



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB1296

Introduced 2/7/2019, by Sen. Melinda Bush

#### SYNOPSIS AS INTRODUCED:

50 ILCS 50/5  
50 ILCS 50/20  
50 ILCS 50/25  
50 ILCS 50/45 new  
50 ILCS 50/50 new  
50 ILCS 50/55 new

Amends the Property Assessed Clean Energy Act. Makes changes adding residential property to the scope of the Act. Modifies the requirements of a report needed to establish a PACE area and requirements before entering into an assessment contract. For program administrators and contracts that finance residential properties of 4 or fewer units: provides for contractor oversight and training for residential properties inside PACE areas; prohibits specified soliciting, advertising, and direct or indirect cash payments or other things of value to property owners; requires a local unit of government and third-party program administrators to develop a disclosure form for homeowners and a right to cancel within 3 business days assessment contracts; and requires an oral confirmation call to property owners with specified minimum requirements for the call. Effective immediately.

LRB101 07063 AWJ 52100 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Property Assessed Clean Energy Act is  
5 amended by changing Sections 5, 20, and 25 and by adding  
6 Sections 45, 50, and 55 as follows:

7 (50 ILCS 50/5)

8 Sec. 5. Definitions. As used in this Act:

9 "Alternative energy improvement" means the installation or  
10 upgrade of electrical wiring, outlets, or charging stations to  
11 charge a motor vehicle that is fully or partially powered by  
12 electricity.

13 "Assessment contract" means a voluntary written contract  
14 between the local unit of government (or a permitted assignee)  
15 and record owner governing the terms and conditions of  
16 financing and assessment under a program.

17 "Authority" means the Illinois Finance Authority.

18 "PACE area" means an area within the jurisdictional  
19 boundaries of a local unit of government created by an  
20 ordinance or resolution of the local unit of government to  
21 provide financing for energy projects under a property assessed  
22 clean energy program. A local unit of government may create  
23 more than one PACE area under the program, and PACE areas may

1 be separate, overlapping, or coterminous.

2 "Energy efficiency improvement" means equipment, devices,  
3 or materials intended to decrease energy consumption or promote  
4 a more efficient use of electricity, natural gas, propane, or  
5 other forms of energy on property, including, but not limited  
6 to, all of the following:

7 (1) insulation in walls, roofs, floors, foundations,  
8 or heating and cooling distribution systems;

9 (2) storm windows and doors, multi-glazed windows and  
10 doors, heat-absorbing or heat-reflective glazed and coated  
11 window and door systems, and additional glazing,  
12 reductions in glass area, and other window and door system  
13 modifications that reduce energy consumption;

14 (3) automated energy control systems;

15 (4) high efficiency heating, ventilating, or  
16 air-conditioning and distribution system modifications or  
17 replacements;

18 (5) caulking, weather-stripping, and air sealing;

19 (6) replacement or modification of lighting fixtures  
20 to reduce the energy use of the lighting system;

21 (7) energy controls or recovery systems;

22 (8) day lighting systems;

23 (8.1) any energy efficiency project, as defined in  
24 Section 825-65 of the Illinois Finance Authority Act; and

25 (9) any other installation or modification of  
26 equipment, devices, or materials approved as a utility

1 cost-savings measure by the governing body.

2 "Energy project" means the installation or modification of  
3 an alternative energy improvement, energy efficiency  
4 improvement, or water use improvement, or the acquisition,  
5 installation, or improvement of a renewable energy system that  
6 is affixed to a stabilized existing property (including new  
7 construction).

8 "Governing body" means the county board or board of county  
9 commissioners of a county, the city council of a city, or the  
10 board of trustees of a village.

11 "Local unit of government" means a county, city, or  
12 village.

13 "Permitted assignee" means (i) any body politic and  
14 corporate, (ii) any bond trustee, or (iii) any warehouse  
15 lender, or any other assignee of a local unit of government  
16 designated in an assessment contract.

