

1 AN ACT concerning government.

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

4 Section 5. The Property Assessed Clean Energy Act is
5 amended by changing Sections 5, 10, 15, 20, 25, 30, and 35 as
6 follows:

7 (50 ILCS 50/5)

8 Sec. 5. Definitions. As used in this Act:

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

13 "Assessment contract" means a voluntary written contract
14 between the local unit of government (or a permitted assignee)
15 and record owner governing the terms and conditions of
16 financing and assessment under a program.

17 "Authority" means the Illinois Finance Authority.

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

1 be separate, overlapping, or coterminous.

2 "Energy efficiency improvement" means equipment, devices,
3 or materials intended to decrease energy consumption or promote
4 a more efficient use of electricity, natural gas, propane, or
5 other forms of energy on property, including, but not limited
6 to, all of the following:

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

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

14 (3) automated energy control systems;

15 (4) high efficiency heating, ventilating, or
16 air-conditioning and distribution system modifications or
17 replacements;

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

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

21 (7) energy controls or recovery systems;

22 (8) day lighting systems; ~~and~~

23 (8.1) any energy efficiency project, as defined in
24 Section 825-65 of the Illinois Finance Authority Act; and

25 (9) any other installation or modification of
26 equipment, devices, or materials approved as a utility

1 cost-savings measure by the governing body.

2 "Energy project" means the installation or modification of
3 an alternative energy improvement, energy efficiency
4 improvement, or water use improvement, or the acquisition,
5 installation, or improvement of a renewable energy system that
6 is affixed to a stabilized existing property (including ~~not~~ new
7 construction).

8 "Governing body" means the county board or board of county
9 commissioners of a county, the city council of a city, or the
10 board of trustees of a village.

11 "Local unit of government" means a county, city, or
12 village.

13 "Permitted assignee" means (i) any body politic and
14 corporate, (ii) any bond trustee, or (iii) any warehouse
15 lender, or any other assignee of a local unit of government
16 designated in an assessment contract.

17 "Person" means an individual, firm, partnership,
18 association, corporation, limited liability company,
19 unincorporated joint venture, trust, or any other type of
20 entity that is recognized by law and has the title to or
21 interest in property. "Person" does not include a local unit of
22 government or a homeowner's or condominium association, but
23 does include other governmental entities that are not local
24 units of government.

25 "Program administrator" means a for-profit entity or
26 not-for profit entity that will administer a program on behalf

1 of or at the discretion of the local unit of government. It or
2 its affiliates, consultants, or advisors shall have done
3 business as a program administrator or capital provider for a
4 minimum of 18 months and shall be responsible for arranging
5 capital for the acquisition of bonds issued by the local unit
6 of government or the Authority to finance energy projects.

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

12 "Property assessed clean energy program" or "program"
13 means a program as described in Section 10.

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

16 "Renewable energy resource" includes energy and its
17 associated renewable energy credit or renewable energy credits
18 from wind energy, solar thermal energy, photovoltaic cells and
19 panels, biodiesel, anaerobic digestion, and hydropower that
20 does not involve new construction or significant expansion of
21 hydropower dams. For purposes of this Act, landfill gas
22 produced in the State is considered a renewable energy
23 resource. The term "renewable energy resources" does not
24 include the incineration or burning of any solid material.

25 "Renewable energy system" means a fixture, product,
26 device, or interacting group of fixtures, products, or devices

1 on the customer's side of the meter that use one or more
2 renewable energy resources to generate electricity, and
3 specifically includes any renewable energy project, as defined
4 in Section 825-65 of the Illinois Finance Authority Act.

5 "Warehouse fund" means any fund established by a local unit
6 of government, body politic and corporate, or warehouse lender.

7 "Warehouse lender" means any financial institution
8 participating in a PACE area that finances an energy project
9 from lawfully available funds in anticipation of issuing bonds
10 as described in Section 35.

11 "Water use improvement" means any fixture, product,
12 system, device, or interacting group thereof for or serving any
13 property that has the effect of conserving water resources
14 through improved water management or efficiency.

15 (Source: P.A. 100-77, eff. 8-11-17.)

16 (50 ILCS 50/10)

17 Sec. 10. Property assessed clean energy program; creation.

18 (a) Pursuant to the procedures provided in Section 15, a
19 local unit of government may establish a property assessed
20 clean energy program and, from time to time, create a PACE area
21 or areas under the program.

