

SECOND REGULAR SESSION

HOUSE BILL NO. 2214

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PLOCHER.

5567H.021

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 67.2800, 67.2805, 67.2810, and 67.2815, RSMo, and to enact in lieu thereof five new sections relating to the property assessment clean energy act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 67.2800, 67.2805, 67.2810, and 67.2815, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 67.2800, 67.2805, 67.2810, 67.2815, and 67.2817, to read as follows:

67.2800. 1. Sections 67.2800 to 67.2835 shall be known and may be cited as the "Property Assessment Clean Energy Act".

2. As used in sections 67.2800 to 67.2835, the following words and terms shall mean:

(1) "Assessment contract", a contract entered into between a clean energy development board and a property owner under which the property owner agrees to pay an annual assessment for a period of up to twenty-five years in exchange for financing of ~~[an energy efficiency]~~ **any eligible** improvement ~~[or a renewable energy improvement];~~

(2) "Authority", the state environmental improvement and energy resources authority established under section 260.010;

(3) "Bond", any bond, note, or similar instrument issued by or on behalf of a clean energy development board;

(4) "Clean energy conduit financing", the financing of energy efficiency improvements or renewable energy improvements for a single parcel of property or a unified development consisting of multiple adjoining parcels of property under section 67.2825;

(5) "Clean energy development board", a board formed by one or more municipalities under section 67.2810;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (6) **"Commercial property", a commercial, industrial, agricultural or horticultural**
18 **property, or multi-family dwelling of five or more units;**

19 (7) **"Eligible improvement", energy, water efficiency, or renewable energy**
20 **improvements that meet one or more standards or certification criteria that have been**
21 **established by government agencies, such as the United States Department of Energy or**
22 **the United States Environmental Protection Agency, or by third-party private**
23 **organizations that publish generally accepted standards with respect to energy, water**
24 **efficiency, or renewable energy;**

25 (8) **"Energy efficiency improvement", any acquisition, installation, or modification on**
26 **or of publicly or privately owned property designed to reduce the energy consumption of such**
27 **property, including but not limited to:**

28 (a) **Insulation in walls, roofs, attics, floors, foundations, and heating and cooling**
29 **distribution systems;**

30 (b) **Storm windows and doors, multiglazed windows and doors, heat-absorbing or**
31 **heat-reflective windows and doors, and other window and door improvements designed to reduce**
32 **energy consumption;**

33 (c) **Automatic energy control systems;**

34 (d) **Heating, ventilating, or air conditioning distribution system modifications and**
35 **replacements;**

36 (e) **Caulking and weatherstripping;**

37 (f) **Replacement or modification of lighting fixtures to increase energy efficiency of the**
38 **lighting system without increasing the overall illumination of the building unless the increase in**
39 **illumination is necessary to conform to applicable state or local building codes;**

40 (g) **Energy recovery systems; and**

41 (h) **Daylighting systems;**

42 [~~7~~] (9) **"Municipality", any county, city, or incorporated town or village of this state;**

43 [~~8~~] (10) **"Program administrator", an entity selected by the clean energy**
44 **development board to administer the PACE program;**

45 (11) **"Project", any energy efficiency improvement or renewable energy improvement;**

46 [~~9~~] (12) **"Property assessed clean energy assessment" or "PACE assessment", the**
47 **special assessment that is levied against a participating property and which is a lien on the**
48 **participating property;**

49 (13) **"Property assessed clean energy local finance fund", a fund that may be established**
50 **by the authority for the purpose of making loans to clean energy development boards to establish**
51 **and maintain property assessed clean energy programs;**

52 ~~[(10)]~~ **(14) "Property assessed clean energy program" or "PACE program"**, a program
53 established by a clean energy development board to finance energy efficiency improvements or
54 renewable energy improvements under section 67.2820;

55 ~~[(11)]~~ **(15) "Property owner", an owner of record on the property subject to the**
56 **PACE assessment;**

57 **(16) "Renewable energy improvement"**, any acquisition and installation of a fixture,
58 product, system, device, or combination thereof on publicly or privately owned property that
59 produces energy from renewable resources, including, but not limited to photovoltaic systems,
60 solar thermal systems, wind systems, biomass systems, or geothermal systems;

