

FIRST REGULAR SESSION

HOUSE BILL NO. 215

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DEGROOT.

0821H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 67.2800, 67.2805, 67.2810, 67.2815, and 67.2820, RSMo, and to enact in lieu thereof nine new sections relating to property assessment clean energy.

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

Section A. Sections 67.2800, 67.2805, 67.2810, 67.2815, and 67.2820, RSMo, are
2 repealed and nine new sections enacted in lieu thereof, to be known as sections 67.2800,
3 67.2805, 67.2810, 67.2815, 67.2816, 67.2817, 67.2818, 67.2819, and 67.2820, to read as
4 follows:

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

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

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

16 (5) "Clean energy development board", a board formed by one or more municipalities
17 under section 67.2810 **also referred to as the PACE board;**

18 (6) "Commercial property", a commercial, industrial, agricultural or horticultural
19 **property, or multifamily dwelling of five or more residential units and common areas or**
20 **common structures of a condominium or cooperative housing association consisting of five**
21 **or more residential units;**

22 (7) "Director", the director of the Missouri division of finance;

23 (8) "Disaster resiliency improvement", any improvement to real property or
24 **permanently installed fixture to harden a structure or improve the survivability of a**
25 **structure and its occupants, including but not limited to backup standby generator**
26 **systems, storm and wind-proofing a structure, flood mitigation including raising the**
27 **elevation of a structure;**

28 (9) "Division", the Missouri division of finance;

29 (10) "Eligible improvement", **improvements classified as energy efficiency, disaster**
30 **resiliency, renewable energy or water efficiency improvements, provided that the**
31 **improvements meet the standards approved and adopted by the state environmental and**
32 **energy resources authority, and provided the eligible improvement class or improvement**
33 **has been authorized by the PACE board as an eligible improvement;**

34 [~~6~~] (11) "Energy efficiency improvement", any acquisition, installation, or modification
35 on or of publicly or privately owned property designed to reduce the energy consumption of such
36 property, including but not limited to:

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

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

42 (c) Automatic energy control systems;

43 (d) Heating, ventilating, or air conditioning distribution system modifications and
44 replacements;

45 (e) Caulking and weatherstripping;

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

49 (g) Energy recovery systems; and

50 (h) Daylighting systems;

51 [~~7~~] (12) "Municipality", any county, city, or incorporated town or village of this state;

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

56 ~~[(8)]~~ **(14) "Project", any energy efficiency improvement or renewable energy**
57 **improvement;**

58 ~~[(9)]~~ **(15) "Property assessed clean energy local finance fund", a fund that may be**
59 **established by the authority for the purpose of making loans to clean energy development boards**
60 **to establish and maintain property assessed clean energy programs;**

61 ~~[(10)]~~ **(16) "Property assessed clean energy program", a program established by a [clean**
62 **energy development] PACE board to finance energy efficiency improvements or renewable**
63 **energy improvements under section 67.2820;**

64 ~~[(11)]~~ **(17) "Renewable energy improvement", any acquisition and installation of a**
65 **fixture, product, system, device, or combination thereof on publicly or privately owned property**
66 **that produces energy from renewable resources, including, but not limited to photovoltaic**
67 **systems, solar thermal systems, wind systems, biomass systems, or geothermal systems;**

68 **(18) "Residential PACE project", any eligible improvement and related assessment**
69 **contract that improves a residence, including a manufactured home, with fewer than five**
70 **units, including single-units within a condominium or cooperative housing association and**
71 **the common areas and structures of a condominium or cooperative housing association**
72 **consisting of fewer than five residential units;**

73 **(19) "Residential program administrator", an individual or entity selected by the**
74 **clean energy development board to administer a residential PACE program, but this term**
75 **does not include an employee of a county or municipal government or a public employee**
76 **employed by the clean energy development board who is paid from appropriated general**
77 **tax revenues;**

78 **(20) "Water efficiency improvement", any acquisition, installation, or modification**
79 **on or of property designed to reduce the water consumption of such property or improve**
80 **the efficiency or operation of a drainage, sewer, or water supply system.**

