

House _____ Amendment NO. _____

Offered By

1 AMEND House Substitute for House Committee Substitute for Senate Bill No. 1363, Page 35,
2 Section 67.1471, Line 24, by inserting after said section and line the following:

3
4 "67.2800. 1. Sections 67.2800 to 67.2840 shall be known and may be cited as the "Property
5 Assessment Clean Energy Act".

6 2. As used in sections 67.2800 to 67.2840, 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~~] thirty 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) "Clean energy development board", a board formed by one or more municipalities under
20 section 67.2810;

21 (6) "Director", the director of the division of finance within the department of commerce
22 and insurance;

23 (7) "Division", the division of finance within the department of commerce and insurance;

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

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

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1 (b) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-
 2 reflective windows and doors, and other window and door improvements designed to reduce energy
 3 consumption;

4 (c) Automatic energy control systems;

5 (d) Heating, ventilating, or air conditioning distribution system modifications and
 6 replacements;

7 (e) Caulking and weatherstripping;

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

11 (g) Energy recovery systems; ~~and~~

12 (h) Daylighting systems; and

13 (i) Water infrastructure projects;

14 (9) "Municipality", any county, city, or incorporated town or village of this state;

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

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

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

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

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

31 3. All projects undertaken under sections 67.2800 to 67.2840 are subject to the applicable
 32 municipality's ordinances and regulations, including but not limited to those ordinances and
 33 regulations concerning zoning, subdivision, building, fire safety, and historic or architectural review.

34 4. Sections 67.2800 to 67.2840 shall not apply to any assessment contract, project, or PACE
 35 program entered into, undertaken, or established for any residential property.

36 67.2810. 1. One or more municipalities may form clean energy development boards for the
 37 purpose of exercising the powers described in sections 67.2800 to 67.2840. Each clean energy
 38 development board shall consist of not less than three members, as set forth in the ordinance or

1 order establishing the clean energy development board. Members shall serve terms as set forth in
2 the ordinance or order establishing the clean energy development board and shall be appointed:

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

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

8 2. A clean energy development board shall be a political subdivision of the state and shall
9 have all powers necessary and convenient to carry out and effectuate the provisions of sections
10 67.2800 to 67.2840, including but not limited to the following:

11 (1) To adopt, amend, and repeal bylaws, which are not inconsistent with sections 67.2800 to
12 67.2840;

13 (2) To adopt an official seal;

14 (3) To sue and be sued;

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

16 (5) To accept grants, guarantees, and donations of property, labor, services, and other things
17 of value from any public or private source, including the acquisition of loans or assessment contracts
18 from other states or their municipalities and political subdivisions to serve a common purpose of
19 providing financing support or credit enhancement for any project;

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

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

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

26 (9) To finance a project under an assessment contract;

27 (10) To collect reasonable fees and charges in connection with making and servicing
28 assessment contracts and in connection with any technical, consultative, or project assistance
29 services offered;

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

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

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

1 (1) A brief description of each project financed by the clean energy development board
 2 during the preceding calendar year, which shall include the physical address of the property, the
 3 name or names of the property owner, an itemized list of the costs of the project, and the name of
 4 any contractors used to complete the project;

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

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

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

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

13 4. No lawsuit to set aside the formation of a clean energy development board or to otherwise
 14 question the proceedings related thereto shall be brought after the expiration of sixty days from the
 15 effective date of the ordinance or order creating the clean energy development board. No lawsuit to
 16 set aside the approval of a project, an assessment contract, or a special assessment levied by a clean
 17 energy development board, or to otherwise question the proceedings related thereto shall be brought
 18 after the expiration of sixty days from the date that the assessment contract is executed.

19 67.2815. 1. A clean energy development board shall not enter into an assessment contract
 20 or levy or collect a special assessment for a project without making a finding that there are sufficient
 21 resources to complete the project and that the estimated economic benefit expected from the project
 22 during the financing period is equal to or greater than the cost of the project.

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

25 (1) A description of the project, including the estimated cost of the project and details on
 26 how the project will either reduce energy consumption or create energy from renewable sources;

27 (2) A mechanism for:

28 (a) Verifying the final costs of the project upon its completion; and

29 (b) Ensuring that any amounts advanced or otherwise paid by the clean energy development
 30 board toward costs of the project will not exceed the final cost of the project;

31 (3) An acknowledgment by the property owner that the property owner has received or will
 32 receive a special benefit by financing a project through the clean energy development board that
 33 equals or exceeds the total assessments due under the assessment contract;

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

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

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

5 3. The total special assessments levied against a property under an assessment contract shall
6 not exceed the sum of the cost of the project, including any required energy audits and inspections,
7 or portion thereof financed through the participation in a property assessed clean energy program or
8 clean energy conduit financing, including the costs of any audits or inspections required by the clean
9 energy development board, plus such administration fees, interest, and other financing costs
10 reasonably required by the clean energy development board.

