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# A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that as a result of its  
2 goal to reach one hundred per cent renewable energy by 2045, the  
3 State now leads other states in nearly every category of  
4 renewable electricity. Despite great progress, Hawaii continues  
5 to depend heavily upon imported petroleum for its energy needs,  
6 and still falls far short of its ambitious renewable energy  
7 goals.

8           The legislature further finds that improving energy  
9 efficiency is the most economical, expedient, and cleanest way  
10 to accelerate the State's transition to one hundred per cent  
11 renewable energy. Energy consuming residential properties that  
12 are not using energy conservation strategies offer enormous  
13 opportunities for energy savings, yet the potential for savings  
14 is not readily apparent through current disclosure and  
15 information sharing requirements.

16           The legislature also finds that the State has a compelling  
17 statewide interest in accelerating the progress toward its clean



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1 energy and greenhouse gas emission reduction goals by improving  
2 property that is not using energy conservation strategies.  
3 Property that has been retrofitted with energy-related  
4 qualifying improvements receives the benefits of alleviating the  
5 property's burden from energy consumption. The installation and  
6 operation of qualifying improvements not only benefit the  
7 affected properties for which the improvements are made, but  
8 also assist in fulfilling the goals of the State's energy  
9 initiatives and policies. In order to make qualifying  
10 improvements more affordable and assist residential property  
11 owners who desire to undertake such improvements, there is a  
12 compelling statewide interest in enabling property owners to  
13 voluntarily finance such improvements with government  
14 assistance. The voluntary financing of qualifying improvements  
15 through government loans repaid through non-ad valorem property  
16 assessments is reasonable and necessary for the prosperity and  
17 welfare of the State and its residential property owners.

18 The purpose of this Act is to:

- 19 (1) Require the Hawaii state energy office to partner with  
20 the counties to implement a property assessed clean  
21 energy (PACE) program that allows residential property



1 owners to finance qualifying clean energy improvements  
2 through non-ad valorem assessments collected by the  
3 county; and

4 (2) Authorize each county to establish and administer a  
5 property assessed clean energy (PACE) program that is  
6 funded by the State's issuance of revenue bonds.

7 SECTION 2. Chapter 196, Hawaii Revised Statutes, is  
8 amended by adding a new part to be appropriately designated and  
9 to read as follows:

10 "PART . PROPERTY ASSESSED  
11 CLEAN ENERGY (PACE) PROGRAM

12 §196- Definitions. Whenever used in this part, unless  
13 a different meaning clearly appears from the context:

14 "County" means a county (except the county of Kalawao) and  
15 any agency of a county.

16 "Non-ad valorem assessment" means a special assessment or  
17 charge that is not based on the value of the property and  
18 appears on a property tax bill.

19 "Qualifying improvement" means a new energy technology  
20 system that captures and converts a renewable source of energy,  
21 such as solar or wind energy, into:



- 1 (1) A usable source of thermal or mechanical energy;
- 2 (2) Electricity; or
- 3 (3) Fuel.

4 "Residential property" means any single-family or multi-  
5 family residential dwelling or townhouse.

6 §196- Clean energy financing agreement. (a)

7 Notwithstanding any county ordinance to the contrary, a  
8 residential property owner may apply to the county in which the  
9 property is located for funding to finance a qualifying  
10 improvement and enter into a financing agreement with the  
11 county. A county may enter into a financial agreement only with  
12 the record owner of the affected property.

13 (b) Before entering into a financing agreement, the county  
14 shall reasonably determine that all property taxes, and any  
15 other assessments levied on the same bill as property taxes, are  
16 paid and have not been delinquent for the preceding three years  
17 or the property owner's period of ownership, whichever is less;  
18 that there are no involuntary liens, including but not limited  
19 to construction liens on the property; that no notices of  
20 default or other evidence of property-based debt delinquency  
21 have been recorded during the preceding three years or the



1 property owner's period of ownership, whichever is less; and  
2 that the property owner is current on all mortgage debt on the  
3 property.

4 (c) The financing agreement shall include the amount of an  
5 annual assessment over a fixed term that will appear on the  
6 property owner's tax bill annually.

7 (d) Any financing agreement, or summary memorandum of such  
8 agreement, shall be recorded in the public records of the county  
9 within which the property is located by the county within five  
10 days after execution by the parties to the agreement. The  
11 recorded agreement shall provide constructive notice that the  
12 assessment to be levied on the property constitutes a lien of  
13 equal dignity to county taxes and assessments from the date of  
14 recordation entered into pursuant to this section.

15 **§196- Qualifying improvement requirements.** (a) A  
16 qualifying improvement shall be affixed to a building or  
17 facility that is part of the property and shall constitute an  
18 improvement to the building or facility or a fixture attached to  
19 the building or facility. An agreement between a county and a  
20 qualifying property owner may not cover wind-resistance  
21 improvements in buildings or facilities under new construction



1 or construction for which a certificate of occupancy or similar  
2 evidence of substantial completion of new construction or  
3 improvement has not been issued.

4 (b) Any work requiring a license under any applicable law  
5 to make a qualifying improvement shall be performed by a  
6 contractor properly licensed pursuant to chapter 444.

