

Requested by Representative MARSH

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3241**

1 On page 1 of the printed A-engrossed bill, delete lines 5 through 26 and
2 delete pages 2 through 5.

3 On page 6, delete lines 1 through 23 and insert:

4 **“SECTION 1. As used in sections 1 to 6 of this 2017 Act:**

5 **“(1) ‘Local government’ means cities and counties.**

6 **“(2) ‘Residential PACE program’ means a program established un-**
7 **der section 2 or 3 of this 2017 Act.**

8 **“(3) ‘Seismic rehabilitation’ means improvements to single-family**
9 **dwelling that are:**

10 **“(a) Intended to reduce or prevent harm to persons and property**
11 **due to the effects of seismic activity on the single-family dwelling; and**

12 **“(b) Authorized by a local government implementing a program**
13 **established under section 3 of this 2017 Act.**

14 **“(4) ‘Single-family dwelling’ means a noncommercial one-unit to**
15 **four-unit residence, including a detached or semidetached residence**
16 **or a townhome.**

17 **“(5) ‘Utilities improvements’ means improvements to a single-**
18 **family dwelling for any of the following purposes:**

19 **“(A) Energy efficiency.**

20 **“(B) Renewable energy.**

21 **“(C) Energy storage.**

1 **“(D) Smart electric vehicle charging stations.**

2 **“(E) Water efficiency.**

3 **“SECTION 2. (1)(a) Subject to subsection (2) of this section, a local**
4 **government may establish a program to assist owners of record of**
5 **single-family dwellings located within the jurisdiction of the local**
6 **government in financing cost-effective utilities improvements to the**
7 **single-family dwellings.**

8 **“(b) The utilities improvements must be authorized by:**

9 **“(A) A local government implementing a program established under**
10 **this section; or**

11 **“(B) The State Department of Energy for a loan issued under sub-**
12 **section (5) of this section to a local government that establishes a**
13 **program in cooperation with a local government described in subpar-**
14 **agraph (A) of this paragraph.**

15 **“(c) A program established under this subsection may provide for**
16 **the local government to:**

17 **“(A) Make loans to owners financed with the net proceeds and in-**
18 **terest earnings of revenue bonds authorized by subsection (4) of this**
19 **section;**

20 **“(B) Facilitate private financing by the owners; or**

21 **“(C) Make loans under subparagraph (A) of this paragraph and fa-**
22 **cilitate private financing under subparagraph (B) of this paragraph.**

23 **“(2) Before establishing a program under this section, the local**
24 **government shall provide notice to utilities that distribute electric**
25 **energy, natural gas or water within the areas in which the local gov-**
26 **ernment will operate the program.**

27 **“(3)(a) If the owner of record of a single-family dwelling requests**
28 **financing under a program established under this section, the local**
29 **government implementing the program may:**

30 **“(A) Enter into a loan agreement with the owner and any other**

1 person benefited by the loan; or

2 “(B) Facilitate a financing agreement for the owner and any other

3 person benefited by the financing.

4 “(b) A loan agreement or financing agreement entered into under

5 paragraph (a) of this subsection must be in a principal amount that:

6 “(A) Is sufficient to pay:

7 “(i) The costs of utilities improvements the local government de-

8 termines will benefit the single-family dwelling and the borrowers;

9 “(ii) The costs of an energy or water audit required under section

10 4 (2)(b) of this 2017 Act; and

11 “(iii) The costs and reserves of the program;

12 “(B) Does not exceed 20 percent of the real market value of the

13 single-family dwelling; and

14 “(C) When added to any mortgage debt principal outstanding on the

15 single-family dwelling, does not exceed 97 percent of the real market

16 value of the single-family dwelling.

17 “(c) The term of a loan agreement or financing agreement entered

18 into under paragraph (a) of this subsection may not exceed the lesser

19 of:

20 “(A) The estimated useful life of the improvements to which the

21 greatest portion of the amount financed under the agreement is at-

22 tributable; or

23 “(B) Twenty-five years.