17 "Person" means an individual, firm, partnership,  
18 association, corporation, limited liability company,  
19 unincorporated joint venture, trust, or any other type of  
20 entity that is recognized by law and has the title to or  
21 interest in property. "Person" does not include a local unit of  
22 government or a homeowner's or condominium association, but  
23 does include other governmental entities that are not local  
24 units of government.

25 "Program administrator" means a for-profit entity or  
26 not-for-profit ~~not for profit~~ entity that will administer a

1 program on behalf of or at the discretion of the local unit of  
2 government. It or its affiliates, consultants, or advisors  
3 shall have done business as a program administrator or capital  
4 provider for a minimum of 18 months and shall be responsible  
5 for arranging capital for the acquisition of bonds issued by  
6 the local unit of government or the Authority to finance energy  
7 projects.

8 "Property" means privately-owned residential, commercial,  
9 industrial, ~~non-residential~~ agricultural, or multi-family ~~(of~~  
10 ~~5 or more units)~~ real property located within the local unit of  
11 government, but does not include property owned by a local unit  
12 of government or a homeowner's or condominium association.

13 "Property assessed clean energy program" or "program"  
14 means a program as described in Section 10.

15 "Record owner" means the person who is the titleholder or  
16 owner of the beneficial interest in property.

17 "Renewable energy resource" includes energy and its  
18 associated renewable energy credit or renewable energy credits  
19 from wind energy, solar thermal energy, photovoltaic cells and  
20 panels, biodiesel, anaerobic digestion, and hydropower that  
21 does not involve new construction or significant expansion of  
22 hydropower dams. For purposes of this Act, landfill gas  
23 produced in the State is considered a renewable energy  
24 resource. The term "renewable energy resources" does not  
25 include the incineration or burning of any solid material.

26 "Renewable energy system" means a fixture, product,

1 device, or interacting group of fixtures, products, or devices  
2 on the customer's side of the meter that use one or more  
3 renewable energy resources to generate electricity, and  
4 specifically includes any renewable energy project, as defined  
5 in Section 825-65 of the Illinois Finance Authority Act.

6 "Warehouse fund" means any fund established by a local unit  
7 of government, body politic and corporate, or warehouse lender.

8 "Warehouse lender" means any financial institution  
9 participating in a PACE area that finances an energy project  
10 from lawfully available funds in anticipation of issuing bonds  
11 as described in Section 35.

12 "Water use improvement" means any fixture, product,  
13 system, device, or interacting group thereof for or serving any  
14 property that has the effect of conserving water resources  
15 through improved water management or efficiency.

16 (Source: P.A. 100-77, eff. 8-11-17; 100-980, eff. 1-1-19;  
17 revised 9-28-18.)

18 (50 ILCS 50/20)

19 Sec. 20. Report. The report on the proposed program  
20 required under Section 15 shall include all of the following:

21 (1) a form of assessment contract between the local  
22 unit of government and record owner governing the terms and  
23 conditions of financing and assessment under the program.

24 (2) identification of an official authorized to enter  
25 into an assessment contract on behalf of the local unit of

1 government;

2 (3) a maximum aggregate annual dollar amount for all  
3 financing to be provided by the applicable program  
4 administrator under the program;

5 (4) an application process and eligibility  
6 requirements for financing energy projects under the  
7 program;

8 (5) a method for determining interest rates on  
9 assessment installments, repayment periods, and the  
10 maximum amount of an assessment;

11 (6) an explanation of how assessments will be made and  
12 collected;

13 (7) a plan to raise capital to finance improvements  
14 under the program pursuant to the sale of bonds, subject to  
15 this Act or the Special Assessment Supplemental Bond and  
16 Procedures Act, or alternatively, through the sale of bonds  
17 by the Authority pursuant to subsection (d) of Section  
18 825-65 of the Illinois Finance Authority Act;

19 (8) information regarding all of the following, to the  
20 extent known, or procedures to determine the following in  
21 the future:

22 (A) any revenue source or reserve fund or funds to  
23 be used as security for bonds described in paragraph  
24 (7); and

25 (B) any application, administration, or other  
26 program fees to be charged to record owners

1 participating in the program that will be used to  
2 finance costs incurred by the local unit of government  
3 as a result of the program;

4 (9) a requirement that the term of an assessment not  
5 exceed the useful life of the energy project paid for by  
6 the assessment; provided that the local unit of government  
7 may allow projects that consist of multiple improvements  
8 with varying lengths of useful life to have a term that is  
9 no greater than the improvement with the longest useful  
10 life;

11 (10) a requirement for an appropriate ratio of the  
12 amount of the assessment to the assessed value of the  
13 property or market value of the property as determined by  
14 an automated valuation model provided by a third-party  
15 vendor or by a recent appraisal no older than 12 months;

16 ~~(11) a requirement that the record owner of property~~  
17 ~~subject to a mortgage obtain written consent from the~~  
18 ~~mortgage holder before participating in the program;~~

19 (11) ~~(12)~~ provisions for marketing and participant  
20 education;

21 (12) ~~(13)~~ provisions for an adequate debt service  
22 reserve fund, if any; and

23 (13) ~~(14)~~ quality assurance and antifraud measures.

24 (Source: P.A. 100-77, eff. 8-11-17; 100-980, eff. 1-1-19.)



1           Sec. 25. Contracts with record owners of property.

2           (a) After creation of a program and PACE area, a record  
3 owner of property within the PACE area may apply with the local  
4 unit of government or its program administrator or  
5 administrators for funding to finance an energy project.

6           (b) A local unit of government may impose an assessment  
7 under a property assessed clean energy program only pursuant to  
8 the terms of a recorded assessment contract with the record  
9 owner of the property to be assessed.

10          (c) Before entering into an assessment contract with a  
11 record owner under a program, the local unit of government  
12 shall verify all of the following:

13                   (1) that the property is within the PACE area;

14                   (2) that there are no delinquent taxes, special  
15 assessments, or water or sewer charges on the property;

16                   (3) that there are no delinquent assessments on the  
17 property under a property assessed clean energy program;

18                   (4) there are no involuntary liens on the property,  
19 including, but not limited to, construction or mechanics  
20 liens, lis pendens or judgments against the record owner,  
21 environmental proceedings, or eminent domain proceedings;

22                   (5) that no notices of default or other evidence of  
23 property-based debt delinquency have been recorded and not  
24 cured;

25                   (6) that the record owner is current on all mortgage  
26 debt on the property, the record owner has not filed for

1 bankruptcy in the last 2 years, and the property is not an  
2 asset to a current bankruptcy.

3 (7) all work requiring a license under any applicable  
4 law to make a qualifying improvement shall be performed by  
5 a registered contractor that has agreed to adhere to a set  
6 of terms and conditions through a process established by  
7 the local unit of government.

8 (8) the contractors to be used have signed a written  
9 acknowledgement that the local unit of government will not  
10 authorize final payment to the contractor until the local  
11 unit of government has received written confirmation from  
12 the record owner that the improvement was properly  
13 installed and is operating as intended; provided, however,  
14 that the contractor retains all legal rights and remedies  
15 in the event there is a disagreement with the owner;

16 (9) that the amount of the assessment in relation to  
17 the greater of the assessed value of the property or the  
18 appraised value of the property, as determined by a  
19 licensed appraiser, does not exceed 25%; and

20 (10) a requirement that an assessment of the existing  
21 water or energy use and a modeling of expected monetary  
22 savings have been conducted for any proposed project on  
23 non-residential real property.

