



## Inspector General Insights

**Background:** The Property Assessed Clean Energy (PACE) model allows property owners to finance renewable energy, energy efficient, water conservation, and wind-hardening improvements, with repayment of the amounts financed through special assessments on their property tax bills. The Board of County Commissioners (BCC) first established PACE financing within the unincorporated area of Collier County via Resolution 2017-130 on July 11, 2017.

The Resolution's intent was to enter into agreement with multiple PACE providers to allow property owners different options, and for residential, commercial, and industrial properties to benefit from the programs. Each PACE program would be managed by a third-party administrator, but assessments would be collected annually via the Collier County Tax Collector. Collier County established four programs: Green Corridor PACE District, Florida Green Finance Authority, Florida Resiliency and Energy District (FRED), and Florida PACE Funding Agency (FPFA).

On June 25, 2019, after complaints from the public and [updates from the Clerk's Office of Inspector General \(OIG\)](#), the BCC discontinued the residential portion of the agreements with all of the PACE providers ([Resolution 2019-123](#)). Although commercial properties were permitted to continue participating there have been only two transactions recorded, one in 2022 and one in 2023 by FRED. Despite the BCC discontinuation of the residential program, 51 residential agreements have since been recorded in Collier County, one in 2022 and the remainder (50) in 2023 by the FPFA provider.

In late 2022, FPFA petitioned the State of Florida in Leon County Circuit Court ([22-CA-1562](#)) to validate its revenue bonds. The court ruled that FPFA's revenue bonds should not exceed \$5 billion of debt when financing PACE improvements. The court's final judgment, in addition to proposed legislation in the House and Senate ([HB669](#) and [SB950](#), which later failed) was interpreted by FPFA as authority to continue PACE activity throughout the state of Florida, even if expressly prohibited by local government.

In August 2023, Leon County filed a case ([23-CA-2050](#)) against FPFA stating their "...asserted independent authority posed an immediate danger to the health, safety, or welfare of the citizens of the County and compromises significant legal rights of the County...." The case mentions Leon County generated a Cease and Desist letter in violation of their [Resolution 2022-43](#) and in the absence of an interlocal agreement. The letter further stated that the bond validation final judgment extends beyond the statutory scope of a bond violation ruling, it violates the County's procedural and substantive due process rights because the County was not provided notice, and it is not binding. Other concerned Florida counties are taking the same steps.

**Objective:** To update the public on the status of the PACE loans, including the PACE program who is currently recording loan instruments, and the status of the OIG's case against a PACE contractor.

**Scope:** As a result of the 2023 increase in the FPFA residential agreements, Collier County Tax Collector Rob Stoneburner approached the BCC on 9/12/2023 to obtain a "cease and desist" letter in violation of Resolution 2019-123. Due to the violation of the Resolution and the 2020 Membership Agreement, the Tax Collector will not collect FPFA assessments for residential properties in violation of local Resolution.

The Lee County BCC issued their cease and desist letter to FPFA on June 8, 2023, indicating the FPFA does not have legal authority to operate in their jurisdiction without an executed interlocal agreement, and that the bond validation judgment is not binding. According to the [FPFA County Data](#) of assessments recorded they are currently operating in 60 of Florida's 67 counties. Collier County is ranked 24<sup>th</sup> (as of 7/31/23) with a total assessed value of \$2,380,523.66 since 2017.

	New Assessments by Year by PACE Provider						
	2017	2018	2019	2020	2021	2022	*2023
P: Green Corridor PACE District A: Ygrene Energy fund Florida, LLC R: 2017-127	112	^512	^369	4	0	0	0
P: Florida Green Finance Authority A: Renew Financial Group LLC R: 2017-128	3	18	29	1	0	0	0
P: Florida Resiliency and Energy District (FRED) A: Renovate America, Inc. R: 2017-129	0	1	8	1	0	1	1
P: Florida PACE Funding Agency (FPFA) A: Counterpointe Energy Solutions, LLC R: 2017-153	0	17	29	0	0	1	50

*P = Program / A = Administrator / R - Collier Resolution number*

*^2018 and ^2019 totals for Green Corridor PACE District include recorded assessments AND addendums resulting in a larger number.*

*\*2023 data is for recorded assessments through 10/11/2023; no recordings after this date.*

The table above reflects a decline in assessments after the 2019 Resolution change. However, prior to 2022 all assessments were for residential properties. Both assessments for FRED (2022 and 2023) are for commercial properties, and the assessments for FPFA (2022 and 2023) are all residential.

