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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 1377

02/16/2017 Authored by O'Driscoll, Hilstrom, Vogel, Hornstein, Barr, R., and others
The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform
03/02/2017 Adoption of Report: Amended and re-referred to the Committee on Government Operations and Elections Policy

1.1 A bill for an act
1.2 relating to energy; establishing a stakeholder group to develop recommendations
1.3 for consumer protections relating to residential PACE financing; suspending
1.4 authorization for residential PACE financing; requiring a report; amending
1.5 Minnesota Statutes 2016, section 216C.435, by adding a subdivision.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2016, section 216C.435, is amended by adding a subdivision
1.8 to read:

1.9 Subd. 7a. Multifamily residential dwelling. "Multifamily residential dwelling" means
1.10 a residential dwelling containing five or more units intended for use as a residence by tenants
1.11 or lessees of the owner.

1.12 Sec. 2. CONSUMER PROTECTIONS FOR RESIDENTIAL PACE FINANCING
1.13 PROGRAMS.

1.14 Subdivision 1. Establishment. The commissioner of commerce shall convene a group
1.15 of interested stakeholders to develop recommendations for consumer protection legislation
1.16 for any energy improvements financing program implemented under Minnesota Statutes,
1.17 sections 216C.435 and 216C.436, for single-family or multifamily residential dwellings.
1.18 For purposes of this section, "residential PACE" or "PACE" means energy improvement
1.19 financing programs for single-family or multifamily residential dwellings authorized under
1.20 Minnesota Statutes, sections 216C.435 and 216C.436.

1.21 Subd. 2. Stakeholder group. Membership of the group shall include, but is not limited
1.22 to, representatives from each of the following:

- 2.1 (1) the Minnesota Association of Realtors;
- 2.2 (2) the Center for Energy and Environment;
- 2.3 (3) the Minnesota Bankers Association;
- 2.4 (4) the Legal Services Advocacy Project;
- 2.5 (5) the Minnesota Credit Union Network;
- 2.6 (6) the Minnesota Solar Energy Industry Association;
- 2.7 (7) the St. Paul Port Authority;
- 2.8 (8) the League of Minnesota Cities; and
- 2.9 (9) an organization with experience implementing residential PACE programs in other  
2.10 states.
- 2.11 Subd. 3. **Duties.** In consultation with the stakeholder group, the commissioner must  
2.12 develop recommendations, including draft legislation, to:
- 2.13 (1) address concerns regarding the possible constraints on free alienation of residential  
2.14 property caused by existence and amount of the PACE liens;
- 2.15 (2) reduce and minimize any point-of-sale confusion in transactions involving  
2.16 PACE-encumbered homes;
- 2.17 (3) ensure conspicuous and meaningful disclosure of, among other things:
- 2.18 (i) all costs and fees of a residential PACE loan; and
- 2.19 (ii) the risks, such as foreclosure and higher costs, that may be associated with residential  
2.20 PACE loans relative to other financing mechanisms;
- 2.21 (4) ensure that the ability to repay standard uses commonly accepted underwriting  
2.22 principles;
- 2.23 (5) ensure that consumer provisions required of and protections that apply to conventional  
2.24 loans and other financing options, including but not limited to the Truth in Lending Act and  
2.25 the Real Estate Settlement Procedures Act, are required of and apply to PACE financing;
- 2.26 (6) address any unique protections necessary for elderly, low-income homeowners and  
2.27 other financially vulnerable homeowners;
- 2.28 (7) establish criteria for ensuring the cost-effectiveness of PACE-enabled clean energy  
2.29 improvements; and

3.1 (8) address any other issues the stakeholder group identifies that are necessary to protect  
3.2 consumers.

3.3 Subd. 4. **Report to legislature.** By January 15, 2018, the commissioner shall submit a  
3.4 report detailing the stakeholder group's findings and recommendations to the chairs and  
3.5 ranking minority members of the senate and house of representatives committees with  
3.6 jurisdiction over energy and consumer protection policy and finance. The report must include  
3.7 draft legislation to implement the recommendations of the stakeholder group.

3.8 Subd. 5. **Suspension of residential PACE.** Until legislation is enacted establishing  
3.9 consumer protections that addresses, but is not limited to, the concerns identified in  
3.10 subdivision 3, no programs for the financing of energy improvements on a single-family  
3.11 residential property dwelling under Minnesota Statutes, sections 216C.435 and 216C.436,  
3.12 may be operated after the effective date of this act.

3.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.