61 **(17) "Residential property", a single family dwelling or manufactured home with**
62 **fewer than five units, including the single-units within a condominium or cooperative**
63 **housing association, or vacant land which is zoned for residential occupancy;**

64 **(18) "Water efficiency improvement", any acquisition, installation, or modification**
65 **on or of property designed to reduce the water consumption of such property or improve**
66 **the efficiency of a drainage, sewer, or water supply system.**

67 3. All projects undertaken under sections 67.2800 to 67.2835 are subject to the
68 applicable municipality's ordinances and regulations, including but not limited to those
69 ordinances and regulations concerning zoning, subdivision, building, fire safety, and historic or
70 architectural review.

67.2805. 1. The authority may, as needed, promulgate administrative rules and
2 regulations relating to the following:

3 (1) Guidelines and specifications for administering the property assessed clean energy
4 local finance fund; and

5 (2) Any clarification to the definitions of energy efficiency improvement and renewable
6 energy improvement as the authority may determine is necessary or advisable.

7 2. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
8 under the authority delegated in this section shall become effective only if it complies with and
9 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
10 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
11 under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
12 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
13 or adopted after August 28, 2010, shall be invalid and void.

67.2810. 1. One or more municipalities may form clean energy development boards for
2 the purpose of exercising the powers described in sections 67.2800 to 67.2835. Each clean
3 energy development board shall consist of not less than three members, as set forth in the
4 ordinance or order establishing the clean energy development board. Members shall serve terms

5 as set forth in the ordinance or order establishing the clean energy development board and shall
6 be appointed:

7 (1) If only one municipality is participating in the clean energy development board, by
8 the chief elected officer of the municipality with the consent of the governing body of the
9 municipality; or

10 (2) If more than one municipality is participating, in a manner agreed to by all
11 participating municipalities.

12 2. A clean energy development board shall be a political subdivision of the state and
13 shall have all powers necessary and convenient to carry out and effectuate the provisions of
14 sections 67.2800 to 67.2835, including but not limited to the following:

15 (1) To adopt, amend, and repeal bylaws, which are not inconsistent with sections
16 67.2800 to 67.2835;

17 (2) To adopt an official seal;

18 (3) To sue and be sued;

19 (4) To make and enter into contracts and other instruments with public and private
20 entities;

21 (5) To accept grants, guarantees, and donations of property, labor, services, and other
22 things of value from any public or private source;

23 (6) To employ or contract for such managerial, legal, technical, clerical, accounting, or
24 other assistance it deems advisable;

25 (7) To levy and collect special assessments under an assessment contract with a property
26 owner and to record such special assessments as a lien on the property;

27 (8) To borrow money from any public or private source and issue bonds and provide
28 security for the repayment of the same;

29 (9) To finance a **commercial or residential** project under an assessment contract;

30 (10) To collect reasonable fees and charges in connection with making and servicing
31 assessment contracts and in connection with any technical, consultative, or **commercial or**
32 **residential** project assistance services offered;

33 (11) To invest any funds not required for immediate disbursement in obligations of the
34 state of Missouri or of the United States or any agency or instrumentality thereof, or in bank
35 certificates of deposit; provided, however, the limitations on investments provided in this
36 subdivision shall not apply to proceeds acquired from the sale of bonds which are held by a
37 corporate trustee; and

38 (12) To take whatever actions necessary to participate in and administer a clean energy
39 conduit financing or a property assessed clean energy program.

40 3. No later than July first of each year, the clean energy development board shall file
41 with each municipality that participated in the formation of the clean energy development board
42 and with the director of the department of natural resources an annual report for the preceding
43 calendar year that includes:

44 (1) A brief description of each **commercial or residential** project financed by the clean
45 energy development board during the preceding calendar year~~], which shall include the physical~~
46 ~~address of the property, the name or names of the property owner, an itemized list of the costs~~
47 ~~of the project, and the name of any contractors used to complete the project];~~

48 (2) The amount of assessments due and the amount collected during the preceding
49 calendar year;

50 (3) The amount of clean energy development board administrative costs incurred during
51 the preceding calendar year;

52 (4) The estimated cumulative energy savings resulting from all energy efficiency
53 improvements financed during the preceding calendar year; and

54 (5) The estimated cumulative energy produced by all renewable energy improvements
55 financed during the preceding calendar year.