### Observations:

- The OIG's 2020 report discovered that PACE providers did not record 49.2% of Summary Memorandums of Agreement within five (5) days of execution, as required by Florida Statute 163.08(8).
  - ✓ In 2023, all FPFA agreements were reported within 5 days or less.
- The OIG's 2020 report discovered that PACE providers did not record 62.3% of their Addendums to Financing Agreements within five (5) days of execution.
  - ✓ In 2023, there were no addendum agreements written.
- The OIG's 2020 report references that while conducting a review of the PACE agreements, discrepancies were discovered in the notarized documents filed with the Clerk, including some under an open investigation referred to Law Enforcement.
  - ✓ No issues with notarization have been alleged with the current filings.

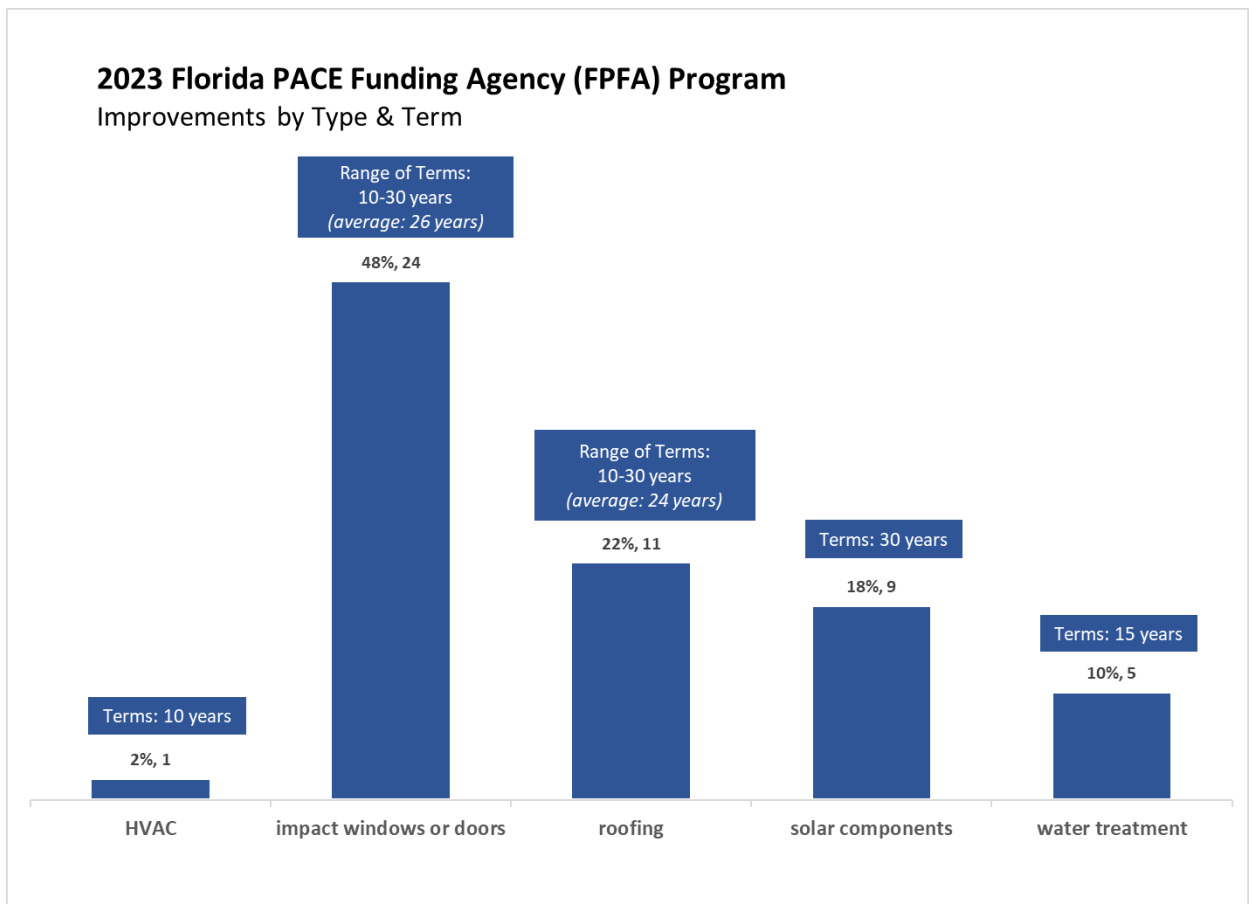
Previously, Collier Case 22-CF-940 was filed alleging that between March 15, 2018, and May 19, 2019, the subject knowingly schemed to defraud one or more persons and did thereby obtain property in the aggregate value of \$50,000 or more (§ 817.34(4)(a)1;777.011). The subject was an unlicensed contractor who created several companies to allegedly obtain construction jobs in Collier County. The subject was

