

By Senator Hooper

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1                                   A bill to be entitled  
2       An act relating to clean energy programs; amending s.  
3       163.08, F.S.; creating the Property Assessed Clean  
4       Energy (PACE) Act; providing a short title; revising  
5       legislative findings; defining terms; authorizing a  
6       property owner to apply to a local government or an  
7       approved PACE administrator to finance a qualifying  
8       improvement and enter into a PACE loan contract with  
9       such government or administrator; authorizing a local  
10      government to enter into a certain agreement with a  
11      PACE administrator; specifying that a local government  
12      or a PACE administrator may enter into a PACE loan  
13      contract only with the record owner of a qualifying  
14      commercial or residential real property; removing a  
15      requirement for constructive notice; requiring that a  
16      local government determine that the property owner has  
17      not filed for bankruptcy within a specified number of  
18      years before entering into a PACE loan contract;  
19      providing the lien position of a PACE loan; providing  
20      requirements for financing a qualifying residential  
21      real property; providing requirements for and  
22      restrictions on PACE loan contracts; prohibiting a  
23      local government, a PACE administrator, or a PACE loan  
24      contractor from entering into a PACE loan contract  
25      with the property owner of qualifying residential real  
26      property until verification of the property owner's  
27      ability to repay the loan; providing requirements for  
28      such verification; authorizing certain methods of  
29      verification; defining terms; providing procedural

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30 requirements for a local government or a PACE  
31 administrator in a certain telephone conversation with  
32 the owner of qualifying residential real property  
33 before the execution by the owner of a PACE contract  
34 and the commencement of any installation of any energy  
35 improvement; providing screening requirements for  
36 income-eligible households that apply for a PACE loan  
37 on qualifying residential real property; requiring a  
38 financing estimate and disclosure form to be provided  
39 to the property owner, subject to certain  
40 requirements; providing the right to cancel a PACE  
41 loan contract and requiring a disclosure statement to  
42 be provided to the property owner relating to such  
43 right, subject to certain requirements; prohibiting  
44 PACE administrators and contractors from engaging in  
45 certain practices; removing provisions relating to the  
46 non-ad valorem assessment of property; removing  
47 provisions requiring the property owner to provide  
48 certain notice to the holders or loan servicers of any  
49 existing mortgages encumbering or secured by the  
50 property; prohibiting a local government or a PACE  
51 administrator from entering into a PACE loan contract  
52 under certain circumstances; prohibiting the making of  
53 a PACE loan unless the qualifying property owner, the  
54 local government, or the PACE administrator receives  
55 certain signed confirmation from the holder of any  
56 mortgage on the qualifying real property; providing  
57 certain claims and defenses for a subsequent owner of,  
58 a successor in interest to, or any person obligated to

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59 pay the property taxes on qualifying residential real  
 60 property encumbered by a PACE lien; requiring PACE  
 61 administrators to comply with the Servicemembers Civil  
 62 Relief Act; prohibiting the waiver of specified  
 63 rights; providing remedies for an owner of qualifying  
 64 residential real property aggrieved by specified  
 65 violations; requiring that a seller give the  
 66 prospective purchaser a certain written disclosure  
 67 statement by the time the seller, rather than the  
 68 purchaser, executes a contract for the sale of a  
 69 certain property; providing an effective date.

70  
 71 Be It Enacted by the Legislature of the State of Florida:

72  
 73 Section 1. Section 163.08, Florida Statutes, is amended to  
 74 read:

75 163.08 Property Assessed Clean Energy Act ~~Supplemental~~  
 76 ~~authority for improvements to real property.~~

77 (1) SHORT TITLE.—This section may be cited as the “Property  
 78 Assessed Clean Energy Act” or the “PACE Act.”

79 (2) (a) (1) (a) LEGISLATIVE FINDINGS. ~~In chapter 2008-227,~~  
 80 ~~Laws of Florida, the Legislature amended the energy goal of The~~  
 81 ~~state comprehensive plan provides to provide, in part, that the~~  
 82 ~~state shall reduce its energy requirements through enhanced~~  
 83 ~~conservation and efficiency measures in all end-use sectors and~~  
 84 ~~reduce atmospheric carbon dioxide by promoting an increased use~~  
 85 ~~of renewable energy resources. That act also declared It is the~~  
 86 ~~public policy of the state to play a leading role in developing~~  
 87 ~~and instituting energy management programs that promote energy~~

