

HB 118 Property Assessed Clean Energy (PACE)

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What is Commercial PACE?

- PACE was named one of the top 20 “world-changing ideas by Scientific American magazine.”
- Commercial Property Assessed Clean Energy programs (PACE) allows property owners to finance qualifying energy efficiency improvements over time through a voluntary assessment on the property tax bill.
  - Voluntary participation by municipalities AND commercial property owners
  - Mortgage holder consent is required before applications are approved and assessments are placed
  - Improvements can include lighting upgrades, renewable energy, conversion to natural gas, high-efficiency boilers, and additional energy efficiency improvements
- The repayment obligation transfers with the sale of property

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Benefits

- Energy efficiency upgrades are financed with capital secured by a primary lien on the property, lower-interest capital and favorable repayment terms can be raised from the private sector
- Allows for longer repayment periods allowing the building owner to recognize immediate operating savings while repaying the debt
- Can use traditional lending sources
- In Alaska, provides consistency with state energy policy, energy efficiency and renewable energy goals

Creating a PACE Program

- 31 states have authorized PACE programs
- State legislatures must provide authority for local governments to establish and operate commercial PACE programs
- Municipalities to create the program and select financing models
- Resources: U.S. Department of Energy, PaceNow.org, C-Pace.com

Potential PACE Models

- Local-government driven
  - Either property assessment office or a PACE office used as interface with commercial property owners and potential lenders
  - Bond financing
- Private-sector driven
  - Third-party administrator under contract with local government
  - Private financing
- Hybrid model
  - Smaller local governments can contract with other communities or regional organizations to administer the program
  - Identify all potential funding sources (bonds, revolving loan funds, private capital)

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- HB 118: Muni Energy Improvement Assessments/Bonds
- Authorizing legislation for local governments who collect property taxes to choose to create a PACE program and allow commercial property owners to opt-in
- 24 eligible local governments with a total population of 639,314

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- Section 1: Amends existing AS 29.10.200 to add PACE financing to the list of items that Home Rule Municipalities are allowed to engage in
- Section 2 amends AS 29 by adding a new chapter:
  AS 29.49: Municipal Property Assessed Clean Energy Act
- AS 29.49.010 Exercise of Powers allows municipalities to exercise powers under AS 29.40.060 (Judicial Review)
- AS 29.49.020 Authorized Assessments would allow for a property tax assessment to be added for financing of qualified projects on real property.
  - Improvements may not be made to vacant lots or property undergoing development at the time of assessment
  - Not to finance purchase of temporary products or anything not permanently fixed to real property
- AS 29.49.30 Written Contract for Assessment Required would require a written contract between the local government and record owner of the real property

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- AS 29.49.040 Establishes the program
  - Authorizes local government to choose to establish a PACE program and enter into a contract with a property owner to impose an assessment. Financing can be provided by the municipality or a third-party.
  - If third-party financing is used, the municipality, third-party financer and real property owner must all enter into a contract
  - The assessment imposed may cover some costs for the commercial property owner, including permit and lenders fees, administration, and project development and engineering costs
- AS 29.49.050 Designates the Eligible Region
  - The municipality's governing body may designate one or more area(s) of the municipality (within its jurisdiction) as a PACE-eligible region(s)

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- AS 29.49.060 Defines the Procedure to Create the Program
  - If the municipality chooses to create a PACE program the governing body of a municipality must (in order):
    - 1) Adopt a resolution of intent that
      - shows that providing the PACE program serves a valid public purpose
      - includes a statement the municipality intents to make PACE available to property owners
      - includes a description of qualified projects
      - describes the boundaries of the region
      - describes the available financing for qualified projects (i.e. bonds, local lenders, etc.)
      - describes the municipal debt servicing procedures if third-party financing is used
      - describes how the public can access the program report required by AS 29.29.070
      - Identifying the time and place for a public hearing
      - identifies public contacts regarding the collection of the proposed contractual assessments

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- AS 29.49.060 Defines the Procedure to Create the Program
  - The governing body of a municipality must:
    - 2) hold a public hearing with opportunity for public comment
    - 3) adopt an ordinance establishing the terms of the program, including each item included in the publicly-available program report required by AS 29.49.070
  - Each aspect of the program can only be amended after another public hearing
  - A municipality may hire and set compensation for a program administrator, staff or contract for professional services
  - A municipality may impose fees to offset the costs of administering the program, to include an application fee and/or a component of the interest rate