22 (b) Under a program, the local unit of government may enter
23 into an assessment contract with the record owner of property
24 within a PACE area to finance or refinance one or more energy
25 projects on the property. The assessment contract shall provide

1 for the repayment of the cost of an energy project through
2 assessments upon the property benefited. The financing or
3 refinancing may include any and all of the following: the cost
4 of materials and labor necessary for installation, permit fees,
5 inspection fees, application and administrative fees, bank
6 fees, and all other fees that may be incurred by the record
7 owner pursuant to the installation and the issuance of bonds on
8 a specific or pro rata basis, as determined by the local unit
9 of government and may also include a prepayment premium.

10 (b-5) A local unit of government may sell or assign, for
11 consideration, any and all assessment contracts; the permitted
12 assignee of the assessment contract shall have and possess the
13 same powers and rights at law or in equity as the applicable
14 local unit of government and its tax collector would have if
15 the assessment contract had not been assigned with regard to
16 (i) the precedence and priority of liens evidenced by the
17 assessment contract, (ii) the accrual of interest, and (iii)
18 the fees and expenses of collection. The permitted assignee
19 shall have the same rights to enforce such liens as any private
20 party holding a lien on real property, including, but not
21 limited to, foreclosure. Costs and reasonable attorney's fees
22 incurred by the permitted assignee as a result of any
23 foreclosure action or other legal proceeding brought pursuant
24 to this Section and directly related to the proceeding shall be
25 assessed in any such proceeding against each record owner
26 subject to the proceedings. Such costs and fees may be

1 collected by the assignee at any time after demand for payment
2 has been made by the permitted assignee.

3 (c) A program may be administered by one or more ~~a~~ program
4 administrators ~~administrator~~ or the local unit of government.

5 (Source: P.A. 100-77, eff. 8-11-17.)

6 (50 ILCS 50/15)

7 Sec. 15. Program established.

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

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

13 (2) a statement of intent to facilitate access to
14 capital (which may be from one or more ~~a~~ program
15 administrators) ~~administrator~~ to provide funds for energy
16 projects, which will be repaid by assessments on the
17 property benefited with the agreement of the record owners;

18 (3) a description of the proposed arrangements for
19 financing the program, which may be through one or more ~~a~~
20 program administrators ~~administrator~~;

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

22 (5) a description of the territory within the PACE
23 area;

24 (6) reference to a report on the proposed program as
25 described in Section 20; ~~and~~

1 (7) the time and place for a ~~any~~ public hearing to be
2 held by the local unit of government if required for the
3 adoption of the proposed program by resolution or
4 ordinance;

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

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

12 (b) A property assessed clean energy program may be amended
13 by resolution or ordinance of the governing body. Adoption of
14 the resolution or ordinance shall be preceded by a public
15 hearing if required.

16 (Source: P.A. 100-77, eff. 8-11-17; revised 10-3-17.)

17 (50 ILCS 50/20)

18 Sec. 20. Report. The report on the proposed program
19 required under Section 15 shall include all of the following:

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

23 (2) identification of an official authorized to enter
24 into an ~~a~~ assessment contract on behalf of the local unit
25 of government;

1 (3) a maximum aggregate annual dollar amount for all
2 financing to be provided by the applicable program
3 administrator under the program;

4 (4) an application process and eligibility
5 requirements for financing energy projects under the
6 program;

7 (5) a method for determining interest rates on
8 assessment installments, repayment periods, and the
9 maximum amount of an assessment;

10 (6) an explanation of how assessments will be made and
11 collected;

12 (7) a plan to raise capital to finance improvements
13 under the program pursuant to the sale of bonds, subject to
14 this Act or the Special Assessment Supplemental Bond and
15 Procedures Act, or alternatively, through the sale of bonds
16 by the Authority pursuant to subsection (d) of Section
17 825-65 of the Illinois Finance Authority Act ~~to a program~~
18 ~~administrator;~~

19 (8) information regarding all of the following, to the
20 extent known, or procedures to determine the following in
21 the future:

22 (A) any revenue source or reserve fund or funds to
23 be used as security for bonds described in paragraph
24 (7); and

25 (B) any application, administration, or other
26 program fees to be charged to record owners

1 participating in the program that will be used to
2 finance costs incurred by the local unit of government
3 as a result of the program;

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

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

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

18 (12) provisions for marketing and participant
19 education;

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

22 (14) quality assurance and antifraud measures.

23 (Source: P.A. 100-77, eff. 8-11-17.)

24 (50 ILCS 50/25)

25 Sec. 25. Contracts with record owners of property.

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

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

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

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

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

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

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

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

24 (6) that the record owner is current on all mortgage
25 debt on the property, the record owner has not filed for
26 bankruptcy in the last 2 years, and the property is not an

1 asset to a current bankruptcy.