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88 conservation, energy security, and the reduction of greenhouse  
89 gases. In addition to establishing policies to promote the use  
90 of renewable energy, the Legislature provided for a schedule of  
91 increases in energy performance of buildings subject to the  
92 Florida Energy Efficiency Code for Building Construction. ~~In~~  
93 ~~chapter 2008-191, Laws of Florida,~~ The Legislature adopted new  
94 energy conservation and greenhouse gas reduction comprehensive  
95 planning requirements for local governments and, in the 2008  
96 general election, the voters of this state approved a  
97 constitutional amendment authorizing the Legislature, by general  
98 law, to prohibit consideration of any change or improvement made  
99 for the purpose of improving a property's resistance to wind  
100 damage or the installation of a renewable energy source device  
101 in the determination of the assessed value of residential real  
102 property.

103 (b) The Legislature finds that all energy-consuming-  
104 improved properties that are not using energy conservation  
105 strategies contribute to the burden affecting all improved  
106 property resulting from fossil fuel energy production. Improved  
107 property that has been retrofitted with energy-related  
108 qualifying improvements receives the special benefit of  
109 alleviating the property's burden from energy consumption. All  
110 improved properties not protected from wind damage by wind  
111 resistance qualifying improvements contribute to the burden  
112 affecting all improved property resulting from potential wind  
113 damage. Improved property that has been retrofitted with wind  
114 resistance qualifying improvements receives the special benefit  
115 of reducing the property's burden from potential wind damage.  
116 Further, the installation and operation of qualifying

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117 improvements not only benefit the affected properties for which  
118 the improvements are made, but also assist in fulfilling the  
119 goals of the state's energy and hurricane mitigation policies.  
120 In order to make qualifying improvements more affordable and  
121 assist property owners who wish to undertake such improvements,  
122 the Legislature finds that there is a compelling state interest  
123 in enabling property owners to voluntarily finance such  
124 improvements with local government assistance.

125 (c) The Legislature determines that the actions authorized  
126 under this section, including, but not limited to, PACE loans  
127 for the financing of qualifying improvements through the  
128 execution of loan contracts ~~financing agreements~~ and the related  
129 imposition of voluntary assessments, are reasonable and  
130 necessary to serve and achieve a compelling state interest and  
131 are necessary for the prosperity and welfare of the state and  
132 its property owners and inhabitants.

133 (3)(2) DEFINITIONS.—As used in this section, the term:

134 (a) "Local government" means a county, a municipality, a  
135 dependent special district as defined in s. 189.012, or a  
136 separate legal entity created pursuant to s. 163.01(7).

137 (b) "PACE administrator" means an entity with whom a local  
138 government contracts to administer a PACE program.

139 (c) "PACE contractor" means a person who installs  
140 qualifying improvements under this section.

141 (d) "PACE loan" means financing offered to an owner of  
142 qualifying commercial or residential real property for a  
143 qualifying improvement which is repayable through a non-ad  
144 valorem assessment.

145 (e) "PACE loan contract" means the legal agreement between

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146 a local government, a PACE administrator, or a PACE contractor  
147 and a qualifying property owner which contains the terms and  
148 conditions of a PACE loan.

149 (f) "Qualifying commercial real property" means a  
150 multifamily residential, commercial, or industrial building that  
151 a local government has determined may be benefited by  
152 installation of a qualifying improvement.

153 (g) ~~(b)~~ "Qualifying improvement" includes any:

154 1. Energy conservation and efficiency improvement, which is  
155 a measure that reduces ~~to reduce~~ consumption through  
156 conservation or a more efficient use of electricity, natural  
157 gas, propane, or other forms of energy on the property,  
158 including, but not limited to, air sealing; installation of  
159 insulation; installation of energy-efficient heating, cooling,  
160 or ventilation systems; building modifications to increase the  
161 use of daylight; replacement of windows; installation of energy  
162 controls or energy recovery systems; installation of electric  
163 vehicle charging equipment; and installation of efficient  
164 lighting equipment.

165 2. Renewable energy improvement, which is the installation  
166 of any system in which the electrical, mechanical, or thermal  
167 energy is produced from a method that uses one or more of the  
168 following fuels or energy sources: hydrogen, solar energy,  
169 geothermal energy, bioenergy, or ~~and~~ wind energy.

