

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

A Bill

SENATE BILL 448

5 By: Senators J. Petty, G. Leding
6 By: Representative Lundstrum
7

For An Act To Be Entitled

8
9 AN ACT TO CREATE JOBS, RETAIN WEALTH, AND GROW
10 ARKANSAS'S ECONOMY BY ENABLING PROPERTY ASSESSED
11 CAPITAL EXPENDITURE FINANCING; TO AMEND THE PROPERTY
12 ASSESSED CLEAN ENERGY ACT; TO AUTHORIZE THE FINANCING
13 OF ENERGY EFFICIENCY IMPROVEMENTS, ALTERNATIVE ENERGY
14 IMPROVEMENTS, BUILDING RESILIENCY IMPROVEMENTS, AND
15 WATER CONSERVATION IMPROVEMENTS; AND FOR OTHER
16 PURPOSES.
17
18

Subtitle

19
20 TO AUTHORIZE THE FINANCING OF ENERGY
21 EFFICIENCY IMPROVEMENTS, ALTERNATIVE
22 ENERGY IMPROVEMENTS, BUILDING RESILIENCY
23 IMPROVEMENTS, AND WATER CONSERVATION
24 IMPROVEMENTS.
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code §§ 8-15-101 – 8-15-105 are amended to read as
29 follows:

30 8-15-101. Title.

31 This chapter shall be known and may be cited as the "Property Assessed
32 ~~Clean Energy~~ Capital Expenditure Act".
33

34 8-15-102. Definitions.

35 As used in this chapter:

36 (1)~~(A)~~ "Bond" means a revenue bond or note issued under this



1 chapter;

2 ~~(B) "Bond" includes any other financial obligation~~
 3 ~~authorized by this chapter, the laws of this state, or the Arkansas~~
 4 ~~Constitution;~~

5 (2) "Capital provider" means a private third-party entity or
 6 entities, including without limitation a designee, a successor, or an
 7 assignee of the entity or entities, that is authorized to directly finance or
 8 refinance any qualifying improvements under this chapter;

9 ~~(2)(3)~~ "District" means a property assessed energy capital
 10 expenditure improvement district established in this state by law for the
 11 express purpose of managing the to facilitate PACE program financing under
 12 this chapter;

13 (4) "Eligible property" means privately owned commercial,
 14 industrial, agricultural, nonprofit, or multifamily residential real property
 15 with five (5) or more dwelling units, including without limitation real
 16 property owned by an entity formally recognized as tax exempt under 26 U.S.C.
 17 § 501(c)(3), as it existed on January 1, 2025;

18 (5) "Financing agreement" means the contract between a property
 19 owner and a capital provider under which a property owner agrees to repay a
 20 capital provider for the qualifying improvement's financing, including
 21 without limitation:

22 (A) Details of finance charges, fees, debt servicing,
 23 accrual of interest, and penalties; and

24 (B) Terms relating to treatment of prepayment and partial
 25 payment, billing, collection, and enforcement of the repayment of the
 26 financing;

27 ~~(3)(6)~~ "Governmental entity" means a municipality, city, county,
 28 combination of cities or counties or both, or statewide district;

29 ~~(4)(7)~~ "Owner" means an individual, partnership, association,
 30 corporation, or other legal entity that is recognized by law and has title or
 31 interest in any real property;

32 ~~(5)(8)~~ "PACE program" means a property assessed clean energy
 33 capital expenditure program under which a real property owner an owner of
 34 eligible property can finance an a qualifying energy efficiency improvement,
 35 a renewable energy project, and a water conservation improvement on the real
 36 eligible property; and

1 ~~(6)~~(9) "Person" means an individual, partnership, association,
2 corporation, or other legal entity recognized by law as having the power to
3 contract;

4 (10) "Program administrator" means:

5 (A) The department or individual within a governmental
6 entity or district designated by the governmental entity or district to
7 administer the PACE program; or

8 (B) A private independent third party designated by the
9 governmental entity or district to administer the PACE program, provided that
10 the administration procedures conform to this chapter;

11 (11) "Program guidebook" means a comprehensive document that:

12 (A) Illustrates the applicable PACE program; and

13 (B) Establishes appropriate guidelines, specifications,
14 approval criteria, standard forms, and uniform documents consistent with the
15 administration of a PACE program and not detailed in this chapter;

16 (12) "Special assessment" means a voluntary lien imposed by a
17 governmental entity on real eligible property located within the boundaries
18 of a PACE program; and

19 (13) "Qualifying improvement" means a permanently affixed energy
20 efficiency improvement, alternative energy improvement, building resiliency
21 improvement, or water conservation improvement installed on an eligible
22 property as part of the construction or renovation of the eligible property.

23
24 8-15-103. Legislative findings.