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

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

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

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

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

1 assessment contract with the local unit of government, together
2 with the maximum principal amount to be financed and the
3 maximum annual assessment necessary to repay that amount, along
4 with a request that the holders or loan servicers of any
5 existing mortgages consent to the record owner subjecting the
6 property to the program. A verified copy or other proof of
7 those notices and the written consent of the existing mortgage
8 holder for the record owner to enter into the assessment
9 contract and acknowledging that the existing mortgage will be
10 subordinate to the financing and assessment agreement and that
11 the local unit of government or its permitted assignee can
12 foreclose the property if the assessment is not paid shall be
13 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 (h) The imposition of any assessment pursuant to this Act
3 shall be exempt from any other statutory procedures or
4 requirements that condition the imposition of assessments or
5 other taxes against a property, except as set forth in this
6 Act.

7 (Source: P.A. 100-77, eff. 8-11-17.)

8 (50 ILCS 50/30)

9 Sec. 30. Assessments constitute a lien; billing.

10 (a) An assessment imposed under a property assessed clean
11 energy program pursuant to an assessment contract, including
12 any interest on the assessment and any penalty, shall, upon
13 recording of the assessment contract in the county in which the
14 PACE area is located, constitute a lien against the property on
15 which the assessment is imposed until the assessment, including
16 any interest or penalty, is paid in full. The lien of the
17 assessment contract shall run with the property until the
18 assessment is paid in full and a satisfaction or release for
19 the same has been recorded with the local unit of government
20 and shall have the same priority and status as other property
21 tax and assessment liens. The local unit of government (or any
22 permitted assignee) shall have all rights and remedies in the
23 case of default or delinquency in the payment of an assessment
24 as it does with respect to delinquent property taxes. When the
25 assessment, including any interest and penalty, is paid, the

1 lien shall be removed from the property.

2 (a-5) The assessment shall be imposed by the local unit of
3 government against each lot, block, track and parcel of land
4 within the PACE area to be assessed in accordance with an
5 assessment roll setting forth: (i) a description of the method
6 of spreading the assessment; (ii) a list of lots, blocks,
7 tracts and parcels of land in the PACE area; and (iii) the
8 amount assessed on each parcel. The assessment roll shall be
9 filed with the county clerk of the county in which the PACE
10 area is located for use in establishing the lien and collecting
11 the assessment.

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

21 (Source: P.A. 100-77, eff. 8-11-17.)

22 (50 ILCS 50/35)

23 Sec. 35. Bonds.

24 (a) A local unit of government may issue bonds under this
25 Act or the Special Assessment Supplemental Bond and Procedures

1 Act, or the Authority may issue bonds under subsection (d) of
2 Section 825-65 of the Illinois Finance Authority Act upon
3 assignment of the assessment contracts securing such bonds by
4 the local unit of government to the Authority, in either case
5 to finance energy projects under a property assessed clean
6 energy program. Interim financing prior to the issuance of
7 bonds authorized by this Section may be provided only by a
8 warehouse fund, except that warehouse funds established by a
9 warehouse lender may only hold assessment contracts for 36
10 months or less.

11 (b) Bonds issued under subsection (a) shall not be general
12 obligations of the local unit of government or the Authority,
13 but shall be secured by the following as provided by the
14 governing body in the resolution or ordinance approving the
15 bonds:

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

18 (2) if applicable, revenue sources or reserves
19 established by the local unit of government or the
20 Authority from bond proceeds or other lawfully available
21 funds.

22 (c) A pledge of assessments, funds, or contractual rights
23 made by a governing body in connection with the issuance of
24 bonds by a local unit of government under this Act constitutes
25 a statutory lien on the assessments, funds, or contractual
26 rights so pledged in favor of the person or persons to whom the

1 pledge is given, without further action by the governing body.
2 The statutory lien is valid and binding against all other
3 persons, with or without notice.

4 (d) Bonds of one series issued under this Act may be
5 secured on a parity with bonds of another series issued by the
6 local unit of government or the Authority pursuant to the terms
7 of a master indenture or master resolution entered into or
8 adopted by the governing body of the local unit of government
9 or the Authority.

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

12 (f) Bonds issued under this Act further essential public
13 and governmental purposes, including, but not limited to,
14 reduced energy costs, reduced greenhouse gas emissions,
15 economic stimulation and development, improved property
16 valuation, and increased employment.

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

19 (h) ~~A program administrator shall retain a law firm shall~~
20 be retained to give a bond opinion in connection with any bond
21 issued under this Act for the benefit of the program
22 ~~administrator or bond purchaser~~.

23 (i) Bonds issued by the Authority under this Act and
24 pursuant to subsection (d) of Section 825-65 of the Illinois
25 Finance Authority Act shall not be entitled to the benefits of
26 Section 825-75 of the Illinois Finance Authority Act.

1 (Source: P.A. 100-77, eff. 8-11-17.)