170 3. Wind resistance improvement, which includes, but is not  
171 limited to:

172 a. Improving the strength of the roof deck attachment;  
173 b. Creating a secondary water barrier to prevent water  
174 intrusion;

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- 175 c. Installing wind-resistant shingles;  
176 d. Installing gable-end bracing;  
177 e. Reinforcing roof-to-wall connections;  
178 f. Installing storm shutters; or  
179 g. Installing opening protections.

180 (h) "Qualifying residential real property" means a single-  
181 family residential building that the local government has  
182 determined may be benefited by installation of a qualifying  
183 improvement.

184 (4)-(3) PROGRAM PURPOSE AND AUTHORITY.-

185 (a) A local government may levy non-ad valorem assessments  
186 to fund qualifying improvements.

187 (b)-(4) Subject to local government ordinance or resolution,  
188 a property owner may apply to the local government or an  
189 approved PACE administrator for funding to finance a qualifying  
190 improvement and enter into a PACE loan contract ~~financing~~  
191 ~~agreement~~ with the local government or the PACE administrator.  
192 Costs incurred by the local government for such purpose may be  
193 collected as a non-ad valorem assessment. A non-ad valorem  
194 assessment must ~~shall~~ be collected pursuant to s. 197.3632 and,  
195 notwithstanding s. 197.3632(8)(a), is ~~shall~~ not be subject to  
196 discount for early payment. However, the notice and adoption  
197 requirements of s. 197.3632(4) do not apply if this section is  
198 ~~used and~~ complied with, and the intent resolution, publication  
199 of notice, and mailed notices to the property appraiser, tax  
200 collector, and Department of Revenue required by s.  
201 197.3632(3)(a) may be provided on or before August 15 in  
202 conjunction with any non-ad valorem assessment authorized by  
203 this section, if the property appraiser, tax collector, and

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204 local government agree.

205 (c)~~(5)~~ Pursuant to this section or as otherwise provided by  
206 law or pursuant to a local government's home rule power, a local  
207 government may enter into a partnership with one or more local  
208 governments for the purpose of providing and financing  
209 qualifying improvements.

210 (d)~~(6)~~ A local government may enter into an agreement with  
211 a PACE administrator to administer the PACE Act ~~A qualifying~~  
212 ~~improvement program may be administered by a for-profit entity~~  
213 ~~or a not-for-profit organization on behalf of and at the~~  
214 ~~discretion of the local government.~~

215 (e)~~(7)~~ A local government may incur debt for the purpose of  
216 providing such improvements, payable from revenues received from  
217 the improved property, or any other available revenue source  
218 authorized by law.

219 (f)~~(8)~~ A local government or a PACE administrator, as  
220 applicable, may enter into a PACE loan contract financing  
221 ~~agreement~~ only with the record owner of the qualifying  
222 commercial or residential real affected property. Any PACE loan  
223 contract financing agreement entered into pursuant to this  
224 section or a summary memorandum of such contract must agreement  
225 ~~shall~~ be recorded in the public records of the county within  
226 which the property is located by the sponsoring unit of local  
227 government within 5 days after execution of the PACE loan  
228 contract agreement. ~~The recorded agreement shall provide~~  
229 ~~constructive notice that the assessment to be levied on the~~  
230 ~~property constitutes a lien of equal dignity to county taxes and~~  
231 ~~assessments from the date of recordation.~~

232 (5)~~(9)~~ PROGRAM REQUIREMENTS.—Before entering into a PACE

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233 loan contract ~~financing agreement~~, the local government shall  
234 reasonably determine that:

235 (a) All property taxes and any other assessments levied on  
236 the same bill as property taxes are paid and have not been  
237 delinquent for the preceding 3 years or the property owner's  
238 period of ownership, whichever is less.~~†~~

239 (b) ~~that~~ There are no involuntary liens, including, but not  
240 limited to, construction liens on the property.~~†~~

241 (c) ~~that~~ No notices of default or other evidence of  
242 property-based debt delinquency have been recorded during the  
243 preceding 3 years or the property owner's period of ownership,  
244 whichever is less.~~†~~ ~~and~~

245 (d) ~~that~~ The property owner is current on all mortgage debt  
246 on the property.

247 (e) The property owner has not filed for bankruptcy  
248 protection within the preceding 3 years.

249 (6) PACE LOAN LIEN POSITION.—Notwithstanding any law to the  
250 contrary, a PACE loan is:

251 (a) Subordinate to all liens on the qualifying real  
252 property recorded before the notice of the PACE lien is  
253 recorded.

