

**PART VII. LOUISIANA ELECTRIC INVESTMENT
RECOVERY SECURITIZATION ACT**

§1251. Short title; purpose

A. This Part shall be known and may be cited as the "Louisiana Electric Utility Investment Recovery Securitization Act".

B. The purpose of this Part is to enable Louisiana electric utilities, if authorized by a financing order issued by the commission, to use securitization financing for certain investment recovery costs, because this type of debt may lower the financing costs or mitigate the impact on rates in comparison with conventional utility financing methods or alternative methods of recovery, thereby benefiting ratepayers. The investment recovery bonds will not be public debt. The proceeds of the investment recovery bonds shall be used for the purpose of recovering certain investment recovery costs, solely as allowed by the commission. Securitization financing for investment recovery costs is hereby recognized to be a valid public purpose. Federal tax laws and revenue procedures expressly require that special state legislation be enacted in order for such transactions to receive certain tax benefits. The legislature finds a need to promote such securitization financing, if authorized by the commission, by providing clear and exclusive methods to create, transfer, and encumber interests in investment recovery property as defined in this Part. This need can be met by providing in this Part for such methods and by establishing that any conflict between the rules governing sales, assignments, or transfers of, or security interests, privileges, or other encumbrances of any nature upon incorporeal movable property under other Louisiana laws and the methods provided in this Part, including without limitation with regard to creation, perfection, priority, or enforcement, shall be resolved in favor of the rules and methods established in this Part with regard to investment recovery property.

C. The intent of this Part is to provide benefits to Louisiana ratepayers by allowing a Louisiana electric utility, if authorized by a financing order, to achieve certain tax and credit benefits of financing investment recovery costs. This Part does not in any way limit, impair, or impact the commission's plenary jurisdiction over the rates charged and services rendered by public utilities in this state. Instead, this Part addresses certain property, security interest, and other matters to ensure that the financial and federal income tax benefits of financing investment recovery costs through securitization are available in Louisiana. The beneficial income tax and credit characteristics that may be achieved include the following:

- (1) Treating the investment recovery bonds as debt of the electric utility for income tax purposes.
 - (2) Treating the investment recovery charges as gross income to the electric utility recognized under the utility's usual method of accounting for federal and state income tax purposes, rather than recognizing gross income upon the receipt of the financing order or of cash in exchange for the sale of the investment recovery property or the issuance of the investment recovery bonds.
 - (3) Avoiding the recognition of debt on the electric utility's balance sheet for certain credit and regulatory purposes by reason of the investment recovery bonds.
 - (4) Treating the sale, assignment, or transfer of the investment recovery property by the electric utility as a true sale for state law and bankruptcy purposes.
 - (5) Avoiding any adverse impact of the financing on the electric utility's credit rating.
- Acts 2010, No. 988, §2, eff. July 6, 2010.