

# Financing Energy Efficiency Improvements

This Act enables gas and electric utility customers in the state to finance the costs of installing equipment and making repairs to their homes to conserve energy by paying an additional “Meter Conservation Charge” as part of their monthly utility bills. Utility customers must permit the utilities to perform an energy audit of their homes before they can sign a contract initiating the charge. The energy audit must be conducted by an energy auditor certified by the Building Performance Institute or similar organization. The audit must provide an estimate of the costs of the proposed energy efficiency and conservation measures and the expected savings associated with the measures, and it must recommend measures appropriately sized for the specific use contemplated.

Contracts to impose a Meter Conservation Charge must state plainly the interest rate to be charged to finance the costs of the energy efficiency and conservation measures. The interest rate must be a fixed rate over the term of the agreement and must not exceed four percent above the stated yield for one-year Treasury bills as published by the Federal Reserve at the time the agreement is entered. Customers can pay off their contracts without incurring penalties anytime before their contracts expire.

The Act requires that a utility must file a notice that a meter conservation charge has been imposed on a residential account, so that account holders will be aware of the financing arrangement. However, the Act explicitly provides that notice of a meter conservation charge does not constitute a lien on the property.

Such contracts must also specify the measures to be completed and the contractor responsible for completion of the measures. The choice of a contractor to perform the work must be made by the owner of the residence. Upon request, the electricity provider or natural gas provider must provide the owner of the residence with a list of contractors qualified to do the work.

Upon completion of the work, it must be inspected by an energy auditor certified by the Building Performance Institute or similar organization. Any work that is determined to have been done improperly or to be inappropriately sized for the intended use must be remedied by the responsible contractor. Until the work has been remedied, funds due to the contractor must be held in escrow by the electricity provider or natural gas provider.

Submitted as:

South Carolina

[Act 141 of 2010](#)

Status: Enacted into law in 2010.

## Suggested State Legislation

(Title, enacting clause, etc.)

1           Section 1. [*Short Title.*] This Act shall be cited as “An Act to Permit Energy Meter  
2 Conservation Charges.”

3

4           Section 2. [*Definitions.*] As used in this Act:

5           (1) “Electricity provider” means an electric cooperative, an investor-owned electric  
6 utility, the state [public service authority], or a municipality or municipal board or commission of  
7 public works that owns and operates an electric utility system.

8           (2) “Natural gas provider” means an investor-owned natural gas utility or publicly owned

9 natural gas provider.

10 (3) “Meter conservation charge” means the charge placed on a customer’s account by  
11 which electricity providers and natural gas providers recover the costs, including financing costs,  
12 of energy efficiency and conservation measures.

13 (4) “Notice of meter conservation charge” means the written notice by which subsequent  
14 purchasers or tenants will be given notice that they will be required to pay a meter conservation  
15 charge.

16 (5) “Customer” means a homeowner or tenant receiving electricity or natural gas as a  
17 retail customer.

18 (6) “Community action agency” means a nonprofit eleemosynary corporation created  
19 pursuant to [insert citation] providing, among other things, weatherization services to a  
20 homeowner or tenant.

21  
22 Section 3. [*Meter Conservation Charges for Electricity and Natural Gas Utility*  
23 *Customers.*]

24 (A) Electricity providers and natural gas providers may enter into written agreements  
25 with customers and landlords of customers for the financing of the purchase price and  
26 installation costs of energy efficiency and conservation measures. These agreements may provide  
27 that the costs must be recovered by a meter conservation charge on the customer’s electricity or  
28 natural gas account, provided that the electricity providers and natural gas providers comply with  
29 the provisions of this section. A failure to pay the meter conservation charge may be treated by  
30 the electricity provider or natural gas provider as a failure to pay the electricity or natural gas  
31 account, and the electricity provider or natural gas provider may disconnect electricity or natural  
32 gas service for nonpayment of the meter conservation charge, provided the electricity provider or  
33 natural gas provider complies with the provisions of [insert citation].