254 (b) Subordinate to a first mortgage on the qualifying real  
255 property recorded after the notice of the PACE lien is recorded.

256 (c) Superior to any lien on the qualifying real property  
257 recorded after the notice of the PACE lien is recorded.

258 (7) FINANCING FOR QUALIFYING RESIDENTIAL REAL PROPERTY.—A  
259 local government shall verify that:

260 (a) The maturity date of the PACE loan does not exceed the  
261 useful life of the qualifying improvement, as determined by the

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262 local government; however, a loan term may not exceed 15 years.

263 (b) The PACE loan amount does not exceed the lesser of 15  
264 percent of the assessed value of the real property on which the  
265 qualifying improvement will be installed or the actual cost of  
266 all qualifying improvements on the property, including the labor  
267 to install the improvements, and any equipment or materials used  
268 to install the improvements.

269 (c) The combined debt of existing mortgages and the PACE  
270 loan amount does not exceed 75 percent of the assessed value of  
271 the real property.

272 (8) PACE LOAN CONTRACTS FOR QUALIFYING RESIDENTIAL REAL  
273 PROPERTY.—

274 (a) A residential PACE loan contract must:

275 1. Be in writing and contain all the terms and conditions  
276 of the PACE loan.

277 2. Be signed by the owner of qualifying residential real  
278 property.

279 3. Be written in the language in which the contract was  
280 negotiated.

281 4. Offer a fixed simple interest rate.

282 5. Charge an interest rate that does not exceed any limits  
283 imposed by law.

284 6. Fully amortize the debt obligation.

285 7. Authorize prepayment of some or all of the PACE loan  
286 balance with no penalty, fee, or other charge for such  
287 prepayment.

288 8. Include the right to cancel, as provided in subsection  
289 (13).

290 (b) A residential PACE loan contract may not:

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- 291       1. Result at any time in negative amortization;  
292       2. Charge any interest upon interest or fees; or  
293       3. Contain any provision requiring forced arbitration or  
294 restricting class action.
- 295       (9) UNDERWRITING FOR QUALIFYING RESIDENTIAL REAL PROPERTY.—  
296       (a) The local government, PACE administrator, or PACE loan  
297 contractor may not enter into a PACE loan contract with the  
298 property owner of qualifying residential real property until it  
299 verifies that the property owner has the ability to repay the  
300 loan by determining that the:
- 301           1. Property owner's total monthly debt to total monthly  
302 income ratio at the time the loan is executed does not exceed 43  
303 percent, including the PACE loan.
- 304           2. Property owner has sufficient residual income to meet  
305 basic living expenses.
- 306       (b) Income, debt, and expenses must be verified by using  
307 third-party records that provide reasonably reliable evidence of  
308 the property owner's income, debt, and expenses. A PACE  
309 administrator may verify the property owner's income using a tax  
310 return transcript issued by the Internal Revenue Service. A  
311 local government may also use the following records to verify  
312 the property owner's income or assets:
- 313           1. Copies of the property owner's tax returns filed with  
314 the Internal Revenue Service;
- 315           2. Internal Revenue Service forms used for reporting wages  
316 or tax withholding;
- 317           3. Payroll statements;  
318           4. Financial institution records;  
319           5. Records from the property owner's employer; or

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320 6. Records from any governmental agency stating the  
321 property owner's income from any benefits or entitlements.

322 (c) For the purposes of this subsection, the term:

323 1. "Basic living expenses" includes, but is not limited to,  
324 food and other household necessities; medical expenses,  
325 including premiums, co-pays, and cost of medicine, and other  
326 related expenses; transportation costs, including fuel, auto  
327 insurance, and maintenance; public transportation costs; and  
328 utility expenses.

329 2. "Residual income" means the property owner's remaining  
330 income after subtracting the owner's total monthly debt  
331 obligations from the owner's total monthly income.

332 3. "Total monthly debt" means the sum of the property  
333 owner's monthly debt obligations, such as mortgage-related  
334 obligations, which include all mortgage principal and interest  
335 payments, insurance, property taxes, mortgage guaranty  
336 insurance, and other preexisting fees and assessments, including  
337 the PACE assessment and court-ordered alimony and child support.

