

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By \_\_\_\_\_

1 AMEND House Bill No. 1062, Page 1, Section A, Line 2, by inserting after all of said section and  
2 line the following:

3  
4 "67.2800. 1. Sections 67.2800 to 67.2835 shall be known and may be cited as the "Property  
5 Assessment Clean Energy Act".

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

7 (1) "Assessment contract", a contract entered into between a clean energy development  
8 board and a property owner under which the property owner agrees to pay an annual assessment for  
9 a period of up to twenty years not to exceed the weighted average useful life of the qualified  
10 improvements in exchange for financing of an energy efficiency improvement or a renewable  
11 energy improvement;

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

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

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

19 (5) "Director", the director of the division of finance within the department of insurance,  
20 financial institutions and professional registration;

21 (6) "Division", the division of finance within the department of insurance, financial  
22 institutions and professional registration;

23 (7) "Clean energy development board", a board formed by one or more municipalities under  
24 section 67.2810, also referred to as the PACE board;

25 [(6)] (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 distribution  
29 systems;

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

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

(g) Energy recovery systems; and

(h) Daylighting systems;

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

(10) "Program administrator", an individual or entity selected by the clean energy development board to administer the PACE program, but this term does not include an employee of a county or municipal government assigned to a PACE board or a public employee employed by a PACE board who is paid from appropriated general tax revenues;

~~[(8)]~~ (11) "Project", any energy efficiency improvement or renewable energy improvement;

[(9)] (12) "Property assessed clean energy local finance fund", a fund that may be established by the authority for the purpose of making loans to clean energy development boards to establish and maintain property assessed clean energy programs;

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

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

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

4. Property assessed clean energy programs under sections 67.2800 to 67.2835 shall be defined as merchandise for the purposes of chapter 407 and shall be subject to the provisions of chapter 407.

67.2816. 1. This section shall apply only to a PACE board that implements or that has implemented a program for projects to improve residential properties of four or fewer units.

2. Before July 1, 2020, any residential program administrator under contract to a PACE board and having responsibilities to administer a program for residential properties shall obtain a license and maintain an annual registration with the Missouri division of finance.

3. The director may issue a referral under chapter 407 regarding any residential program administrator or person or entity who may be acting as a residential program administrator who fails to obtain and maintain a license and annual registration.

4. The director may establish reasonable license and annual registration fees for any individual or company that seeks to perform the duties of a residential program administrator for residential programs in the state of Missouri. The director may charge an initial license fee not to exceed five hundred dollars and may also require an annual registration fee not to exceed five hundred dollars. The license and any annual registration shall not be transferrable. If an annual registration fee is unpaid for ninety days, the registration shall expire and the individual or company shall be required to reapply for the license.

5. The director shall not issue a license to a residential program administrator unless the director makes, at a minimum, the following findings:

(1) The applicant or the applicant's executive officers have designated an individual as a primary Missouri contact who shall have authority to communicate with the division and its examiners and respond to examination requests;

(2) The applicant or the applicant's executive officers have never had any type of financial services license or registration revoked in any governmental jurisdiction; except that, a subsequent

1 formal vacation of such revocation shall not be deemed a revocation;

2 (3) The applicant is in compliance with Missouri corporate registration requirements to be  
 3 in good standing and is not delinquent on any Missouri state or local taxes or license fees; and

4 (4) The applicant is applying on behalf of a clean energy development board that has  
 5 properly registered with the Missouri ethics commission and the state auditor as a valid political  
 6 subdivision.

7 6. Residential program administrators for programs for residential properties in the state of  
 8 Missouri shall be subject to examination by the division for compliance with the provisions of this  
 9 chapter related to the administration of programs for residential properties and particularly  
 10 compliance with this section and sections 67.2817, 67.2818, and 67.2819. The division shall  
 11 include in the compliance examination process and procedures any applicable residential  
 12 requirements and consumer protections established by the federal Bureau of Consumer Financial  
 13 Protection under section 307 of the Economic Growth, Regulatory Relief and Consumer Financial  
 14 Protection Act of 2010, Section 2155. The division shall conduct an examination of each residential  
 15 program administrator at least once in twenty-four months and such other times as the director may  
 16 determine. The division shall conduct lending audits under the Truth-in-Lending Act, 15 U.S.C.  
 17 1601 et seq., as it relates to consumer loans, on a property assessed clean energy program. The  
 18 division shall share the results of each audit with the PACE board.

