Legislation Details (With Text)

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File created:	5/24/2011	**In control:**	FINANCE & PERSONNEL COMMITTEE
On agenda:		**Final action:**	7/6/2011
Effective date:			
Title:	A substitute ordinance relating to the non-residential owner-arranged clean energy financing.		
Sponsors:	THE CHAIR		
Indexes:	ENERGY CONSERVATION		
Attachments:	1. Clean Energy Financing Program Manual, 2. Hearing Notice List, 3. Notice Published on 7-22-11		

Date	Ver.	Action By	Action	Result	Tally
5/24/2011	0	COMMON COUNCIL	ASSIGNED TO		
6/6/2011	0	FINANCE & PERSONNEL COMMITTEE	HEARING NOTICES SENT		
6/9/2011	0	FINANCE & PERSONNEL COMMITTEE	HELD TO CALL OF THE CHAIR	Pass	5:0
6/24/2011	0	FINANCE & PERSONNEL COMMITTEE	HEARING NOTICES SENT		
6/24/2011	0	FINANCE & PERSONNEL COMMITTEE	HEARING NOTICES SENT		
6/24/2011	0	FINANCE & PERSONNEL COMMITTEE	HEARING NOTICES SENT		
6/29/2011	0	FINANCE & PERSONNEL COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	5:0
7/6/2011	1	COMMON COUNCIL	PASSED	Pass	15:0
7/11/2011	1	MAYOR	SIGNED		
7/22/2011	1	CITY CLERK	PUBLISHED		

110139

SUBSTITUTE 1

THE CHAIR

A substitute ordinance relating to the non-residential owner-arranged clean energy financing.

304-26.5 rc

This ordinance facilitates owner-arranged financing with a third-party lender for commercial property owners making renovations to improve the energy efficiency of

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property leased to tenants who pay utilities and taxes on the property, by effectively guaranteeing principal and interest payments for one year.

No city funds will be used to satisfy this guarantee.

Under this ordinance, not more than 12 delinquent loan repayments will be added to the property tax bill as special charges, and the city will make all reasonable and customary efforts to collect these special charges once they are added to the tax roll.

The city will remit full payment to the lender for all delinquent loan repayments added to the tax roll as special charges when they are added, and will simultaneously be reimbursed for this outlay by drawing upon a reserve fund maintained by the city with monies provided by a grant from the U.S. department of energy.

The ordinance provides a mechanism to ensure there will always be sufficient grant cash reserves to reimburse the city if special charges added to the tax roll are not paid.

All payments received for these special charges, after the city has been reimbursed by the reserve fund, will be deposited to replenish the reserve fund, and proceeds resulting from these special charges, if the property is foreclosed upon, will be remitted, less any interest charged or fees assessed, to the reserve fund.

In addition, this ordinance repeals code provisions relating to the city’s energy efficiency improvement loan program ordinance - a program in which the City made loans directly to residential property owners to fund energy efficiency improvements.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 2. Section 304-26.5 of the code is repealed and recreated to read:

304-26.5. CLEAN ENERGY FINANCING.
1. PURPOSE. The city finds that renovations of privately-owned commercial properties made to improve energy efficiency, save water and use renewable energy, increase property values, stimulate the local economic activity, provide environmental benefits and promote the general welfare of city residents. The purpose of this section is to facilitate loans arranged by commercial property owners to make energy-efficient renovations by treating principal and interest repayments as special charges eligible for inclusion on the tax bill for these properties.
2. STATE COMPLIANCE. Not more than 12 delinquent monthly loan repayments for financing obtained under this section shall be considered special charges eligible for levy onto the property tax bill according to s. 66.0627, Wis. Stats., as amended,.
3. LOAN APPROVAL. a. Commercial property owners applying for clean energy financing shall comply with the loan application process as set forth in the program manual prepared by the department of administration.
b. The department of administration shall approve the financing arrangements between

eligible commercial property owners and lenders. Each loan shall be amortized in equal monthly repayments of principal and interest over the term of the loan. The lender shall be solely responsible for collecting all loan payments and the full principal of the loan except for not more than 12 delinquent monthly loan repayments.

c. The department of administration shall execute a written 3-party agreement among the borrower, the lender and the city, defining delinquent monthly loan repayments, how and when the lender shall notify the department of administration of delinquent loan repayments, and informing agreement participants that a maximum of 12 delinquent monthly loan repayments shall be treated as liens against the property and be added to property's tax bill as special charges, except when the borrower is under bankruptcy protection. This written agreement shall comply with all federal, state and local lending and disclosure requirements and this section. Financing agreements may include fees to the city to administer the program and shall become effective when filed with the Milwaukee county registrar of deeds to provide notice to the public.

4. DELINQUENT REPAYMENTS ADDED TO TAX BILLS. Upon notification from the lender, or the lender's representative, the department of administration, following the city's customary practices for unpaid special charges, shall cause delinquent monthly loan repayments under this section to be added to the tax bill of the property as a special charge, and shall provide a written list of tax-key numbers to the office of the treasurer for tax bills with these special charges. The department of administration shall ensure no special charges under this section are levied against properties under bankruptcy protection. The office of the treasurer shall follow its customary practices to collect these special charges once placed on the tax roll, including assessing fees and charging interest.

5. REIMBURSEMENT OF SPECIAL CHARGES. After these special charges are levied onto the tax roll, and after the city remits cash payment to the lender, or the lender's representative, the office of the comptroller shall reimburse the fund drawn upon to make this cash payment by appropriating funds from the better building grant fund. The department of administration shall maintain records of properties with special charges under this section, monitor these properties and note in its record when these special charges are paid, and if unpaid, when the city forecloses on the property. When the department of administration's records indicate a special charge under this sections is paid, the department of administration shall seek written confirmation of payment from the office of the treasurer, and upon receipt of this written confirmation, shall notify the office of the comptroller, and the office of the comptroller shall reimburse the better building grant fund by appropriating funds from the city account typically drawn upon to settle special charges.

6. BETTER BUILDING GRANT FUND. The office of the comptroller shall maintain a better building grant fund, or successor fund, for this section to be funded by grant monies secured by the department of administration. The department of administration shall keep a record of all outstanding financing arrangements and 3-party agreements under this section, and shall not approve clean energy financing agreements under this section unless the aggregate total of 12 monthly loan repayments described in sub. 3 for all outstanding financing agreements, reduced by any special charges added to the tax roll for delinquent loan repayments on financing agreements that are still considered outstanding, does not exceed the cash balance of the better building grant fund.

7. PROPERTY FORECLOSURE. The department of administration shall work with the office of the comptroller and all other appropriate city departments to ensure that any foreclosure proceeds accruing to the city resulting from special charges under this section, less any interest charged or fees assessed, be remitted to the better building grant fund.

APPROVED AS TO FORM

_____
Legislative Reference Bureau
Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

_____
Office of the City Attorney
Date: _____

Department of Administration-Office of Environmental Sustainably

LRB #128550-2
Aaron Cadle
June 28, 2011