

As Introduced

**134th General Assembly
Regular Session
2021-2022**

H. B. No. 646

Representatives Cutrona, Roemer

A BILL

To amend sections 717.25, 1710.01, 1710.02, 1
1710.06, and 5721.10 and to enact sections 2
1356.01, 1356.011, 1356.02, 1356.03, 1356.04, 3
1356.07, 1356.08, 1356.09, 1356.10, 1356.11, 4
1356.12, 1356.14, 1356.15, 1356.16, 1356.17, 5
1356.18, 1356.19, 1356.20, 1356.21, 1356.22, and 6
1710.15 of the Revised Code regarding 7
residential property assessed clean energy 8
(PACE) loans. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 717.25, 1710.01, 1710.02, 10
1710.06, and 5721.10 be amended and sections 1356.01, 1356.011, 11
1356.02, 1356.03, 1356.04, 1356.07, 1356.08, 1356.09, 1356.10, 12
1356.11, 1356.12, 1356.14, 1356.15, 1356.16, 1356.17, 1356.18, 13
1356.19, 1356.20, 1356.21, 1356.22, and 1710.15 of the Revised 14
Code be enacted to read as follows: 15

Sec. 717.25. (A) As used in this section: 16

(1) "Customer-generated energy project" means a wind, 17
biomass, or gasification facility for the generation of 18
electricity that meets either of the following requirements: 19

(a) The facility is designed to have a generating capacity of two hundred fifty kilowatts of electricity or less.	20 21
(b) The facility is:	22
(i) Designed to have a generating capacity of more than two hundred fifty kilowatts of electricity;	23 24
(ii) Operated in parallel with electric transmission and distribution facilities serving the real property at the site of the customer-generated energy project;	25 26 27
(iii) Intended primarily to offset part or all of the facility owner's requirements for electricity at the site of the customer-generated energy project and is located on the facility owner's real property; and	28 29 30 31
(iv) Not producing energy for direct sale by the facility owner to the public.	32 33
(2) "Electric distribution utility" and "mercantile customer" have the same meanings as in section 4928.01 of the Revised Code.	34 35 36
(3) <u>"Residential PACE administrator" and "residential PACE loan" have the same meanings as in section 1356.01 of the Revised Code.</u>	37 38 39
<u>(4) "Reduction in demand" has the same meaning as in section 1710.01 of the Revised Code.</u>	40 41
(B) The legislative authority of a municipal corporation may establish a low-cost alternative energy revolving loan program to assist owners of real property within the municipal corporation with installing and implementing either of the following on their real property:	42 43 44 45 46

(1) Alternative energy technologies limited to solar photovoltaic projects, solar thermal energy projects, geothermal energy projects, and customer-generated energy projects;	47 48 49
(2) Energy efficiency technologies, products, and activities that reduce or support the reduction of energy consumption, allow for the reduction in demand, or support the production of clean, renewable energy.	50 51 52 53
(C) If the legislative authority decides to establish such a program, the legislative authority shall adopt an ordinance that provides for the following:	54 55 56
(1) Creation in the municipal treasury of an alternative energy revolving loan fund;	57 58
(2) A source of money, such as gifts, bond issues, real property assessments, or federal subsidies, to seed the alternative energy revolving loan fund;	59 60 61
(3) Facilities <u>Subject to Chapter 1356. of the Revised Code for residential PACE loans, facilities for making loans from the alternative energy revolving loan fund, including an explanation of how owners of real property within the municipal corporation may qualify for loans from the fund, a description of the alternative energy and energy efficiency technologies and related equipment for which a loan can be made from the fund, authorization of a municipal agency to process applications for loans and otherwise to administer the low-cost alternative energy revolving loan program, a procedure whereby loans can be applied for, criteria for reviewing and accepting or denying applications for loans, criteria for determining the appropriate amount of a loan, the interest rate to be charged, the repayment schedule, and other terms and conditions of a loan, and</u>	62 63 64 65 66 67 68 69 70 71 72 73 74 75

procedures for collecting loans that are not repaid according to 76
the repayment schedule; 77

(4) ~~A~~ For residential PACE loans, a specification that 78
repayments of such loans from the alternative energy revolving 79
loan fund shall be paid and collected pursuant to the 80
requirements described in section 1356.18 of the Revised Code; 81

(5) For all other loans, a specification that repayments 82
of loans from the alternative energy revolving loan fund may be 83
made in installments and, at the option of the real property 84
owner repaying the loan, the installments may be paid and 85
collected as if they were special assessments paid and collected 86
in the manner specified in Chapter 727. of the Revised Code and 87
as specified in the ordinance; 88

~~(5)~~ (6) A specification that repayments of loans from the 89
alternative energy revolving loan fund are to be credited to the 90
fund, that the money in the fund is to be invested pending its 91
being lent out, and that investment earnings on the money in the 92
fund are to be credited to the fund; and 93

~~(6)~~ (7) Other matters necessary and proper for efficient 94
operation of the low-cost alternative energy revolving loan 95
program as a means of encouraging use of alternative energy and 96
energy efficiency technologies. 97

~~The~~ Subject to division (E) of section 1356.10 of the 98
Revised Code for residential PACE loans, the interest rate 99
charged on a loan from the alternative energy revolving loan 100
fund shall be below prevailing market rates. The legislative 101
authority may specify the interest rate in the ordinance or may, 102
after establishing a standard in the ordinance whereby the 103
interest rate can be specified, delegate authority to specify 104

the interest rate to the administrator of loans from the 105
alternative energy revolving loan fund. 106

The alternative energy revolving loan fund shall be seeded 107
with sufficient money to enable loans to be made until the fund 108
accumulates sufficient reserves through investment and repayment 109
of loans for revolving operation. 110

(D) Except as provided in division (E) of this section, an 111
electric distribution utility may count toward its compliance 112
with the energy efficiency and peak demand reduction 113
requirements of section 4928.66 of the Revised Code any energy 114
efficiency savings or any reduction in demand that is produced 115
by projects utilizing alternative energy technologies or energy 116
efficiency technologies, products, and activities that are 117
located in its certified territory and for which a loan has been 118
made under this section. 119

(E) A mercantile customer that realizes energy efficiency 120
savings or reduction in demand produced by alternative energy 121
technologies or energy efficiency technologies, products, or 122
activities that it owns and for which a loan has been made under 123
this section may elect to commit the savings or reduction to the 124
electric distribution utility in exchange for an exemption from 125
an energy efficiency cost recovery mechanism permitted under 126
section 4928.66 of the Revised Code, approved by the public 127
utilities commission. 128

(F) The legislative authority shall submit a quarterly 129
report to the electric distribution utility that includes, but 130
is not limited to, both of the following: 131

(1) The number and a description of each new and ongoing 132
project utilizing alternative energy technologies or energy 133

efficiency technologies, products, or activities located in the 134
utility's certified territory that produces energy efficiency 135
savings or reduction in demand and for which a loan has been 136
made under this section; 137

(2) Any additional information that the electric 138
distribution utility needs in order to obtain credit under 139
section 4928.66 of the Revised Code for energy efficiency 140
savings or reduction in demand from such projects. 141

(G) Any residential PACE loan program shall comply with 142
Chapter 1356. of the Revised Code. 143

Sec. 1356.01. As used in this chapter: 144

(A) "Homeowner" means an owner of residential real 145
property. "Homeowner" includes all the persons on the deed 146
having a legal interest in the property and all persons on the 147
mortgage or note. 148

(B) "Implementing entity" means the local government or 149
local authority designated by the local government pursuant to 150
section 717.25 of the Revised Code or Chapter 1710. of the 151
Revised Code to implement and administer programs described 152
under this chapter. "Implementing entity" does not include a 153
residential PACE administrator. 154

(C) "Licensee" means a person licensed to make residential 155
PACE loans under this chapter. 156

(D) "PACE" means property assessed clean energy. 157

(E) "Residential PACE administrator" means an entity with 158
which the implementing entity contracts to administer all or 159
part of a residential PACE program. "Administer" includes the 160
performance of any of the following acts, whether directly or 161

<u>through an agent:</u>	162
<u>(1) Marketing, offering, selling, facilitating, or</u>	163
<u>financing, in whole or in part, a PACE loan;</u>	164
<u>(2) Facilitating, arranging, or contracting for the</u>	165
<u>installation of the cost-effective energy improvements financed</u>	166
<u>through a PACE loan;</u>	167
<u>(3) Offering any other service to an implementing entity</u>	168
<u>in connection with a PACE loan or operating a PACE loan program.</u>	169
<u>(F) "Qualifying residential real property" means a single-</u>	170
<u>family residential dwelling, or other residential dwelling of</u>	171
<u>four or fewer units, that the implementing entity has determined</u>	172
<u>can be benefited by installation of cost-effective energy</u>	173
<u>improvements.</u>	174
<u>(G) "Reduction in demand" has the same meaning as in</u>	175
<u>section 1710.01 of the Revised Code.</u>	176
<u>(H) "Residential PACE contractor" means a person or entity</u>	177
<u>that installs cost-effective energy improvements financed under</u>	178
<u>a residential PACE loan program established under this chapter.</u>	179
<u>(I) "Residential PACE lien" means the encumbrance on the</u>	180
<u>qualifying residential real property created by the special</u>	181
<u>assessment as provided in section 1356.18 of the Revised Code.</u>	182
<u>(J) "Residential PACE loan" means the extension of</u>	183
<u>financing that is offered to pay for the installation of cost-</u>	184
<u>effective energy improvements on a homeowner's qualifying</u>	185
<u>residential real property and is repayable by the homeowner</u>	186
<u>through a special assessment as provided under section 1356.18</u>	187
<u>of the Revised Code.</u>	188
<u>(K) "Residential PACE loan contract" means the legal</u>	189

agreement for the financing and installation of cost-effective 190
energy improvements under the low-cost alternative energy 191
revolving loan program. 192