81 3. All projects undertaken under sections 67.2800 to 67.2835 are subject to the
82 applicable municipality's ordinances and regulations, including but not limited to those
83 ordinances and regulations concerning zoning, subdivision, building, fire safety, and historic or
84 architectural review. **PACE boards established prior to August 28, 2019, may approve**
85 **eligible improvements according to their established standards or practices as of August**
86 **27, 2019, but shall not approve any new classes of eligible improvements until final**
87 **standards for such improvements are issued by the state environmental and energy**

88 **resources authority. PACE boards shall affirmatively determine the classes of eligible**
89 **improvements authorized for the clean energy district. The classes of eligible**
90 **improvements adopted for implementation in a clean energy district are at the sole**
91 **discretion of the PACE board and the board is not required to authorize all classes of**
92 **eligible improvements under final standards issued by the authority. PACE boards shall**
93 **adopt, implement, and maintain standards for eligible improvements consistent with the**
94 **regulations issued by the state environmental and energy resources authority within one**
95 **hundred eighty days after the standards become final and may from time to time revise or**
96 **adopt standards for eligible improvements. The state environmental and energy resources**
97 **authority shall exercise its authority under section 67.2805 and issue standards of eligible**
98 **improvements for residential PACE projects not later than January 1, 2020.**

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 **and standards of eligible improvements and**
6 **energy efficiency improvement, water efficiency improvement, disaster resiliency**
7 **improvement**, and renewable energy improvement as the authority may determine is necessary
8 or advisable **or as required by law.**

9 2. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
10 under the authority delegated in this section shall become effective only if it complies with and
11 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
12 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
13 under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
14 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
15 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, **including the engagement of a program administrator,**
25 **including a licensed residential program administrator;**

26 (7) **To accept appropriated funds from any participating county or municipality**
27 **to fund the board's activities including the employment of staff;**

28 [~~7~~] (8) To levy and collect special assessments under an assessment contract with a
29 property owner and to record such special assessments as a lien on the property;

30 [~~8~~] (9) To borrow money from any public or private source and issue bonds and
31 provide security for the repayment of the same;

32 [~~9~~] (10) To finance a **commercial or residential** project under an assessment contract;

33 [~~10~~] (11) To collect reasonable fees and charges in connection with making and
34 servicing assessment contracts and in connection with any technical, consultative, or **commercial**
35 **or residential** project assistance services offered;

36 [~~11~~] (12) To invest any funds not required for immediate disbursement in obligations
37 of the state of Missouri or of the United States or any agency or instrumentality thereof, or in
38 bank certificates of deposit; provided, however, the limitations on investments provided in this
39 subdivision shall not apply to proceeds acquired from the sale of bonds which are held by a
40 corporate trustee; and

41 [~~12~~] (13) To take whatever actions necessary to participate in and administer a clean
42 energy conduit financing or a property assessed clean energy program.

43 3. No later than July first of each year, the clean energy development board shall file
44 with each municipality that participated in the formation of the clean energy development board

45 and with the director of the department of natural resources an annual report for the preceding
46 calendar year that includes:

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

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

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

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

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

59 4. No lawsuit to set aside the formation of a clean energy development board or to
60 otherwise question the proceedings related thereto shall be brought after the expiration of sixty
61 days from the effective date of the ordinance or order creating the clean energy development
62 board. No lawsuit to set aside the approval of a project, an assessment contract, or a special
63 assessment levied by a clean energy development board, or to otherwise question the proceedings
64 related thereto shall be brought after the expiration of sixty days from the date that the
65 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** project without making a
3 finding that there are sufficient resources to complete the project and that the estimated economic
4 benefit expected from the project during the financing period is equal to or greater than the cost
5 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** project, including the estimated cost of the project
9 and details on how the project will either reduce energy consumption or create energy from
10 renewable sources;

11 (2) A mechanism for:

12 (a) Verifying the final costs of the **commercial** 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 **commercial** project will not exceed the final cost of the
15 project;

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

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

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

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

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

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

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

48 6. Any clean energy development board that contracts for outside administrative services
49 to provide financing origination for a **commercial** project shall offer the right of first refusal to
50 enter into such a contract to a federally insured depository institution with a physical presence
51 in Missouri upon the same terms and conditions as would otherwise be approved by the clean

52 energy development board. Such right of first refusal shall not be applicable to the origination
53 of any transaction that involves the issuance of bonds by the clean energy development board.