56 4. No lawsuit to set aside the formation of a clean energy development board or to
57 otherwise question the proceedings related thereto shall be brought after the expiration of sixty
58 days from the effective date of the ordinance or order creating the clean energy development
59 board. No lawsuit to set aside the approval of a **commercial or residential** project, an
60 assessment contract, or a special assessment levied by a clean energy development board, or to
61 otherwise question the proceedings related thereto shall be brought after the expiration of sixty
62 days from the date that the assessment contract is executed.

67.2815. 1. A clean energy development board shall not enter into an assessment
2 contract or levy or collect a special assessment for a **commercial property** project without
3 making a finding that there are sufficient resources to complete the project and that the estimated
4 economic benefit expected from the project during the financing period is equal to or greater than
5 the cost of the project.

6 2. An assessment contract shall be executed by the clean energy development board and
7 the benefitted property owner or property owners and shall provide:

8 (1) A description of the **commercial property** project, including the estimated cost of
9 the project and details on how the project will either reduce energy consumption or create energy
10 from renewable sources;

11 (2) A mechanism for:

12 (a) Verifying the final costs of the **commercial property** project upon its completion;

13 and

14 (b) Ensuring that any amounts advanced or otherwise paid by the clean energy
15 development board toward costs of the **commercial property** project will not exceed the final
16 cost of the project;

17 (3) An acknowledgment by the property owner that the property owner has received or
18 will receive a special benefit by financing a **commercial property** project through the clean
19 energy development board that equals or exceeds the total assessments due under the assessment
20 contract;

21 (4) An agreement by the property owner to pay annual special assessments for a period
22 not to exceed twenty years, as specified in the assessment contract;

23 (5) A statement that the obligations set forth in the assessment contract, including the
24 obligation to pay annual special assessments, are a covenant that shall run with the land and be
25 obligations upon future owners of such property; and

26 (6) An acknowledgment that no subdivision of property subject to the assessment
27 contract shall be valid unless the assessment contract or an amendment thereof divides the total
28 annual special assessment due between the newly subdivided parcels pro rata to the special
29 benefit realized by each subdivided parcel.

30 3. The total special assessments levied against a **commercial** property under an
31 assessment contract shall not exceed the sum of the cost of the **commercial property** project,
32 including any required energy audits and inspections, or portion thereof financed through the
33 participation in a property assessed clean energy program or clean energy conduit financing,
34 including the costs of any audits or inspections required by the clean energy development board,
35 plus such administration fees, interest, and other financing costs reasonably required by the clean
36 energy development board.

37 4. The clean energy development board shall provide a copy of each signed assessment
38 contract to the local county assessor and county collector and shall cause a copy of such
39 assessment contract to be recorded in the real estate records of the county recorder of deeds.

40 5. Special assessments agreed to under an assessment contract shall be a lien on the
41 **commercial** property against which it is assessed on behalf of the applicable clean energy
42 development board from the date that each annual assessment under the assessment contract
43 becomes due. Such special assessments shall be collected by the county collector in the same
44 manner and with the same priority as ad valorem real property taxes. Once collected, the county
45 collector shall pay over such special assessment revenues to the clean energy development board
46 in the same manner in which revenues from ad valorem real property taxes are paid to other
47 taxing districts. Such special assessments shall be collected as provided in this subsection from
48 all subsequent property owners, including the state and all political subdivisions thereof, for the
49 term of the assessment contract.

50 6. Any clean energy development board that contracts for outside administrative services
51 to provide financing origination for a **commercial property** project shall offer the right of first
52 refusal to enter into such a contract to a federally insured depository institution with a physical
53 presence in Missouri upon the same terms and conditions as would otherwise be approved by the
54 clean energy development board. Such right of first refusal shall not be applicable to the
55 origination of any transaction that involves the issuance of bonds by the clean energy
56 development board.

