

First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0545.01 Jason Gelender

HOUSE BILL 11-1132

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HOUSE SPONSORSHIP

Lee,

SENATE SPONSORSHIP

(None),

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House Committees  
Transportation

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING ON-BILL FINANCING OF ENERGY EFFICIENCY  
102 IMPROVEMENTS TO RESIDENTIAL REAL PROPERTY.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries.>)*

Current law does not allow a public utility to finance the up-front costs of making one or more energy efficiency improvements to real property and to have the property owner repay the financing over time through direct charges on the owner's utility bills. **Section 2** of the bill allows such on-bill financing in certain circumstances and specifically:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

- ! Authorizes a public utility that sells natural gas or electricity to retail customers and a customer of the utility who owns residential real property to enter into an on-bill financing arrangement whereby the utility finances and completes one or more energy efficiency improvements to the residential real property and imposes a meter conservation charge on the customer's subsequent utility bills to recoup the costs, including financing charges, of completing the improvements;
- ! Requires a public utility to perform, or cause to be performed, an energy audit that includes an estimate of the costs and expected savings from all proposed energy efficiency improvements and that recommends appropriately sized energy efficiency improvements before entering into an on-bill financing arrangement with the owner of the audited residential real property;
- ! Specifies limitations and requirements for an on-bill financing arrangement;
- ! Allows a public utility to disconnect electricity or natural gas service in accordance with existing law if a customer fails to pay a meter conservation charge;
- ! Requires a public utility that enters into an on-bill financing arrangement to record with the appropriate county clerk and recorder a meter conservation charge notice that discloses the existence and amount of the charge and the length of time for which the charge is expected to remain in effect;
- ! Requires the public utilities commission to determine the extent to which clean energy improvements financed by any on-bill financing arrangements made by a public utility have created energy savings and to allow the public utility to count the energy savings toward compliance with any mandated demand-side management targets or goals; and
- ! States that an on-bill financing arrangement does not preclude a public utility from offering its customers other types of financing for energy efficiency improvements as otherwise permitted by law.

**Section 1** of the bill makes legislative findings and declarations.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 40-3.2-101, Colorado Revised Statutes, is amended

3 to read:

1           **40-3.2-101. Legislative declaration.** (1) The general assembly  
2 hereby finds, determines, and declares that cost-effective natural gas and  
3 electricity demand-side management programs will save money for  
4 consumers and utilities and protect Colorado's environment. The general  
5 assembly further finds, determines, and declares that providing funding  
6 mechanisms to encourage Colorado's public utilities to reduce emissions  
7 ~~or~~ OF air pollutants and to increase energy efficiency are matters of  
8 statewide concern and that the public interest is served by providing such  
9 funding mechanisms. Such efforts will result in an improvement in the  
10 quality of life and health of Colorado citizens and an increase in the  
11 attractiveness of Colorado as a place to live and conduct business.

12           (2) THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND  
13 DECLARES THAT ALLOWING THE FINANCING OF DEMAND-SIDE  
14 MANAGEMENT PROGRAMS THROUGH ON-BILL FINANCING OF ENERGY  
15 EFFICIENCY IMPROVEMENTS TO RESIDENTIAL REAL PROPERTY WILL  
16 PROVIDE GREATER FLEXIBILITY AND CHOICE FOR PUBLIC UTILITY  
17 CUSTOMERS IN MEETING THE GOALS OF THIS ARTICLE.

18           **SECTION 2.** Part 1 of article 3.2 of title 40, Colorado Revised  
19 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
20 read:

21           **40-3.2-106. Financing of energy efficiency improvements -**  
22 **on-bill financing agreements - definitions.** (1) AS USED IN THIS  
23 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

24           (a) "CUSTOMER" MEANS AN OWNER OF RESIDENTIAL REAL  
25 PROPERTY WHO RECEIVES ELECTRICITY OR NATURAL GAS AS A RETAIL  
26 CUSTOMER.

