

FIRST REGULAR SESSION

SENATE BILL NO. 173

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

Pre-filed December 12, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0780S.02I

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 contracts for energy efficiency.

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Section A. Sections 67.2800, 67.2805, 67.2810, 67.2815, and 67.2820, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 67.2800, 67.2805, 67.2810, 67.2815, 67.2816, 67.2817, 67.2818, 67.2819, and 67.2820, to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

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

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

(1) "Assessment contract", a contract entered into between a clean energy development board and a property owner under which the property owner agrees to pay an annual assessment for a period of up to twenty years **not to exceed the weighted average useful life of the qualified improvements** in exchange for financing of an energy efficiency improvement or a renewable energy improvement;

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

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

(4) "Clean energy conduit financing", the financing of energy efficiency improvements or renewable energy improvements for a single parcel of property

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

17 or a unified development consisting of multiple adjoining parcels of property
18 under section 67.2825;

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

21 **(6) "Commercial property", a commercial, industrial, agricultural**
22 **or horticultural property, or multi-family dwelling of five or more**
23 **residential units and common areas or common structures of a**
24 **condominium or cooperative housing association consisting of five or**
25 **more residential units;**

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

27 (8) "Disaster resiliency improvement", any improvement to real
28 property or permanently installed fixture to harden a structure or
29 improve the survivability of a structure and its occupants, including
30 but not limited to back-up standby generator systems, storm- and wind-
31 proofing a structure, and flood mitigation including raising the
32 elevation of a structure;

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

34 (10) "Eligible improvement", improvements classified as energy
35 efficiency, disaster resiliency, renewable energy or water efficiency
36 improvements provided that the improvements meet the standards
37 approved and adopted by the state environmental and energy resources
38 authority, and provided the eligible improvement class or improvement
39 has been authorized by the PACE board as an eligible improvement;

40 [(6)] (11) "Energy efficiency improvement", any acquisition, installation,
41 or modification on or of publicly or privately owned property designed to reduce
42 the energy consumption of such property, including but not limited to:

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

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

48 (c) Automatic energy control systems;

49 (d) Heating, ventilating, or air conditioning distribution system
50 modifications and replacements;

51 (e) Caulking and weatherstripping;

52 (f) Replacement or modification of lighting fixtures to increase energy

53 efficiency of the lighting system without increasing the overall illumination of the
54 building unless the increase in illumination is necessary to conform to applicable
55 state or local building codes;

56 (g) Energy recovery systems; and

57 (h) Daylighting systems;

58 [(7)] (12) "Municipality", any county, city, or incorporated town or village
59 of this state;

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

65 [(8)] (14) "Project", any energy efficiency improvement or renewable
66 energy improvement;

67 [(9)] (15) "Property assessed clean energy local finance fund", a fund that
68 may be established by the authority for the purpose of making loans to clean
69 energy development boards to establish and maintain property assessed clean
70 energy programs;

71 [(10)] (16) "Property assessed clean energy program", a program
72 established by a [clean energy development] PACE board to finance energy
73 efficiency improvements or renewable energy improvements under section
74 67.2820;

75 [(11)] (17) "Renewable energy improvement", any acquisition and
76 installation of a fixture, product, system, device, or combination thereof on
77 publicly or privately owned property that produces energy from renewable
78 resources, including, but not limited to photovoltaic systems, solar thermal
79 systems, wind systems, biomass systems, or geothermal systems;

80 (18) "Residential PACE project", any eligible improvement and
81 related assessment contract that improves a residence, including a
82 manufactured home, with fewer than five units, including single-units
83 within a condominium or cooperative housing association and the
84 common areas and structures of a condominium or cooperative housing
85 association consisting of fewer than five residential units;

86 (19) "Residential program administrator", an individual or entity
87 selected by the clean energy development board to administer a
88 residential PACE program, but this term does not include an employee

89 of a county or municipal government or a public employee employed by
90 the clean energy development board who is paid from appropriated
91 general tax revenues;

92 (20) "Water efficiency improvement", any acquisition, installation,
93 or modification on or of property designed to reduce the water
94 consumption of such property or improve the efficiency or operation
95 of a drainage, sewer, or water supply system.