19 7. The residential program administrator shall be responsible for paying the costs of  
 20 examinations which the director may assess upon the completion of an exam. The director may also  
 21 assess all licensed residential program administrators on an annual basis taking into account the  
 22 relative annual volume and amount of residential projects approved or the value of assessment  
 23 contracts outstanding or such other factors as the director determines to equitably spread the costs of  
 24 the division's administrative expenses incurred to maintain the licensing program and compliance  
 25 examination program. The division shall document the examinations and annual assessments and  
 26 make the records of the examinations and annual assessments available for public inspection. All  
 27 license and registration payments and assessments paid by a residential program administrator to the  
 28 division shall be credited to the division of finance fund established under section 361.170 and  
 29 subject to the provisions thereof.

30 8. The division shall provide the residential program administrator an opportunity to review  
 31 each completed examination report and provide written responses to any findings or  
 32 recommendations of the division. The written responses, if any, shall be included in a final  
 33 examination report that shall be delivered to the PACE board and made available to the public.

34 9. The division may refer any matter related to the conduct of a residential program  
 35 administrator to the applicable PACE board, and to the governing board of any participating  
 36 municipality or county, and to the state auditor or to the state attorney general as deemed appropriate  
 37 by the director. The referral to the Missouri attorney general may include a referral under chapter  
 38 407.

39 10. The division may refer any consumer complaint related to the conduct of a residential  
 40 program administrator or contractor providing residential PACE project services to the state attorney  
 41 general.

42 67.2817. 1. This section shall apply only to residential properties of four or fewer units.

43 2. A residential program administrator shall not approve, execute, submit, or otherwise  
 44 present for recordation any assessment contract unless the following criteria are satisfied:

45 (1) The PACE assessments are assessed in equal annual installments;

46 (2) The PACE assessment contract may be paid in full at any time without prepayment  
 47 penalty;

48 (3) The assessment contract shall disclose applicable penalties, interest penalties, or late fees  
 49 under the contract and describe generally the interest and penalties imposed under law for the

1 collection of delinquent taxes. The PACE board or residential program administrator shall provide a  
2 separate statement to the owner of the residential property of the penalties or late fees authorized  
3 under the assessment contract and of the penalties and interest penalties under the law for the  
4 applicable tax collector as of the date of the assessment contract;

5 (4) The residential program administrator has confirmed that the property owner is current  
6 on property taxes for the project property;

7 (5) The property that shall be subject to the assessment contract has no recorded and  
8 outstanding involuntary liens in excess of one thousand dollars;

9 (6) The property owner shall not have been a party to any bankruptcy proceedings within  
10 the last three years, except that the property owner may have been party to a bankruptcy proceeding  
11 that was discharged or dismissed between two and seven years before the application date;

12 (7) The term of the assessment contract shall not exceed the weighted average useful life of  
13 the qualified improvements to which the greatest portion of funds disbursed under the assessment  
14 contract is attributable, not to exceed twenty years. The residential program administrator shall  
15 determine useful life for purposes of this subdivision based upon credible third-party standards or  
16 certification criteria that have been established by appropriate government agencies or nationally  
17 recognized standards and testing organizations or as established by the authority; and

18 (8) The property owner is current on all mortgage debt on the subject property and has no  
19 more than one late payment during the twelve months immediately preceding the application date  
20 on any mortgage debt.

21 3. The property owner executing the PACE assessment contract shall have a three-day right  
22 to cancel the qualifying improvements proposed for financing under the PACE assessment contract.  
23 The three-day right shall expire on or before midnight of the third business day after a property  
24 owner signs the assessment contract. The board or residential program administrator shall be  
25 required to provide a printed form that is presented to the property owner no later than the time of  
26 signing of the assessment contract detailing the property owner's right to cancel. An electronic form  
27 may be provided if the owner consents electronically to receiving an electronic form.

28 4. Prior to execution of an assessment contract, the PACE board or residential program  
29 administrator shall advise the property owner in writing that any delinquent assessment shall be a  
30 lien on the property subject to the assessment contract and that the obligations under the PACE  
31 assessment contract continue as an obligation against the improved property if the property owner  
32 sells or refinances the property and that a purchaser or lender may require that before the owner may  
33 sell or refinance the property that the owner may be required to pay the assessment contract in full.

