

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011

As Engrossed: H2/16/11

# A Bill

HOUSE BILL 1027

4  
5 By: Representative D. Altes

## For An Act To Be Entitled

8 AN ACT TO PROMOTE THE CONSERVATION OF ENERGY AND  
9 NATURAL RESOURCES IN PRIVATELY OWNED HOMES; AND FOR  
10 OTHER PURPOSES.

## Subtitle

11  
12  
13  
14 TO PROMOTE THE CONSERVATION OF ENERGY AND  
15 NATURAL RESOURCES IN PRIVATELY OWNED  
16 HOMES.

17  
18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20  
21 *SECTION 1. Arkansas Code Title 8 is amended to add a new chapter to*  
22 *read as follows:*

23 CHAPTER 15 – ENERGY-EFFICIENT HOMES

24 8-15-101. Title.

25 This chapter shall be known and may be cited as the “Property Assessed  
26 Energy-Efficient Home Improvement District Act”.

27  
28 8-15-102. Definitions.

29 As used in this chapter:

30 (1)(A) “Bond” means a revenue bond or note issued under this  
31 chapter.

32 (B) “Bond” includes any other financial obligation  
33 authorized by this chapter, the laws of this state, or the Arkansas  
34 Constitution;

35 (2) “Home” means the privately owned residence of a person;

36 (3) “Major home renovation” means a renovation of a home that



1 costs more than fifty percent (50%) of the home's current appraised value;

2 (4) "New construction" means a new addition to a home or a  
3 complete new home;

4 (5) "Owner" means an individual who has a title or interest in  
5 his or her residential property;

6 (6) "Property assessed energy-efficient home improvement  
7 district" means a district established in this state by law for the express  
8 purpose of managing a property assessed energy-efficient home improvement  
9 program; and

10 (7) "Property assessed energy-efficient home improvement  
11 program" means a program under which a property owner can finance an energy-  
12 efficient improvement and a renewable energy project on his or her  
13 residential property.

14  
15 8-15-103. Legislative findings.

16 The General Assembly finds that:

17 (1)(A) Homes can be constructed and renovated using energy-  
18 efficient designs and renewable energy projects that save money and reduce  
19 the negative environmental impact.

20 (B) The main objectives of energy-efficient designs and  
21 renewable energy projects are to:

22 (i) Avoid resource depletion of energy, water, and  
23 raw materials;

24 (ii) Prevent environmental degradation throughout  
25 the design's life cycle; and

26 (iii) Create homes that are livable, comfortable,  
27 safe, and energy efficient;

28 (2) Homes can be improved by establishing specific performance  
29 criteria and goals for energy-efficient improvements and renewable energy  
30 projects that are based on recognized, consensual standards with a  
31 scientifically proven basis and a history of successful performance;

32 (3) It is in the best interest of this state to authorize  
33 counties to create districts that make available to their citizens one (1) or  
34 more financing programs to fund energy-efficient improvements or designs and  
35 renewable energy projects on newly constructed or renovated residential  
36 properties at the request of the homeowner;

1 (4) These programs will benefit the citizens of this state by:

2 (A) Decreasing the cost of funds to participating citizens  
3 and lowering the aggregate issuance and servicing costs of these loans; and

4 (B) Making these funds available to rural communities  
5 throughout the state that might not otherwise create and finance these  
6 programs; and

7 (5) These programs will further the public purpose of:

8 (A) Creating jobs and stimulating the state's economy;

9 (B) Generating significant economic development through  
10 the investment of the proceeds of these loans in local communities, including  
11 increased sales tax revenue;

12 (C) Protecting participating citizens from the financial  
13 impact of the rising cost of electricity produced from nonrenewable fuels;

14 (D) Providing positive cash flow in many instances in  
15 which the costs of the construction, renovation, or improvements are lower  
16 than the energy savings on an average monthly basis;

17 (E) Providing the citizens of this state with informed  
18 choices and additional options for financing construction, renovation, or  
19 improvements that may not otherwise be available;

20 (F) Increasing the value of the newly constructed,  
21 renovated, or improved real property for participating citizens;

22 (G) Improving the state's air quality and conserving  
23 natural resources, including water; and

24 (H) Promoting energy independence and security for the  
25 state and the nation.

26  
27 8-15-104. Immunity.