25 The General Assembly finds that:

26 (1) It is in the best ~~interests~~ interest of the state to
27 authorize ~~property assessed energy improvement districts or capital providers~~
28 that make available to citizens one (1) or more financing programs, including
29 without limitation a PACE program, to fund qualifying energy efficiency
30 improvements, renewable energy projects, and water conservation improvements
31 ~~on residential, commercial, industrial, and other real~~ to eligible properties
32 at the request of the owner;

33 (2) The programs described in subdivision (1) of this section
34 will benefit the citizens of this state by:

35 (A) Decreasing the cost of providing funds to
36 participating citizens and lowering the aggregate issuance and servicing

1 costs of ~~loans~~ financing; and

2 (B) Making funds available to rural communities throughout
3 the state that might not otherwise create and finance the programs described
4 in subdivision (1) of this section; and

5 (3) The programs described in subdivision (1) of this section
6 will further the public purpose of:

7 (A) Creating jobs and stimulating the state's economy;

8 (B) Generating significant economic development through
9 the investment of the proceeds of ~~loans~~ financing in local communities,
10 including without limitation increased sales tax revenue;

11 (C) Protecting participating citizens from the financial
12 impact of the rising cost of ~~electricity produced from nonrenewable fuels~~
13 utilities and property insurance;

14 ~~(D) Providing positive cash flow in which the costs of the~~
15 ~~improvements are lower than the energy savings on an average monthly basis;~~

16 ~~(E)~~(D) Providing the citizens of this state with informed
17 choices and additional options for financing improvements that may not
18 otherwise be available;

19 ~~(F)~~(E) Increasing the value of the improved ~~real~~ eligible
20 property for participating citizens;

21 ~~(G)~~(F) Improving the state's air quality and conserving
22 natural resources, including water;

23 ~~(H)~~(G) Attracting manufacturing facilities and related
24 jobs to the state; and

25 ~~(I)~~(H) Promoting energy independence and security for the
26 state and the nation.

27

28 8-15-104. Immunity.

29 (a) The powers and duties of a ~~property assessed energy improvement~~
30 district or governmental entity conferred by this chapter are public and
31 governmental functions exercised for a public purpose and for matters of
32 public necessity.

33 (b) The district or governmental entity and its personnel are immune
34 from suit in tort for the performance of its duties under this chapter
35 unless:

36 (1) ~~immunity~~ Immunity from tort is expressly waived in writing;

1 or

2 (2) The district or governmental entity acts with gross
 3 negligence.

4

5

6 8-15-105. Authority to create PACE program districts.

7 (a) A governmental entity legally authorized to issue general revenue
 8 bonds may create a ~~property assessed energy improvement~~ district by adoption
 9 of an ordinance.

10 (b) A combination of governmental entities may create a district by
 11 each governmental entity:

12 (1) Adopting an ordinance that provides for the governmental
 13 entity's participation in the district; and

14 (2) Entering into a joint agreement with one (1) or more other
 15 participating governmental entities.

16 (c) This section shall not limit additional governmental entities from
 17 becoming members of the district under § 8-15-106.

18

19 SECTION 2. Arkansas Code § 8-15-106(a), concerning membership in an
 20 existing district, is amended to read as follows:

21 (a) To become a member of an existing ~~property assessed energy~~
 22 ~~improvement~~ district, the governing body of a governmental entity shall:

23 (1) Adopt an ordinance that provides for the participation of
 24 the governmental entity in the district; and

25 (2) Enter into an agreement with the other participating members
 26 of the district.

27

28 SECTION 3. Arkansas Code § 8-15-107(a), concerning the board of
 29 directors of a district, is amended to read as follows:

30 (a) A ~~property assessed energy improvement~~ district created under this
 31 chapter shall be operated and controlled by a board of directors.

32

33 SECTION 4. Arkansas Code §§ 8-15-108 – 8-15-113 are amended to read as
 34 follows:

35 8-15-108. Membership on the district board of directors.

36 (a) The board of directors of a ~~property assessed energy improvement~~

1 district shall consist of at least seven (7) directors.

2 (b) The board of directors shall include:

3 (1) For a statewide district, the members specified in the
4 agreement establishing the district;

5 (2) For a district composed of a combination of one (1) or more
6 counties and one (1) or more cities:

7 (A) The county judge or his or her designated
8 representative of each county that is a member of the district;

9 (B) The mayor or his or her designated representative of
10 each city that is a member of the district; and

11 (C) If the number of directors is fewer than seven (7)
12 after fulfilling the requirements of subdivisions (b)(2)(A) and (B) of this
13 section, additional members shall be appointed as specified in the agreement
14 establishing the district until a total of seven (7) directors has been
15 appointed;

16 (3) For a district composed of one (1) or more counties:

17 (A) The county judge or his or her designated
18 representative of each county that is a member of the district; and

19 (B) If the number of directors is fewer than seven (7)
20 after fulfilling the requirements of subdivision (b)(3)(A) of this section,
21 additional members shall be appointed as specified in the agreement
22 establishing the district until a total of seven (7) directors has been
23 appointed; and

24 (4) For a district composed of one (1) or more cities:

25 (A) The mayor or his or her designated representative of
26 each city that is a member of the district; and

27 (B) If the number of directors is fewer than seven (7)
28 after fulfilling the requirements of subdivision (b)(4)(A) of this section,
29 additional members shall be appointed as specified in the agreement
30 establishing the district until a total of seven (7) directors has been
31 appointed.

