

SECOND REGULAR SESSION

SENATE BILL NO. 933

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HEGEMAN.

Read 1st time January 18, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5616S.011

AN ACT

To repeal sections 67.2800, 67.2810, and 67.2815, RSMo, and to enact in lieu thereof four new sections relating to property assessed clean energy.

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

Section A. Sections 67.2800, 67.2810, and 67.2815, RSMo, are repealed
2 and four new sections enacted in lieu thereof, to be known as sections 67.2800,
3 67.2810, 67.2815, and 67.2817, to read as follows:

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

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

5 (1) "Assessment contract", a contract entered into between a clean energy
6 development board and a property owner under which the property owner agrees
7 to pay an annual assessment for a period of up to [twenty] **twenty-five** years in
8 exchange for financing of [an energy efficiency] **any eligible** improvement [or a
9 renewable energy improvement];

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

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

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

18 (5) "Clean energy development board", a board formed by one or more

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 municipalities under section 67.2810;

20 (6) **"Commercial property", a commercial, industrial, agricultural,**
21 **or horticultural property or multi-family building of five or more units;**

22 (7) **"Eligible improvement", an energy, water efficiency, or**
23 **renewable energy improvement that meets one or more standards or**
24 **certification criteria that have been established by appropriate**
25 **government agencies, such as the United States Department of Energy,**
26 **the United States Environmental Protection Agency, or by credible**
27 **third-party private organizations that publish generally acceptable**
28 **standards with respect to the measure;**

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

32 (a) **Insulation in walls, roofs, attics, floors, foundations, and heating and**
33 **cooling distribution systems;**

34 (b) **Storm windows and doors, multiglazed windows and doors,**
35 **heat-absorbing or heat-reflective windows and doors, and other window and door**
36 **improvements designed to reduce energy consumption;**

37 (c) **Automatic energy control systems;**

38 (d) **Heating, ventilating, or air conditioning distribution system**
39 **modifications and replacements;**

40 (e) **Caulking and weatherstripping;**

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

45 (g) **Energy recovery systems; and**

46 (h) **Daylighting systems;**

47 [(7)] (9) **"Municipality", any county, city, or incorporated town or village**
48 **of this state;**

49 [(8)] (10) **"Program administrator", an entity selected by a clean**
50 **energy development board to administer a PACE program;**

51 (11) **"Project", any energy efficiency improvement or renewable energy**
52 **improvement;**

53 [(9)] (12) **"Property assessed clean energy assessment" or "PACE**
54 **assessment", the special assessment that is levied against a**

55 **participating property and which is a lien on the participating**
56 **property;**

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

61 **[(10)] (14)** "Property assessed clean energy program" or "**PACE**
62 **program**", a program established by a clean energy development board to finance
63 energy efficiency improvements or renewable energy improvements under section
64 67.2820;

65 **[(11)] (15)** "**Property owner**", a **property owner of record on the**
66 **property subject to the PACE assessment;**

67 **(16)** "Renewable energy improvement", any acquisition and installation
68 of a fixture, product, system, device, or combination thereof on publicly or
69 privately owned property that produces energy from renewable resources,
70 including, but not limited to photovoltaic systems, solar thermal systems, wind
71 systems, biomass systems, or geothermal systems;

72 **(17)** "**Residential property**", a **single-family or manufactured**
73 **home with fewer than five units, including the single-units within a**
74 **condominium or cooperative housing association, or vacant land whose**
75 **highest and best use is for residential occupancy;**

76 **(18)** "**Water efficiency improvement**", any acquisition, installation,
77 **or modification on or of publicly or privately owned property designed**
78 **to reduce the water consumption of such property or designed to**
79 **improve the efficiency of a drainage, sewer, or water supply system.**

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

67.2810. 1. One or more municipalities may form clean energy
2 development boards for the purpose of exercising the powers described in sections
3 67.2800 to 67.2835. Each clean energy development board shall consist of not less
4 than three members, as set forth in the ordinance or order establishing the clean
5 energy development board. Members shall serve terms as set forth in the
6 ordinance or order establishing the clean energy development board and shall be
7 appointed:

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

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

13 2. A clean energy development board shall be a political subdivision of the
14 state and shall have all powers necessary and convenient to carry out and
15 effectuate the provisions of sections 67.2800 to 67.2835, including but not limited
16 to the following:

17 (1) To adopt, amend, and repeal bylaws, which are not inconsistent with
18 sections 67.2800 to 67.2835;

19 (2) To adopt an official seal;

20 (3) To sue and be sued;

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

23 (5) To accept grants, guarantees, and donations of property, labor,
24 services, and other things of value from any public or private source;

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

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

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

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

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

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

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

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

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

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

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

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

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

61 4. No lawsuit to set aside the formation of a clean energy development
62 board or to otherwise question the proceedings related thereto shall be brought
63 after the expiration of sixty days from the effective date of the ordinance or order
64 creating the clean energy development board. No lawsuit to set aside the
65 approval of a project, an assessment contract, or a special assessment levied by
66 a clean energy development board, or to otherwise question the proceedings
67 related thereto shall be brought after the expiration of sixty days from the date
68 that the assessment contract is executed.

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

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

10 (1) A description of the project, including the estimated cost of the project
11 and details on how the project will either reduce energy consumption or create

12 energy from renewable sources;

13 (2) A mechanism for:

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

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

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

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

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

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

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

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

45 5. Special assessments agreed to under an assessment contract shall be
46 a lien on the property against which it is assessed on behalf of the applicable
47 clean energy development board from the date that each annual assessment

48 under the assessment contract becomes due. Such special assessments shall be
49 collected by the county collector in the same manner and with the same priority
50 as ad valorem real property taxes. Once collected, the county collector shall pay
51 over such special assessment revenues to the clean energy development board in
52 the same manner in which revenues from ad valorem real property taxes are paid
53 to other taxing districts. Such special assessments shall be collected as provided
54 in this subsection from all subsequent property owners, including the state and
55 all political subdivisions thereof, for the term of the assessment contract.

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

**67.2817. 1. A program administrator shall not submit for
2 recordation a PACE assessment contract for a residential property
3 unless the following criteria are satisfied:**

4 **(1) All property taxes for the property that will be subject to the
5 PACE assessment contract are current. The program administrator
6 shall obtain a property owner's acknowledgment that there has been no
7 more than one late payment of property taxes on the property for the
8 previous three years or since the current owner acquired the property,
9 whichever period is shorter;**

10 **(2) The property that will be subject to the PACE assessment
11 contract has no recorded and outstanding involuntary liens in excess
12 of one thousand dollars, with such amount being adjusted by a
13 percentage amount equal to the net percentage increase or decrease in
14 the Consumer Price Index for All Urban Consumers;**

15 **(3) The property that will be subject to the PACE assessment
16 contract has no notices of default currently recorded which have not
17 been rescinded;**

18 **(4) The property owner has not been subject to any bankruptcy
19 proceedings within the last seven years, except that the property owner
20 may have been subject to a bankruptcy proceeding that was discharged**

21 or dismissed more than two years before the application date and the
22 property owner has had no payments more than thirty days past due on
23 any mortgage debt or nonmortgage debt, excluding debt incurred in
24 connection with medical expenses, during the twelve months
25 immediately preceding the application date;

26 (5) The property owner is current on all mortgage debt on the
27 subject property and has no more than one late payment exceeding
28 thirty days past due during the twelve months immediately preceding
29 the application date;

30 (6) The property that will be subject to the assessment contract
31 is within the jurisdiction of the clean energy development board;

32 (7) The financing does not exceed twenty percent of the market
33 value of the property, inclusive of the existing assessments;

34 (8) The total balance of PACE assessments and mortgage-related
35 debt recorded against the property subject to the PACE assessment
36 does not exceed ninety-seven percent of the fair market value of the
37 property as established by the valuation required by subsection 2 of
38 this section;