34 5. Prior to the execution of an assessment contract, the PACE board or residential program  
35 administrator shall advise the property owner in writing that if the property owner pays his or her  
36 property taxes and special assessments via a lender or loan servicer's escrow program, the special  
37 assessment will cause the owner's monthly escrow requirements to increase and increase the owner's  
38 total monthly payment to the lender or the loan servicer. The PACE board or residential program  
39 administrator shall further advise the property owner that if the special assessment results in an  
40 escrow shortage that the owner will be required to pay the shortage in a lump-sum payment or  
41 catch-up the shortage over twelve months.

42 6. The PACE board or residential program administrator within three days of entering an  
43 assessment contract, shall provide any holder of a first mortgage loan a copy of the assessment  
44 contract and a statement that includes a brief description of the project, the cost of the project, the  
45 annual assessment that will be levied, and the number of annual assessments. Transmittal shall be  
46 by United States mail to the holder of the first mortgage loan of record.

47 7. The PACE board or residential program administrator shall maintain a public website  
48 with current information about the PACE program as the board or residential program administrator  
49 deems appropriate to inform consumers regarding the PACE program. The website shall list

approved contractors for the PACE program. The website shall disclose the process for property owners or their successors to request information about their assessment contract, the status of the assessment contract, and for all questions including contact information to obtain a payoff amount for the release of an assessment contract.

8. The PACE board, residential program administrator, contractor, or other third party shall not make any representation as to the income tax deductibility of an assessment.

67.2818. 1. This section shall apply only to residential properties of four or fewer units.

2. The PACE board or residential program administrator shall provide a disclosure form to homeowners that shows the financing terms of the assessment contract including, but not limited to:

(1) The total amount funded and borrowed, including the cost of the installed improvements, the program fees, and capitalized interest, if any;

(2) The annual tax assessment, billing process, and payment due date;

(3) The annual payment amounts;

(4) The term of the assessment;

(5) The fixed rate of interest charged;

(6) The annual percentage rate;

(7) A payment schedule that fully amortizes the amount financed;

(8) The improvements to be installed;

(9) A statement that if the property owner sells or refinances their property that the owner may be required by a mortgage lender or a purchaser to pay off the assessment as a condition of refinancing or sale;

(10) A statement that no penalty shall be assessed or collected for prepayment of the assessment;

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

(12) That the PACE annual assessment shall be collected along with property taxes and that any taxes and annual assessment not paid on or before December thirty-first shall result in a lien on the improved property for the unpaid taxes, unpaid annual assessment, interest, and penalties as provided by law;

(13) That if the owner pays property taxes and insurance through his or her mortgage payment and an escrow account, that the special assessment will cause the owner's monthly escrow requirements to increase and increase the owner's total monthly payment to the lender or the loan servicer and that if the special assessment results in an escrow shortage that the owner shall be required to pay the shortage in a lump-sum payment or catch-up the shortage over twelve months;

(14) That failure to timely pay the annual assessment and taxes will result in a tax lien, will result in penalties and fees being assessed and added to the annual assessment and taxes, and that if the delinquency is not paid, the property could be sold at a tax sale resulting in issuance of a tax certificate or collector's deed to a purchaser that could result in the property owner losing his or her home; and

(15) That the property owner should seek professional tax advice if he or she has questions regarding tax credits related to a PACE project or the tax matters presented by the assessment contract or financing agreement and payments thereunder.

3. The PACE board or residential program administrator shall be required to present the disclosure form to a property owner for acknowledgment prior to the execution of an assessment contract.

4. Before a property owner executes an assessment contract, the PACE board or residential program administrator shall do the following:

(1) Make an oral confirmation that at least one owner of the property has a copy of the assessment contract documents with all the key terms completed, the financing estimate and

1 disclosure form, and the right to cancel form with a hard copy available upon request; and

2 (2) Make an oral confirmation of the key terms of the assessment contract, in plain  
 3 language, with the property owner, or to the verified authorized representative of the owner, and  
 4 shall obtain acknowledgment from the property owner or representative to whom the oral  
 5 confirmation is given.