96 3. All projects undertaken under sections 67.2800 to 67.2835 are subject
97 to the applicable municipality's ordinances and regulations, including but not
98 limited to those ordinances and regulations concerning zoning, subdivision,
99 building, fire safety, and historic or architectural review. **PACE boards**
100 **established prior to August 28, 2019, may approve eligible**
101 **improvements according to their established standards or practices as**
102 **of August 27, 2019, but shall not approve any new classes of eligible**
103 **improvements until final standards for such improvements are issued**
104 **by the state environmental and energy resources authority. PACE**
105 **boards shall affirmatively determine the classes of eligible**
106 **improvements authorized for the clean energy district. The classes of**
107 **eligible improvements adopted for implementation in a clean energy**
108 **district are at the sole discretion of the PACE board and the board is**
109 **not required to authorize all classes of eligible improvements under**
110 **final standards issued by the authority. PACE boards shall adopt,**
111 **implement, and maintain standards for eligible improvements**
112 **consistent with the regulations issued by the state environmental and**
113 **energy resources authority within one hundred eighty days after the**
114 **standards become final and may from time to time revise or adopt**
115 **standards for eligible improvements. The state environmental and**
116 **energy resources authority shall exercise its authority under section**
117 **67.2805 and issue standards of eligible improvements for residential**
118 **PACE projects not later than January 1, 2020.**

67.2805. 1. The authority may, as needed, promulgate administrative
2 rules and regulations relating to the following:

3 (1) Guidelines and specifications for administering the property assessed
4 clean energy local finance fund; and

5 (2) Any clarification to the definitions **and standards of eligible**
6 **improvement, energy efficiency improvement, water efficiency**
7 **improvement, disaster resiliency improvement, and renewable energy**

8 improvement as the authority may determine is necessary or advisable **or as**
9 **required by law.**

10 2. Any rule or portion of a rule, as that term is defined in section 536.010,
11 that is created under the authority delegated in this section shall become effective
12 only if it complies with and is subject to all of the provisions of chapter 536 and,
13 if applicable, section 536.028. This section and chapter 536 are nonseverable and
14 if any of the powers vested with the general assembly under chapter 536 to
15 review, to delay the effective date, or to disapprove and annul a rule are
16 subsequently held unconstitutional, then the grant of rulemaking authority and
17 any rule proposed or adopted after August 28, 2010, shall be invalid and void.

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 **including the engagement**

27 **of a program administrator, including a licensed residential program**
28 **administrator;**

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

32 ~~[(7)]~~ **(8)** To levy and collect special assessments under an assessment
33 contract with a property owner and to record such special assessments as a lien
34 on the property;

35 ~~[(8)]~~ **(9)** To borrow money from any public or private source and issue
36 bonds and provide security for the repayment of the same;

37 ~~[(9)]~~ **(10)** To finance a **commercial or residential** project under an
38 assessment contract;

39 ~~[(10)]~~ **(11)** To collect reasonable fees and charges in connection with
40 making and servicing assessment contracts and in connection with any technical,
41 consultative, or **commercial or residential** project assistance services offered;

42 ~~[(11)]~~ **(12)** To invest any funds not required for immediate disbursement
43 in obligations of the state of Missouri or of the United States or any agency or
44 instrumentality thereof, or in bank certificates of deposit; provided, however, the
45 limitations on investments provided in this subdivision shall not apply to
46 proceeds acquired from the sale of bonds which are held by a corporate trustee;
47 and

48 ~~[(12)]~~ **(13)** To take whatever actions necessary to participate in and
49 administer a clean energy conduit financing or a property assessed clean energy
50 program.

