

1-1 By: Hancock S.B. No. 1757
 1-2 (In the Senate - Filed March 12, 2021; March 26, 2021, read
 1-3 first time and referred to Committee on Business & Commerce;
 1-4 April 15, 2021, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 15, 2021,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1757 By: Hancock

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to securitizing costs associated with electric markets;
 1-22 granting authority to issue bonds.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 31, Utilities Code, is amended by adding
 1-25 Subchapter C to read as follows:

1-26 SUBCHAPTER C. SECURITIZATION CORPORATION

1-27 Sec. 31.101. PURPOSE. (a) The purpose of this subchapter
 1-28 is to create a corporation dedicated to financing costs that are
 1-29 eligible for securitization as provided by Subchapter M, Chapter
 1-30 39. An entity authorized to securitize costs under Subchapter M,
 1-31 Chapter 39, subject to any other requirements applicable to the
 1-32 authorization, may request that the Texas Electric Securitization
 1-33 Corporation conduct the financing on behalf of the entity.

1-34 (b) The Texas Electric Securitization Corporation is
 1-35 created under this subchapter as a special purpose public
 1-36 corporation and instrumentality of the state for the essential
 1-37 public purpose of providing a lower-cost financing mechanism for
 1-38 securitization in the manner provided by this subchapter.

1-39 (c) Bonds issued under this subchapter will be the
 1-40 obligation solely of the issuer and the corporation as borrower, if
 1-41 applicable, and will not be a debt of or a pledge of the faith and
 1-42 credit of the state.

1-43 (d) Bonds issued under this subchapter shall be nonrecourse
 1-44 to the credit or any assets of the state and the commission.

1-45 Sec. 31.102. DEFINITIONS. In this subchapter:

1-46 (1) "Corporation" means the Texas Electric
 1-47 Securitization Corporation.

1-48 (2) "Issuer" means the corporation or any other
 1-49 corporation, public trust, public instrumentality, or entity that
 1-50 issues bonds approved by a financing order.

1-51 Sec. 31.103. CREATION OF CORPORATION. (a) The corporation
 1-52 is a nonprofit corporation and instrumentality of this state, and
 1-53 shall perform the essential governmental function of financing
 1-54 eligible costs in accordance with this subchapter. The
 1-55 corporation:

1-56 (1) shall perform only functions consistent with this
 1-57 subchapter;

1-58 (2) shall exercise its powers through a governing
 1-59 board;

1-60 (3) is subject to the regulation of the commission;

2-1 and
 2-2 (4) has a legal existence as a public corporate body
 2-3 and instrumentality of the state separate and distinct from the
 2-4 state.

2-5 (b) Assets of the corporation may not be considered part of
 2-6 any state fund. The state may not budget for or provide any state
 2-7 money to the corporation. The debts, claims, obligations, and
 2-8 liabilities of the corporation may not be considered to be a debt of
 2-9 the state or a pledge of its credit.

2-10 (c) The corporation must be self-funded. Before the
 2-11 imposition of charges to recover securitized amounts, the
 2-12 corporation may accept and expend for its operating expenses money
 2-13 that may be received from any source, including financing
 2-14 agreements with the state, a commercial bank, or another entity to:

2-15 (1) finance the corporation's obligations until the
 2-16 corporation receives sufficient property to cover its operating
 2-17 expenses as financing costs; and

2-18 (2) repay any short-term borrowing under any such
 2-19 financing agreements.

2-20 (d) The corporation has the powers, rights, and privileges
 2-21 provided for a corporation organized under Chapter 22, Business
 2-22 Organizations Code, subject to the express exceptions and
 2-23 limitations provided by this subchapter.

2-24 (e) An organizer selected by the executive director of the
 2-25 commission shall prepare the certificate of formation of the
 2-26 corporation under Chapters 3 and 22, Business Organizations Code.
 2-27 The certificate of formation must be consistent with the provisions
 2-28 of this subchapter.

2-29 (f) State officers and agencies are authorized to render
 2-30 services to the corporation, within their respective functions, as
 2-31 may be requested by the commission or the corporation.

2-32 (g) The corporation or an issuer may:

2-33 (1) retain professionals, financial advisors, and
 2-34 accountants the corporation or issuer considers necessary to
 2-35 fulfill the corporation's or issuer's duties under this subchapter;
 2-36 and

2-37 (2) determine the duties and compensation of a person
 2-38 retained under Subdivision (1), subject to the approval of the
 2-39 commission.

2-40 (h) The corporation is governed by a board of five directors
 2-41 appointed by the commission for two-year terms.

2-42 (i) An official action of the board of the corporation
 2-43 requires the favorable vote of a majority of the directors present
 2-44 and voting at a meeting of the board.

2-45 Sec. 31.104. POWERS AND DUTIES OF CORPORATION. (a) The
 2-46 corporation, in each instance subject to the prior authorization of
 2-47 the commission, shall participate in the financial transactions
 2-48 authorized by this subchapter. The corporation may not engage in
 2-49 business activities except those activities provided for by this
 2-50 subchapter and those ancillary and incidental to those activities.
 2-51 The corporation or an issuer may not apply proceeds of bonds or
 2-52 charges to a purpose not specified in a financing order, to a
 2-53 purpose in an amount that exceeds the amount allowed for the purpose
 2-54 in the order, or to a purpose in contravention of the order.

2-55 (b) The board of the corporation, under the provisions of
 2-56 this subchapter, may employ or retain persons as are necessary to
 2-57 perform the duties of the corporation.

2-58 (c) The corporation may:

2-59 (1) acquire, sell, pledge, or transfer property as
 2-60 necessary to effect the purposes of this subchapter and, in
 2-61 connection with the action, agree to such terms and conditions as
 2-62 the corporation deems necessary and proper, consistent with the
 2-63 terms of a financing order:

2-64 (A) to acquire property and to pledge such
 2-65 property, and any other collateral:

2-66 (i) to secure payment of bonds issued by the
 2-67 corporation, together with payment of any other qualified costs; or

2-68 (ii) to secure repayment of any borrowing
 2-69 from any other issuer of bonds; or

3-1 (B) to sell the property to another issuer, which
3-2 may in turn pledge that property, together with any other
3-3 collateral, to the repayment of bonds issued by the issuer together
3-4 with any other qualified costs;
3-5 (2) issue bonds on terms and conditions consistent
3-6 with a financing order;
3-7 (3) borrow funds:
3-8 (A) from an issuer of bonds to acquire property,
3-9 and pledge that property to the repayment of any borrowing from an
3-10 issuer, together with any related qualified costs, all on terms and
3-11 conditions consistent with a financing order; or
3-12 (B) for initial operating expenses;
3-13 (4) sue or be sued in its corporate name;
3-14 (5) intervene as a party before the commission or any
3-15 court in this state in any matter involving the corporation's
3-16 powers and duties;
3-17 (6) negotiate and become a party to contracts as
3-18 necessary, convenient, or desirable to carry out the purposes of
3-19 this subchapter; and
3-20 (7) engage in corporate actions or undertakings that
3-21 are permitted for nonprofit corporations in this state and that are
3-22 not prohibited by, or contrary to, this subchapter.
3-23 (d) The corporation shall maintain separate accounts and
3-24 records relating to each entity that collects charges for all
3-25 charges, revenues, assets, liabilities, and expenses relating to
3-26 the entity's related bond issuances.
3-27 (e) The board of the corporation may not authorize any
3-28 rehabilitation, liquidation, or dissolution of the corporation and
3-29 a rehabilitation, liquidation, or dissolution of the corporation
3-30 may not take effect as long as any bonds are outstanding unless
3-31 adequate protection and provision have been made for the payment of
3-32 the bonds pursuant to the documents authorizing the issuance of the
3-33 bonds. In the event of any rehabilitation, liquidation, or
3-34 dissolution, the assets of the corporation must be applied first to
3-35 pay all debts, liabilities, and obligations of the corporation,
3-36 including the establishment of reasonable reserves for any
3-37 contingent liabilities or obligations, and all remaining funds of
3-38 the corporation must be applied and distributed as provided by an
3-39 order of the commission.
3-40 (f) Before the date that is two years and one day after the
3-41 date that the corporation no longer has any payment obligation with
3-42 respect to any bonds, including any obligation to an issuer of any
3-43 bonds outstanding, the corporation may not file a voluntary
3-44 petition under federal bankruptcy law and neither any public
3-45 official nor any organization, entity, or other person may
3-46 authorize the corporation to be or to become a debtor under federal
3-47 bankruptcy law during that period. The state covenants that it will
3-48 not limit or alter the denial of authority under this subsection or
3-49 Subsection (e), and the provisions of this subsection and
3-50 Subsection (e) are hereby made a part of the contractual obligation
3-51 that is subject to the state pledge set forth in Section 39.609.
3-52 (g) The corporation shall prepare and submit to the
3-53 commission for approval an annual operating budget. If requested
3-54 by the commission, the corporation shall prepare and submit an
3-55 annual report containing the annual operating and financial
3-56 statements of the corporation and any other appropriate
3-57 information.
3-58 Sec. 31.105. COMMISSION REGULATION OF CORPORATION. The
3-59 commission shall regulate the corporation as provided by this
3-60 subchapter. Notwithstanding the regulation authorized by this
3-61 section, the corporation is not a public utility.
3-62 Sec. 31.106. FINANCING ORDER. (a) This section applies to
3-63 the commission's issuance of a financing order under this
3-64 subchapter.
3-65 (b) Except as otherwise specifically provided by this
3-66 subchapter, the provisions of this subtitle that address the
3-67 commission's issuance of a financing order under other provisions
3-68 of this subtitle also apply to the commission's issuance of a
3-69 financing order under this subchapter.

4-1 (c) The corporation and any issuer must be a party to the
 4-2 commission's proceedings that address the issuance of a financing
 4-3 order along with the entity requesting securitization.

4-4 (d) In addition to the other applicable requirements of this
 4-5 subtitle, a financing order issued under this subchapter must:

4-6 (1) require the sale, assignment, or other transfer to
 4-7 the corporation of certain specified property created by the
 4-8 financing order and, following that sale, assignment, or transfer,
 4-9 require that charges paid under any financing order be created,
 4-10 assessed, and collected as the property of the corporation, subject
 4-11 to subsequent sale, assignment, or transfer by the corporation as
 4-12 authorized under this subchapter;

4-13 (2) authorize:

4-14 (A) the issuance of bonds by the corporation
 4-15 secured by a pledge of specified property, and the application of
 4-16 the proceeds of those bonds, net of issuance costs, to the
 4-17 acquisition of the property from the entity requesting
 4-18 securitization; or

4-19 (B) the acquisition of specified property from
 4-20 the entity requesting securitization by the corporation, financed:

4-21 (i) by a loan by an issuer to the
 4-22 corporation of the proceeds of bonds, net of issuance costs; or

4-23 (ii) by the acquisition by an issuer from
 4-24 the corporation of the property and in each case the pledge of the
 4-25 property to the repayment of the loan or bonds, as applicable; and

4-26 (3) authorize the entity requesting securitization to
 4-27 serve as collection agent to collect the charges and transfer the
 4-28 collected charges to the corporation, the issuer, or a financing
 4-29 party, as appropriate.

4-30 (e) After issuance of the financing order, the corporation
 4-31 shall arrange for the issuance of bonds as specified in the
 4-32 financing order by the corporation or another issuer selected by
 4-33 the corporation and approved by the commission.

4-34 (f) Bonds issued pursuant to a financing order under this
 4-35 section are secured only by the related property and any other funds
 4-36 pledged under the bond documents. No assets of the state or the
 4-37 entity requesting securitization are subject to claims by the
 4-38 holders of the bonds. Following assignment of the property, the
 4-39 entity requesting securitization does not have any beneficial
 4-40 interest or claim of right in such charges or in any property.

4-41 Sec. 31.107. SEVERABILITY. Effective on the date the first
 4-42 bonds are issued under this subchapter, if any provision in this
 4-43 title or portion of this title is held to be invalid or is
 4-44 invalidated, superseded, replaced, repealed, or expires for any
 4-45 reason, that occurrence does not affect the validity or
 4-46 continuation of this subchapter or any other provision of this
 4-47 title that is relevant to the issuance, administration, payment,
 4-48 retirement, or refunding of authorized securitization bonds or to
 4-49 any actions of an entity requesting securitization under this
 4-50 subchapter, its successors, an assignee, a collection agent, the
 4-51 corporation, an issuer, or a financing party, and those provisions
 4-52 shall remain in full force and effect.

4-53 SECTION 2. Section 39.002, Utilities Code, is amended to
 4-54 read as follows:

4-55 Sec. 39.002. APPLICABILITY. This chapter, other than
 4-56 Sections 39.151, 39.1516, 39.155, 39.157(e), 39.203, 39.904,
 4-57 39.9051, 39.9052, and 39.914(e), does not apply to a municipally
 4-58 owned utility or an electric cooperative. Sections 39.157(e),
 4-59 39.203, and 39.904, however, apply only to a municipally owned
 4-60 utility or an electric cooperative that is offering customer
 4-61 choice. If there is a conflict between the specific provisions of
 4-62 this chapter and any other provisions of this title, except for
 4-63 Chapters 40 and 41, the provisions of this chapter control.

4-64 SECTION 3. Section 39.151, Utilities Code, is amended by
 4-65 adding Subsection (j-1) to read as follows:

4-66 (j-1) Notwithstanding Subsection (j), the independent
 4-67 system operator in ERCOT may not reduce payments to or charge uplift
 4-68 short-paid amounts from a municipally owned utility that becomes
 4-69 subject to the jurisdiction of the independent system operator in

5-1 ERCOT on or after June 1, 2021, and before December 30, 2021,
5-2 related to a default on a payment obligation by a market participant
5-3 that occurred before June 1, 2021.

5-4 SECTION 4. Chapter 39, Utilities Code, is amended by adding
5-5 Subchapter M to read as follows:

5-6 SUBCHAPTER M. SECURITIZATION FOR INDEPENDENT ORGANIZATION

5-7 Sec. 39.601. PURPOSE; USE OF PROCEEDS; BOND CHARGES. (a)

5-8 The purpose of this subchapter is to enable the independent
5-9 organization certified under Section 39.151 for the ERCOT power
5-10 region to use securitization financing to fund substantial balances
5-11 that would otherwise be uplifted to the wholesale market as a result
5-12 of market participants defaulting on amounts owed after an extreme
5-13 pricing event. Securitization will allow wholesale market
5-14 participants who are owed money to be paid in a more timely manner,
5-15 while allowing the balance to be repaid over time at a low carrying
5-16 cost.

5-17 (b) The proceeds of bonds issued for the purpose described
5-18 by Subsection (a) must be used solely for the purpose of financing
5-19 default balances that otherwise would be or have been uplifted to
5-20 the wholesale market. The commission shall ensure that
5-21 securitization provides tangible and quantifiable benefits to
5-22 wholesale market participants, greater than would have been
5-23 achieved absent the issuance of bonds.

5-24 (c) The commission shall ensure that the structuring and
5-25 pricing of the bonds result in the lowest bond charges consistent
5-26 with market conditions and the terms of the financing order. The
5-27 present value calculation shall use a discount rate equal to the
5-28 proposed interest rate on the bonds.

5-29 Sec. 39.602. DEFINITIONS. In this subchapter:

5-30 (1) "Assignee" means any individual, corporation, or
5-31 other legally recognized entity to which an interest in default or
5-32 uplift property is transferred, other than as security.

5-33 (2) "Default charges" means nonbypassable amounts to
5-34 be charged on all wholesale market transactions administered by the
5-35 independent organization certified under Section 39.151 for the
5-36 ERCOT power region, approved by the commission under a financing
5-37 order to recover qualified costs, that shall be collected by the
5-38 independent organization, its successors, an assignee, or other
5-39 collection agents as provided by the financing order.

5-40 (3) "Financing order" means an order of the commission
5-41 approving the issuance of bonds and the creation of charges for the
5-42 recovery of qualified costs.

5-43 (4) "Financing party" means a holder of bonds,
5-44 including trustees, collateral agents, and other persons acting for
5-45 the benefit of the holder.

5-46 (5) "Independent organization" means the independent
5-47 organization certified under Section 39.151 for the ERCOT power
5-48 region.

5-49 (6) "Period of emergency" means the period beginning
5-50 12:00 a.m., February 12, 2021, and ending 11:59 p.m., February 20,
5-51 2021.

5-52 (7) "Qualified costs" means a default balance
5-53 resulting from the period of emergency that otherwise would be or
5-54 has been uplifted to other wholesale market participants, together
5-55 with the costs of issuing, supporting, and servicing bonds and any
5-56 costs of retiring and refunding existing debt in connection with
5-57 the issuance of the bonds.

5-58 Sec. 39.603. FINANCING ORDERS; TERMS. (a) On application
5-59 of the independent organization, the commission may adopt a
5-60 financing order to recover the costs of a substantial default
5-61 balance of qualified costs resulting from a significant pricing
5-62 event on making a finding that such financing is needed to preserve
5-63 the integrity of the wholesale market and the public interest after
5-64 considering:

5-65 (1) the interests of wholesale market participants who
5-66 are owed balances; and

5-67 (2) the potential effects of uplifting those balances
5-68 to the wholesale market without a financing vehicle.

5-69 (b) The financing order must detail the amounts to be

6-1 recovered and the period over which the nonbypassable default
6-2 charges shall be recovered. The period may not exceed 30 years. If
6-3 an amount determined under this section is subject to judicial
6-4 review of a commission order, a bankruptcy proceeding, or another
6-5 type of litigation at the time of the securitization proceeding,
6-6 the financing order shall include an adjustment mechanism requiring
6-7 the independent organization to adjust its default charges in a
6-8 manner that would refund, over the remaining life of the bonds, any
6-9 overpayments resulting from securitization of amounts in excess of
6-10 the amount resulting from a final determination after completion of
6-11 all appellate reviews. The adjustment mechanism may not affect the
6-12 stream of revenue available to service the bonds. An adjustment may
6-13 not be made under this subsection until all appellate reviews have
6-14 been completed, including appellate reviews following a commission
6-15 decision on remand of its original orders, if applicable.

6-16 (c) Nonbypassable default charges must be collected from
6-17 and allocated among wholesale market participants using the same
6-18 methodology under which the charges would otherwise be uplifted
6-19 under the protocols of the independent organization in effect on
6-20 March 1, 2021. The rate associated with the nonbypassable default
6-21 charges must be assessed on all wholesale market participants and
6-22 may be based on updated transaction data to prevent market
6-23 participants from engaging in behavior designed to avoid the
6-24 nonbypassable default charges.

6-25 (d) A financing order becomes effective in accordance with
6-26 its terms and the financing order, together with the default
6-27 charges authorized in the order, shall be irrevocable and not
6-28 subject to reduction, impairment, or adjustment by further action
6-29 of the commission after it takes effect.

6-30 (e) The commission shall issue a financing order not later
6-31 than the 90th day after the date the independent organization files
6-32 a request for the financing order under Subsection (a) or (g).

6-33 (f) A financing order is not subject to rehearing by the
6-34 commission. A financing order may be reviewed by appeal by a party
6-35 to the proceeding to a Travis County district court filed not later
6-36 than the 15th day after the date the financing order is signed by
6-37 the commission. The judgment of the district court may be reviewed
6-38 only by direct appeal to the Supreme Court of Texas filed not later
6-39 than the 15th day after the date of the entry of judgment. All
6-40 appeals shall be heard and determined by the district court and the
6-41 Supreme Court of Texas as expeditiously as possible with lawful
6-42 precedence over other matters. Review on appeal shall be based
6-43 solely on the record before the commission and briefs to the court
6-44 and shall be limited to whether the financing order conforms to the
6-45 constitution and laws of this state and the United States and is
6-46 within the authority of the commission under this chapter.

6-47 (g) At the request of the independent organization, the
6-48 commission may adopt a financing order providing for retiring and
6-49 refunding the bonds on making a finding that the future default
6-50 charges required to service the new bonds, including transaction
6-51 costs, will be less than the future default charges required to
6-52 service the bonds being refunded. On the retirement of the refunded
6-53 bonds, the commission shall adjust the related default charges
6-54 accordingly.

6-55 Sec. 39.604. PROPERTY RIGHTS. (a) The rights and interests
6-56 of the independent organization or its successor under a financing
6-57 order, including the right to impose, collect, and receive default
6-58 charges authorized in the order, shall be only contract rights
6-59 until they are first transferred to an assignee or pledged in
6-60 connection with the issuance of bonds, at which time they will
6-61 become default property, as described by Subsection (b).

6-62 (b) Default property shall constitute a present property
6-63 right for purposes of contracts concerning the sale or pledge of
6-64 property, even though the imposition and collection of default
6-65 charges depends on further acts of the independent organization or
6-66 others that have not yet occurred. The financing order shall remain
6-67 in effect and the property shall continue to exist for the same
6-68 period as the pledge of the state described by Section 39.609.

6-69 (c) All revenues and collections resulting from default

7-1 charges shall constitute proceeds only of the default property
7-2 arising from the financing order.

7-3 Sec. 39.605. INTEREST NOT SUBJECT TO SETOFF. The interest
7-4 of an assignee or pledgee in default property and in the revenues
7-5 and collections arising from that property are not subject to
7-6 setoff, counterclaim, surcharge, or defense by the independent
7-7 organization or any other person or in connection with the
7-8 bankruptcy of a wholesale market participant or the independent
7-9 organization. A financing order shall remain in effect and
7-10 unabated notwithstanding the bankruptcy of the independent
7-11 organization, its successors, or assignees.

7-12 Sec. 39.606. DEFAULT CHARGES NONBYPASSABLE. A financing
7-13 order shall include terms ensuring that the imposition and
7-14 collection of default charges authorized in the order shall be
7-15 nonbypassable.

7-16 Sec. 39.607. TRUE-UP. A financing order shall include a
7-17 mechanism requiring that default charges be reviewed and adjusted
7-18 at least annually, not later than the 45th day after the anniversary
7-19 date of the issuance of the bonds, to:

7-20 (1) correct over-collections or under-collections of
7-21 the preceding 12 months; and

7-22 (2) ensure the expected recovery of amounts sufficient
7-23 to timely provide all payments of debt service and other required
7-24 amounts and charges in connection with the bonds.

7-25 Sec. 39.608. SECURITY INTERESTS; ASSIGNMENT; COMMINGLING;
7-26 DEFAULT. (a) Default property does not constitute an account or
7-27 general intangible under Section 9.106, Business & Commerce Code.
7-28 The creation, granting, perfection, and enforcement of liens and
7-29 security interests in default property are governed by this section
7-30 and not by the Business & Commerce Code.

7-31 (b) A valid and enforceable lien and security interest in
7-32 default property may be created only by a financing order and the
7-33 execution and delivery of a security agreement with a financing
7-34 party in connection with the issuance of bonds. The lien and
7-35 security interest shall attach automatically from the time that
7-36 value is received for the bonds and, on perfection through the
7-37 filing of notice with the secretary of state in accordance with the
7-38 rules prescribed under Subsection (d), shall be a continuously
7-39 perfected lien and security interest in the default property and
7-40 all proceeds of the property, whether accrued or not, shall have
7-41 priority in the order of filing and take precedence over any
7-42 subsequent judicial or other lien creditor. If notice is filed
7-43 before the 10th day after the date value is received for the default
7-44 bonds, the security interest shall be perfected retroactive to the
7-45 date value was received. Otherwise, the security interest shall be
7-46 perfected as of the date of filing.