**67.2816. 1. No individual or corporation shall serve in the state of Missouri as a
2 residential program administrator for a residential PACE program unless that individual
3 or corporation obtains a license and maintains an annual registration with the division of
4 finance. Any existing residential program administrator acting in Missouri on August 28,
5 2019, shall submit to licensing and registration and file an application within ninety days.**

**6 2. The director of the division of finance may issue an order to cease and desist
7 pursuant to the authority and procedures vested in the director under chapter 361 to any
8 residential program administrator who fails to obtain and maintain a license and annual
9 registration.**

**10 3. The director may establish reasonable license and annual registration fees for
11 any individual or corporation that seeks to perform the duties of a residential program
12 administrator in the State of Missouri. An initial license fee shall not be imposed in excess
13 of five hundred dollars. An annual registration shall be filed and a registration fee shall
14 be collected not in excess of five hundred dollars on each anniversary following the grant
15 of a license. The license and any annual registration shall not be transferrable. A lapsed
16 registration status beyond ninety days may not be cured except by application for a license.**

**17 4. The director shall not issue a residential program administrator license unless
18 the director makes, at a minimum, the following findings:**

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

**22 (2) The applicant or the applicant's executive officers have never had any type of
23 financial services license or registration revoked in any governmental jurisdiction; except
24 that, a subsequent formal vacation of such revocation shall not be deemed a revocation;
25 and**

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

**29 5. Residential program administrators active in the state of Missouri shall be
30 subject to examination by the division for compliance with the provisions of this chapter
31 related to the administration of the residential PACE program and particularly compliance
32 with this section and sections 67.2817 and 67.2818. The division shall include in the
33 compliance examination process and procedures any applicable residential PACE
34 requirements established by the federal Bureau of Consumer Financial Protection under**

35 Section 307 of the Economic Growth, Regulatory Relief and Consumer Financial
36 Protection Act of the 2010, S. 2155. Examinations shall be conducted at least once in
37 twenty-four months and may be initiated at any time by the division. The division shall
38 conduct an examination at least once in twenty-four months and such other times as the
39 director may determine.

40 6. The division shall investigate any consumer complaint submitted against a
41 residential program administrator. The division shall investigate any complaint submitted
42 by a PACE board or other government body or official pertaining to the business conduct
43 of a residential program administrator or compliance with the applicable residential PACE
44 provisions of sections 67.2800 to 67.2835 or compliance with any applicable residential
45 PACE requirements established by the federal Bureau of Consumer Financial Protection
46 under Section 307 of the Economic Growth, Regulatory Relief and Consumer Financial
47 Protection Act of the 2010, S. 2155.

48 7. The residential program administrator shall be responsible to pay the costs of
49 examinations which the director may assess upon the completion of an exam. The director
50 may also assess all residential program administrators on an annual basis taking into
51 account the relative annual volume and amount of residential projects approved or the
52 value of assessment contracts outstanding or such other factors as the director determines
53 to equitably spread the costs of the division's administrative expenses incurred to maintain
54 the licensing program, compliance examination program, and complaint investigation
55 program. The division shall maintain work papers documenting examination and annual
56 assessments which shall be available for public inspection. All license and registration
57 payments and assessments paid by a residential program administrator to the division shall
58 be credited to the division of finance fund established under section 361.170 and subject
59 to the provisions thereof.