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

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

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

62 (3) The amount of clean energy development board administrative costs

63 incurred during the preceding calendar year;

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

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

68 4. No lawsuit to set aside the formation of a clean energy development
69 board or to otherwise question the proceedings related thereto shall be brought
70 after the expiration of sixty days from the effective date of the ordinance or order
71 creating the clean energy development board. No lawsuit to set aside the
72 approval of a project, an assessment contract, or a special assessment levied by
73 a clean energy development board, or to otherwise question the proceedings
74 related thereto shall be brought after the expiration of sixty days from the date
75 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 project without making a finding that there are sufficient resources to complete
4 the project and that the estimated economic benefit expected from the project
5 during the financing period is equal to or greater than the cost of the project.

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

9 (1) A description of the **commercial** project, including the estimated cost
10 of the project and details on how the project will either reduce energy
11 consumption or create energy from renewable sources;

12 (2) A mechanism for:

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

15 (b) Ensuring that any amounts advanced or otherwise paid by the clean
16 energy development board toward costs of the **commercial** project will not
17 exceed the final cost 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 **commercial** property
35 under an assessment contract shall not exceed the sum of the cost of the
36 **commercial** project, including any required energy audits and inspections, or
37 portion thereof financed through the participation in a property assessed clean
38 energy program or clean energy conduit financing, including the costs of any
39 audits or inspections required by the clean energy development board, plus such
40 administration fees, interest, and other financing costs reasonably required by the
41 clean energy development board.

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

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

58 6. Any clean energy development board that contracts for outside
59 administrative services to provide financing origination for a **commercial** project

60 shall offer the right of first refusal to enter into such a contract to a federally
61 insured depository institution with a physical presence in Missouri upon the same
62 terms and conditions as would otherwise be approved by the clean energy
63 development board. Such right of first refusal shall not be applicable to the
64 origination of any transaction that involves the issuance of bonds by the clean
65 energy development board.

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

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

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

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

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

29 **(2) The applicant or the applicant's executive officers have never
30 had any type of financial services license or registration revoked in any
31 governmental jurisdiction; except that, a subsequent formal vacation**

32 of such revocation shall not be deemed a revocation;

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

36 5. Residential program administrators active in the state of
37 Missouri shall be subject to examination by the division for compliance
38 with the provisions of this chapter related to the administration of the
39 residential PACE program and particularly compliance with this
40 section and sections 67.2817 and 67.2818. The division shall include in
41 the compliance examination process and procedures any applicable
42 residential PACE requirements established by the federal Bureau of
43 Consumer Financial Protection pursuant to Section 307 of the
44 Economic Growth, Regulatory Relief, and Consumer Financial
45 Protection Act of 2018. Examinations shall be conducted at least once
46 in twenty-four months and may be initiated at any time by the
47 division. The division shall conduct an examination at least once in
48 twenty-four months and such other times as the director may
49 determine.

50 6. The division shall investigate any consumer complaint
51 submitted against a residential program administrator. The division
52 shall investigate any complaint submitted by a PACE board or other
53 government body or official pertaining to the business conduct of a
54 residential program administrator or compliance with the applicable
55 residential PACE provisions of sections 67.2800 to 67.2835 or
56 compliance with any applicable residential PACE requirements
57 established by the federal Bureau of Consumer Financial Protection
58 pursuant to Section 307 of the Economic Growth, Regulatory Relief, and
59 Consumer Financial Protection Act of 2018.

60 7. The residential program administrator shall be responsible to
61 pay the costs of examinations which the director may assess upon the
62 completion of an exam. The director may also assess all residential
63 program administrators on an annual basis taking into account the
64 relative annual volume and amount of residential projects approved or
65 the value of assessment contracts outstanding or such other factors as
66 the director determines to equitably spread the costs of the division's
67 administrative expenses incurred to maintain the licensing program,
68 compliance examination program, and complaint investigation

69 program. The division shall maintain work papers documenting
70 examination and annual assessments which shall be available for public
71 inspection. All license and registration payments and assessments paid
72 by a residential program administrator to the division shall be credited
73 to the division of finance fund established under section 361.170 and
74 subject to the provisions thereof.

