

AMENDED IN SENATE JUNE 22, 2016

AMENDED IN SENATE JUNE 9, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 450

Introduced by Assembly Member McCarty

February 23, 2015

~~An act to amend Sections 5898.12, 5898.21, 5898.24, 5898.28, and 5899.2 of, and to add Section 5899.4 to, the Streets and Highways Code, relating to contractual assessments. An act to add Section 26157 to the Penal Code, relating to firearms.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 450, as amended, McCarty. ~~Contractual assessments. Firearms: concealed carry license.~~

Existing law authorizes specified local law enforcement agencies to issue to an applicant a license to carry a concealed firearm if certain requirements are met, including, among others, that the applicant has good cause for the license.

This bill would require local agencies issuing those licenses to charge an applicant a fee sufficient to cover the reasonable costs of issuing and enforcement of the license.

~~The Improvement Act of 1911 authorizes the legislative body of any public agency, as defined, to determine that it would be convenient, advantageous, and in the public interest to designate an area within the public agency, as specified, within which authorized public agency officials and property owners may enter into voluntary contractual assessments to finance, among other improvements, the installation of distributed generation renewable energy sources or energy or water~~

efficiency improvements that are permanently fixed to real property, as specified. The act prohibits the use of voluntary contractual assessments to finance facilities for parcels in connection with the initial construction of residential buildings unless the initial construction is undertaken by the intended owner or occupant.

This bill would authorize the use of voluntary contractual assessments to finance authorized improvements in connection with the initial construction of residential buildings with 3 or fewer units if the initial construction of the residential buildings are undertaken by the intended owner or occupant. The bill would authorize the use of voluntary contractual assessments to finance authorized improvements in connection with the initial construction of nonresidential buildings or residential buildings with 4 or more units. The bill would authorize the use of voluntary contractual assessments by one or more property owners to finance authorized improvements on real property other than the property on which the assessment is levied.

The act authorizes a public agency to issue bonds to finance improvements that are repaid through voluntary contractual assessments.

This bill would specify that the interest rate on a bond that is payable from one or more contractual assessments levied on nonresidential or residential property with 4 or more units is considered to be fixed as long as the interest rate on each unpaid contractual assessment that secures the bonds is fixed at the time of the bond issuance.

The act authorizes a public agency to transfer its right, title, and interest in and to any voluntary contractual assessments if bonds are not issued. The act requires the public agency and transferee to enter into an agreement that, among other things, identifies the specific period of time during which the transfer of voluntary contractual assessments will be operative.

This bill would additionally require the agreement, among other things, to identify the amounts to be paid by the transferee as consideration for the transfer. The bill would authorize public agencies to issue bonds to repay a transferee of the right, title, and interest in and to any voluntary contractual assessments that were transferred.

The act specifies that, with respect to bonds issued to finance improvements to nonresidential property or residential property with 4 or more units, the redemption premium associated with a redemption of bonds as a result of a contractual assessment repayment is to be determined by agreement of the public agency issuing the bonds, the property owner, and the initial purchaser of the bonds.

~~This bill would specify that, with respect to bonds payable from contractual assessments levied on residential property with 3 or fewer units, the redemption premium associated with a redemption of bonds as a result of a contractual assessment prepayment is to be determined by agreement of the public agency issuing the bonds and the initial purchaser of the bonds, but not to exceed 5%. The bill would specify, with respect to bonds that are payable from contractual assessments levied on nonresidential properties or residential properties with 4 or more units, the manner in which the redemption premium associated with a redemption of bonds as a result of a contractual assessment prepayment is to be determined.~~

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

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

1 ~~SECTION 1. Section 26157 is added to the Penal Code, to~~
2 ~~read:~~

3 ~~26157. The sheriff, chief, or other head of a municipal police~~
4 ~~department issuing a license pursuant to Section 26150 or 26155~~
5 ~~shall charge an applicant for the license a fee sufficient to cover~~
6 ~~the reasonable costs of issuing and enforcement of the license.~~

7 ~~SECTION 1. Section 5898.12 of the Streets and Highways~~
8 ~~Code is amended to read:~~