**67.2817. 1. The program administrator shall not record a PACE assessment
2 contract for a residential property unless:**

3 **(1) All property taxes for the property subject to the PACE assessment contract are**
4 **current. The program administrator shall obtain a property owner's acknowledgment that**
5 **there has been no more than one late payment of property taxes on the subject property**
6 **for the previous three years or since the current owner acquired the property, whichever**
7 **period is shorter;**

8 **(2) The property subject to the PACE assessment contract has no recorded and**
9 **outstanding involuntary liens in excess of one thousand dollars, indexed for inflation;**

10 **(3) The property subject to the PACE assessment contract has no active notice of**
11 **default recorded;**

12 **(4) The property owner has not been subject to a bankruptcy proceeding that was**
13 **discharged within the last seven years, except that the property owner may have been**
14 **subject to a bankruptcy proceeding that was discharged or dismissed more than two years**
15 **before the application date and the property owner has made no debt payments more than**
16 **thirty days past due, excluding medical expense, during the twelve months immediately**
17 **preceding the application date;**

18 **(5) The property owner is current on all mortgage debt on the subject property and**
19 **has not had more than one late payment exceeding thirty days past due during the twelve**
20 **months immediately preceding the application date;**

21 **(6) The property subject to the assessment contract is within the jurisdiction of the**
22 **clean energy development board;**

23 **(7) The financing does not exceed twenty percent of the market value of the**
24 **property, inclusive of any existing PACE assessments;**

25 **(8) The total balance of PACE assessments and mortgage-related debt recorded**
26 **against the property subject to the PACE assessment does not exceed ninety-seven percent**
27 **of the fair market value of the property as established by the valuation required by**
28 **subsection 2 of this section;**

29 **(9) The term of the PACE assessment contract does not exceed the estimated useful**
30 **life of the eligible improvement to which the greatest portion of funds disbursed under the**
31 **PACE assessment contract is attributable. The program administrator shall determine**
32 **useful life for the purposes of this subdivision based upon standards or certification**
33 **criteria that have been established by appropriate government agencies or nationally**
34 **recognized standards and testing organizations; and**

35 **(10) The program administrator requires a property owner to disclose whether the**
36 **property is subject to additional PACE assessments that have not yet been recorded. The**
37 **failure of a property owner to comply with this subdivision shall not invalidate an**
38 **assessment contract or any obligations thereunder.**

39

40 **The program administrator shall use commercially reasonable methods to verify the**
41 **information required by subdivisions (1) to (10) of this subsection.**

42 **2. The program administrator shall derive market value using one of the following**
43 **methods:**

44 **(1) An automated valuation model, using the following criteria:**

45 **(a) An automated valuation model provided by a third-party vendor using**
46 **estimation models with confidence scores and periodic statistical calibration by the third-**
47 **party vendor;**

48 **(b) The PACE program shall request at least three automated valuation models for**
49 **each property. If a range is provided, the estimated value for each model shall be the**
50 **average between the highest and lowest values; and**

51 **(c) The PACE program shall utilize the estimated value with the highest confidence**
52 **score for a property. If an automated valuation model meeting the criteria does not return**
53 **a confidence score for a subject property, the PACE program shall utilize the average of**
54 **all estimated values that have been returned;**

55 **(2) An appraisal conducted within six months of the application date by a certified**
56 **residential or certified general appraiser licensed by the Missouri real estate appraisers**
57 **commission; or**

58 **(3) The true value in money valuation under section 137.115.**

59 **3. The market value determination by the program administrator shall be disclosed**
60 **to the property owner prior to signing the assessment contract;**

61 **4. Prior to recording a PACE assessment contract, the program administrator shall**
62 **determine that a property owner has a reasonable ability to satisfy the annual payment**
63 **obligation for the PACE assessment based on that property owner's income, assets, and**
64 **debts. The determination process shall be based on the following:**

65 **(1) The monthly income and housing expenses of at least one property owner on the**
66 **application, which shall be calculated in the following manner:**

67 **(a) Monthly housing expenses shall include mortgage payments, insurance,**
68 **property taxes, mortgage guaranty insurance, and other preexisting assessments on the**
69 **property;**

