

## Assembly Bill No. 2597

### CHAPTER 614

An act to amend Sections 26052, 26055, 26060, 26061, 26062, and 26063 of the Public Resources Code, relating to energy.

[Approved by Governor September 26, 2014. Filed with Secretary of State September 26, 2014.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2597, Ting. Energy: PACE program.

Existing law authorizes a public agency and a property owner to enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently affixed on real property (PACE financing program).

Existing law requires the California Alternative Energy and Advanced Transportation Financing Authority to establish a Property Assessed Clean Energy (PACE) Reserve program to assist local jurisdictions in financing, among other things, the installation of distributed generation renewable energy sources or energy or water efficiency improvements on residential projects. Existing law requires the authority, in considering the eligibility of a public agency's PACE financing program for assistance under the PACE Reserve program, to consider whether the PACE program provides a loan that is less than 10% of the value of the property.

This bill would require the authority to consider whether a PACE financing program provides financial assistance that is less than 15% of the value of the property, for up to the first \$700,000, and less than 10% of the remaining value of the property above \$700,000, and whether the PACE financing program limits the total mortgage-related debt and PACE financing from exceeding the value of the property.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Property Assessed Clean Energy (PACE) financing programs are voluntary contractual assessment or voluntary special tax programs that finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements.

(b) The PACE risk mitigation program is intended to provide an additional safeguard for both existing and new residential PACE financing programs to expand in California.

(c) The PACE risk mitigation program is intended to remove any additional risk to the first mortgage lender and federal mortgage enterprises, such as Fannie Mae and Freddie Mac, resulting from the existence of a PACE assessment on a property in foreclosure or forced into sale for unpaid taxes.

SEC. 2. Section 26052 of the Public Resources Code is amended to read:

26052. “Applicant” means, for the purposes of Article 2 (commencing with Section 26060), a public agency as defined in paragraph (3) of subdivision (c) of Section 5898.20 of the Streets and Highways Code, or an entity administering a PACE financing program on behalf of and with written consent of a public agency, and, for the purposes of Article 3 (commencing with Section 26070), a financial institution providing a loan pursuant to that chapter to finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements.

SEC. 3. Section 26055 of the Public Resources Code is amended to read:

26055. “PACE program” means a program established by an applicant that is financed by the PACE bond or a PACE assessment regardless of funding sources.

SEC. 4. Section 26060 of the Public Resources Code is amended to read:

26060. (a) The authority shall develop and administer a PACE Reserve program to reduce overall costs to the property owners of PACE bonds issued by an applicant by providing a reserve of no more than 10 percent of the initial principal amount of the PACE bond.

(b) The authority shall develop and administer a PACE risk mitigation program for PACE financing to increase its acceptance in the marketplace and protect against the risk of default and foreclosure.

SEC. 5. Section 26061 of the Public Resources Code is amended to read:

26061. To qualify for assistance pursuant to this chapter, the PACE program shall require all of the following:

(a) The interest rate on the PACE bond does not exceed a percentage as determined by the authority to be appropriate.

(b) Minimum legal financing structure and credit underwriting criteria as determined by the authority are met.

(c) Proceeds of the PACE bonds are used to finance qualified energy and water efficiency, electric vehicle charging infrastructure, and clean energy improvements.

(d) The improvement financed is for a residential project of three units or fewer, or a commercial project that costs less than twenty-five thousand dollars (\$25,000) in total.

SEC. 6. Section 26062 of the Public Resources Code is amended to read:

26062. An applicant shall submit to the authority an application providing a detailed description of the PACE program, a detailed description of the transactional activities associated with the PACE bond issuance, including all transactional costs, information regarding any credit enhancement or insurance associated with the PACE program, and other information deemed necessary by the authority.

SEC. 7. Section 26063 of the Public Resources Code is amended to read: 26063. (a) In evaluating eligibility, the authority shall consider whether the applicant's PACE program includes the following conditions:

- (1) Financing recipients are legal owners of underlying property.
- (2) Financing recipients are current on mortgage and property tax payments.
- (3) Financing recipients are not in default or in bankruptcy proceedings.
- (4) Financing is for less than 15 percent of the value of the property, up to the first seven hundred thousand dollars (\$700,000) of the value of the property, and is for less than 10 percent of the remaining value of the property above seven hundred thousand dollars (\$700,000).
- (5) The property is within the geographical boundaries of the PACE program.
- (6) The program offers financing for energy or water efficiency improvements, electric vehicle charging infrastructure, or clean energy improvements.
- (7) Improvements financed by the program follow applicable standards of energy efficiency retrofit work, including any guidelines adopted by the State Energy Resources Conservation and Development Commission.
- (8) The total mortgage-related debt and PACE financing on the underlying property does not exceed the value of the property.

(b) In evaluating an application, the authority shall consider all of the following factors:

- (1) The use by the PACE program of best practices, adopted by the authority, to qualify eligible properties for participation in underwriting the PACE program.
- (2) The cost efficiency of the applicant's PACE program, including bond issuance, credit enhancement, or insurance.
- (3) The projected number of jobs created by the PACE program.
- (4) The applicant's PACE program requirements for quality assurance and consumer protection as related to achieving efficiency and clean energy production.
- (5) The mechanisms by which savings produced by this program are passed on to the property owners.
- (6) Any other factors deemed appropriate by the authority.