Agenda Report



2725 Judge Fran Jamieson Way Viera, FL 32940

New Business - Miscellaneous

J.4.	7/20/2021

Subject:

Repealing Resolution 18-040, the Implementing Legislation for the Property Assessed Clean Energy (PACE) Program in Brevard County

Fiscal Impact:

N/A

Dept/Office:

District 3

Requested Action:

Board adoption of attached resolution repealing the implementation of the PACE program

Summary Explanation and Background:

On March 20, 2018, the Board voted to adopt Resolution 18-040, which implemented the Property Assessed Clean Energy (PACE) program in Brevard County. The attached Resolution would repeal Resolution 18-040.

Clerk to the Board Instructions:



FLORIDA'S SPACE COAST

Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001 Fax: (321) 264-6972 Kimberiy.Powell@brevardclerk.us



July 21, 2021

MEMORANDUM

TO: John Tobia, Commissioner District 3

RE: Item J.4., Repealing Resolution No. 18-040, Implementing Legislation for the Property Assessed Clean Energy (PACE) Program in Brevard County

The Board of County Commissioners, in regular session on July 20, 2021, discussed repealing Resolution No. 18-040, implementing legislation for the PACE Program, but took no action.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS

RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

cc: Each Commissioner

RESOLUTION 21-____

A RESOLUTION REPEALING RESOLUTION 18-040

WHEREAS, on March 20, 2018, the Brevard County Board of County Commissioners adopted Resolution 18-040; and

WHEREAS, Resolution 18-040 created a Property Assessed Clean Energy (PACE) program in Brevard County pursuant to Fla. Stat. Sec. 163.08; and

WHEREAS, it has since become clear that the implementation of this program is not in the best interests of the citizens of Brevard County due to lack of oversight and distortion of the market; and

WHEREAS, it is the determination of the Brevard County Board of County Commissioners that Resolution 18-040 shall be repealed.

NOW, THEREFORE, BE IT RESOLVED THAT THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, does hereby REPEAL Resolution 18-040.

DONE, ORDERED AND ADOPTED, in regular session, this 20th Day of July, 2021.

Property Assessed Clean Energy loan program PACE HANDOUTS 7/20/21

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Posted in:

LISA MACNEIL (/LISA_MACNEIL)



The BOCC voted 3-2 at the regular meeting on May 26, 2020 to discontine the Property Assessed Clean Energy (PACE) loan program in Hernando County.

The program came under fire recently and was featured on WFLA Channel 8's "8 on your Side," with two segments shown during the meeting. Commissioner Jeff Holcomb opened the discussion by describing problematic aspects of the program.

According to the 8 On Your Side reporter Peter Bernard, legislation is currently pending to "regulate the PACE problem," and also added that the program has worked for some people in emergency need, but "too many people are getting in over their heads."

Holcomb reported that a customer had asked for an air conditioner replacement, however the contractor who responded also sold the homeowner new doors, new windows and a new pool pump. The contractor was licensed as an air conditioning contractor only.

Holcomb described this case as fraught with problems beginning with work not being done, to the finance company severing their relationship with the contractor. The contractor may face criminal charges, but the homeowner is still responsible for the repayment of \$37,000. One of the forms the homeowner unknowlying signed after work had begun stated that the contractor had completed the work.

"They call it a loan, it's really not a loan, it's a lien," Holcomb said. He agreed that it's relatively easy for a homeowner to be approved for the PACE loan, but disputes that the lien can be "sold" with the property. "In practice, that's not true ... no financing company is going to loan (over the appraised value) to pay off that lien ... and for all practical purposes, you're going to have to pay off the lien before you sell your home."

"The disadvantages are huge even if you have a contractor that's not going to up-sell you ... why would you put that lien on your property?"

Holcomb stated that the risk of foreclosure is also increased, citing a Spring Hill resident who recently lost his Wellington home when he was unable to maintain increases to his property taxes.

Commissioner Wayne Dukes briefly described a different experience. When the PACE program began, several residents of The Heather participated, and received new roofs by a local contractor. Dukes did not report any problems regarding that subdivision or contractor.

Commissioner Steve Champion stated that he's had "dozens and dozens" of citizens praise the program. He also stated that the 7% PACE interest rate is far lower than financing such repairs and improvements with a conventional credit card, and the program could be the only funding available to those who do not use or qualify for conventional credit cards or loans.

Rather than eliminate the program, Champion said that he would be open to some regulation or amending of the PACE program.

The structure of the PACE loan is the aspect that Commissioner John Allocco dislikes. By design, the loan takes precedence over a homeowner's mortgage. "If this was the other way around, and it was secondary to the mortgage, I'd have no problem with it."

