

TITLE: PROPERTY ASSESSMENT CLEAN ENERGY ACT

SPONSOR: DeGroot

This bill modifies provisions relating to the Property Assessment Clean Energy (PACE) Act.

DEFINITIONS

This bill modifies the term "assessment contract" to state that property owners may enter into assessment contracts to finance energy efficiency improvements with a clean energy development board for a period of up to 20 years not to exceed the weighted average useful life of the qualified improvements (Section 67.2800, RSMo).

COLLECTION OF SPECIAL ASSESSMENTS

A clean energy development board must provide a copy of each signed assessment contract to the city collector if a city has joined a clean energy development board and the county has not. Additionally, the special assessments must be collected by the city collector if a city has joined a clean energy development board and the county has not (Section 67.2815).

PACE PROGRAM FOR RESIDENTIAL PROPERTIES

Municipalities that have created, joined, or withdrawn from a residential PACE program or district must inform the Director of the Division of Finance by submitting a copy of the enabling ordinance or withdrawal ordinance to the Division.

PACE boards offering residential property programs are subject to examination by the division. The division must conduct an examination of each PACE board at least once every 24 months and such other times as the director may determine. The PACE board will have the opportunity to respond to any findings in the examination. A final examination report will be delivered to the PACE board and sponsoring municipality and will be made available to the public.

If the director finds that a PACE board has failed to comply with provisions of the PACE Act, he or she may issue a notice to the PACE board of his or her intent to file a release of the assessment contract and any related assessment lien made in violation of the law. A PACE board will have 30 days to file an appeal.

A PACE board and its sponsoring municipality or municipalities will

be jointly and severally responsible for paying the actual costs of examinations, which the director shall assess upon the completion of an examination.

The division may refer any matter related to the conduct of a PACE board to the State Auditor or to the Attorney General (Section 67.2816).

PACE PROGRAM CONTRACTS FOR RESIDENTIAL PROPERTIES

Notwithstanding any other contractual agreement to the contrary, each assessment contract shall be reviewed, approved, and executed by the PACE board and these duties shall not be delegated.

A PACE board shall not approve, execute, submit, or otherwise present for recordation any residential assessment contract unless the PACE board verifies certain criteria set forth in the bill are satisfied. The property owner executing a PACE assessment contract shall have a 3-day right to cancel the contract.

The PACE board must advise the property owner in writing that any delinquent assessment shall be a lien on the property subject to the assessment contract and that the obligations under the PACE assessment contract continue even if the property owner sells or refinances the property.

If the residential property owner pays his or her property taxes and special assessments via a lender or loan servicer's escrow program, the PACE board must advise the property owner that the residential PACE assessment will cause the owner's monthly escrow requirements to increase and will increase the owner's total payment to the lender or the loan servicer. The PACE board will further advise the property owner that if the special assessment results in an escrow shortage the owner will be required to pay the shortage in a lump-sum payment or catch-up the shortage over 12 months.

The PACE board must also provide a statement providing a brief description of the residential project improvement, the cost of the improvement, and the annual assessment necessary to repay the obligation due on the assessment contract to any first lien holder within 3 days of the date the contract is recorded.

The PACE board must maintain a public website with current information about the residential PACE program.

The PACE board cannot make any representations as to the income tax deductibility of an assessment contract unless the representation is accompanied by certain supporting documents, as listed in the

bill.

The PACE board that offers residential PACE projects shall provide a disclosure form to homeowners that shall show the financing terms of the assessment contract. The disclosure form shall be presented to a property owner prior to the execution of an assessment contract.

Before a property owner executes an assessment contract, the PACE board shall make an oral confirmation that at least one owner of the property has a copy of the assessment contract documents, the financing estimate and disclosure form, and the right to cancel form. An oral confirmation shall also be made of the key terms of the assessment contract, in plain language, and an acknowledgment shall be obtained from the property owner or authorized representative to whom the oral confirmation is given (Sections 67.2817 and 67.2818).

PACE PROGRAM CONTRACTORS

Contractors or other third parties shall not advertise the availability of residential assessment contracts that are administered by a PACE board or solicit property owners on behalf of the PACE board, unless the contractor maintains its permits and agrees to act in accordance with advertising laws.

The bill sets limitations on what incentives or information the PACE board shall provide to a contractor.

A contractor shall not provide a different price for a project financed as a residential PACE project than the contractor would provide if paid in cash by the property owner.

Each section of the bill is effective after January 1, 2021 and only applies to PACE programs for projects to improve residential properties of four or fewer units (Section 67.2819).

This bill is the same as SB 577 (2020) and similar to HCS HB 215, SCS SB 173 (2019), HB 2214, SB 933, and SB 2344 (2018).