34 (B) Any agreement permitted by subsection (A) must state plainly the interest rate to be  
35 charged to finance the costs of the energy efficiency and conservation measures. The interest rate  
36 must be a fixed rate over the term of the agreement and must not exceed [four percent above the  
37 stated yield for one-year Treasury bills as published by the Federal Reserve at the time the  
38 agreement is entered]. Any indebtedness created under the provisions of this section may be paid  
39 in full at any time before it is due without penalty.

40 (C) An electricity provider or natural gas provider may recover the costs, including  
41 financing costs, of these measures from its members or customers directly benefiting from the  
42 installation of the energy efficiency and conservation measures. Recovery may be through a  
43 meter conservation charge to the account of the member or customer and any such charge must  
44 be shown by a separate line item on the account.

45 (D) An electricity provider or natural gas provider shall assume no liability for the  
46 installation, operation, or maintenance of energy efficiency and conservation measures when the  
47 measures are performed by a third party, and shall not provide any warranty as to the  
48 merchantability of the measures or the fitness for a particular purpose of the measures, and no  
49 action may be maintained against the electricity provider or natural gas provider relating to the  
50 failure of the measures. An electricity provider or natural gas provider shall assume no liability  
51 for energy audits performed by third parties and shall provide no warranty relating to any energy  
52 audit done by any third party. Nothing in this section may be construed to limit any rights or  
53 remedies of utility customers and landlords of utility customers against other parties to a  
54 transaction involving the purchase and installation of energy efficiency and conservation  
55 measures.

56 (E) Before entering into an agreement contemplated by this section, the electricity  
57 provider or natural gas provider shall cause to be performed an energy audit on the residence

58 considered for the energy efficiency measures. The energy audit must be conducted by an energy  
59 auditor certified by the Building Performance Institute or similar organization. The audit must  
60 provide an estimate of the costs of the proposed energy efficiency and conservation measures  
61 and the expected savings associated with the measures, and it must recommend measures  
62 appropriately sized for the specific use contemplated. An agreement entered following  
63 completion of an energy audit shall specify the measures to be completed and the contractor  
64 responsible for completion of the measures. The choice of a contractor to perform the work must  
65 be made by the owner of the residence. Upon request, the electricity provider or natural gas  
66 provider must provide the owner of the residence with a list of contractors qualified to do the  
67 work. Upon completion of the work, it must be inspected by an energy auditor certified by the  
68 Building Performance Institute or similar organization. Any work that is determined to have been  
69 done improperly or to be inappropriately sized for the intended use must be remedied by the  
70 responsible contractor. Until the work has been remedied, funds due to the contractor must be  
71 held in escrow by the electricity provider or natural gas provider.

72 (F) An electricity provider or natural gas provider that enters into an agreement as  
73 provided in this section may recover the costs, including financing costs, of energy efficiency  
74 and conservation measures from subsequent purchasers of the residence in which the measures  
75 are installed, provided the electricity provider or natural gas provider gives record notice that the  
76 residence is subject to the agreement. Notice must be given, at the expense of the filer, by filing a  
77 notice of meter conservation charge with the appropriate office for the county in which the  
78 residence is located, pursuant to [insert citation]. The fee to file the notice of meter conservation  
79 is [ten dollars]. The notice of meter conservation charge does not constitute a lien on the property  
80 but is intended to give a purchaser of the residence notice that the residence is subject to a meter  
81 conservation charge. Notice is deemed to have been given if a search of the property records of  
82 the county discloses the existence of the charge and informs a prospective purchaser about how  
83 to ascertain the amount of the charge, the length of time it is expected to remain in effect, and of  
84 their obligation to notify a tenant if the purchaser leases the property as provided in subsection  
85 (G)(3).

86 (G) An electricity provider or natural gas provider may enter into agreements for the  
87 installation of energy efficiency and conservation measures and the recovery of the costs,  
88 including financing costs, of the measures with respect to rental properties by filing a notice of  
89 meter conservation charge as provided in subsection (F) and by complying with the provisions of  
90 this subsection:

91 (1) The energy audit required by subsection (E) must be conducted and the results  
92 provided to both the landlord and the tenant living in the rental property at the time the  
93 agreement is entered.

