



## Legislation Text

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**File #:** 21-0870, **Version:** 1

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### **Agenda Item Name:**

Renewal of Property Assessed Clean Energy Interlocal Agreements

### **Presenter:**

Heather Langford, Sustainability Manager 352-264-6908

Sean McLendon, Strategic Initiatives Manager 352-548-3765

### **Description:**

Renewal of Property Assessed Clean Energy Interlocal Agreements with an ability to pay provision.

### **Recommended Action:**

Approve the renewal of all existing PACE interlocal agreements with the same terms as the current agreements, with the addition of an “Ability to Pay” provision and for a term of five years and authorize the Chair to sign the interlocal agreements after the PACE programs have signed. The “Ability to Pay” provision will be added to each proposed agreement and read as follows:

#### **“Ability to Pay for Residential PACE Assessments**

Before final approval on a financing agreement on residential property, the third-party administrator must reasonably determine that the property owner has an ability to pay the estimated annual assessment. As part of this determination, a property owner’s income may be confirmed using information gathered from reputable third-parties that provide reasonably reliable evidence of the property owner’s household income. Income may not be confirmed solely from a property owner’s statement.”

### **Prior Board Motions:**

December 8, 2015 Regular Board Meeting Agreements with Property Assessed Clean Energy Providers Commissioner Byerly moved to implement the PACE Program for Commercial Properties. The motion carried 5-0. Commissioner Byerly moved to implement the PACE Program for Residential Properties. The motion carried 3-2 with Commissioners Chestnut and Pinkoson voting “Nay”. Commissioner Byerly moved the following:

- 1.A. Approve and authorize the Chair to sign the Third Party Administered Interlocal Agreements, Resolution and other supporting documents to enact a Property Assessed Clean Energy Tuesday, December 8, 2015 - 9:00 A.M. & 5:00 P.M. program in Alachua County for residential and commercial properties.
- 1.B. Accept the finalized PACE Vendor Qualification Criteria, Rights and Responsibilities, and Truth in Lending Documents and direct staff to begin outreach and public education after vendors provides training and orientation of their programs.
2. Staff to provide the Board with a written summary of differences and issues that remain between the County and Florida PACE Funding Industry.

March 22, 2016 Regular Board Meeting Summary of PACE Interlocal Agreement Differences  
Commissioner Byerly moved to direct staff to work with the Florida Pace Funding Agency to resolve the differences of opinion on Items 2,3,6,7,8,11,13,14,and 15 on the staff provided matrix and return to the Board within 30 days with another proposal. Strategic Initiatives Manager Sean McLendon and Commissioner Cornell presented comments. The motion carried 5-0.

April 26, 2016 Regular Board Meeting Consent Agenda: Approve Agreement with Florida PACE Funding Agency Property Assessed Clean Energy Provider, per Sean McLendon.

January 16, 2018 Special Board Meeting: Commissioner Cornell moved the following:  
1. That staff meet with any applicable citizens that have had complaints as well as the Tax Collector's Office and ask each of the related PACE providers to provide a written response as to how those issues have been resolved.  
2. Direct staff to brief the Board within 30 days as to the findings as well any proposed suggestions for improving consumer protections. 3. Request a written response from each of the PACE providers as to whether or not they support the current proposed consumer protection legislation as well as staff's analysis of the legislation. 4. Staff to classify the types problems and repairs and the Board can discuss the issues and possible scope of services based on the responses. Commissioner Byerly and Commissioner Hutchinson presented comments. The motion carried 5-0.

At the May 22, 2018 Regular Board Meeting, Commissioner Byerly moved to direct Staff to negotiate amendments to the Pace Interlocal Agreements to include consumer protections 1, 2, 4 and 5 to the extent that they are already a part of the process. There should be additional disclaimer that reflects the possibility that the payment may increase the borrower's monthly escrow payment. If any agency refuses to enter into a revised Interlocal Agreement then the County will move to terminate the agreement per the termination clause. Staff should return to the Board within 60 days for approval.  
Consumer Protections Referenced in the Motion:

- Better definition to the scope of the Finance Agreement
  - More strictly defined consumer eligibility
  - Clarifications of Fair Market Value
  - Additional steps prior to the execution of the Finance Agreement
- The motion carried 5-0.