39 (9) The term of the PACE assessment contract shall not exceed
40 the estimated useful life of the eligible improvement to which the
41 greatest portion of funds disbursed under the assessment contract is
42 attributable. The program administrator shall determine useful life for
43 purposes of this subdivision based upon credible third-party standards
44 or certification criteria that have been established by appropriate
45 government agencies or nationally recognized standards and testing
46 organizations; and

47 (10) The program administrator shall require a property owner
48 to disclose whether additional PACE assessments that have not yet
49 been recorded have been authorized by any property owner to be
50 placed on the same subject property. The failure of a property owner
51 to comply with this subdivision shall not invalidate an assessment
52 contract or any obligations thereunder.

53 The program administrator shall use commercially reasonable methods
54 to verify the information required under this subsection, to the extent
55 such methods are reasonably available.

56 2. A program administrator shall derive market value using one
57 of the following:

58 (1) An automated valuation model, using the following criteria:

59 (a) The automated valuation model shall be provided by a third-
60 party vendor;

61 (b) The automated valuation model shall have estimation models
62 with confidence scores and periodic statistical calibration by the third-
63 party vendor;

64 (c) The PACE program shall request at least three automated
65 valuation models for each property. The estimated value for each
66 model shall be the average between the high and low values, if a range
67 is provided; and

68 (d) The PACE program shall utilize the estimated value with the
69 highest confidence score for a property. If an automated valuation
70 model meeting the criteria of paragraphs (a), (b), and (c) of this
71 subdivision does not return a confidence score for a subject property,
72 the PACE program shall utilize the average of all estimated values that
73 have been returned;

74 (2) An appraisal conducted within six months of the application
75 date by a certified residential or certified general appraiser licensed
76 by the Missouri real estate appraisers commission; or

77 (3) The true value of money valuation described under section
78 137.115.

79 3. The market value determination by the program administrator
80 shall be disclosed to the property owner prior to signing the assessment
81 contract.

82 4. (1) A program administrator shall determine, prior to
83 recordation by a clean energy development board of a PACE assessment
84 contract, that a property owner has a reasonable ability to pay the
85 annual payment obligation for the PACE assessment based on that
86 property owner's income, assets, and current debt obligations. The
87 determination process shall be based on the following factors:

88 (a) At least one property owner shall submit on his or her
89 application his or her monthly income and his or her monthly housing
90 expenses;

91 (b) The program administrator shall inform at least one property
92 owner that housing expenses include all mortgage payments, insurance,
93 property taxes, mortgage guaranty insurance, and other preexisting
94 assessments on the property. Household income may include the

95 income of any persons age eighteen or older who have title to the
96 property. For any person whose income is considered, his or her debt
97 obligations shall also be considered. The program administrator shall
98 not be required to consider more income than is necessary, or verify
99 assets if verified income is sufficient to determine the ability to pay the
100 annual payment obligation;

101 (c) Debt obligations in accordance with subdivision (3) of this
102 subsection; and

103 (d) In evaluating the income, assets, and current debt obligations
104 of the property owner, the equity of the property that will secure the
105 assessment shall not be considered.

106 (2) The program administrator shall determine and consider the
107 current or reasonably expected income or assets of the property owner
108 that the program administrator relies upon in order to determine a
109 property owner's ability to pay the annual payment obligation for the
110 PACE assessment using reasonably reliable third-party records of the
111 property owner's income or assets. The program administrator may use
112 automated verification provided the source of that verification is
113 specific to the income of the property owner and not based on
114 predictive or estimation methodologies, and has been determined
115 sufficient for such verification purposes by a federal mortgage lending
116 authority or regulator. Examples of records the program administrator
117 may use to verify the property owner's income or assets include, but
118 are not limited to:

119 (a) A pay stub issued within the last thirty days, or financial
120 institution records showing deposit activity within the last sixty days;

121 (b) Copies of tax returns the property owner filed with the
122 Internal Revenue Service;

123 (c) Internal Revenue Service Form W-2 Wage and Tax Statement,
124 or other similar Internal Revenue Service forms that are used for
125 reporting wages or tax withholding;

126 (d) Payroll statements, including the Department of Defense
127 Leave and Earnings Statement;

128 (e) Financial institution records, such as bank statements or
129 investment account statements reflecting the value of particular assets;

130 (f) Records from the property owner's employer or a third party
131 that obtained income information from the employer; and

132 (g) Records from a federal, state, or local government agency
133 stating the property owner's income, including benefits or entitlements.