9 ~~5898.12. (a) It is the intent of the Legislature that this chapter~~
10 ~~should be used to finance public improvements to lots or parcels~~
11 ~~that are developed and where the costs and time delays involved~~
12 ~~in creating an assessment district pursuant to other provisions of~~
13 ~~this division or any other law would be prohibitively large relative~~
14 ~~to the cost of the public improvements to be financed.~~

15 ~~(b) It is also the intent of the Legislature that this chapter should~~
16 ~~be used to finance the installation or prepaid service contract, or~~
17 ~~both, of distributed generation renewable energy sources or energy~~
18 ~~efficiency improvements that are permanently fixed to residential,~~
19 ~~commercial, industrial, agricultural, or other real property.~~

20 ~~(c) It is also the intent of the Legislature to address chronic~~
21 ~~water needs throughout California by permitting voluntary~~
22 ~~individual efforts to improve water efficiency. The Legislature~~
23 ~~further intends that this chapter should be used to finance the~~
24 ~~installation of water efficiency improvements that are permanently~~

1 fixed to residential, commercial, industrial, agricultural, or other
2 real property, including, but not limited to, recycled water
3 connections, synthetic turf, cisterns for stormwater recovery, and
4 permeable pavement.

5 ~~(d) This chapter may be used to finance authorized~~
6 ~~improvements in connection with the initial construction of a~~
7 ~~residential building with three or fewer units, only if the initial~~
8 ~~construction of the residential building is undertaken by the~~
9 ~~intended owner or occupant.~~

10 ~~(e) This chapter may be used to finance authorized~~
11 ~~improvements in connection with the initial construction of a~~
12 ~~nonresidential building or a residential building with four or more~~
13 ~~units.~~

14 ~~(f) This chapter shall not be used to finance the purchase or~~
15 ~~installation of appliances that are not permanently fixed to~~
16 ~~residential, commercial, industrial, agricultural, or other real~~
17 ~~property.~~

18 ~~(g) Assessments may be levied pursuant to this chapter only~~
19 ~~with the free and willing consent of the owner of each lot or parcel~~
20 ~~on which an assessment is levied at the time the assessment is~~
21 ~~levied.~~

22 ~~(h) This chapter may be used by one or more property owners~~
23 ~~to finance the improvements authorized by this chapter that are~~
24 ~~permanently affixed on real property other than the property on~~
25 ~~which the assessment is levied.~~

26 ~~(i) An improvement is permanently affixed to real property for~~
27 ~~purposes of this chapter even though the improvement may be~~
28 ~~temporarily removed for repairs or maintenance.~~

29 ~~SEC. 2. Section 5898.21 of the Streets and Highways Code is~~
30 ~~amended to read:~~

31 ~~5898.21. Notwithstanding any other provision of this chapter,~~
32 ~~upon the written consent of an authorized public agency official,~~
33 ~~the proposed arrangements for financing the program pertaining~~
34 ~~to the installation of distributed generation renewable energy~~
35 ~~sources or energy or water efficiency improvements that are~~
36 ~~permanently fixed to real property may authorize the property~~
37 ~~owner, the owner of the attached system, or a designee of that~~
38 ~~owner, to purchase directly the related equipment and materials~~
39 ~~for the installation of distributed generation renewable energy~~
40 ~~sources or energy or water efficiency improvements and to contract~~

1 directly, or pay, for the installation of distributed generation
2 renewable energy sources or energy or water efficiency
3 improvements that are permanently fixed to the residential,
4 commercial, industrial, agricultural, or other real property.

5 SEC. 3. Section 5898.24 of the Streets and Highways Code is
6 amended to read:

7 5898.24. (a) A legislative body shall publish notice of a hearing
8 pursuant to Section 6066 of the Government Code, and the first
9 publication shall occur not later than 20 days before the date of
10 the hearing.

11 (b) (1) A legislative body administering a voluntary contractual
12 assessment program shall designate an office, department, or
13 bureau of the public agency that shall be responsible for annually
14 preparing the current roll of assessment obligations by assessor's
15 parcel number on property subject to a voluntary contractual
16 assessment.