70 **(b) Income may include the income of any persons age eighteen or older who are**
71 **on the title to the property. For any person whose income is considered, his or her debt**
72 **obligations shall also be considered;**

73

74 **The program administrator shall not be required to consider more income than is**
75 **necessary to verify assets if verified income is sufficient to determine the ability to satisfy**
76 **the annual payment obligation for the PACE assessment;**

77 **(2) Debt obligations under subsection 6;**

78 **(3) In evaluating the income, assets, and current debt obligations of the property**
79 **owner, the equity of the property that will secure the assessment shall not be considered;**
80 **and**

81 **(4) In calculating the ability of the property owner to satisfy the annual payment**
82 **obligation, the program administrator shall determine that the property owner's income**
83 **is sufficient to meet the following:**

84 **(a) The annual PACE payment obligation;**

85 **(b) Any mortgage payments, which shall be the higher of the borrower's self-**
86 **reported housing expenses or the mortgage payments identified in the consumer credit**
87 **reports obtained by the program administrator;**

88 **(c) All other existing debts and obligations as identified in subsection 6 of this**
89 **section; and**

90 **(d) Sufficient residual income to meet basic household living expenses. The**
91 **program administrator may make a reasonable estimation of basic living expenses based**
92 **on the number of persons in the household. Household living expenses shall not include**
93 **housing expenses or other secured or unsecured debt.**

94 **5. The program administrator shall determine and consider the current or**
95 **reasonably expected income or assets of the property owner in determining the property**
96 **owner's ability to satisfy the annual payment obligation for the PACE assessment using**
97 **records of the property owner's income or assets. The program administrator may use**
98 **automated verification, provided that the source of the verification is specific to the income**
99 **of the property owner and not based on prediction or estimation methodologies and has**
100 **been determined sufficient for such verification purposes by a federal mortgage lending**

101 authority or regulator. Examples of records the program administrator may use to verify
102 the property owner's income or assets include, but are not limited to:

103 (1) A pay stub issued within the last thirty days or financial institution records
104 showing deposit activity within the last sixty days;

105 (2) Copies of tax returns the property owner filed with the Internal Revenue
106 Service or the department of revenue;

107 (3) Internal Revenue Service forms that are used for reporting wages or tax
108 withholding;

109 (4) Payroll statements, including the Department of Defense Leave and Earnings
110 Statements;

111 (5) Financial institution records such as bank statements or investment account
112 statements reflecting the value of particular assets;

113 (6) Records from the property owner's employer or a third party that obtained
114 income information from the employer; and

115 (7) Records from a federal, state, or local government agency that state the
116 property owner's income, including benefits or entitlements.

117 6. The program administrator shall consider the monthly debt obligations of the
118 property owner to determine a property owner's ability to satisfy the annual payment
119 obligation of the PACE assessment using third-party records. For the purposes of this
120 subsection, monthly debt obligations include all secured and unsecured debt reflected in
121 the consumer credit reports and monthly housing expenses.

122 7. In the case of emergency or immediate necessity, the requirements of subsection
123 5 of this section may be waived for the funding and recordation of a PACE assessment to
124 finance a heating, ventilation, and air conditioning system, boiler, or other system whose
125 primary function is temperature regulation in a home, provided that:

126 (1) The program administrator first attempted to use an automated means of
127 verification;

128 (2) If the program administrator was unable to verify the property owner's income
129 under subsection 5 of this section, the program administrator shall determine the property
130 owner's income and the sources of that income from the property owner;

131 (3) The funding is limited to the emergency or immediate necessity improvement
132 and any required improvements directly necessary to the installation and safe operation
133 of the eligible improvement; and

134 (4) The property owner executes a waiver of their right to cancel the PACE contract
135 and confirms the emergency or immediate necessity of the eligible improvement.

