



475236

LEGISLATIVE ACTION

Senate

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House

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The Committee on Rules (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 212 - 303

and insert:

records of the county where the property is located.

(9) Before entering into an assessment ~~a~~ financing agreement, the local government, or the program administrator acting on its behalf, shall reasonably determine that all of the following conditions are met:

(a) All property taxes and any other assessments levied on the same bill as property taxes are current ~~paid~~ and have not



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12 been delinquent for more than 30 days for the preceding 3 years  
13 or the property owner's period of ownership, whichever is less.†

14 (b) ~~that~~ There are no involuntary liens greater than  
15 \$1,000, including, but not limited to, construction liens on the  
16 property.†

17 (c) ~~that~~ No notices of default or other evidence of  
18 property-based debt delinquency have been recorded and not  
19 released during the preceding 3 years or the property owner's  
20 period of ownership, whichever is less.†

21 (d) The local government or program administrator has asked  
22 the property owner whether any other assessments under this  
23 section have been recorded or have been funded and not yet  
24 recorded on the property. The failure of a property owner to  
25 disclose information set forth in this paragraph does not  
26 invalidate an assessment financing agreement or any obligation  
27 thereunder, even if the total financed amount of the qualifying  
28 improvements exceeds the amount that would otherwise be  
29 authorized under paragraph (12) (a).

30 (e) ~~and that~~ The property owner is current on all mortgage  
31 debt on the property.

32 (f) The residential property is not subject to an existing  
33 home equity conversion mortgage or reverse mortgage product.  
34 This paragraph does not apply to nonresidential real properties.

35 (g) The property is not currently a residential property  
36 gifted to a homeowner for free by a nonprofit entity as may be  
37 disclosed by the property owner. The failure of a property owner  
38 to disclose information set forth in this paragraph does not  
39 invalidate an assessment financing agreement or any obligation  
40 thereunder. This paragraph does not apply to nonresidential real



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41 properties.

42 (h) The property owner obtained the approval of any  
43 applicable lender, creditor, assignee, or servicer of any  
44 previously recorded mortgage or other lien on the property.

45 (10) Before final funding may be provided, a qualifying  
46 improvement ~~must shall~~ be affixed or planned to be affixed to a  
47 nonresidential real property or residential real ~~building or~~  
48 facility that is part of the property and constitutes shall  
49 constitute an improvement to that property the building or  
50 facility or a fixture attached to the building or facility. An  
51 assessment financing agreement may between a local government  
52 and a qualifying property owner may not cover qualifying wind-  
53 resistance improvements on nonresidential real property under  
54 new construction or residential real property in buildings or  
55 facilities under new construction or construction for which a  
56 certificate of occupancy or similar evidence of substantial  
57 completion of new construction or improvement has not been  
58 issued.

59 (12) (a) Without the consent of the holders or loan  
60 servicers of any mortgage encumbering or otherwise secured by  
61 the property, the total amount of any non-ad valorem assessment  
62 for a property under this section may not exceed 20 percent of  
63 the fair market just value of the real property as determined by  
64 the county property appraiser. The combined mortgage-related  
65 debt and total amount of any non-ad valorem assessments funded  
66 under this section for residential real property may not exceed  
67 100 percent of the fair market value of the residential real  
68 property. However, the failure of a property owner to disclose  
69 information set forth in paragraph (9) (d) does not invalidate an



70 assessment financing agreement or any obligation thereunder,  
71 even if the total financed amount of the qualifying improvements  
72 exceeds the amount that would otherwise be authorized under this  
73 paragraph. For purposes of this paragraph, fair market value may  
74 be determined using reputable third parties.

75 (b) Notwithstanding paragraph (a), a non-ad valorem  
76 assessment for a qualifying improvement defined in subparagraph  
77 (2) (h) 1. ~~(2) (b) 1.~~ or subparagraph (2) (h) 2. which ~~(2) (b) 2.~~ that  
78 is supported by an energy audit is not subject to the limits in  
79 this subsection if the audit demonstrates that the annual energy  
80 savings from the qualified improvement equals or exceeds the  
81 annual repayment amount of the non-ad valorem assessment.

82 (13) At least 30 days before entering into an assessment a  
83 financing agreement, the property owner shall provide to the  
84 holders or loan servicers of any existing mortgages encumbering  
85 or otherwise secured by the property a notice of the owner's  
86 intent to enter into an assessment a financing agreement  
87 together with the maximum principal amount to be financed and  
88 the maximum annual assessment necessary to repay that amount. A  
89 verified copy or other proof of such notice shall be provided to  
90 the local government. ~~A provision in any agreement between a~~  
91 ~~mortgagee or other lienholder and a property owner, or otherwise~~  
92 ~~now or hereafter binding upon a property owner, which allows for~~  
93 ~~acceleration of payment of the mortgage, note, or lien or other~~  
94 ~~unilateral modification solely as a result of entering into a~~  
95 ~~financing agreement as provided for in this section is not~~  
96 ~~enforceable.~~ This subsection does not limit the authority

97  
98 ===== T I T L E A M E N D M E N T =====



99 And the title is amended as follows:  
100 Delete line 38  
101 and insert:  
102 property; providing and revising construction;  
103 providing applicability;