24 “(d) If a local government makes a loan under paragraph (a) of this

25 subsection, the local government may charge the borrower:

26 “(A) An interest rate on the principal amount that is sufficient to

27 pay the financing costs of the loan program, including loan delin-

28 quencies; and

29 “(B) Periodic fees to pay for program costs.

30 “(e)(A) A local government shall charge an owner who receives as-

1 **sistance under this section a fee that is equal to the greater of:**

2 **“(i) One percent of the amount loaned or financed; or**

3 **“(ii) The actual costs incurred by the assessor of the county in**
4 **which the single-family dwelling is located in administering the fi-**
5 **nancing under this section.**

6 **“(B) Fees charged and collected under this section may be expended**
7 **solely for operations of the office of the county assessor.**

8 **“(4) A local government may issue revenue bonds under ORS**
9 **287A.150 to finance the costs of a program established under this sec-**
10 **tion, including the costs of making loans for utilities improvements.**

11 **“(5) The State Department of Energy may lend money under the**
12 **provisions of ORS 470.060 to 470.080 and 470.090 to a local government**
13 **that establishes a program under this section in cooperation with a**
14 **local government implementing a program under this section.**

15 **“SECTION 3. (1)(a) A local government may establish a program to**
16 **assist owners of record of single-family dwellings located within the**
17 **jurisdiction of the local government in financing cost-effective seismic**
18 **rehabilitation of the single-family dwellings.**

19 **“(b) A program established under this subsection may provide for**
20 **the local government to:**

21 **“(A) Make loans to owners financed with the net proceeds and in-**
22 **terest earnings of revenue bonds authorized by subsection (3) of this**
23 **section;**

24 **“(B) Facilitate private financing by the owners; or**

25 **“(C) Make loans under subparagraph (A) of this paragraph and fa-**
26 **cilitate private financing under subparagraph (B) of this paragraph.**

27 **“(2)(a) If the owner of record of a single-family dwelling requests**
28 **financing under a program established under this section, the local**
29 **government implementing the program may:**

30 **“(A) Enter into a loan agreement with the owner and any other**

1 person benefited by the loan; or

2 “(B) Facilitate a financing agreement for the owner and any other
3 person benefited by the financing.

4 “(b) A loan agreement or financing agreement entered into under
5 paragraph (a) of this subsection must be in a principal amount that:

6 “(A) Is sufficient to pay:

7 “(i) The costs of seismic rehabilitation the local government deter-
8 mines will benefit the single-family dwelling and the borrowers; and

9 “(ii) The costs and reserves of the program;

10 “(B) Does not exceed 20 percent of the real market value of the
11 single-family dwelling; and

12 “(C) When added to any mortgage debt principal outstanding on the
13 single-family dwelling, does not exceed 97 percent of the real market
14 value of the single-family dwelling.

15 “(c) The term of a loan agreement or financing agreement entered
16 into under paragraph (a) of this subsection may not exceed the lesser
17 of:

18 “(A) The estimated useful life of the improvements to which the
19 greatest portion of the amount financed under the agreement is at-
20 tributable; or

21 “(B) Twenty-five years.

22 “(d) If a local government makes a loan under paragraph (a) of this
23 subsection, the local government may charge the borrower:

24 “(A) An interest rate on the principal amount that is sufficient to
25 pay the financing costs of the loan program, including loan delin-
26 quencies; and

27 “(B) Periodic fees to pay for program costs.

28 “(e)(A) A local government shall charge an owner who receives as-
29 sistance under this section a fee that is equal to the greater of:

30 “(i) One percent of the amount loaned or financed; or

1 “(ii) The actual costs incurred by the assessor of the county in
2 which the single-family dwelling is located in administering the fi-
3 nancing under this section.

4 “(B) Fees charged and collected under this section may be expended
5 solely for operations of the office of the county assessor.

6 “(3) A local government may issue revenue bonds pursuant to ORS
7 287A.150 to finance the costs of a program established under this sec-
8 tion, including the costs of making loans.

9 “SECTION 4. (1) A local government that establishes a residential
10 PACE program shall require an owner of a single-family dwelling who
11 requests assistance to submit such financial information as the local
12 government considers necessary to make any determination under
13 sections 1 to 6 of this 2017 Act.