27           (b) (I) "ENERGY EFFICIENCY IMPROVEMENT" MEANS ONE OR MORE

1 INSTALLATIONS ON, OR MODIFICATIONS TO, EXISTING RESIDENTIAL REAL  
2 PROPERTY THAT ARE DESIGNED TO REDUCE THE ENERGY CONSUMPTION OF  
3 THE PROPERTY AND THAT ARE NOT REQUIRED BY A BUILDING CODE AS  
4 PART OF NEW CONSTRUCTION OR A MAJOR RENOVATION. THE TERM  
5 INCLUDES, BUT IS NOT LIMITED TO:

6 (A) INSULATION IN WALLS, ROOFS, FLOORS, AND FOUNDATIONS  
7 AND IN HEATING AND COOLING DISTRIBUTION SYSTEMS;

8 (B) STORM WINDOWS AND DOORS, MULTIGLAZED WINDOWS AND  
9 DOORS, HEAT-ABSORBING OR HEAT-REFLECTIVE GLAZED AND COATED  
10 WINDOW AND DOOR SYSTEMS, ADDITIONAL GLAZING, REDUCTIONS IN  
11 GLASS AREA, AND OTHER WINDOW AND DOOR SYSTEM MODIFICATIONS  
12 THAT REDUCE ENERGY CONSUMPTION;

13 (C) AUTOMATIC ENERGY CONTROL SYSTEMS;

14 (D) HEATING, VENTILATING, OR AIR CONDITIONING AND  
15 DISTRIBUTION SYSTEM MODIFICATIONS OR REPLACEMENTS IN A BUILDING;

16 (E) CAULKING AND WEATHERSTRIPPING;

17 (F) REPLACEMENT OR MODIFICATION OF LIGHTING FIXTURES TO  
18 INCREASE THE ENERGY EFFICIENCY OF THE SYSTEM WITHOUT INCREASING  
19 THE OVERALL ILLUMINATION OF RESIDENTIAL REAL PROPERTY UNLESS THE  
20 INCREASE IN ILLUMINATION IS NECESSARY TO CONFORM TO THE  
21 APPLICABLE BUILDING CODE FOR THE PROPOSED LIGHTING SYSTEM;

22 (G) ENERGY RECOVERY SYSTEMS;

23 (H) DAYLIGHTING SYSTEMS; AND

24 (I) ANY OTHER MODIFICATION, INSTALLATION, OR REMODELING  
25 APPROVED BY A PUBLIC UTILITY AS A UTILITY COST-SAVINGS MEASURE  
26 ELIGIBLE FOR AN ON-BILL FINANCING ARRANGEMENT.

27 (II) "ENERGY EFFICIENCY IMPROVEMENT" DOES NOT INCLUDE:

1           (A) ANY IMPROVEMENT MADE TO NEWLY-CONSTRUCTED  
2 RESIDENTIAL REAL PROPERTY OR RESIDENTIAL REAL PROPERTY THAT IS  
3 UNDER INITIAL CONSTRUCTION; OR

4           (B) THE REPLACEMENT OF NATURAL GAS APPLIANCES OR  
5 EQUIPMENT WITH ELECTRIC APPLIANCES OR EQUIPMENT, OR VICE VERSA,  
6 UNLESS THE SAME PUBLIC UTILITY PROVIDES BOTH NATURAL GAS AND  
7 ELECTRIC SERVICE TO THE CUSTOMER SEEKING TO HAVE THE APPLIANCES  
8 OR EQUIPMENT REPLACED.

9           (c) "METER CONSERVATION CHARGE" MEANS A CHARGE PLACED  
10 ON A CUSTOMER'S ACCOUNT BY WHICH A PUBLIC UTILITY MAY RECOVER  
11 THE COSTS, INCLUDING FINANCING COSTS, OF COMPLETING ONE OR MORE  
12 ENERGY EFFICIENCY IMPROVEMENTS TO THE CUSTOMER'S RESIDENTIAL  
13 REAL PROPERTY.

14           (d) "ON-BILL FINANCING ARRANGEMENT" MEANS AN AGREEMENT  
15 BETWEEN A CUSTOMER AND A PUBLIC UTILITY THAT SELLS NATURAL GAS  
16 OR ELECTRICITY TO CUSTOMERS THAT PROVIDES FOR THE COSTS,  
17 INCLUDING FINANCING COSTS, OF ONE OR MORE ENERGY EFFICIENCY  
18 IMPROVEMENTS TO BE PAID BY OR THROUGH THE UTILITY AND REPAID BY  
19 THE CUSTOMER TO OR THROUGH THE UTILITY BY MEANS OF A METER  
20 CONSERVATION CHARGE.

