

# MEMORANDUM

HCCO  
Agenda Item No. 1G4

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**TO:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners



**DATE:** July 17, 2019

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Ordinance related to Property  
Assessed Clean Energy (PACE)  
and consumer protection;  
requiring a PACE Consumer  
Disclosure form as part of the  
application process; providing  
requirements; amending section  
2-2081 of the Code

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The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss and Co-Sponsor Commissioner Jean Monestime.

  
\_\_\_\_\_  
Abigail Price-Williams  
County Attorney 

APW/smm

# Memorandum



**Date:**

**To:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor

A handwritten signature in black ink, appearing to be "Carlos A. Gimenez".

**Subject:** Fiscal Impact - Ordinance Related to Property Assessed Clean Energy (PACE) and  
Consumer Protection; Requiring a PACE Consumer Disclosure Form as part of the  
Application Process

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The implementation of the proposed ordinance will not have a fiscal impact on Miami-Dade County as the purpose of the legislation is to insure that members of the public are provided with a disclosure form that provides key information concerning the PACE program prior to executing any PACE agreements.

A handwritten signature in black ink, appearing to be "Jack Osterholt".

Jack Osterholt  
Deputy Mayor

Fis03819 191141

# Memorandum



**Date:**

**To:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor

A handwritten signature in black ink, appearing to be "Carlos A. Gimenez", written over the name in the "From:" field.

**Subject:** Social Equity Statement for Ordinance Relating Property Assessed Clean Energy  
(PACE) Financing Program

The proposed ordinance relating to the Property Assessed Clean Energy (PACE) financing program amends Section 2-2081 of the Code of Miami-Dade County, requiring a PACE Consumer Disclosure form be provided to consumers as part of the application process prior to entering into any PACE financing agreement.

The PACE financing program is intended to offer an alternative financing mechanism to commercial or residential property owners when deciding how to finance energy improvements and retrofits to their property. The proposed amendments will assist individuals to more fully understand the details of repayment through an annual assessment on the property owner's property tax bill when participating in the PACE program.

These amendments will ensure that the PACE entities provide additional information so that homeowners more clearly understand the total costs of the energy improvements including the financing costs, how those costs will affect the amount owed as part of their annual property tax bill, and that failing to pay the additional assessment could result in the loss of their property.

A handwritten signature in black ink, appearing to be "Jack Osterholt", written over the name in the signature block.

Jack Osterholt  
Deputy Mayor

191141

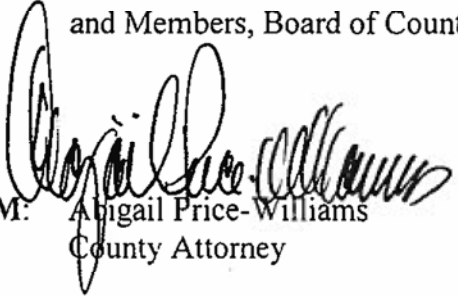


# MEMORANDUM

(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

DATE: May 7, 2019

FROM:   
Abigail Price-Williams  
County Attorney

SUBJECT: Agenda Item No. 4(D)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 4(D)  
5-7-19

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATED TO PROPERTY ASSESSED CLEAN ENERGY (PACE) AND CONSUMER PROTECTION; REQUIRING A PACE CONSUMER DISCLOSURE FORM AS PART OF THE APPLICATION PROCESS; PROVIDING REQUIREMENTS; AMENDING SECTION 2-2081 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, a Property Assessment Clean Energy (PACE) financing program is a financing structure by which commercial or residential property owners may voluntarily opt into a special assessment district to receive a loan to finance energy improvements and retrofits, where those loans are repaid through an annual assessment on the property owner's property tax bill; and

**WHEREAS**, a PACE entity created under section 163.01(7), Florida Statutes is considered a local government under Florida law; Miami-Dade County has entered into four interlocal agreements with different PACE entities which authorize those entities to operate within the unincorporated area of the County; and

**WHEREAS**, those interlocal agreements require the PACE entities to comply with Miami-Dade County ordinances and regulations, as they may be amended, so those PACE entities will be required to comply with the requirements in this ordinance; and

**WHEREAS**, this ordinance requires a PACE Consumer Disclosure form to be provided to consumers before they execute agreements related to PACE, and this PACE Consumer Disclosure form contains key information that may be of assistance to consumers in Miami-Dade County; and

**WHEREAS**, in addition, all four interlocal agreements between Miami-Dade County and the different PACE entities may be terminated by Miami-Dade County for convenience, without cause,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** Section 2-2081 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**Sec. 2-2081. Application.**

As part of the application process, the following information shall be provided and maintained on file with the Administrator:

- (1) Proof of ownership and location of the Property. Organizational documents if the Property owner is not on the title as an individual.
- (2) Documentation showing the structure or building, subject of the application, is an existing structure or building on the date of the application.
- (3) A cost estimate for the installation of the Qualifying Improvements completed by a Contractor (including the name and license number of the Contractor). This estimate shall include all construction costs, equipment, permitting fees, recording fees for the assessment of liens, energy audit costs, and contingency fees. Estimated costs shall be reasonable for the scope of the proposed project and in relation to the property value.
- (4) Written documentation indicating that the Property owner meets all of the criteria set forth in Section 2-2080(3) – (7) above.

