

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: S3/31/25

A Bill

SENATE BILL 448

By: Senators J. Petty, G. Leding

By: Representative Lundstrum

For An Act To Be Entitled

AN ACT TO CREATE JOBS, RETAIN WEALTH, AND GROW
ARKANSAS'S ECONOMY BY ENABLING PROPERTY ASSESSED
CAPITAL EXPENDITURE FINANCING; TO AMEND THE PROPERTY
ASSESSED CLEAN ENERGY ACT; TO AUTHORIZE THE FINANCING
OF ENERGY EFFICIENCY IMPROVEMENTS, ALTERNATIVE ENERGY
IMPROVEMENTS, BUILDING RESILIENCY IMPROVEMENTS, AND
WATER CONSERVATION IMPROVEMENTS; AND FOR OTHER
PURPOSES.

Subtitle

TO AUTHORIZE THE FINANCING OF ENERGY
EFFICIENCY IMPROVEMENTS, ALTERNATIVE
ENERGY IMPROVEMENTS, BUILDING RESILIENCY
IMPROVEMENTS, AND WATER CONSERVATION
IMPROVEMENTS.

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

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

8-15-101. Title.

This chapter shall be known and may be cited as the “Property Assessed ~~Clean Energy~~ Capital Expenditure Act”.

8-15-102. Definitions.

As used in this chapter:

(1)~~(A)~~ “Bond” means a revenue bond or note issued under this



chapter;

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

(2) "Capital provider" means an entity or entities, including without limitation a designee, a successor, or an assignee of the entity or entities, that is authorized to finance or refinance any qualifying improvements under this chapter;

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

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

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

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

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

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

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

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

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

(10) "Program administrator" means:

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

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

(11) "Program guidebook" means a comprehensive document or collection of documents that:

(A) Illustrates the applicable PACE program; and

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

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

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

8-15-103. Legislative findings.

The General Assembly finds that:

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

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

(A) Decreasing the cost of providing funds to

participating citizens and lowering the aggregate issuance and servicing costs of ~~loans~~ financing; and

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

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

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

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

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

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

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

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

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

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

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

8-15-104. Immunity.

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

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

- (1) ~~immunity~~ Immunity from tort is expressly waived in writing;
or
(2) The district or governmental entity acts with gross negligence.

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

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

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

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

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

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

SECTION 2. Arkansas Code § 8-15-106 is amended to read as follows:

8-15-106. Membership in an existing district.

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

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

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

(b) *The agreement between members of a district shall establish the terms and conditions of the operation of the district with the limitations provided in this chapter.*

(c)(1) Notwithstanding §§ 8-15-108 and 8-15-109, the method of appointment and terms of office for each member of the district board of directors may be altered by agreement of participating governmental entities.

(2) In no event shall the district board of directors be composed of fewer than seven (7) members.

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

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

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

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

(a) The board of directors of a ~~property assessed energy improvement~~ district shall consist of at least seven (7) directors.

(b) The board of directors shall include:

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

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

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

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

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

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

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

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

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

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

(B) If the number of directors is fewer than seven (7)

after fulfilling the requirements of subdivision (b)(4)(A) of this section, additional members shall be appointed as specified in the agreement establishing the district until a total of seven (7) directors has been appointed.

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

8-15-109. Terms of district directors.

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

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

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

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

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

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

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

- (1) Issue revenue bonds on behalf of the district;
- (2) Make and adopt all necessary bylaws for its organization and operation;
- (3) Elect officers and employ personnel necessary for its operation;
- (4) Operate, maintain, expand, and fund a PACE ~~project~~ program;
- (5) Apply for, receive, and spend grants for any purpose under this chapter;
- (6) Enter into agreements and contracts on behalf of the

district;

(7) Receive property or funds by gift or donation for the finance and support of the district;

(8) Reimburse a governmental entity for expenses incurred in performing a service for the district;

(9) Assign assessments to a private lending institution; and

(10) Do all things necessary or appropriate to carry out the powers expressly granted or duties expressly imposed under this chapter.

(b) The To offset the actual and reasonable costs of tax billing and collection, the board of directors shall establish and the county officer may accept or reject a reasonable annual fee or one-time-per-project commission to be paid to the county assessor, the county collector, and the county treasurer.

~~(2)(c) Adopt~~ The board of directors shall adopt rules consistent with this chapter or with other legislation that in its judgment may be necessary for the proper enforcement of this chapter.

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

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

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

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

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

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

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

(B) Any indebtedness, including bonded indebtedness, and

the reason for the indebtedness, including the following:

(i) The stated payout or maturity date of the indebtedness, if any; and

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

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

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

(E) The contact information for the district assessor;

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

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

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

(I) A statement itemizing the income and expenditures of the district, including a statement of fund and account activity for the district; and

(J) A statement as to whether assessments of the district are collected publicly or privately.

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

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

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

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

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

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

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

(B) The contact information for the district assessor.

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

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

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

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

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

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

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

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

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

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

(B) The proposed arrangement for the ~~loan~~ financing program, including without limitation:

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

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

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

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

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

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

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

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

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

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

~~(3) The district may not combine the billing for a loan payment required by a contract authorized under this section with a billing of another county or political subdivision unless the county or political~~

~~subdivision has given its consent by a resolution or ordinance.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(f)(1) Before the enactment of an ordinance under this section, a public hearing shall be held at which interested persons may object to or~~

~~inquire about the proposed loan program or any of its particulars.~~

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

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

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

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

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

(2) Exercise all powers granted under this chapter.

(b) To establish a direct financing PACE program under this section, the governing body of the governmental entity shall adopt an ordinance which includes:

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

(2) A statement that the governmental entity acting as a district intends to make special assessments to repay financing or refinancing from capital providers for qualifying improvement projects to voluntary and willing owners of eligible real property;

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

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

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

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

(7) Authorization and direction for a governmental entity official to enter into a special assessment agreement with the owner of eligible property and a capital provider, impose special assessments, and assign the rights to the special assessment liens and payments for special

assessments authorized under this chapter to capital providers;

(8)(A) Designation of a program administrator.

(B) If applicable, the governing body of the governmental entity shall describe any method of procurement that will be used to select and designate a third-party program administrator;

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

(10) Direction to the preparer of tax books of the county in which the eligible property is located to include a special assessment imposed under this section on the property tax bill for the eligible property subject to the special assessment financing agreement and to collect the special assessment with real property taxes.

(c) A governmental entity may:

(1) Administer a program;

(2) Delegate administration of a program to a third party under § 8-15-116 or a governmental entity acting as a district; or

(3) Authorize the private collection of PACE program assessments by the third-party program administrator or capital provider under the terms, at times, and through methods described in the financing agreement.

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

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

(A) Monitoring the program;

(B) Imposing the assessment; and

(C) Billing and collecting payments.

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

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

(2) Permit fees;

(3) Inspection fees;

(4) Lender fees;

(5) Program application and administrative fees;

(6) Project development and engineering fees;

(7) Interest reserves;

(8) Capitalized interest, in an amount determined by the owner of the commercial property and the third-party providing financing under this chapter; and

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

(f)(1) Notes and other financial instruments issued under this section are:

(A) Not general obligations of the governmental entity;

and

(B) Solely payable from special assessments on eligible property benefitted by the qualifying improvements.

(2)(A) The State of Arkansas or a governmental entity shall not use public tax revenue to fund or repay a PACE program assessment.

(B) This section does not authorize a governmental entity to pledge, offer, or encumber its full faith and credit, and a governmental entity shall not pledge, offer, or encumber its full faith and credit under this section.

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

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

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

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

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

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

(1) Certification that the proposed qualifying improvement meets

the guidelines established in the program guidebook;

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

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

(A) The special assessment financing amount;

(B) The interest rate;

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

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

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

(F) Delinquent interest and penalties; and

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

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

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

(a)(1) A PACE program special assessment payment shall be collected in a manner specified in the financing agreement.

(2) Assessments privately collected by a third-party program administrator under § 8-15-114(c)(3) may be collected at times specified by the financing agreement.

(3) Money derived from the imposition and collection of a PACE program special assessment payment shall be accounted for separate from other county funds.