24 (d) At least 30 days before entering into an assessment  
25 contract with the local unit of government, the record owner  
26 shall provide to the holders or loan servicers of any existing

1 mortgages encumbering or otherwise secured by the property a  
2 notice of the record owner's intent to enter into an assessment  
3 contract with the local unit of government, together with the  
4 maximum principal amount to be financed and the maximum annual  
5 assessment necessary to repay that amount. ~~7 along with a~~

6 If the record owner is of a commercial property, an  
7 additional request that the holders or loan servicers of any  
8 existing mortgages consent to the record owner subjecting the  
9 property to the program must be included. A verified copy or  
10 other proof of those notices and the written consent of the  
11 existing mortgage holder for the record owner to enter into the  
12 assessment contract and acknowledging that the existing  
13 mortgage will be subordinate to the financing and assessment  
14 agreement and that the local unit of government or its  
15 permitted assignee can foreclose the property if the assessment  
16 is not paid shall be provided to the local unit of government.

17 (e) A provision in any agreement between a local unit of  
18 government and a public or private power or energy provider or  
19 other utility provider is not enforceable to limit or prohibit  
20 any local unit of government from exercising its authority  
21 under this Section.

22 (f) The record owner has signed a certification that the  
23 local unit of government has complied with the provisions of  
24 this Section, which shall be conclusive evidence as to  
25 compliance with these provisions, but shall not relieve any  
26 contractor, or local unit of government, from any potential

1 liability.

2 (g) This Section is additional and supplemental to county  
3 and municipal home rule authority and not in derogation of such  
4 authority or limitation upon such authority.

5 (h) The imposition of any assessment pursuant to this Act  
6 shall be exempt from any other statutory procedures or  
7 requirements that condition the imposition of assessments or  
8 other taxes against a property, except as set forth in this  
9 Act.

10 (Source: P.A. 100-77, eff. 8-11-17; 100-980, eff. 1-1-19.)

11 (50 ILCS 50/45 new)

12 Sec. 45. Contractor oversight and training for residential  
13 property.

14 (a) A program administrator shall not permit contractors or  
15 other third parties to advertise the availability of assessment  
16 contracts that are administered by the program administrator or  
17 to solicit property owners on behalf of the program  
18 administrator unless:

19 (1) the contractor maintains a permit, license, or  
20 registration required for engaging in its business in the  
21 jurisdiction where it operates and maintains the required  
22 bond and insurance coverage for engaging in its business;  
23 and

24 (2) the program administrator obtains the contractor's  
25 written agreement that the contractor or third party will

1 act in accordance with applicable advertising and  
2 marketing laws and regulations and all other applicable  
3 laws.

4 (b) A program administrator shall not provide any direct or  
5 indirect cash payment or other thing of material value to a  
6 contractor or third party in excess of the actual price charged  
7 by that contractor or third party to the property owner for one  
8 or more qualified improvements financed by an assessment  
9 contract.

10 (c) A program administrator shall not provide to a  
11 contractor engaged in soliciting financing agreements on its  
12 behalf any information that discloses the maximum amount of  
13 funds for which a property owner may be eligible for qualifying  
14 improvements or the amount of equity in a property.

15 (d) A program administrator shall not reimburse a  
16 contractor or third party for expenses for advertising and  
17 marketing campaigns and collateral which solely benefit the  
18 contractor. A program administrator may reimburse a  
19 contractor's bona fide and reasonable training expenses  
20 related to PACE area financing if:

21 (1) the training expenses are actually incurred by the  
22 contractor; and

23 (2) the reimbursement is paid directly to the  
24 contractor and is not paid to its salespersons or agents.

25 (e) A program administrator shall not provide any direct or  
26 indirect cash payment or other thing of value to a property

1 owner conditioned upon that property owner entering into an  
2 assessment contract. Programs or promotions that offer reduced  
3 fees or interest rates to property owners are not a "direct or  
4 indirect cash payment or other thing of value" if the reduced  
5 fee or interest rate is reflected in the assessment contract  
6 and the program or promotion is not provided to the property  
7 owner as a cash consideration.

8 (f) A contractor shall not provide a different price for a  
9 project financed under this Section than the contractor would  
10 provide if paid in cash by the property owner.