134 (3) A program administrator shall consider the monthly debt
135 obligations of the property owner to determine a property owner's
136 ability to pay the annual payment obligation of the PACE assessment
137 using reasonably reliable third-party records, including one or more
138 consumer credit reports from agencies that meet the requirements of
139 15 U.S.C. Section 1681a(p). For purposes of this subdivision, monthly
140 debt obligations means:

141 (a) All secured and unsecured debt reflected in the consumer
142 credit reports obtained by the program administrator; and

143 (b) Monthly housing expenses.

144 (4) In calculating the ability of the property owner to pay the
145 annual payment obligation, the program administrator shall determine
146 that the property owner's income is sufficient to meet:

147 (a) The annual PACE payment obligation;

148 (b) Any mortgage payments, as defined by the higher of the
149 borrowers self-reported housing expenses or the mortgage payments
150 identified in the consumer credit reports obtained by the program
151 administrator;

152 (c) All other existing debts and obligations as identified in
153 subdivision (3) of this subsection; and

154 (d) Basic household living expenses with sufficient residual
155 income. A program administrator may make reasonable estimation of
156 basic living expenses based on the number of persons in the
157 household. Household living expenses shall not include housing
158 expenses or other secured or unsecured debt.

159 (5) In the case of emergency or immediate necessity, the
160 requirements of subdivision (2) of this subsection may be waived for
161 the funding and recordation of a PACE assessment to finance a heating,
162 ventilation, and air conditioning (HVAC) system, boiler, or other system
163 whose primary function is temperature regulation in a home if all the
164 following are met:

165 (a) The program administrator first attempted to use an
166 automated means of verification as described in subdivision (2) of this
167 subsection;

168 (b) If the program administrator was unable to verify the

169 property owner's income under subdivision (2) of this subsection, the
170 program administrator shall ask the property owner questions to
171 identify his or her income and the sources of his or her income;

172 (c) The funding is limited to the emergency or immediate
173 necessity improvement and any required improvements directly
174 necessary to the installation and safe operation of the eligible
175 improvement; and

176 (d) The property owner executes a waiver of their right to cancel
177 authorized under subsection 7 of this section.

178 (6) The program administrator shall report annually all PACE
179 assessments that were funded and recorded under subdivision (5) of
180 this subsection in a form acceptable to the clean energy development
181 board.

182 (7) If the determination of a property owner's ability to pay an
183 annual PACE assessment payment obligation is lower than the actual
184 annual PACE assessment payment obligation under a PACE assessment,
185 and the consumer is obligated under a home improvement contract
186 directly related to such assessment, the program administrator shall be
187 responsible for the difference, unless such determination was based
188 upon a misrepresentation by the property owner.

189 5. Before a property owner executes a PACE assessment contract,
190 the program administrator shall make an oral confirmation of the key
191 terms of the PACE assessment agreement to at least one owner of the
192 property or authorized representative of the property owner, and shall
193 obtain acknowledgment from the person to whom the oral confirmation
194 is given. Such oral confirmation shall include the following
195 information:

196 (1) The eligible improvement being installed is being funded by
197 an assessment;

198 (2) The total estimated annual amount the property owner will
199 have to pay under the PACE assessment contract, including applicable
200 fees;

201 (3) The estimated date that the first payment will be due;

202 (4) The term of the PACE assessment contract;

203 (5) That payments on the PACE assessment contract will be
204 collected along with the property owner's property taxes;

205 (6) That the property will be subject to a lien during the term of

206 the PACE assessment contract;