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<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

- (5) Statement that the Eligible Participant will agree to a non-ad valorem assessment being collected pursuant to Section 197.3632, Florida Statutes to secure any financing entered into by the Eligible Participant related to the Energy Savings Program.
- (6) Proof that notice was provided to any lender of the Eligible Participant's intent to enter into a written agreement with the Administrator with respect to the Energy Savings Program and in the event of financing, the maximum principal amount to be financed and the maximum annual assessment necessary to repay that amount.
- >>(7) Proof that a complete and accurate PACE Consumer Disclosure form was provided to the Eligible Participant on paper and executed by the Eligible Participant prior to the Eligible Participant entering into any written agreement with respect to the Energy Savings Program. This required PACE Consumer Disclosure form shall be in a form prescribed by the County Mayor or County Mayor's designee, and shall, at a minimum, include the following in boldface 12 point font:

PACE Consumer Disclosure

1. PACE is a program where you can have certain improvements made to your property, and money due for those improvements will appear on your Notice of Proposed Property Taxes, also known as the Truth in Millage (TRIM) Notice and property tax bill in the form of a non-ad valorem assessment (a "PACE assessment"). PACE assessments have a term of up to 30 years, include administrative fees, and are recorded in the public record with the Clerk of Courts.
2. If you do not pay your PACE assessment on time, you could lose your property.
3. This PACE Consumer Disclosure is being made for the property located at \_\_\_\_\_, for the following improvements to your property: \_\_\_\_\_.
4. A cost estimate for the installation of the PACE improvements you selected was completed by the following licensed contractor: \_\_\_\_\_, whose license number is \_\_\_\_\_. This cost estimate includes all construction costs, equipment, permitting fees, recording fees for the assessment of liens, energy audit costs, and contingency fees for the following improvements to the property.
5. In addition to the cost estimate disclosed above in #4, the total amount

- of any additional fees, charges, or costs in connection with this PACE assessment is \_\_\_\_\_.
6. The total PACE assessment is \$ \_\_\_\_\_.
  7. This PACE assessment has a term of \_\_\_\_\_ years. There [are / are not] any penalties for prepayment of this PACE assessment. The prepayment penalties for this PACE assessment are: \_\_\_\_\_.
  8. The interest rate to be charged is \_\_\_\_\_. Over the \_\_\_\_\_ year term of this PACE assessment, at \_\_\_\_\_ % interest, the total cost of this PACE assessment to you will be approximately \_\_\_\_\_.
  9. For this PACE assessment, the estimated amount due each year to the Miami-Dade County Tax Collector for this property is \$ \_\_\_\_\_. This is in addition to what you would otherwise have to pay to the Miami-Dade County Tax Collector in property taxes.
  10. The improvements to your property will be done by the following licensed contractor: \_\_\_\_\_, whose license number is \_\_\_\_\_.
  11. You, the property owner, are responsible for the following: ensuring the contractor engaged obtains all necessary permits for the improvements to your property described above; filing a Notice of Commencement prior to the start of work and posting same at your property; and consulting with your insurance agent regarding liability for damage to persons or property caused by day laborers working onsite. Failure to obtain the necessary permits may include the levy of fines for unpermitted property improvements. For further information, please contact the Miami-Dade County Building Division Contractor Licensing Section at (786) 315-2561.
  12. A mortgage lender could require you to pay off the full amount of the PACE assessment prior to the sale or refinance of the property.
  13. You have been provided a paper copy of this PACE Consumer Disclosure form.

Acknowledged by property owner: \_\_\_\_\_

Signature

Printed name

Date

I, \_\_\_\_\_, am an agent or employee of the following PACE entity: \_\_\_\_\_, and I hereby certify under the penalty of perjury that the required information was filled out accurately by me or another agent or employee of the above-listed PACE entity, that I have provided the filled-out PACE Disclosure Form, in paper form, to the



property owner, and that the property owner signed to acknowledge receipt of this PACE Disclosure Form before the property owner executed any agreement related to PACE.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Date<<

**Section 3.** If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 4.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 5.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

Prepared by:

Abbie Schwaderer-Raurell

Prime Sponsor: Commissioner Dennis C. Moss  
Co-Sponsors: Commissioner Jean Monestime