32 (c) The designated representative of a county judge or mayor under
33 subsection (b) of this section shall be a qualified elector of the
34 jurisdiction that the designated representative is appointed to represent.

35

36 8-15-109. Terms of district directors.

1 (a) A director who is a public official may serve on the board of
 2 directors of a ~~property assessed energy improvement~~ district during his or
 3 her term of office as the county judge or mayor of a member of the district.

4 (b) A director who is the designated representative of the mayor or
 5 county judge ~~of a member of the city or county that is a member of a the~~
 6 district serves at the pleasure of the mayor of the city or the county judge
 7 of the county that is a member of the district.

8
 9 8-15-110. District boards of directors – Meetings.

10 (a) The board of directors of a ~~property assessed energy improvement~~
 11 district shall hold quarterly meetings and special meetings, as needed, in a
 12 courthouse or other location within the district.

13 (b) The time and place of the quarterly meetings shall be on file in
 14 the office of the district board of directors.

15
 16 8-15-111. District boards of directors – Powers and duties.

17 (a) The board of directors of a ~~property assessed energy improvement~~
 18 district may:

- 19 (1) Issue revenue bonds on behalf of the district;
 20 (2) Make and adopt all necessary bylaws for its organization and
 21 operation;
 22 (3) Elect officers and employ personnel necessary for its
 23 operation;
 24 (4) Operate, maintain, expand, and fund a PACE ~~project~~ program;
 25 (5) Apply for, receive, and spend grants for any purpose under
 26 this chapter;
 27 (6) Enter into agreements and contracts on behalf of the
 28 district;
 29 (7) Receive property or funds by gift or donation for the
 30 finance and support of the district;
 31 (8) Reimburse a governmental entity for expenses incurred in
 32 performing a service for the district;
 33 (9) Assign assessments to a private lending institution; and
 34 (10) Do all things necessary or appropriate to carry out the
 35 powers expressly granted or duties expressly imposed under this chapter.

36 (b) ~~The~~ To offset the actual and reasonable costs of program

1 administration, the board of directors shall:

2 (1) Allow a one-time commission of:

3 (A) One and five-tenths percent (1.5%) for the extension
4 of district assessments by the county assessor or county clerk, not to exceed
5 twenty-five thousand dollars (\$25,000);

6 (B) One and five-tenths percent (1.5%) for the collection
7 of district assessments by the county collector, not to exceed twenty-five
8 thousand dollars (\$25,000); and

9 (C) One-eighth of one percent (0.125%) for services of a
10 county treasurer in disbursing the moneys collected for district assessments,
11 not to exceed two thousand dollars (\$2,000); and

12 (2) Adopt rules consistent with this chapter or with other
13 legislation that in its judgment may be necessary for the proper enforcement
14 of this chapter.

15
16 8-15-112. ~~Reporting~~ District reporting requirement – Collection of
17 assessments.

18 (a)(1)(A) By March 1 of each year or upon the creation of a ~~property~~
19 ~~assessed energy improvement~~ district that uses or intends to use the county
20 collector for collection of district assessments, the board of directors of a
21 district shall file an annual report with the county clerk in any county in
22 which a portion of the district is located.

23 (B) The annual report required under this section shall be
24 available for inspection and copying by assessed landowners in the district.

25 (C) The county clerk shall not charge any costs or fees
26 for filing the annual report required under this section.

27 (D) The district shall deliver a filed copy of the annual
28 report required under this section to the county collector within five (5)
29 days of filing.

30 (2) The annual report required under this section shall contain
31 the following information as of December 31 of the current calendar year:

32 (A) A list of contracts, identity of the parties to the
33 contracts, and obligations of the district;

34 (B) Any indebtedness, including bonded indebtedness, and
35 the reason for the indebtedness, including the following:

36 (i) The stated payout or maturity date of the

1 indebtedness, if any; and

2 (ii) The total existing delinquent assessments and
3 the party responsible for the collection;

4 (C) Identification of each member of the board of
5 directors of the district and each member's contact information;

6 (D) The date, time, and location for any scheduled meeting
7 of the board of directors of the district for the following year;

8 (E) The contact information for the district assessor;

9 (F) Information concerning to whom the county treasurer is
10 to pay district assessments;

11 (G) An explanation of the applicable statutory penalties,
12 interest, and costs;

13 (H) The method used to compute district assessments; and

14 (I) A statement itemizing the income and expenditures of
15 the district, including a statement of fund and account activity for the
16 district.

