

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 "Section 1. Short title. This Act may be cited as the  
5 Property Assessed Clean Energy Act.

6 Section 5. Definitions. As used in this Act:

7 "Alternative energy improvement" means the installation or  
8 upgrade of electrical wiring, outlets, or charging stations to  
9 charge a motor vehicle that is fully or partially powered by  
10 electricity.

11 "Assessment contract" means a voluntary written contract  
12 between the local unit of government and record owner governing  
13 the terms and conditions of financing and assessment under a  
14 program.

15 "PACE area" means an area within the jurisdictional  
16 boundaries of a local unit of government created by an  
17 ordinance or resolution of the local unit of government to  
18 provide financing for energy projects under a property assessed  
19 clean energy program. A local unit of government may create  
20 more than one PACE area under the program, and PACE areas may  
21 be separate, overlapping, or coterminous.

22 "Energy efficiency improvement" means equipment, devices,  
23 or materials intended to decrease energy consumption or promote

1 a more efficient use of electricity, natural gas, propane, or  
2 other forms of energy on property, including, but not limited  
3 to, all of the following:

4 (1) insulation in walls, roofs, floors, foundations,  
5 or heating and cooling distribution systems;

6 (2) storm windows and doors, multi-glazed windows and  
7 doors, heat-absorbing or heat-reflective glazed and coated  
8 window and door systems, and additional glazing,  
9 reductions in glass area, and other window and door system  
10 modifications that reduce energy consumption;

11 (3) automated energy control systems;

12 (4) high efficiency heating, ventilating, or  
13 air-conditioning and distribution system modifications or  
14 replacements;

15 (5) caulking, weather-stripping, and air sealing;

16 (6) replacement or modification of lighting fixtures  
17 to reduce the energy use of the lighting system;

18 (7) energy controls or recovery systems;

19 (8) day lighting systems; and

20 (9) any other installation or modification of  
21 equipment, devices, or materials approved as a utility  
22 cost-savings measure by the governing body.

23 "Energy project" means the installation or modification of  
24 an alternative energy improvement, energy efficiency  
25 improvement, or water use improvement, or the acquisition,  
26 installation, or improvement of a renewable energy system that

1 is affixed to a stabilized existing property (not new  
2 construction).

3 "Governing body" means the county board or board of county  
4 commissioners of a county, the city council of a city, or the  
5 board of trustees of a village.

6 "Local unit of government" means a county, city, or  
7 village.

8 "Person" means an individual, firm, partnership,  
9 association, corporation, limited liability company,  
10 unincorporated joint venture, trust, or any other type of  
11 entity that is recognized by law and has the title to or  
12 interest in property. "Person" does not include a local unit of  
13 government or a homeowner's or condominium association.

14 "Program administrator" means a for-profit entity or  
15 not-for profit entity that will administer a program on behalf  
16 of or at the discretion of the local unit of government. It or  
17 its affiliates, consultants, or advisors shall have done  
18 business as a program administrator or capital provider for a  
19 minimum of 18 months and shall be responsible for arranging  
20 capital for the acquisition of bonds issued by the local unit  
21 of government to finance energy projects.

22 "Property" means privately-owned commercial, industrial,  
23 non-residential agricultural, or multi-family (of 5 or more  
24 units) real property located within the local unit of  
25 government, but does not include property owned by a local unit  
26 of government or a homeowner's or condominium association.

1 "Property assessed clean energy program" or "program"  
2 means a program as described in Section 10.

3 "Record owner" means the person who is the titleholder or  
4 owner of the beneficial interest in property.

5 "Renewable energy resource" includes energy and its  
6 associated renewable energy credit or renewable energy credits  
7 from wind energy, solar thermal energy, photovoltaic cells and  
8 panels, biodiesel, anaerobic digestion, and hydropower that  
9 does not involve new construction or significant expansion of  
10 hydropower dams. For purposes of this Act, landfill gas  
11 produced in the State is considered a renewable energy  
12 resource. The term "renewable energy resources" does not  
13 include the incineration or burning of any solid material.