prosecuted and adjudicated guilty, and subsequently was sentenced to pay \$420,831.60 to the victims and serve five (5) years in prison followed by 15 years of probation.

- The OIG's 2020 report indicated that HVAC systems were financed for up to twenty (20) years, consistent with the Department of Energy's useful life estimates. At that time, 69.2% of PACE financed HVAC units with special assessments were for a term of 20 years or greater, which is inconsistent with typically shorter repayment and warranty periods.

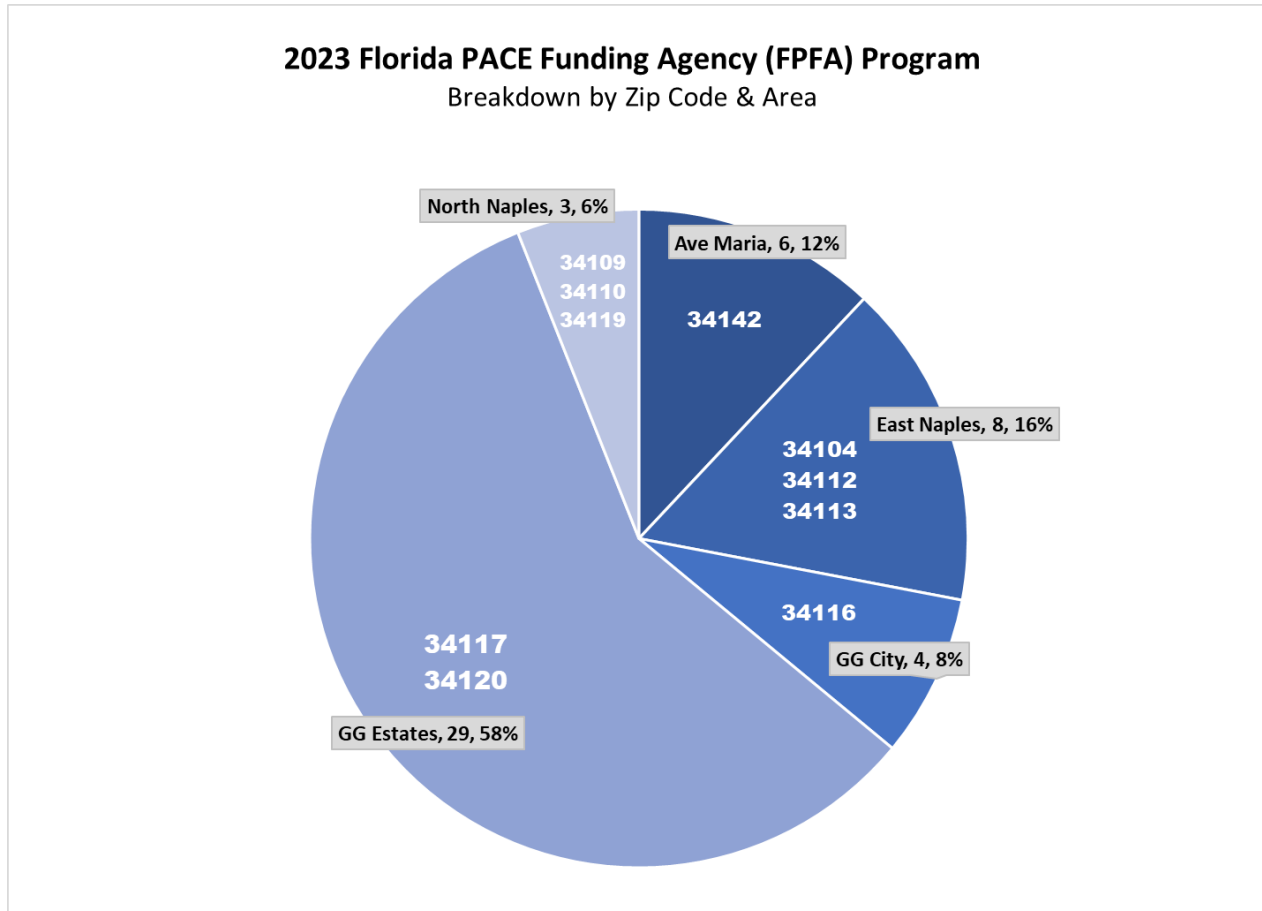
According to Forbes Advisor, "HVAC financing is a specific type of unsecured personal loan that can be used to replace or purchase an HVAC system. Approved borrowers will receive the full loan amount as a lump sum, which is typically repaid over a period of one to seven years." Further, MarketWatch Guides states that "Most warranty providers require you to register your cooling and heating system to enroll in parts and labor coverage. Most contracts include 10 years for parts and one year for labor..."