17 (2) The designated office, department, or bureau shall establish
18 procedures to promptly respond to inquiries concerning current
19 and future estimated liability for a voluntary contractual
20 assessment. Neither the designated office, department, or bureau,
21 nor the legislative body, shall be liable if any estimate of future
22 voluntary contractual assessment liability is inaccurate, nor for
23 any failure of any seller to request notice pursuant to this chapter
24 or to provide the notice to a buyer.

25 (c) For purposes of enabling sellers of real property subject to
26 a voluntary contractual assessment to satisfy the notice
27 requirements of Section 1102.6b of the Civil Code, and, except as
28 provided in subdivision (c), the legislative body shall cause to be
29 recorded in the office of the county recorder for the county in
30 which the real property is located, concurrently with the notice
31 required by Section 5898.32, a separate document that meets all
32 of the following requirements:

33 (1) The title of the document shall be "Payment of Contractual
34 Assessment Required" in at least 14-point boldface type.

35 (2) The document shall include all of the following information:

36 (A) The names of all current owners of the real property subject
37 to the contractual assessment and the legal description and
38 assessor's parcel number for the affected property.

39 (B) The annual amount of the contractual assessment.

1 ~~(C) The date or circumstances under which the contractual~~
2 ~~assessment expires, or a statement that the assessment is perpetual.~~

3 ~~(D) The purpose for which the funds from the contractual~~
4 ~~assessment will be used.~~

5 ~~(E) The entity to which funds from the contractual assessment~~
6 ~~will be paid and specific contact information for that entity.~~

7 ~~(F) The signature of the authorized representative of the~~
8 ~~legislative body to which funds from the contractual assessment~~
9 ~~will be paid.~~

10 ~~(d) The recorder shall only be responsible for examining the~~
11 ~~document required by subdivision (c) and determining that it~~
12 ~~contains the information required by subparagraphs (A), (E), and~~
13 ~~(F) of paragraph (2) of subdivision (c). The recorder shall index~~
14 ~~the document under the names of the persons and entities identified~~
15 ~~in subparagraphs (A) and (E) of paragraph (2) of subdivision (c).~~
16 ~~The recorder shall not examine any other information contained~~
17 ~~in the document required by subdivision (c).~~

18 ~~(e) In order to reduce the costs associated with contractual~~
19 ~~assessments, a legislative body administering a voluntary~~
20 ~~contractual assessment program may authorize the document~~
21 ~~described in subdivision (c) to be combined with the notice required~~
22 ~~by Section 5898.32, and recorded as a single document. If the~~
23 ~~legislative body authorizes the single document described in this~~
24 ~~subdivision and that document is presented for recordation to a~~
25 ~~county recorder, the county recorder shall accept that document~~
26 ~~for recordation and shall not require the public agency to separately~~
27 ~~prepare and record the document described in subdivision (c) and~~
28 ~~the document required by Section 5898.32.~~

29 ~~SEC. 4. Section 5898.28 of the Streets and Highways Code is~~
30 ~~amended to read:~~

31 ~~5898.28. (a) (1) A public agency may issue bonds pursuant~~
32 ~~to this chapter, the principal and interest for which would be repaid~~
33 ~~by voluntary contractual assessments. A public agency may~~
34 ~~advance its own funds to finance work to be repaid through~~
35 ~~voluntary contractual assessments, and may from time to time sell~~
36 ~~bonds to reimburse itself for those advances. A public agency may~~
37 ~~enter into a relationship with an underwriter or financial institution~~
38 ~~that would allow the sequential issuance of a series of bonds, each~~
39 ~~bond being issued as the need arose to finance work to be repaid~~
40 ~~through voluntary contractual assessments. The interest rate of~~