75 8. The division may issue an order to a residential program
76 administrator to correct and remedy adverse findings presented in a
77 compliance exam conducted by the division or pursuant to the
78 division's findings regarding any complaint. The division may direct
79 the reduction, refund, or cancellation of any program assessments
80 against any consumer or assessments against any residential property
81 where the program administrator or a residential PACE contractor has
82 failed to adhere to the requirements for residential PACE program
83 administrators or residential PACE projects in a manner deemed
84 material or detrimental to the owner by the division or where a
85 contractor has failed to perform contracted services under an
86 assessment contract or the improvements under an assessment contract
87 fail to meet program requirements or are deemed a detriment to the
88 property by the division. No action by the division shall disqualify any
89 consumer from seeking judicial relief in any court under law or equity.

90 9. The division may suspend or revoke the license of any
91 program administrator that fails to comply with the terms of an order
92 or that fails to pay any license or registration fees or assessments.

93 10. The division may refer any matter related to the conduct of
94 a residential program administrator to a prosecuting attorney or to the
95 Missouri attorney general including a referral pursuant to chapter 407.

96 11. A PACE board or residential program administrator may
97 request the division to review and comment regarding the district's
98 standard residential assessment contract, disclosure forms and
99 telephone scripts proposed for confirmation and disclosure
100 requirements. The division may assess and collect its costs for
101 responding to a requested review and comment to PACE board or
102 residential program administrator.

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

4 following criteria are satisfied:

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

12 (2) The residential PACE assessments are assessed in equal
13 annual installments;

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

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

24 (5) Residential PACE assessment contracts shall not assess
25 penalties, interest penalties, or late fees except as prescribed for the
26 collection of delinquent taxes. The PACE board or residential program
27 administrator shall provide a statement to the owner of the residential
28 property of the penalties, interest penalties, or late fees authorized by
29 law for the applicable tax collector as of the date of the assessment
30 contract;

31 (6) All regular property taxes for the property that will be
32 subject to the residential assessment contract shall be current at the
33 time the board or program administrator executes the assessment
34 contract and if there are delinquent taxes outstanding no assessment
35 contract may be recorded;

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

39 (8) The property owner has not been a party to any bankruptcy
40 proceedings within the last three years, except that the property owner

41 may have been party to a bankruptcy proceeding that was discharged
42 or dismissed between two and seven years before the application date;

43 (9) The term of the assessment contract shall not exceed the
44 weighted average useful life of the qualified improvements to which the
45 greatest portion of funds disbursed under the assessment contract is
46 attributable, not to exceed twenty years. The program administrator
47 shall determine useful life for purposes of this subdivision based upon
48 credible third-party standards or certification criteria that have been
49 established by appropriate government agencies or nationally
50 recognized standards and testing organizations or as established by the
51 authority;

52 (10) The property owner is current on all mortgage debt on the
53 subject property and has no more than one late payment during the
54 twelve months immediately preceding the application date on any
55 mortgage debt, and no late payment exceeding thirty days on non-
56 mortgage debt, excluding medical debt;

57 (11) The PACE board or residential program administrator shall
58 be or become compliant with any applicable residential PACE
59 requirements established by the federal Bureau of Consumer Financial
60 Protection pursuant to Section 307 of the Economic Growth, Regulatory
61 Relief, and Consumer Financial Protection Act of 2018, including
62 incorporating information, disclosures, and requirements pursuant to
63 the applicable regulations issued by the bureau.

64 2. The property owner executing a residential PACE assessment
65 contract shall have a three-day right to cancel the qualifying
66 improvements financing PACE assessment contract. The three-day
67 right expires on or before midnight of the third business day after a
68 property owner signs the assessment contract. The board or
69 administrator shall be required to provide a printed form for the right
70 to cancel that is presented to the property owner no later than the time
71 of signing of the assessment contract. An electronic form may be
72 provided if the owner consents electronically to receiving an electronic
73 form.

74 3. The property owner executing a residential PACE assessment
75 contract shall be provided a thirty day option to pay the cash price of
76 the residential project plus applicable interest to the cancellation date
77 up to thirty days and a cancellation fee of three percent of the cash

78 price not to exceed five hundred dollars to have the assessment
79 contract cancelled and released as paid in full.