60 8. The division may issue an order to cease and desist to a residential program
61 administrator to correct and remedy adverse findings presented in a compliance exam
62 conducted by the division or pursuant to the division's findings regarding any complaint.
63 The division may direct the reduction, refund, or cancellation of any program assessments
64 against any consumer or assessments against any residential property where the program
65 administrator or a residential PACE contractor has failed to adhere to the requirements
66 for residential PACE program administrators or residential PACE projects in a manner
67 deemed material or detrimental to the owner by the division or where a contractor has
68 failed to perform contracted services under an assessment contract or the improvements
69 under an assessment contract fail to meet program requirements or are deemed a

70 detriment to the property by the division. No action by the division shall disqualify any
71 consumer from seeking judicial relief in any court under law or equity.

72 **9. The division may suspend or revoke the license of any program administrator**
73 **that fails to comply with the terms of an order to cease and desist or that fails to pay any**
74 **license or registration fees or assessments.**

75 **10. The division may refer any matter related to the conduct of a residential**
76 **program administrator to a prosecuting attorney or to the Missouri attorney general**
77 **including a referral under chapter 407.**

78 **11. A PACE board or residential program administrator may request the division**
79 **to review and comment regarding the district's standard residential assessment contract,**
80 **disclosure forms and telephone scripts proposed for confirmation and disclosure**
81 **requirements. The division may assess and collect its costs for responding to a requested**
82 **review and comment to the PACE board or residential program administrator.**

67.2817. 1. A clean energy development board or residential program
2 **administrator shall not approve, execute, submit, or otherwise present for recordation any**
3 **residential assessment contract unless the following criteria are satisfied:**

4 **(1) The cash price of the residential project is not more than twenty percent of the**
5 **true value in money of the property as determined by reference to the county assessment**
6 **records for the most recent completed assessment, provided that the PACE board may also**
7 **authorize alternate methods of determining true value including use of a recent fee**
8 **appraisal or automated valuation programs approved for use by the board;**

9 **(2) The residential PACE assessments are assessed in equal annual installments;**

10 **(3) The residential PACE assessment contract may be paid in full at any time**
11 **without prepayment penalty;**

12 **(4) After August 28, 2019, if a PACE assessment contract is for a property against**
13 **which a PACE assessment contract has been previously recorded and is outstanding the**
14 **total amount of the later PACE assessment contract combined with any existing and**
15 **outstanding, PACE assessment contracts shall not exceed twenty percent of the true value**
16 **in money of the property as determined in accordance with the procedures approved by**
17 **the PACE board;**

18 **(5) Residential PACE assessment contracts shall not assess penalties, interest**
19 **penalties, or late fees except as prescribed for the collection of delinquent taxes. The PACE**
20 **board or residential program administrator shall provide a statement to the owner of the**
21 **residential property of the penalties, interest penalties, or late fees authorized by law for**
22 **the applicable tax collector as of the date of the assessment contract;**

23 **(6) All regular property taxes for the property that will be subject to the residential**
24 **assessment contract shall be current at the time the board or program administrator**
25 **executes the assessment contract and if there are delinquent taxes outstanding no**
26 **assessment contract may be recorded;**

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

29 **(8) The property owner has not been a party to any bankruptcy proceedings within**
30 **the last three years, except that the property owner may have been party to a bankruptcy**
31 **proceeding that was discharged or dismissed between two and seven years before the**
32 **application date;**

33 **(9) The term of the assessment contract shall not exceed the weighted average**
34 **useful life of the qualified improvements to which the greatest portion of funds disbursed**
35 **under the assessment contract is attributable, not to exceed twenty years. The program**
36 **administrator shall determine useful life for purposes of this subdivision based upon**
37 **credible third-party standards or certification criteria that have been established by**
38 **appropriate government agencies or nationally recognized standards and testing**
39 **organizations or as established by the authority;**

40 **(10) The property owner is current on all mortgage debt on the subject property**
41 **and has no more than one late payment during the twelve months immediately preceding**
42 **the application date on any mortgage debt, and no late payment exceeding thirty days on**
43 **nonmortgage debt, excluding medical debt; and**