338 4. "Total monthly income" means the sum of the property  
339 owner's current or reasonably expected income, including any  
340 income from assets and excluding the qualifying residential real  
341 property, including any attached real property, which secures  
342 the PACE loan. Such income may not be derived from temporary  
343 sources of income, illiquid assets, or proceeds derived from the  
344 equity from the qualifying residential real property.

345 (10) CONFIRMATION FOR PACE LOANS ON QUALIFYING RESIDENTIAL  
346 REAL PROPERTY.—

347 (a) Before the execution by the owner of qualifying  
348 residential real property of a PACE contract and before the

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349 commencement of any installation of any energy improvement, the  
350 local government or the PACE administrator must orally, in a  
351 live, recorded telephone conversation with the owner:

352 1. Confirm the key terms of the agreement and the scope of  
353 energy improvement work, including, at a minimum:

354 a. The measures to be installed which are financed by the  
355 PACE loan;

356 b. The total estimated annual payment;

357 c. The date the first tax payment will be due;

358 d. The interest rate expressed as an annual percentage  
359 rate;

360 e. The term of the loan; and

361 f. That repayments will be made through the owner's  
362 property taxes.

363 2. Verify that the owner understands:

364 a. The key terms of the agreement;

365 b. If payments are escrowed, by how much the escrowed  
366 amounts will increase, or, if payments are not escrowed, that  
367 the property owner should save enough money during the year to  
368 cover the increase in property taxes from the PACE loan;

369 c. That the PACE loan becomes a PACE lien on the owner's  
370 property and will likely need to be paid off when the house is  
371 sold;

372 d. The right to cancel a PACE loan contract under  
373 subsection (13);

374 e. The risk that energy savings from the energy improvement  
375 measures may not equal or exceed the amount of the PACE loan  
376 payments that will be added to the owner's property taxes;

377 f. That the owner may encounter difficulty when refinancing

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378 or selling the home; and

379 g. The risk of a tax lien for failure to pay increased  
380 property taxes or foreclosure for failure to pay increased  
381 escrow payments to the mortgageholder.

382 (b) A voicemail message does not meet the requirements of  
383 this subsection.

384 (11) REQUIRED SCREENING.—Before entering into a PACE loan  
385 on qualifying residential real property, income-eligible  
386 households must be screened for eligibility for the  
387 Weatherization Assistance Program or other low-cost or no-cost  
388 programs that may be provided by the Florida Housing Finance  
389 Corporation or the utility company serving the property owner.

390 (12) FINANCING ESTIMATE AND DISCLOSURE.—

391 (a) A financing estimate and disclosure form or a  
392 substantially equivalent form that displays the same information  
393 in a substantially similar format must be provided to the  
394 property owner at least 3 business days before the PACE loan  
395 contract is signed. The disclosure form must contain the  
396 following statement:

397 Payments on the PACE loan contract will be made  
398 through taxes assessed on your property. If your  
399 property taxes are paid through an escrow account,  
400 your mortgage lender may apportion the amount and add  
401 it to your monthly payment. You may be required to pay  
402 off the remaining balance of the PACE loan before you  
403 can sell or refinance your property. If your property  
404 tax payment is late, the enforcement and collection  
405 procedures in the Florida Uniform Assessment  
406 Collection Act may be used for the sale of a tax

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407 certificate for your property and the ultimate sale of  
408 your property for the payment of the delinquent  
409 assessment installments, associated penalties,  
410 interest, and other costs.

411  
412 (b) The disclosure form also must contain cost and fee  
413 information, including, but not limited to, product costs,  
414 financing costs, annual interest rates, and administrative fees,  
415 and a customer service toll-free telephone number and e-mail  
416 address to address customer complaints.

417 (13) RIGHT TO CANCEL A PACE LOAN CONTRACT.-

418 (a) A local government may not permit a property owner to  
419 enter into a PACE loan contract pursuant to this section unless  
420 the property owner is given the right to cancel the PACE loan  
421 contract.

422 (b) The property owner must receive the right to cancel  
423 within 3 business days after the owner has signed the contract,  
424 received the financing estimate and disclosure, or received the  
425 notice of right to cancel, whichever is latest.

