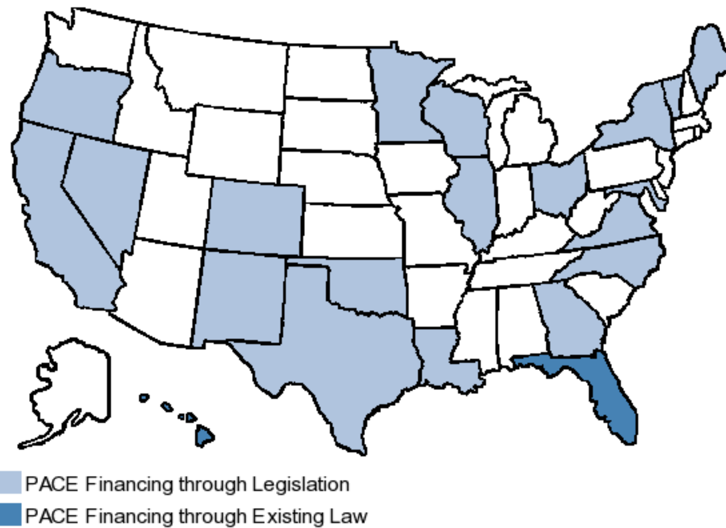
Property Assessed Clean Energy (PACE)



Property-assessed clean energy (PACE) programs are used by local governments to finance renewable energy and energy efficiency projects on residential, commercial and industrial properties.

PACE programs allows property owners to avoid the high upfront cost of clean energy installations and retrofits by paying for energy improvements through an addition to their property taxes. Under these programs, in general, a local government designates an improvement district and issues a bond secured by real property within the district. This district may follow municipal boundaries, but only those property owners who opt in are subject to PACE financing. Low interest, long-term loans are available for energy saving measures, which property owners are able to pay back over a 20 year period while saving on their energy bills. If the property is sold, the debt transfers to the new owner.

The PACE concept was first introduced in October 2007 in Berkeley, CA, and to date, has been specifically authorized through legislation in 18 states; 2 states were able to implement PACE programs without additional legislation.

California

California enacted AB 811 in July 2008 allowing cities and counties to offer PACE financing. To enact PACE programs, the local legislative body votes on a report by city/county officials that outlines the financing program including the draft contract agreement between property owners and the local government; the area where the contractual assessments are proposed; eligible facilities, distributed renewable-energy systems, and energy-efficiency improvements; and the financing and administrative details. The program is voluntary and the property owner must agree to a contractual assessment wherein the PACE loan is repaid through a charge on the property tax bill for up to 20 years. The proposed program is also subject to public hearings.

Participants must have a clear property title and be current on property taxes and mortgages. PACE financing programs can apply to the commercial, industrial, residential, multi-family residential and agricultural sectors and can be financed through bonds, local government funds and third-party lenders.

The state passed AB 474 in October 2009, making water efficiency projects eligible for such financing as well as allowing water districts to form water efficiency financing districts.

Colorado

Colorado enacted H.B. 1350, Session Law 229 in May 2008 to expand existing improvement district laws by allowing city or county boards to propose an improvement district specifically for energy efficiency and clean energy initiatives through a resolution or ordinance. Voter approval is required to authorize local governments to issue the PACE bonds and the loan is repaid through an assessment on the property. PACE financing programs can apply to the commercial, industrial, residential, multi-family residential, low-income residential, agricultural and institutional sectors.

Florida

Through existing law, municipalities and counties in Florida can create special districts to finance projects that serve the public and benefit the municipality or county.

Georgia

Georgia authorized PACE financing in May 2010 through HB 1388. This legislation authorizes county, city, or town development authorities to extend the use of financing from ?business improvement districts? to the installation of renewable energy systems, energy efficiency or conservation improvements, and water efficiency or conservation

improvements. The program applies to residential, commercial, industrial and other qualifying property.

Hawaii

Through existing law, counties in Hawaii can create special improvement districts for projects that benefit the public. In these districts, counties may issue bonds and collect special taxes on property.

