

HB 697 -- PROPERTY ASSESSMENT CLEAN ENERGY ACT (DeGroot)

COMMITTEE OF ORIGIN: Standing Committee on Financial Institutions

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. This bill adds the terms "director", "division", and "program administrator".

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 and assessor. Additionally, the special assessments must be collected by the city or county collector. 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Municipalities that have created, joined, or withdrawn from a residential PACE program or district must inform the Director of the Division of Finance by submitting a copy of the enabling ordinance or withdrawal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 of Finance. 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 will 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 Attorney General as deemed appropriate by the director.

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

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

A Clean Energy Development Board will 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 will 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 will 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 clean energy development board, its agents, contractor, or other third party will not make any representation as to the income tax deductibility of an assessment.

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 must provide a disclosure form to homeowners that will show the financing terms of the assessment contract. The disclosure form will 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 will 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 will also be made of the key terms of the assessment contract, in plain language, and an acknowledgment must 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 cannot 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 will provide to a contractor.

A contractor must 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.

EFFECTIVE DATE (Section 67.2840)

Certain provisions of the bill will be effective and apply to the residential PACE programs of clean energy development boards and participating municipalities after January 1, 2022.

Certain provisions of the bill will be effective and apply to residential PACE assessment contracts entered into after January 1, 2022.

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