426 (c) The property owner must be provided with a notice of  
427 cancellation form or a substantially similar form that contains  
428 the same information in a similar format. The form must be  
429 provided to the property owner as a separate, printed document  
430 in at least 12-point type and must contain the following  
431 statement:

432 To cancel the PACE loan contract you must mail or  
433 otherwise deliver a signed and dated copy of this form  
434 to (insert name of the PACE administrator) at (insert  
435 physical address or, if the PACE administrator accepts

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436 electronic cancellations, the e-mail address of the  
437 PACE administrator). You do not have to use this form,  
438 but you must notify (insert the name of the PACE  
439 administrator) in writing at (insert physical address  
440 or, if the PACE administrator accepts electronic  
441 cancellations, the e-mail address of the PACE  
442 administrator) of your intention to cancel. If you  
443 cancel, any payments made by you under this contract  
444 will be returned within 20 business days after the  
445 PACE administrator receives this form.

446  
447 (d) When an owner of qualifying residential real property  
448 cancels a PACE loan, the owner is not liable for any amount,  
449 including any finance charge, fee, or other charge.

450 (e) The right to cancel as provided under this subsection  
451 may not be waived.

452 (14) PROHIBITED PRACTICES.—A PACE administrator or PACE  
453 contractor may not do any of the following:

454 (a) Make any representations of increased value to a  
455 property owner as a result of improvements made in connection  
456 with the loan.

457 (b) Make any false, deceptive, abusive, or misleading  
458 statement or material omission in connection with a PACE loan,  
459 including, but not limited to, any statement that a PACE loan is  
460 a free form of public assistance or a government program, that a  
461 PACE loan will be repaid by the subsequent owner of the  
462 qualifying residential property, that the improvements will pay  
463 for themselves, or that the property owner will receive tax  
464 benefits from the program.

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465 (c) Begin construction work before the expiration of the  
466 cancellation period following the execution of a PACE loan  
467 contract.

468 (d) Charge the property owner a different price than would  
469 be charged for similar improvements that are not financed  
470 through a PACE loan.

471 (e) Disclose or permit disclosure to a PACE contractor or a  
472 third party engaged in soliciting assessment contracts of the  
473 amount of the PACE loan financing for which a property owner is  
474 eligible.

475 (f) Offer or provide direct or indirect monetary payments;  
476 any other form of compensation, incentive, kickback, or  
477 inducement; or any other thing of value to a PACE contractor to  
478 offer, favor, or refer a property owner to a PACE loan over  
479 other forms of financing or credit.

480 (g) Sell, assign, or otherwise convey a PACE loan debt to a  
481 debt buyer.

482 (15) QUALIFYING IMPROVEMENTS.—

483 (a) ~~(10)~~ A qualifying improvement must ~~shall~~ be affixed to a  
484 building or facility that is part of the property and  
485 constitutes ~~shall constitute~~ an improvement to the building or  
486 facility or a fixture attached to the building or facility. An  
487 agreement between a local government and a qualifying property  
488 owner may not cover wind-resistance improvements in buildings or  
489 facilities under new construction or construction for which a  
490 certificate of occupancy or similar evidence of substantial  
491 completion of new construction or improvement has not been  
492 issued.

493 (b) ~~(11)~~ Any work requiring a license under any applicable

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494 law to make a qualifying improvement must ~~shall~~ be performed by  
495 a contractor properly certified or registered pursuant to part I  
496 or part II of chapter 489.

497 ~~(12) (a) Without the consent of the holders or loan~~  
498 ~~servicers of any mortgage encumbering or otherwise secured by~~  
499 ~~the property, the total amount of any non-ad valorem assessment~~  
500 ~~for a property under this section may not exceed 20 percent of~~  
501 ~~the just value of the property as determined by the county~~  
502 ~~property appraiser.~~

503 ~~(b) Notwithstanding paragraph (a), a non-ad valorem~~  
504 ~~assessment for a qualifying improvement defined in subparagraph~~  
505 ~~(2) (b)1. or subparagraph (2) (b)2. that is supported by an energy~~  
506 ~~audit is not subject to the limits in this subsection if the~~  
507 ~~audit demonstrates that the annual energy savings from the~~  
508 ~~qualified improvement equals or exceeds the annual repayment~~  
509 ~~amount of the non-ad valorem assessment.~~