21           (e) "RESIDENTIAL REAL PROPERTY" MEANS AN IMPROVEMENT TO  
22 REAL PROPERTY THAT IS DESIGNED FOR USE PREDOMINANTLY AS A PLACE  
23 OF RESIDENCY. THE TERM ALSO INCLUDES ANY OTHER IMPROVEMENT OR  
24 CONNECTED LAND THAT IS BILLED WITH THE IMPROVEMENT FOR PURPOSES  
25 OF AD VALOREM PROPERTY TAXATION.

26           (2) A PUBLIC UTILITY THAT SELLS NATURAL GAS OR ELECTRICITY  
27 TO RETAIL CUSTOMERS MAY ENTER INTO AN ON-BILL FINANCING

1 ARRANGEMENT WITH A CUSTOMER FOR ONE OR MORE ENERGY EFFICIENCY  
2 IMPROVEMENTS TO RESIDENTIAL REAL PROPERTY OWNED OR LEASED BY  
3 THE CUSTOMER AND SERVED BY ONE OR MORE UTILITY METERS ON THE  
4 CUSTOMER'S ACCOUNT, SUBJECT TO THE FOLLOWING REQUIREMENTS AND  
5 LIMITATIONS:

6 (a) BEFORE ENTERING INTO THE ON-BILL FINANCING  
7 ARRANGEMENT, THE PUBLIC UTILITY SHALL PERFORM, OR CAUSE TO BE  
8 PERFORMED, AN ENERGY AUDIT OF THE RESIDENTIAL REAL PROPERTY. THE  
9 ENERGY AUDIT SHALL INCLUDE AN ESTIMATE OF THE COSTS OF, AND  
10 EXPECTED SAVINGS FROM, ALL PROPOSED ENERGY EFFICIENCY  
11 IMPROVEMENTS AND SHALL RECOMMEND ENERGY EFFICIENCY  
12 IMPROVEMENTS THAT ARE APPROPRIATELY SIZED FOR THE SPECIFIC USE  
13 CONTEMPLATED. THE UTILITY SHALL PROVIDE A COPY OF THE ENERGY  
14 AUDIT TO THE CUSTOMER.

15 (b) THE ON-BILL FINANCING ARRANGEMENT SHALL IDENTIFY EACH  
16 ENERGY EFFICIENCY IMPROVEMENT TO BE COMPLETED AND THE  
17 CONTRACTOR RESPONSIBLE FOR ITS COMPLETION AND SHALL SPECIFY THAT  
18 THE CUSTOMER SHALL ONLY BE RESPONSIBLE FOR THE PAYMENT OF THE  
19 METER CONSERVATION CHARGE UPON SATISFACTORY COMPLETION OF ALL  
20 ENERGY EFFICIENCY IMPROVEMENTS BY THE RESPONSIBLE CONTRACTOR.

21 (c) THE ON-BILL FINANCING ARRANGEMENT SHALL SPECIFY THAT  
22 THE PUBLIC UTILITY SHALL BE ENTITLED TO RECOVER ITS COSTS,  
23 INCLUDING FINANCING COSTS, OF COMPLETING THE ENERGY EFFICIENCY  
24 IMPROVEMENTS SOLELY THROUGH THE METER CONSERVATION CHARGE,  
25 WHICH:

26 (I) SHALL BE STATED AS A SEPARATE LINE ITEM ON THE  
27 CUSTOMER'S UTILITY BILL;

1 (II) SHALL BE IN AN ANNUAL AMOUNT THAT DOES NOT EXCEED THE  
2 AMOUNT OF ANNUAL SAVINGS THAT WILL RESULT FROM THE COMPLETION  
3 OF THE ENERGY EFFICIENCY IMPROVEMENTS, AS ESTIMATED BY THE  
4 ENERGY AUDIT PERFORMED PURSUANT TO PARAGRAPH (a) OF THIS  
5 SUBSECTION (2);

6 (III) SHALL BE IN A TOTAL AMOUNT THAT DOES NOT EXCEED THE  
7 COSTS, INCLUDING FINANCING COSTS, OF COMPLETING THE ENERGY  
8 EFFICIENCY IMPROVEMENTS; AND

9 (IV) SHALL HAVE A FIXED RATE OF INTEREST OVER THE TERM OF  
10 THE ON-BILL FINANCING ARRANGEMENT THAT IS CLEARLY SET FORTH IN  
11 THE ARRANGEMENT AND THAT IS NO MORE THAN FOUR PERCENTAGE  
12 POINTS ABOVE THE YIELD FOR ONE-YEAR TREASURY BILLS AS PUBLISHED  
13 BY THE FEDERAL RESERVE AT THE TIME THE ARRANGEMENT IS ENTERED  
14 INTO.

15 (3) A PUBLIC UTILITY MAY TREAT FAILURE TO PAY A METER  
16 CONSERVATION CHARGE AS A FAILURE TO PAY THE ACCOUNT, AND MAY  
17 DISCONNECT ELECTRICITY OR NATURAL GAS SERVICE FOR NONPAYMENT  
18 OF THE CHARGE IN ACCORDANCE WITH ALL APPLICABLE LAWS, RULES, AND  
19 ORDINANCES RELATING TO DISCONNECTION OF UTILITY SERVICE.

20 (4) A PUBLIC UTILITY THAT ENTERS INTO AN ON-BILL FINANCING  
21 ARRANGEMENT SHALL RECORD A METER CONSERVATION CHARGE NOTICE  
22 IN THE OFFICE OF THE COUNTY CLERK AND RECORDER FOR THE COUNTY IN  
23 WHICH THE PROPERTY IS LOCATED. THE NOTICE SHALL NOT CONSTITUTE  
24 A LIEN ON THE PROPERTY, BUT SHALL DISCLOSE TO ANY PROSPECTIVE  
25 PURCHASER OF THE PROPERTY OR OTHER PERSON WHO SEARCHES THE  
26 PROPERTY RECORDS OF THE COUNTY:

27 (a) THAT THE CHARGE EXISTS AND THAT BILLS FOR UTILITY

1 SERVICE TO THE PROPERTY WILL INCLUDE THE CHARGE;

2 (b) THE AMOUNT OF THE CHARGE; AND

3 (c) THE LENGTH OF TIME FOR WHICH THE CHARGE IS EXPECTED TO  
4 REMAIN IN EFFECT.

5 (5) FOR ANY PUBLIC UTILITY THAT SELLS NATURAL GAS OR  
6 ELECTRICITY TO RETAIL CUSTOMERS FOR WHICH THE PUBLIC UTILITIES  
7 COMMISSION HAS DEVELOPED EXPENDITURE AND NATURAL GAS SAVINGS  
8 TARGETS PURSUANT TO SECTION 40-3.2-103, OR ESTABLISHED ENERGY  
9 SAVING AND PEAK DEMAND REDUCTION GOALS PURSUANT TO SECTION  
10 40-3.2-104, THE COMMISSION SHALL DETERMINE THE EXTENT TO WHICH  
11 ENERGY EFFICIENCY IMPROVEMENTS FINANCED BY ANY ON-BILL  
12 FINANCING ARRANGEMENTS MADE BY THE PUBLIC UTILITY HAVE CREATED  
13 ENERGY SAVINGS AND SHALL ALLOW THE PUBLIC UTILITY TO COUNT THE  
14 ENERGY SAVINGS TOWARD COMPLIANCE WITH ITS EXPENDITURE AND  
15 NATURAL GAS SAVINGS TARGETS OR ENERGY SAVINGS AND PEAK DEMAND  
16 REDUCTION GOALS, AS APPLICABLE, USING ANY METHOD DEEMED  
17 APPROPRIATE BY THE COMMISSION.

18 (6) THIS SECTION SHALL NOT BE CONSTRUED TO PROHIBIT A PUBLIC  
19 UTILITY FROM OFFERING ITS CUSTOMERS OTHER TYPES OF FINANCING FOR  
20 ENERGY EFFICIENCY IMPROVEMENTS AS OTHERWISE PERMITTED BY LAW.

21 **SECTION 3. Safety clause.** The general assembly hereby finds,  
22 determines, and declares that this act is necessary for the immediate  
23 preservation of the public peace, health, and safety.