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Nauman
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SENATE CS FOR CS FOR HOUSE BILL NO. 374()
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES WOOL, Parish, Kawasaki, Gara, Kito, Josephson, Spohnholz

A BILL

FOR AN ACT ENTITLED

"An Act relating to on-bill financing by a utility for certain energy efficiency and conservation improvements."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 42.05 is amended by adding new sections to read:

Article 8A. On-Bill Financing of Energy Efficiency and Conservation Improvements.

Sec. 42.05.750. On-bill financing of energy efficiency and conservation improvements; authorization and eligibility. (a) A utility may enter into a written on-bill financing agreement with a customer to finance the purchase and installation of a renewable energy system, energy efficiency device, energy storage device, or energy conservation system in a residence or building that is eligible under (b) of this section by assessing a meter conservation charge on the customer's utility bill.

(b) A residence or building is eligible for on-bill financing under (a) of this section if, at the time the financing agreement is entered into, the residence or building

(1) is occupied or in use; and

(2) is not under initial construction.

(c) An on-bill financing agreement must clearly state the interest rate to be charged for financing the purchase and installation of the renewable energy system, energy efficiency device, energy storage device, or energy conservation system. The interest shall be set at a rate that is fixed over the term of the agreement.

(d) An on-bill financing agreement is not valid under this section unless the utility has offered the customer in writing the option of purchasing a repair and maintenance agreement for the renewable energy system, energy efficiency device, energy storage device, or energy conservation system before the purchase and installation of the system or device. A repair and maintenance agreement under this section must

(1) be for a term of not less than the duration of the on-bill financing agreement;

(2) benefit the customer and any subsequent owner of the residence or building from whom the utility may recover the costs under the on-bill financing agreement under AS 42.05.753;

(3) for a fixed periodic fee, maintain the original function and performance of the renewable energy system, energy efficiency device, energy storage device, or energy conservation system.

(e) A customer may decline to purchase a repair and maintenance agreement described under (d) of this section only if the customer enters into an agreement in writing with the utility to pay the balance of the on-bill financing agreement before transferring ownership of the residence or building. At the time of transfer of ownership, the subsequent owner may waive the requirement that the customer pay the balance of the on-bill financing agreement by notifying the utility in writing that the subsequent owner assumes the balance owed on the on-bill financing agreement.

(f) The balance owed on an on-bill financing agreement may be paid in full at any time without penalty.

(g) Nothing in this section requires a utility to enter into an on-bill financing agreement with a specific customer or for a specific device or system.

Sec. 42.05.751. Meter conservation charge. (a) A meter conservation charge

assessed under AS 42.05.750(a) may only be used to recover the

(1) actual costs incurred by the utility for the purchase, installation, and financing of the renewable energy system, energy efficiency device, energy storage device, or energy conservation system, including the administrative costs of the on-bill financing agreement and the cost of filing notice under AS 42.05.752;

(2) repayment of costs incurred by a third party that has performed a function under AS 42.05.755; and

(3) periodic fee for a repair and maintenance agreement under AS 42.05.750(d).

(b) A utility may assess a meter conservation charge on

(1) the customer who entered into the on-bill financing agreement; or

(2) a subsequent owner of the residence or building under AS 42.05.753.

(c) A meter conservation charge must be shown as a separate line item on a customer's bill.

(d) A utility may treat a customer's failure to pay a meter conservation charge as a failure to pay the utility account, and the utility may disconnect the utility service for nonpayment of the meter conservation charge, if the utility complies with AS 42.05.381(c), AS 42.20.040, and any other applicable law. A utility may not remove a renewable energy system, energy efficiency device, energy storage device, or energy conservation system for failure to pay a meter conservation charge or when disconnecting service for failure to pay a meter conservation charge.

(e) Money collected by a utility as a meter conservation charge is not revenue subject to state taxes under AS 43.20.

(f) The billing and collection of a meter conservation charge does not subject a utility to the laws that regulate financial institutions, escrow depositories, or collection agencies. A utility is not responsible for a lending, underwriting, or credit determination for an on-bill financing agreement.