14 "Renewable energy system" means a fixture, product,  
15 device, or interacting group of fixtures, products, or devices  
16 on the customer's side of the meter that use one or more  
17 renewable energy resources to generate electricity.

18 "Water use improvement" means any fixture, product,  
19 system, device, or interacting group thereof for or serving any  
20 property that has the effect of conserving water resources  
21 through improved water management or efficiency.

22 Section 10. Property assessed clean energy program;  
23 creation.

24 (a) Pursuant to the procedures provided in Section 15, a  
25 local unit of government may establish a property assessed

1 clean energy program and, from time to time, create a PACE area  
2 or areas under the program.

3 (b) Under a program, the local unit of government may enter  
4 into an assessment contract with the record owner of property  
5 within a PACE area to finance or refinance one or more energy  
6 projects on the property. The assessment contract shall provide  
7 for the repayment of the cost of an energy project through  
8 assessments upon the property benefited. The financing or  
9 refinancing may include any and all of the following: the cost  
10 of materials and labor necessary for installation, permit fees,  
11 inspection fees, application and administrative fees, bank  
12 fees, and all other fees that may be incurred by the record  
13 owner pursuant to the installation and the issuance of bonds on  
14 a specific or pro rata basis, as determined by the local unit  
15 of government and may also include a prepayment premium.

16 (c) A program may be administered by a program  
17 administrator or the local unit of government.

18 Section 15. Program established.

19 (a) To establish a property assessed clean energy program,  
20 the governing body of a local unit of government shall adopt a  
21 resolution or ordinance that includes all of the following:

22 (1) a finding that the financing of energy projects is  
23 a valid public purpose;

24 (2) a statement of intent to facilitate access to  
25 capital from a program administrator to provide funds for

1 energy projects, which will be repaid by assessments on the  
2 property benefited with the agreement of the record owners;

3 (3) a description of the proposed arrangements for  
4 financing the program through a program administrator;

5 (4) the types of energy projects that may be financed;

6 (5) a description of the territory within the PACE  
7 area;

8 (6) reference to a report on the proposed program as  
9 described in Section 20; and

10 (7) the time and place for any public hearing required  
11 for the adoption of the proposed program by resolution or  
12 ordinance;

13 (8) matters required by Section 20 to be included in  
14 the report; for this purpose, the resolution or ordinance  
15 may incorporate the report or an amended version thereof by  
16 reference; and

17 (9) a description of which aspects of the program may  
18 be amended without a new public hearing and which aspects  
19 may be amended only after a new public hearing is held.

20 (b) A property assessed clean energy program may be amended  
21 by resolution or ordinance of the governing body. Adoption of  
22 the resolution or ordinance shall be preceded by a public  
23 hearing if required.

24 Section 20. Report. The report on the proposed program  
25 required under Section 15 shall include all of the following:

1           (1) a form of assessment contract between the local  
2 unit of government and record owner governing the terms and  
3 conditions of financing and assessment under the program.

4           (2) identification of an official authorized to enter  
5 into a assessment contract on behalf of the local unit of  
6 government;

7           (3) a maximum aggregate annual dollar amount for all  
8 financing to be provided by the program administrator under  
9 the program;

10          (4) an application process and eligibility  
11 requirements for financing energy projects under the  
12 program;

13          (5) a method for determining interest rates on  
14 assessment installments, repayment periods, and the  
15 maximum amount of an assessment;

16          (6) an explanation of how assessments will be made and  
17 collected;

18          (7) a plan to raise capital to finance improvements  
19 under the program pursuant to the sale of bonds, subject to  
20 the Special Assessment Supplemental Bond and Procedures  
21 Act, to a program administrator;

22          (8) information regarding all of the following, to the  
23 extent known, or procedures to determine the following in  
24 the future:

25                (A) any revenue source or reserve fund or funds to  
26 be used as security for bonds described in paragraph

1           (7); and

2           (B) any application, administration, or other  
3           program fees to be charged to record owners  
4           participating in the program that will be used to  
5           finance costs incurred by the local unit of government  
6           as a result of the program;