136 **8. The program administrator shall prepare an annual report detailing all PACE**
137 **assessments that were funded and recorded under subsection 7 of this section.**

138 **9. If the property owner has insufficient ability to satisfy the annual PACE**
139 **payment obligation and the consumer is obligated under a home improvement contract**
140 **directly related to such assessment, the program administrator shall be responsible for the**
141 **difference unless such determination was based upon a misrepresentation by the property**
142 **owner.**

143 **10. Before a property owner executes a PACE assessment contract, the program**
144 **administrator shall make oral and written confirmation of the key terms of the PACE**
145 **assessment agreement to at least one owner of the subject property or authorized**
146 **representative of the owner and shall obtain acknowledgment from the person to whom**
147 **the confirmation is given. Such confirmation shall disclose:**

148 **(1) That the eligible improvement being installed is being funded by an assessment;**

149 **(2) The total estimated annual amount the property owner shall pay under the**
150 **PACE assessment contract, including applicable fees;**

151 **(3) The estimated date that the first payment shall be due;**

152 **(4) The term of the PACE assessment contract;**

153 **(5) That payments on the PACE assessment contract shall be collected along with**
154 **the property owner's property taxes;**

155 **(6) That the property shall be subject to a lien during the term of the PACE**
156 **assessment contract;**

157 **(7) That such property owner has disclosed whether additional PACE assessments**
158 **have been authorized by any property owner to be placed on the property;**

159 **(8) That such property owner understands the financial information that he or she**
160 **has provided, and that he or she has the financial means to make payments on the**
161 **assessment agreement in addition to his or her other expenses;**

162 **(9) That any potential utility savings are not guaranteed and shall not reduce the**
163 **PACE assessment payments or total PACE assessment amount;**

164 **(10) That the program administrator does not provide tax advice, and that the**
165 **property owner should seek professional tax advice if he or she has questions regarding the**
166 **tax impact of the assessment or PACE assessment contract;**

167 **(11) That the obligations under the PACE assessment contract may be required to**
168 **be paid in full before the property owner sells or refinances the property; and**

169 **11. The program administrator shall comply with the following when giving the**
170 **oral confirmation described in subsection 10 of this section:**

171 (1) The program administrator shall record the oral confirmation in an audio
172 format in accordance with applicable laws;

173 (2) The program administrator shall not deliver the oral confirmation through the
174 use of a prerecorded message; and

175 (3) Recording of an oral confirmation shall be retained by the program
176 administrator for a period of at least five years from the time of the recording.

177 12. A clean energy development board shall be required to develop a disclosure
178 form for residential PACE projects. The form shall disclose all key financing terms of the
179 PACE assessment contract including, but not limited to:

180 (1) The total estimated PACE assessment principal amount, including the cost of
181 the installed improvements together with program fees and capitalized interest, if any;

182 (2) The annual tax obligation;

183 (3) The annual payment amounts;

184 (4) The term of the PACE assessment;

185 (5) The stated rate of interest;

186 (6) The annual percentage rate;

187 (7) A payment schedule;

188 (8) The improvements to be installed;

189 (9) That if the property owner sells or refinances their property they may be
190 required to pay off the PACE assessment as a condition of sale or refinance;

191 (10) That no penalty shall be assessed or collected for prepayment of the PACE
192 assessment;

193 (11) That any potential utility savings are not guaranteed, and shall not reduce the
194 PACE assessment payments or total PACE assessment amount;

195 (12) That the PACE assessment shall be collected along with their property taxes
196 and shall result in a lien on the property;

197 (13) That the payments shall be added to his or her property tax bill;

198 (14) That failure to pay the PACE assessment may result in penalties, fees, and,
199 eventually, foreclosure; and

200 (15) That a property owner should seek professional tax advice if he or she has
201 questions regarding the tax impact of the assessment or assessment contract.

202

203 A program administrator shall present the disclosure form to a property owner for
204 acknowledgment prior to the execution of a PACE assessment contract.

205 13. (1) A program administrator shall provide, as part of a PACE assessment
206 contract, a three-day right to cancel regarding the financing of eligible improvements no

207 later than the time the assessment contract is signed by the property owner. A property
208 owner shall have the right to cancel a PACE assessment contract by midnight of the third
209 business day after the property owner signs the PACE assessment contract.