44 **(11) The PACE board or residential program administrator shall be or become**
45 **compliant with any applicable residential PACE requirements established by the federal**
46 **Bureau of Consumer Financial Protection pursuant to Section 307 of the Economic**
47 **Growth, Regulatory Relief and Consumer Financial Protection Act of the 2010, S. 2155,**
48 **including incorporating information, disclosures, and requirements pursuant to the**
49 **applicable regulations issued by the bureau.**

50 **2. The property owner executing a residential PACE assessment contract shall have**
51 **a three-day right to cancel the qualifying improvements financing the PACE assessment**
52 **contract. The three-day right expires on or before midnight of the third business day after**
53 **a property owner signs the assessment contract. The board or administrator shall be**
54 **required to provide a printed form for the right to cancel that is presented to the property**
55 **owner no later than the time of signing of the assessment contract. An electronic form may**
56 **be provided if the owner consents electronically to receiving an electronic form.**

57 **3. The property owner executing a residential PACE assessment contract shall be**
58 **provided a thirty-day option to pay the cash price of the residential project plus applicable**

59 interest to the cancellation date up to thirty days and a cancellation fee of three percent of
60 the cash price not to exceed five hundred dollars to have the assessment contract cancelled
61 and released as paid in full.

62 4. Prior to execution of a residential assessment contract, the PACE board or
63 residential program administrator shall advise the property owner in writing that the
64 obligations under the PACE assessment contract continue as an obligation against the
65 improved property if the property owner sells or refinances the property and that a
66 purchaser or a lender may require the PACE assessment contract to be paid in full before
67 the owner may complete the sale or refinancing of the property.

68 5. If the residential property owner pays his or her property taxes and special
69 assessments via a lender or loan servicer's escrow program, the PACE board or residential
70 program administrator shall advise the property owner in writing that the residential
71 PACE assessment shall cause the owner's monthly escrow requirements to increase and
72 increase the owner's total payment to the lender or the loan servicer. The PACE board or
73 residential program administrator shall further advise the property owner that if the
74 special assessment results in an escrow shortage, the owner shall be required to pay the
75 shortage in a lump-sum payment or catch-up the shortage over twelve months. The PACE
76 board or program administrator shall provide an estimate to the property owner of the
77 lump-sum payment and the catch-up payment amount over twelve months that includes
78 any projected cushion as permitted under federal regulation Z adopted by the Bureau of
79 Consumer Financial Protection. The PACE board and residential program administrator
80 may approve an addendum to any residential PACE assessment contract that allows for
81 the amount of the first annual assessment to be advanced on behalf of the owner and
82 transmitted directly to the owner's loan servicer, lender, or escrow agent for deposit into
83 the escrow account subject to the consent of the loan servicer, lender, or escrow agent. In
84 the event this option is elected the annual assessments shall be extended by one year and
85 the assessments adjusted for the added indebtedness and interest.

86 6. The PACE board or residential program administrator shall also provide a
87 statement providing a brief description of the residential project improvement, the cost of
88 the residential project improvement, and the annual assessment necessary to repay the
89 obligation due on the assessment contract to any first lien holder within three days of the
90 date the contract is recorded. Transmittal shall be by United States mail or by such
91 arrangement as the PACE board or residential program administrator makes with the lien
92 holder.

93 7. The PACE board or residential program administrator shall maintain a public
94 website with current public information about the residential PACE program as the board

95 or residential program administrator deems appropriate to inform consumers regarding
96 the residential PACE program. The website shall list approved contractors for the
97 residential PACE program. The website shall disclose the standard assessment contact
98 information and process for property owners or their successors to request information
99 about their assessment contract including the method to request a payoff amount and
100 instructions to submit a payoff. The website shall be accessible to persons with disabilities
101 in accordance with general standards or standards issued by the United States Department
102 of Justice.