Illinois

Illinois passed SB 583 in August 2009 authorizing municipalities, cities, villages and incorporated towns to enter voluntary agreements with property owners to finance renewable energy technology installations or energy efficiency upgrades that are permanently fixed to the property. However, SB 583 may be missing certain components that would allow for full implementation of PACE financing programs. The proposed state bill, SB 2505, introduced in 2010 would amend the tax code to allow municipalities and counties to establish ?green energy special service areas.? Owners of properties within these areas would be able to obtain financing for specific energy efficiency and renewable energy improvements through agreements with the municipal or county, which would be allowed to issue bonds and levy taxes for these purposes.

Status of SB 2505

Louisiana

Louisiana enacted SB 224 in July 2009 enabling local governments to create a Sustainable Energy Financing District (SEFD) through an ordinance or resolution. The district does not have to be contiguous. To receive financing for energy improvements, owners of any immovable residential or commercial property must request that the property be included as a part of the SEFD and complete a "cooperative endeavor agreement" with the district. A SEFD may borrow money, issue bonds or obligations, and pay for the bonds from assessments against the property. While local governments can determine eligible technologies, renewable-energy improvements that interfere with a right held by a public utility regulated by the Louisiana Public Service Commission are not eligible. The program applies to commercial and residential sectors and can be financed through bonds, third-party lenders and federal contracts.

Maine

Maine enacted LD 1717 in April 2010 authorizing municipalities to implement a loan program through a local ordinance that provides financing to property owners for clean energy improvements. Municipalities will be able to use federal grants or any other funds available for the purpose of funding PACE programs. According to the legislation, PACE assessments will be considered subordinate liens, secondary to mortgages.

Efficiency Maine Trust has been directed to promulgate rules for Maine's PACE programs. Municipalities will be required to comply with the law and rules accordingly if they choose to pass a PACE ordinance and develop a PACE program for property owners. The Efficiency Maine Trust will determine the eligible efficiency improvements and renewable energy installations; develop standards for underwriting requirements; and establish ?truth in lending? provisions which are to guide the consumer disclosure that must be included in PACE agreements. The program applies to commercial, industrial and residential sectors.

Maryland

Maryland enacted HB 1567 in May 2009 allowing counties and municipalities to implement clean energy loan programs based on a PACE model. The programs are authorized through resolutions or ordinances and provide funding by issuing bonds. Property owners that opt into the program repay the loan through a surcharge on their property tax bill. The surcharge is attached to the property itself and is limited to recovering the costs associated with issuing bonds, financing the loans, and program administration. While local governments determine property owner eligibility, loan terms and conditions and eligible technologies, state law does impose certain restrictions. The law does not allow commercial renewable energy projects larger than 100 kilowatts to participate in local clean energy loan programs. State law also requires local governments to ensure a property owner's ability to repay the loans by administering a process similar to mortgage loan approvals. Maryland's program applies to the commercial, residential and low-income residential sectors.

Minnesota

Minnesota enacted H.F. 2695, Sec. 3 & 4 in April 2010 allowing cities, counties, and towns to offer PACE financing programs that provide loans to local residents for energy conservation improvements, including certain renewable energy systems. The program applies to residential, multi-family residential, commercial or industrial properties that would benefit from energy conservation improvements as determined by a formal energy audit or renewable energy feasibility study.

Local governments can issue revenue bonds to initially fund a program. Loan repayments, in the form of special assessments on participating properties, will be used to service bond principal and interest. The special assessment remains attached to the property during the term of the loan. Local governments must set loan terms at the weighted average of the useful life of improvements made to the property, not to exceed 20 years. Interest rates are locally determined, but must be sufficient to cover program costs, including the issuance of bonds and any financing delinquencies. Loans amounts may not exceed 10 percent of the assessed value of the property and may include costs related to the required energy audit or feasibility study, equipment and labor costs, and performance verification. At least

ten percent of the improvements financed by the program must be inspected and verified by the local government. Loans must be secured with a lien against the property and be coordinated with the Conservation Improvement Program (CIP) of the utility serving the property.

