

2013 -- S 0900 SUBSTITUTE A

=====
LC02393/SUB A
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

—————
A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - PROPERTY ASSESSED CLEAN
ENERGY - RESIDENTIAL PROGRAM

Introduced By: Senators Conley, Pearson, Sosnowski, Miller, and Goodwin

Date Introduced: May 02, 2013

Referred To: Senate Environment & Agriculture

(Administration)

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND
2 CARRIERS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 26.5

4 PROPERTY ASSESSED CLEAN ENERGY - RESIDENTIAL PROGRAM

5 **39-26.5-1. Legislative findings. -- It is hereby found and declared:**

6 (1) Investing in energy efficiency and renewable energy improvements is financially
7 beneficial over time, as well as good for the environment;

8 (2) Upfront costs are a barrier to investments in major energy improvements;

9 (3) There are few financing options available that combine easy qualification, an
10 attractive interest rate, and a relatively long repayment term;

11 (4) Property-Assessed Clean Energy, hereinafter referred to as PACE, is a voluntary
12 financing mechanism which allows homeowners to access affordable, long-term financing for
13 energy upgrades to their property;

14 (5) PACE financing offers incremental special assessment payments that are low and
15 fixed for up to twenty (20) years, with no upfront costs; the PACE special assessment fees
16 transfer to the new owner when a property is sold, or the assessment obligation can be paid in full
17 at transfer; and electricity and fuel bills are lower than they would be without the improvements;

18 and

1 (6) PACE financing will allow Rhode Island cities and towns to contribute in order to
2 help meet community sustainability, greenhouse gas emissions reductions, and energy goals and
3 will provide a valuable service to the citizens of their communities.

4 **39-26.5-2. Definitions.** – As used in this chapter, the following definitions apply:

5 (1) "Dwelling" means a residential structure or mobile home which contains one to four
6 (4) family housing units, or individual units of condominiums or cooperatives.

7 (2) "Eligible net metering system" means a facility generating electricity as defined in
8 section 39-26.4-2.

9 (3) "Eligible renewable energy resources" means resources as defined in section 39-26-5.

10 (4) "Energy efficiency projects" means those projects that are eligible under section 39-1-
11 27.7 or projects that have been defined as eligible in the PACE rules and regulations.

12 (5) "Loan loss reserve fund (LRF)" means funds set aside to cover losses in the event of
13 loan defaults.

14 (6) "Municipality and towns and cities" means any Rhode Island town or city with
15 powers set forth in title 45 of the general laws.

16 (7) "Net metering" means using electricity as defined in section 39-26.4-2.

17 (8) "Office of energy resources" or "office" means the Rhode Island office of energy
18 resources within the department of administration.

19 (9) "PACE assessment" means the special assessment placed on a PACE property in
20 accordance with section 39-26.5-4.

21 (10) "PACE municipality" means a municipality voluntarily designated by its city or
22 town council as a property-assessed clean energy municipality.

23 (11) "PACE property" means any property which is the subject of a written agreement
24 entered into pursuant to section 39-26.5-4.

25 (12) "Project" means a distinct installation of an eligible energy efficiency system or
26 eligible renewable energy net metering system.

27 (13) "Property-Assessed Clean Energy" is a means for qualifying homeowners to finance
28 energy efficiency and renewable energy improvements to their property.

29 **39-26.5-3. Property-assessed clean energy municipality.** -- A town or city council by
30 resolution may designate the municipality as a property-assessed clean energy municipality, also
31 referred to as a "PACE municipality."

32 **39-26.5-4. Written agreements, consent of dwelling owners, energy savings analysis.**
33 -- After January 1, 2014, a PACE municipality may enter into a written agreement with any
34 dwelling owner within the municipality who has:

1 (1) An energy savings analysis approved by the office or an analysis performed under
2 plans approved by the commission pursuant to section 39-1-27.7;

3 (2) An energy efficiency and/or renewable energy project description approved by the
4 office; and

5 (3) A commitment from a financial institution to provide funds to complete the project.

