

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1592 By: Leewright of the Senate
3 and
4 Fetgatter of the House
5

6 [Oklahoma Energy Independence Act - applicability of
7 act - fees and hire third-party services - counties -
8 effective date]
9

10 AMENDMENT NO. 1. Restore the title

11 Passed the House of Representatives the 11th day of May, 2020.
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Presiding Officer of the House of
15 Representatives

16 Passed the Senate the ____ day of _____, 2020.
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Presiding Officer of the Senate
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ENGROSSED SENATE
BILL NO. 1592

By: Leewright of the Senate

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Fetgatter of the House

[Oklahoma Energy Independence Act - applicability of
act - fees and hire third-party services - counties -
effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 19 O.S. 2011, Section 460.5, as amended by Section 1, Chapter 359, O.S.L. 2019 (19 O.S. Supp. 2019, Section 460.5), is amended to read as follows:

Section 460.5. A. The Oklahoma Energy Independence Act shall apply ~~only to property zoned as commercial property~~ all properties, except single-family residential properties, on which property taxes are to be paid and on which the owners of the property are current in the payment of the property taxes, if applicable. For the purpose of this act, property that is not classified as single-family residential property shall be classified as commercial property. The Oklahoma Energy Independence Act shall not apply to any property zoned as single-family residential property. Counties are authorized to establish commercial Property Assessed Clean

(Floor Amendments Only) Date and Time Filed: _____

Untimely

Amendment Cycle Extended

Secondary Amendment

1 Energy (PACE) programs by resolution, without the prior
2 establishment of a County Energy District Authority, to facilitate
3 financing loans between commercial qualifying property owners and
4 private lenders capital providers. Counties that approve PACE
5 programs are authorized to enter into assessment contracts with
6 property owners and private capital providers in which:

7 1. The property owner shall be deemed to consent to the levying
8 and collection of annual PACE assessments to repay the loan;

9 2. The private capital provider shall collect the PACE
10 assessments directly or through a servicer; and

11 3. The private capital provider shall enforce the lien for an
12 unpaid PACE assessment, pursuant to the provisions of this section.

13 Counties may collect fees for costs incurred in the administration
14 of the PACE program in an amount to be fixed by the applicable board
15 of county commissioners and deposited with the county treasurer as
16 required by law. A county may also retain third-party
17 administrators for the administration of the PACE program.

18 B. The repayment of any loan made pursuant to the Oklahoma
19 Energy Independence Act shall be ~~upon such terms as may be agreed to~~
20 ~~by a property owner and a private lender~~ through annual assessments
21 levied by the county and collected under terms agreed to by the
22 property owner and the private capital provider.

23 1. In the event of a mortgage on the property where a lien is
24 recorded pursuant to the Oklahoma Energy Independence Act, the

1 property owner shall obtain written consent from any mortgage holder
2 or holders prior to the issuance of any loan pursuant to the
3 Oklahoma Energy Independence Act.

4 2. Such loans issued in accordance with the Oklahoma Energy
5 Independence Act between a ~~commercial~~ property owner and a private
6 ~~lender~~ capital provider shall not accelerate upon default of a
7 mortgage.

8 C. ~~Any loan made~~ Assessments levied to repay a loan made
9 pursuant to the Oklahoma Energy Independence Act shall constitute a
10 lien on the property which is the subject of the loan only upon the
11 recording of an assessment contract provided by the county on the
12 property in the office of the county clerk. Any lien imposed
13 pursuant to the Oklahoma Energy Independence Act shall run with the
14 property and have the same priority and status as a lien for unpaid
15 ad valorem property taxes and shall not be extinguished by virtue of
16 a sale by the county for delinquent property taxes or other special
17 assessments. The ~~exclusive~~ method of enforcing a lien for failure
18 to ~~repay~~ pay an assessment related to any loan made pursuant to the
19 Oklahoma Energy Independence Act shall be by the ~~local government~~
20 private capital provider in the same manner and with the same
21 priority as the enforcement ~~of a lien for unpaid ad valorem property~~
22 ~~taxes~~ by the holder of any bond or coupon related to a lien for
23 unpaid assessments, as provided by law and pursuant to this
24 subsection. If any assessment levied to repay a loan made pursuant

1 to the Oklahoma Energy Independence Act remains unpaid for six (6)
2 months after payment is due, the private capital provider may file
3 an action in the district court in which the property is located to
4 foreclose the lien of the assessment, statutory delinquent interest,
5 as provided in this subsection, and reasonable legal fees. Any
6 action filed pursuant to this subsection shall not accelerate
7 repayment of the unpaid balance of a loan made pursuant to the
8 Oklahoma Energy Independence Act. Unpaid assessments levied to
9 repay a loan made pursuant to this act shall accrue statutory
10 delinquent interest at the same rate as a late payment penalty for
11 delinquent ad valorem taxes. Judgment in an action to enforce the
12 lien shall order the property to be sold in the manner and form as
13 foreclosure of mortgages on real estate, with appraisement. The
14 sale shall be subject to existing taxes and special assessments, as
15 well as assessments levied to repay a loan made pursuant to the
16 Oklahoma Energy Independence Act.

17 1. Notwithstanding any other provision of law, the county
18 treasurer, in a sale for delinquent ad valorem property taxes or
19 other special assessments, may collect in that sale assessments
20 levied to repay a loan made pursuant to this act, inclusive of
21 penalties and fees, that are currently due or in arrears, or both,
22 and remit the assessment amounts received to the private capital
23 provider.

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1 2. Notwithstanding any other provision of law, if the county
2 takes title to property subject to a loan made pursuant to the
3 Oklahoma Energy Independence Act, the county, and not the county
4 resale property fund, shall be responsible for all expenses
5 associated with the preservation of the property and the related
6 assessments that are due will continue to accrue, inclusive of any
7 interest or penalties, and shall not be extinguished.

8 D. Only appliances or improvements that are permanently affixed
9 to the property shall be eligible for financing pursuant to the
10 Oklahoma Energy Independence Act. Improvements shall be related to
11 energy efficiency, energy sources, water conservation or building
12 resiliency and are available for new construction or improvements on
13 existing buildings that are ~~commercial~~ qualifying properties.
14 County PACE programs shall establish which improvements qualify for
15 financing.

16 SECTION 2. This act shall become effective November 1, 2020.

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1 Passed the Senate the 12th day of March, 2020.

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4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2020.

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9 Presiding Officer of the House
10 of Representatives