80 4. Prior to execution of a residential assessment contract, the
81 PACE board or residential program administrator shall advise the
82 property owner in writing that the obligations under the PACE
83 assessment contract continue as an obligation against the improved
84 property if the property owner sells or refinances the property and that
85 a purchaser or a lender may require the PACE assessment contract to
86 be paid in full before the owner may complete the sale or refinancing
87 of the property.

88 5. If the residential property owner pays his or her property
89 taxes and special assessments via a lender or loan servicer's escrow
90 program, the PACE board or residential program administrator shall
91 advise the property owner in writing that the residential PACE
92 assessment will cause the owner's monthly escrow requirements to
93 increase and increase the owner's total payment to the lender or the
94 loan servicer. The PACE board or residential program administrator
95 shall further advise the property owner that if the special assessment
96 results in an escrow shortage that the owner will be required to pay the
97 shortage in a lump-sum payment or catch-up the shortage over twelve
98 months. The PACE board or program administrator shall provide an
99 estimate to the property owner of the lump-sum payment and the catch-
100 up payment amount over twelve months that includes any projected
101 cushion as permitted under federal regulation Z adopted by the Bureau
102 of Consumer Financial Protection. The PACE board and residential
103 program administrator may approve an addendum to any residential
104 PACE assessment contract that allows for the amount of the first
105 annual assessment to be advanced on behalf of the owner and
106 transmitted directly to the owner's loan servicer, lender, or escrow
107 agent for deposit into the escrow account subject to the consent of the
108 loan servicer, lender, or escrow agent. In the event this option is
109 elected, the annual assessments shall be extended by one year and the
110 assessments adjusted for the added indebtedness and interest.

111 6. The PACE board or residential program administrator shall
112 also provide a statement providing a brief description of the residential
113 project improvement, the cost of the residential project improvement,
114 and the annual assessment necessary to repay the obligation due on the

115 assessment contract to any first lien holder within three days of the
116 date the contract is recorded. Transmittal shall be by United States
117 mail or by such arrangement as the PACE board or residential program
118 administrator makes with the lien holder.

119 7. The PACE board or residential program administrator shall
120 maintain a public website with current public information about the
121 residential PACE program as the board or residential program
122 administrator deems appropriate to inform consumers regarding the
123 residential PACE program. The website shall list approved contractors
124 for the residential PACE program. The website shall disclose the
125 standard assessment contract information and process for property
126 owners or their successors to request information about their
127 assessment contract including the method to request a payoff amount
128 and instructions to submit a payoff. The website shall be accessible to
129 persons with disabilities in accordance with general standards or
130 standards issued by the United States Department of Justice.

131 8. The PACE board, program administrator, contractor, or other
132 third party shall not make any representation as to the income tax
133 deductibility of an assessment contract unless that representation is
134 accompanied by supporting copies of statements, regulations, rules,
135 guidance, or opinions of the Internal Revenue Service or the Missouri
136 department of revenue with regard to the tax treatment of PACE
137 assessments.

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

- 5 (1) The cash price of the installed improvements;
- 6 (2) The total amount funded and borrowed, including the cost of
7 the installed improvements together with program fees and capitalized
8 interest, if any;
- 9 (3) The annual tax assessment and billing process and payment
10 due date;
- 11 (4) The annual payment amounts;
- 12 (5) The term of the assessment;
- 13 (6) The fixed rate of interest charged;
- 14 (7) The annual percentage rate;