Nevada

An existing law in Nevada authorizes cities and counties to create special financing districts for projects that "serve a public use and will promote the health, safety, prosperity, security and general welfare of the inhabitants thereof and of the State of Nevada." The state adopted SB 358 in May 2009 making renewable energy and energy efficient technologies eligible projects for the special financing districts. The financing applies to commercial, industrial, residential and multi-family residential sectors.

New Mexico

New Mexico enacted SB 647 in April 2009 allowing municipalities and counties to create renewable energy financing districts (REFD) to provide financing for distributed generation renewable energy sources including photovoltaics (PV), solar thermal, geothermal and wind. The process requires the local government to draft and adopt a resolution and hold a public hearing leading to the establishment of the REFD through an ordinance. The resulting district is authorized to issue bonds to fund the program and is governed by a board of directors. Participating property owners make repayments through an assessment on their property tax and a senior lien is put on the property until the loan is fully repaid.

In July 2009 the state enacted HB 572 allowing counties to create a ?solar energy improvement special assessment? provision through an ordinance. While the county does not provide funding for these projects it does create rules by which certain private banks and financing institutions can become ?solar energy improvement financing institutions.? Participating property owners enter into direct agreements with a certified financial institution for the funding and also apply to the county; the loan is repaid through an assessment on the property tax and results in a lien on the property. The county then establishes a process to deliver the funds collected through the assessment on the property to the corresponding financial institution.

New York

New York enacted A.B. 40004A in November 2009 allowing counties, towns, cities and villages to offer sustainable energy loan programs which can pay for energy audits; cost-effective, permanent energy efficiency improvements (appliances are generally not eligible); renewable energy feasibility studies; and the installation of renewable energy systems. The local program determines the sectors eligible for financing, and qualification for the loan is contingent on energy audits or renewable energy feasibility studies that meet New York State Energy Research and Development Authority (NYSERDA) or equally stringent standards. Energy efficiency improvements must meet cost-effectiveness criteria as established by NYSERDA. The principal loan amount, excluding interest, may not exceed the lesser of 10 percent of the appraised real property value or the actual cost of the improvements. Local governments determine other terms and are not required to process repayments through a charge on the real property which benefits from the loan.

In August 2009, New York enacted A.B. 8862 which allows towns to create residential home energy efficiency programs funded by periodic charges or fees for the services provided. Towns may enter into contracts for home energy audits and energy efficiency improvements for the participating residents who repay the town through a periodic fee or charge. The charges would represent a lien on the property on which the improvements take place. This type of option is also available to towns that have refuse and garbage improvement districts and collect fees for the provision of these services.

North Carolina

North Carolina enacted SB 97 in August 2009 allowing counties and cities to make special assessments to finance the installation of "distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to residential, commercial, industrial or other real property." The program applies to commercial, industrial, residential, multi-family residential, low-income residential, and agricultural sectors. Possible sources of revenue are revenue bonds, general obligation bonds and general revenues.

Ohio

Ohio enacted HB 1 in July 2009 extending its existing special improvement district law and authorizing municipalities and townships to create special energy improvement districts that offer property owners financing for photovoltaic (PV) or solar-thermal installations. To create special energy improvement districts municipalities must have interested and eligible property owners sign a petition and provide plans for their solar energy projects. The municipality will subsequently approve the special district through an ordinance or resolution and create a separate board of directors to implement the program. The special district does not have to be comprised of contiguous properties. The funding can be provided through bonds (either special or general obligation funds)and/or state or federal grants. The loans are paid back through a special assessment on the property tax bill for up to 25 years. The program applies to the commercial, industrial, residential, multi-family residential, low-income residential and agricultural sectors.

Oklahoma

Oklahoma enacted SB 668 in April 2009 allowing counties to create ?County District Energy Authorities? which can issue notes or bonds, utilize public or private lenders, or apply for grants or loans from other government entities to fund

PACE programs. Property owners that are current on their property taxes can participate in the program by entering into a contract with the county to receive a loan for permanently fixed renewable energy or energy efficiency improvements to their property. These loans are then repaid through property taxes and constitute a lien on the property until paid in full. The County District Energy Authorities can also create a grant program for not-for-profit organizations that are property-tax exempt. The law requires that participants undergo an energy audit and efficiency equipment must be Energy-Star rated. The program can apply to commercial, industrial, residential, nonprofit, agricultural and institutional sectors.