Sec. 42.05.752. Notice of on-bill financing agreement and meter conservation charge. (a) A utility that enters into an on-bill financing agreement shall file notice of the on-bill financing agreement and related meter conservation charge in

the recording district in which the residence or building subject to the agreement is located. Notice under this subsection does not constitute a lien on the property, but is intended to give an owner of the residence or building notice that the residence or building is subject to a meter conservation charge. Notice is considered given if it is sufficient to disclose to prospective owners the existence of the meter conservation charge, including the balance owed under the on-bill financing agreement, whether the system or device is covered by a repair and maintenance agreement described in AS 42.05.750(d), and the length of time the meter conservation charge is expected to remain in effect.

(b) A utility shall file notice of satisfaction when an on-bill financing agreement is paid in full. Notice of satisfaction shall be filed in the recording district in which the residence or building subject to the agreement is located.

Sec. 42.05.753. Transferability of on-bill financing balances to subsequent owners. A utility that enters into an on-bill financing agreement may recover the balance of the costs allowed under the agreement from a subsequent owner of the residence or building in which the renewable energy system, energy efficiency device, energy storage device, or energy conservation system was installed if the utility gives notice under AS 42.05.752 that the residence or building is subject to the agreement.

Sec. 42.05.754. Rental property. A utility may recover the costs under an on-bill financing agreement for a rental property by assessing a meter conservation charge on a utility bill only if the landlord is responsible for the entire utility bill, including the meter conservation charge.

Sec. 42.05.755. Third parties; contracting and liability. (a) A utility may contract with a third party to perform functions permitted under AS 42.05.750 - 42.05.754, including financing the purchase and installation costs for a renewable energy system, energy efficiency device, energy storage device, or energy conservation system. The third party shall comply with AS 42.05.750 - 42.05.754.

(b) If the installation, operation, or maintenance of a renewable energy system, energy efficiency device, energy storage device, or energy conservation system is performed by a third party,

(1) the utility is not liable for the installation, operation, or

1 maintenance of the renewable energy system, energy efficiency device, energy storage
2 device, or energy conservation system;

3 (2) the utility may not provide, nor is there implied, a warranty of
4 merchantability or fitness of the renewable energy system, energy efficiency device,
5 energy storage device, or energy conservation system; and

6 (3) no action may be brought against the utility related to the failure of
7 the renewable energy system, energy efficiency device, energy storage device, or
8 energy conservation system.

9 (c) When a utility contracts with a third party to perform administrative or
10 financing functions,

11 (1) the third party is not liable for the installation, operation, or
12 maintenance of the renewable energy system, energy efficiency device, energy storage
13 device, or energy conservation system;

14 (2) the third party may not provide, nor is there implied, a warranty of
15 merchantability or fitness of the renewable energy system, energy efficiency device,
16 energy storage device, or energy conservation system; and

17 (3) no action may be brought against the third party related to the
18 failure of the renewable energy system, energy efficiency device, energy storage
19 device, or energy conservation system.

20 (d) The provisions of (b) and (c) of this section may not be construed to impair
21 the rights and remedies of a utility customer against any other parties to a transaction
22 involving the purchase or installation of a renewable energy system, energy efficiency
23 device, energy storage device, or energy conservation system.

24 **Sec. 42.05.756. Definitions.** In AS 42.05.750 - 42.05.756,

25 (1) "energy conservation system" includes a fuel-switching system; in
26 this paragraph, "fuel-switching" means the replacement of existing fuel consuming
27 equipment using a particular fuel with equipment that uses another fuel that does not
28 increase greenhouse gas emissions and that

29 (A) is more fuel efficient; or

30 (B) results in lower fuel expenses;

31 (2) "meter conservation charge" means a charge placed on a customer's

1 utility bill by a utility to recover costs under an on-bill financing agreement;

2 (3) "on-bill financing agreement" means an agreement entered into
3 under AS 42.05.750.