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# Wisconsin Legislative Council

## ACT MEMO

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**2021 Wisconsin Act 175**  
[2021 Senate Bill 692]

**PACE Program Updates**

### **2021 WISCONSIN ACT 175**

2021 Wisconsin Act 175 makes a number of changes to the property assessed clean energy (PACE) program.

Generally, the PACE program allows a city, village, town, or county (political subdivision) to impose a special charge against real property for certain renewable energy and water and energy efficiency projects that are financed by the political subdivision or through an agreement with a third party.

### **ADDITIONAL PROJECTS ELIGIBLE FOR PACE FINANCING**

Act 175 adds the following types of projects to those currently eligible for PACE financing:

- Energy reliability improvement, including improvements that allow for energy storage, backup power generation, and facilitating participation in a microgrid.
- Electric vehicle (EV) infrastructure improvement for facilities used to charge EVs.
- Resiliency improvement, including projects that improve storm and wind durability or wind resistance, assist in fire suppression, or mitigate flood damage.
- Storm water control measure improvement that is designed to mitigate the negative impacts of storm water or other surface runoff. This does not include a rain barrel or cistern designed for temporary storage of precipitation.

The act also defines a renewable resource application improvement as including projects that produce energy through solar thermal electric or photovoltaic energy, derive electricity from a renewable resource as defined in s. 196.378 (1) (h), Stats., and produce natural gas from a manure digestion or other biomass system. Prior law allowed PACE financing for a renewable resource application but did not define the term.

### **CHANGES TO THE REQUIREMENTS FOR PACE-FINANCED PROJECTS**

Act 175 makes the following changes to the requirements of PACE-financed projects:

- A political subdivision must require the owner or lessee to obtain the written consent of all holders of a mortgage of record on the premises as a condition of PACE financing. This requirement does not apply to a project for replacing customer-side water service lines containing lead.
- A political subdivision must require the owner or lessee of the premises to provide verification that the project was properly implemented. This requirement does not apply to a project for replacing customer-side water service lines containing lead.

- The repayment period for PACE financing may not exceed 30 years. Prior law limited the repayment period for a project other than a brownfield revitalization project to 20 years.

## **CHANGES TO PROJECT-SPECIFIC REQUIREMENTS FOR ACCESSING PACE FINANCING**

Act 175 imposes more stringent requirements for a resiliency project where a floodplain zoning ordinance applies. For these projects, if the premises is a nonconforming building, the premises must be brought into compliance with the relevant floodplain ordinance after completion of the project. Also, if the political subdivision where the premises is located participates in the National Flood Insurance Program, the owner or lessee of the premises must maintain for the premises any flood insurance policy required under the program.

The act requires certain PACE-eligible projects to be assessed for their effectiveness. Specifically, an owner or lessee must obtain a third-party assessment of the effectiveness of an energy efficiency or reliability improvement, a water efficiency improvement, or a renewable energy production improvement. Prior law required, for a project costing \$250,000 or more, that the owner or lessee obtain a written guarantee from the project's contractor or engineer that the improvement will generate more in savings than the amount invested, with the contractor or engineer covering any shortfall in savings below the amount invested.

For a project that costs less than \$250,000, the act removes a political subdivision's ability to require a third-party technical review of the project's projected savings as a condition of PACE financing.

## **CHANGES TO THE ADMINISTRATION OF THE PACE PROGRAM**

Act 175 specifies that the "amounts due" under the loan or agreement may be collected as a special charge. Prior law provided that the political subdivision may collect the "loan repayment" as a special charge.

State law provides that PACE financing that is delinquent becomes a lien on the benefitted property at the date of delinquency. The act specifies that the lien runs with land. The act provides that the lien may be enforced by foreclosure and the county's governing body may assign the county's right to take judgment of a parcel subject to foreclosure to a third party that is party to the delinquent loan repayment agreement.

**Effective date:** March 13, 2022

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