Oregon

Oregon enacted HB 2626 in July 2009 establishing the Energy Efficiency and Sustainable Technology loan program (EEAST) which provides state loans for residential and commercial energy efficiency and renewable energy projects. The 100 percent upfront long term, low-interest loans can be paid back on the utility bill and transferred to a subsequent owner. The program is financed through state bonding and private loans that are paid back over a long period of time by property owners through savings in their utility bills.

The law also authorizes local governments to establish a loan program for cost-effective energy improvements to qualifying real properties by creating local improvement districts. Local governments may issue revenue bonds to finance this loan program or can borrow money from the state. Loans can be repaid through a special assessment on local government taxes, utility bills, or another approved method of loan repayment. Since utility bills are one method of repayment, the local government must notify the electric and gas utilities in the area before establishing the program. The loans may be secured with a lien on the property.

HB 2626 does not include a senior lien provision which would give the PACE lien priority over all other liens such as mortgages minimizing the risk to bond holders and investors.

Texas

Texas enacted HB 1937 in 2009 allowing municipalities to establish contractual assessments or loans for energy efficiency and renewable energy improvements on properties. The municipality is required to pass a resolution stating its intent and program details, which will be subject to a public hearing. Program participants will have a lien placed on their property until the loan and interest is fully repaid. The program can apply to commercial, industrial, residential, multi-family residential, agricultural and real property.

Vermont

Vermont enacted HB 446 in May 2009 allowing local governments to create ?Clean Energy Assessment Districts? to finance renewable energy and energy-efficiency projects. Any such financing district must be approved by voters. Eligible renewable-energy technologies include solar water and space heating, photovoltaics (PV), biomass energy heating systems, small wind systems, and micro-hydroelectric systems. Efficiency Vermont and Burlington Electric Department determine which energy-efficiency projects are eligible, and participating property owners are required to conduct energy audits to quantify project costs, energy savings and carbon impacts. Eligible projects include efficiency projects permanently attached to the property that reduce the net energy requirements of the building. The financing will include a special assessment and lien on the property. Financing cannot exceed 15% of assessed property value and the combined amount of assessment and outstanding mortgages may not exceed 90% of assessed property value. Where an agreement has been reached with the owner, the maximum amount to be repaid must be $30,000 or 15%, whichever is less. The financing sources include bonds and payments collected for a reserve fund, which the municipality may create in case of foreclosure of participating properties. The program applies to commercial, industrial, residential, multi-family residential, low-income residential, agricultural and institutional sectors.

Virginia

In 2009 Virginia enacted SB 1212 adding Va. Code § 15.2-958.3 to allow local governments to establish a loan program for clean energy improvements by holding a public hearing and subsequently passing an ordinance. The local government must specify eligible "clean energy improvements" and the method for collecting the loan repayment which can be through either water or sewer bills, real property tax assessments, or other billing methods. The program applies to the commercial, residential, construction, and institutional sectors. The financing can be done through independent lending institutions and other revenue sources determined by local governments. In 2010 the state also passed SB 110 to make clear that the locality is authorized to place a lien on the property for the amount of the loan and can package the loans and move them to a private financial institution without affecting the lien.

Wisconsin

In May 2009, Wisconsin enacted AB 255 modifying existing legislation that gives local governments the authority to establish ?special charges? for services (e.g. snow/ice removal, recycling, etc) to include energy efficiency and renewable energy improvements. The legislation also authorizes local governments to make loans to residential property owners for energy efficiency and/or renewable energy improvements. The loan is repaid in installments and is passed on to the next property owner. Participating local governments must determine the eligible energy efficiency or renewable energy technologies, funding sources, loan terms, as well as other details. The loan program applies to the residential sector.