28 (a) The powers and duties of a property assessed energy-efficient home  
29 improvement district conferred by this chapter are public and governmental  
30 functions exercised for a public purpose and for matters of public necessity.

31 (b) The district and its personnel are immune from suit in tort for  
32 the performance of its duties under this chapter unless immunity is expressly  
33 waived in writing.

34  
35 8-15-105. Authority to create.

36 A county may create a property assessed energy-efficient home improvement

1 district by adoption of an ordinance.

2  
3 8-15-106. Board of directors.

4 (a) A property assessed energy-efficient home improvement district  
5 created under this chapter shall be operated and controlled by a board of  
6 directors.

7 (b) A board of directors shall manage and control a district created  
8 under this chapter, including without limitation the following:

9 (1) Operations;

10 (2) Business; and

11 (3) Affairs.

12 (c) The board of directors shall be solely responsible for selecting  
13 the chair of the board of directors and establishing procedures by which it  
14 shall operate.

15 (d) A director shall not receive compensation in any form for his or  
16 her services as a director.

17 (e) Each director shall be entitled to reimbursement by the district  
18 for any necessary expenditures incurred in connection with the performance of  
19 his or her general duties as a director.

20  
21 8-15-107. Membership on the board of directors.

22 (a) Unless the structure of the board of directors is otherwise  
23 specified in the agreement establishing the property assessed energy-  
24 efficient home improvement district, the board of directors of a district  
25 shall consist of no fewer than five (5) directors as provided under this  
26 section.

27 (b)(1) The board of directors shall include the county judge or his or  
28 her designated representative and the mayor or his or her designated  
29 representative of each city of the first class that is within the county's  
30 boundaries.

31 (2) If the number of directors is fewer than five (5) after  
32 fulfilling the requirements of subdivision (b)(1) of this section, then  
33 mayors or designated representatives of the cities of the second class that  
34 are within the county's boundaries are appointed to the board of directors in  
35 descending order of population as determined by the last federal decennial  
36 census until five (5) directors have been appointed.

1 (c) The designated representative of a county judge or mayor under  
2 subsection (b) of this section shall be a qualified elector of the  
3 jurisdiction that the designated representative is appointed to represent.

4 (d) If a city of the second class becomes a city of the first class  
5 and is within the county's boundaries, the mayor of that city or his or her  
6 designated representative shall become a director.

7 (e) Membership of cities of the second class on the board of directors  
8 shall be adjusted after each federal decennial census.

9  
10 8-15-108. Terms of directors.

11 (a) A director who is a public official may serve on the board of  
12 directors during his or her term of office as the county judge or mayor of a  
13 member of a property assessed energy-efficient home improvement district.

14 (b) A director who is the designated representative of the mayor or  
15 county judge of a member of the district serves at the pleasure of the mayor  
16 of that city or the county judge of the county that is a member of the  
17 district.

18  
19 8-15-109. District boards of directors -- Meetings.

20 (a) The board of directors of a property assessed energy-efficient  
21 home improvement district shall hold quarterly meetings and special meetings,  
22 as needed, in the courthouse or other location within the county as  
23 determined by the board of directors.

24 (b) The time and place of the quarterly meetings shall be on file in  
25 the office of the district board of directors.

26  
27 8-15-110. District boards of directors -- Powers and duties.

28 (a) The board of directors of a property assessed energy-efficient  
29 home improvement district may:

30 (1) Enter into agreements and contracts and issue revenue bonds  
31 with a governmental entity or a private entity on behalf of the district;

32 (2) Make and adopt all necessary bylaws for its organization and  
33 operation;

34 (3) Elect officers and employ personnel necessary for its  
35 operation;

36 (4) Operate, maintain, expand, or fund a property assessed

1 energy-efficient home improvement program;

2 (5) Apply for, receive, and spend grants for any purpose under  
3 this chapter;

4 (6) Enter into agreements and contracts;

5 (7) Receive property or funds by gift or donation for the  
6 finance and support of the district; and

7 (8) Do all things necessary or appropriate to carry out the  
8 powers expressly granted or duties expressly imposed under this chapter.

9 (b) The board of directors shall adopt rules consistent with this  
10 chapter or other law that in its judgment may be necessary for the proper  
11 enforcement of this chapter, provided such rules are approved by the  
12 district.