14 “(2)(a) A local government that establishes a program under section
15 2 of this 2017 Act shall impose requirements to ensure that, with re-
16 spect to a single-family dwelling, the costs of the utilities improve-
17 ments financed under the program do not exceed the cumulative cost
18 savings of the improvements over the useful life of the improvements.

19 “(b) For purposes of this subsection, a local government shall re-
20 quire performance of an energy or water audit of a single-family
21 dwelling before the local government approves a loan for utilities im-
22 provements to the single-family dwelling.

23 “(c) Notwithstanding paragraph (b) of this subsection, an energy
24 or water audit of the single-family dwelling is not required in the cir-
25 cumstances described in subsection (3) of this section.

26 “(3) Notwithstanding subsections (1) and (2) of this section, a local
27 government may assist an owner of a single-family dwelling under a
28 residential PACE program based on an evaluation by the local gov-
29 ernment of the owner’s income and obligations that shows to the sat-
30 isfaction of the local government that the owner will be able to meet

1 the annual obligations arising from assistance under this section.

2 “(4) Notwithstanding subsection (3) of this section, a local govern-
3 ment may not assist an owner under a residential PACE program if
4 any of the following is true:

5 “(a) Any property taxes imposed on the single-family dwelling for
6 which the owner is liable are delinquent.

7 “(b) Any payment for debt secured by a mortgage on the single-
8 family dwelling is delinquent or such payments have been made late
9 more than once during the preceding 12-month period.

10 “(c) Any lien on the single-family dwelling is being foreclosed, there
11 is a pending notice of default with respect to debt secured by the
12 single-family dwelling or there has been more than one recorded notice
13 of default during the lesser of the preceding two years or the time that
14 the owner has owned the single-family dwelling.

15 “(d) The owner has outstanding or unsatisfied involuntary liens
16 recorded against the single-family dwelling in a cumulative amount in
17 excess of \$1,000.

18 “(e) The owner has sought relief from creditors under the laws of
19 bankruptcy within the preceding seven years. This paragraph does not
20 apply if the owner was discharged by the bankruptcy court at least two
21 years before the date of application for assistance under a residential
22 PACE program and the owner has made no payments more than 30
23 days late on any indebtedness in the preceding 12-month period.

24 “(5) The local government may impose any other requirements or
25 conditions on loans or financing agreements entered into under a
26 residential PACE program that the local government considers neces-
27 sary or appropriate to ensure timely repayment.

28 “SECTION 5. (1)(a) A local government that establishes a residen-
29 tial PACE program must adopt consumer protection standards in-
30 formed by the Best Practice Guidelines for Residential PACE

1 **Financing Programs published by the United States Department of**
2 **Energy on November 18, 2016.**

3 **“(b) The consumer protection standards must address, at a mini-**
4 **imum, property owner disclosures, contractor conduct, acceptable pro-**
5 **ducts and projects with pricing guidelines, marketing practices,**
6 **consumer support before and after financing, treatment of protected**
7 **classes, grievance procedures, data security and privacy matters.**

8 **“(c) The local government shall ensure compliance with the con-**
9 **sumer protection standards or enter into an agreement with a public**
10 **or private third-party administrator to ensure compliance.**

11 **“(2) A local government that establishes a residential PACE pro-**
12 **gram shall present to the owner of a single-family dwelling on which**
13 **improvements are to be financed a form that meets the requirements**
14 **of subsection (3) of this section before entering into any agreement**
15 **with the owner under a residential PACE program.**

16 **“(3) The form required under this section must disclose all applica-**
17 **ble material terms of the assistance provided to the owner, including,**
18 **but not limited to:**

19 **“(a) The improvements to be installed.**

20 **“(b) The total amount loaned or financed, including the cost of the**
21 **installed improvements, program fees and capitalized interest, if any.**

22 **“(c) The payment amounts.**

23 **“(d) The fixed rate of interest charged on the amount loaned or fi-**
24 **nanced.**

25 **“(e) A payment schedule that fully amortizes the amount loaned**
26 **or financed.**