17 (b)(1) A The board of directors of a district that does not comply
18 with subsection (a) of this section commits a violation punishable by a fine
19 of not less than one hundred dollars (\$100) nor more than one thousand
20 dollars (\$1,000) for each offense.

21 (2) A fine recovered under subdivision (b)(1) of this section
22 shall be deposited into the county clerk's cost fund.

23 (c)(1) On or before December 31, the board of directors of a district
24 shall file its list of special assessments for the following calendar year
25 with the county clerk.

26 (2)(A) After filing the list of special assessments under
27 subdivision (c)(1) of this section, the board of directors of a district
28 shall deliver a copy of the filed list of special assessments to the preparer
29 of the tax books.

30 (B) If the county collector is not the designated preparer
31 of the tax books, the board of directors of the district shall deliver a copy
32 of the filed list of special assessments to the county collector.

33 (3) The list of special assessments required under subdivision
34 (c)(1) of this section shall contain:

35 (A) A list of each parcel with an assessment levied
36 against it within the district; and

1 (B) The contact information for the district assessor.

2 (4) The list of special assessments required under subdivision
3 (c)(1) of this section shall not include assessments on parcels that
4 otherwise would not appear on the tax books for the following year.

5 (5) After the December 31 deadline to file the list of special
6 assessments required under subdivision (c)(1) of this section, the county
7 collector may reject an assessment submitted by the board of directors of the
8 district for inclusion in the list of special assessments.

9 (d)(1) After the board of directors of the district files the list of
10 special assessments required under subsection (c) of this section, the county
11 collector shall collect the assessments at the same time the county collector
12 collects the other taxes on the property.

13 (2) The county collector shall pay the funds collected under
14 subdivision (d)(1) of this section to the county treasurer at the same time
15 that the county collector pays all other taxes to the county treasurer.

16 (3) The county treasurer shall distribute the funds received
17 under subdivision (d)(2) of this section to the district in the same manner
18 as he or she distributes funds to other tax entities.

19

20 8-15-113. Financing projects in PACE program districts.

21 (a) ~~A property assessed energy improvement~~ The board of directors of a
22 district may establish a PACE program to ~~provide loans~~ facilitate financing
23 for the initial acquisition and installation of ~~energy efficiency~~
24 ~~improvements, renewable energy projects, and water conservation improvements~~
25 a qualifying improvement with a consenting ~~real property~~ owner or owners of
26 existing ~~real~~ eligible property ~~and~~ or new construction.

27 (b)(1) The board of directors of the district may authorize by
28 resolution the issuance of bonds or the execution of a contract with a
29 governmental entity or a private entity to provide the ~~loans~~ financing under
30 subsection (a) of this section.

31 (2) The resolution shall include without limitation the
32 following:

33 (A) The type of ~~renewable energy project, water~~
34 ~~conservation improvement, or energy efficiency~~ qualifying improvement for
35 which the ~~loan~~ financing may be offered;

36 (B) The proposed arrangement for the ~~loan~~ financing

1 program, including without limitation:

2 (i) A statement concerning the source of funding
3 that will be used to pay for work performed under the ~~loan contract~~ financing
4 agreement;

5 (ii) The interest rate and time period during which a
6 ~~contracting real~~ consenting eligible property owner or owners would repay the
7 ~~loan~~ financing; and

8 (iii) The method of apportioning all or any portion
9 of the costs incidental to the financing, administration, and collection of
10 the arrangement among the consenting ~~real~~ eligible property owner or owners
11 and the governmental entity;

12 (C) A minimum and maximum aggregate dollar amount that may
13 be financed per property;

14 (D)(i) A method for prioritizing requests from real
15 property owners for financing if the requests appear likely to exceed the
16 authorization amount of the ~~loan~~ financing program.

17 (ii) Priority shall be given to those requests from
18 real property owners that meet the eligibility requirements on a first-come,
19 first-served basis;

20 (E) Identification of a local official authorized to enter
21 into ~~loan~~ financing contracts on behalf of the district; and

22 (F) A draft contract specifying the terms and conditions
23 proposed by the board of directors of the district.

24 ~~(c)(1) The district may combine the loan payment required by the loan~~
25 ~~contract with the billing for the real property tax assessment for the real~~
26 ~~property where the renewable energy project, water conservation improvement,~~
27 ~~or the energy efficiency improvement is installed.~~

28 ~~(2) The district may establish the order in which a loan payment~~
29 ~~will be applied to the different charges.~~

30 ~~(3) The district may not combine the billing for a loan payment~~
31 ~~required by a contract authorized under this section with a billing of~~
32 ~~another county or political subdivision unless the county or political~~
33 ~~subdivision has given its consent by a resolution or ordinance.~~

34 ~~(d)(c)~~ The district shall offer private lending institutions the
35 opportunity to participate in local loan programs established under this
36 section.