13  
14 8-15-111. Property assessed energy-efficient home improvement  
15 programs.

16 (a) A property assessed energy-efficient home improvement district  
17 created under this chapter may establish a property assessed energy-efficient  
18 home improvement program to provide loans for the initial acquisition and  
19 installation of energy-efficient improvements or designs and renewable energy  
20 projects with free and willing privately owned residential property owners  
21 for both major home renovation to existing property and to new construction.

22 (b)(1) The district may, by resolution, authorize a revenue bond or  
23 contract with a governmental entity or a private entity to provide the loans  
24 under subsection (a).

25 (2) The resolution shall include without limitation the  
26 following:

27 (A) The kind of renewable energy project or energy-  
28 efficient improvement or design for which the loan may be offered;

29 (B) The proposed arrangement for the loans under the  
30 program, including:

31 (i) A statement concerning the source of funding  
32 that will be used to pay for work performed under the loan contract;

33 (ii) The interest rate and time period during which  
34 contracting residential property owners would repay the loan; and

35 (iii) The method of apportioning all or any portion  
36 of the costs incidental to financing, administration, and collection of the

1 arrangement among the consenting residential property owners and the county;

2 (C) A minimum and maximum aggregate dollar amount that may  
3 be financed per property;

4 (D)(i) A method for setting requests from privately owned  
5 residential property owners for financing in priority order if the requests  
6 appear likely to exceed the authorization amount of the loans under the  
7 program.

8 (ii) Priority shall be given to those requests from  
9 privately owned residential property owners who meet established income or  
10 assessed property value eligibility requirements;

11 (E) Identification of a local official authorized to enter  
12 into loan contracts on behalf of the district; and

13 (F) A draft contract specifying the terms and conditions  
14 proposed by the district.

15 (c)(1) The district may combine the loan payment required by the loan  
16 contract with the billing for the real property tax assessment for the  
17 property where the renewable energy project or the energy-efficient  
18 improvement or design is installed.

19 (2) The district may establish the order in which a loan payment  
20 will be applied to the different charges.

21 (d) The district shall offer private lending institutions the  
22 opportunity to participate in a program established under this section.

23 (e)(1)(A) In order to secure a loan under a program authorized under  
24 this section, the district may place a lien equal in value to the loan  
25 against the property where the renewable energy project or the energy-  
26 efficient improvement or design is being installed.

27 (B) The lien shall attach to the property when it is filed  
28 in the recorder's office for record.

29 (2)(A) The priority of the lien created under this chapter is  
30 determined based on the date of filing of the lien.

31 (B) The lien is not entitled to any special or senior  
32 priority.

33 (C) A district shall discharge the lien created under  
34 this chapter upon full payment of the lien.

35 (3) If the property is sold, the lien will stay attached to the  
36 property and the loan created under this chapter will be owed by the new

1 property owner.

2 (4) The district may bundle or package the loans for transfer to  
3 private lenders in a manner that would allow the liens to remain in full  
4 force to secure the loans.

5 (f)(1) Before the enactment of an ordinance under this section, a  
6 public hearing shall be held at which interested persons may object to or  
7 inquire about the proposed property assessed energy-efficient home  
8 improvement program or any of its particulars.

9 (2) The public hearing shall be advertised one (1) time a week  
10 for two (2) successive weeks in a newspaper of general circulation in the  
11 district.

12  
13 8-15-112. Program guidelines.

14 The board of directors, together with any third-party administrator it  
15 may select, shall determine:

16 (1) The guidelines of the property assessed energy-efficient  
17 home improvement program, including without limitation the applicable  
18 underwriting standards for the participants in the program;

19 (2) The qualifications of the vendors performing such  
20 installations;

21 (3) The mechanisms by which the district will remit the received  
22 special assessment payments and any costs reimbursement;

23 (4) The priority of property tax payments and the special  
24 assessments; and

25 (5) Other matters necessary to implement and administer the  
26 program.

27  
28 8-15-113. Payment by special assessments.

29 The credit and taxing power of the State of Arkansas will not be  
30 pledged for the debt evidenced by the bonds, which will be payable solely  
31 from the revenues received from the special assessments on the participants'  
32 properties.

33  
34 8-15-114. Bonds.

35 (a) A property assessed energy-efficient home improvement district  
36 may:

