

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN ASSEMBLY JUNE 17, 2010

AMENDED IN SENATE APRIL 22, 2010

**SENATE BILL**

**No. 1340**

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**Introduced by Senator Kehoe**

*(Coauthors: Assembly Members Bradford, Coto, Davis, and Solorio)*

February 19, 2010

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An act to amend Section 44272 of the Health and Safety Code, to amend Sections 26100, 26104, 26121, and 26123 of the Public Resources Code, and to amend Sections 5898.12, 5898.14, 5898.20, 5898.21, and 5898.22 of the Streets and Highways Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1340, as amended, Kehoe. Energy: ~~alternative fuels and vehicle technologies.~~

**Existing**

(1) *Existing* law establishes the Alternative and Renewable Fuel and Vehicle Technology Program, administered by the State Energy Resources Conservation and Development Commission (Energy Commission), to provide to specified entities, upon appropriation by the Legislature, grants, loans, loan guarantees, revolving loans, or other appropriate measures, for the development and deployment of innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change goals. Existing law specifies that only certain projects or programs are eligible for funding.

This bill would, additionally, specify projects eligible for funding under the program to include a cost-effective program to provide funding

for homeowners who purchase an electric vehicle to offset costs associated with modifying electrical sources to include a residential plug-in electric vehicle charging station.

~~Existing~~

(2) *Existing* law authorizes a public agency and a property owner to enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently affixed on real property.

Existing law requires the California Alternative Energy and Advanced Transportation Financing Authority to establish a Property Assessed Clean Energy (PACE) Reserve program to assist local jurisdictions in financing the installation of distributed generation renewable energy sources or energy or water efficiency improvements meeting specified requirements that are permanently affixed on real property through the use of a voluntary contractual assessment.

This bill would expand the use of the voluntary contractual assessment to finance electric vehicle charging infrastructure affixed on real property and would *declare the intent of the Legislature to limit participation in this assessment program when it would result in an inability of the property owner to pay property taxes or in total taxes and assessments exceeding 5% of the property value. The bill would* expand the PACE Reserve program to assist local jurisdictions in financing the installation of electric vehicle charging infrastructure.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 44272 of the Health and Safety Code is  
2 amended to read:  
3 44272. (a) The Alternative and Renewable Fuel and Vehicle  
4 Technology Program is hereby created. The program shall be  
5 administered by the commission. The commission shall implement  
6 the program by regulation pursuant to the requirements of Chapter  
7 3.5 (commencing with Section 11340) of Division 3 of Title 2 of  
8 the Government Code. The program shall provide, upon  
9 appropriation by the Legislature, competitive grants, revolving  
10 loans, loan guarantees, loans, or other appropriate funding  
11 measures, to public agencies, vehicle and technology entities,  
12 businesses and projects, public-private partnerships, workforce

1 training partnerships and collaboratives, fleet owners, consumers,  
2 recreational boaters, and academic institutions to develop and  
3 deploy innovative technologies that transform California’s fuel  
4 and vehicle types to help attain the state’s climate change policies.  
5 The emphasis of this program shall be to develop and deploy  
6 technology and alternative and renewable fuels in the marketplace,  
7 without adopting any one preferred fuel or technology.

8 (b) A project funded by the commission shall be approved at a  
9 noticed public hearing of the commission and shall be consistent  
10 with the priorities established by the investment plan adopted  
11 pursuant to Section 44272.5.

12 (c) The commission shall provide preferences to those projects  
13 that maximize the goals of the Alternative and Renewable Fuel  
14 and Vehicle Technology Program, based on the following criteria,  
15 as applicable:

16 (1) The project’s ability to provide a measurable transition from  
17 the nearly exclusive use of petroleum fuels to a diverse portfolio  
18 of viable alternative fuels that meet petroleum reduction and  
19 alternative fuel use goals.

20 (2) The project’s consistency with existing and future state  
21 climate change policy and low-carbon fuel standards.

22 (3) The project’s ability to reduce criteria air pollutants and air  
23 toxics and reduce or avoid multimedia environmental impacts.

24 (4) The project’s ability to decrease, on a life-cycle basis, the  
25 discharge of water pollutants or any other substances known to  
26 damage human health or the environment, in comparison to the  
27 production and use of California Phase 2 Reformulated Gasoline  
28 or diesel fuel produced and sold pursuant to California diesel fuel  
29 regulations set forth in Article 2 (commencing with Section 2280)  
30 of Chapter 5 of Division 3 of Title 13 of the California Code of  
31 Regulations.

32 (5) The project does not adversely impact the sustainability of  
33 the state’s natural resources, especially state and federal lands.

34 (6) The project provides nonstate matching funds.

35 (7) The project provides economic benefits for California by  
36 promoting California-based technology firms, jobs, and businesses.

37 (8) The project uses existing or proposed fueling infrastructure  
38 to maximize the outcome of the project.

39 (9) The project’s ability to reduce on a life-cycle assessment  
40 greenhouse gas emissions by at least 10 percent, and higher

1 percentages in the future, from current reformulated gasoline and  
2 diesel fuel standards established by the state board.

3 (10) The project's use of alternative fuel blends of at least 20  
4 percent, and higher blend ratios in the future, with a preference  
5 for projects with higher blends.

6 (11) The project drives new technology advancement for  
7 vehicles, vessels, engines, and other equipment, and promotes the  
8 deployment of that technology in the marketplace.

9 (d) Only the following shall be eligible for funding:

10 (1) Alternative and renewable fuel projects to develop and  
11 improve alternative and renewable low-carbon fuels, including  
12 electricity, ethanol, dimethyl ether, renewable diesel, natural gas,  
13 hydrogen, and biomethane, among others, and their feedstocks  
14 that have high potential for long-term or short-term  
15 commercialization, including projects that lead to sustainable  
16 feedstocks.

17 (2) Demonstration and deployment projects that optimize  
18 alternative and renewable fuels for existing and developing engine  
19 technologies.

20 (3) Projects to produce alternative and renewable low-carbon  
21 fuels in California.

22 (4) Projects to decrease the overall impact of an alternative and  
23 renewable fuel's life cycle carbon footprint and increase  
24 sustainability.

25 (5) Alternative and renewable fuel infrastructure, fueling  
26 stations, and equipment. The preference in paragraph (10) of  
27 subdivision (c) shall not apply to renewable diesel or biodiesel  
28 infrastructure, fueling stations, and equipment used solely for  
29 renewable diesel or biodiesel fuel.

30 (6) Projects to develop and improve light-, medium-, and  
31 heavy-duty vehicle technologies that provide for better fuel  
32 efficiency and lower greenhouse gas emissions, alternative fuel  
33 usage and storage, or emission reductions, including propulsion  
34 systems, advanced internal combustion engines with a 40 percent  
35 or better efficiency level over the current market standard,  
36 light-weight materials, energy storage, control systems and system  
37 integration, physical measurement and metering systems and  
38 software, development of design standards and testing and  
39 certification protocols, battery recycling and reuse, engine and fuel  
40 optimization electronic and electrified components, hybrid

1 technology, plug-in hybrid technology, battery electric vehicle  
2 technology, fuel cell technology, and conversions of hybrid  
3 technology to plug-in technology through the installation of safety  
4 certified supplemental battery modules.

5 (7) Programs and projects that accelerate the commercialization  
6 of vehicles and alternative and renewable fuels including buy-down  
7 programs through near-market and market-path deployments,  
8 advanced technology warranty or replacement insurance,  
9 development of market niches, supply-chain development, and  
10 research related to the pedestrian safety impacts of vehicle  
11 technologies and alternative and renewable fuels.

12 (8) Programs and projects to retrofit medium- and heavy-duty  
13 on-road and nonroad vehicle fleets with technologies that create  
14 higher fuel efficiencies, including alternative and renewable fuel  
15 vehicles and technologies, idle management technology, and  
16 aerodynamic retrofits that decrease fuel consumption.

17 (9) Infrastructure projects that promote alternative and renewable  
18 fuel infrastructure development connected with existing fleets,  
19 public transit, and existing transportation corridors, including  
20 physical measurement or metering equipment and truck stop  
21 electrification.

22 (10) Workforce training programs related to alternative and  
23 renewable fuel feedstock production and extraction, renewable  
24 fuel production, distribution, transport, and storage,  
25 high-performance and low-emission vehicle technology and high  
26 tower electronics, automotive computer systems, mass transit fleet  
27 conversion, servicing, and maintenance, and other sectors or  
28 occupations related to the purposes of this chapter.

29 (11) Block grants administered by not-for-profit technology  
30 entities for multiple projects, education and program promotion  
31 within California, and development of alternative and renewable  
32 fuel and vehicle technology centers.

33 (12) Life cycle and multimedia analyses, sustainability and  
34 environmental impact evaluations, and market, financial, and  
35 technology assessments performed by a state agency to determine  
36 the impacts of increasing the use of low-carbon transportation fuels  
37 and technologies, and to assist in the preparation of the investment  
38 plan and program implementation.

39 (13) A program to provide funding for homeowners who  
40 purchase a plug-in electric vehicle to offset costs associated with

1 modifying electrical sources to include a residential plug-in electric  
2 vehicle charging station. In establishing this program, the  
3 commission shall consider funding criteria to maximize the public  
4 benefit of the program.

5 (e) The commission may make a single source or sole source  
6 award pursuant to this section for applied research. The same  
7 requirements set forth in Section 25620.5 of the Public Resources  
8 Code shall apply to awards made on a single source basis or a sole  
9 source basis. This subdivision does not authorize the commission  
10 to make a single source or sole source award for a project or  
11 activity other than for applied research.

12 (f) Until January 1, 2012, the commission may contract with  
13 the Treasurer to expend funds through programs implemented by  
14 the Treasurer, if that expenditure is consistent with all of the  
15 requirements of this chapter.

16 SEC. 2. Section 26100 of the Public Resources Code is  
17 amended to read:

18 26100. (a) The Legislature finds and declares all of the  
19 following:

20 (1) Property Assessed Clean Energy (PACE) financing has been  
21 pioneered by municipalities and counties in California as a way  
22 for home and small business owners to finance voluntary energy  
23 and water efficiency and clean energy improvements.

24 (2) PACE financing was pioneered in the City of Berkeley,  
25 while the City and County of San Francisco, City of San Diego,  
26 City of Palm Desert, Sonoma County, and the California Statewide  
27 Communities Development Authority (CSCDA) have already  
28 initiated or are working to launch additional programs.

29 (3) Seventeen other states, including Colorado and New York,  
30 have also enacted enabling PACE legislation.

31 (4) The public subsidy provided by the PACE financing is  
32 justified by the benefits received in job creation, lower energy  
33 demand, and spurring new clean industries that will grow the  
34 economy.

35 (b) It is the intent of the Legislature to assist local jurisdictions  
36 in financing the installation of distributed generation renewable  
37 energy sources, electric vehicle charging infrastructure, or energy  
38 or water efficiency improvements that are permanently fixed to  
39 real property through the use of voluntary contractual assessments.

1 (c) It is not the intent of the Legislature to create any debt,  
2 liability, or obligation on the part of the state in assisting local  
3 jurisdictions pursuant to this division.

4 SEC. 3. Section 26104 of the Public Resources Code is  
5 amended to read:

6 26104. “Property Assessed Clean Energy bond” or “PACE  
7 bond” means a bond that is secured by a voluntary contractual  
8 assessment on property authorized pursuant to paragraph (2) of  
9 subdivision (a) of Section 5898.20 of the Streets and Highways  
10 Code or by a voluntary contractual assessment or a voluntary  
11 special tax on property to finance the installation of distributed  
12 generation renewable energy sources, electric vehicle charging  
13 infrastructure, or energy or water efficiency improvements that is  
14 levied pursuant to a chartered city’s constitutional authority under  
15 Section 5 of Article XI of the California Constitution.

16 SEC. 4. Section 26121 of the Public Resources Code is  
17 amended to read:

18 26121. To qualify for assistance pursuant to this division, the  
19 PACE program shall require all of the following:

20 (a) The interest rate on the PACE bond does not exceed a  
21 percentage as determined by the authority to be appropriate.

22 (b) Minimum legal loan structure and credit underwriting criteria  
23 as determined by the authority are met.

24 (c) Proceeds of the PACE bonds are used to finance qualified  
25 energy and water efficiency, electric vehicle charging  
26 infrastructure, and clean energy improvements.

27 (d) The improvement financed is for a residential project of  
28 three units or fewer, or a commercial project that costs less than  
29 twenty-five thousand dollars (\$25,000) in total.

30 SEC. 5. Section 26123 of the Public Resources Code is  
31 amended to read:

32 26123. (a) In evaluating eligibility, the authority shall consider  
33 whether the applicant’s PACE program includes the following  
34 conditions:

35 (1) Loan recipients are legal owners of underlying property.

36 (2) Loan recipients are current on mortgage and property tax  
37 payments.

38 (3) Loan recipients are not in default or in bankruptcy  
39 proceedings.

1 (4) Loans are for less than 10 percent of the value of the  
2 property.

3 (5) The property is within the geographical boundaries of the  
4 PACE program.

5 (6) The program offers financing for energy efficiency  
6 improvements or electric vehicle charging infrastructure.

7 (7) Improvements financed by the program follow applicable  
8 standards of energy efficiency retrofit work, including any  
9 guidelines adopted by the State Resources Conservation and  
10 Development Commission.

11 (b) In evaluating an application, the authority shall consider all  
12 of the following factors:

13 (1) The use by the PACE program of best practices, adopted by  
14 the authority, to qualify eligible properties for participation in  
15 underwriting the PACE program.

16 (2) The cost efficiency of the applicant’s PACE program,  
17 including bond issuance.

18 (3) The projected number of jobs created by the PACE program.

19 (4) The applicant’s PACE program requirements for quality  
20 assurance and consumer protection as related to achieving  
21 efficiency and clean energy production.

22 (5) The mechanisms by which savings produced by this program  
23 are passed on to the property owners.

24 (6) Any other factors deemed appropriate by the authority.

25 SEC. 6. Section 5898.12 of the Streets and Highways Code is  
26 amended to read:

27 5898.12. (a) It is the intent of the Legislature that this chapter  
28 should be used to finance public improvements to lots or parcels  
29 that are developed and for which the costs and time delays involved  
30 in creating an assessment district pursuant to other provisions of  
31 this division or any other law would be prohibitively large relative  
32 to the cost of the public improvements to be financed.

33 (b) It is also the intent of the Legislature that this chapter should  
34 be used to finance the installation of distributed generation  
35 renewable energy sources, electric vehicle charging infrastructure,  
36 or energy efficiency improvements that are permanently fixed to  
37 residential, commercial, industrial, agricultural, or other real  
38 property.

39 (c) It is also the intent of the Legislature to address chronic  
40 water needs throughout California by permitting voluntary



1 individual efforts to improve water efficiency. The Legislature  
2 further intends that this chapter should be used to finance the  
3 installation of water efficiency improvements that are permanently  
4 fixed to residential, commercial, industrial, agricultural, or other  
5 real property, including, but not limited to, recycled water  
6 connections, synthetic turf, cisterns for stormwater recovery, and  
7 permeable pavement.

8 (d) It is also the intent of the Legislature that a public agency  
9 in the process of establishing an assessment program, to the extent  
10 feasible, use a good faith effort to provide advance notice of the  
11 proposed program to water and electric service providers in the  
12 relevant service area, as set forth in Section 5898.24, to allow the  
13 most efficient coordination and collaboration between the public  
14 agency and water and electric service providers.

15 (e) This chapter shall not be used to finance facilities for parcels  
16 that are undergoing development.

17 (f) *It is the intent of the Legislature that participation in an*  
18 *assessment program shall not have the effect of making the*  
19 *participant unable to pay the property taxes and assessments on*  
20 *the property, therefore, a property owner shall not be eligible to*  
21 *participate in any program established pursuant to this chapter if*  
22 *participation would result in the total amount of any annual*  
23 *property taxes and assessments exceeding 5 percent of the*  
24 *property's appraised market value.*

25 ~~(f)~~

26 (g) This chapter shall not be used to finance the purchase or  
27 installation of appliances that are not permanently fixed to  
28 residential, commercial, industrial, agricultural, or other real  
29 property.

30 ~~(g)~~

31 (h) Assessments may be levied pursuant to this chapter only  
32 with the free and willing consent of the owner of each lot or parcel  
33 on which an assessment is levied at the time the assessment is  
34 levied.

35 SEC. 7. Section 5898.14 of the Streets and Highways Code is  
36 amended to read:

37 5898.14. (a) The Legislature finds all of the following:

38 (1) Energy and water conservation efforts, including the  
39 promotion of energy efficiency improvements to residential,

1 commercial, industrial, agricultural, or other real property are  
2 necessary to address the issue of global climate change.

3 (2) Electric vehicle charging infrastructure is a necessary  
4 component to transitioning to increase electric vehicle usage.  
5 Electric vehicles and their electric charging infrastructure also  
6 address the issue of global climate change.

7 (3) The upfront cost of making residential, commercial,  
8 industrial, agricultural, or other real property more energy and  
9 water efficient prevents many property owners from making those  
10 improvements. To make those improvements more affordable and  
11 to promote the installation of those improvements, it is necessary  
12 to authorize an alternative procedure for authorizing assessments  
13 to finance the cost of energy and water efficiency improvements.

14 (b) The Legislature declares that a public purpose will be served  
15 by a voluntary contractual assessment program that provides the  
16 legislative body of any public agency with the authority to finance  
17 the installation of distributed generation renewable energy sources,  
18 electric vehicle charging infrastructure, and energy or water  
19 efficiency improvements that are permanently fixed to residential,  
20 commercial, industrial, agricultural, or other real property.

21 SEC. 8. Section 5898.20 of the Streets and Highways Code is  
22 amended to read:

23 5898.20. (a) (1) The legislative body of any public agency  
24 may determine that it would be convenient and advantageous to  
25 designate an area within the public agency, which may encompass  
26 the entire public agency or a lesser portion, within which authorized  
27 public agency officials and property owners may enter into  
28 voluntary contractual assessments for public improvements and  
29 to make financing arrangements pursuant to this chapter.

30 (2) The legislative body of any public agency may also  
31 determine that it would be convenient, advantageous, and in the  
32 public interest to designate an area within the public agency, which  
33 may encompass the entire public agency or a lesser portion, within  
34 which authorized public agency officials and property owners may  
35 enter into voluntary contractual assessments to finance the  
36 installation of distributed generation renewable energy sources,  
37 electric vehicle charging infrastructure, or energy or water  
38 efficiency improvements that are permanently fixed to real property  
39 pursuant to this chapter.

1 (b) The legislative body shall make these determinations by  
2 adopting a resolution indicating its intention to do so. The  
3 resolution of intention shall include a statement that the public  
4 agency proposes to make voluntary contractual assessment  
5 financing available to property owners, shall identify the kinds of  
6 public works, distributed generation renewable energy sources,  
7 electric vehicle charging infrastructure, or energy or water  
8 efficiency improvements that may be financed, shall describe the  
9 boundaries of the area within which voluntary contractual  
10 assessments may be entered into, and shall briefly describe the  
11 proposed arrangements for financing the program, including a  
12 brief description of criteria for determining the creditworthiness  
13 of a property owner. The resolution of intention shall state that it  
14 is in the public interest to finance the installation of distributed  
15 generation renewable energy sources, electric vehicle charging  
16 infrastructure, or energy or water efficiency improvements, or any  
17 combination of these sources, infrastructure, and improvements,  
18 pursuant to paragraph (2) of subdivision (a), if applicable. The  
19 resolution shall state that a public hearing should be held at which  
20 interested persons may object to or inquire about the proposed  
21 program or any of its particulars, and shall state the time and place  
22 of the hearing. The resolution shall direct an appropriate public  
23 agency official to prepare a report pursuant to Section 5898.22  
24 and to enter into consultations with the county auditor's office or  
25 county controller's office in order to reach agreement on what  
26 additional fees, if any, will be charged to the city or county for  
27 incorporating the proposed voluntary contractual assessments into  
28 the assessments of the general taxes of the city or county on real  
29 property.

30 (c) As used in this chapter, each of the following terms shall  
31 have the following meaning:

32 (1) "Efficiency improvements" means permanent improvements  
33 fixed to residential, commercial, industrial, agricultural, or other  
34 real property.

35 (2) "Legislative body" means the governing body of a public  
36 agency.

37 (3) (A) For the purpose of financing the installation of water  
38 efficiency improvements, "public agency" means a city, county,  
39 city and county, municipal utility district, community services  
40 district, sanitary district, sanitation district, or water district, as

1 defined in Section 20200 of the Water Code. The definition of  
2 “city” in Section 5005 shall not apply to this subparagraph.

3 (B) For the purpose of financing the installation of distributed  
4 generation renewable energy sources, *electric vehicle charging*  
5 *infrastructure*, or energy efficiency improvements, “public agency”  
6 means a county, city, city and county, or a municipal utility district,  
7 an irrigation district, or public utility district that owns and operates  
8 an electric distribution system. The definition of “city” in Section  
9 5005 shall not apply to this subparagraph.

10 (C) For the purpose of financing the public improvements,  
11 “public agency” means a city as defined in Section 5005.

12 SEC. 9. Section 5898.21 of the Streets and Highways Code is  
13 amended to read:

14 5898.21. Notwithstanding any other provision of this chapter,  
15 upon the written consent of an authorized public agency official,  
16 the proposed arrangements for financing the program pertaining  
17 to the installation of distributed generation renewable energy  
18 sources, electric vehicle charging infrastructure, or energy or water  
19 efficiency improvements that are permanently fixed to real property  
20 may authorize the property owner to purchase directly the related  
21 equipment and materials for the installation of distributed  
22 generation renewable energy sources, electric vehicle charging  
23 infrastructure, or energy or water efficiency improvements and to  
24 contract directly for the installation of distributed generation  
25 renewable energy sources, electric vehicle charging infrastructure,  
26 or energy or water efficiency improvements that are permanently  
27 fixed to the property owner’s residential, commercial, industrial,  
28 agricultural, or other real property.

29 SEC. 10. Section 5898.22 of the Streets and Highways Code  
30 is amended to read:

31 5898.22. The report shall contain all of the following:

32 (a) A map showing the boundaries of the territory within which  
33 voluntary contractual assessments are proposed to be offered.

34 (b) A draft contract specifying the terms and conditions that  
35 would be agreed to by a property owner within the voluntary  
36 contractual assessment area and the public agency.

37 (c) A statement of public agency policies concerning voluntary  
38 contractual assessments including all of the following:

39 (1) Identification of types of facilities, distributed generation  
40 renewable energy sources, electric vehicle charging infrastructure,

1 or energy or water efficiency improvements that may be financed  
2 through the use of contractual assessments.

3 (2) Identification of a public agency official authorized to enter  
4 into voluntary contractual assessments on behalf of the public  
5 agency.

6 (3) A maximum aggregate dollar amount of voluntary  
7 contractual assessments.

8 (4) A method for setting requests from property owners for  
9 financing through voluntary contractual assessments in priority  
10 order in the event that requests appear likely to exceed the  
11 authorization amount.

12 (5) *A brief description of criteria for determining the*  
13 *creditworthiness of a property owner, and of the safeguards that*  
14 *will be used to ensure that the total annual property tax and*  
15 *assessments on the property will not exceed 5 percent of the*  
16 *property's appraised market value.*

17 (d) A plan for raising a capital amount required to pay for work  
18 performed pursuant to voluntary contractual assessments. The plan  
19 may include amounts to be advanced by the public agency through  
20 funds available to it from any source. The plan may include the  
21 sale of a bond or bonds or other financing relationship pursuant  
22 to Section 5898.28. The plan shall include a statement of or method  
23 for determining the interest rate and time period during which  
24 contracting property owners would pay any assessment. The plan  
25 shall provide for any reserve fund or funds. The plan shall provide  
26 for the apportionment of all or any portion of the costs incidental  
27 to financing, administration, and collection of the voluntary  
28 contractual assessment program among the consenting property  
29 owners and the public agency.

30 (e) A report on the results of the consultations with the county  
31 auditor's office or county controller's office concerning the  
32 additional fees, if any, that will be charged to the city or county  
33 for incorporating the proposed voluntary contractual assessments  
34 into the assessments of the general taxes of the city or county on  
35 real property, and a plan for financing the payment of those fees.

O