

1 Introduced by Council President Salem and Co-Sponsored by Council  
2 Members Carlucci, Gay, Boylan, White, Johnson, Miller, Amaro,  
3 Carrico, Pittman, Gaffney, Jr., Arias, Lahnen, Howland, Clark-Murray  
4 and Peluso:  
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6

7 **ORDINANCE 2023-612-E**

8 AN ORDINANCE DECLARING THAT FLORIDA PACE FUNDING  
9 AGENCY'S CONTINUED OPERATION IN THE CITY OF  
10 JACKSONVILLE WITHOUT AUTHORIZATION FROM THE CITY  
11 OF JACKSONVILLE IS A PUBLIC HEALTH, SAFETY AND  
12 WELFARE EMERGENCY AND AUTHORIZING THE OFFICE OF  
13 GENERAL COUNSEL TO INITIATE LITIGATION, AS  
14 APPROPRIATE, TO STOP FLORIDA PACE FUNDING AGENCY  
15 OPERATIONS IN THE CITY OF JACKSONVILLE;  
16 PROVIDING AN EFFECTIVE DATE.  
17

18 **WHEREAS**, Section 163.08, Florida Statutes, creates the  
19 framework for the administration of Property Assessed Clean Energy  
20 or "PACE" programs, wherein property owners enter into financing  
21 agreements to obtain specified qualifying improvements that are paid  
22 with the levy of non-ad valorem assessments on the property owners'  
23 tax bills; and

24 **WHEREAS**, Section 163.08, Florida Statutes, expressly provides  
25 that such statute is additional and supplemental to county and  
26 municipal home rule authority, and not a derogation or limitation on  
27 such authority; and

28 **WHEREAS**, the City of Jacksonville ("City") adopted Chapter 344  
29 of the Ordinance Code entitled "Commercial Property Assessed Clean  
30 Energy Program or JAX C-PACE" authorizing PACE assessments for non-  
31 residential properties; and

1           **WHEREAS,** the City has never adopted an ordinance authorizing  
2 PACE assessments for residential properties; and

3           **WHEREAS,** without any notice to the City, Florida PACE Funding  
4 Agency ("FPFA") initiated bond validation proceedings in the Circuit  
5 Court for Leon County, Florida, which resulted in the issuance of a  
6 final judgment ("Bond Validation Judgment") authorizing the FPFA to  
7 finance qualifying improvements for property owners in Florida in the  
8 aggregate principal amount of Five Billion Dollars (\$5,000,000,000);  
9 and

10           **WHEREAS,** the Bond Validation Judgment asserts that FPFA has  
11 independent statewide authority to operate its PACE program "without  
12 interference or regulation from local governments;" and

13           **WHEREAS,** in or about January 2023, FPFA began operating a  
14 residential PACE program in the City and began recording Notices of  
15 Assessment in the Official Records of Duval County, Florida, which  
16 constitute liens on residential properties within the City ("PACE  
17 Liens"); and

18           **WHEREAS,** FPFA has asserted that it has the authority to operate  
19 a residential PACE program anywhere in the State of Florida, including  
20 the City, without the need for any local regulation, in part under  
21 the alleged authority of the Bond Validation Judgment; and

22           **WHEREAS,** the PACE Liens reflect that the subject residential  
23 property owners are being charged interest between 6.99% and 9.99%  
24 to finance qualifying improvements to their homes such as air  
25 conditioners, roofs, windows, and water heaters, and will be paying  
26 grossly inflated property tax bills for up to 30 years until the  
27 financing is paid off; and

28           **WHEREAS,** FPFA's continued unauthorized operations pose an  
29 immediate danger to the health, safety, and welfare of the City's  
30 citizens requiring immediate action; and

31           **WHEREAS,** the significant legal rights of the City will be

1 compromised if a court proceeding does not take place before  
2 compliance with the provisions of Chapter 164, Florida Statutes,  
3 entitled the "Florida Governmental Conflict Resolution Act;" and

4 **WHEREAS,** Section 164.1041(2), Florida Statutes, requires that  
5 the City of Jacksonville find, by a three-fourths vote, that an  
6 immediate danger to the health, safety or welfare of the public  
7 requires immediate action or that significant legal rights will be  
8 compromised if a court proceeding does not take place before  
9 compliance with Chapter 164, Florida Statutes; now therefore

10 **BE IT ORDAINED** by the Council of the City of Jacksonville:

11 **Section 1. Purpose.** The purpose of this Ordinance is to  
12 declare that FPFA's unauthorized operation of a residential PACE  
13 program in the City is a public health, safety and welfare emergency,  
14 and to authorize the Office of General Counsel to immediately initiate  
15 litigation to stop FPFA's operations in the City and to protect the  
16 City's significant legal rights which will be compromised if a court  
17 proceeding does not take place before compliance with Chapter 164,  
18 Florida Statutes.

19 **Section 2. Declaration of Emergency.** The City Council  
20 hereby finds that an emergency exists under Section 164.1041(2) such  
21 that the public health, safety, and welfare of the City will be  
22 negatively impacted without the immediate initiation of litigation  
23 against FPFA to stop its operations in the City.

24 **Section 3. The Office of General Counsel Authorized and**  
25 **Directed to Commence Litigation.** The City Council hereby affirms and  
26 authorizes the Office of General Counsel to investigate and pursue  
27 litigation, through the appellate process if necessary, associated  
28 with the prosecution of claims arising out of the origination of  
29 FPFA's PACE loans in Duval County. This affirmation and authority  
30 includes and is not limited to any and all claims against any and all  
31 parties (including but not limited to Florida PACE Funding Agency)

1 associated with residential PACE loans as determined by the Office  
2 of General Counsel.

3 **Section 4. Effective Date.** This Ordinance shall become  
4 effective upon signature by the Mayor or upon becoming effective  
5 without the Mayor's signature.

6  
7 Form Approved:

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9           /s/ Mary E. Staffopoulos          

10 Office of General Counsel

11 Legislation Prepared By: Tiffiny Douglas Pinkstaff

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