7-47 (c) Transfer of an interest in default property to an
7-48 assignee shall be perfected against all third parties, including
7-49 subsequent judicial or other lien creditors, when the financing
7-50 order becomes effective, transfer documents have been delivered to
7-51 the assignee, and a notice of that transfer has been filed in
7-52 accordance with the rules adopted under Subsection (d). However,
7-53 if notice of the transfer has not been filed in accordance with this
7-54 subsection before the 10th day after the delivery of transfer
7-55 documentation, the transfer of the interest is not perfected
7-56 against third parties until the notice is filed.

7-57 (d) The secretary of state shall implement this section by
7-58 establishing and maintaining a separate system of records for the
7-59 filing of notices under this section and adopting the rules for
7-60 those filings based on Chapter 9, Business & Commerce Code, adapted
7-61 to this subchapter and using the terms defined by this subchapter.

7-62 (e) The priority of a lien and security interest perfected
7-63 under this section is not impaired by any later modification of the
7-64 financing order under Section 39.607 or by the commingling of funds
7-65 arising from default charges with other funds, and any other
7-66 security interest that may apply to those funds shall be terminated
7-67 when they are transferred to a segregated account for the assignee
7-68 or a financing party. If default property has been transferred to
7-69 an assignee, any proceeds of that property shall be held in trust

8-1 for the assignee.

8-2 (f) If a default or termination occurs under the bonds, the
8-3 financing parties or their representatives may foreclose on or
8-4 otherwise enforce their lien and security interest in any property
8-5 as if they were secured parties under Chapter 9, Business & Commerce
8-6 Code, and the commission may order that amounts arising from
8-7 default charges be transferred to a separate account for the
8-8 financing parties' benefit, to which their lien and security
8-9 interest shall apply. On application by or on behalf of the
8-10 financing parties, a district court of Travis County shall order
8-11 the sequestration and payment to them of revenues arising from the
8-12 default charges.

8-13 Sec. 39.609. PLEDGE OF STATE. Default bonds are not a debt
8-14 or obligation of the state and are not a charge on its full faith and
8-15 credit or taxing power. The state pledges, however, for the benefit
8-16 and protection of financing parties and the independent
8-17 organization that it will not take or permit any action that would
8-18 impair the value of default property, or reduce, alter, or impair
8-19 the default charges to be imposed, collected, and remitted to
8-20 financing parties, until the principal, interest and premium, and
8-21 any other charges incurred and contracts to be performed in
8-22 connection with the related bonds have been paid and performed in
8-23 full. Any party issuing bonds under this subchapter is authorized
8-24 to include this pledge in any documentation relating to those
8-25 bonds.

8-26 Sec. 39.610. TAX EXEMPTION. Transactions involving the
8-27 transfer and ownership of default property and the receipt of
8-28 default charges are exempt from state and local income, sales,
8-29 franchise, gross receipts, and other taxes or similar charges.

8-30 Sec. 39.611. NOT PUBLIC UTILITY. An assignee or financing
8-31 party may not be considered to be a public utility or person
8-32 providing electric service solely by virtue of the transactions
8-33 described in this subchapter.

8-34 Sec. 39.612. SEVERABILITY. Effective on the date the first
8-35 bonds are issued under this subchapter, if any provision in this
8-36 title or portion of this title is held to be invalid or is
8-37 invalidated, superseded, replaced, repealed, or expires for any
8-38 reason, that occurrence does not affect the validity or
8-39 continuation of this subchapter or any other provision of this
8-40 title that is relevant to the issuance, administration, payment,
8-41 retirement, or refunding of bonds or to any actions of the
8-42 independent organization, its successors, an assignee, a
8-43 collection agent, or a financing party, which shall remain in full
8-44 force and effect.

8-45 SECTION 5. This Act takes effect immediately if it receives
8-46 a vote of two-thirds of all the members elected to each house, as
8-47 provided by Section 39, Article III, Texas Constitution. If this
8-48 Act does not receive the vote necessary for immediate effect, this
8-49 Act takes effect September 1, 2021.

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