(L) "Vulnerable adult" means a person eighteen years of 193
age or older whose ability to perform the normal activities of 194
daily living or to provide for the person's own care or 195
protection is impaired due to a mental, emotional, sensory, 196
long-term physical, or developmental disability or dysfunction, 197
or brain damage, or the infirmities of aging. 198

(M) "Delinquent taxes" have the same meaning as in section 199
323.01 of the Revised Code. 200

Sec. 1356.011. (A) A residential PACE loan program 201
established by an implementing entity to pay for the cost- 202
effective energy improvements to qualifying residential real 203
property shall comply with this chapter. The program shall serve 204
a public purpose and not primarily be for the benefit of private 205
entities or private investors even though private benefit may 206
result incidentally. 207

(B) An implementing entity may limit the number of 208
qualifying residential real properties for which a homeowner may 209
receive program financing. 210

(C) No implementing entity or residential PACE 211
administrator shall do either of the following: 212

(1) Provide, offer, or facilitate financing to a homeowner 213
who is not current on mortgage payments or who owes delinquent 214
taxes; 215

(2) Permit a homeowner to have more than one residential 216
PACE loan outstanding at a time or a combination of a 217
residential PACE loan and one or more other loan products 218

<u>offered by the administrator or any affiliate or related entity</u>	219
<u>of the administrator.</u>	220
<u>(D) Upon completion of a project, an implementing entity</u>	221
<u>shall provide a homeowner with a certificate stating</u>	222
<u>participation in the program and identify what cost-effective</u>	223
<u>energy improvements have been made with financing program</u>	224
<u>proceeds.</u>	225
<u>(E) Notwithstanding any provision of the Revised Code to</u>	226
<u>the contrary, an implementing entity shall ensure that financing</u>	227
<u>provided under this chapter has all of the following:</u>	228
<u>(1) A cost-weighted average maturity not exceeding the</u>	229
<u>useful life of the cost-effective energy improvements installed,</u>	230
<u>as determined by the superintendent, but in no event shall a</u>	231
<u>term exceed twenty years;</u>	232
<u>(2) A principal amount not to exceed:</u>	233
<u>(a) For a residential PACE loan for energy efficiency</u>	234
<u>improvements only, the lesser of ten per cent of the true value</u>	235
<u>of the property, as most recently determined by the county</u>	236
<u>auditor, on which the improvements are to be installed or the</u>	237
<u>actual cost of installing the cost-effective energy</u>	238
<u>improvements;</u>	239
<u>(b) For a residential PACE loan for a renewable energy</u>	240
<u>system or a combination of a renewable energy system and energy</u>	241
<u>efficiency improvements, the lesser of twenty per cent of the</u>	242
<u>true value of the property, as most recently determined by the</u>	243
<u>county auditor, on which the improvements are to be installed or</u>	244
<u>the actual cost of installing the cost-effective energy</u>	245
<u>improvements.</u>	246
<u>(3) For the purposes of division (E) of this section, the</u>	247

"actual cost of installing cost-effective energy improvements" 248
includes the costs of necessary equipment, materials, and labor, 249
and the cost of verification of installation. 250

(F) The combined debt of existing mortgages, the 251
residential PACE lien, and all other liens on the qualified 252
residential real property shall not exceed ninety per cent of 253
the true value of the property, as most recently determined by 254
the county auditor. 255

Sec. 1356.02. (A) No person shall act as a residential 256
PACE administrator in this state without first obtaining a 257
license from the superintendent of financial institutions in the 258
department of commerce. An applicant applying for a residential 259
PACE administrator license shall provide all of the following 260
information in a form prescribed by the superintendent: 261

(1) The full name of each natural person who is a 262
principal of the administrator; 263

(2) The mailing address, which shall not be a post office 264
box, the telephone number, and, if applicable, the electronic 265
mail address of the primary office of the administrator and any 266
branch offices in this state; 267

(3) Consent to the jurisdiction of the courts of this 268
state; 269

(4) The name and address of the registered agent in this 270
state authorized to accept service of process on behalf of the 271
applicant; 272

(5) Disclosure of all of the following: 273

(a) Whether any controlling or affiliated party has ever 274
been convicted of a crime or found civilly liable for an offense 275

<u>involving moral turpitude, including forgery, embezzlement,</u>	276
<u>obtaining money under false pretenses, larceny, extortion,</u>	277
<u>conspiracy to defraud, or any other similar offense or</u>	278
<u>violation, or any violation of a federal or state law or</u>	279
<u>regulation relating to any consumer fraud, false advertising,</u>	280
<u>deceptive trade practices, or similar consumer protection law;</u>	281
<u>(b) Any judgments, private or public litigation, tax</u>	282
<u>liens, written complaints, administrative actions, or</u>	283
<u>investigations by any government agency against the</u>	284
<u>administrator, or against any officer, director, manager, or</u>	285
<u>shareholder of owning more than five per cent interest in the</u>	286
<u>administrator, unresolved or otherwise, filed or otherwise</u>	287
<u>commenced within the preceding ten years;</u>	288
<u>(c) Whether the applicant, or any person employed by the</u>	289
<u>administrator, has had a record of having defaulted in the</u>	290
<u>payment of money collected for others, including the discharge</u>	291
<u>of debts through bankruptcy proceedings;</u>	292
<u>(d) Whether authority granted to the applicant to operate</u>	293
<u>in any other state has ever been denied, revoked, or suspended;</u>	294
<u>(e) Any other information and material as the</u>	295
<u>superintendent of financial institutions may require.</u>	296
<u>(B) A license for a residential PACE administrator issued</u>	297
<u>under this chapter expires on the thirty-first of December and</u>	298
<u>is renewable on the first day of January of each year after that</u>	299
<u>date.</u>	300
<u>(C) A person whose application is properly and timely</u>	301
<u>filed and who has not received notice of denial of renewal is</u>	302
<u>considered approved for renewal, and the person may continue to</u>	303
<u>transact business as a residential PACE administrator whether or</u>	304

not the renewed license has been received on or before the first 305
day of January of the renewal year. An application for renewal 306
of a license is considered timely filed if received by the 307
superintendent by the fifteenth of December immediately 308
preceding the expiration of the license. An application for 309
renewal is considered properly filed if made upon forms duly 310
executed and sworn to, accompanied by fees prescribed by 311
division (G) of this section, and containing any information 312
that the superintendent requires. 313

(D) A person who fails to make a timely application for 314
renewal of a license and who has not received the renewal 315
license as of the first of January of the renewal year is 316
unlicensed until the renewal license has been issued by the 317
superintendent and is received by the person. 318

(E) Application for the renewal of an existing license 319
shall contain the request for renewal and any changes to the 320
information specified in division (A) of this section. 321

(F) A licensee ceasing an activity or activities regulated 322
by this chapter and desiring to no longer be licensed shall 323
simultaneously inform the superintendent in writing and 324
surrender the license and all other symbols or indicia of 325
licensure. The licensee shall include a plan for the withdrawal 326
from regulated business, including a timetable for the 327
disposition of the business. 328

(G) (1) The following fees shall be paid to the 329
superintendent: 330

(a) For an initial license, one thousand dollars; 331

(b) For a renewal license, five hundred dollars. 332

(2) The fees shall be paid to the superintendent of 333

financial institutions and shall be deposited by the 334
superintendent into the state treasury to the credit of the PACE 335
loan fund, which is hereby created. The fund may be expended or 336
obligated by the superintendent for the defrayment of the costs 337
of administration of this chapter by the division of financial 338
institutions. All actual and necessary expenses incurred by the 339
superintendent, including any services rendered by the 340
department of commerce for the division's administration of this 341
chapter, shall be paid from the fund. 342

(H) A residential PACE administrator shall file a report 343
on the thirty-first day of March each year on forms supplied by 344
the superintendent and containing information required by the 345
superintendent. 346

Sec. 1356.03. (A) Notwithstanding any provision of law to 347
the contrary, a residential PACE lien shall be all of the 348
following: 349

(1) Subordinate to all liens on the qualifying residential 350
real property recorded prior to the time the residential PACE 351
lien is recorded; 352

(2) Subordinate to a first mortgage on the qualifying 353
property recorded after the residential PACE lien is recorded; 354

(3) Subject to division (A) (2) of this section, superior 355
to any other lien on the qualifying residential real property 356
recorded after the residential PACE lien is recorded. 357

(B) Notwithstanding any other law to the contrary, in the 358
event of a foreclosure sale of a qualifying residential real 359
property, the holders of any mortgages or other liens, including 360
delinquent special assessments secured by residential PACE 361
liens, shall receive proceeds in accordance with the priorities 362

established under division (A) of this section. 363

Sec. 1356.04. (A) An implementing entity or a residential 364
PACE administrator shall not enter into a residential PACE loan 365
contract with a homeowner unless the implementing entity or the 366
residential PACE administrator has provided written notice to 367
each of the servicers of any mortgage or other lien on the 368
qualifying residential real property that the homeowner intends 369
to enter into a residential PACE loan contract. 370