11 (g) A program administrator shall establish and maintain a  
12 training program for contractors that includes, but is not  
13 limited to, the following topics:

14 (1) Programs and assessment contracts.

15 (2) Disclosures.

16 (3) Ethics.

17 (4) Fraud prevention.

18 (5) Nondiscrimination.

19 (6) Senior financial abuse.

20 (h) This Section only applies to program administrators and  
21 contractors that finance residential properties of 4 or fewer  
22 units. This Section does not apply to commercial, industrial,  
23 multi-family (5 or more units), or agricultural properties.

24 (50 ILCS 50/50 new)

25 Sec. 50. Disclosure form.

1       (a) Every local unit of government or third-party program  
2       administrator shall develop a disclosure form for homeowners  
3       that shall disclose all key financing terms of the assessment  
4       contract, including, but not limited to:

5               (1) the total amount funded, including the cost of the  
6               installed improvements, program fees, and capitalized  
7               interest, if any;

8               (2) the annual tax obligation process and schedule;

9               (3) the annual payment amounts;

10              (4) the term of the assessment;

11              (5) the fixed rate of interest charged;

12              (6) the annual percentage rate;

13              (7) a payment schedule that fully amortizes the amount  
14              financed;

15              (8) the improvements to be installed;

16              (9) that if the property owners sell or refinance their  
17              property, then they may be required by a mortgage lender to  
18              pay off the assessment as a condition of sale or refinance;

19              (10) the penalty that shall be assessed or collected  
20              for prepayment of the assessment, if a prepayment penalty  
21              exists, and the form shall disclose if there is no  
22              pre-payment penalty for the assessment;

23              (11) that any potential utility savings are not  
24              guaranteed and will not reduce the assessment payments or  
25              total assessment amount;

26              (12) that the assessment will be collected along with

1 their property taxes and will result in a lien on their  
2 property from the date of the assessment contract;

3 (13) that the payments will be added to their property  
4 tax bill, and if they pay their property taxes through  
5 their mortgage payment, using an impound account, the  
6 property owners should notify their mortgage lender so that  
7 their monthly mortgage payment can be adjusted to cover  
8 their increased property tax bill;

9 (14) that failure to pay the property assessment may  
10 result in penalties and fees and issuance of a tax sale or  
11 foreclosure that could result in the property owners losing  
12 their home; and

13 (15) that the property owners should seek professional  
14 tax advice if they have questions regarding tax credits,  
15 tax deductibility, or of the tax impact on the assessment  
16 contract or financing agreement.

17 (b) A program administrator shall present the disclosure  
18 form to property owners for acknowledgment prior to the  
19 execution of an assessment contract.

20 (c) A program administrator shall, as a part of its  
21 assessment contract, provide a 3-day right to cancel the  
22 qualifying improvements financing. The 3-day right to cancel  
23 expires on midnight of the fourth day, not including weekends  
24 or holidays, after a property owner signs the assessment  
25 contract. A program administrator shall provide a printed form  
26 for the right to cancel that is presented to the property



1 owners no later than the time of signing of the assessment  
2 contract.

3 (d) The local unit of government shall develop a form to  
4 notify the property owner in writing and to include in the call  
5 procedure in Section 55 that the owner may rescind any  
6 assessment contract entered into pursuant to this Section not  
7 later than 3 days, not including weekends and holidays, after  
8 entering into the agreement. All local units of governments or  
9 third-party program administrators shall provide the form at  
10 the same time as the disclosure form above. The notification  
11 shall be provided to the property owner as a printed copy  
12 unless the property owner agrees to an electronic copy.

13 (e) This Section only applies to program administrators and  
14 contractors that finance residential properties of 4 or fewer  
15 units. This Section does not apply to commercial, industrial,  
16 multi-family (5 or more units), or agricultural properties.