11 4. The clean energy development board shall provide a copy of each signed assessment
12 contract to the local assessor and collector for the county, or city not within a county, and shall cause
13 a copy of such assessment contract to be recorded in the real estate records of the recorder of deeds
14 for the county, or city not within a county.

15 5. Special assessments agreed to under an assessment contract shall be a lien on the property
16 against which it is assessed on behalf of the applicable clean energy development board from the
17 date that each annual assessment under the assessment contract becomes due. Such special
18 assessments shall be collected by the collector for the county, or city not within a county, in the
19 same manner and with the same priority as ad valorem real property taxes~~[- subject to the provisions~~
20 ~~of subsection 8 of this section]~~. Once collected, the collector for the county, or city not within a
21 county, shall pay over such special assessment revenues to the clean energy development board in
22 the same manner in which revenues from ad valorem real property taxes are paid to other taxing
23 districts. Such special assessments shall be collected as provided in this subsection from all
24 subsequent property owners, including the state and all political subdivisions thereof, for the term of
25 the assessment contract.

26 6. Any clean energy development board that contracts for outside administrative services to
27 provide financing origination for a project shall offer the right of first refusal to enter into such a
28 contract to a federally insured depository institution with a physical presence in Missouri upon the
29 same terms and conditions as would otherwise be approved by the clean energy development board.
30 Such right of first refusal shall not be applicable to the origination of any transaction that involves
31 the issuance of bonds by the clean energy development board.

32 7. Except as otherwise provided in section 67.2840, sections 67.2816, 67.2817, 67.2818, and
33 67.2819 shall apply only to PACE programs for projects to improve residential properties of four or
34 fewer units. Notwithstanding any provision of law to the contrary, any clean energy development
35 board formed to improve commercial properties, properties owned by nonprofit or not-for-profit
36 entities, governmental properties, or nonresidential properties in excess of four residential units shall
37 be exempt from the provisions of sections 67.2816, 67.2817, 67.2818, and 67.2819, nor shall such
38 sections apply to the commercial PACE programs and commercial PACE assessment contracts of
39 any clean energy development board engaged in both commercial and residential property

1 programs. Notwithstanding any provision of law to the contrary, any clean energy development
2 board that ceases to finance new projects to improve residential properties of four or fewer units
3 before January 1, 2022, shall be exempt from the provisions of sections 67.2816, 67.2817, 67.2818,
4 and 67.2819.

5 67.2817. 1. Notwithstanding any other contractual agreement to the contrary, each
6 assessment contract shall be reviewed, approved, and executed by the clean energy development
7 board and these duties shall not be delegated. Any attempted delegations of these duties shall be
8 void.

9 2. An assessment contract shall not be approved, executed, submitted, or otherwise
10 presented for recording unless a clean energy development board verifies that the following criteria
11 are satisfied:

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

13 (2) The PACE assessment may be paid in full at any time without prepayment penalty. The
14 pay-off letter shall specify the amount of any fee or charge by a lender or loan service agent to
15 obtain the total balance due. The release of the assessment shall be recorded within thirty days of
16 the receipt of the amounts identified in the pay-off letter;

17 (3) The assessment contract shall disclose applicable penalties, interest penalties, or late fees
18 under the contract and describe generally the interest and penalties imposed under chapter 140
19 relating to the collection of delinquent property taxes;

20 (4) The clean energy development board shall provide a separate statement to the owner of
21 the residential property of the penalties or late fees authorized under the assessment contract and of
22 the penalties and interest penalties under chapter 140 for the applicable tax collector as of the date of
23 the assessment contract;

24 (5) The clean energy development board has confirmed that the property owner is current on
25 property taxes for the project property;

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

28 (7) The property owner shall not currently be a party to any bankruptcy proceeding where
29 any existing lien holder of the property is named as a creditor;

30 (8) The term of the assessment contract shall not exceed the weighted average useful life of
31 the qualified improvements to which the greatest portion of funds disbursed under the assessment
32 contract is attributable, not to exceed ~~twenty~~ thirty years. The clean energy development board
33 shall determine useful life for purposes of this subdivision based upon credible third-party standards
34 or certification criteria that have been established by appropriate government agencies or nationally
35 recognized standards and testing organizations;

36 (9) The property owner is current on all mortgage debt on the subject property and has no
37 more than one late payment during the twelve months immediately preceding the application date
38 on any mortgage debt; and

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

5 3. Any assessment contract for a project that, combined with any existing and outstanding
6 indebtedness secured by the benefitted property, results in a loan-to-value ratio between eighty
7 percent and ninety-seven percent of the true value in money, as determined by the assessor pursuant
8 to chapter 137, plus ten percent of such amount, of the benefitted property prior to the project as
9 determined by reference to the assessment records for tax purposes for the most recent completed
10 assessment by the county, or city not within a county, shall include provision of an insurance policy
11 providing coverage for any remaining cost of fulfilling the assessment contract, including any
12 accumulated interest, in the event the property is foreclosed upon, if such product exists. Such
13 insurance policy shall run with the land in the same manner as the other obligations set forth in the
14 assessment contract.