7 §196- Lienholders. (a) Without the consent of the  
8 holders or loan servicers of any mortgage encumbering or  
9 otherwise secured by the property, the total amount of any non-  
10 ad valorem assessment for a property under this part may not  
11 exceed twenty per cent of the just value of the property as  
12 determined by the county property appraiser.

13 (b) At least thirty days before entering into a financing  
14 agreement, the property owner shall provide to the holders or  
15 loan servicers of any existing mortgages encumbering or  
16 otherwise secured by the property a notice of the owner's intent  
17 to enter into a financing agreement together with the maximum  
18 principal amount to be financed and the maximum annual  
19 assessment necessary to repay that amount. A verified copy or  
20 other proof of such notice shall be provided to the county. A  
21 provision in any agreement between a mortgagee or other



1 lienholder and a property owner, which allows for acceleration  
2 of payment of the mortgage, note, or lien or other unilateral  
3 modification solely as a result of entering into a financing  
4 agreement as provided for in this section is not enforceable.  
5 This section does not limit the authority of the holder or loan  
6 servicer to increase the required monthly escrow by an amount  
7 necessary to annually pay the qualifying improvement assessment.

8       **§196- Sale of subject property.** At or before the time  
9 a purchaser executes a contract for the sale and purchase of any  
10 property for which a non-ad valorem assessment has been levied  
11 under this part and has an unpaid balance due, the seller shall  
12 give the prospective purchaser a written disclosure statement in  
13 the following form, which shall be set forth in the contract or  
14 in a separate writing:

15       QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY, RENEWABLE  
16       ENERGY, OR WIND RESISTANCE. The property being purchased  
17       is located within the jurisdiction of a county that has  
18       placed an assessment on the property pursuant to Chapter  
19       196, Hawaii Revised Statutes. The assessment is for a  
20       qualifying improvement to the property relating to energy  
21       efficiency, renewable energy, or wind resistance, and is



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1 not based on the value of the property. You are  
 2 encouraged to contact the county property appraiser's  
 3 office to learn more about this and other assessments that  
 4 may be provided by law.

5 **§196- Collection of non-ad valorum assessment.** (a) A  
 6 county may incur debt for the purpose of providing financing for  
 7 qualifying improvements payable from revenues received from the  
 8 improved property or revenue bonds issued by the Hawaii state  
 9 energy office.

10 (b) The county shall collect the property owner's  
 11 voluntary non-ad valorum assessment contained in the finance  
 12 agreement and property tax bill annually.

13 (c) A non-ad valorum assessment is not a tax upon the real  
 14 property and is collected because of benefit to residential  
 15 property owners for qualifying improvements.

16 **§196- Revenue bonds; authorization.** (a) The Hawaii  
 17 state energy office, through its chief energy officer and with  
 18 the approval of the governor, may issue revenue bonds pursuant  
 19 to part III, chapter 39 and parts IV and of this chapter, in  
 20 an aggregate principal amount not to exceed \$ at such  
 21 times and in such amounts as the Hawaii state energy office





1 deems advisable for the purpose of implementing the property  
2 assessed clean energy (PACE) program under this part.

3 (b) The revenue bonds shall be issued in the name of the  
4 Hawaii state energy office, and not in the name of the State.

5 §196- Statewide protection environment. The provisions  
6 of this part are in exercise of the State's constitutional  
7 mandate to promote and maintain a healthful environment under  
8 article IX, section 8, of the Hawaii State Constitution. The  
9 powers granted to the county under this part are additional and  
10 supplemental to county home rule authority and not in derogation  
11 of the county's constitutional power to tax real property  
12 pursuant to article VIII, section 3, of the Hawaii State  
13 Constitution."

14 SECTION 3. Section 196-71, Hawaii Revised Statutes, is  
15 amended by amending subsection (b) to read as follows:

16 "(b) The Hawaii state energy office shall:

17 (1) Provide analysis and planning to actively develop and  
18 inform policies to achieve energy efficiency,  
19 renewable energy, energy resiliency, and clean  
20 transportation goals with the legislature, public



- 1 utilities commission, state agencies, and other  
2 relevant stakeholders;
- 3 (2) Lead efforts to incorporate energy efficiency,  
4 renewable energy, energy resiliency, and clean  
5 transportation to reduce costs and achieve clean  
6 energy goals across all public facilities;
- 7 (3) Provide renewable energy, energy efficiency, energy  
8 resiliency, and clean transportation project  
9 deployment facilitation to assist private sector  
10 project completion when aligned with state energy  
11 goals; [~~and~~]
- 12 (4) Engage the private sector to help lead efforts to  
13 achieve renewable energy and clean transportation  
14 goals through the Hawaii clean energy initiative[-];  
15 and
- 16 (5) Partner with each county to implement a property  
17 assessed clean energy (PACE) program pursuant to part  
18 and, through the chief energy officer and with the  
19 approval of the governor, may issue revenue bonds to  
20 finance qualifying improvements under the PACE  
21 program."