- ✓ In 2023, there has only been one HVAC assessment, and the agreement term was for 10 years. Almost half of the agreements (48%) were assessed for impact doors or windows, which could be a result of Hurricane Ian's impact on Collier County in September 2022.



The 2023 agreement terms ranged from 10 years to 30 years in duration, and the interest rates fluctuated from .99% to 9.99%. The total assessed value for the 50 (2023) agreements is \$1,944,849.11.

- At the time of the OIG's 2020 report, some PACE providers were accused by citizens of targeting lower-income homeowners with a residential focus in Golden Gate City, and the adjacent 34104 zip code.
  - ✓ Of the 50 new agreements in 2023, 58% of the agreements were for houses in the rural Golden Gate Estates residential area, with smaller concentrations in Golden Gate City and the lower-income areas.



- In the OIG's 2020 report, PACE providers were scrutinized for the methodology of determining the Fair Market Value (FMV) of homeowner properties. Not using a more conservative FMV puts the homeowner in danger of not being able to afford the ongoing annual assessments stemming from the amount spent on the improvements.
  - ✓ The FPFA asserts that their assessments do not exceed 20% of the market value of the property. Of the 50 new loans in 2023, several came close to the threshold, but all were under 20% maximum. Additionally, 35 (or 70%) of the 50 properties had an assessed market value of \$300,000 or higher, and 12 (or 24%) of the 50 properties assessed had an even greater value of \$500,000 or higher.

The OIG discovered that at least 30 other Florida County Tax Collectors were refusing to collect assessments for FPFA, and many have filed related lawsuits.

**Recommendations & Actions:** The OIG cautions residents about ongoing PACE financing activities within Collier County. Consumers need to be aware of the Florida PACE Funding Agency engaging

in residential assessments, which as of the time of this report, remain against the Collier County Resolution and the interlocal agreement.

**Conclusion:** The Clerk’s OIG reviewed the FPFA recorded assessments for 2019 through 2023 with a focus on 2022 and 2023. These assessments were recorded after County Resolution 2019-123 restricted the assessments specifically to commercial properties. In 2022 and 2023, the FPFA recorded assessments of residential properties, in violation of Collier County [Resolution 2019-123](#) which states that, “Residential single family detached, single family attached and townhouse structures, as defined by the Florida Building Code, Residential, shall not be eligible for the PACE program within the unincorporated area of Collier County.”

2023 Total # Transactions	2023 Amounts Audited or Reviewed	2023 Questioned Costs	Taxpayer Savings	Types of Findings Observed
51	\$ 1,944,849.11	\$ 1,944,849.11	N/A*	51

\* Any savings to homeowners would be at the private, rather than the public, level.