(B) No residential PACE loan shall be made unless the 371
implementing entity or the residential PACE administrator 372
obtains written, signed confirmation from the servicer of any 373
mortgage or other lien on the qualifying residential real 374
property that entering into the residential PACE loan contract 375
does not constitute an event of default or give rise to any 376
remedies under the terms of the mortgage loan or other 377
contractual agreement. 378

(C) The residential PACE administrator shall record a 379
notice of the residential PACE loan, containing the legal 380
description of the property, with the county recorder, within 381
thirty days of the first date of funding of the residential PACE 382
loan. 383

Sec. 1356.07. (A) As often as the superintendent of 384
financial institutions considers it necessary, the 385
superintendent may examine the records of a residential PACE 386
administrator. 387

(B) The superintendent may, upon written notice to the 388
residential PACE administrator stating the contemplated action, 389
the grounds for the action, and the residential PACE 390
administrator's reasonable opportunity to be heard on the action 391

in accordance with Chapter 119. of the Revised Code, revoke, 392
suspend, or refuse to renew any license issued under this 393
chapter if the superintendent finds a violation of or failure to 394
comply with any provision of this chapter or the rules adopted 395
thereunder, any federal lending law, or any other law applicable 396
to the business conducted under this chapter. The superintendent 397
may also impose a civil penalty not to exceed ten thousand 398
dollars per violation. 399

(C) The superintendent may order restitution against 400
persons subject to this chapter for violations of this chapter. 401

(D) The superintendent may issue orders or directives 402
under this section as follows: 403

(1) Order or direct persons subject to this chapter to 404
cease and desist from conducting business, including immediate 405
temporary orders to cease and desist; 406

(2) Order or direct persons subject to this chapter to 407
cease any harmful activities or violations of this chapter, 408
including immediate temporary orders to cease and desist; 409

(3) Enter immediate temporary orders to cease business 410
under a license if the superintendent determines that the 411
license was erroneously granted or the licensee is currently in 412
violation of this chapter or any rule adopted by the 413
superintendent; 414

(4) Order or direct other affirmative action the 415
superintendent considers necessary. 416

(E) Each violation or failure to comply with any directive 417
or order of the superintendent is a separate and distinct 418
violation or failure. 419

Sec. 1356.08. (A) The superintendent of financial 420
institutions shall conduct financial examinations of the 421
residential PACE administrator with the frequency determined by 422
the superintendent. 423

(B) Each residential PACE administrator shall keep any 424
books, accounts, and records, including electronic records, as 425
will enable the superintendent to determine whether the 426
residential PACE administrator is complying with this chapter 427
and any rules adopted by the superintendent. 428

(C) Every residential PACE administrator shall preserve 429
the books, accounts, and records for at least six years after 430
making the final entry on any transaction recorded. Examinations 431
of the books, records, and method of operations conducted under 432
the supervision of the superintendent shall be done at the cost 433
of the residential PACE administrator. 434

Sec. 1356.09. (A) No residential PACE administrator shall 435
conduct business in this state unless the residential PACE 436
administrator has obtained and maintains in effect at all times 437
a corporate surety bond issued by a bonding company or insurance 438
company authorized to do business in this state. The bond shall 439
be in favor of the superintendent of financial institutions and 440
in the penal sum of at least one hundred thousand dollars. The 441
term of the bond shall coincide with the term of the license. 442
The residential PACE administrator shall file a copy of the bond 443
with the superintendent. The bond shall be available for the 444
recovery of expenses, fines, and fees levied by the 445
superintendent and for the benefit of any borrower injured by a 446
violation by a residential PACE administrator or any employee of 447
the residential PACE administrator, of any provision of this 448
chapter. 449

(B) The bond shall be submitted with the residential PACE administrator's license application and evidence of continued coverage shall be submitted with each renewal. Any change in the bond shall be submitted for approval by the superintendent within ten days of its execution. The bond or a substitute bond shall remain in effect during all periods of licensing. 450
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(C) A residential PACE administrator shall maintain or increase its surety bond to reflect the total dollar amount of the residential PACE loans made in this state in the preceding year according to this division. A licensee may decrease its surety bond according to this division if the surety bond required is less than the amount of the surety bond on file with the department of commerce. The amount shall be as follows: 456
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(1) If the amount of the residential PACE loans is five million dollars or less, a one-hundred-thousand-dollar surety bond is required. 463
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(2) If the amount of the residential PACE loans is between five million dollars and one cent and ten million dollars, a one-hundred-twenty-five-thousand-dollar surety bond is required. 466
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(3) If the amount of the residential PACE loans is between ten million dollars and one cent and twenty-five million dollars, a one-hundred-fifty-thousand-dollar surety bond is required. 469
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(4) If the amount of the residential PACE loans is more than twenty-five million dollars, a two-hundred-thousand-dollar surety bond is required. 473
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Sec. 1356.10. (A) Except as provided in division (C) of this section, a residential PACE loan contract shall be in writing, in English, and be signed by all of the following: 476
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<u>(1) The homeowner;</u>	479
<u>(2) All other persons on the deed, mortgage, or note</u> <u>having a legal interest in the property;</u>	480 481
<u>(3) The residential PACE contractor;</u>	482
<u>(4) The residential PACE administrator.</u>	483
<u>(B) The residential PACE loan contract shall contain all</u> <u>the terms and conditions of a residential PACE loan and the</u> <u>installation of cost-effective energy improvements.</u>	484 485 486
<u>(C) The residential PACE loan contract shall be written in</u> <u>English and another language if the homeowner's primary language</u> <u>is a language other than English and any of the following</u> <u>applies:</u>	487 488 489 490
<u>(1) The homeowner makes a request for the residential PACE</u> <u>loan contract to be in the primary language of the homeowner.</u>	491 492
<u>(2) The residential PACE loan is advertised in the primary</u> <u>language of the homeowner.</u>	493 494
<u>(3) The residential PACE loan contract was described,</u> <u>discussed, or negotiated in the primary language of the</u> <u>homeowner, regardless of whether the residential PACE loan is</u> <u>advertised in that language.</u>	495 496 497 498
<u>(D) Each residential PACE loan contract shall</u> <u>conspicuously display both the verbatim statement that "[name of</u> <u>the residential PACE administrator] is licensed with the Ohio</u> <u>Department of Commerce Division of Financial Institutions" and</u> <u>the license number of the licensee.</u>	499 500 501 502 503
<u>(E) A residential PACE loan contract shall:</u>	504
<u>(1) Offer a fixed, simple interest rate;</u>	505

(2) Charge an interest rate that does not exceed the 506
interest rate limit set forth under section 1343.01 of the 507
Revised Code; 508

(3) Fully amortize the debt obligation; 509

(4) At any time, permit prepayment of some or all of the 510
residential PACE loan balance; 511

(5) Include the right to rescind, as provided under 512
section 1356.14 of the Revised Code. 513

(F) If the homeowner signs a paper contract, upon 514
execution of the contract the residential PACE administrator 515
shall provide the homeowner a paper copy of the contract. If a 516
homeowner is requested to provide an electronic signature on the 517
residential PACE loan contract, both of the following apply: 518

(1) The residential PACE administrator shall comply with 519
15 U.S.C. 96. 520

(2) Upon execution of the contract, the residential PACE 521
administrator shall provide a paper copy of the residential PACE 522
loan contract to the homeowner. 523

(G) None of the following shall be true of a residential 524
PACE loan: 525

(1) Result at any time in negative amortization; 526

(2) Charge any interest upon interest or upon fees; 527

(3) Contain any provision under which the homeowner is 528
prohibited or restricted from making a prepayment or requiring a 529
penalty, fee, premium, or other charge for prepayment of some or 530
all of the residential PACE loan; 531

(4) Contain any provision requiring forced arbitration or 532

<u>restricting class actions;</u>	533
<u>(5) Be entered into with a vendee or vendor as defined in</u>	534
<u>section 5313.01 of the Revised Code for the otherwise qualifying</u>	535
<u>residential real property that is subject to a land installment</u>	536
<u>contract, as defined in that section.</u>	537
<u>(H) No residential PACE administrator shall enter into a</u>	538
<u>residential PACE loan contract financed through a residential</u>	539
<u>PACE loan with a homeowner who the administrator knew or should</u>	540
<u>have known any of the following:</u>	541
<u>(1) Is a vulnerable adult;</u>	542
<u>(2) Is a homeowner who is not sufficiently competent to</u>	543
<u>understand the terms of the loan;</u>	544
<u>(3) Does not have the ability to repay the loan, as</u>	545
<u>provided under section 1356.11 of the Revised Code.</u>	546
<u>Sec. 1356.11. (A) As used in this section:</u>	547
<u>(1) "Basic living expenses" includes:</u>	548
<u>(a) Food and other household necessities;</u>	549
<u>(b) Medical expenses, including premiums, co-pays, and the</u>	550
<u>cost of prescriptions and over-the-counter remedies;</u>	551
<u>(c) Transportation costs such as fuel, motor vehicle</u>	552
<u>insurance, and maintenance;</u>	553
<u>(d) Public transit costs;</u>	554
<u>(e) Utility expenses.</u>	555
<u>(2) "Current or reasonably expected income" includes</u>	556
<u>income from assets and excludes the value of the qualifying</u>	557
<u>residential real property, including any attached real property,</u>	558

that secures the residential PACE loan. 559

(3) "Total monthly income" means the sum of the 560
homeowner's current or reasonably expected income. Income may 561
not be derived from temporary sources of income, illiquid 562
assets, or proceeds derived from the equity the homeowner has in 563
the qualifying residential real property. 564