1 ~~(e)(1)(A) In order to secure a loan authorized under this section, the~~
2 ~~district may place a lien equal in value to the loan against any real~~
3 ~~property where the renewable energy project, water conservation improvement,~~
4 ~~or the energy efficiency improvement is installed.~~

5 ~~(B) The lien shall attach to the real property when it is~~
6 ~~filed in the county recorder's office for record.~~

7 ~~(2)(A)(i) The priority of the lien created under this chapter is~~
8 ~~determined based on the date of filing of the lien.~~

9 ~~(ii) Except as provided in subdivision (e)(2)(A)(iii)~~
10 ~~of this section, the priority of the lien shall be determined in the same~~
11 ~~manner as the priority for other real property tax and assessment liens.~~

12 ~~(iii) A lien created under this chapter shall be~~
13 ~~subordinate to any real or personal property tax liens.~~

14 ~~(iv) A district shall discharge the lien created~~
15 ~~under this chapter upon full payment of the lien.~~

16 ~~(B) If the real property is sold, the lien shall stay~~
17 ~~attached to the real property, and the loan created under this chapter will~~
18 ~~be owed by the new real property owner.~~

19 ~~(C) If the real property enters into default or~~
20 ~~foreclosure:~~

21 ~~(i) Payment of the assessment shall not be sought~~
22 ~~from a member of the district who does not own the real property that entered~~
23 ~~into default or foreclosure;~~

24 ~~(ii) Repayment of the assessment shall not be~~
25 ~~accelerated automatically; and~~

26 ~~(iii) The balance of the assessment shall be repaid~~
27 ~~according to the terms of the agreed upon schedule.~~

28 ~~(3) The district may bundle or package the loans for transfer to~~
29 ~~private lenders in a manner that would allow the liens to remain in full~~
30 ~~force to secure the loans.~~

31 ~~(f)(1) Before the enactment of an ordinance under this section, a~~
32 ~~public hearing shall be held at which interested persons may object to or~~
33 ~~inquire about the proposed loan program or any of its particulars.~~

34 ~~(2) The public hearing shall be advertised one (1) time per week~~
35 ~~for two (2) consecutive weeks in a newspaper of general circulation in the~~
36 ~~district.~~

1
2 SECTION 5. Arkansas Code Title 8, Chapter 15, is amended to add
3 additional sections to read as follows:

4 8-15-114. Authority to establish direct PACE financing program.

5 (a) A governing body of a governmental entity may:

6 (1) By ordinance establish a PACE program within a designated
7 area to make available property assessed capital expenditure financing for
8 qualifying improvements to the owner or owners of the eligible property from
9 capital providers; and

10 (2) Exercise all powers granted under this chapter.

11 (b) To establish a PACE program under this section, the governmental
12 entity shall adopt an ordinance which includes:

13 (1) A finding that financing of qualified improvements, repaid
14 through special assessments on the eligible property benefitted by the
15 qualifying improvement, is a valid public purpose;

16 (2) A statement that the governmental entity intends to make
17 special assessments to repay financing from capital providers for qualifying
18 improvement projects to voluntary and willing owners of eligible real
19 property;

20 (3) A legal description of the boundaries of the designated area
21 of the program;

22 (4) The incorporation by reference of the program guidebook;

23 (5) A description of the types of qualifying improvements
24 eligible for the PACE program;

25 (6) Authorization of direct financing between an eligible
26 property owner and a capital provider to finance qualifying improvements;

27 (7) Authorization and direction for a governmental entity
28 official to enter into a special assessment agreement with the owner of
29 eligible property and a capital provider, impose special assessments, and
30 assign the rights to the special assessment liens and payments for special
31 assessments authorized under this chapter to capital providers;

32 (8) Designation of a program administrator;

33 (9) A requirement that the interest rate, delinquent interest,
34 penalties, terms of prepayment, and other terms of a PACE program special
35 assessment shall be established by a capital provider in the related special
36 assessment financing agreement for the assessment;

1 (10) The establishment of allowable dates for the payment of
 2 installments of a special assessment, including without limitation provisions
 3 for differing optional time periods over which installments of the special
 4 assessments may be paid, which shall be consistent with the payment dates for
 5 property taxes or other assessments due to the county in which the eligible
 6 property is located; and

7 (11) Direction to the treasurer of the county in which the
 8 eligible property is located to include a special assessment imposed under
 9 this section on the property tax bill or a stand-alone bill for the eligible
 10 property subject to the special assessment financing agreement and to collect
 11 the special assessment at times described in the financing agreement and as
 12 provided for in the establishment ordinance.

13 (c) A governmental entity may:

14 (1) Administer a program; or

15 (2) Delegate administration of a program to a third party under
 16 § 8-15-116.

17 (d)(1) If the program provides for third-party administration, the
 18 local government official authorized to enter into a written contract with a
 19 property owner under § 8-15-114(b)(7) shall also enter into a written
 20 contract with the party that administers the program.

21 (2) The contract shall require the third party to reimburse the
 22 local government for costs associated with:

23 (A) Monitoring the program;

24 (B) Imposing the assessment; and

25 (C) Billing and collecting payments.

26 (e) The financing for special assessments imposed under the PACE
 27 program may include without limitation:

28 (1) The cost of materials and labor necessary for the
 29 installation or modification of a qualified improvement;

30 (2) Permit fees;

31 (3) Inspection fees;

32 (4) Lender fees;

33 (5) Program application and administrative fees;

34 (6) Project development and engineering fees;

35 (7) Interest reserves;

36 (8) Capitalized interest, in an amount determined by the owner

1 of the commercial property and the third-party providing financing under this
2 chapter; and

3 (9) Other fees or costs incurred by the property owner
4 incidental or ancillary to the installation, modification, or improvement on
5 a specific or pro rata basis, as determined by the local government.

6 (f) Notes and other financial instruments issued under this section
7 are:

8 (1) Not general obligations of the local government; and

9 (2) Solely payable from special assessments on eligible property
10 benefited by the qualifying improvements.

11 (g)(1) A program administrator or governmental entity may impose a
12 one-time administration fee for approved applications.

13 (2) Fees under subdivision (d)(1) of this section shall be
14 limited to the lessor of:

15 (A) One percent (1%) of the principal amount financed; or

16 (B) Fifty thousand dollars (\$50,000).

17 (h) The governmental entity shall assign the right to payments from a
18 special assessment from the owner of eligible property with a qualifying
19 improvement to the capital provider who finances the qualifying improvement.

20 (i) Before entering into a special assessment financing agreement
21 under this section, an owner of eligible property shall submit a PACE project
22 application to the program administrator in a form consistent with the
23 program guidebook, which shall include:

24 (1) Certification that the proposed qualifying improvement meets
25 the guidelines established in the program guidebook;

26 (2) Certification that the owner requesting the proposed
27 qualifying improvement is the owner of record of the property on which the
28 special assessment will be imposed and that there are no delinquent taxes or
29 special assessments on the property; and

30 (3) The name of the capital provider providing the special
31 assessment financing and the proposed terms of the special assessment
32 financing agreement, including:

33 (A) The special assessment financing amount;

34 (B) The interest rate;

35 (C) Any administrative fees paid to the governmental
36 entity or program administrator;

1 (D) A schedule of the installments of the special
2 assessment;

3 (E) The number of years the special assessment shall be
4 imposed on the eligible property;

5 (F) Delinquent interest and penalties; and

6 (G) The conditions by which the owner may prepay and
7 permanently satisfy the debt owed under the special assessment financing
8 agreement and remove the special assessment lien from the property.

9 (j) Before entering into a special assessment agreement or imposing a
10 special assessment lien upon an eligible property, the governmental entity
11 shall receive from the program administrator certification that the proposed
12 qualifying improvement, eligible property, and owner qualify for financing
13 under the PACE program.

14
15 8-15-115. Collection of PACE program assessments.

16 (a)(1) A PACE program special assessment payment shall be collected in
17 a manner and at times specified under the PACE program establishment
18 ordinance and as set forth in the financing agreement.

19 (2) Money derived from the imposition and collection of a PACE
20 program special assessment payment shall be kept separate from other county
21 funds.

22 (3) Each PACE program special assessment payment received by the
23 county shall be promptly remitted to the capital provider financing the
24 qualifying improvement on the eligible property upon which the special
25 assessment lien has been levied.

26 (b)(1) In order to secure PACE program financing authorized under this
27 chapter, a governmental entity or district shall enter into a special
28 assessment agreement with an owner of eligible property, and a capital
29 provider in the case of direct PACE program financing, and shall subsequently
30 record a special assessment lien equal in value to the total PACE financing
31 amount against the eligible property where a qualifying improvement is
32 installed.

33 (2) The special assessment lien shall attach to the eligible
34 property when it is filed in the county recorder's office in the county in
35 which the eligible property is located for record.

