

CHAPTER 294
HB 532 – FINAL VERSION

29Jan2014... 2301h
05/15/14 1763s
05/15/14 1849s
4Jun2014... 1970CofC
4Jun2014... 2010EBA
4Jun2014... 2031EBA

2014 SESSION

13-0269
09/10

HOUSE BILL **532**

AN ACT relative to energy efficiency and clean energy districts.

SPONSORS: Rep. Pastor, Graf 12; Rep. Rappaport, Coos 1; Rep. J. Mann, Ches 2;
Sen. Fuller Clark, Dist 21; Sen. Odell, Dist 8

COMMITTEE: Municipal and County Government

AMENDED ANALYSIS

This bill makes changes in the laws governing energy efficiency and clean energy districts.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to energy efficiency and clean energy districts.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 294:1 Definitions. Amend RSA 53-F:1 to read as follows:

2 53-F:1 Definitions. In this chapter:

3 I. “Clean energy improvement” means the installation of any system on the property for
4 producing electricity for, or meeting heating, cooling, or water heating needs of the property, using
5 either renewable energy sources, combined heat and power systems, or district energy systems using
6 wood biomass (but not construction and demolition waste), **waste heat**, or natural gas. Such
7 improvements include but are not limited to solar photovoltaic, solar thermal, wood biomass, wind,
8 and geothermal systems, provided that, to be covered by an agreement with a property owner and
9 financed under this chapter, such improvements shall be qualifying improvements under RSA 53-
10 F:6.

11 II. “District” means an energy efficiency and clean energy district established under this
12 chapter.

13 III. “Energy conservation and efficiency improvements” means measures to reduce
14 consumption, through conservation or more efficient use, of electricity, fuel oil, natural gas, propane,
15 or other forms of energy on **or off** the property, including but not limited to air sealing, installation
16 of insulation, installation of heating, cooling, or ventilation systems meeting or exceeding ENERGY
17 STAR standards, building modifications to increase the use of daylighting, replacement of windows
18 with units meeting or exceeding ENERGY STAR standards, installation of energy controls or energy
19 recovery systems, and installation of efficient lighting equipment, provided that, to be covered by an
20 agreement with a property owner and financed under this chapter, all such improvements must be
21 permanently affixed to a building or facility that is part of the property and shall be qualifying
22 improvements under RSA 53-F:6.

23 IV. “Municipality” means any city, town, or village district, **or the designated**
24 **representative of the city, town, or village district.**

25 V. “Property owner” means the owner of record of real property within the boundaries of the

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1 district, whether zoned or used for residential, commercial, industrial, or other uses, **excluding**
2 **residential property containing less than 5 dwelling units.**

3 VI. “Special assessment” means a special assessment within the meaning and subject to the
4 provisions of RSA 80:19, except as provided in RSA 53-F:8.

5 294:2 Authority. Amend RSA 53-F:3, I to read as follows:

6 I. Incur debt for the purpose of providing financing to property owners within the district,
7 including ~~through~~ **but not limited to the** issuance of municipal revenue bonds, Qualified Energy
8 Conservation Bonds or Clean Renewable Energy Bonds, **or funds from private individuals or**
9 **institutions.** Any such debt may be secured by a pledge of revenues, moneys, rights, and proceeds
10 under this chapter, and except as may be otherwise provided in this chapter, shall be subject to the
11 provisions of RSA 33 and RSA 33-B.

12 294:3 Agreements With Property Owners. Amend RSA 53-F:4, V to read as follows:

13 V. Any personal **or business** financial information provided to a municipality or an entity
14 administering a program under this chapter on behalf of a municipality by a participating property
15 owner or potential participating property owner shall be confidential and shall not be disclosed to
16 any person except as required to administer the program and only on a need-to-know basis.

17 294:4 Eligibility of Property Owners. Amend RSA 53-F:5, II to read as follows:

18 II. Prior to entering into an agreement with a property owner, the municipality shall
19 determine that all property taxes and any other assessments levied with property taxes are current
20 and have been current for 3 years or the property owner’s period of ownership, whichever is less;
21 that there are no involuntary liens such as mechanic’s liens on the property; and that no notices of
22 default or other evidence of property-based debt delinquency have been recorded during the past 3
23 years or the property owner’s period of ownership, whichever is less~~[- and that the property owner is~~
24 ~~current on all mortgage debt on the property]~~. The municipality shall adopt additional criteria,
25 appropriate to property-assessed clean energy finance programs, for determining the
26 creditworthiness of property owners. **The municipality shall determine whether any**
27 **mortgages or liens of record exist in the registry of deeds on the property and whether they**
28 **are current in the obligations. If any such mortgage or lien exists, the municipality shall**
29 **notify each such mortgagee or lienholder in writing that it is considering making a loan**
30 **secured by a municipal lien pursuant to the provisions of this chapter and request the**
31 **consent of each such mortgagee or lienholder to the making of such loan. Each mortgagee**
32 **or lienholder shall have the right to determine in its sole discretion whether or not it will**
33 **consent to such loan. If all of the mortgagees or lienholders of record elect to consent, the**
34 **consents shall be in writing and recorded with the municipal lien in the registry of deeds.**
35 **The legal effect of having all consents shall be that the municipal lien shall not be**
36 **extinguished in the event of a foreclosure or sheriff’s sale by the mortgagee or lienholder as**

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1 *provided in RSA 53-F:8. If all of the mortgagees or lienholders of record do not consent, but*
2 *the municipality determines that it will proceed in making such loan, then in the event of a*
3 *foreclosure or sheriff's sale by a mortgagee or lienholder, the municipal lien shall be*
4 *extinguished. Special assessment liens held by municipalities plus existing mortgages*
5 *shall not exceed \$1,000,000 or 35 percent of the assessed value of the building and property,*
6 *whichever is greater.*

7 294:5 Financing Terms. RSA 53-F:7 is repealed and reenacted to read as follows:

8 53-F:7 Financing Terms.

9 I. Improvements shall be financed pursuant to an agreement under this chapter only on
10 terms such that the total energy cost savings realized by the property owner and the property
11 owner's successors during the useful lives of the improvements are expected to exceed the total cost
12 to the property owner and the property owner's successors of the improvements.

13 II. A municipality that provides financing to participating property owners shall establish a
14 loss reserve account and maintain funds in such account at a level that meets generally accepted
15 standards for property-assessed clean energy finance programs. Funds in a loss reserve account
16 shall not be provided from general municipal revenues.

17 III. A property owner who escrows property taxes with the holder of a mortgage on a
18 property subject to an agreement under this chapter may be required by the holder to escrow
19 amounts due on the assessment under this chapter and the mortgage holder shall remit such
20 amounts to the municipality in the manner that property taxes are escrowed and remitted.

21 IV. The maximum term of finance provided pursuant to an agreement under this chapter
22 shall be 30 years.

23 294:6 Priority; Collection and Enforcement. Amend RSA 53-F:8 to read as follows:

24 53-F:8 Priority; Collection and Enforcement. Collection of assessments under this chapter shall
25 be made by the tax collector or other official responsible for property tax or municipal service charge
26 collection. A municipality shall commit bills for amounts due on the assessments, including interest
27 and any charges, to the tax collector with a warrant signed by the appropriate municipal officials
28 requiring the tax collector to collect them. Each year bills for amounts due on the assessments shall
29 coincide with bills for property taxes or municipal service charges. Each assessment on the property
30 of a participating property owner shall create a lien on the property pursuant to RSA 80:19, except
31 that the lien shall be junior to existing liens of record at the time the bill for the assessment is
32 mailed to the participating property owner. Enforcement powers for nonpayment shall be those
33 provided under RSA 80 relative to property tax collection, including RSA 80:19; provided, however, a
34 tax sale of the property shall not extinguish prior liens of record. At the time of enforcement, only
35 the past due balances of the assessment under this chapter, including all interest, charges, and
36 penalties, shall be due for payment. Notwithstanding any other provision of law, in the event of a

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1 transfer of property ownership through foreclosure or a sheriff's sale by a senior ~~lienor, the lien of~~
2 ~~the municipality shall be extinguished] mortgagee or lienholder which has consented to the~~
3 *making of a loan by a municipality under the provisions of this chapter, the lien of the*
4 *municipality shall not be extinguished, and the net proceeds of the sale, if any, after*
5 *payment of all prior obligations to mortgagees and lienholders, costs and expenses of*
6 *foreclosure or sheriff's sale, shall be first applied to the payment of any past due balances*
7 *of the municipal loan and then any excess shall be applied against the remaining balance*
8 *of the loan. If a senior mortgagee or lienholder has not given its consent to the loan, a*
9 *foreclosure or sheriff's sale by the mortgagee or lienholder shall extinguish all junior*
10 *mortgages and liens.* Payment of a past due balance from the loss reserve established under this
11 chapter shall not relieve a participating property owner from the obligation to pay that amount.

12 294:7 Effective Date. This act shall take effect 60 days after its passage.

13
14 Approved: August 1, 2014

15 Effective Date: September 30, 2014