210 (2) The clean energy development board shall develop a form to notify the property
211 owner in writing that such owner may rescind any PACE assessment contract entered into
212 under this section not later than three business days after entering into such agreement;
213 and

214 (3) The property owner may waive the right to cancel if all of the following are met:

215 (a) The PACE assessment contract is executed in connection with the making of
216 emergency or immediately necessary repairs to protect persons or real or personal
217 property;

218 (b) The PACE assessment contract was initiated for emergency repair or
219 immediately necessary use; and

220 (c) The property owner provides a separate statement that is dated and signed by
221 at least one property owner, describing the situation that requires immediate remedy, and
222 expressly acknowledges that the contractor has informed him or her of the right to cancel
223 and that he or she waives the right to cancel.

224 14. (1) A program administrator shall not permit home improvement contractors,
225 or persons acting directly on behalf of home improvement contractors, to advertise the
226 availability of PACE assessment contracts that are administered by the program
227 administrator unless the program administrator obtains the contractor's written
228 agreement that the home improvement contractor, or the persons acting directly on behalf
229 of the home improvement contractor, shall act in accordance with chapter 407 and all
230 other applicable marketing and advertising laws and regulations.

231 (2) A program administrator shall not provide any direct or indirect cash payment
232 or other thing of material value to a home improvement contractor in excess of the actual
233 price charged by that home improvement contractor to the property owner for the sale and
234 installation of one or more efficiency improvements financed by a PACE assessment
235 contract. A program administrator shall not provide any direct or indirect cash payment
236 or other thing of material value to a person acting directly on behalf of a home
237 improvement contractor in connection with an activity related to advertising the
238 availability of assessment contracts. No communication between a program administrator
239 and a home improvement contractor or its agents or representatives, or any information
240 disclosed by or to a program administrator, and any service provided by a program
241 administrator to a home improvement contractor or its agents or representatives, for the

242 purpose of enabling or facilitating the installation of projects for an applicant or
243 prospective applicant for program financing, shall constitute a thing of material value.

244 (3) A program administrator shall not reimburse expenses to a home improvement
245 contractor for advertising and marketing campaigns or collateral.

246 (4) A program administrator may pay for, or reimburse a home improvement
247 contractor for, bona fide and reasonable training expenses actually incurred; any
248 reimbursement of a home improvement contractor shall not exceed one hundred dollars,
249 indexed for inflation, per agent or representative of the home improvement contractor who
250 participated in such training, and shall be paid directly to the home improvement
251 contractor, not its agents or representatives.

252 (5) A program administrator shall not provide any direct cash payment or other
253 thing of value to a property owner explicitly conditioned upon that property owner
254 entering into a financing agreement. Notwithstanding the above, programs or promotions
255 that offer reduced fees or interest rates to property owners are neither a direct cash
256 payment or other thing of value.

257 (6) A program administrator, home improvement contractor, or person acting
258 directly on behalf of a home improvement contractor, shall not make any representation
259 as to the tax deductibility of a PACE assessment unless that representation is consistent
260 with representations, statements, or opinions of the Internal Revenue Service or applicable
261 state tax agency with regard to the tax treatment of non-ad valorem assessments.

262 (7) A program administrator shall not provide to a home improvement contractor,
263 or a person acting directly on behalf of a home improvement contractor, the amount of
264 funds for which a property owner is eligible for projects or the amount of equity in a
265 property.

266 (8) A contractor shall not provide a different price for a project financed under this
267 section than the contractor would provide if paid in cash by the property owner.

268 15. (1) A program administrator shall establish and maintain a list of eligible
269 improvements. The eligible improvement list shall include the following information for
270 each improvement:

271 (a) Name or description of the improvement;

272 (b) Eligibility criteria; and

273 (c) Expected useful life.

274 (2) An improvement shall not be included on an eligible improvement list unless the
275 program administrator has determined that the improvement meets one or more standards
276 or certification criteria that have been established by government agencies, such as the
277 United States Department of Energy or United States Environmental Protection Agency,

278 or by third-party private organizations that publish generally accepted standards with
279 respect to the improvement.

