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## Summary of Operative Dates for PACE Laws

Listed below is a summary of the operative dates and provisions of AB 1284 (Chapter 475, Statutes of 2017) and SB 242 (Chapter 484, Statutes of 2017). It is not an exhaustive list, but is intended to provide a general overview for compliance. A program administrator should review the law to ensure compliance with the specific requirements on the dates they become operative.

A PACE program administrator must comply with the law upon its operative date. The Department will review a program administrator's compliance with the law as of its operative date during the licensing process, during regulatory examinations, and as part of investigations and enforcement actions, where applicable.

### Operative October 4, 2017

- The name of the California Finance Lenders Law changed to the California Financing Law.
- Financial Code section 22000.

### Operative January 1, 2018

- A program administrator may not approve an assessment contract unless certain underwriting criteria are satisfied, using specific valuation models.
- A program administrator must orally confirm with the key terms and conditions of the assessment contract with a property owner, in the preferred language of the property owner, as provided.
- A program administrator must submit two reports annually to the public agencies for which they administer PACE programs.
- A contractor may not begin work under an assessment agreement until after a property owner's three-day right to cancel expires, except as provided.
- A program administrator may not waive or defer the first payment on an assessment contract.
- A program administrator may only arrange with a contractor or other third party to advertise the availability of assessment contracts and to solicit property owners on behalf of the program administrator if the contractor is in good standing with the Contractors State License Board, and the contractor agrees to comply with all applicable laws.
- A program administrator may not pay a contractor to solicit homeowners, and a program administrator may not pay a homeowner to enter into an assessment contract.

- A program administrator and a contractor may not represent the tax deductibility of an assessment contract unless the representation is consistent with the law.
- A program administrator may not disclose to a PACE contractor the amount of financing that a property owner is approved to obtain.
- A PACE contractor may not charge a homeowner a higher price for using PACE financing than if the property owner paid in cash.
- For each assessment contract, a program administrator must verify the following:
  - The property taxes are current.
  - The property has no lien over \$1,000.
  - The property has no current recorded notices of default.
  - The property owner has not been a party in a bankruptcy proceeding in the past seven years, except as provided.
  - Mortgage debt is current.
  - The property owner has not been more than 30 days late on a single mortgage payment in the past 12 months.
  - The property and property improvements are eligible for PACE financing.
  - The financing is less than 15 percent of the property value, except as provided.
  - After PACE financing, total mortgage-related debt will not exceed 97 percent of the property value.
  - The term of the agreement doesn't exceed the useful life of the property improvement for which the greatest portion of funds are disbursed.
  - Whether the property has other PACE assessments.
- A program administrator must verify a property's market value through the methods provided by law, and disclose this information to the property owner.

#### **Operative April 1, 2018**

- A program administrator may not approve an assessment contract for funding unless the program administrator determines the property owner has the ability to pay, as provided.
- Program administrators must comply with the California Financial Information Privacy Act regarding the duty to safeguard nonpublic personal information.

#### **Operative January 1, 2019**

- Program administrators are required to be licensed by the Department of Business Oversight.
- Program administrators are subject to an inspection, examination, or investigation by the Commissioner.
- Program administrators filing a license application must pay \$100 for the investigation of the application, plus the cost of fingerprint processing and the criminal background check, and an application fee of \$200 for the application.
- Program administrators must have a net worth of at least \$25,000.
- Program administrators must maintain a surety bond of at least \$25,000.
- Program administrators must submit an annual report by March 15.

- Program administrators must preserve accounts, and records for at least three years after recording the extinguishment of a PACE assessment.
- Program administrators who want to do business in a new location must submit an application to the Commissioner and pay the required fee at least 10 days before engaging in business at that location.
- A program administrator is prohibited from making materially false or misleading statements or representations to a property owner about the terms or conditions of an assessment contract.
- The Commissioner is authorized to investigate the assessment contracts and examine the books, accounts, records, and files used in the business of every program administrator for the purposes of discovering violations of law.
- The Commissioner may suspend a license or bar a person from being employed with a licensee if that the person has willfully misled the public regarding his or her qualifications or experience.
- Program administrators, solicitors, and solicitor agents are exempt from certain sections of the Civil Code that apply to brokers, escrow agents, and lenders.
- Program administrators must have an enrollment process for solicitors and solicitor agents, a compliance evaluation process, an enrollment cancellation process, and a complaint response process.
- Program administrators must establish training programs acceptable to the Commissioner for solicitor agents.
- Program administrators must notify the Commissioner of each solicitor and solicitor agent that enrolls with the program administrator and each solicitor and solicitor agent whose enrollment is cancelled or withdrawn.
- Program administrators are prohibited from permitting PACE solicitors to violate the law.
- A program administrator must provide a property owner copies of the key documents in the same language as the oral confirmation of terms.

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