1 each bond may be determined by an appropriate index, but shall
2 be fixed at the time each bond is issued unless the bond is payable
3 from one or more contractual assessments levied on nonresidential
4 private property or residential private property with four or more
5 units. The interest rate on that bond shall be considered fixed as
6 long as the interest rate on each unpaid contractual assessment that
7 secures the bond is fixed at the time the bond is issued. Bond
8 proceeds may be used to establish a reserve fund for debt service
9 or paying the costs of foreclosure on properties participating in
10 the program, to fund capitalized interest for a period up to two
11 years from the date of issuance of the bonds, to fund the
12 administrative fee required for participation in the PACE Reserve
13 Program established pursuant to Chapter 4 (commencing with
14 Section 26050) of Division 16 of the Public Resources Code, and
15 to pay for expenses incidental to the issuance and sale of the bonds.
16 Division 10 (commencing with Section 8500) shall apply to any
17 bonds issued pursuant to this section, insofar as that division is
18 not in conflict with this chapter.

19 (2) ~~An assessment contract may define the term of the voluntary
20 contractual assessment and the rate at which interest will accrue
21 on the voluntary contractual assessment, describe the terms under
22 which the assessment may be prepaid, identify a schedule of
23 installments that include principal, interest, and administrative
24 expense components, and provide for the use of the proceeds that
25 may be generated as a result of the voluntary contractual
26 assessment. During the term of a voluntary contractual assessment,
27 the public agency may levy the installments described in the
28 assessment contract. If bonds are issued after an assessment
29 contract is executed and delivered by a public agency and a
30 property owner, the installments payable under the assessment
31 contract shall thereafter be used only to pay debt service on the
32 bonds, a power purchase agreement or lease pursuant to Section
33 5899.2, or the public agency's costs incidental to financing,
34 administration, and collection of the voluntary contractual
35 assessment.~~

36 (b) ~~(1) Notwithstanding any provision of this division or the
37 Improvement Act of 1915 (Division 10 (commencing with Section
38 8500)), a public agency may transfer its right, title, and interest in
39 and to any voluntary contractual assessments, if bonds are not
40 payable for the assessments. The public agency and the transferee~~

1 shall enter into an agreement that, among other things, identifies
2 the amount to be paid by the transferee as consideration for the
3 transfer and use of that amount paid by the transferee to the public
4 agency, the commencement date for the accrual of interest on the
5 voluntary contractual assessment, the capitalizing of interest, if
6 applicable, the timing for payment of the voluntary contractual
7 assessment installments of the transferee if received by the public
8 agency, and the specific period of time during which the transfer
9 of voluntary contractual assessments will be operative, not to
10 exceed three years. The agreement may provide that if at the end
11 of the term of the transfer of the voluntary contractual assessments
12 the public agency is unable to repay the transferee, the public
13 agency may transfer the voluntary contractual assessments for the
14 length of their term, so long as, notwithstanding any other
15 limitations set forth in this chapter, no installment of the voluntary
16 contractual assessments will increase as a result of the transfer
17 without the prior written consent of the affected property owner.
18 The public agency may enter into an agreement with a trustee,
19 fiscal agent, or payment agent to hold, invest, and distribute the
20 amounts paid by the transferee to the public agency as
21 consideration for the transfer and the voluntary contractual
22 assessments if received by the public agency. Except as provided
23 in paragraph (2), a transfer of any voluntary contractual
24 assessments under this subdivision shall be treated as a true and
25 absolute transfer of the asset so transferred for the period of the
26 transfer and not as a pledge or grant of a security interest by the
27 public agency for any borrowing. The characterization of the
28 transfer of any of those assets as an absolute transfer by the public
29 agency shall not be negated or adversely affected by the fact that
30 only a portion of any voluntary contractual assessment is
31 transferred, nor by any characterization of the transferee for
32 purposes of accounting, taxation, or securities regulation, nor by
33 any other factor whatsoever. As used in this section, "transfer"
34 means sale, assignment, or other transfer.