1 SECTION 4. Section 196-72, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:

3 "(d) Subject to the approval of the governor, the chief  
4 energy officer shall:

5 (1) Formulate, analyze, recommend, and implement specific  
6 policies, strategies, and plans, in coordination with  
7 public and private sector stakeholders, to cost-  
8 effectively and equitably achieve the State's energy  
9 goals;

10 (2) Identify, track, and report key performance measures  
11 and milestones related to the State's energy and  
12 decarbonization goals;

13 (3) Provide technical assistance to state and county  
14 agencies to assess and implement projects and programs  
15 related to energy conservation and efficiency,  
16 renewable energy, clean transportation, energy  
17 resiliency, and related measures;

18 (4) Coordinate the State's energy programs with those of  
19 the federal government, other territory and state  
20 governments, the political subdivisions of the State,



- 1 departments of the State, and governments of nations  
2 with interest in common energy resources;
- 3 (5) Identify market gaps and innovation opportunities,  
4 collaborate with stakeholders, and facilitate public-  
5 private partnerships to develop projects, programs,  
6 and tools to encourage private and public exploration,  
7 research, and development of energy resources,  
8 distributed energy resources, and data analytics that  
9 will support the State's energy and decarbonization  
10 goals;
- 11 (6) Create and review proposed state actions that may have  
12 a significant effect on the State's energy and  
13 decarbonization goals, report to the governor their  
14 effect on the energy program, and perform other  
15 services as may be required;
- 16 (7) Evaluate, recommend, and participate in the  
17 development of incentives and programs that encourage  
18 the development of energy efficiency, renewable  
19 energy, energy resiliency, distributed energy  
20 resources, and clean transportation resources;



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- 1           (8) Assess and evaluate the effectiveness and continued  
2           necessity of existing energy related incentives, tax  
3           credits, and programs, and provide recommendations and  
4           proposed changes;
- 5           (9) Develop and maintain a comprehensive and systematic  
6           quantitative and qualitative capacity to analyze the  
7           status of energy resources, systems, and markets, both  
8           in-state and in other states and countries,  
9           particularly in relation to the State's economy, and  
10          to recommend, develop proposals for, and assess the  
11          effectiveness of policy and regulatory decisions, and  
12          energy emergency planning;
- 13          (10) Develop and recommend programs for, and assist public  
14          agencies in the implementation of, energy assurance  
15          and energy resilience;
- 16          (11) Support the development, evaluation, revision, and  
17          adoption of energy-related codes and standards that  
18          advance the State's energy goals;
- 19          (12) Act as the State's energy data clearinghouse by  
20          identifying, collecting, compiling, analyzing,



- 1 publishing, and where possible, monetizing energy and  
2 clean transportation data and analyses;
- 3 (13) Advocate for the State's energy and decarbonization  
4 goals at relevant venues and departments, including  
5 but not limited to the public utilities commission,  
6 legislature, and division of consumer advocacy, to  
7 ensure that state energy policies and regulations  
8 align with the state strategic goals and are data-  
9 driven;
- 10 (14) Support economic development and innovation  
11 initiatives related to and resulting from the State's  
12 renewable energy and distributed energy resources  
13 experience, capabilities, and data analyses;
- 14 (15) Facilitate the efficient, expedited permitting of  
15 energy efficiency, renewable energy, clean  
16 transportation, and energy resiliency projects by:
- 17 (A) Coordinating and aligning state and county  
18 departments and agencies to support, expedite,  
19 and remove barriers to deployment of energy  
20 initiatives and projects; [and]



- 1 (B) [~~Identify~~] Identifying and [~~evaluate~~] evaluating  
2 conflicting or onerous policies and rules that  
3 unreasonably impede project development and  
4 deployment and propose regulatory, legislative,  
5 administrative, or other solutions to applicable  
6 stakeholders; and
- 7 (C) Issuing revenue bonds as necessary for the  
8 implementation and administration of the property  
9 assessed clean energy (PACE) program;
- 10 (16) Identify and recommend policies to align utility goals  
11 with those of ratepayers, including evaluating utility  
12 models that best support state energy goals;
- 13 (17) Prepare and submit an annual report and other reports  
14 as may be requested to the governor and to the  
15 legislature on the implementation of this part;
- 16 (18) Contract for services when required for the  
17 implementation of this part; and
- 18 (19) Adopt rules, pursuant to chapter 91, for the  
19 administration of this part."

20 SECTION 6. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

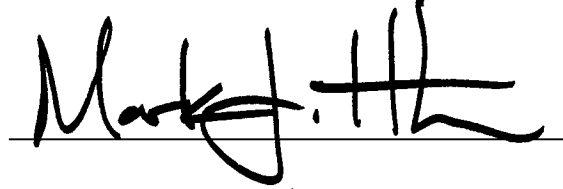


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1 SECTION 7. This Act shall take effect upon its approval.

2

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Mark J. Hill", is written over a horizontal line.

JAN 14 2020





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**Report Title:**

PACE; Residential Property; Hawaii State Energy Office; Revenue Bonds

**Description:**

Establishes a residential property assessed clean energy (PACE) program. Allows residential property owners to finance qualified renewable energy improvements through a non-ad valorem property assessment and revenue bonds.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