- 15 **(8) A payment schedule that fully amortizes the amount financed;**
16 **(9) The improvements to be installed;**
17 **(10) A statement that if the property owner sells or refinances**
18 **their property he or she may be required by a mortgage lender or a**
19 **purchaser to pay off the assessment as a condition of sale or refinance;**
20 **(11) That no penalty shall be assessed or collected for**
21 **prepayment of the assessment;**
22 **(12) That any potential utility savings are not guaranteed, and**
23 **shall not reduce the assessment payments or total assessment amount;**
24 **(13) That the PACE annual assessment shall be collected along**
25 **with property taxes and that any taxes and annual assessment not paid**
26 **on or before December thirty-first shall result in a lien on the improved**
27 **property for the unpaid taxes and unpaid annual assessment;**
28 **(14) That if the owner pays property taxes through their**
29 **mortgage payment, and an escrow account, the property owner should**
30 **notify their mortgage lender to determine how an escrow shortage may**
31 **be paid or avoided by adjusting the escrow obligation paid by owner;**
32 **(15) That failure to timely pay the annual assessment and taxes**
33 **will, in addition to a tax lien, result in penalties and fees being**
34 **assessed and added to the taxes and annual assessment, and that if the**
35 **delinquency is not paid the property could be sold at a tax sale**
36 **resulting in issuance of a tax certificate or collector's deed to a**
37 **purchaser, and that could result in the property owner losing their**
38 **home; and**
39 **(16) That the property owner should seek professional tax advice**
40 **if he or she has questions regarding tax credits related to a PACE**
41 **project or the tax issues presented by the assessment contract or**
42 **financing agreement and payments thereunder.**
- 43 **2. The PACE board or program administrator shall be required**
44 **to present the disclosure form to a property owner for acknowledgment**
45 **prior to the execution of an assessment contract.**
- 46 **3. The PACE board or residential program administrator shall be**
47 **required, as a part of its assessment contract, to provide a three-day**
48 **right to cancel the qualifying improvements financing. The three-day**
49 **right expires on or before midnight of the third business day after a**
50 **property owner signs the assessment contract. The board or**
51 **administrator shall be required to provide a printed form for the right**

52 to cancel that is presented to the property owner no later than the time
53 of signing of the assessment contract. An electronic form may be
54 provided if the owner consents electronically to receiving an electronic
55 form.

56 4. The PACE board or residential program administrator shall be
57 required, as a part of its assessment contract, to provide a thirty day
58 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
60 of three percent of the cash price not to exceed five hundred dollars to
61 have the assessment contract released as paid in full. The PACE board
62 or residential program administrator shall be required to provide a
63 printed form for the owner to use to exercise the option to pay the cash
64 price that is presented to the property owner no later than the time of
65 signing of the assessment contract. An electronic form may be provided
66 if the owner consents electronically to receiving an electronic form.

67 5. Before a property owner executes an assessment contract the
68 PACE board or residential program administrator shall do the
69 following:

70 (1) Make an oral confirmation that at least one owner of the
71 property has a copy of the assessment contract documents with all the
72 key terms completed, the financing estimate and disclosure form, and
73 the right to cancel form with a hard copy available upon request; and

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

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

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

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

89 **(3) The qualified improvement being installed is being financed**
90 **by an assessment contract;**

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

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

96 **(6) The term of the assessment contract;**

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

105 **(8) That the property shall be subject to a lien during the term**
106 **of the assessment contract for any delinquent assessments and that the**
107 **obligations under the assessment contract may be required by a**
108 **purchaser or mortgage lender to be paid in full before the property**
109 **owner sells or by a mortgage lender before the owner may refinance**
110 **the property;**

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

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

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

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

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

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

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

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

28 **4. The PACE board or residential program administrator shall**
29 **not reimburse a contractor or third party for expenses for advertising**
30 **and marketing campaigns and collateral that solely benefit the**
31 **contractor. A program administrator may reimburse a contractor's**
32 **bona fide and reasonable training expenses related to PACE financing,**
33 **provided that:**

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

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

38 **5. The PACE board or residential program administrator shall**
39 **not provide any direct cash payment or other thing of value to a**
40 **property owner explicitly conditioned upon that property owner**
41 **entering into an assessment contract. Notwithstanding the provisions**
42 **of this subsection, programs or promotions that offer reduced fees or**
43 **interest rates to property owners is not a direct cash payment or "other**

44 **thing of value", provided that the reduced fee or interest rate is**
45 **reflected in the assessment contract and in no circumstance provided**
46 **to the property owner as cash consideration.**

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

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

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

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

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

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