

HCS HB 697 -- PROPERTY ASSESSMENT CLEAN ENERGY ACT

SPONSOR: DeGroot

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Financial Institutions by a vote of 10 to 3. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 10 to 3.

The following is a summary of the House Committee Substitute for HB 697.

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

DEFINITIONS (Section 67.2800, RSMo)

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.

COLLECTION OF SPECIAL ASSESSMENTS (Section 67.2815)

A Clean Energy Development Board must provide a copy of each signed assessment contract to the city or county 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 or county collector if a city has joined a Clean Energy Development Board and the county has not. After January 1, 2022, a residential assessment contract may not be approved by the Clean Energy Development Board, or otherwise presented for recordation unless written consent from each existing lien holder is obtained.

Portions of the PACE Act, as described in this bill, only apply to PACE programs for projects to improve residential properties of four or fewer units. Any Clean Energy Development Board formed to improve commercial properties, properties owned by non-profit or not-for-profit entities, governmental properties, or non-residential properties in excess of four residential units will be exempt from portions of the PACE Act, as described in this bill, and portions of the program will not apply to the commercial PACE programs and commercial PACE assessment contracts of any Clean Energy Development Board Engaged in both commercial and residential property programs. Any Clean Energy Development Board that ceases to finance new projects to improve residential properties of four or fewer units before January 1, 2022, will be exempt from the portions of the PACE Act, as described in this bill.

PACE PROGRAM FOR RESIDENTIAL PROPERTIES (Section 67.2816)

Municipalities that have created, joined, or withdrawn from a residential PACE program or district must inform the Director of the Division of Finance by submitting a copy of the enabling ordinance or withdrawal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

Clean Energy Development Boards offering residential property programs and the program administrators are subject to examination by the Division. The Division must conduct an examination of each Clean Energy Development Board at least once every 24 months and such other times as the Director may determine. The Clean Energy Development Board will have the opportunity to respond to any findings in the examination. A final examination report will be delivered to the Clean Energy Development Board and sponsoring municipality and will be made available to the public with certain information redacted.

If the Director finds that a Clean Energy Development Board or its administrator has failed to comply with provisions of the PACE Act, he or she may issue a notice to the Board of the charges and notice of a hearing on such charges. If after a hearing, the Director finds the Board or its administrator has failed, refused, or neglected to comply, the Director may order certain relief as specified in the bill, including a civil penalty or forfeiture of up to \$500.

A Clean Energy Development Board and its program administrator or agents 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 Clean Energy Development Board to the State Auditor or to the Attorney General.

PACE PROGRAM CONTRACTS FOR RESIDENTIAL PROPERTIES (Sections 67.2817 and 67.2818)

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

A Clean Energy Development Board shall not approve, execute, submit, or otherwise present for recordation any residential assessment contract unless the Board verifies certain criteria set forth in the bill are satisfied. The property owner executing a

PACE assessment contract shall have a three-day right to cancel the contract.

The Clean Energy Development 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 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 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 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 three days of the date the contract is recorded.

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

The 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.

Any federal requirements and consumer protections for property assessed clean energy financing or similar programs apply to residential PACE assessment contracts and the Board must consider the financial ability of the property owner to repay the contract. A board may not enter into an assessment contract if the cash price of the project is more than 20% of the market value of the property or if the contract or special levy to collect the assessment, combined with any additional indebtedness, exceeds 80% of the current market value of the property.

The 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.

PACE PROGRAM CONTRACTORS (Section 67.2819)

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

The bill sets limitations on what incentives or information the 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 and applies to PACE assessment contracts entered into after January 1, 2022 (Section 67.2840).

This bill is the same as SB 105 (2021), SB 577 (2020) and similar to HB 1555 (2020) HCS HB 215, and SCS SB 173 (2019).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that this is a consumer protection bill. This bill addresses shortfalls within the PACE program and allowing the Director of the Division of Finance to oversee the program is good for enforcement.

Supporters also say that this bill is not intended to effect commercial PACE programs.

Testifying for the bill were Representative DeGroot; City of Springfield; Missouri County Collectors Association; Missouri Bankers Association; Heartland Credit Union Association; Missouri Division of Credit Unions; Division of Finance; and Missouri Realtors.

OPPONENTS: Those who oppose the bill say that the PACE program was designed to allow individuals to borrow against their equity and then pay off their debt over the lifetime of the product. Additionally, it is claimed that this bill is too strict and will end the PACE program in Missouri. Opponents also say that placing these limitations on the program may force some individuals to switch to high interest rate credit cards to pay for products.

Testifying against the bill were Arnie Dienoff; Sierra Club Missouri Chapter; Ygrene Energy Fund ; Avail Professional Services; PACE Funding Group; Missouri Clean Energy Distributors; C-PACE Alliance; Renew Missouri Advocates; Show Me PACE Clean Energy Distributors.

This bill is similar to SB 105 (2021).

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.