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- AS 29.49.070 Requires a Publicly-Available Program Report (as required by AS 29.49.060)
  - The report must include:
    - a map of the program region boundaries
    - a form contract between the municipality and the property owner that specifies the terms of the assessment and any financing, including third-party and municipal
    - if appropriate a form contract between the municipalities and the third-party financer regarding the servicing of the debt through assessments
    - a description of qualified projects
    - a plan for ensuring sufficient capital
    - if bonds are used the report must include:
      - a maximum aggregate annual dollar amount for financing
      - a method for ranking requests from property owners
      - a method for determining the interest rate and maximum amount of an assessment
    - a method for ensuring the repayment period does not exceed the useful life of the qualified project

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- AS 29.49.070 Requires a Publicly-Available Program Report (continued)
  - The report must include:
    - a description of the application process and eligibility requirements
    - a method for ensuring qualified applicants can demonstrate financial ability to fulfill financial obligations and verify the applicant is the legal owner of the property, is current on mortgage and property taxes and is not insolvent or in bankruptcy
    - an explanation of the assessment and collection process
    - an explanation of the lender notice requirement provided by AS 29.40.080
    - an explanation of the review requirement provided by AS 29.49.090
    - a description of the marketing and education services to be provided
    - a description of quality assurance and antifraud measures
    - collection procedures
    - a requirement for an appropriate ratio between the assessment and property value
  - The report must be available online and at the municipal offices

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- AS 29.49.080 Notice to Mortgage Holder Required
  - The holder of any mortgage lien on the property must be given written notice within 30 days before the contract is executed
  - Written consent from the mortgage lien holder must be obtained
- AS 29.49.090 Review Required
  - A third-party baseline energy audit and projected energy savings are required
  - Once a qualified project is complete, the municipality shall obtain third-party verification that the project was properly completed and operating as intended
- AS 29.49.100 Direct Acquisition by Owner
  - The property owner may be authorized to purchase directly the related equipment and materials or contract directly, including through lease, power purchase agreement or other service contract for the installation or modification of a qualified improvement

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- AS 29.49.110 Contractual Assessment must be Noticed
  - Written notice of each contractual assessment shall be filed by the municipality in the real property records, including the assessment amount, legal description of the property, name of each property owner and the reference to the statutory assessment lien provided under this chapter
- AS 29.49.210 Contractual Assessments and any Interest or Penalties are Primary Liens on the Property
  - exceptions are municipal tax liens and special assessments
  - enforcement provided in AS 29.45.320-470
  - contractual assessment liens stay with the land and not eliminated by foreclosure
  - penalties and interest may be added to delinquent installments, as provided in AS. 29.45.250
  - municipalities may recover cost and expenses, including attorney fees to collect a delinquent installment
- AS 29.49.130 Collection of Assessments
  - The governing body of a municipality may contract with the governing body of another taxing unit to collect assessments as outlined under this chapter

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- AS 29.49.140 Municipalities may Issue Bonds or Notes to Finance Qualified Projects
  - These may **not** be general obligations bonds and must be secured by one or more of the following:
    - payments of the contractual assessments
    - municipal reserves from grants, bonds, or net proceeds and other lawfully available funds
    - municipal bond insurance, lines of credit, public or private guarantees, standby bond purchase agreements, collateral assignments, mortgages, or available means of providing credit support or liquidity
    - any other funds lawfully available for purposes consistent with this chapter
  - A municipal pledge of assessments, funds, or contractual rights in connection with the issuance of bonds is a first lien valid and binding against any other person, with or without notice
  - Bonds or notes issued must further an essential public and governmental purpose, including reducing energy costs, improving electrical reliability, reduction of energy demand on utilities, economic development, employment and enhancement of property values

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- AS 29.49.150 Joint Implementation
  - Any combination of municipalities may agree to jointly implement or administer a program or contract with a third party. A public hearing as outlined in AS 29.49.060 is required.
- AS 29.49.160 Prohibited Acts states that the program must be voluntary
  - A municipality that establishes a PACE region may not compel a property owner to use PACE or, make any permit, license, or authorization contingent on a property owner using PACE.
- AS 29.49.890 Allows the proposed PACE provisions to be available to Home Rule and General Law Municipalities
- AS 29.49.900 Adds Definitions of Program, Qualified Improvement, Qualified Project, Real Property and Region.
- AS 29.49.995 Adds the Short Title “Municipal Property Assessed Clean Energy Act.”
- Section 3 Establishes an Immediate Effective Date

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