17 (50 ILCS 50/55 new)

18 Sec. 55. Oral confirmation call.

19 (a) Before a property owner executes an assessment  
20 contract, the local unit of government or third-party program  
21 administrator shall:

22 (1) make an oral confirmation that at least one owner  
23 of the property has a copy of the assessment contract  
24 documents with all the key terms completed, the financing  
25 estimate and disclosure form, and the right-to-cancel form

1 with a hard copy available upon request; and

2 (2) make an oral confirmation, in plain language, of  
3 the key terms of the assessment contract with the property  
4 owner on the call or to a verified authorized  
5 representative of the owner on the call and shall obtain  
6 acknowledgment from the property owner on the call to whom  
7 the oral confirmation is given.

8 (b) The oral confirmation shall include, but is not limited  
9 to, all of the following information:

10 (1) At the onset of the call after the determination of  
11 the preferred language of communication, that the property  
12 owner on the call has the right to have other persons  
13 present for the call and an inquiry as to whether the  
14 property owner would like to exercise the right to include  
15 anyone else on the call. This shall occur.

16 (2) The property owner on the call is informed that  
17 they should review the assessment contract, financing  
18 estimate, and disclosure form with all other owners of the  
19 property.

20 (3) The qualified improvement being installed is being  
21 financed by an assessment contract.

22 (4) The total estimated annual costs the property owner  
23 will have to pay under the assessment contract, including  
24 applicable fees.

25 (5) The total estimated average monthly amount of funds  
26 the property owner would have to save in order to pay the

1 annual costs under the assessment contract, including  
2 applicable fees.

3 (6) The term of the assessment contract.

4 (7) That payments on the assessment contract will be  
5 made through an additional annual assessment on the  
6 property and paid either directly to the county tax  
7 collector's office as part of the total annual secured  
8 property tax bill or through the property owner's mortgage  
9 impound account, and that if the property owner pays his or  
10 her taxes through an impound account, he or she should  
11 notify their mortgage lender to discuss adjusting his or  
12 her monthly mortgage payment by the estimated monthly cost  
13 of the assessment contract.

14 (8) That the property will be subject to a lien during  
15 the term of the assessment contract and that the  
16 obligations under the assessment contract may be required  
17 by a mortgage lender to be paid in full before the property  
18 owner sells or refinances the property.

19 (9) That the property owner has disclosed whether the  
20 property has received or is seeking additional PACE area  
21 assessments and has disclosed all other PACE area  
22 assessments or special taxes that are or about to be placed  
23 on the property if known to and understood by the property  
24 owner.

25 (10) That any potential utility savings are not  
26 guaranteed and may not reduce the assessment payments or

1 total assessment amount.

2 (11) That the local unit of government, third-party  
3 program administrator, or contractor do not provide tax  
4 advice, and that the property owner should seek  
5 professional tax advice if he or she has questions  
6 regarding tax credits, tax deductibility, or of other tax  
7 impacts on the PACE area assessment or assessment contract.

8 (12) That the property owner has a 3-day right to  
9 cancel the assessment contract.

10 (13) The estimated date that the first payment will be  
11 due.

12 (c) The program administrator shall comply with the  
13 following when giving the oral confirmation described in  
14 subsections (a) and (b):

15 (1) The program administrator shall record the oral  
16 confirmation in an audio format in accordance with  
17 applicable laws.

18 (2) The program administrator may not comply with the  
19 requirements in subsections (a) and (b) solely through the  
20 use of a prerecorded message or other similar device or  
21 method.

22 (3) Recording of an oral confirmation shall be retained  
23 by the program administrator for at least 5 years from the  
24 time of the recording.

25 (d) The program administrator shall develop additional  
26 procedures to address the needs and concerns of elderly

1 persons.

2 (e) This Section only applies to program administrators and  
3 contractors that finance residential properties of 4 or fewer  
4 units. This Section does not apply to commercial, industrial,  
5 multi-family (5 or more units), or agricultural properties.

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.