall be repaid by the property owner  
29          through such assessments in the amounts and at such times as set forth in the loan

1 documents and the program guide. The capital provider is responsible, subject to  
2 and in accordance with the terms of the loan documents, for the servicing of the  
3 loans and the collection of loan payments.

4 B. In order to secure repayment of a loan, upon entering into a loan with a  
5 property owner, the program administrator or capital provider shall file a statement  
6 of program lien with the recorder of mortgages for the parish in which the property  
7 is located. The program lien shall be for the full amount of the loan and shall take  
8 effect against third persons upon filing. The statement of the voluntary program lien  
9 shall contain the following:

10 (1) Identity of the lienholder, including a contact name, address, and phone  
11 number.

12 (2) Identity of the property owner including property owner's full name,  
13 domicile, and permanent mailing address and the last four digits of the property  
14 owner's social security number or tax-payer identification number, whichever is  
15 applicable.

16 (3) Legal description of the property encumbered by the lien.

17 (4) Date that the lien is created, which means the date that the loan  
18 documents are signed.

19 (5) Dollar amount of the loan for which the lien is created.

20 C. Upon failure of the property owner to pay the current year's payment, the  
21 parish shall have the right to enforce the lien to recover and collect the current year's  
22 payment along with payments remaining delinquent from previous years. The  
23 program lien shall have the same ranking as ad valorem tax liens as provided in R.S.  
24 9:4821(A)(1), and may be enforced and collected by ordinary civil proceeding in  
25 accordance with C.C.P. Article 851 et seq. or by executory process if the loan  
26 documentation contains a confession of judgment, or by any other state law  
27 applicable to enforcing and collecting the amount due as a property tax lien, subject  
28 to the same civil penalties for delinquencies, including accrued interest, together with  
29 attorneys' fees and costs incurred in notification to the property owner and the

1 enforcement and collection of the amounts owed. The program lien shall not be  
2 extinguished by the enforcement or foreclosure of the property.

3 D. At or before the time a purchaser executes a contract for the sale and  
4 purchase of any property for which an assessment has been levied under this Chapter  
5 and there is an unpaid balance due, the seller shall give the prospective purchaser a  
6 written disclosure statement in the following form, which shall be set forth in the  
7 contract or in a separate writing: QUALIFYING IMPROVEMENTS FOR ENERGY  
8 EFFICIENCY. The property being purchased is located within the jurisdiction of  
9 a parish government that has placed an assessment on the property pursuant to R.S.  
10 33:4450.1 et seq. The assessment is for a qualifying improvement to the property  
11 and is not based on the value of property. You are encouraged to contact the parish  
12 assessor's office to learn more about this and other assessments that may be provided  
13 by law.

14 E. When the loan is paid in full, the program administrator shall provide  
15 written evidence of cancellation and release of the program lien and shall file it with  
16 the recorder of mortgages for the parish where the property is located.

17 F. Prepayment of the remaining balance of a loan may only be remitted in  
18 accordance with the loan documents.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 96 Original

2024 Regular Session

Geymann

**Abstract:** Authorizes a parish to create a program whereby loans are made for improvements to property and the loans are repaid through an assessment imposed by the parish against the property.

Proposed law authorizes a parish to establish a property assessed clean energy and resilience loan program, hereafter in this digest, the "program", to encourage, accommodate, and enable financing of eligible improvements to property. Provides that an eligible improvement is one that:

- (1) Increases the capacity of a structure to withstand natural or manmade disasters or severe weather.
- (2) Promotes indoor air and water quality.

- (3) Decreases water consumption or demand.
- (4) Decreases energy consumption or demand.

Proposed law provides that loans for such improvements are repaid through an assessment imposed by the parish on the improved property. Provides that a parish may enforce such an assessment in the same manner as other parish liens.

Proposed law authorizes a parish to contract with a third-party program administrator.

Program specifications include the following:

- (1) The term for repayment of a loan shall not exceed the weighted average usefulness of eligible improvements or 30 years, whichever is less.
- (2) The total loan-to-value ratio for all loans secured by the qualified property shall not exceed 100%.
- (3) If there is a nonpayment or default, prohibits acceleration of the loan and provides that a loan delinquency shall exist only for liens not paid when due.
- (4) Requires that the property owner be current on all outstanding mortgage loans encumbering the property.
- (5) Requires written consent from any holder of a lien, mortgage, or security interest in the property authorizing participation in the program and that the program lien shall take priority over all other liens except for ad valorem tax liens.
- (6) Authorizes a lessee to finance improvements if specified conditions are met.

Proposed law provides as follows regarding repayment of the loan:

- (1) The parish governing authority shall assess the loan amount, including capitalized interest and administrative fees, against the property.
- (2) Requires the program administrator or capital provider to file a statement of program lien with the parish recorder of mortgages.
- (3) Authorizes the parish to enforce the program lien. Provides that the program lien is not extinguished by the enforcement or foreclosure of the property.
- (4) Requires a seller of property with a program lien and an unpaid balance due to disclose the lien to the purchaser.

(Adds R.S. 33:4550.1-4550.4)