

HCS HB 215 -- PROPERTY ASSESSMENT CLEAN ENERGY ACT (DeGroot)

COMMITTEE OF ORIGIN: Standing Committee on Financial Institutions

This bill changes the provisions of the "Property Assessment Clean Energy (PACE) Act." PACE programs shall be considered "merchandise" for the purposes of the Missouri Merchandising Practices Act and are subject to the provisions of that act.

Currently, a clean energy development board is required to provide a copy of each signed assessment contract to the local county assessor and county collector and requires the county collector to collect special assessments. The bill requires the contract to be provided to and the special assessments to be collected from the city collections official if the city has joined a clean energy development board and the county has not.

Any residential program administrator for residential properties of four or fewer units must obtain a license and maintain an annual registration with the Division of Finance within the Department of Insurance, Financial Institutions, and Professional Registration. The fees for a license or annual registration cannot be more than \$500. The division cannot issue a license unless the director makes the following findings:

- (1) The applicant has designated an individual as a primary Missouri contact who has the authority to communicate with the division;
- (2) The applicant has never had any type of financial services license revoked;
- (3) The applicant is in compliance with corporate registration requirements and is not delinquent on any state or local taxes or license fees; and
- (4) The applicant is applying on behalf of a PACE board that has property registered with the Missouri Ethics Commission and the state auditor as a valid political subdivision.

Residential program administrators will be subject to an examination for compliance that occurs at least every 24 months, including compliance with requirements and consumer protections established by the federal Bureau of Consumer Financial Protection. The division will also conduct lending audits under the Truth-in-Lending Act, as it relates to consumer loans. The costs of the examinations are paid by the residential program administrator. The division shall provide the residential program administrator an opportunity to review each examination report and provide written

responses to any findings or recommendations. The written responses shall be included in a final report that will be delivered to the PACE board and made available to the public.

The division may refer any matter related to the conduct of a residential program administrator to the applicable PACE board, the governing board of any participating municipality or county, and to the State Auditor or Attorney General. The division may refer any consumer complaint, including any complaint under the Merchandising Practices Act, to the Attorney General.

A residential program administrator for residential properties of four or fewer units must include the following in any assessment contract:

- (1) PACE assessments are assessed in equal annual installments;
- (2) PACE contracts may be paid in full at any time without penalty;
- (3) The assessment contract must disclose any penalties, interest, or late fees under the contract and under the law for the collection of delinquent taxes;
- (4) The residential program administrator has confirmed that the property owner is current on property taxes for the subject property;
- (5) The property that shall be subject to the assessment contract has no recorded and outstanding involuntary liens in excess of \$1,000;
- (6) The property owner shall not have been a party to any bankruptcy proceeding within the last three years, unless the bankruptcy proceeding was discharged between two and seven years before the application date;
- (7) The term of the assessment contract cannot exceed the weighted average useful life of the qualified improvements to which the greatest portion of funds disbursed under the contract is attributable, not to exceed 20 years; and
- (8) The property owner is current on all mortgage debt on the subject property and has no more than one late payment during the 12 months immediately preceding the application date.

A property owner will have a three-day right to cancel a PACE assessment contract. Before executing an assessment contract the property owner must be advised in writing that:

(1) Any delinquent assessment shall be a lien on the property;

(2) The obligations under the contract will continue if the property owner sells or refinances the property and that a purchaser or lender may require that the assessment contract be paid in full before selling; and

(3) If the property owner pays property taxes via a lender or escrow program, the special assessment will cause the owner's monthly escrow requirements to increase and that if the special assessment results in an escrow shortage, the owner will be required to pay the shortage.

A residential program administrator cannot make any representation as to the income tax deductibility of an assessment.

The residential program administrator must provide a disclosure form to homeowners that shows the financing terms of the assessment contract.

Contractors cannot advertise to or solicit property owners unless the contractor maintains any necessary permits, licenses, or registration, maintains bond and insurance coverage, and provides a written agreement that the contractor shall act in accordance with the Missouri Merchandising Practices Act and other advertising laws.

The residential program administrator cannot pay a contractor in excess of the actual price charged by the contractor to the property owner for the qualified improvements financed by an assessment contract. The residential program administrator cannot provide to a contractor any information that discloses the maximum amount of funds for which a property owner may be eligible for qualifying improvements. The residential program administrator can reimburse a contractor's bona fide and reasonable training expenses related to PACE financing, but cannot reimburse a contractor for advertising and marketing campaign expenses.

A residential program administrator cannot provide a cash payment to a property owner explicitly conditioned upon the property owner entering into an assessment contract. A contractor cannot charge a different price for a project than he or she would charge if paid in cash.

Any program administrator who fails to comply with the law may have its license suspended or revoked after a hearing. The licensee must be given ten days notice before the hearing. The director of finance can issue an order to cease and desist, enforceable by a

civil penalty of not more than \$1000 per day.