Ultimately, all commissioners acknowledged that possibilities exist for unscrupulous contractors to 'game' the system, and some homeowners may lack the experience to thoroughly understand the contracts and recognize problems early.

Tax Collector Sally Daniels stated that she has seen tax bills triple, and even quadruple. She told the board she's spoken with at least one homeowner who can no longer afford his mortgage. "I've got people that went from a \$600 dollar tax bill to a \$1,600 tax bill ...one that went from \$300 to \$1,800 dollars. They can't pay them. They have a mortgage company that is paying (the PACE loan) ... then (the homeowner) can't pay the mortgage."

Daniels referred to records she brought with her showing that some roof repairs will ultimately cost more than \$48,000 after the PACE loan has been paid over 25 years.

Additionally, the implementation of the PACE program has cost the Tax Collector's office \$4,000 to \$5,000. The loans need to be handled manually as the current computer system is unable to process them.

"It's terrible for us, and I think it's terrible for the public, too. I don't think it's a good thing."

Champion again made the case for PACE as opposed to using a credit card. Holcomb countered by saying that a homeowner can discharge credit card debt in bankruptcy, but ultimately, they do not lose their home. "(Using PACE), the price (of default) is your home. What are you going to do after that?"

Kate Westner of Ygrene, a company that offers PACE loans reported that Hernando County has seen over \$4 million in "hazard loss" savings and \$1.8 million in "lifetime insurance savings" since the program began in 2017. They have since serviced roughly 350 projects in the county.

During her presentation, Westner stated that the traditional disclosures total about 20 pages, similar to realtors' contracts.

Westner said that Ygrene is in contact with contractors when a complaint comes in from a homeowner. Ygrene attempts to remedy the given situation, and when it cannot be resolved, they have terminated relationships with contractors.

Editor's Note: The Hernando Sun originally reported that the 3-2 vote was in favor of keeping the PACE program. A correction has been made to reflect the actual vote: 3-2 to remove the program. We apologize for the error.

Tags

HERNANDO COUNTY GOVERNMENT (/TAXONOMY/TERM/1489) BOCC (/TAXONOMY/TERM/82) LOCAL NEWS (/LOCAL-NEWS)

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NEWS / HILLSBOROUGH

Hillsborough cuts ties to PACE program, citing unethical business practices

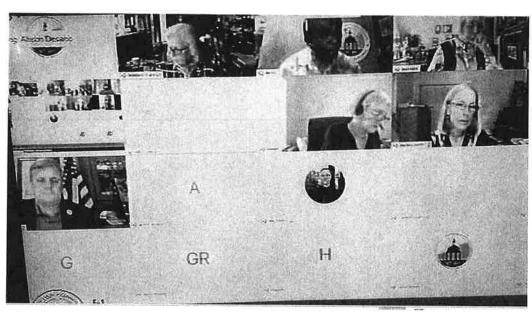
One woman was assessed \$16,500, plus \$13,000 in interest, for an air conditioner.











The Hillsborough County Commission met Thursday, Aug. 20 and voted to end its participation in the controversial PACE energy improvement program. [C T BOWEN | Tampa Bay Times |

By C.T. Bowen

Published Aug. 20, 2020 Updated Aug. 20, 2020

TAMPA — Hillsborough County cut ties with a controversial energy improvement program Thursday after receiving complaints of vendors' unethical business practices.

"It preys on the most

sion Chairman Les

Miller Jr.

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The state-authorized Property Assess Clean Energy program, known commonly as PACE, finances energy and water-conservation improvements which homeowners must repay via assessments on their property tax bills.

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acknowledged they didn't know they faced liens and potential tax delinquencies.

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Miller read an email from a constituent who said her disabled sister owns a 53-year old, 864-square-foot home and signed a contract for a new air conditioner under the PACE program. The work, done without a permit, resulted in the woman being billed \$16,500 for the air conditioner plus \$13,000 in interest over the next 15 years. It increased her annual tax bill nearly \$2,000. The woman's income is \$600 monthly.

"This is unethical. It is wrong. It never should have happened," said Miller.

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Hillsborough joined the program in 2017. There are four home-improvement financing agencies and their third-party administrators operating in the county. One of those is Florida PACE Funding Agency and its administrator, Counterpointe Energy Solutions, which got kicked out of the program in Pasco County two years ago amid heavy criticism from Pasco Tax Collector Mike Fasano.

At the time, the company had not followed Pasco County rules intended to safeguard customers and provide transparency. Counterpointe said then it was "fully committed to consumer protections and disclosures." It is the only provider that does not face a complaint in Hillsborough County.