36 (3) The recording of the special assessment lien shall include:

- 1 (A) The legal description of the eligible property;
 2 (B) The county assessor's parcel number of the eligible
 3 property;
 4 (C) The grantor's name, which shall be the same as the
 5 owner on the special assessment agreement;
 6 (D) The grantee's name, which shall be the county in which
 7 the eligible property is located;
 8 (E) The date on which the special assessment lien was
 9 created;
 10 (F) The principal amount of the special assessment lien;
 11 (G) The terms and length of the special assessment lien;
 12 and
 13 (H) A copy of the special assessment financing agreement.
 14 (c) The priority of a special assessment lien created under this
 15 chapter shall be superior to all other liens, claims, and titles except for a
 16 lien for general ad valorem property taxes or a district lien that is coequal
 17 to property taxes.
 18 (d) A governmental entity or district shall remove the special
 19 assessment lien from the property and record a discharge of the special
 20 assessment lien created under this chapter upon full payment of the special
 21 assessment lien.
 22 (e) If the eligible property is sold, the:
 23 (1) Special assessment lien runs with the land and shall stay
 24 attached to the eligible property; and
 25 (2) Remaining special assessment financing created under this
 26 chapter is owed according to the term of the financing agreement by the new
 27 eligible property owner.
 28 (f) If the eligible property enters into default or foreclosure:
 29 (1) Payment of the special assessment shall not be sought from
 30 the governmental entity or a member of the district who does not own the
 31 eligible property that entered into default or foreclosure;
 32 (2) The special assessment lien runs with the land, and that
 33 portion of the special assessment lien that has not yet become due is not
 34 accelerated or eliminated by the foreclosure or default of the special
 35 assessment lien or any lien for taxes or assessments imposed by the state, a
 36 local government, or district against the eligible property on which the

1 special assessment lien is imposed; and

2 (3) The balance of the special assessment shall be repaid
3 according to the terms of the agreed-upon schedule in the financing
4 agreement.

5 (i) Delinquent payments due on a special assessment incur interest and
6 penalties as specified in the financing agreement.

7 (j) Delinquent payments due on special assessments shall be enforced
8 in the event of nonpayment of the special assessment or an installment of a
9 special assessment.

10 (k) Delinquent payments due on special assessments have the effect of
11 a delinquent mortgage payment and shall be foreclosed and sold in the manner
12 provided by law for the foreclosure of mortgages on eligible property.

13 (l) The county in which an eligible property is located shall
14 institute proceedings to foreclose the special assessment lien against the
15 eligible property for which payment of the special assessment or installment
16 of the special assessment is delinquent.

17 (m) In an action seeking the foreclosure of a special assessment lien
18 against an eligible property, if there is no other purchaser for the eligible
19 property having a delinquent special assessment, the county in which the
20 eligible property is located may:

21 (1) Offer the eligible property to the capital provider if all
22 outstanding taxes are paid by the capital provider;

23 (2) Purchase the property sold at a foreclosure sale; or

24 (3) Bid, in lieu of cash, the full amount of the assessment,
25 interest, penalties, attorney's fees and costs found by the court to be due
26 and payable under the special assessment lien, and any costs taxed by the
27 court in the foreclosure proceedings against the eligible property ordered
28 sold.

29 (n) If a county fails or refuses to foreclose and sell an eligible
30 property for the delinquent installments due on a special assessment
31 following delinquency of a special assessment payment, the capital provider
32 who financed the qualifying improvement for the eligible property may
33 initiate foreclosure of the special assessment lien for the delinquent
34 special assessment installments in the manner provided by law for the
35 foreclosure of mortgages on real estate.

36 (o) Whenever a county is delinquent in the remittance of a special

1 assessment payment received from an owner of eligible property to a capital
 2 provider who financed the qualifying improvement for the eligible property,
 3 the capital provider who financed the qualifying improvement for the eligible
 4 property has the rights and remedies for the collection and remittance of the
 5 special assessment as are given by law for the collection of judgments
 6 against cities, counties, and school districts.

7
 8 SECTION 6. Arkansas Code §§ 8-15-114 – 8-15-119 are amended to read as
 9 follows:

10 8-15-114 116. Program guidelines.

11 The governmental entity or the board of directors of ~~a property~~
 12 ~~assessed energy improvement~~ a district, together with any third-party
 13 administrator it may select, shall determine+

14 ~~(1) The~~ the guidelines of the PACE program as outlined in the
 15 program guidebook, including without limitation ~~that~~:

16 ~~(A)(1) The base energy performance evaluation~~ A statement
 17 outlining what constitutes a qualifying improvement and that any
 18 certification requirements for the improvements shall be completed by a
 19 certified and qualified ~~energy evaluation~~ professional ~~to determine existing~~
 20 ~~energy use and options for improved energy efficiency;~~

21 ~~(B) The approved improvements create a positive cash flow;~~

22 ~~(C)(2) Work~~ A requirement that the installation of a qualifying
 23 improvement shall be performed by qualified and certified contractors ~~in the~~
 24 ~~field of energy efficiency and methods of renewable energy installation;~~

25 ~~(D)(3) Performance testing and verification~~ A requirement that
 26 certification of qualifying improvement installation shall be ~~performed by a~~
 27 ~~qualified professional~~ submitted to the program administrator after the work
 28 is completed;

29 ~~(E) Adequate consumer protections are in place; and~~

30 ~~(F)(4) The applicable underwriting standards for the~~
 31 participants in the PACE program ~~are established;~~