(4) "Total monthly debt" means the sum of the homeowner's 565
monthly debt obligations including but not limited to mortgage- 566
related obligations that include all mortgage principal and 567
interest payments, other secured debt, mortgage guaranty 568
insurance, any other insurance, property taxes, pre-existing 569
fees and special assessments on the property, including the 570
special assessment for a residential PACE loan, unsecured debt, 571
alimony, and child support. 572

(5) "Residual income" means the homeowner's remaining 573
income after subtracting the homeowner's total monthly debt 574
obligations from the homeowner's total monthly income. 575

(B) No residential PACE loan shall be executed by a 576
residential PACE administrator unless the administrator has 577
first verified the ability of the homeowner to repay the 578
residential PACE loan by doing all of the following: 579

(1) Determining that the ratio of the homeowner's total 580
monthly debt to total monthly income at the time the loan is 581
executed does not exceed forty-three per cent; 582

(2) Determining that the homeowner has sufficient residual 583
income to meet basic living expenses; 584

(3) Considering whether reductions in income or increases 585
in debt that could adversely impact the ability of the homeowner 586
to repay the residential PACE loan are reasonably anticipated to 587

occur following the execution of the residential PACE loan; 588

(4) Considering any other factors, including credit 589
reports and credit scores, that indicate that the homeowner may 590
not have the ability to repay the residential PACE loan. 591

(C) (1) The residential PACE administrator shall use only 592
reliable documents and records to verify the homeowner's ability 593
to repay the residential PACE loan. Reliable documents and 594
records include any of the following: 595

(a) Internal revenue service form W-2 "Wage and Tax 596
Statements," or other similar internal revenue service forms 597
that are used for reporting wages or tax withholding, tax 598
returns, payroll receipts, and statements; 599

(b) Financial institution records and statements. 600

(2) A statement by the homeowner to the residential PACE 601
administrator of the homeowner's income is not sufficient to 602
establish the existence of the income or resources when 603
verifying the homeowner's ability to repay the residential PACE 604
loan. 605

Sec. 1356.12. (A) Prior to the execution by the homeowner 606
of a residential PACE loan contract and prior to the 607
commencement of any installation of any energy improvement, the 608
residential PACE administrator shall orally, in a live, recorded 609
telephone conversation with the homeowner do all of the 610
following: 611

(1) Confirm the key terms of the agreement and the scope 612
of energy improvement work, including, at a minimum, all of the 613
following: 614

(a) The measures to be installed that are financed by a 615

<u>residential PACE loan;</u>	616
<u>(b) The total estimated annual payment;</u>	617
<u>(c) The date the first tax payment will be due;</u>	618
<u>(d) The interest rate expressed as an annual percentage</u> <u>rate;</u>	619 620
<u>(e) The term of the loan;</u>	621
<u>(f) That repayments will be made through the homeowner's</u> <u>property taxes.</u>	622 623
<u>(2) Verify that the homeowner understands all of the</u> <u>following:</u>	624 625
<u>(a) The key terms of the agreement;</u>	626
<u>(b) That if taxes are escrowed, by how much the escrowed</u> <u>amounts will increase or, if taxes are not escrowed, that the</u> <u>homeowner should consider saving enough money during the year to</u> <u>cover the additional special assessment;</u>	627 628 629 630
<u>(c) That the residential PACE loan becomes a residential</u> <u>PACE lien on the homeowner's property and will likely need to be</u> <u>paid off when the house is sold;</u>	631 632 633
<u>(d) That monetary penalties and interest are charged on</u> <u>delinquent taxes owed by a homeowner;</u>	634 635
<u>(e) That the homeowner has the right to rescind a</u> <u>residential PACE loan contract, as provided in section 1356.14</u> <u>of the Revised Code.</u>	636 637 638
<u>(3) Communicate all of the following:</u>	639
<u>(a) That energy savings are not guaranteed and the risk</u> <u>that energy savings from the cost-effective energy improvements</u>	640 641

may not equal or exceed the residential PACE loan payments that 642
will be added to the homeowner's property taxes; 643

(b) That refinancing a home encumbered by a residential 644
PACE lien will likely be more difficult or impossible; 645

(c) That selling a home encumbered by a residential PACE 646
lien will likely be more difficult; 647

(d) That the homeowner risks tax foreclosure upon default. 648

(B) At the commencement of the oral confirmation as 649
described in division (A) of this section, the residential PACE 650
administrator shall ask if the homeowner would prefer to 651
communicate during the oral confirmation primarily in a language 652
other than English. If the preferred language is supported by 653
the residential PACE administrator, the oral confirmation shall 654
be given in the preferred language, except where the homeowner 655
on the call chooses to communicate through an interpreter chosen 656
by the homeowner. If the preferred language is not supported and 657
an interpreter is not chosen by the homeowner on the call, the 658
administrator shall terminate the call and no residential PACE 659
loan contract shall be executed. 660

(C) Notwithstanding division (B) of this section, the oral 661
confirmation shall be conducted in the primary language of the 662
homeowner if the residential PACE loan contract was explained, 663
discussed, or negotiated in that language. 664

(D) A voice mail message does not meet the requirements of 665
this section. 666

(E) For purposes of this section, "an interpreter chosen 667
by the homeowner" means a person that meets all of the following 668
qualifications: 669

- (1) Is eighteen years of age or older; 670
- (2) Is able to speak fluently and read with full 671
understanding both the English language and the preferred 672
language of the homeowner; 673
- (3) Is not employed by, or whose services are not made 674
available through, the residential PACE administrator or the 675
residential PACE contractor or an affiliate or related entity of 676
the administrator or contractor. 677
- Sec. 1356.14.** (A) A homeowner shall have the right to 678
rescind, without penalty or obligation, a residential PACE loan 679
contract until midnight on the third calendar day following 680
execution of the contract by the homeowner. For the purposes of 681
this division, the rescission period begins at 12:01 a.m. of the 682
day following the day the contract was executed by the 683
homeowner. 684
- (B) The homeowner shall notify the offering party of the 685
rescission by either of the following methods: 686
- (1) Mail or other written communications delivered to the 687
offeror's physical address. Service by mail is effective upon 688
deposit at a United States post office. 689
- (2) By electronic means if the residential PACE 690
administrator has previously communicated with the homeowner via 691
electronic means. 692
- (C) Any payments made by the homeowner in connection with 693
the residential PACE loan or a home improvement contract for 694
cost-effective energy improvements financed with a residential 695
PACE loan shall be returned to the homeowner within twenty 696
business days after receipt by the residential PACE 697
administrator by any means of notification of rescission. 698

(D) If more than one homeowner in a transaction has the 699
right to rescind, the exercise of the right by one homeowner 700
shall be effective as to all homeowners. 701

(E) A residential PACE administrator shall provide the 702
homeowner with the following rescission notice and form, which 703
shall be in a writing separate from the residential PACE loan 704
contract: 705

"RESCISSION RIGHT AND FORM 706

Your right to cancel 707

You have the right to rescind (cancel) this contract 708
without penalty until midnight on [insert day and date]. 709

To rescind (cancel): Mail or otherwise deliver a signed 710
and dated copy of this form to [name of the residential PACE 711
administrator] at [physical or, if the residential PACE 712
administrator accepts electronic rescission, the e-mail address 713
of the residential PACE administrator]. 714

You do not have to use this form, but must notify [name of 715
the residential PACE administrator] in writing at the address 716
listed in the previous sentence of your intention to rescind 717
(cancel). 718

If you rescind (cancel), any payments made by you under 719
this contract will be returned within twenty business days after 720
the residential PACE administrator receives this form. 721

Notice of Rescission Form 722

I HEREBY RESCIND (CANCEL) THIS CONTRACT. 723

_____ 724

(Print your name) 725

homeowner a different price for the cost-effective energy 753
improvements and their installation that the contractor would 754
charge for the same or similar installations that are not 755
financed through a residential PACE loan. 756

(D) An implementing entity shall inspect all installations 757
and conduct a performance verification of at least ten per cent 758
of the cost-effective energy improvements financed by the 759
program. 760

(E) A residential PACE loan program shall require that all 761
cost-effective energy improvements be made to a qualifying real 762
property prior to, or in conjunction with, an applicant's 763
repayment of financing for cost-effective energy improvements 764
for that property. 765

Sec. 1356.16. (A) A residential PACE administrator shall 766
comply with the "Servicemembers Civil Relief Act," 50 U.S.C. 767
3901, et. seq., as amended. 768

(B) No residential PACE administrator shall do any of the 769
following: 770

(1) In any form of communication, make any statement or 771
implication that is false, unfair, unlawful, deceptive, abusive, 772
or misleading, or make any material omission, regardless of 773
reliance on the statement or omission by the homeowner, in 774
connection with a residential PACE loan or the marketing or 775
offering of cost-effective energy improvements financed through 776
a residential PACE loan; 777

(2) Indicate or imply that the cost-effective energy 778
improvements will pay for themselves or offset or exceed the 779
amount of the residential PACE loan, unless the residential PACE 780
administrator guarantees in writing that the improvements will 781

pay for themselves or offset or exceed the amount of the 782
residential PACE loan, and a provision for sufficient 783
consideration to the homeowner is included in the residential 784
PACE loan contract in the event that the guarantee does not 785
materialize; 786