510 ~~(13) At least 30 days before entering into a financing~~  
511 ~~agreement, the property owner shall provide to the holders or~~  
512 ~~loan servicers of any existing mortgages encumbering or~~  
513 ~~otherwise secured by the property a notice of the owner's intent~~  
514 ~~to enter into a financing agreement together with the maximum~~  
515 ~~principal amount to be financed and the maximum annual~~  
516 ~~assessment necessary to repay that amount. A verified copy or~~  
517 ~~other proof of such notice shall be provided to the local~~  
518 ~~government. A provision in any agreement between a mortgagee or~~  
519 ~~other lienholder and a property owner, or otherwise now or~~  
520 ~~hereafter binding upon a property owner, which allows for~~  
521 ~~acceleration of payment of the mortgage, note, or lien or other~~  
522 ~~unilateral modification solely as a result of entering into a~~

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523 ~~financing agreement as provided for in this section is not~~  
524 ~~enforceable. This subsection does not limit the authority of the~~  
525 ~~holder or loan servicer to increase the required monthly escrow~~  
526 ~~by an amount necessary to annually pay the qualifying~~  
527 ~~improvement assessment.~~

528 (16) LIENHOLDER NOTICE AND CONSENT.—

529 (a) A local government or a PACE administrator may not  
530 enter into a PACE loan contract with a qualifying owner unless  
531 the owner, the local government, or the PACE administrator has:

532 1. Provided written notice to each of the holders of any  
533 mortgage on the qualifying residential or commercial real  
534 property that the property owner intends to enter into a PACE  
535 loan contract; and

536 2. Obtained a verified written consent from each of the  
537 holders of any mortgage on the qualifying residential or  
538 commercial real property.

539 (b) A PACE loan may not be made unless the qualifying  
540 property owner, the local government, or the PACE administrator  
541 receives signed confirmation from the holder of any mortgage on  
542 the qualifying real property that entering into the PACE loan  
543 contract does not constitute an event of default or give rise to  
544 any remedies under the terms of the mortgage loan or other  
545 contractual agreement.

546 (17) PRESERVATION OF CLAIMS AND DEFENSES.—A subsequent  
547 owner of, a successor in interest to, or any person obligated to  
548 pay the property taxes on qualifying residential real property  
549 encumbered by a PACE lien may assert all claims and defenses  
550 against a PACE administrator or servicer of a PACE loan which  
551 the owner of qualifying residential real property who originally

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552 entered into the PACE loan could assert against the original  
553 PACE administrator or servicer of a PACE loan.

554 (18) RELATION TO OTHER LAWS.—A PACE administrator must  
555 comply with the Servicemembers Civil Relief Act, 50 U.S.C. ss.  
556 3901 et seq. The rights granted under that act may not be  
557 waived.

558 (19) REMEDIES.—In addition to remedies under the Florida  
559 Deceptive and Unfair Trade Practices Act, any owner of  
560 qualifying residential real property aggrieved by a violation of  
561 this section is entitled to actual, incidental, and  
562 consequential damages; reasonable attorney fees; investigative  
563 and court costs; and any other equitable relief as determined by  
564 the court against the local government, the PACE administrator,  
565 or the PACE contractor.

566 (20) ~~(14)~~ ASSESSMENT FOR QUALIFYING IMPROVEMENT.—At or  
567 before the time a seller ~~purchaser~~ executes a contract for the  
568 sale ~~and purchase~~ of any property for which a non-ad valorem  
569 assessment has been levied under this section and has an unpaid  
570 balance due, the seller shall give the prospective purchaser a  
571 written disclosure statement in the following form, which shall  
572 be set forth in the contract or in a separate writing:

573

574 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,  
575 RENEWABLE ENERGY, OR WIND RESISTANCE.—The property  
576 being purchased is located within the jurisdiction of  
577 a local government that has placed an assessment on  
578 the property pursuant to s. 163.08, Florida Statutes.  
579 The assessment is for a qualifying improvement to the  
580 property relating to energy efficiency, renewable

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581 energy, or wind resistance, and is not based on the  
582 value of property. You are encouraged to contact the  
583 county property appraiser's office to learn more about  
584 this and other assessments that may be provided by  
585 law.

586  
587 (21)~~(15)~~ ENFORCEABILITY.—A provision in any agreement  
588 between a local government and a public or private power or  
589 energy provider or other utility provider is not enforceable to  
590 limit or prohibit any local government from exercising its  
591 authority under this section.

592 (22)~~(16)~~ HOME RULE AUTHORITY.—This section is additional  
593 and supplemental to county and municipal home rule authority and  
594 not in derogation of such authority or a limitation upon such  
595 authority.

596 Section 2. This act shall take effect July 1, 2020.