(4) Each PACE program special assessment payment received by the

county shall be promptly remitted to the capital provider financing the qualifying improvement on the eligible property upon which the special assessment lien has been levied.

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

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

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

(A) The legal description of the eligible property;

(B) The county assessor's parcel number of the eligible property;

(C) The grantor's name, which shall be the same as the owner on the special assessment agreement;

(D) The grantee's name, which shall be the governmental entity or district on whose authority the qualifying improvement is approved;

(E) The date on which the special assessment lien was created;

(F) The principal amount of the special assessment lien;

(G) The terms and length of the special assessment lien;

and

(H) A copy of the special assessment financing agreement.

(c) The priority of a special assessment lien created under this chapter shall be superior to all other liens, claims, and titles except for a lien for general ad valorem property taxes or a district lien that is coequal to property taxes.

(d) A governmental entity or district shall remove the special assessment lien from the property and record a discharge of the special assessment lien created under this chapter upon full payment of the special assessment lien.

(e) If the eligible property is sold, the:

(1) Special assessment lien runs with the land and shall stay attached to the eligible property; and

(2) Remaining special assessment financing created under this chapter is owed according to the term of the financing agreement by the new eligible property owner.

(f) If the eligible property enters into default or foreclosure:

(1) Payment of the special assessment shall not be sought from the governmental entity or a member of the district who does not own the eligible property that entered into default or foreclosure;

(2) The special assessment lien runs with the land, and that portion of the special assessment lien that has not yet become due is not accelerated or eliminated by the foreclosure or default of the special assessment lien or any lien for taxes or assessments imposed by the state, a local government, or district against the eligible property on which the special assessment lien is imposed; and

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

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

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

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

(l) The governmental entity or district on whose authority the qualifying improvement was authorized shall institute proceedings to foreclose the special assessment lien against the eligible property for which payment of the special assessment or installment of the special assessment is delinquent.

(m) In an action seeking the foreclosure of a special assessment lien against an eligible property, if there is no other purchaser for the eligible property having a delinquent special assessment lien, the governmental entity or district on whose authority the qualifying improvement was authorized may:

(1) Offer the eligible property to the capital provider if all

outstanding taxes are paid by the capital provider;

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

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

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

(o) Whenever a county is delinquent in the remittance of a special assessment payment received from an owner of eligible property to a capital provider who financed the qualifying improvement for the eligible property, the capital provider who financed the qualifying improvement for the eligible property has the rights and remedies for the collection and remittance of the special assessment as are given by law for the collection of judgments or other matters of local concern against cities, counties, and school districts.

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

8-15-~~114~~ 116. Program guidelines.

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

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

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

~~(B) The approved improvements create a positive cash flow;~~
~~(C)(2) Work A requirement that the installation of a qualifying improvement shall be performed by qualified and certified contractors in the field of energy efficiency and methods of renewable energy installation;~~

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

~~(E) Adequate consumer protections are in place; and~~
~~(F)(4) The applicable underwriting standards for the participants in the PACE program are established;~~

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

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

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

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

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

(ii) Remedies for default or foreclosure;

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Issue bonds to provide the PACE program ~~loans~~ financing authorized by this *chapter or obtain any other financing obligation authorized by this chapter, the laws of the State of Arkansas, or the Arkansas Constitution*; and

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

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

(c) Bonds issued under this chapter shall:

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

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

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

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

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

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

(a) A ~~property-assessed energy-improvement district~~ or a nonprofit corporation acting in concert with a district may maintain a revolving fund to be held in trust by a banking institution chosen by the board of directors of the ~~district~~ or the board of directors of a nonprofit corporation acting in concert with a district separate from any other funds and administered by the board of directors.

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

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

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

~~At least thirty (30) days before~~ Before the execution of an ~~agreement with a property-assessed energy-improvement district~~ a PACE program assessment contract, ~~an~~ the owner of eligible property shall ~~provide written notice to each mortgage lender holding a lien on the owner's property of the owner's application to participate in a PACE program~~ obtain and furnish to the governmental entity or program administrator a written statement executed and acknowledged by an authorized officer of each holder of a mortgage or

deed of trust securing indebtedness on the property, in the authorized officer's sole and absolute discretion:

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

/s/J. Petty