(3) Indicate or imply that the residential PACE loan is 787
free, a form of public assistance, or a government program; 788

(4) Indicate or imply that the residential PACE loan will 789
be repaid, in whole or in part, by a subsequent homeowner; 790

(5) Engage in any false, deceptive, or misleading 791
advertising, act, or practice; 792

(6) Use an implementing entity's logo, city seal, or other 793
graphic in marketing materials or representations; 794

(7) Steer or otherwise direct a homeowner to a residential 795
PACE loan; 796

(8) Offer or provide any tax advice or information, unless 797
the offeror or provider is a tax expert, provided that a 798
residential PACE administrator may do any of the following: 799

(a) Indicate to a homeowner that tax benefits may be 800
available to certain homeowners who obtain residential PACE 801
loans; 802

(b) Direct the homeowner to seek the advice of an expert 803
regarding tax matters related to the residential PACE loan. 804

(9) Offer or provide direct or indirect monetary payments 805
or any other form of compensation, incentive, kickback, 806
inducement, or any other thing of value to a homeowner to enter 807
into a residential PACE loan; 808

(10) Engage in practices prohibited under the "Fair Debt Collection Practices Act of 1977," Pub. L. No. 95-109, while attempting to collect on any account, tax bill, or other indebtedness; 809
810
811
812

(11) Enter into any residential PACE loan contract unless both the federal housing finance agency and the federal housing administration will purchase, refinance, or insure mortgages encumbered by subordinate residential PACE liens; 813
814
815
816

(12) Violate federal do-not-call or telemarketing restrictions or prohibitions; 817
818

(13) Violate any other state or federal law or rule. 819

(C) No residential PACE administrator shall do either of the following: 820
821

(1) Offer or provide direct or indirect monetary payments or any other form of compensation, incentive, kickback, inducement, or any other thing of value to a residential PACE contractor to offer, favor, or refer a homeowner to a residential PACE loan over other forms of financing or credit; 822
823
824
825
826

(2) Disclose or permit disclosure to a residential PACE contractor the amount of residential PACE loan financing for which a homeowner is eligible. 827
828
829

Sec. 1356.17. (A) The residential PACE administrator shall provide the following verbatim disclosure to a homeowner on a one-page document, separate from any other, and in 14-point type: 830
831
832
833

"IMPORTANT THINGS TO KNOW ABOUT THIS LOAN 834

1. This loan is called a PACE loan. PACE stands for Property Assessed Clean Energy Loan. 835
836

2. This is not a typical loan. You pay it back through 837
your property taxes. Property taxes are paid twice a year, not 838
monthly, like most loans. 839

3. You are putting up your house as a guarantee of 840
repayment (collateral) for this loan. You could lose your house 841
in tax foreclosure if you fall behind or cannot meet the tax 842
payments necessary to repay the loan. 843

4. This PACE loan will increase your property tax bill by 844
[\$ annual amount] per year for [duration of the loan] years, 845
unless you pay the loan back early. 846

5. Having a PACE loan on the house will likely make it 847
harder to sell your house because you will have to pay off the 848
PACE loan or reduce the price of the house by the amount of the 849
remaining PACE loan balance. 850

6. Having a PACE loan on the house will likely make it 851
more difficult to refinance your mortgage or get a loan 852
modification. It may also delay a closing on a sale. 853

7. To learn about the benefits and risks of a PACE loan, 854
you might consider talking to a lawyer." 855

(B) (1) A residential PACE administrator shall give the 856
disclosure in division (A) of this section to the homeowner five 857
days prior to the execution by the homeowner of a residential 858
PACE loan contract at the first in-person encounter with the 859
homeowner at which a residential PACE loan or the installation 860
of energy measures to be financed by a residential PACE loan is 861
discussed. 862

(2) No other disclosures or papers shall be proffered with 863
the disclosures and annual statement required under this 864
section. The administrator shall ensure that the contact 865

information for the referral provided in the disclosure is up to 866
date. 867

(C) In addition to the disclosure required under division 868
(A) of this section, the residential PACE administrator shall 869
provide, before the execution of a residential PACE loan 870
contract, a disclosure that is approved by the superintendent of 871
financial institutions that includes information specified by 872
the superintendent. 873

The disclosure shall include all of the following: 874

(1) The total amount of the special assessment; 875

(2) The annual special assessment payments and a payment 876
schedule; 877

(3) The term of the special assessment; 878

(4) The interest rate and annual percentage rate of the 879
residential PACE loan, and all applicable fees; 880

(5) The improvements to be installed; 881

(6) That no penalty shall be assessed or collected for 882
prepayment of the special assessment; 883

(7) That any potential utility savings are not guaranteed 884
and may not be equal to or greater than the special assessment 885
payments or total special assessment amount; 886

(8) That the payments will be added to the homeowner's 887
property tax bill; 888

(9) That if tax payments are escrowed, the amount by which 889
escrowed property taxes will increase. 890

(D) A residential PACE administrator shall provide an 891
annual statement of the status of the residential PACE loan to 892

the homeowner, including, at a minimum, the amount paid to date 893
and the remaining balance of the loan. 894

(E) All legally required and voluntary disclosures made in 895
connection with a residential PACE loan shall be provided in the 896
primary language of the homeowner, if any of the following 897
applies: 898

(1) It is requested by the homeowner. 899

(2) The residential PACE loan is advertised in that 900
language. 901

(3) The residential PACE loan contract was explained, 902
discussed, or negotiated in that language, regardless of whether 903
the residential PACE loan is advertised in that language. 904

Sec. 1356.18. (A) An implementing entity that finances an 905
energy improvement under this section shall do all of the 906
following: 907

(1) Secure payment with a residential PACE lien against 908
the qualifying real property; 909

(2) Collect repayments as a special assessment as provided 910
for in Chapters 725. and 1710. of the Revised Code, provided 911
that special assessments for a residential PACE loan shall be 912
made payable in up to twenty equal annual installments; 913

(3) Impose requirements and conditions on financing 914
arrangements to ensure timely repayment; 915

(4) Provide that payments and special assessments are not 916
accelerated due to a default and that delinquent special 917
assessments shall be subordinate to all other special 918
assessments charged against the property at the time of default. 919
Payments made by the homeowner shall first be applied to any 920

delinquent special assessments imposed under this section before 921
a current special assessment imposed under this section. 922

(5) Require that liability for special assessments related 923
to the financing runs with the qualifying real property. 924

(B) All residential PACE administrators shall develop, 925
offer, and implement binding residential PACE loan forbearance, 926
modification, and forgiveness mechanisms for homeowners of 927
residential real property who are facing economic hardship. The 928
mechanisms shall not result in an increase in monthly payments 929
and shall restructure or forgive debt in cases of permanent 930
hardship, including loss of income due to death or disability. 931

(C) A homeowner may prepay a residential PACE loan, in 932
whole or in part, at any time or from time to time without 933
penalty or premium by paying the principal amount to be prepaid 934
together with accrued interest to the date of prepayment. 935

Sec. 1356.19. A homeowner or subsequent homeowner of, a 936
successor in interest to, or any person obligated to pay the 937
property taxes on qualifying residential real property 938
encumbered by a residential PACE lien may assert all claims and 939
defenses against a subsequent residential PACE administrator 940
that the homeowner who originally entered into the residential 941
PACE loan could assert against the original residential PACE 942
administrator or servicer of a residential PACE loan. 943

Sec. 1356.20. (A) Residential PACE administrators, 944
residential PACE contractors, subcontractors of the residential 945
PACE contractor, and agents thereof shall act in good faith 946
toward and in the best interests of the homeowners. 947

(B) For the purposes of this section, a residential PACE 948
contractor, a subcontractor of the residential PACE contractor, 949

and any other agent of the contractor is an agent of a 950
residential PACE administrator. The performance of any act 951
related to a residential PACE loan contract by a residential 952
PACE contractor, a subcontractor of the residential PACE 953
contractor, or any agent of the contractor is considered an act 954
of the administrator, provided the act was within the 955
contractual scope of work. 956

Sec. 1356.21. (A) Any homeowner aggrieved by a person or 957
entity violating this chapter is entitled in an action to any of 958
the following: 959

(1) Actual, incidental, and consequential damages; 960

(2) Statutory damages of either: 961

(a) Five thousand dollars; 962

(b) Ten thousand dollars if the defendant violated section 963
1356.11 of the Revised Code or division (B) of section 1356.16 964
of the Revised Code. 965

(3) Reasonable attorney's fees; 966

(4) Investigative and court costs. 967

(B) The remedies provided under this section are 968
cumulative, not exclusive, and do not restrict any remedy that 969
is otherwise available to a homeowner at law or in equity. 970

Sec. 1356.22. The parties to a residential PACE loan 971
contract may not waive any of the rights or requirements set 972
forth or any provision contained in this chapter. Any waiver of 973
any right, requirement, or provision in a residential PACE loan 974
contract or home improvement contract for cost-effective energy 975
improvements financed with a residential PACE loan is void and 976
unenforceable as contrary to public policy. 977