207 (7) That such property owner has disclosed whether additional
208 PACE assessments have been authorized by any property owner to be
209 placed on the property;

210 (8) That such property owner understands the financial
211 information that he or she has provided, and that he or she has the
212 financial means to make payments on the assessment agreement in
213 addition to his or her other expenses;

214 (9) That any potential utility savings are not guaranteed, and
215 will not reduce the PACE assessment payments or total PACE
216 assessment amount;

217 (10) That the program administrator does not provide tax advice,
218 and that the property owner should seek professional tax advice if he
219 or she has questions regarding the tax impact of the assessment or
220 PACE assessment contract;

221 (11) That the obligations under the PACE assessment contract
222 may be required to be paid in full before the property owner sells or
223 refinances the property;

224 (12) The program administrator shall comply with the following
225 when giving the oral confirmation described in this subsection:

226 (a) The program administrator shall record the oral confirmation
227 in an audio format in accordance with applicable laws;

228 (b) The program administrator may not deliver the oral
229 confirmation through the use of a prerecorded message; and

230 (c) Recording of an oral confirmation shall be retained by the
231 program administrator for a period of at least five years from the time
232 of the recording; and

233 (13) The program administrator shall develop additional
234 procedures to address the needs and concerns of elders.

235 6. A clean energy development board shall be required to
236 develop a disclosure form for residential PACE projects. The form shall
237 disclose all key financing terms of the PACE assessment contract
238 including, but not limited to:

239 (1) The total estimated PACE assessment principal amount,
240 including the cost of the installed improvements together with program
241 fees and capitalized interest, if any;

242 (2) The annual tax obligation;

- 243 **(3) The annual payment amounts;**
244 **(4) The term of the PACE assessment;**
245 **(5) The stated rate of interest;**
246 **(6) The annual percentage rate;**
247 **(7) A payment schedule;**
248 **(8) The improvements to be installed;**
249 **(9) That if the property owner sells or refinances their property**
250 **they may be required to pay off the PACE assessment as a condition of**
251 **sale or refinance;**
252 **(10) That no penalty shall be assessed or collected for**
253 **prepayment of the PACE assessment;**
254 **(11) That any potential utility savings are not guaranteed, and**
255 **will not reduce the PACE assessment payments or total PACE**
256 **assessment amount;**
257 **(12) That the PACE assessment will be collected along with their**
258 **property taxes and will result in a lien on the property;**
259 **(13) That the payments will be added to his or her property tax**
260 **bill;**
261 **(14) That failure to pay the PACE assessment may result in**
262 **penalties and fees, and, eventually foreclosure; and**
263 **(15) That a property owner should seek professional tax advice**
264 **if he or she has questions regarding the tax impact of the assessment**
265 **or assessment contract.**
266 **A program administrator shall present the disclosure form to a**
267 **property owner for acknowledgment prior to the execution of a PACE**
268 **assessment contract.**
269 **7. (1) A program administrator shall provide, as part of a PACE**
270 **assessment contract, a three day right to cancel regarding financing of**
271 **eligible improvements. A property owner shall have the right to cancel**
272 **a PACE assessment contract by midnight of the third business day after**
273 **the property owner signs the PACE assessment contract. A program**
274 **administrator shall provide a notice of the right to cancel to a property**
275 **owner no later than the time the assessment contract is signed by the**
276 **property owner.**
277 **(2) The clean energy development board shall develop a form to**
278 **notify the property owner in writing that such owner may rescind any**
279 **PACE assessment contract entered into under this section not later**

280 than three business days after entering into such agreement.

281 (3) A property owner may waive the right to cancel if all of the
282 following are met:

283 (a) The PACE assessment contract is executed in connection with
284 the making of emergency or immediately necessary repairs to protect
285 persons or real or personal property;

286 (b) The PACE assessment contract was initiated for emergency
287 repair or immediately necessary use; and

288 (c) A property owner provides a separate statement that is dated
289 and signed by at least one property owner, describing the situation that
290 requires immediate remedy, and expressly acknowledging that the
291 contractor has informed him or her of the right to cancel and that he
292 or she waives the right to cancel.

