

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 572

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

AN ACT

RELATING TO LOCAL GOVERNMENT; ENACTING THE SOLAR ENERGY  
IMPROVEMENT SPECIAL ASSESSMENT ACT; AUTHORIZING CLASS A  
COUNTIES TO IMPOSE, ADMINISTER AND DISBURSE SOLAR ENERGY  
IMPROVEMENT SPECIAL ASSESSMENTS TO ENCOURAGE THE DEVELOPMENT OF  
RESIDENTIAL SOLAR ENERGY IMPROVEMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the  
"Solar Energy Improvement Special Assessment Act".

Section 2. DEFINITIONS.--As used in the Solar Energy  
Improvement Special Assessment Act:

A. "county" means a class A county;

B. "eligible solar energy improvement" means a  
photovoltaic or solar thermal system installed on residential  
property;

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1           C. "photovoltaic system" means an energy system  
2 that collects or absorbs sunlight for conversion into  
3 electricity; and

4           D. "solar thermal system" means an energy system  
5 that collects or absorbs solar energy for conversion into heat  
6 for the purposes of space heating, space cooling or water  
7 heating.

8           Section 3. ORDINANCE IMPOSING SOLAR ENERGY SPECIAL  
9 ASSESSMENT.--The board of county commissioners of a county may  
10 provide by ordinance for a solar energy improvement special  
11 assessment to be imposed on a single-family residential  
12 property within the boundaries of the county if the owner of  
13 the property requests the assessment. The purpose of the solar  
14 energy improvement special assessment shall be to increase  
15 access by residents of the county to the benefits of  
16 residential solar technology improvements by participation in a  
17 voluntary special assessment on their residential property,  
18 which can be used to facilitate financing arrangements for the  
19 eligible solar energy improvements.

20           Section 4. IMPLEMENTATION OF SOLAR ENERGY IMPROVEMENT  
21 SPECIAL ASSESSMENT.--A board of county commissioners enacting  
22 an ordinance providing for a solar energy improvement special  
23 assessment shall direct the county treasurer to include the  
24 solar energy improvement special assessment in the property tax  
25 bill for property subject to the assessment and to collect the

1 assessment at the same time and in the same manner as property  
2 taxes are levied and collected if:

3 A. the property owner has submitted a written  
4 application, in a format approved by the county treasurer,  
5 requesting that the solar energy improvement special assessment  
6 be applied to the owner's property for the purpose of financing  
7 an eligible solar energy improvement on the property;

8 B. the county assessor has verified that the  
9 property owner requesting the solar energy improvement special  
10 assessment is the owner of record of the property with respect  
11 to which the solar energy improvement special assessment will  
12 be levied and that there are no delinquent taxes on the  
13 property;

14 C. the property owner has submitted certification,  
15 in a format approved by the county treasurer, that the  
16 improvements to the property:

17 (1) are eligible solar energy improvements;

18 (2) comply with guidelines for residential  
19 photovoltaic or solar thermal systems established by the  
20 energy, minerals and natural resources department; and

21 (3) will be installed in compliance with the  
22 guidelines established by the energy, minerals and natural  
23 resources department for installation of photovoltaic or solar  
24 thermal systems;

25 D. the property owner has submitted documentation,

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1 in a format approved by the county treasurer, of the proposed  
2 financing agreement for the solar energy improvements to the  
3 property to establish:

4 (1) that the financing will be provided by an  
5 entity that has been certified by the financial institutions  
6 division of the regulation and licensing department as a solar  
7 energy improvement financing institution, pursuant to the  
8 provisions of Section 7 of the Solar Energy Improvement Special  
9 Assessment Act;

10 (2) that the financing is for an amount,  
11 including principal, interest and administrative fees to the  
12 county, that is no more than forty percent of the assessed  
13 value of the property according to current county property tax  
14 records and that the administrative fees to the county  
15 constitute no more than ten percent of the total financing  
16 amount;

17 (3) the annual amount of the solar energy  
18 improvement special assessment necessary to satisfy the  
19 financing agreement and the number of years the assessment  
20 shall be imposed on the property; and

21 (4) the conditions by which the property owner  
22 may prepay and permanently satisfy the debt owed pursuant to  
23 the financing agreement and remove the solar improvement  
24 special assessment and lien from the property.

25 Section 5. SOLAR ENERGY IMPROVEMENT SPECIAL ASSESSMENT--

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1 AMOUNT--COLLECTION--LIEN CREATED.--

2 A. The amount of the solar energy improvement  
3 special assessment on a property shall be the amount necessary  
4 to finance the eligible solar energy improvements, including  
5 payment of principal, interest and administrative fees  
6 collected by the county; provided that the administrative fees  
7 shall not exceed ten percent of the total financing amount.  
8 Agreements entered into by the owner of the property with the  
9 solar energy improvement financing institution and submitted  
10 pursuant to this section shall be conclusive regarding the  
11 amount that may be assessed against the property; provided  
12 that, when the underlying debt has been satisfied, the solar  
13 energy improvement special assessment shall be removed from the  
14 property.

15 B. The solar energy improvement special assessment  
16 shall be levied and collected at the same time and in the same  
17 manner as property taxes are levied and collected. Money  
18 derived from the imposition and collection of the solar energy  
19 improvement special assessment shall be kept separately from  
20 other county funds.

21 C. A solar energy improvement special assessment  
22 shall constitute a lien on the property, which shall be  
23 effective during the period in which the assessment is imposed  
24 and shall have priority co-equal with other property tax liens.  
25 The lien shall be removed immediately upon satisfaction of the

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1 underlying debt giving rise to the assessment and lien.

2 Section 6. SOLAR ENERGY IMPROVEMENT SPECIAL ASSESSMENT--  
3 DISBURSEMENT OF PROCEEDS.--

4 A. Proceeds from a solar energy improvement special  
5 assessment on a property shall be disbursed by the county  
6 treasurer solely for the purpose of financing the solar energy  
7 improvements to that property and paying the applicable  
8 administrative fees to the county.

9 B. The county treasurer shall enter into an  
10 agreement with the solar energy improvement financing  
11 institution providing financing to the property owner  
12 specifying the procedures by which the treasurer shall transfer  
13 the revenue from the assessment to the institution. The  
14 agreement with the solar energy improvement financing  
15 institution shall specify that the county is not liable in any  
16 way for the debt of the property owner, is not a third party  
17 obligor and is not pledging or lending its credit to the  
18 property owner or the financing institution.

19 Section 7. SOLAR ENERGY IMPROVEMENT FINANCING  
20 INSTITUTIONS--CERTIFICATION OF QUALIFIED ENTITIES.--The  
21 financial institutions division of the regulation and licensing  
22 department shall promulgate rules for the certification of  
23 financial institutions or other entities as solar energy  
24 improvement financing institutions. The rules shall ensure  
25 that a solar energy improvement financing institution is a

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1 member institution of the federal deposit insurance corporation  
2 or the national credit union administration or is an entity  
3 that the financial institutions division finds meets generally  
4 accepted criteria for financial stability and soundness.

5 Section 8. ADDITIONAL CRITERIA PROHIBITED.--A county  
6 shall not establish additional criteria for participation by  
7 property owners in the solar energy improvement special  
8 assessment beyond those set forth in the Solar Energy  
9 Improvement Special Assessment Act. A county shall not  
10 require, as a condition of being subject to a solar energy  
11 improvement special assessment, that a property comply with  
12 energy efficiency standards such as energy audits, appliance  
13 replacement or energy efficiency improvements.

14 Section 9. EFFECTIVE DATE.--The effective date of the  
15 provisions of this act is July 1, 2009.

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