35 (2) Nothing in this subdivision shall be construed to authorize
36 the transferee to initiate and prosecute a foreclosure action resulting
37 from a delinquency in the payment of the voluntary contractual
38 assessment. Initiation and prosecution of a foreclosure action shall
39 remain the responsibility of the public agency, which shall retain
40 the sole right to enforce its senior lien status for the benefit of the

1 public agency and any transferee. As a cumulative remedy, if any
2 assessment or installment thereof, or any interest thereon, together
3 with any penalties, costs, fees, and other charges accruing under
4 applicable taxation provisions are not paid when due, the public
5 agency may order that the same be collected by an action brought
6 in the superior court to foreclose the lien as provided in this
7 division, and this division shall be construed in a manner that
8 accomplishes the purposes of this paragraph. In connection with
9 the transfer of its right, title, and interest in and to any voluntary
10 contractual assessment, the public agency may covenant for the
11 benefit of the transferee to commence and diligently prosecute any
12 foreclosure action regarding delinquent installments of any
13 assessments.

14 (3) A public agency may issue bonds under this chapter to repay
15 a transferee of the right, title, and interest in and to any voluntary
16 contractual assessment under this subdivision. The public agency
17 may transfer or cause to be transferred, to the trustee, fiscal agent,
18 or payment agent for the bonds, as applicable, funds held with
19 respect to a transfer at the time the bonds are issued.

20 (e) Division 10 (commencing with Section 8500) shall apply to
21 any bonds issued pursuant to this section, insofar as that division
22 is not in conflict with this chapter. Notwithstanding Part 16
23 (commencing with Section 8880) of Division 10, if any reserve
24 fund is established in whole or in part with legally available
25 moneys of one or more public agencies other than bond proceeds,
26 the public agency or agencies may provide that a property owner
27 who prepays all or a portion of the assessment shall not be credited
28 with the public agency moneys in the reserve fund and there shall
29 be no reduction in the assessment pursuant to Sections 8884 or
30 8881, and the public agency moneys in the reserve account shall
31 not be used to redeem bonds pursuant to Section 8885 and any
32 public agency moneys remaining in the reserve fund at the maturity
33 of the bonds shall be disbursed to the public agency free and clear
34 of the lien of the issuing instrument. Any excess bond proceeds
35 may be used to pay principal of and interest on the bonds in
36 addition to any other use permitted by Division 10 (commencing
37 with Section 8500).

38 (d) Notwithstanding any other law, the public agency may
39 conclude that it is in the public interest for bonds issued by the
40 public agency pursuant to this chapter to not be subject to

1 redemption prior to their scheduled maturity date except as a result
2 of the prepayment in whole or in part of contractual assessments.
3 Notwithstanding any other limitations set forth in law, (1) with
4 respect to bonds that are payable from one or more contractual
5 assessments levied on residential property with three or fewer
6 units, the redemption premium associated with a redemption of
7 bonds as a result of a contractual assessment prepayment shall be
8 determined by agreement of the public agency issuing the bonds
9 and the initial purchaser of the bonds, but shall not exceed 5
10 percent, and (2) with respect to bonds that are payable from one
11 or more contractual assessments levied on nonresidential property
12 or residential property with four or more units, (A) the public
13 agency and the property owner may agree that the contractual
14 assessment shall not be subject to prepayment for all or a portion
15 of the time it is unpaid or (B) if the contractual assessment will be
16 subject to prepayment, the redemption premium associated with
17 a redemption of bonds as a result of a contractual assessment
18 prepayment shall be determined by agreement of the public agency
19 issuing the bonds, the property owner, and the initial purchaser of
20 the bonds. Notwithstanding any other law, the public agency
21 issuing bonds pursuant to this chapter may provide for the bonds
22 to be subject to redemption on any date. The public agency may
23 provide for the redemption of bonds issued pursuant to this chapter
24 from unspent bond proceeds following the completion of the
25 installation of the improvements at a redemption price equal to the
26 principal amount of the bonds to be redeemed, plus accrued interest
27 to the redemption date, plus a redemption premium specified in
28 the assessment contract, if any, which premium may exceed 5
29 percent of the principal amount of the bonds to be redeemed only
30 in the case of bonds that are payable from one or more contractual
31 assessments levied on residential property with three or fewer
32 units:

33 (e) (1) Without the prior written approval of the property owner,
34 and notwithstanding any other law, a public agency may issue
35 bonds pursuant to this chapter to refinance outstanding bonds
36 payable from contractual assessments levied pursuant to this
37 chapter if all of the following are true:

38 (A) The total interest cost to maturity on the refunding bonds
39 is less than the total interest cost to maturity on the bonds to be
40 refunded.