6 5. The oral confirmation shall include, but is not limited to, all the following information:

7 (1) The property owner has the right to have other persons present, and an inquiry as to  
 8 whether the property owner would like to exercise the right to include other individuals. This shall  
 9 occur immediately after the determination of the preferred language of communication;

10 (2) The property owner is informed that they should review the assessment contract and  
 11 financing estimate and disclosure form with all other owners of the property;

12 (3) The qualified improvement being installed is being financed by an assessment contract;

13 (4) The total estimated annual costs the property owner will have to pay under the  
 14 assessment contract, including applicable fees;

15 (5) The total estimated average monthly amount of funds the property owner would have to  
 16 save in order to pay the annual costs under the assessment contract, including applicable fees;

17 (6) The term of the assessment contract;

18 (7) That payments on the assessment contract shall be made through an additional annual  
 19 assessment on the property and paid either directly to the county tax collector's office as part of the  
 20 total annual secured property tax bill, or through the property owner's mortgage escrow account, and  
 21 that if the property owner pays his or her taxes through an escrow account, he or she should notify  
 22 his or her mortgage lender to discuss adjusting his or her monthly mortgage payment or otherwise  
 23 providing additional funds to avoid a shortage in the owner's mortgage escrow account;

24 (8) That the property shall be subject to a lien during the term of the assessment contract for  
 25 any delinquent assessments;

26 (9) That before the owner may sell or refinance the property, a purchaser or lender may  
 27 require the obligation under the assessment contract to be paid in full;

28 (10) That any potential utility savings are not guaranteed, and that such savings may not  
 29 offset the assessment payments or total assessment amount;

30 (11) That the residential program administrator and contractor do not provide tax advice,  
 31 and that the property owner should seek professional tax advice if he or she has questions regarding  
 32 tax credits related to the project the tax matters presented by the PACE assessment or assessment  
 33 contract; and

34 (12) The date the first payment shall be due.

35 67.2819. 1. This section shall apply only to residential properties of four or fewer units.

36 2. The PACE board and residential program administrator shall not permit contractors or  
 37 other third parties to advertise the availability of residential assessment contracts that are  
 38 administered by the board or residential program administrator, or to solicit property owners on  
 39 behalf of the board or residential program administrator, unless both of the following requirements  
 40 are met:

41 (1) The contractor maintains any permits, licenses, or registrations required for engaging in  
 42 its business in the jurisdiction where it operates and maintains bond and insurance coverage in  
 43 minimum amounts determined by the PACE board or higher amounts as required in the jurisdiction  
 44 where the contractor is licensed or registered; and

45 (2) The PACE board or residential program administrator obtains the contractor's written  
 46 agreement that the contractor or third party shall act in accordance with chapter 407 and other  
 47 applicable advertising and marketing laws and regulations.

48 3. The PACE board or residential program administrator shall not provide any direct or  
 49 indirect cash payment or other thing of material value to a contractor or third party in excess of the

1 actual price charged by that contractor or third party to the property owner for one or more qualified  
2 improvements financed by an assessment contract.

3 4. The PACE board or residential program administrator shall not provide to a contractor  
4 engaged in soliciting financing agreements on behalf the PACE board or residential program  
5 administrator any information that discloses the maximum amount of funds for which a property  
6 owner may be eligible for qualifying improvements or the amount of equity in a property.

7 5. The PACE board or residential program administrator shall not reimburse a contractor or  
8 third party for expenses for advertising and marketing campaigns that solely benefit the contractor.

9 6. The PACE board or residential program administrator may reimburse a contractor's bona  
10 fide and reasonable training expenses related to PACE financing, provided that:

11 (1) The training expenses are actually incurred by the contractor; and

12 (2) The reimbursement is paid directly to the contractor, and is not paid to its sales persons  
13 or agents.

14 7. The PACE board or residential program administrator shall not provide any direct cash  
15 payment or other thing of value to a property owner explicitly conditioned upon the property owner  
16 entering into an assessment contract. Notwithstanding the provisions of this subsection, programs  
17 or promotions that offer reduced fees or interest rates to property owners are not a direct cash  
18 payment or other thing of value, provided that the reduced fee or interest rate is reflected in the  
19 assessment contract and in no circumstance provided to the property owner as cash consideration.

20 8. A contractor shall not provide a different price for a project financed under this section  
21 than the contractor would provide if paid in cash by the property owner."; and

22  
23 Further amend said bill by amending the title, enacting clause, and intersectional references  
24 accordingly.