6 The agreement will require the dwelling owner to consent to be subject to the terms of the
7 lien as set forth in section 39-26.5-6.

8 **39-26.5-5. Rights of dwelling owners. --** A dwelling owner who has entered into a
9 written agreement with a municipality under section 39-26.5-4 may enter into a contract for the
10 installation or construction of a project relating to renewable energy as defined in section 39-26-
11 5, or relating to energy efficiency as defined in section 39-1-27.7 or as defined by the office under
12 subsection 39-26.5-8(a).

13 **39-26.5-6. Priority of PACE assessment lien. --** (a) A lien for a PACE assessment shall
14 be: subordinate to all liens on the property in existence at the time the lien for the assessment is
15 filed; subordinate to a first mortgage on the property recorded after such filing; and superior to
16 any other lien on the property recorded after such filing. This subsection shall not affect the status
17 or priority of any other municipal or statutory lien;

18 (b) At the time of a transfer of property ownership, including foreclosure, the past due
19 balances of any special assessment under this chapter shall be due for payment. In the event of a
20 foreclosure action, the past due balances shall include all payments on a PACE assessment that
21 are due and unpaid as of the date of the foreclosure. Unless otherwise agreed, all payments on the
22 PACE assessment that become due after the date of transfer by foreclosure or otherwise shall
23 remain a lien on the PACE property and shall be the responsibility of the transferee.

24 **39-26.5-7. Loan loss reserve fund. --** (a) The office shall contract with an approved
25 financial institution to create a Loan Loss Reserve Fund, (LRF).

26 (b) In the event that there is a foreclosure of a PACE property and the proceeds resulting
27 from a foreclosure are insufficient to pay the past due balances on the PACE assessment, after all
28 superior liens have been satisfied, then payment from the LRF shall be made from the LRF in the
29 amount of the past due balances on the PACE assessment. The LRF shall be administered by the
30 financial institution selected by the office, with the office providing oversight of the LRF.

31 **39-26.5-8. Assistance to municipalities. --** The office shall:

32 (1) Commencing on/or before July 1, 2014 and thereafter, publish on its website a list of
33 the types of eligible energy efficiency and renewable energy projects; and

34 (2) Provide information concerning implementation of this chapter to each municipality

1 that requests such information:

2 (3) Offer administrative and technical assistance to and offer to manage the PACE
3 program on behalf of any PACE municipality that voluntarily participates in the PACE program;
4 and

5 (4) Develop and offer informational resources to help residents make best use of the
6 PACE program.

7 **39-26.5-9. Monitoring, reporting, compliance, underwriting criteria.** -- The office
8 shall determine compliance with the underwriting criteria, standards, and procedures established
9 within this chapter and shall include an accounting of the PACE program in the annual report due
10 on April 15th of each year to the general assembly under subsection 39-2-1.2(k). The report shall
11 describe the implementation and operation of the PACE program including program receipts,
12 disbursements, and earnings.

13 **39-26.5-10. Operations.** -- The PACE program shall operate in accordance with all
14 generally accepted banking practices and real estate practices, except as specifically stated within.

15 **39-26.5-11. Rules and regulations.** -- The office is authorized to promulgate necessary
16 rules and regulations in order to assure that PACE programs shall be successfully instituted in
17 Rhode Island; such rules should ensure that the PACE program does not adversely affect the
18 implementation of any other energy program in whose coordination the office is involved.

19 SECTION 2. This act shall take effect upon passage.

=====
LC02393/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - PROPERTY ASSESSED CLEAN
ENERGY - RESIDENTIAL PROGRAM

- 1 This act would establish a new financing program which would allow homeowners to
- 2 access affordable, long-term financing for energy upgrades to their property.
- 3 This act would take effect upon passage.

=====
LC02393/SUB A
=====