1 ~~(B) The final maturity date of the refunding bonds is not later~~
2 ~~than the final maturity date of the refunded bonds, except that if~~
3 ~~the bonds to be refunded are variable rate bonds, the final maturity~~
4 ~~date of the refunding bonds may extend to, but not beyond, the~~
5 ~~useful life of the financed improvements.~~

6 ~~(C) The total interest component of the scheduled contractual~~
7 ~~assessment installments to maturity, after issuance of the refunding~~
8 ~~bonds, is less than the total interest component of the scheduled~~
9 ~~contractual assessment installments to maturity prior to issuance~~
10 ~~of the refunding bonds.~~

11 ~~(2) For purposes of this section, in connection with the issuance~~
12 ~~of fixed rate bonds to refinance variable rate bonds, the interest~~
13 ~~rate on the refunded bonds for purpose of demonstrating~~
14 ~~compliance with this section may be assumed to be the maximum~~
15 ~~possible interest rate on the bonds to be refunded as long as the~~
16 ~~legislative body concludes that the public interest will be served~~
17 ~~by issuing fixed rate bonds to refinance the outstanding variable~~
18 ~~rate bonds. In connection with an issuance of refunding bonds~~
19 ~~under this chapter, the legislative body may direct that an~~
20 ~~amendment to the document required by subdivision (c) of Section~~
21 ~~5898.24 be recorded to reflect the revised contractual assessment~~
22 ~~installment schedule.~~

23 ~~(f) With the prior written approval of the owner of nonresidential~~
24 ~~property or residential property with four or more units, and~~
25 ~~notwithstanding any other law, a public agency may issue bonds~~
26 ~~pursuant to this chapter to refinance outstanding bonds payable~~
27 ~~from contractual assessments levied pursuant to this chapter~~
28 ~~without complying with subdivision (e). The final maturity date~~
29 ~~of the refunding bonds issued pursuant to this subdivision may be~~
30 ~~later than the final maturity date of the bonds being refunded as~~
31 ~~long as the final maturity date of the refunding bonds does not~~
32 ~~extend beyond the useful life of the financed improvements.~~

33 ~~(g) The assessment contract between the public agency and a~~
34 ~~property owner shall provide for the use of proceeds of any bonds~~
35 ~~or other financing arrangement authorized by this chapter, and~~
36 ~~may provide that the proceeds may be used to make progress~~
37 ~~payments to a contractor as work is completed on portions of the~~
38 ~~improvements in a manner that the public agency determines to~~
39 ~~be reasonable.~~

1 ~~SEC. 5. Section 5899.2 of the Streets and Highways Code is~~
2 ~~amended to read:~~

3 ~~5899.2. For the purpose of financing the installation of~~
4 ~~distributed generation renewable energy sources pursuant to this~~
5 ~~chapter, “permanently fixed” includes, but is not limited to, systems~~
6 ~~attached to a residential, commercial, industrial, agricultural, or~~
7 ~~other real property pursuant to a power purchase agreement or~~
8 ~~lease between the owner of the system and the owner of the~~
9 ~~assessed property, if the power purchase agreement or lease~~
10 ~~contains all of the following provisions:~~

11 ~~(a) The attached system is an eligible renewable energy resource~~
12 ~~pursuant to the California Renewables Portfolio Standard Program~~
13 ~~(Article 16 (commencing with Section 399.11) of Chapter 2.3 of~~
14 ~~Part 1 of Division 1 of the Public Utilities Code).~~

15 ~~(b) The term of the power purchase agreement or lease is at~~
16 ~~least as long as the term of the related assessment contract.~~

17 ~~(c) The owner of the attached system agrees to install, maintain,~~
18 ~~and monitor the system for the entire term of the power purchase~~
19 ~~agreement or lease.~~