32 ~~(2) The qualifications of the vendors performing installations~~
 33 ~~under this chapter;~~

34 ~~(3)(5) The mechanisms by which the~~ governmental entity or
 35 district will remit the received special assessment payments and any cost
 36 reimbursement; ~~and~~

1 (6) Forms for the uniform PACE program documents, including
2 without limitation:

3 (A) A form for an assessment contract between the
4 governmental entity and the property owner specifying:

5 (i) The terms of assessment under the program
6 financing provided by a third party; and

7 (ii) Remedies for default or foreclosure;

8 (B) A form for a governmental entity notice of assessment
9 and PACE program special assessment lien;

10 (C) A form for a notice of assignment of assessment and
11 PACE program special assessment lien between a local government and a capital
12 provider;

13 (D) A form of consent to a PACE program special assessment
14 by the holder of a mortgage or deed of trust; and

15 (E) A form of project application with checklist
16 requirements and corresponding documentation that will be required by the
17 program administrator to approve a project application;

18 (7) A statement that the term of the special assessment
19 financing agreement will not exceed the average useful life of the longest-
20 lived qualifying improvement;

21 (8) A requirement that the debt service coverage ratio of the
22 secured property participating in a PACE program, including without
23 limitation PACE program special assessments from the PACE program, shall have
24 a minimum average ratio over the term of the PACE program financing of
25 1.20:1, with the debt coverage ratio formula calculated by taking the net
26 operating income of the property participating in the PACE program and
27 dividing it by total debt service plus PACE program special assessments;

28 (9) A requirement that the aggregate of any mortgages and
29 assessments taken under a PACE program shall not exceed the supervisory loan-
30 to-value guidelines established in 12 C.F.R Part 34, Subpart D, as it existed
31 on January 1, 2025;

32 (10) A statement explaining the mortgage lien holder consent
33 requirement under § 8-15-121; and

34 ~~(4)~~(11) Any other matters necessary to implement and administer
35 the PACE program.

36

1 8-15-~~115~~ 117. Payment by special assessments.

2 The credit and taxing power of the State of Arkansas shall not be
3 pledged for the debt evidenced by the PACE program liens or bonds, which are
4 payable solely from the revenues received from the special assessments on the
5 ~~participants' real property~~ eligible property receiving financing for a
6 qualifying improvement under this chapter.

7
8 8-15-~~116~~ 118. Bonds.

9 (a) A ~~property assessed energy improvement~~ district may:

10 (1) Issue bonds to provide the PACE program ~~loans~~ financings
11 authorized by this chapter; and

12 (2) Create a debt reserve fund of legally available moneys from
13 nonstate sources as partial security for the bonds.

14 (b) Bonds issued under this chapter and income from the bonds,
15 including any profit made on the sale or transfer of the bonds, are exempt
16 from taxation in this state.

17 (c) Bonds issued under this chapter shall:

18 (1)(A) Be authorized by a resolution of the board of directors
19 of a district.

20 (B) The authorizing bond resolution may contain any terms,
21 covenants, and conditions that the board of directors deems to be reasonable
22 and desirable; and

23 (2) Have all of the qualities of and shall be deemed to be
24 negotiable instruments under the laws of the State of Arkansas.

25
26 8-15-~~117~~ 119. Sale of bonds by districts.

27 The bonds may be sold in such a manner, either at public or private
28 sale, and upon such terms as the board of directors of a ~~property assessed~~
29 ~~energy improvement~~ district shall determine to be reasonable and expedient
30 for effectuating the purposes of this chapter.

31
32 8-15-~~118~~ 120. Revolving fund for districts.

33 (a) A ~~property assessed energy improvement~~ district may maintain a
34 revolving fund to be held in trust by a banking institution chosen by the
35 board of directors of the district separate from any other funds and
36 administered by the board of directors.

1 (b) A district may transfer into its revolving fund money from any
2 permissible source, including without limitation:

- 3 (1) Bond revenues;
4 (2) Contributions; and
5 (3) ~~Loans~~ Financings.

6
7 8-15-119 121. Notice to mortgage lender Consent from mortgage lien
8 holders.

9 ~~At least thirty (30) days before~~ Before the execution of an ~~agreement~~
10 ~~with a property assessed energy improvement district a PACE program~~
11 ~~assessment contract, an~~ the owner of eligible property shall provide written
12 ~~notice to each mortgage lender holding a lien on the owner's property of the~~
13 ~~owner's application to participate in a PACE program~~ obtain and furnish to
14 the governmental entity or program administrator a written statement executed
15 and acknowledged by an authorized officer of each holder of a mortgage or
16 deed of trust securing indebtedness on the property, in the authorized
17 officer's sole and absolute discretion:

- 18 (1) Consenting to the PACE special assessment; and
19 (2) Indicating that the special assessment does not constitute
20 an event of default under the mortgage or deed of trust.

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