293 (4) Nothing in this section shall be construed to void, invalidate,
294 impair, or release a property owner from the contractual obligations
295 incurred by a PACE assessment contract, or to create or modify any
296 rights or obligations not expressly created or modified herein.

297 8. (1) A program administrator shall not permit home
298 improvement contractors, or persons acting directly on behalf of home
299 improvement contractors, to advertise the availability of PACE
300 assessment contracts that are administered by the program
301 administrator unless the program administrator obtains the
302 contractor's written agreement that the home improvement contractor,
303 or the persons acting directly on behalf of the home improvement
304 contractor, will act in accordance with applicable advertising and
305 marketing laws and regulations, and all other applicable laws.

306 (2) A program administrator shall not provide any direct or
307 indirect cash payment or other thing of material value to a home
308 improvement contractor in excess of the actual price charged by that
309 home improvement contractor to the property owner for the sale and
310 installation of one or more efficiency improvements financed by a
311 PACE assessment contract. A program administrator shall not provide
312 any direct or indirect cash payment or other thing of material value to
313 a person acting directly on behalf of a home improvement contractor
314 in connection with an activity related to advertising the availability of
315 assessment contracts. Any communication between a program
316 administrator and a home improvement contractor or its agents or

317 representatives, or any information disclosed by or to a program
318 administrator, and any service provided by a program administrator to
319 a home improvement contractor or its agents or representatives, for the
320 purpose of enabling or facilitating the installation of projects for an
321 applicant or prospective applicant for program financing, shall not
322 constitute a thing of material value.

323 (3) A program administrator shall not reimburse expenses to a
324 home improvement contractor for advertising and marketing
325 campaigns or collateral.

326 (4) A program administrator may pay for, or reimburse a home
327 improvement contractor for, bona fide and reasonable training
328 expenses actually incurred; any reimbursement of a home improvement
329 contractor shall not exceed one hundred dollars, with such amount
330 being adjusted by a percentage amount equal to the net percentage
331 increase or decrease in the Consumer Price Index for All Urban
332 Consumers, per each agent or representative of the home improvement
333 contractor who participated in such training, and shall be paid directly
334 to the home improvement contractor, not its agents or representatives.

335 (5) A program administrator shall not provide any direct cash
336 payment or other thing of value to a property owner explicitly
337 conditioned upon that property owner entering into a financing
338 agreement. Notwithstanding the immediately preceding sentence,
339 programs or promotions that offer reduced fees or interest rates to
340 property owners shall not be considered a direct cash payment or other
341 thing of value.

342 (6) A program administrator, home improvement contractor, or
343 person acting directly on behalf of a home improvement contractor,
344 shall not make any representation as to the tax deductibility of a PACE
345 assessment unless that representation is consistent with
346 representations, statements, or opinions of the Internal Revenue
347 Service or state tax commission with regard to the tax treatment of
348 non-ad valorem assessments.

349 (7) A program administrator shall not provide to a home
350 improvement contractor, or a person acting directly on behalf of a
351 home improvement contractor, the amount of funds for which a
352 property owner is eligible for projects or the amount of equity in a
353 property.

354 **(8) A contractor shall not provide a different price for a project**
355 **financed under this section than the contractor would provide if paid**
356 **in cash by the property owner.**

357 **9. (1) A program administrator shall establish and maintain a**
358 **list of eligible improvements. The eligible improvement list shall**
359 **include the following information for each improvement appearing on**
360 **that list:**

361 **(a) A name or description;**

362 **(b) Eligibility criteria; and**

363 **(c) Expected useful life.**

364 **(2) An improvement shall not be included on an eligible**
365 **improvement list unless the program administrator has determined**
366 **that the improvement meets one or more standards or certification**
367 **criteria that have been established by appropriate government**
368 **agencies, such as the United States Department of Energy, the United**
369 **States Environmental Protection Agency, or by credible third-party**
370 **private organizations that publish generally acceptable standards with**
371 **respect to the measure.**

