

## “RESIDENTIAL ENERGY FINANCING”

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Richmond City Hall  
450 Civil Center Plaza  
Richmond, California

### AB 811: OVERVIEW AND BASICS

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- A. Chapter 29, Part 3, Division 7, California Streets and Highways Code (Sections 5898.10 through 5898.32)
  - 1. Division 7 is the “Improvement Act of 1911” (so-called “1911 Act”)
  - 2. Chapter 29 first enacted in 1987 to provide an **expedited procedure** for financing traditional **public improvements on public property** in circumstances where traditional 1911 Act assessment district procedures would be unduly time-consuming and costly
  - 3. Provides for the “establishment of a **contractual assessment program**” for **already-developed parcels** and with strictly **voluntary participation** by the property owners of the parcels to be assessed
  - 4. The contractual assessment is imposed as a result of execution of a two-party agreement between the local agency and the property owner(s)
- B. AB 811 (Chapter 159, Statutes of 2008)
  - 1. Legislation sponsored by and first used by the City of Palm Desert
  - 2. Amended Chapter 29 to authorize contractual assessment financing by **cities and counties only** of **distributed generation renewable energy and energy efficiency improvements** which are **permanently fixed** on **private buildings** and which **may be purchased and installed under direct contracts between the provider/installer and the property owner**
  - 3. Not limited to residential buildings and not limited to solar energy improvements

C. AB 474 (Chapter 444, Statutes of 2009)

1. Further amended Chapter 29 to authorize contractual assessment financing of **water efficiency improvements** and expanded list of local agencies authorized to establish contractual assessment programs for the financing of same
2. Also expanded the list of local agencies authorized to establish contractual assessment programs for the financing of distributed generation renewable energy sources or energy efficiency improvements to include **certain special districts that own and operate an electrical distribution system**
3. Included provisions to (a) clarify that the lien securing a contractual assessment has the same priority as traditional assessment liens and (b) clarifies that contractual assessments are not “assessments” for Prop 218 purposes

D. Basics – See “Critical Issues for Launching an AB 811 Program”

1. Establish or confirm political support
2. Identify financial resources for start-up costs
3. Select a staffing structure, and formulate a marketing program and preliminary timeline
4. Procedure for establishment of an AB 811 program entails (a) adopting a resolution of intention, (b) receiving a **report containing prescribed contents** (see Section 5898.22), (c) conducting a public hearing to consider the report, and (d) following the conclusion of the hearing, adopting a resolution confirming the report and establishing the program.
5. Basic concept is that, once a local agency has established its program, it:
  - a. invites, receives and processes to approval (or rejection) applications from interested and eligible property owners;
  - b. application approval followed by execution of an agreement between the local agency and the property owner(s) of a given parcel, under which the list of authorized improvements for that parcel is established, commitment made by property owner to acquire/install improvements, commitment made by local agency to reimburse the property owner upon completion of the authorized improvements to the satisfaction of the local agency, and consent given by property owner to the recording of the contractual assessment payment obligation as a lien on the property
  - c. either prior to or at the time of project completion, the contractual assessment payment obligation is established as a lien on the property
  - d. with lien in place, property owner(s) reimbursed from available funding source
  - e. eventually, a sufficient set of contractual assessment payment obligations is established to serve as security for long-term take out financing