

SECOND REGULAR SESSION

# HOUSE BILL NO. 2756

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE O'DONNELL.

5786H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 67.2800, 67.2815, and 67.2840, RSMo, and to enact in lieu thereof three new sections relating to the property assessment clean energy act.

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

Section A. Sections 67.2800, 67.2815, and 67.2840, RSMo, are repealed and three  
2 new sections enacted in lieu thereof, to be known as sections 67.2800, 67.2815, and 67.2840,  
3 to read as follows:

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

3 2. As used in sections 67.2800 to 67.2840, the following words and terms shall mean:

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

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

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

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

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 (5) "Clean energy development board", a board formed by one or more municipalities  
18 under section 67.2810;
- 19 (6) "Director", the director of the division of finance within the department of  
20 commerce and insurance;
- 21 (7) "Division", the division of finance within the department of commerce and  
22 insurance;
- 23 (8) "Energy efficiency improvement", any acquisition, installation, or modification on  
24 or of publicly or privately owned property designed to reduce the energy consumption of such  
25 property, including but not limited to:
- 26 (a) Insulation in walls, roofs, attics, floors, foundations, and heating and cooling  
27 distribution systems;
- 28 (b) Storm windows and doors, multiglazed windows and doors, heat-absorbing or  
29 heat-reflective windows and doors, and other window and door improvements designed to  
30 reduce energy consumption;
- 31 (c) Automatic energy control systems;
- 32 (d) Heating, ventilating, or air conditioning distribution system modifications and  
33 replacements;
- 34 (e) Caulking and weatherstripping;
- 35 (f) Replacement or modification of lighting fixtures to increase energy efficiency of  
36 the lighting system without increasing the overall illumination of the building unless the  
37 increase in illumination is necessary to conform to applicable state or local building codes;
- 38 (g) Energy recovery systems; and
- 39 (h) Daylighting systems;
- 40 (9) "Municipality", any county, city, or incorporated town or village of this state;
- 41 (10) "Program administrator", an individual or entity selected by the clean energy  
42 development board to administer the PACE program, but this term does not include an  
43 employee of a county or municipal government assigned to a clean energy development board  
44 or a public employee employed by a clean energy development board who is paid from  
45 appropriated general tax revenues;
- 46 (11) "Project", any energy efficiency improvement or renewable energy  
47 improvement;
- 48 (12) "Property assessed clean energy local finance fund", a fund that may be  
49 established by the authority for the purpose of making loans to clean energy development  
50 boards to establish and maintain property assessed clean energy programs;
- 51 (13) "Property assessed clean energy program" or "PACE program", a program  
52 established by a clean energy development board to finance energy efficiency improvements  
53 or renewable energy improvements under section 67.2820;

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

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

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

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 project without making a finding that  
3 there are sufficient resources to complete the project and that the estimated economic benefit  
4 expected from the project during the financing period is equal to or greater than the cost of the  
5 project.

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

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

11 (2) A mechanism for:

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

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

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

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

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

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

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

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

38           5. Special assessments agreed to under an assessment contract shall be a lien on the  
39 property against which it is assessed on behalf of the applicable clean energy development  
40 board from the date that each annual assessment under the assessment contract becomes due.  
41 Such special assessments shall be collected by the collector for the county, or city not within a  
42 county, in the same manner and with the same priority as ad valorem real property taxes~~;~~  
43 ~~subject to the provisions of subsection 8 of this section~~. Once collected, the collector for the  
44 county, or city not within a county, shall pay over such special assessment revenues to the  
45 clean energy development board in the same manner in which revenues from ad valorem real  
46 property taxes are paid to other taxing districts. Such special assessments shall be collected  
47 as provided in this subsection from all subsequent property owners, including the state and all  
48 political subdivisions thereof, for the term of the assessment contract.

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

56           7. **Except as otherwise provided in section 67.2840**, sections 67.2816, 67.2817,  
57 67.2818, and 67.2819 shall apply only to PACE programs for projects to improve residential  
58 properties of four or fewer units. Notwithstanding any provision of law to the contrary, any  
59 clean energy development board formed to improve commercial properties, properties owned  
60 by nonprofit or not-for-profit entities, governmental properties, or nonresidential properties in  
61 excess of four residential units shall be exempt from the provisions of sections 67.2816,  
62 67.2817, 67.2818, and 67.2819, nor shall such sections apply to the commercial PACE  
63 programs and commercial PACE assessment contracts of any clean energy development

64 board engaged in both commercial and residential property programs. Notwithstanding any  
65 provision of law to the contrary, any clean energy development board that ceases to finance  
66 new projects to improve residential properties of four or fewer units before January 1, 2022,  
67 shall be exempt from the provisions of sections 67.2816, 67.2817, 67.2818, and 67.2819.

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

7 2. Sections 67.2816, 67.2817, 67.2818, and 67.2819 shall be effective and apply **only**  
8 to residential PACE assessment contracts entered into after January 1, 2022, **but before**  
9 **August 28, 2024.**

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