103 **8. The PACE board, program administrator, contractor, or other third party shall**
104 **not make any representation as to the income tax deductibility of an assessment contract**
105 **unless that representation is accompanied by supporting copies of statements, regulations,**
106 **rules, guidance, or opinions of the Internal Revenue Service or the Missouri department**
107 **of revenue with regard to the tax treatment of PACE assessments.**

67.2818. 1. The PACE board or residential program administrator that offers
2 residential PACE projects shall provide a disclosure form to homeowners that shall show
3 the financing terms of the assessment contract including, but not limited to:

- 4 (1) The cash price of the installed improvements;
- 5 (2) The total amount funded and borrowed, including the cost of the installed
6 improvements together with program fees and capitalized interest, if any;
- 7 (3) The annual tax assessment and billing process and payment due date;
- 8 (4) The annual payment amounts;
- 9 (5) The term of the assessment;
- 10 (6) The fixed rate of interest charged;
- 11 (7) The annual percentage rate;
- 12 (8) A payment schedule that fully amortizes the amount financed;
- 13 (9) The improvements to be installed;
- 14 (10) A statement that if the property owner sells or refinances their property he or
15 she may be required by a mortgage lender or a purchaser to pay off the assessment as a
16 condition of sale or refinance;
- 17 (11) That no penalty shall be assessed or collected for prepayment of the
18 assessment;
- 19 (12) That any potential utility savings are not guaranteed, and shall not reduce the
20 assessment payments or total assessment amount;
- 21 (13) That the PACE annual assessment shall be collected along with property taxes
22 and that any taxes and annual assessment not paid before January first shall result in a
23 lien on the improved property for the unpaid taxes and unpaid annual assessment;

24 **(14) That if the owner pays property taxes through their mortgage payment, and**
25 **an escrow account, the property owner should notify their mortgage lender to determine**
26 **how an escrow shortage may be paid or avoided by adjusting the escrow obligation paid**
27 **by owner;**

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

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

36 **2. The PACE board or program administrator shall be required to present the**
37 **disclosure form to a property owner for acknowledgment prior to the execution of an**
38 **assessment contract.**

39 **3. The PACE board or residential program administrator shall be required, as a**
40 **part of its assessment contract, to provide a three-day right to cancel the qualifying**
41 **improvements financing. The three-day right expires on or before midnight of the third**
42 **business day after a property owner signs the assessment contract. The board or**
43 **administrator shall be required to provide a printed form for the right to cancel that is**
44 **presented to the property owner no later than the time of signing of the assessment**
45 **contract. An electronic form may be provided if the owner consents electronically to**
46 **receiving an electronic form.**

47 **4. The PACE board or residential program administrator shall be required, as a**
48 **part of its assessment contract, to provide a thirty-day option to pay the cash price of the**
49 **residential project plus applicable interest to the cancellation date up to thirty days and a**
50 **cancellation fee of three percent of the cash price not to exceed five hundred dollars to have**
51 **the assessment contract released as paid in full. The PACE board or residential program**
52 **administrator shall be required to provide a printed form for the owner to use to exercise**
53 **the option to pay the cash price that is presented to the property owner no later than the**
54 **time of signing of the assessment contract. An electronic form may be provided if the**
55 **owner consents electronically to receiving an electronic form.**

56 **5. Before a property owner executes an assessment contract the PACE board or**
57 **residential program administrator shall do the following:**

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

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

62 (2) Make an oral confirmation of the key terms of the assessment contract, in plain
63 language, with the property owner or to the verified authorized representative of the owner
64 on a telephone call and shall obtain acknowledgment from the property owner or
65 representative to whom the oral confirmation is given.

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

68 (1) The property owner on the call has the right to have other persons present for
69 the call, and an inquiry as to whether the property owner would like to exercise the right
70 to include anyone else on the call. This shall occur at the onset of the call, after the
71 determination of the preferred language of communication;

72 (2) The property owner on the call is informed that they should review the
73 assessment contract and financing estimate and disclosure form with all other owners of
74 the property;

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

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

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

82 (6) The term of the assessment contract;

83 (7) That payments on the assessment contract shall be made through an additional
84 annual assessment on the property and paid either directly to the county tax collector's
85 office as part of the total annual secured property tax bill, or through the property owner's
86 mortgage escrow account, and that if the property owner pays his or her taxes through an
87 escrow account he or she should notify their mortgage lender to discuss adjusting his or
88 her monthly mortgage payment by the estimated monthly cost of the assessment contract;