Sec. 1710.01. As used in this chapter:	978
(A) "Special improvement district" means a special improvement district organized under this chapter.	979 980
(B) "Church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person.	981 982 983 984
(C) "Church property" means property that is described as being exempt from taxation under division (A) (2) of section 5709.07 of the Revised Code and that the county auditor has entered on the exempt list compiled under section 5713.07 of the Revised Code.	985 986 987 988 989
(D) "Municipal executive" means the mayor, city manager, or other chief executive officer of the municipal corporation in which a special improvement district is located.	990 991 992
(E) "Participating political subdivision" means the municipal corporation or township, or each of the municipal corporations or townships, that has territory within the boundaries of a special improvement district created under this chapter.	993 994 995 996 997
(F) "Legislative authority of a participating political subdivision" means, with reference to a township, the board of township trustees.	998 999 1000
(G) "Public improvement" means the planning, design, construction, reconstruction, enlargement, or alteration of any facility or improvement, including the acquisition of land, for which a special assessment may be levied under Chapter 727. of the Revised Code, and includes any special energy improvement project or shoreline improvement project.	1001 1002 1003 1004 1005 1006

(H) "Public service" means any service that can be 1007
provided by a municipal corporation or any service for which a 1008
special assessment may be levied under Chapter 727. of the 1009
Revised Code. 1010

(I) "Residential PACE loan" has the same meaning as in 1011
section 1356.01 of the Revised Code. 1012

(J) "Special energy improvement project" means any 1013
property, device, structure, or equipment necessary for the 1014
acquisition, installation, equipping, and improvement of any 1015
real or personal property used for the purpose of creating a 1016
solar photovoltaic project, a solar thermal energy project, a 1017
geothermal energy project, a customer-generated energy project, 1018
or an energy efficiency improvement, whether such real or 1019
personal property is publicly or privately owned. 1020

~~(J)(1)~~ (K)(1) Except as provided in division ~~(J)(2)~~ (K)(2) 1021
of this section, "existing" qualified nonprofit corporation" 1022
means a nonprofit corporation that existed before the creation 1023
of the corresponding district under this chapter, that is 1024
composed of members located within or adjacent to the district, 1025
that has established a police department under section 1702.80 1026
of the Revised Code, and that is organized for purposes that 1027
include acquisition of real property within an area specified by 1028
its articles for the subsequent transfer of such property to its 1029
members exclusively for charitable, scientific, literary, or 1030
educational purposes, or holding and maintaining and leasing 1031
such property; planning for and assisting in the development of 1032
its members; providing for the relief of the poor and distressed 1033
or underprivileged in the area and adjacent areas; combating 1034
community deterioration and lessening the burdens of government; 1035
providing or assisting others in providing housing for low- or 1036

moderate-income persons; and assisting its members by the 1037
provision of public safety and security services, parking 1038
facilities, transit service, landscaping, and parks. 1039

(2) Regarding a special improvement district to implement 1040
a shoreline improvement project, "existing qualified nonprofit 1041
corporation" has the same meaning as in division ~~(J) (1)~~ (K) (1) 1042
of this section, except that the nonprofit does not need to have 1043
an established police department and does not need to be 1044
organized for purposes that include the acquisition of real 1045
property. 1046

~~(K)~~ (L) "Energy efficiency improvement" means energy 1047
efficiency technologies, products, and activities that reduce or 1048
support the reduction of energy consumption, allow for the 1049
reduction in demand, or support the production of clean, 1050
renewable energy and that are or will be permanently fixed to 1051
real property. 1052

~~(I)~~ (M) "Customer-generated energy project" means a wind, 1053
biomass, or gasification facility for the production of 1054
electricity that meets either of the following requirements: 1055

(1) The facility is designed to have a generating capacity 1056
of two hundred fifty kilowatts of electricity or less. 1057

(2) The facility is: 1058

(a) Designed to have a generating capacity of more than 1059
two hundred fifty kilowatts of electricity; 1060

(b) Operated in parallel with electric transmission and 1061
distribution facilities serving the real property at the site of 1062
the customer-generated energy project; 1063

(c) Intended primarily to offset part or all of the 1064

facility owner's requirements for electricity at the site of the 1065
customer-generated energy project and is located on the facility 1066
owner's real property; and 1067

(d) Not producing energy for direct sale by the facility 1068
owner to the public. 1069

~~(M)~~ (N) "Reduction in demand" means a change in customer 1070
behavior or a change in customer-owned or operated assets that 1071
reduces or has the capability to reduce the demand for 1072
electricity as a result of price signals or other incentives. 1073

~~(N)~~ (O) "Electric distribution utility" and "mercantile 1074
customer" have the same meanings as in section 4928.01 of the 1075
Revised Code. 1076

~~(O)~~ (P) "Shoreline improvement project" means acquiring, 1077
constructing, installing, equipping, improving, maintaining, or 1078
repairing real or tangible personal property necessary or useful 1079
for making improvements to abate erosion along either the Lake 1080
Erie shoreline or any water resource. 1081

~~(P)~~ (Q) "Water resource" has the same meaning as in 1082
section 6105.01 of the Revised Code. 1083

Sec. 1710.02. (A) A special improvement district may be 1084
created within the boundaries of any one municipal corporation, 1085
any one township, or any combination of municipal corporations 1086
and townships within a single county, or counties that adjoin 1087
one another, for the purpose of developing and implementing 1088
plans for public improvements and public services that benefit 1089
the district. A district may be created by petition of the 1090
owners of real property within the proposed district, or by an 1091
existing qualified nonprofit corporation. If the district is 1092
created by an existing qualified nonprofit corporation, the 1093

purposes for which the district is created may be supplemental 1094
to the other purposes for which the corporation is organized. 1095
All territory in a special improvement district shall be 1096
contiguous; except that the territory in a special improvement 1097
district may be noncontiguous if at least one special energy 1098
improvement project or shoreline improvement project is 1099
designated for each parcel of real property included within the 1100
special improvement district. Additional territory may be added 1101
to a special improvement district created under this chapter for 1102
the purpose of developing and implementing plans for special 1103
energy improvement projects or shoreline improvement projects if 1104
at least one special energy improvement project or shoreline 1105
improvement project, respectively, is designated for each parcel 1106
of real property included within such additional territory and 1107
the addition of territory is authorized by the initial plan 1108
proposed under division (F) of this section or a plan adopted by 1109
the board of directors of the special improvement district under 1110
section 1710.06 of the Revised Code. 1111

The district shall be governed by the board of trustees of 1112
a nonprofit corporation. This board shall be known as the board 1113
of directors of the special improvement district. No special 1114
improvement district shall include any church property, or 1115
property of the federal or state government or a county, 1116
township, or municipal corporation, unless the church or the 1117
county, township, or municipal corporation specifically requests 1118
in writing that the property be included within the district, or 1119
unless the church is a member of the existing qualified 1120
nonprofit corporation creating the district at the time the 1121
district is created. A shoreline improvement project may extend 1122
into the territory of Lake Erie as described in sections 1506.10 1123
and 1506.11 of the Revised Code. However, the state shall remain 1124

exempt from any special assessment that may be levied against 1125
that territory under section 1710.06 and Chapter 727. of the 1126
Revised Code. More than one district may be created within a 1127
participating political subdivision, but no real property may be 1128
included within more than one district unless the owner of the 1129
property files a written consent with the clerk of the 1130
legislative authority, the township fiscal officer, or the 1131
village clerk, as appropriate. The area of each district shall 1132
be contiguous; except that the area of a special improvement 1133
district may be noncontiguous if all parcels of real property 1134
included within such area contain at least one special energy 1135
improvement or shoreline improvement thereon. 1136

(B) Except as provided in division (C) of this section, a 1137
district created under this chapter is not a political 1138
subdivision. A district created under this chapter shall be 1139
considered a public agency under section 102.01 and a public 1140
authority under section 4115.03 of the Revised Code. Each member 1141
of the board of directors of a district, each member's designee 1142
or proxy, and each officer and employee of a district shall be 1143
considered a public official or employee under section 102.01 of 1144
the Revised Code and a public official and public servant under 1145
section 2921.42 of the Revised Code. Districts created under 1146
this chapter are not subject to sections 121.81 to 121.83 of the 1147
Revised Code. Districts created under this chapter are subject 1148
to sections 121.22 and 121.23 of the Revised Code. 1149

(C) Each district created under this chapter shall be 1150
considered a political subdivision for purposes of section 1151
4905.34 of the Revised Code. 1152

Membership on the board of directors of the district shall 1153
not be considered as holding a public office. Directors and 1154

their designees shall be entitled to the immunities provided by 1155
Chapter 1702. and to the same immunity as an employee under 1156
division (A) (6) of section 2744.03 of the Revised Code, except 1157
that directors and their designees shall not be entitled to the 1158
indemnification provided in section 2744.07 of the Revised Code 1159
unless the director or designee is an employee or official of a 1160
participating political subdivision of the district and is 1161
acting within the scope of the director's or designee's 1162
employment or official responsibilities. 1163

District officers and district members and directors and 1164
their designees or proxies shall not be required to file a 1165
statement with the Ohio ethics commission under section 102.02 1166
of the Revised Code. All records of the district shall be 1167
treated as public records under section 149.43 of the Revised 1168
Code, except that records of organizations contracting with a 1169
district shall not be considered to be public records under 1170
section 149.43 or section 149.431 of the Revised Code solely by 1171
reason of any contract with a district. 1172

(D) Except as otherwise provided in this section, the 1173
nonprofit corporation that governs a district shall be organized 1174
in the manner described in Chapter 1702. of the Revised Code. 1175
Except in the case of a district created by an existing 1176
qualified nonprofit corporation, the corporation's articles of 1177
incorporation are required to be approved, as provided in 1178
division (E) of this section, by resolution of the legislative 1179
authority of each participating political subdivision of the 1180
district. A copy of that resolution shall be filed along with 1181
the articles of incorporation in the secretary of state's 1182
office. 1183