At the August 14, 2018 Regular Board Meeting, Commissioner Byerly moved to approve and authorize the Chair to sign all attached Interlocal Agreements and Indemnification Agreements. If any agency refuses to enter into a revised Interlocal Agreement, direct staff to terminate the existing agreement per the termination clause.  
The motion carried 5-0

At the July 9, 2019 Consent Agenda the Board authorized the Chair to sign the indemnification agreements with PACE Funding Group LLC, Twain Financial Partners Holding LLC, and Greenworks Lending LLC.

At the August 13, 2019 Consent Agenda the Board authorized the Chair to sign the indemnification agreements with Renovate America.

At the April 14, 2020 Consent Agenda the Board Authorized the Chair to sign the indemnification

agreements with PACE Funding Group, LLC.

**Fiscal Consideration:**

There are no financial cost to the County.

Staff monitors but does not administer PACE programs. Any administrative oversight or pre/post assessment review will require additional resources.

**Background:**

Property Assessed Clean Energy finance (PACE) is a voluntary finance mechanism for renewable energy, energy efficiency and wind hardening improvements to commercial and residential property repaid as a special assessment annually on the tax bills issued by the County.

This agenda item directs staff to add standardized ability to pay provisions into the residential consumer protection language of the four PACE interlocal agreements.

Language to insert into the interlocal agreements:

**“Ability to Pay for Residential PACE Assessments**

Before final approval on a financing agreement on residential property, the third-party administrator must reasonably determine that the property owner has an ability to pay the estimated annual assessment. As part of this determination, a property owner’s income may be confirmed using information gathered from reputable third-parties that provide reasonably reliable evidence of the property owner’s household income. Income may not be confirmed solely from a property owner’s statement.”

In the previous agreement (2018-2021), the Board of County Commissioners elected to not pursue a residential ability to pay enhancement to consumer protection requirement in the interlocal agreements.

Since 2019, all major PACE programs have introduced the ability to pay requirement for residential applicants.

This agenda item also requests that the Board direct staff to renew the agreements for a term of five years running from October 1, 2021 through September 30, 2026.

The new term of the interlocal agreements with all four PACE programs will go from 2021 to 2025.

PACE was enacted by Florida Statute in 2010 and enabled by local governments via resolution and typically, uses third party administrative programs to run, market and assess properties.

Local governments join together in an authority model to reduce the administrative burden, cost and need to find a funding source by signing on with these bodies.

The Board approved PACE by resolution and interlocal agreements starting in December 2015. In 2017, the Board was made aware of a few citizens that had issues with their PACE assessments. In response to these citizen concerns, the Board directed staff to renegotiate the interlocal agreements with the following enhanced consumer protections categories:

Better definition to the scope of the Finance Agreement  
More strictly defined consumer eligibility  
Clarifications of Fair Market Value

In 2018 the Board signed three-year interlocal agreements with four Property Assessed Clean Energy (PACE) providers with enhanced consumer protections. However, the Board elected to not include an ability to pay provision and explicit credit score/debt to income ratios as categories of enhanced consumer protections.

PACE is one of many financial tools available to citizens to pay for wind hardening and energy related improvements to property. As with any finance mechanism, citizens are encouraged to review the terms, cost of money and overall affordability of property improvements prior to signing any agreement.

When these agreements are signed, Alachua County citizens will have four programs to compare and choose from for PACE financing.

#### Programs

GREEN CORRIDOR PACE (Ygrene);  
FLORIDA GREEN FINANCE AUTHORITY (Renew Financial);  
FLORIDA PACE FUNDING Agency (CounterPointe Energy Solutions);  
Florida Resiliency and Energy District;

Staff monitors but does not administer PACE programs. Any administrative oversight or pre/post assessment review will require additional resources in addition to amendments to existing interlocal agreements.

#### Comprehensive Plan Guidance

##### Energy Element

##### 7.0 Renewable Energy

OBJECTIVE 7.1 Encourage renewable energy production and a countywide system of distributed residential and commercial power generation.

Policy 7.1.2 Alachua County shall pursue implementation of an efficiency and renewable energy financing program, such as a Property Assessed Clean Energy (PACE) program.

##### OBJECTIVE 7.2

Increase the use of solar and other forms of renewable energy by County residents, businesses and agricultural operations.