89 (8) That the property shall be subject to a lien during the term of the assessment
90 contract for any delinquent assessments and that the obligations under the assessment
91 contract may be required by a purchaser or mortgage lender to be paid in full before the
92 property owner sells or by a mortgage lender before the owner may refinance the property;

93 (9) That any potential utility savings are not guaranteed, and may not reduce the
94 assessment payments or total assessment amount;

95 **(10) That the program administrator and contractor do not provide tax advice, and**
96 **that the property owner should seek professional tax advice if he or she has questions**
97 **regarding tax credits, tax deductibility, or of other tax impacts on the PACE assessment**
98 **or assessment contract;**

99 **(11) That the first payment shall be due no later than December thirty-first.**

67.2819. 1. The PACE board and residential program administrator shall not
2 **permit contractors or other third parties to advertise the availability of residential**
3 **assessment contracts that are administered by the board or residential program**
4 **administrator, or to solicit property owners on behalf of the board or residential program**
5 **administrator, unless both of the following requirements are met:**

6 **(1) The contractor maintains any permits, licenses, or registrations required for**
7 **engaging in its business in the jurisdiction where it operates and maintains bond and**
8 **insurance coverage in minimum amounts determined by the clean energy development**
9 **board or higher amounts as required in the jurisdiction where the contractor is licensed**
10 **or registered; and**

11 **(2) The PACE board or program administrator obtains the contractor's written**
12 **agreement that the contractor or third party shall act in accordance with the provisions**
13 **of chapter 407 and other applicable advertising and marketing laws and regulations.**

14 **2. The PACE board or residential program administrator shall not provide any**
15 **direct or indirect cash payment or other thing of material value to a contractor or third**
16 **party in excess of the actual price charged by that contractor or third party to the property**
17 **owner for one or more qualified improvements financed by an assessment contract.**

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

22 **4. The PACE board or residential program administrator shall not reimburse a**
23 **contractor or third party for expenses for advertising and marketing campaigns and**
24 **collateral that solely benefit the contractor. A program administrator may reimburse a**
25 **contractor's bona fide and reasonable training expenses related to PACE financing,**
26 **provided that:**

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

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

30 **5. The PACE board or residential program administrator shall not provide any**
31 **direct cash payment or other thing of value to a property owner explicitly conditioned**

32 upon that property owner entering into an assessment contract. Notwithstanding the
33 provisions of this subsection, programs or promotions that offer reduced fees or interest
34 rates to property owners is not a direct cash payment or "other thing of value", provided
35 that the reduced fee or interest rate is reflected in the assessment contract and in no
36 circumstance provided to the property owner as cash consideration.

37 **6. A contractor shall not provide a different price for a project financed under this**
38 **section than the contractor would provide if paid in cash by the property owner.**

67.2820. 1. Any clean energy development board may establish a property assessed
2 clean energy program to finance energy efficiency improvements [Ø] , renewable energy
3 improvements, **water efficiency improvements, or disaster resiliency improvements.** A
4 property assessed clean energy program shall consist of a program whereby a property owner
5 may apply to a clean energy development board to finance the costs of a project through annual
6 special assessments levied under an assessment contract.

7 2. A clean energy development board may establish application requirements and criteria
8 for project financing approval as it deems necessary to effectively administer such program and
9 ration available funding among projects, including but not limited to requiring projects to meet
10 certain energy efficiency standards.

11 3. Clean energy development boards shall ensure that any property owner approved by
12 the board to participate in a property assessed clean energy program or clean energy conduit
13 financing under sections 67.2800 to 67.2835 shall have good creditworthiness or shall otherwise
14 be considered a low risk for failure to meet the obligations of the program or conduit financing.

15 4. A clean energy development board may require an initial energy audit conducted by
16 a qualified home energy auditor as defined in subdivision (4) of subsection 1 of section 640.153
17 as a prerequisite to project financing through a property assessed clean energy program as well
18 as inspections to verify project completion.

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