In addition to meeting the requirements for articles of 1184

incorporation set forth in Chapter 1702. of the Revised Code, 1185
the articles of incorporation for the nonprofit corporation 1186
governing a district formed under this chapter shall provide all 1187
the following: 1188

(1) The name for the district, which shall include the 1189
name of each participating political subdivision of the 1190
district; 1191

(2) A description of the territory within the district, 1192
which may be all or part of each participating political 1193
subdivision. The description shall be specific enough to enable 1194
real property owners to determine if their property is located 1195
within the district. 1196

(3) A description of the procedure by which the articles 1197
of incorporation may be amended. The procedure shall include 1198
receiving approval of the amendment, by resolution, from the 1199
legislative authority of each participating political 1200
subdivision and filing the approved amendment and resolution 1201
with the secretary of state. 1202

(4) The reasons for creating the district, plus an 1203
explanation of how the district will be conducive to the public 1204
health, safety, peace, convenience, and welfare of the district. 1205

(E) The articles of incorporation for a nonprofit 1206
corporation governing a district created under this chapter and 1207
amendments to them shall be submitted to the municipal 1208
executive, if any, and the legislative authority of each 1209
municipal corporation or township in which the proposed district 1210
is to be located. Except in the case of a district created by an 1211
existing qualified nonprofit corporation, the articles or 1212
amendments shall be accompanied by a petition signed either by 1213

the owners of at least sixty per cent of the front footage of 1214
all real property located in the proposed district that abuts 1215
upon any street, alley, public road, place, boulevard, parkway, 1216
park entrance, easement, or other existing public improvement 1217
within the proposed district, excluding church property or 1218
property owned by the state, county, township, municipal, or 1219
federal government, unless a church, county, township, or 1220
municipal corporation has specifically requested in writing that 1221
the property be included in the district, or by the owners of at 1222
least seventy-five per cent of the area of all real property 1223
located within the proposed district, excluding church property 1224
or property owned by the state, county, township, municipal, or 1225
federal government, unless a church, county, township, or 1226
municipal corporation has specifically requested in writing that 1227
the property be included in the district. Pursuant to Section 2o 1228
of Article VIII, Ohio Constitution, the petition required under 1229
this division may be for the purpose of developing and 1230
implementing plans for special energy improvement projects or 1231
shoreline improvement projects, and, in such case, is determined 1232
to be in furtherance of the purposes set forth in Section 2o of 1233
Article VIII, Ohio Constitution. Except as provided in division 1234
(H) of this section, if a special improvement district is being 1235
created under this chapter for the purpose of developing and 1236
implementing plans for special energy improvement projects or 1237
shoreline improvement projects, the petition required under this 1238
division shall be signed by one hundred per cent of the owners 1239
of the area of all real property located within the proposed 1240
special improvement district, at least one special energy 1241
improvement project or shoreline improvement project shall be 1242
designated for each parcel of real property within the special 1243
improvement district, and the special improvement district may 1244
include any number of parcels of real property as determined by 1245

the legislative authority of each participating political 1246
subdivision in which the proposed special improvement district 1247
is to be located. For purposes of determining compliance with 1248
these requirements, the area of the district, or the front 1249
footage and ownership of property, shall be as shown in the most 1250
current records available at the county recorder's office and 1251
the county engineer's office sixty days prior to the date on 1252
which the petition is filed. 1253

Each municipal corporation or township with which the 1254
petition is filed has sixty days to approve or disapprove, by 1255
resolution, the petition, including the articles of 1256
incorporation. In the case of a district created by an existing 1257
qualified nonprofit corporation, each municipal corporation or 1258
township has sixty days to approve or disapprove the creation of 1259
the district after the corporation submits the articles of 1260
incorporation or amendments thereto. This chapter does not 1261
prohibit or restrict the rights of municipal corporations under 1262
Article XVIII of the Ohio Constitution or the right of the 1263
municipal legislative authority to impose reasonable conditions 1264
in a resolution of approval. The acquisition, installation, 1265
equipping, and improvement of a special energy improvement 1266
project under this chapter shall not supersede any local zoning, 1267
environmental, or similar law or regulation. In addition, all 1268
activities associated with a shoreline improvement project that 1269
is implemented under this chapter shall comply with all 1270
applicable local zoning requirements, all local, state, and 1271
federal environmental laws and regulations, and all applicable 1272
requirements established in Chapter 1506. of the Revised Code 1273
and rules adopted under it. 1274

(F) Persons proposing creation and operation of the 1275
district may propose an initial plan for public services or 1276

public improvements that benefit all or any part of the 1277
district. Any initial plan shall be submitted as part of the 1278
petition proposing creation of the district or, in the case of a 1279
district created by an existing qualified nonprofit corporation, 1280
shall be submitted with the articles of incorporation or 1281
amendments thereto. 1282

An initial plan may include provisions for the following: 1283

(1) Creation and operation of the district and of the 1284
nonprofit corporation to govern the district under this chapter; 1285

(2) Hiring employees and professional services; 1286

(3) Contracting for insurance; 1287

(4) Purchasing or leasing office space and office 1288
equipment; 1289

(5) Other actions necessary initially to form, operate, or 1290
organize the district and the nonprofit corporation to govern 1291
the district; 1292

(6) A plan for public improvements or public services that 1293
benefit all or part of the district, which plan shall comply 1294
with the requirements of division (A) of section 1710.06 of the 1295
Revised Code and may include, but is not limited to, any of the 1296
permissive provisions described in the fourth sentence of that 1297
division or listed in divisions (A)(1) to (7) of that section; 1298

(7) If the special improvement district is being created 1299
under this chapter for the purpose of developing and 1300
implementing plans for special energy improvement projects or 1301
shoreline improvement projects, provision for the addition of 1302
territory to the special improvement district. 1303

After the initial plan is approved by all municipal 1304

corporations and townships to which it is submitted for approval 1305
and the district is created, each participating subdivision 1306
shall levy a special assessment within its boundaries to pay for 1307
the costs of the initial plan. The levy shall be for no more 1308
than ten years from the date of the approval of the initial 1309
plan; except that if the proceeds of the levy are to be used to 1310
pay the costs of a special energy improvement project or 1311
shoreline improvement project, the levy of a special assessment 1312
shall be for no more than thirty years from the date of approval 1313
of the initial plan, except as provided in section 1356.18 of 1314
the Revised Code. In the event that additional territory is 1315
added to a special improvement district, the special assessment 1316
to be levied with respect to such additional territory shall 1317
commence not earlier than the date such territory is added and 1318
shall be for no more than thirty years from such date, except as 1319
provided in that section. For purposes of levying an assessment 1320
for this initial plan, the services or improvements included in 1321
the initial plan shall be deemed a special benefit to property 1322
owners within the district. 1323

(G) Each nonprofit corporation governing a district under 1324
this chapter may do the following: 1325

(1) Exercise all powers of nonprofit corporations granted 1326
under Chapter 1702. of the Revised Code that do not conflict 1327
with this chapter; 1328

(2) Develop, adopt, revise, implement, and repeal plans 1329
for public improvements and public services for all or any part 1330
of the district; 1331

(3) Contract with any person, political subdivision as 1332
defined in section 2744.01 of the Revised Code, or state agency 1333
as defined in section 1.60 of the Revised Code to develop and 1334

implement plans for public improvements or public services 1335
within the district; 1336

(4) Contract and pay for insurance for the district and 1337
for directors, officers, agents, contractors, employees, or 1338
members of the district for any consequences of the 1339
implementation of any plan adopted by the district or any 1340
actions of the district. 1341

The board of directors of a special improvement district 1342
may, acting as agent and on behalf of a participating political 1343
subdivision, sell, transfer, lease, or convey any special energy 1344
improvement project owned by the participating political 1345
subdivision upon a determination by the legislative authority 1346
thereof that the project is not required to be owned exclusively 1347
by the participating political subdivision for its purposes, for 1348
uses determined by the legislative authority thereof as those 1349
that will promote the welfare of the people of such 1350
participating political subdivision; improve the quality of life 1351
and the general and economic well-being of the people of the 1352
participating political subdivision; better ensure the public 1353
health, safety, and welfare; protect water and other natural 1354
resources; provide for the conservation and preservation of 1355
natural and open areas and farmlands, including by making urban 1356
areas more desirable or suitable for development and 1357
revitalization; control, prevent, minimize, clean up, or mediate 1358
certain contamination of or pollution from lands in the state 1359
and water contamination or pollution; or provide for safe and 1360
natural areas and resources. The legislative authority of each 1361
participating political subdivision shall specify the 1362
consideration for such sale, transfer, lease, or conveyance and 1363
any other terms thereof. Any determinations made by a 1364
legislative authority of a participating political subdivision 1365

under this division shall be conclusive. 1366

Any sale, transfer, lease, or conveyance of a special 1367
energy improvement project by a participating political 1368
subdivision or the board of directors of the special improvement 1369
district may be made without advertising, receipt of bids, or 1370
other competitive bidding procedures applicable to the 1371
participating political subdivision or the special improvement 1372
district under Chapter 153. or 735. or section 1710.11 of the 1373
Revised Code or other representative provisions of the Revised 1374
Code. 1375

