

Introduced by:	Ecklund
Date:	01/03/23
Action:	Tabled
Vote:	9 Yes, 0 No, 0 Absent
Date:	09/19/23
Action:	Removed from the Table
Vote:	9 Yes, 0 No, 0 Absent
Date:	09/19/23
Action:	Postponed to 10/24/23
Vote:	9 Yes, 0 No, 0 Absent
Date:	10/24/23
Action:	Tabled
Vote:	9 Yes, 0 No, 0 Absent

## KENAI PENINSULA BOROUGH RESOLUTION 2023-005

### A RESOLUTION OF INTENT BY THE KENAI PENINSULA BOROUGH ASSEMBLY ESTABLISHING THAT FINANCING OF ENERGY AND RESILIENCE IMPROVEMENT PROJECTS THROUGH ASSESSMENTS SERVES A VALID PUBLIC PURPOSE AND RELATED MATTERS (PACER PROGRAM)

**WHEREAS,** the Alaska State Legislature enacted the Municipal Property Assessed Clean Energy and Resilience Act ("PACER Act"), Alaska Statutes 29.55, as amended, restated, supplemented or otherwise modified from time-to-time, authorizing local governments to establish an energy and resilience improvement assessment program; and

**WHEREAS,** the PACER Act allows local governments to finance the installation or modification of permanent improvements, fixed to existing privately owned commercial or industrial property, to achieve reduced energy consumption or demand in areas designated by local governments; and

**WHEREAS,** installation or modification by property owners of energy and resilience improvement upgrades to commercial or industrial property in the Kenai Peninsula Borough will serve a public purpose by reducing energy costs, stimulating the economy, improving property valuation, reducing greenhouse gas emissions and creating jobs; and

**WHEREAS,** the Kenai Peninsula Borough, finds that it is convenient and advantageous to establish a program under the PACER Act and designate the geographic area on an areawide basis within the Kenai Peninsula Borough's jurisdiction as an area within which Kenai Peninsula Borough and the record owners of qualified real property may participate under a program established by the PACER Act and enter into financing arrangements in connection therewith;

**NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**SECTION 1.** The recitals to this resolution are true and correct and are incorporated into this resolution for all purposes.

**SECTION 2.** For purposes of this resolution, “PACER assessment” shall mean those assessments authorized by the PACER Act.

**SECTION 3.** The Kenai Peninsula Borough hereby determines that establishing a property assessed clean energy and resilience program and financing energy and resilience improvement projects through PACER assessment serves a valid public purpose by reducing energy costs, stimulating the economy, improving property valuation, reducing greenhouse gas emissions, and creating jobs.

**SECTION 4.** The Kenai Peninsula Borough intends to allow privately owned commercial or industrial property owners to make contractual PACER assessment to repay financing for qualified energy and resilience improvement projects under, and pursuant to, the terms of a municipal property assessed clean energy and resilience program subject to, and pursuant to, the PACER Act (“PACER Program”).

**SECTION 5.** Qualified energy and resilience new construction or improvement projects under the PACER Program will include those projects which are fixed to new construction or existing privately owned commercial or industrial property and that (1) are energy improvement projects designed to reduce energy consumption or demand, energy costs, or emissions affecting local air quality, including a product, device, or interacting group of products or devices that use energy technology to generate electricity, provide thermal energy, or regulate temperature; or (2) improve building resilience; resilience improvement projects include projects for seismic improvements, storm water management, flood mitigation and protection, fire hardening, fire or wind resistance, erosion management, snow load management, micro grids for energy storage and backup power generation, water or wastewater efficiency including reuse and energy recovery, electric vehicle charging stations, retrofitting that improves the envelope, structure, or systems of the building, and any other improvement project approved by a municipality as a resilience improvement project.

PACER assessment may not be imposed to repay financing of facilities for undeveloped lots or lots undergoing development at the time of an assessment.

**SECTION 6.** To the extent permitted by law, the entire geographic area within Kenai Peninsula Borough’s jurisdiction may be available for energy and resilience improvement projects under the PACER Program.

**SECTION 7.** Financing for qualified energy and resilience new construction and improvement projects under the PACER Program will be provided by third-party capital providers under a written contract with property owners. The contracts will provide for capital providers to advance funds to property owners on such terms as are agreed between the capital providers and property owners for installation or modification of energy improvement projects, and service the debt secured by PACER assessment through the Kenai Peninsula Borough. The proposed arrangements for financing energy improvement projects may authorize property owners to (1) purchase directly the related equipment and materials for energy improvement and resilience projects; and (2) contract directly, including through lease, a power purchase agreement, or other service contract, for energy and resilience improvement projects.

The Kenai Peninsula Borough does not intend to finance or fund any loan under the PACER Program, rather, the Kenai Peninsula Borough intends to serve only as a Program sponsor to facilitate loan repayment by including PACER assessment on real property tax bills for the improved property, and shall incur no liability for the loan.

Benefited property owners will execute written contracts with the Kenai Peninsula Borough to impose a PACER Program assessment to repay financing of an energy improvement project located on such property. The contract between a property owner and the Kenai Peninsula Borough will authorize Kenai Peninsula Borough to service the debt by PACER assessment for the benefit of the capital provider and enforce the PACER assessment lien as provided in AS 29.45.320 - 29.45.470 for enforcement of property tax liens. In the case of third-party capital financing of energy improvement project(s), an agreement will be entered into by the Kenai Peninsula Borough and the third-party capital provider.

A person or entity that acquires property subject to an assessment under the PACER Program will assume the obligation to pay such PACER assessment.

**SECTION 8.** Subject to law, the Kenai Peninsula Borough shall collect, and enforce PACER assessments in the same manner as other property tax liens.

**SECTION 9.** The report on the proposed PACER Program, as required by AS 29.55.110, will be available for public inspection on the Internet website of [www.kpb.us](http://www.kpb.us) and in the Borough's Finance Department at 144 N. Binkley Street, Soldotna, AK 99669.

**SECTION 10.** The local official administering the PACER Program is the Borough Assessor, or designee, and the appropriate assigned assessor, who will collect the proposed PACE assessment with property taxes imposed on the assessed property.

**SECTION 11.** The Kenai Peninsula Borough will hold a public hearing on the proposed PACER Program and report.

**SECTION 12.** That this resolution takes effect immediately upon adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 3RD DAY OF JANUARY 2023.**

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Brent Johnson, Assembly President

ATTEST:

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Michele Turner, CMC, Borough Clerk

01/03/23 Vote on motion to table:

Yes: Bjorkman, Chesley, Cox, Derkevorkian, Ecklund, Elam, Hibbert, Tupper, Johnson

No: None

Absent: None

09/19/23 Vote on motion to remove from table:

Yes: Chesley, Cox, Derkevorkian, Ecklund, Elam, Hibbert, Ribbens, Tupper, Johnson

No: None

Absent: None

09/19/23 Vote to postpone to 10/24/23:

Yes: Chesley, Cox, Derkevorkian, Ecklund, Elam, Hibbert, Ribbens, Tupper, Johnson

No: None

Absent: None

10/24/23 Vote on motion to table:

Yes: Cooper, Cox, Ecklund, Elam, Hibbert, Ribbens, Tunseth, Tupper, Johnson

No: None

Absent: None