280 **16. A program administrator may offer a qualifying improvement not included in**
281 **the eligible improvement list if that administrator does both of the following:**

282 **(1) Establishes and maintains an application process to permit a home**
283 **improvement contractor or property owner to request a PACE assessment for a custom**
284 **measure; and**

285 **(2) Establishes and maintains guidelines by which the program administrator shall**
286 **review and approve the application for a custom improvement.**

287 **17. A PACE assessment contract shall be executed by the clean energy development**
288 **board and all property owners and shall provide:**

289 **(1) A description of the project, including the estimated cost of the project;**

290 **(2) A statement that the obligations set forth in the PACE assessment contract,**
291 **including the obligation to make annual assessment payments, are a covenant that shall**
292 **run with the land and be obligations upon future owners of such property; and**

293 **(3) An acknowledgment that no subdivision of property subject to the PACE**
294 **assessment contract shall be valid unless the PACE assessment contract or an amendment**
295 **thereof divides the total annual special assessment due between the newly subdivided**
296 **parcels pro rata to the special benefit realized by each subdivided parcel.**

297 **18. The clean energy development board shall provide a copy of each signed PACE**
298 **assessment contract or a summary memorandum stating the annual amount of the**
299 **assessment and the term of the assessment to the local county assessor and county collector**
300 **and shall cause a copy of such PACE assessment contract or a summary memorandum to**
301 **be recorded in the real estate records of the county recorder of deeds.**

302 **19. PACE assessments agreed to under a PACE assessment contract shall be a lien**
303 **on the property against which it is assessed on behalf of the applicable clean energy**
304 **development board from the date that each annual assessment under the assessment**
305 **contract becomes due. Such special assessments shall be noticed and collected by the**
306 **county collector in the same manner and with the same priority as ad valorem real**
307 **property taxes under Sections 52.220 and 52.230. Once collected, the county collector shall**
308 **pay over such special assessment revenues to the clean energy development board in the**
309 **same manner in which revenues from ad valorem real property taxes are paid to other**
310 **taxing districts. Such special assessments shall be collected as provided in this subsection**
311 **from all subsequent property owners, including the state and all political subdivisions**
312 **thereof, for the term of the assessment contract.**

313 **20. (1) A clean energy development board shall, on an annual basis, publish a**
314 **report that shall contain the following information, along with relevant methodologies and**
315 **supporting assumptions or sources relied upon in preparing the report:**

316 **(a) The number of PACE assessments funded, by city, county, and zip code;**

317 **(b) The aggregate dollar amount of PACE assessments funded by city, county, and**
318 **zip code;**

319 **(c) The average dollar amount of the PACE assessments funded by city, county,**
320 **and zip code;**

321 **(d) The categories of eligible products, and the percentage of PACE assessments**
322 **represented by each category type, on a number and dollar basis, by city, county, and zip**
323 **code;**

324 **(e) The number of defaulted assessments;**

325 **(f) The estimated total amount of energy saved, and the estimated total dollar**
326 **amount of such savings by property owners by measures installed in the calendar year, by**
327 **city, county, and zip code. In addition, the report shall include the total number of energy**
328 **savings improvements and the overall average efficiency rating of installed units for each**
329 **product type;**

330 **(g) The estimated total amount of renewable energy produced by measures installed**
331 **in the calendar year, by city, county, and zip code. In addition, the report shall include the**
332 **total number of renewable energy installations, including the average and median system**
333 **size;**

334 **(h) The estimated amount of greenhouse gas emissions reductions;**

335 **(i) The estimated number of jobs created;**

336 **(j) The average and median amount of annual and total PACE assessments by city,**
337 **county, and zip code; and**

338 **(k) The number and percentage of homeowners sixty years of age and older by city,**
339 **county, and zip code.**

340 **(2) All reports submitted under this section shall include only aggregate data, and**
341 **shall not include any personal nonpublic information.**

342 **(3) The clean energy development board shall make the data publicly available on**
343 **its website.**

344 **21. Nothing in this section shall be construed to void, invalidate, impair, or release**
345 **a property owner from the contractual obligations incurred by a PACE assessment**
346 **contract, or to create or modify any rights or obligations not expressed, created, or**
347 **modified in this section.**

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