

HOUSE BILL NO. 374

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES WOOL, Parish, Kawasaki, Gara, Kito, Josephson, Spohnholz, Tuck, Thompson

Introduced: 2/21/18

Referred: House Special Committee on Energy, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to on-bill financing by an electric or gas distribution utility for certain**
2 **energy efficiency and conservation improvements."**

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

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

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

6 **Sec. 42.05.750. On-bill financing of energy efficiency and conservation**
7 **improvements; authorization and eligibility.** (a) An electric or gas distribution
8 utility may enter into a written on-bill financing agreement with a customer or
9 landlord of a customer to finance the purchase and installation of a renewable energy
10 system, energy efficiency device, or energy conservation system in a residence or
11 building that is eligible under (b) of this section. The agreement may provide for the
12 utility to recover the purchase, installation, and financing costs for the renewable
13 energy system, energy efficiency device, or energy conservation system by assessing a
14 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 the residence or building is occupied for a residential, business, commercial, or governmental purpose at the time the financing agreement is entered into. A residence or building under initial construction is not eligible for on-bill financing under (a) of this section.

(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, or energy conservation system. The interest shall be set at a rate that is fixed over the term of the agreement and that does not exceed two percentage points above the prime rate, as defined in AS 44.88.599, at the time the agreement is entered into.

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

Sec. 42.05.751. Meter conservation charge. (a) To recover its costs under an on-bill financing agreement for a residence or building, an electric or gas distribution utility may assess a meter conservation charge on

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

(2) a subsequent purchaser of the residence or building under AS 42.05.753; or

(3) a tenant or subsequent tenant of the residence or building under AS 42.05.754.

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

(c) A utility may treat a customer's failure to pay a meter conservation charge as a failure to pay the electricity or gas account, and the utility may disconnect electric or gas service for nonpayment of the meter conservation charge, if the utility complies with AS 42.05.261, 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, or energy conservation system for failure to pay a meter conservation charge or when disconnecting service for failure to pay a meter conservation charge.

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

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

7 **Sec. 42.05.752. Notice of on-bill financing agreement and meter**
8 **conservation charge.** (a) An electric or gas distribution utility that enters into an on-
9 bill financing agreement shall, at the utility's expense, file notice of the on-bill
10 financing agreement and related meter conservation charge in the recording district in
11 which the residence or building subject to the agreement is located. Notice under this
12 subsection does not constitute a lien on the property, but is intended to give a
13 purchaser of the residence or building notice that the residence or building is subject to
14 a meter conservation charge. Notice is considered given if it is sufficient to disclose to
15 prospective purchasers

16 (1) the existence of the meter conservation charge, including the
17 balance owed under the on-bill financing agreement and the length of time the meter
18 conservation charge is expected to remain in effect; and

19 (2) a purchaser's obligation to notify a tenant under AS 42.05.754 if
20 the purchaser leases the property.

21 (b) A utility shall, at the utility's expense, file notice of satisfaction when an
22 on-bill financing agreement is paid in full. Notice of satisfaction shall be filed in the
23 recording district in which the residence or building subject to the agreement is
24 located.

25 **Sec. 42.05.753. Transferability of on-bill financing balances to subsequent**
26 **purchasers.** An electric or gas distribution utility that enters into an on-bill financing
27 agreement may recover the balance of the costs allowed under the agreement from a
28 subsequent purchaser of the residence or building in which the renewable energy
29 system, energy efficiency device, or energy conservation system was installed if the
30 utility gives notice under AS 42.05.752 that the residence or building is subject to the
31 agreement.

1 **Sec. 42.05.754. Rental property.** (a) An electric or gas distribution utility may
 2 recover the costs under an on-bill financing agreement for a rental property by
 3 assessing a meter conservation charge on the tenant's utility bill only if

4 (1) the utility, landlord, and tenant agree to the charge in an agreement
 5 that provides notice to the landlord of the requirements in (b) of this section; or

6 (2) the tenant occupies a rental unit for which a meter conservation
 7 charge was previously assessed on a former tenant's utility bill under (1) of this
 8 subsection to recover the costs under an on-bill financing agreement.

9 (b) Before entering into a rental agreement with a tenant, a landlord shall give
 10 the tenant written notice of a meter conservation charge that the tenant could be
 11 subject to under (a)(2) of this section. If the landlord fails to give the required notice,
 12 the tenant may, for not longer than one-half of the term of the rental agreement, deduct
 13 the meter conservation charges paid by the tenant from rent paid.

14 (c) A utility may enter into an on-bill financing agreement with the tenant of a
 15 rental property only if the landlord consents to the agreement.

16 **Sec. 42.05.755. Third parties; contracting and liability.** (a) An electric or
 17 gas distribution utility may contract with a third party to perform functions permitted
 18 under AS 42.05.750 - 42.05.754, including financing the purchase and installation
 19 costs for a renewable energy system, energy efficiency device, or energy conservation
 20 system. A third party must comply with AS 42.05.750 - 42.05.754.

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

23 (1) the utility is not liable for the installation, operation, or
 24 maintenance of the renewable energy system, energy efficiency device, or energy
 25 conservation system;

26 (2) the utility may not provide, nor is there implied, a warranty of
 27 merchantability or fitness of the renewable energy system, energy efficiency device, or
 28 energy conservation system; and

29 (3) no action may be brought against the utility related to the failure of
 30 the renewable energy system, energy efficiency device, or energy conservation
 31 system.

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

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

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

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

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

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

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

(2) "meter conservation charge" means a charge placed on a customer's utility bill by which an electric or gas distribution utility recovers the costs of the purchase, installation, and financing of a renewable energy system, energy efficiency device, or energy conservation system;

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

* **Sec. 2.** AS 45.50.481(a) is amended to read:

(a) Nothing in AS 45.50.471 - 45.50.561 applies to

(1) an act or transaction regulated by a statute or regulation administered by the state, including a state regulatory board or commission, unless the statute or regulation does not prohibit the practices declared unlawful in

1 AS 45.50.471;

2 (2) an act done by the publisher, owner, agent, or employee of a
3 newspaper, periodical, or radio or television station in the publication or dissemination
4 of an advertisement, when the owner, agent, or employee did not have knowledge of
5 the false, misleading, or deceptive character of the advertisement or did not have a
6 direct financial interest in the sale or distribution of the advertised product or service;

7 (3) an act or transaction regulated under AS 21.36 or AS 06.05 or a
8 regulation adopted under the authority of those chapters;

9 (4) an on-bill financing agreement entered into under
10 AS 42.05.750.