20 ~~(d) The owner of the attached system is not permitted to remove~~
21 ~~the system prior to completion of the term of the contractual~~
22 ~~assessment lien.~~

23 ~~(e) After installation, the power purchase agreement or lease,~~
24 ~~including the costs of operating and maintaining the systems and~~
25 ~~services incidental to the systems, is paid, either partially or in~~
26 ~~full, using the funds from the contractual assessment program. For~~
27 ~~purposes of this subdivision, “funds from the contractual~~
28 ~~assessment program” includes bond proceeds, contractual~~
29 ~~assessment installments, grants, or other funding sources available~~
30 ~~to the contractual assessment program, and savings and other~~
31 ~~monetary benefits that are available as a result of the contractual~~
32 ~~assessment financing.~~

33 ~~(f) The right to receive the electricity from the system, through~~
34 ~~a power purchase agreement or lease or the right to the system~~
35 ~~itself, is tied to the ownership of the assessed real property and is~~
36 ~~required to be automatically transferred with the title to the real~~
37 ~~property whether the title is transferred by voluntary sale, judicial~~
38 ~~or nonjudicial foreclosure, or by any other means.~~

39 ~~(g) The power purchase agreement or lease identifies the public~~
40 ~~agency that is a party to the assessment contract on the real property~~

1 as a third-party beneficiary of the power purchase agreement or
2 lease until the assessment lien on the property has been fully paid
3 and, only until that time, prohibits amendments to the power
4 purchase agreement or lease without the consent of the public
5 agency.

6 (h) ~~In order to ensure that the property owner is guaranteed the~~
7 ~~electric power from the system for the length of the lien, the system~~
8 ~~shall not be removed if the owner of the attached system is not~~
9 ~~performing its obligations under the contract, and one of the~~
10 ~~following is true:~~

11 (1) ~~The owner of the attached system does both of the following:~~

12 (A) ~~Covenants in its contract with the property owner that~~
13 ~~neither the owner of the attached system nor any successor in~~
14 ~~interest will remove or permanently decommission the attached~~
15 ~~system during the term of the contract.~~

16 (B) ~~Warrants in the contract with the property owner that no~~
17 ~~assignee, creditor, partner, or owner of the attached system's owner~~
18 ~~has, as of the date of the contract or during the remaining term of~~
19 ~~the contract, the right to remove or permanently decommission~~
20 ~~the attached system.~~

21 (2) ~~The owner of the attached system must be a bankruptcy~~
22 ~~remote special purpose entity that is bankruptcy remote and meets~~
23 ~~all of the following conditions:~~

24 (A) ~~It does not engage in any business other than owning the~~
25 ~~attached systems and entering into electricity contracts with the~~
26 ~~property owner.~~

27 (B) ~~It has no material debt.~~

28 (C) ~~Its contracts are either entered into with unrelated third~~
29 ~~parties or have terms negotiated at arms length.~~

30 ~~SEC. 6.—Section 5899.4 is added to the Streets and Highways~~
31 ~~Code, to read:~~

32 5899.4. ~~The Legislature finds and declares that a public purpose~~
33 ~~will be served by giving public agencies substantial flexibility to~~
34 ~~establish arrangements that will address concerns of participating~~
35 ~~bond owners, property owners, mortgage lenders, or state and~~
36 ~~federal regulatory agencies about the financing available under~~
37 ~~this chapter. These arrangements may include, but are not limited~~
38 ~~to, the issuance by a public agency of bonds pursuant to this chapter~~
39 ~~to redeem outstanding bonds issued by the public agency pursuant~~
40 ~~to this chapter to accommodate an arrangement authorized by this~~

1 ~~chapter so long as, notwithstanding any other limitations set forth~~
2 ~~in this chapter, no installment of a voluntary contractual assessment~~
3 ~~will increase without the prior written consent of the affected~~
4 ~~property owner, and unspent proceeds of the outstanding bonds to~~
5 ~~be redeemed may be applied by the public agency in the manner~~
6 ~~that it determines will further an arrangement authorized by this~~
7 ~~chapter.~~

O