94 (2) If both the landlord and tenant agree, the electricity provider or natural gas  
95 provider may recover the costs of the energy efficiency and conservation measures, including  
96 financing costs, through a meter conservation charge on the account associated with the rental  
97 property occupied by the tenant. The agreement must provide notice to the landlord of the  
98 provisions contained in subsection (G)(3).

99 (3) With respect to a subsequent tenant occupying a rental unit benefiting from  
100 the installation of energy efficiency and conservation measures, the electricity provider or natural  
101 gas provider may continue to recover the costs, including financing costs, of the measures  
102 through a meter conservation charge on the account associated with the rental property occupied  
103 by the tenant. With respect to a subsequent tenant, the landlord must give a written notice of  
104 meter conservation charge in the same manner as required by [insert citation]. If the landlord  
105 fails to give the subsequent tenant the required notice of meter conservation charge, the tenant  
106 may deduct from his rent, for no more than [one-half] of the term of the rental agreement, the

107 amount of the meter conservation charge paid to the electricity provider or natural gas provider.

108 (H) Agreements entered pursuant to the provisions of this section are exempt from the  
109 provisions of [insert citation].

110 (I) An electricity provider or natural gas provider may contract with third parties to  
111 perform functions permitted under this section, including the financing of the costs of energy  
112 efficiency and conservation measures. A third party must comply with all applicable provisions  
113 of this section.

114 (J) The provisions of this section apply only to energy efficiency and conservation  
115 measures for a residence already occupied at the time the measures are taken. The procedures  
116 allowed by this section may not be used with respect to a new residence or a residence under  
117 construction. The provisions of this section may not be used to implement energy efficiency or  
118 conservation measures that result in the replacement of natural gas appliances or equipment with  
119 electric appliances or equipment, or that result in the replacement of electric appliances or  
120 equipment with natural gas appliances or equipment, unless the customer who seeks to install the  
121 energy efficiency or conservation measure is being provided electric and natural gas service by  
122 the same provider.

123 (K) Electricity providers or natural gas providers may offer their customers other types of  
124 financing agreements available by law, instead of the option established in this section, for the  
125 types of energy efficiency or conservation measures described in this section.

126 (L) (1) An electricity provider or natural gas provider must not obtain funding from  
127 the following federal programs to provide loans provided by this section:

128 (a) the Low Income Home Energy Assistance Program (LIHEAP), created  
129 by Title XXVI of the Omnibus Budget Reconciliation Act of 1981 and codified as Chapter 94,  
130 Title 42 of the United States Code, as amended by the Human Services Reauthorization Act of  
131 1984, the Human Services Reauthorization Act of 1986, the Augustus F. Hawkins Human  
132 Services Reauthorization Act of 1990, the National Institutes of Health Revitalization Act of  
133 1993, the Low Income Home Energy Amendments of 1994, the Coats Human Services  
134 Reauthorization Act of 1998, and the Energy Policy Act of 2005 which is administered and  
135 funded by the United States Department of Health and Human Services on the federal level and  
136 administered locally by community action agencies; or

137 (b) the Weatherization Assistance Program, created by Title IV of the  
138 Energy Conservation and Production Act of 1976 and codified as Part A, Subchapter III, Chapter  
139 81, Title 42 of the United States Code, amended by the National Energy Conservation Policy  
140 Act, the Energy Security Act, the Human Services Reauthorization Act of 1984, and the State  
141 Energy Efficiency Programs Improvement Act of 1990 and administered and funded by the  
142 United States Department of Energy on the federal level and administered locally by community  
143 action agencies.

144 (2) Nothing in this section changes the exclusive administration of these programs  
145 by local community action agencies through the [governor's office of economic opportunity]  
146 pursuant to [insert citation].

147 (3) Nothing in this subsection prevents a customer or member of an electricity  
148 provider or natural gas provider from obtaining services under the "Low Income Home Energy  
149 Assistance Program" or the "Weatherization Assistance Program."

150

151 Section 4. [*Severability.*] [Insert severability clause.]

152

153 Section 5. [*Repealer.*] [Insert repealer clause.]

154

155 Section 6. [*Effective Date.*] [Insert effective date.]