27 **“(f) The term of a benefit assessment, which may not exceed the**
28 **useful life of the improvements.**

29 **“(g) The annual tax obligation, repayment process and schedule.**

30 **“(h) The possibility that a benefit assessment may remain on the**

1 **single-family dwelling or be required to be paid off if the owner sells**
2 **or refinances the single-family dwelling.**

3 **“(i) That no penalty shall be assessed or collected for prepayment**
4 **of a benefit assessment.**

5 **“(j) The nature of the lien or obligation created upon recordation.**

6 **“(k) The owner’s right to withhold approval of payment until the**
7 **project is complete.**

8 **“(L) Any other relevant rights or notices required under state law.**

9 **“(4) The form required under this section must contain the follow-**
10 **ing statement in at least 12-point bold type:**

11 **“** _____
12 **The assessment described below will result in an assessment against**
13 **your property which will be collected along with your property taxes**
14 **and will result in a lien on your property. You should read and review**
15 **the terms carefully and, if necessary, consult with a tax professional**
16 **or an attorney.**

17 **“** _____
18 **“SECTION 6. (1) A local government implementing a residential**
19 **PACE program may:**

20 **“(a) Secure a loan or financing with a lien on the benefited single-**
21 **family dwelling.**

22 **“(b) Assess the benefited single-family dwelling for the amounts due**
23 **under a loan agreement or financing agreement.**

24 **“(c) Secure a loan or financing in any other manner that the local**
25 **government determines is reasonable.**

26 **“(2)(a) A lien against a single-family dwelling securing payments**
27 **due under a residential PACE program shall run with the land and**
28 **shall be recorded and released in the manner provided for real property**
29 **tax liens.**

30 **“(b)(A) If a lien described in this subsection is foreclosed or en-**

1 forced by levy and sale, any installment of the payment amounts un-
2 der the residential PACE program that is not paid when due, including
3 any penalties, interest and fees relating to the installment that were
4 due and owing on the date of foreclosure or levy and sale, may be
5 collected from the proceeds of the foreclosure or levy and sale. The
6 balance of the unbilled installments do not have priority over existing
7 mortgages on the single-family dwelling.

8 “(B) The lien shall remain attached to the single-family dwelling
9 and survive the judgment of the foreclosure to the extent of any re-
10 maining unpaid installments of the payment amounts secured by the
11 lien. The remaining unpaid installments do not impose personal li-
12 ability on the owner of the single-family dwelling subject to the judg-
13 ment of foreclosure.

14 “(3)(a) In lieu of enforcing liens and collecting assessments as pro-
15 vided in subsection (2) of this section, a local government may certify
16 to the county assessor, in the manner provided in ORS 310.060, the
17 payment amounts due in a property tax year as assessments against
18 the single-family dwellings.

19 “(b) If the assessments are certified as provided in this subsection,
20 the county assessor shall:

21 “(A) Enter the assessments upon the county assessment roll against
22 the single-family dwellings described in the certificate, in the manner
23 that other local government assessments are entered;

24 “(B) Collect, account for and enforce the assessments in the man-
25 ner that local government property taxes are collected, accounted for
26 and enforced; and

27 “(C) Transfer, as provided by law, the assessments collected to the
28 local government that imposed the assessment.

29 “(4) Any provision of an agreement entered into under a residential
30 PACE program that conflicts with the provisions of this section is

1 void.

2 “(5) A local government that establishes a residential PACE pro-
3 gram shall develop procedures by which the local government, upon
4 request of an owner of a single-family dwelling seeking assistance
5 under the program, may agree to subordinate the local government’s
6 rights to proceeds from foreclosure of a lien securing payment of
7 amounts financed under the program to the rights of a first mortgage
8 holder.

9 “(6) A local government that establishes a residential PACE pro-
10 gram may develop policies and procedures to encourage the partic-
11 ipation of state-chartered banks and credit unions in implementing the
12 program, including, but not limited to, credit enhancement and ware-
13 house facilities.”.

14 In line 24, delete “3” and insert “7”.

15
