

MEMORANDUM

Agenda Item No. 7(A)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: (Second Reading: 7-7-22)
May 3, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to
voluntary Energy Efficiency
and Renewable Energy Program
and Property Assessed Clean
Energy (PACE); creating section
2-2091.1 of the Code; providing
for certain exceptions to
requirements for non-residential
properties and residential
properties with five or more
dwelling units

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Chairman Jose "Pepe" Diaz.



Geri Bonzon-Keenan
County Attorney

GBK/smm

Memorandum



Date: July 7, 2022

To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Fiscal Impact Statement for Ordinance Relating to Voluntary Energy Efficiency and Renewable Energy Program and Property Assessed Clean Energy (PACE)


The proposed changes to the County Code in the ordinance are not anticipated to have any fiscal impact to Miami-Dade County.

A handwritten signature in blue ink, likely belonging to Jimmy Morales.

Jimmy Morales
Chief Operations Officer

Date: July 7, 2022

To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Social Equity Statement for Ordinance Relating to Voluntary Energy Efficiency and Renewable Energy Program and Property Assessed Clean Energy (PACE) Financing Program

The proposed ordinance relating to the Property Assessed Clean Energy (PACE) financing program creates Section 2-2091.1 of the Code of Miami-Dade County (Code), providing for certain exemptions from certain code requirements that currently govern PACE for non-residential property and residential property with five or more dwelling units.

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. More specifically, PACE programs are intended to incentivize expensive investments by offering a long-term financial solution. These investments will directly benefit participating property owners by reducing energy consumption, which will result in reduced energy costs. Property owners also stand to gain from any appreciation in property value as a result of the improvements. These types of property improvements are aligned with the County's sustainability and resiliency goals.

The proposed ordinance provides exemptions, for residential properties with five units or more or for non-residential properties, from seven existing requirements in the Code that govern PACE programs, with the goal of providing more flexibility for larger scale property owners. This may lead to more widespread use of these energy saving programs, which could provide a social equity benefit to the property owner. On the other hand, to the extent that the exemptions result in fewer protections for customers of PACE, there could be some negative impacts, as well. It is recommended that owners of such properties be given clear notice in writing of the exemptions prior to entering into any financing transactions under PACE.



Jimmy Morales
Chief Operations Officer

220900



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: July 7, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(A)

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. 7(A)
7-7-22

ORDINANCE NO. _____

ORDINANCE RELATING TO VOLUNTARY ENERGY EFFICIENCY AND RENEWABLE ENERGY PROGRAM AND PROPERTY ASSESSED CLEAN ENERGY (PACE); CREATING SECTION 2-2091.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR CERTAIN EXCEPTIONS TO REQUIREMENTS FOR NON-RESIDENTIAL PROPERTIES AND RESIDENTIAL PROPERTIES WITH FIVE OR MORE DWELLING UNITS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, a Property Assessed Clean Energy (PACE) financing program is a financing structure by which 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, the County's regulations related to PACE, as set forth in article CXXXVIII of chapter 2, contain numerous provisions that may protect property owners who undertake these financings; and

WHEREAS, property owners who own non-residential or larger scale residential developments with five or more units may desire more flexibility and may wish to forego these additional protections; and

WHEREAS, this Board wishes to provide flexibility to such property owners to allow more widespread use of these energy saving programs,

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

Section 1. The foregoing recitals are incorporated herein and are approved.

Section 2. Section 2-2091.1 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:¹

Sec. 2-2091.1. - Exceptions for non-residential Property and residential Property with five or more dwelling units.

Notwithstanding anything in this article to the contrary, a non-residential property or a residential property with five or more dwelling units shall not be subject to:

- (1) The requirement in section 2-2081(2) to include documentation that the subject of the application is an existing structure or building on the date of application, only to the extent that state law permits the particular Qualifying Improvements to be on new construction;
- (2) The requirement in section 2-2083(5) that the length of time for repayment of the non-ad valorem assessment shall not exceed 30 years, and such length of time for repayment may instead be set at such other length as is consistent with state or federal law;
- (3) The requirement in section 2-2083(9) that the agreement include the estimated completion date and estimated savings for Qualifying Improvements, provided that such estimated savings and estimated completion date are included with the application required by section 2-2081 and maintained on file with the Administrator;
- (4) The requirement in section 2-2083(10) that the agreement include a copy of the Energy Audit, if applicable, provided that such Energy Audit is included with the application required by section 2-2081 and maintained on file with the Administrator;
- (5) The limitations in section 2-2083(13) regarding prepayment penalties;

¹ 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.

- (6) The requirement in section 2-2086(2) that an Energy Audit include a priority ranking for each energy savings measure; and
- (7) The requirement in section 2-2088 that the agreement be recorded in the public records of the County, provided that a summary memorandum of such agreement is recorded in the manner otherwise required by section 2-2088.

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:

Cristina M. Rabionet
Dennis A. Kerbel



Prime Sponsor: Chairman Jose "Pepe" Diaz