



Office of the City Clerk

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Legislation Text

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OFFICE OF THE MAYOR

CITY OF CHICAGO

RAHM EMANUEL MAYOR

June 27, 2018

TO THE HONORABLE, THE CITY COUNCIL OF THE CITY
OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Planning and Development, I transmit herewith ordinance authorizing the establishment of a Property Assessed Clean Energy Program.

Your favorable consideration of this ordinance will be appreciated.

Mayor

Very truly yours,

**AN ORDINANCE ESTABLISHING A PACE AREA AND
ESTABLISHING A PACE PROGRAM TO FINANCE THE
ACQUISITION AND CONSTRUCTION OF ENERGY PROJECTS**

WHEREAS, the City of Chicago, Illinois (the "City") is a municipal corporation and home rule unit of local government of the State of Illinois authorized pursuant to the Property Assessed Clean Energy Act (50 ILCS 50/1 et seq.) (the "PACE Act") to establish a property assessed clean energy program (the "PACE Program"), create a PACE area (as defined in the PACE Act) and finance energy projects (as defined in the PACE Act); and

WHEREAS, pursuant to an Ordinance adopted by the City Council of the City on

, 2018, was designated a Program Administrator (the "Administrator") to assist the City in developing a PACE Program; and

WHEREAS, the Administrator has prepared the report attached hereto as Exhibit A (the "Report") setting forth certain terms of the proposed PACE Program in conformity with the PACE Act; and

WHEREAS, the City now desires to establish the PACE area as the entire corporate limits of the City of Chicago and to establish the PACE Program as further described herein and in the Report and to finance energy projects; and

WHEREAS, any bonds to be issued pursuant to the PACE Act will be approved pursuant to a separate ordinance to be considered at a future meeting of the City Council.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CHICAGO, ILLINOIS, AS FOLLOWS:

Section 1. Incorporation of the Recitals. The Corporate Authorities hereby find that all of the recitals contained in the preambles to this Ordinance are true, correct and complete and are hereby incorporated by reference thereto and are made a part hereof.

Section 2. Report of Administrator; Creation of PACE Area. The Corporate Authorities hereby find as follows:

- a. The financing of energy projects (as defined in the PACE Act) is a valid public purpose and serves an essential governmental function;
- b. The Corporate Authorities intend to facilitate access to capital from a Program Administrator approved by the Corporate Authorities or as otherwise permitted by the PACE Act as it may be amended from time to time, to provide funds for energy projects which will be repaid by assessments on the property benefitted with the agreement of the owners of record of such property;
- c. A description of the territory within the PACE Area, the types of energy projects that may be financed, the description of the proposed arrangements for financing

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the PACE Program through a Program Administrator, and the description of the aspects of the PACE Program which may be amended without further approvals, are all set forth in the Report of attached hereto as Exhibit A which report is hereby incorporated by reference thereto and made a part hereof. The Corporate Authorities of the City hereby approve the Report and hereby establish the PACE area as the corporate limits of the City, all as further described in the Report.

Section 3. No Public Hearing; Program Established. The Corporate Authorities hereby find that no public hearing shall be required in connection with the adoption of the PACE Program and

hereby establish the PACE Program in accordance with the Report.

Section 4. Assessment Contract. The form of Assessment Contract attached as [Exhibit] to the Report is hereby approved. Any one of the Authorized Officers is hereby authorized to negotiate and execute on behalf of the City the terms of the assessment contracts with borrowers meeting the requirements set forth in the Report (the "Assessment Contracts") and upon execution to record such assessment contracts with the Recorder of Deeds of Cook County. Prior to execution of any assessment contract, the Authorized Officer shall make the following determination in a written notification to be filed with the City Clerk:

- i. the property to be assessed is within the PACE area of the City;
- ii. there are no delinquent taxes, special assessments or water or sewer changes on the property to be assessed;
- iii. that there are no delinquent assessments on the property under a property assessed clean energy program;
- iv. there are no involuntary liens on the property, including, but not limited to, construction or mechanics liens, lis pendens or judgments against the record owner, environmental proceedings, or eminent domain proceedings;
- v. that no notices of default or other evidence of property-based debt delinquency have been recorded and not cured;
- vi. that the record owner is current on all mortgage debt on the property, the record owner has not filed for bankruptcy in the last 2 years, and the property is not an asset to a current bankruptcy;
- vii. all work requiring a license under any applicable law to make a qualifying improvement shall be performed by a registered contractor that has agreed to adhere to a set of terms and conditions through a process established by the City and described in the Report;
- viii. the contractors to be used have signed a written acknowledgement that the City will not authorize final payment to the contractor until the local unit of government has received written confirmation from the record owner that the improvement was properly installed and is operating as intended; provided,

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however, that the contractor retains all legal rights and remedies in the event there is a disagreement with the owner;

- ix. that the amount of the assessment in relation to the greater of the assessed value of the property or the appraised value of the property, as determined by a licensed appraiser, does not exceed 25%; and

x. a requirement that an assessment of the existing water or energy use and a modeling of expected monetary savings have been conducted for any proposed project in accordance with the procedures set forth in the Report.

xi. at least 30 days before entering into the assessment contract with the City, the record owner shall have provided to the holders or loan servicers of any existing mortgages encumbering or otherwise securing the property a notice of the record owner's intent to enter into the assessment contract with the City, together with the maximum principal amount to be financed and the maximum annual assessment necessary to repay that amount, along with a request that the holders or loan servicers of any existing mortgages consent to the record owner subjecting the property to the PACE Program. A verified copy or other proof of those notices and the written consent of the existing mortgage holder for the record owner to enter into the assessment contract and acknowledging that the existing mortgage will be subordinate to the financing and assessment agreement and that the City can foreclose the property if the assessment is not paid shall be provided to the City prior to the execution of any Assessment Contract.

Section 5. Enactment. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity or enforceability of the remainder of the sections, phrases and provisions hereof. All ordinances, orders and resolutions and parts thereof in conflict herewith are to the extent of such conflict hereby repealed, and this Ordinance shall take effect and be in full force immediately upon its adoption. No provision of the Municipal Code or violation of any provision of the Municipal Code shall be deemed to impair the validity of this Ordinance or the instruments authorized by this Ordinance or to impair the security for or payment of the instruments authorized by this Ordinance; provided further, however, that the foregoing shall not be deemed to affect the availability of any other remedy or penalty for any violation of any provision of the Municipal Code.

A copy of this Ordinance shall be published in pamphlet form, filed in the office of the Clerk of the City and made available for public inspection.

This Ordinance shall become effective upon its passage and approval.

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EXHIBIT A

Report of Program Administrator

[TO BE INSERTED]

EXHIBIT B

Description of Energy Projects to be Financed [TO BE INSERTED]

EXHIBIT C

Form of Documents [TO BE INSERTED]