(H) The owner of real property that is part of a planned 1376
community or a condominium development is deemed to have signed 1377
the petitions required under division (E) of this section and 1378
division (B) of section 1710.06 of the Revised Code with respect 1379
to a special improvement district that is being created for the 1380
purpose of developing and implementing plans for shoreline 1381
improvement projects if the district and the projects have been 1382
approved through an alternative process prescribed by the 1383
bylaws, declarations, covenants, and restrictions governing the 1384
planned community or condominium development. Such an 1385
alternative process may consist of a vote of the owners 1386
association or unit owners association, the approval of a 1387
specified percentage of property owners, or any other procedure 1388
authorized by the bylaws, declarations, covenants, and 1389
restrictions governing the planned community or condominium 1390
development. 1391

As used in this division, "condominium development" and 1392
"unit owners association" have the same meanings as in section 1393
5311.01 of the Revised Code, and "planned community," "owners 1394
association," "bylaws," and "declaration" have the same meanings 1395

as in section 5312.01 of the Revised Code. 1396

Sec. 1710.06. (A) The board of directors of a special 1397
improvement district may develop and adopt one or more written 1398
plans for public improvements or public services that benefit 1399
all or any part of the district. Each plan shall set forth the 1400
specific public improvements or public services that are to be 1401
provided, identify the area in which they will be provided, and 1402
specify the method of assessment to be used. Each plan for 1403
public improvements or public services shall indicate the period 1404
of time the assessments are to be levied for the improvements 1405
and services and, if public services are included in the plan, 1406
the period of time the services are to remain in effect. Plans 1407
for public improvements may include the planning, design, 1408
construction, reconstruction, enlargement, or alteration of any 1409
public improvements and the acquisition of land for the 1410
improvements. Plans for public improvements or public services 1411
may also include, but are not limited to, provisions for the 1412
following: 1413

(1) Creating and operating the district and the nonprofit 1414
corporation under this chapter, including hiring employees and 1415
professional services, contracting for insurance, and purchasing 1416
or leasing office space and office equipment and other 1417
requirements of the district; 1418

(2) Planning, designing, and implementing a public 1419
improvements or public services plan, including hiring 1420
architectural, engineering, legal, appraisal, insurance, 1421
consulting, energy auditing, and planning services, and, for 1422
public services, managing, protecting, and maintaining public 1423
and private facilities, including public improvements; 1424

(3) Conducting court proceedings to carry out this 1425

chapter;	1426
(4) Paying damages resulting from the provision of public improvements or public services and implementing the plans;	1427 1428
(5) Paying the costs of issuing, paying interest on, and redeeming notes and bonds issued for funding public improvements and public services plans;	1429 1430 1431
(6) Sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of any special energy improvement project by the special improvement district, between a participating political subdivision and the special improvement district, and between the special improvement district and any owner of real property in the special improvement district on which a special energy improvement project has been acquired, installed, equipped, or improved; and	1432 1433 1434 1435 1436 1437 1438 1439 1440 1441
(7) Aggregating the renewable energy credits generated by one or more special energy improvement projects within a special improvement district, upon the consent of the owners of the credits and for the purpose of negotiating and completing the sale of such credits.	1442 1443 1444 1445 1446
(B) Once the board of directors of the special improvement district adopts a plan, it shall submit the plan to the legislative authority of each participating political subdivision and the municipal executive of each municipal corporation in which the district is located, if any. The legislative authorities and municipal executives shall review the plan and, within sixty days after receiving it, may submit their comments and recommendations about it to the district.	1447 1448 1449 1450 1451 1452 1453 1454

After reviewing these comments and recommendations, the board of 1455
directors may amend the plan. It may then submit the plan, 1456
amended or otherwise, in the form of a petition to members of 1457
the district whose property may be assessed for the plan. Once 1458
the petition is signed by those members who own at least sixty 1459
per cent of the front footage of property that is to be assessed 1460
and that abuts upon a street, alley, public road, place, 1461
boulevard, parkway, park entrance, easement, or other public 1462
improvement, or those members who own at least seventy-five per 1463
cent of the area to be assessed for the improvement or service, 1464
the petition may be submitted to each legislative authority for 1465
approval. Except as provided in division (H) of section 1710.02 1466
of the Revised Code, if the special improvement district was 1467
created for the purpose of developing and implementing plans for 1468
special energy improvement projects or shoreline improvement 1469
projects, the petition required under this division shall be 1470
signed by one hundred per cent of the owners of the area of all 1471
real property located within the area to be assessed for the 1472
special energy improvement project or shoreline improvement 1473
project. 1474

Each legislative authority shall, by resolution, approve 1475
or reject the petition within sixty days after receiving it. If 1476
the petition is approved by the legislative authority of each 1477
participating political subdivision, the plan contained in the 1478
petition shall be effective at the earliest date on which a 1479
nonemergency resolution of the legislative authority with the 1480
latest effective date may become effective. A plan may not be 1481
resubmitted to the legislative authorities and municipal 1482
executives more than three times in any twelve-month period. 1483

(C) Each participating political subdivision shall levy, 1484
by special assessment upon specially benefited property located 1485

within the district, the costs of any public improvements or 1486
public services plan contained in a petition approved by the 1487
participating political subdivisions under this section or 1488
division (F) of section 1710.02 of the Revised Code. The levy 1489
shall be made in accordance with the procedures set forth in 1490
Chapter 727. of the Revised Code, except that: 1491

(1) The assessment for each improvements or services plan 1492
may be levied by any one or any combination of the methods of 1493
assessment listed in section 727.01 of the Revised Code, 1494
provided that the assessment is uniformly applied. 1495

(2) For the purpose of levying an assessment, the board of 1496
directors may combine one or more improvements or services plans 1497
or parts of plans and levy a single assessment against specially 1498
benefited property. 1499

(3) For purposes of special assessments levied by a 1500
township pursuant to this chapter, references in Chapter 727. of 1501
the Revised Code to the municipal corporation shall be deemed to 1502
refer to the township, and references to the legislative 1503
authority of the municipal corporation shall be deemed to refer 1504
to the board of township trustees. 1505

(4) For special assessments levied for residential PACE 1506
loans, the special assessment shall be paid and collected 1507
pursuant to the requirements described in section 1356.18 of the 1508
Revised Code. 1509

Church property or property owned by a political 1510
subdivision, including any participating political subdivision 1511
in which a special improvement district is located, shall be 1512
included in and be subject to special assessments made pursuant 1513
to a plan adopted under this section or division (F) of section 1514

1710.02 of the Revised Code, if the church or political 1515
subdivision has specifically requested in writing that its 1516
property be included within the special improvement district and 1517
the church or political subdivision is a member of the district 1518
or, in the case of a district created by an existing qualified 1519
nonprofit corporation, if the church is a member of the 1520
corporation. 1521

For tax years 2020 to 2024, qualifying real property, as 1522
defined in section 727.031 of the Revised Code, is exempt from 1523
special assessments levied under division (C) of this section, 1524
provided no delinquent special assessments and related interest 1525
and penalties are levied or assessed against any property owned 1526
by the owner and operator of the qualifying real property for 1527
that tax year. 1528

(D) All rights and privileges of property owners who are 1529
assessed under Chapter 727. of the Revised Code shall be granted 1530
to property owners assessed under this chapter, including those 1531
rights and privileges specified in sections 727.15 to 727.17 and 1532
727.18 to 727.22 of the Revised Code and the right to notice of 1533
the resolution of necessity and the filing of the estimated 1534
assessment under section 727.13 of the Revised Code. Property 1535
owners assessed for public services under this chapter shall 1536
have the same rights and privileges as property owners assessed 1537
for public improvements under this chapter. 1538

Sec. 1710.15. Any residential PACE loan administered for a 1539
special energy improvement project shall comply with Chapter 1540
1356. of the Revised Code. 1541

Sec. 5721.10. Except as otherwise provided under section 1542
1356.03 or sections 5721.30 to 5721.43 of the Revised Code, the 1543
state shall have the first lien on the lands and lots described 1544

in the delinquent land list, for the amount of taxes, 1545
assessments, interest, and penalty charged prior to the delivery 1546
of such list. If the taxes have not been paid for one year after 1547
having been certified as delinquent, the state shall institute 1548
foreclosure proceedings in the manner provided by section 1549
323.25, sections 323.65 to 323.79, or sections 5721.01 to 1550
5721.28 of the Revised Code, unless a tax certificate respecting 1551
that property has been sold or assigned under section 5721.32 or 1552
5721.33 of the Revised Code, or unless such taxes are the 1553
subject of a valid delinquent tax contract under section 323.31 1554
of the Revised Code for which the county treasurer has not made 1555
certification to the county auditor that the delinquent tax 1556
contract has become void. The court shall levy, as costs in the 1557
foreclosure proceedings instituted on the certification of 1558
delinquency, the cost of an abstract or certificate of title to 1559
the property described in the certification, if it is required 1560
by the court, to be paid into the general fund of the county. 1561
Sections 5721.01 to 5721.28 of the Revised Code do not prevent 1562
the partial payment of such delinquent taxes, assessments, 1563
interest, and penalty during the period the delinquency is being 1564
discharged in accordance with a delinquent tax contract under 1565
section 323.31 of the Revised Code, but the partial payments may 1566
be made and received as provided by law without prejudice to the 1567
right of the state to institute foreclosure proceedings for any 1568
amount then remaining unpaid, if the county treasurer certifies 1569
to the county auditor that the delinquent tax contract has 1570
become void. 1571

Section 2. That existing sections 717.25, 1710.01, 1572
1710.02, 1710.06, and 5721.10 of the Revised Code are hereby 1573
repealed. 1574