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But the other vendors Renew Financial; Flo

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Green Corridor Property Assessment Clean Energy, Ygrene had been the subject of 16 complaints. Fourteen of the cases had been resolved or forwarded to the Florida

Tampa Bay Times

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Two other cases, both involving Florida Green Finance Authority, are pending disciplinary or criminal action against the contractor by the Florida Department of Business & Professional Regulation, the county said.

Since the program began in Hillsborough, PACE assessments totaled more than \$2.2 million in 2018 and nearly \$6.5 million in 2019.

Thursday, county staffers suggested a list of remedies to increase accountability and oversight within the program, but Miller, instead, called for ending it entirely. The rest of the commission offered unanimous support.

"I think it's unconscionable that these people were really preyed upon," said Commissioner Sandy Murman who first brought the program to the attention of the county, but now said she believes state legislation is needed to fix the problems.

"We cannot let this continue," said Commissioner Pat Kemp.

Both Murman and Miller noted the work of Fasano in Pasco County.

"I congratulate the commission for taking a stance. If they feel the PACE program is not working in their county, then action should be taken," Fasano said in an interview afterward.

In the 2020 Legislature, a bill from rep. Ardian Zika, R-Land O'Lakes and Sen. Ed Hooper, R-Clearwater, would have required more state oversight of the program, including a requirement that loans should be based on affordability, rather than the amount of equity in a customer's home. The bill failed to advance.

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C.T. BOWEN

Hillsborough County Reporter

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Comments sent for P.H.-XI.4

The Florida PACE Funding Agency, along with its Residential PACE. Towards Fortiff Financial and PACE Funding Group, are pleased to provide our consumer protection standards. This list represents the processes currently in place, as mandated by FPFA, to protect consumers. It also allows us to operate with the utmost care and responsibility with respect to our customers and government partners, as well as our investors, in order to keep our rates competitive and maintain the long term viability of PACE in Florida.

Process	Protecting Consumers
Pricing Guidelines	Maximum financing amounts and maximum useful life for eligible product types were established to ensure customers are protected from excessive charges
No Disclosure of Maximum Financing Amount	PACE providers are not permitted to disclose the applicants maximum financing amount to the home improvement contractor
Homeowner Identity	PACE providers must positively identify the property owner using appropriate questioning methodology or technology.
Ability to Repay	Require that each applicant's ability to repay the assessment shall be evaluated by the PACE provider
3 Day Right of Rescission	Applicants shall have a 3 day right of rescission before work commences in which the PACE financing agreement can be terminated for any reason without penalty
Disclosures	Each applicant will be provided disclosures outlining the financial details of their assessment, including the interest rate, term, payment schedule, and all fees included
Welcome Call (Confirmation of Terms)	A recorded phone call with the PACE provider, in the applicants preferred language, to review the financing agreement in detail to ensure the property owners understands the terms of the transaction
Certificate of Completion	Each Property owner receives a certificate of completion that must be signed after the work is completed
Closing Call	A recorded phone call with the PACE provider, in the applicants preferred



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	language, to ensure the work was completed per the home improvement contract								
Asset Verification	PACE providers are required to verify either through a third party inspector or approved technology, that the improvements have been completed per the home improvement contract within 30 days of funding								
Copies of PACE Documents	PACE providers are required to send hard copies of financing documents to the property owner after work has been completed								
No Reverse Mortgage or Down Payment Assistance Programs	PACE providers are not permitted to original assessments for applicants with an existing reverse mortgage product (HECM), or when a home was "gifted" to the property owner to a non-profit organization								
Mortgage Forbearance Policy	PACE providers are prohibited from originating an assessment for applicants currently in a mortgage forbearance program								
Lien Registry	PACE providers must participate in the PACE Lien Registry, so as to mitigate duplicative liens originated through different providers on the same property ("lien stacking") PACE providers are no permitted to offer cash kickbacks to contractors for using PACE financing								
No Cash Kickbacks to Contractors									

Lisa Cullen, CFC

Brevard County Tax Collector

P.O. Box 2500 Tituaville, FL 32781-2500

http://www.breverdic.com/

FLORIDA PACE FUNDING AGENCY Report (Detailed Distribution Data)

Report Description PROPERTY TAX DISTRIBUTION 2021 TAX SALE

Total Rows in Report: 0 Summarizing 0 detail records Grouped By: District Name, Account Number, Roll Yr Sorted by: District Name, Account Number, Roll Yr

Brevard County Tax Collector - FLORIDA PACE FUNDING AGENCY Report (Detailed Distribution Data) - Run 06/16/2021 09:07AM

Affacation Date	Funding Agency	Chemics TC Type	Clientes Code	District Name	But Ye	Distribution Category	Account Number				Allocated	Distributed April	
	- FLORIDA PACE FUNDING	- Anv -				- Any of: Centrel							