

2024 FLORIDA PACE STATUTE UPDATE

Effective July 1, 2024, the Florida PACE Act was amended by Chapter 2024-273, Laws of Florida, and is now codified in Section 163.08 through Section 163.087, Florida Statutes. The Florida Resiliency and Energy District (the “District”) was created by interlocal agreement in accordance with Section 163.01(7), Florida Statutes and is a separate legal entity within the meaning of Section 163.01, Florida Statutes. Pursuant to the PACE Act, FRED serves as a “program administrator” in conjunction with the Florida Development Finance Corporation (“FDFC”), which facilitates the financings and serves as the administrator of the FRED commercial PACE (“C-PACE”) program. The FRED C-PACE program is limited to commercial projects.

SUMMARY GENERAL CHANGES

- Residential and Commercial projects are now governed by separate regulations
- New Commercial Program Requirements:
 - Application requirements supported with documentation.
 - C-PACE program must establish underwriting criteria.
 - Consent of lienholders and servicers
 - Completion Certificates kept on record.
 - Disclosure requirements.
 - Record retention requirements.
 - Regulations governing contracts with third-party administrators.
 - Regulations governing unenforceable financing agreements and penalties for qualifying improvement contractors which have initiated work on property under a financing agreement deemed unenforceable.
 - Reporting requirements annually.
 - Operational audits with the Florida Auditor General.
- New Qualified Improvements
 - Waste system improvements
 - Expansion of allowable resiliency improvements
 - Flood and water damage mitigation and resiliency improvements
 - Expansion of energy conservation and efficiency improvements
 - Renewable Energy improvements
 - Water conservation efficiency improvements

- Financial Feasibility Requirements
 - There are sufficient recourses to complete the project.
 - There are no involuntary liens greater than \$5,000, including, but not limited to, construction liens on the commercial property.
 - No notices of default or other evidence of property-based debt delinquency have been recorded and not been released during the preceding 3 years or the property owner’s period of ownership, whichever is less.
 - The property owner is current on all mortgage debt on the commercial property.
 - The term of the financing agreement does not exceed the weighted average useful life of the qualified improvements to which the greatest portion of funds disbursed under the assessment contract is attributable, not to exceed 30 years. The program administrator shall determine the useful life of a qualifying improvement using established standards, including certification criteria from government agencies or nationally recognized standards and testing organizations.
 - The property owner is not currently the subject of bankruptcy proceedings.
 - Whether there are any current financing agreements on the commercial property and whether the property has obtained or sought to obtain additional qualifying improvements on the same property which have not yet been recorded.

- Definition Updates
 - “Commercial property” means real property other than residential property. The term includes, but is not limited to, a property zoned multifamily residential which is composed of five or more dwelling units; and real property used for commercial, industrial, or agricultural purposes.
 - “Property owner” means the owner or owners of record of real property. The term includes real property held in trust for the benefit of one or more individuals, in which case the individual or individuals may be considered as the property owner or owners, provided that the trustee provides written consent. The term does not include persons renting, using, living, or otherwise occupying real property.
 - “Third-party administrator” means an entity under contract with a program administrator pursuant to s. 163.084.

PROGRAM CHANGES IMPLEMENTED BY FDFC

- Updated C-PACE Program Policies and Procedures
- Developed Amendments to the following:
 - Interlocal Agreements
 - Program Administrator Agreement
- Updated Documents:
 - Financing Document Set
 - Closing Certificates
 - Completion Certificate