7           (9) a requirement that the term of an assessment not  
8           exceed the useful life of the energy project paid for by  
9           the assessment; provided that the local unit of government  
10          may allow projects that consist of multiple improvements  
11          with varying lengths of useful life to have a term that is  
12          no greater than the improvement with the longest useful  
13          life;

14          (10) a requirement for an appropriate ratio of the  
15          amount of the assessment to the assessed value of the  
16          property or market value of the property as determined by a  
17          recent appraisal no older than 12 months;

18          (11) a requirement that the record owner of property  
19          subject to a mortgage obtain written consent from the  
20          mortgage holder before participating in the program;

21          (12) provisions for marketing and participant  
22          education;

23          (13) provisions for an adequate debt service reserve  
24          fund, if any; and

25          (14) quality assurance and antifraud measures.

1 Section 25. Contracts with record owners of property.

2 (a) After creation of a program and PACE area, a record  
3 owner of property within the PACE area may apply with the local  
4 unit of government or its program administrator for funding to  
5 finance an energy project.

6 (b) A local unit of government may impose an assessment  
7 under a property assessed clean energy program only pursuant to  
8 the terms of a recorded assessment contract with the record  
9 owner of the property to be assessed.

10 (c) Before entering into an assessment contract with a  
11 record owner under a program, the local unit of government  
12 shall verify all of the following:

13 (1) that the property is within the PACE area;

14 (2) that there are no delinquent taxes, special  
15 assessments, or water or sewer charges on the property;

16 (3) that there are no delinquent assessments on the  
17 property under a property assessed clean energy program;

18 (4) there are no involuntary liens on the property,  
19 including, but not limited to, construction or mechanics  
20 liens, lis pendens or judgments against the record owner,  
21 environmental proceedings, or eminent domain proceedings;

22 (5) that no notices of default or other evidence of  
23 property-based debt delinquency have been recorded and not  
24 cured;

25 (6) that the record owner is current on all mortgage  
26 debt on the property, the record owner has not filed for

1 bankruptcy in the last 2 years, and the property is not an  
2 asset to a current bankruptcy.

3 (7) all work requiring a license under any applicable  
4 law to make a qualifying improvement shall be performed by  
5 a registered contractor that has agreed to adhere to a set  
6 of terms and conditions through a process established by  
7 the local unit of government.

8 (8) the contractors to be used have signed a written  
9 acknowledgement that the local unit of government will not  
10 authorize final payment to the contractor until the local  
11 unit of government has received written confirmation from  
12 the record owner that the improvement was properly  
13 installed and is operating as intended; provided, however,  
14 that the contractor retains all legal rights and remedies  
15 in the event there is a disagreement with the owner;

16 (9) that the amount of the assessment in relation to  
17 the greater of the assessed value of the property or the  
18 appraised value of the property, as determined by a  
19 licensed appraiser, does not exceed 25%; and

20 (10) a requirement that an assessment of the existing  
21 water or energy use and a modeling of expected monetary  
22 savings have been conducted for any proposed project.

23 (d) At least 30 days before entering into an agreement with  
24 the local unit of government, the record owner shall provide to  
25 the holders or loan servicers of any existing mortgages  
26 encumbering or otherwise secured by the property a notice of

1 the record owner's intent to enter into an assessment contract  
2 with the local unit of government, together with the maximum  
3 principal amount to be financed and the maximum annual  
4 assessment necessary to repay that amount, along with a request  
5 that the holders or loan servicers of any existing mortgages  
6 consent to the record owner subjecting the property to the  
7 program. A verified copy or other proof of those notices and  
8 the written consent of the existing mortgage holder for the  
9 record owner to enter into the assessment contract and  
10 acknowledging that the existing mortgage will be subordinate to  
11 the financing and assessment agreement and that the local unit  
12 of government can foreclose the property if the assessment is  
13 not paid shall be provided to the local unit of government.

14 (e) A provision in any agreement between a local unit of  
15 government and a public or private power or energy provider or  
16 other utility provider is not enforceable to limit or prohibit  
17 any local unit of government from exercising its authority  
18 under this Section.