372 **(3) A program administrator may offer qualifying improvements**
373 **not included in the eligible improvement list if that administrator does**
374 **the following:**

375 **(a) Establishes and maintains an application process to permit**
376 **a home improvement contractor or property owner to request a PACE**
377 **assessment for a custom measure; and**

378 **(b) Establishes and maintains guidelines by which the program**
379 **administrator shall review and approve the application for a custom**
380 **improvement.**

381 **10. A PACE assessment contract shall be executed by the clean**
382 **energy development board and all property owners and shall provide:**

383 **(1) A description of the project, including the estimated cost of**
384 **the project;**

385 **(2) A statement that the obligations set forth in the PACE**
386 **assessment contract, including the obligation to make annual**
387 **assessment payments, are a covenant that shall run with the land and**
388 **be obligations upon future owners of such property; and**

389 **(3) An acknowledgment that no subdivision of property subject**
390 **to the PACE assessment contract shall be valid unless the PACE**

391 assessment contract or an amendment thereof divides the total annual
392 special assessment due between the newly subdivided parcels pro rata
393 to the special benefit realized by each subdivided parcel.

394 11. The clean energy development board shall provide a copy of
395 each signed PACE assessment contract or a summary memorandum
396 stating the annual amount of the assessment and the term of the
397 assessment to the local county assessor and county collector, and shall
398 cause a copy of such PACE assessment contract or a summary
399 memorandum to be recorded in the real estate records of the county
400 recorder of deeds.

401 12. PACE assessments agreed upon under a PACE assessment
402 contract shall be a lien on the property against which it is assessed on
403 behalf of the applicable clean energy development board from the date
404 that each annual assessment under the assessment contract becomes
405 due. Such special assessments shall be noticed and collected by the
406 county collector in the same manner and with the same priority as ad
407 valorem real property taxes under sections 52.220 and 52.230. Once
408 collected, the county collector shall pay over such special assessment
409 revenues to the clean energy development board in the same manner
410 in which revenues from ad valorem real property taxes are paid to
411 other taxing districts. Such special assessments shall be collected as
412 provided in this subsection from all subsequent property owners,
413 including the state and all political subdivisions thereof, for the term
414 of the assessment contract.

415 13. (1) A clean energy development board offering property
416 assessed clean energy financing shall, on an annual basis, publish a
417 report that shall contain the following information, along with relevant
418 methodologies and supporting assumptions or sources relied upon in
419 preparing the report:

420 (a) The number of PACE assessments funded, by city, county, and
421 zip code;

422 (b) The aggregate dollar amount of PACE assessments funded by
423 city, county, and zip code;

424 (c) The average dollar amount of the PACE assessments funded
425 by city, county, and zip code;

426 (d) The categories of eligible products, and the percentage of
427 PACE assessments represented by each category type, on a number and

428 dollar basis, by city, county, and zip code;

429 (e) The number of defaulted assessments;

430 (f) Estimated total amount of energy saved, and the estimated
431 total dollar amount of such savings by property owners by measures
432 installed in the calendar year, by city, county, and zip code, and the
433 total number of energy savings improvements and the overall average
434 efficiency rating of installed units for each product type;

435 (g) Estimated total amount of renewable energy produced by
436 measures installed in the calendar year, by city, county, and zip code,
437 and the total number of renewable energy installations, including the
438 average and median system size;

439 (h) Estimated amount of greenhouse gas emissions reductions;

440 (i) Estimated number of jobs created;

441 (j) The average and median amount of annual and total PACE
442 assessments by city, county, and zip code; and

443 (k) The number and percentage of homeowners over sixty years
444 of age, by city, county, and zip code.

445 (2) All reports submitted under this subsection shall include only
446 aggregate data, and shall not include any personally identifiable
447 information.

448 (3) The local government shall make the data publicly available
449 on their website.

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