15 4. The property owner executing the PACE assessment contract shall have a three-day right
16 to cancel the qualifying improvements proposed for financing under the PACE assessment contract.
17 The three-day right to cancel shall expire at midnight of the third business day after a property
18 owner signs the assessment contract. The clean energy development board shall be required to
19 provide a printed form that is presented to the property owner no later than the time of signing of the
20 assessment contract detailing the property owner's right to cancel. An electronic form may be
21 provided if the owner consents electronically to receiving an electronic form.

22 5. Prior to the execution of an assessment contract, the clean energy development board
23 shall advise the property owner in writing that any delinquent assessment shall be a lien on the
24 property subject to the assessment contract and that the obligations under the PACE assessment
25 contract continue as an obligation against the improved property if the property owner sells or
26 refinances the property and that a purchaser or lender may require that before the owner may sell or
27 refinance the property that the owner may be required to pay the assessment contract in full.

28 6. Prior to the execution of an assessment contract, the clean energy development board
29 shall advise the property owner in writing that if the property owner pays his or her property taxes
30 and special assessments via a lender or loan servicer's escrow program, the special assessment will
31 cause the owner's monthly escrow requirements to increase and increase the owner's total monthly
32 payment to the lender or the loan servicer. The clean energy development board shall further advise
33 the property owner that if the special assessment results in an escrow shortage that the owner will be
34 required to pay the shortage in a lump-sum payment or catch up the shortage over twelve months.

35 7. The clean energy development board, within three days of entering an assessment
36 contract, shall provide any holder of a first mortgage loan a copy of the assessment contract and a
37 statement that includes a brief description of the project, the cost of the project, the annual
38 assessment that will be levied, and the number of annual assessments. Transmittal shall be by
39 United States mail to the holder of the first mortgage loan of record.

1 8. The clean energy development board shall maintain a public website with current
2 information about the PACE program as the board deems appropriate to inform consumers regarding
3 the PACE program. The website shall list approved contractors for the PACE program. The website
4 shall disclose the process for property owners or their successors to request information about the
5 assessment contract, the status of the assessment contract, and for all questions including contract
6 information to obtain a payoff amount for the release of an assessment contract.

7 9. The clean energy development board, its agents, contractor, or other third party shall not
8 make any representation as to the income tax deductibility of an assessment.

9 67.2830. 1. A clean energy development board may issue bonds payable from special
10 assessment revenues generated by assessment contracts and any other revenues pledged thereto.
11 The bonds shall be authorized by resolution of the clean energy development board, shall bear such
12 date or dates, and shall mature at such time or times as the resolution shall specify, provided that the
13 term of any bonds issued for a clean energy conduit financing shall not exceed [~~twenty~~] thirty years.
14 The bonds shall be in such denomination, bear interest at such rate, be in such form, be issued in
15 such manner, be payable in such place or places, and be subject to redemption as such resolution
16 may provide. Notwithstanding any provision to the contrary under this section, issuance of the
17 bonds shall conform to the requirements of subsection 1 of section 108.170.

18 2. Any bonds issued under this section shall not constitute an indebtedness of the state or
19 any municipality. Neither the state nor any municipality shall be liable on such bonds, and the form
20 of such bonds shall contain a statement to such effect.

21 67.2840. 1. Sections 67.2816, 67.2817, 67.2818, and 67.2819 shall be effective and apply
22 only to the residential PACE programs of clean energy development boards and participating
23 municipalities [~~after~~] from January 1, 2022, to August 28, 2024. Beginning August 28, 2024, all
24 residential properties shall be exempt from the provisions of sections 67.2816 to 67.2819 and no
25 assessment contract, project, or PACE program shall be entered into, undertaken, or established for
26 any residential property.

27 2. Sections 67.2816, 67.2817, 67.2818, and 67.2819 shall be effective and apply only to
28 residential PACE assessment contracts entered into after January 1, 2022, but before August 28,
29 2024."; and

30
31 Further amend said bill by amending the title, enacting clause, and intersectional references
32 accordingly.