19 (f) The record owner has signed a certification that the  
20 local unit of government has complied with the provisions of  
21 this Section, which shall be conclusive evidence as to  
22 compliance with these provisions, but shall not relieve any  
23 contractor, or local unit of government, from any potential  
24 liability.

25 (g) This Section is additional and supplemental to county  
26 and municipal home rule authority and not in derogation of such

1 authority or limitation upon such authority.

2 Section 30. Assessments constitute a lien; billing.

3 (a) An assessment imposed under a property assessed clean  
4 energy program, including any interest on the assessment and  
5 any penalty, shall constitute a lien against the property on  
6 which the assessment is imposed until the assessment, including  
7 any interest or penalty, is paid in full. The lien of the  
8 assessment contract shall run with the property until the  
9 assessment is paid in full and a satisfaction or release for  
10 the same has been recorded with the local unit of government  
11 and shall have the same priority and status as other property  
12 tax and assessment liens. The local unit of government shall  
13 have all rights and remedies in the case of default or  
14 delinquency in the payment of an assessment as it does with  
15 respect to delinquent property taxes. When the assessment,  
16 including any interest and penalty, is paid, the lien shall be  
17 removed from the property.

18 (b) Installments of assessments due under a program may be  
19 included in each tax bill issued under the Property Tax Code  
20 and may be collected at the same time and in the same manner as  
21 taxes collected under the Property Tax Code. Alternatively,  
22 installments may be billed and collected as provided in a  
23 special assessment ordinance of general applicability adopted  
24 by the local unit of government pursuant to State law or local  
25 charter. In no event will partial payment of an assessment be

1 allowed.

2 Section 35. Bonds.

3 (a) A local unit of government may issue bonds under the  
4 Special Assessment Supplemental Bond and Procedures Act to  
5 finance energy projects under a property assessed clean energy  
6 program.

7 (b) Bonds issued under subsection (a) shall not be general  
8 obligations of the local unit of government, but shall be  
9 secured by the following as provided by the governing body in  
10 the resolution or ordinance approving the bonds:

11 (1) payments of assessments on benefited property  
12 within the PACE area or areas specified; and

13 (2) if applicable, revenue sources or reserves  
14 established by the local unit of government from bond  
15 proceeds or other lawfully available funds.

16 (c) A pledge of assessments, funds, or contractual rights  
17 made by a governing body in connection with the issuance of  
18 bonds by a local unit of government under this Act constitutes  
19 a statutory lien on the assessments, funds, or contractual  
20 rights so pledged in favor of the person or persons to whom the  
21 pledge is given, without further action by the governing body.  
22 The statutory lien is valid and binding against all other  
23 persons, with or without notice.

24 (d) Bonds of one series issued under this Act may be  
25 secured on a parity with bonds of another series issued by the

1 local unit of government pursuant to the terms of a master  
2 indenture or master resolution entered into or adopted by the  
3 governing body of the local unit of government.

4 (e) Bonds issued under this Act are subject to the Bond  
5 Authorization Act and the Registered Bond Act.

6 (f) Bonds issued under this Act further essential public  
7 and governmental purposes, including, but not limited to,  
8 reduced energy costs, reduced greenhouse gas emissions,  
9 economic stimulation and development, improved property  
10 valuation, and increased employment.

11 (g) A program administrator can assign its rights to  
12 purchase the bonds to a third party (the "bond purchaser").

13 (h) A program administrator shall retain a law firm to give  
14 a bond opinion for the benefit of the program administrator or  
15 bond purchaser.

16 Section 40. Joint property assessed clean energy programs.

17 (a) A local unit of government may join with any other  
18 local unit of government, or with any public or private person,  
19 or with any number or combination thereof, under the  
20 Intergovernmental Cooperation Act, by contract or otherwise as  
21 may be permitted by law, for the implementation of a property  
22 assessed clean energy program, in whole or in part.

23 (b) If a program is implemented jointly by 2 or more local  
24 units of government pursuant to subsection (a), a single public  
25 hearing held jointly by the cooperating local units of

1 government is sufficient to satisfy the requirements of this  
2 Act.

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.