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Bills would keep residential projects from getting special energy-efficiency financing
By Nate Beck

A pair of bills recently introduced in the state legislature seek to prevent a specific type of renewable-energy financing from going to certain residential projects in Wisconsin as homeowners in other states increasingly default on these sorts of loans.

The bills, named Assembly Bill 498 and Senate Bill 452, are being put forward as a consumer-protection measure that would outlaw the use of so-called Property Assessed Clean Energy financing, or PACE financing, for residential projects with fewer than five units. In Wisconsin, these sorts of loans are now used exclusively on commercial projects. They often come from municipalities and are paid back through special property assessments and property taxes.

The author of the assembly bill, Rep. Scott Allen, R-Waukesha, said his goal is to prevent loans of this sort from being put toward residential projects as they have in California and other states. When used for residential projects, PACE financing tends to consist of small, high-interest loans.

If local governments issue loans using PACE financing, they get lien rights entitling them to be paid back before other lenders in case of default. That's a source of concern, Allen said, because homeowners with such liens attached to their properties can find it difficult if not impossible to make a sale. He said PACE loans aren't issued in accordance with borrowers' ability to repay.

"The whole concept of the PACE loan is to enhance energy efficiency," Allen said. "That's all a good thing. But at the same time, not everything that looks good on the surface is in fact good in practice."

Allen also considered adopting a regulatory prohibition meant to keep borrowers from taking on renewable-energy loans they couldn't afford. In the end, though, he concluded it would be simpler to place an outright ban on PACE financing for certain residential projects.

Because PACE loans take precedence over other types of residential loans, the Federal Housing Administration, the Department of Veterans Affairs, Fannie Mae and Freddie Mac have stopped insuring mortgages if they involve this sort of financing. PACE loans can therefore greatly curtail the ability of a homeowner to sell a house, according to a spokesperson for Sen. Duey Stroebel, R-Cedarburg, another author of the proposed legislation. Both Stroebel and Allen have worked as realtors.

In a letter from 2017, Dana Wade, general deputy assistant secretary of the Federal Housing Administration, wrote that he and his colleagues are concerned about residential PACE loans because of their "lack of consumer protections."

A report from the credit-rating agency DBRS, however, found that default rates are relatively low for residential PACE loans, having a peak delinquency rate of between 2% and 4%. Residential PACE loans were first offered in 2009 in California, and now are on offer only in two other states: Florida and Missouri. Allen said his bill would not affect PACE loans' current primary use in Wisconsin, which is for large commercial projects.

PACE loans are relatively new to Wisconsin. Among the projects that have benefited from them are the Milwaukee Westin Hotel, which used PACE to finance water-efficiency and renewable-energy projects.

“I think the commercial property developers who are engaged in PACE are sophisticated enough to use it and to own up to the losses,” Allen said. “I don’t think it’s been abused for commercial properties.”

The Westin Milwaukee stands at 550 N. Van Buren St. in the city’s downtown. The hotel’s water and energy systems were paid for in part with so-called property assessed clean energy financing, also known as PACE financing. This sort of financing is often used for energy-efficiency projects. New legislation proposed in Wisconsin would prevent PACE financing from being used on residential projects. (Staff photo by Dan Shaw)