

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 1953**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

ADOPTED JUNE 15, 2021

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator CHRISTOPHER "KIP" BATEMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**SYNOPSIS**

Directs EDA to establish program for public or private financing of certain renewable energy, water, and storm resiliency projects through use of voluntary special assessments by municipalities for certain property owners.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Senate Environment and Energy Committee.



1 **AN ACT** concerning the implementation of renewable energy and  
2 energy efficiency systems and water conservation, flood and  
3 hurricane resistance projects, energy storage, and microgrids,  
4 supplementing Title 34 of the Revised Statutes, and amending  
5 P.L.1960, c.183 and P.L.2011, c.187.

6  
7 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
8 *of New Jersey:*

9  
10 1. (New section) The Legislature finds and declares it to be the  
11 public policy of this State that:

12 a. Investing in water conservation, stormwater management,  
13 renewable energy, energy efficiency, and flood and hurricane  
14 mitigation improvements to real property is a critical component in  
15 conserving natural resources and mitigating the effects of floods and  
16 hurricanes;

17 b. The up-front costs of retrofitting properties with these  
18 improvements are often a barrier to investing in such improvements,  
19 and the additional cost of meeting and exceeding new code  
20 requirements in connection with new construction is a deterrent to the  
21 investments;

22 c. Recent studies have demonstrated that the existing financing  
23 options for these projects have not made them sufficiently available to  
24 property owners and developers;

25 d. Property assessed clean energy (“PACE”) financing, in which  
26 repayment is made by way of a special assessment on the real property  
27 to which the improvement, including new construction upon  
28 previously unimproved real property, is made, is an innovative way for  
29 property owners to finance or refinance renewable energy, energy and  
30 water efficiency, and other eligible improvements which, in turn, saves  
31 a significant sum in utility costs or insurance premiums, creates jobs,  
32 stimulates local economies, reduces greenhouse gas emissions, and  
33 improves the safety and quality of the building stock;

34 e. To date, PACE programs for commercial properties (“C-  
35 PACE”) operate in more than 24 other states and the District of  
36 Columbia, and they have facilitated more than \$2 billion in investment  
37 in over 2,100 C-PACE projects;

38 f. C-PACE financing will enable New Jersey municipalities to  
39 contribute toward their goals of community sustainability and reducing  
40 greenhouse gas emissions and energy consumption, and will provide a  
41 valuable service to the citizens of their communities; and

42 g. C-PACE financing serves a valid public purpose and enactment  
43 of P.L. , c. (C. ) (pending before the Legislature as this bill) is  
44 expressly declared to be in the public interest.

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1        2. (New section) As used in sections 1 through 9 of  
2 P.L. , c. (C. ) (pending before the Legislature as this bill):

3        “Assignment agreement” means an agreement in which a  
4 participating municipality assigns a C-PACE assessment to a capital  
5 provider, its designee, successor or assign.

6        “Authority” means the New Jersey Economic Development  
7 Authority.

8        “Authorized municipality” means a municipality with a population  
9 that, as of the launch date, is in the top third of municipalities in the  
10 State in terms of population, according to the most recent American  
11 Community Survey published by the United States Census Bureau.

12        “Capital provider” means:

13        a. an accredited investor or qualified institutional buyer as  
14 defined respectively in Regulation D, Rule 501 (17 C.F.R.230.501  
15 through 230.508) or Rule 144A (17 C.F.R.230.144A) of the federal  
16 “Securities Act of 1933” (15 U.S.C. s.77a et seq.), as amended;

17        b. the trustee or custodian of a trust or custody arrangement which  
18 provides that each beneficial owner of interests shall be an accredited  
19 investor or qualified institutional buyer;

20        c. a public entity;

21        d. a special purpose securitization vehicle for the sale and transfer  
22 of securities, which is restricted to those persons described in  
23 subsections a. or b. of this definition; or

24        e. a commercial lending institution chartered by a state or the  
25 federal government, including, without limitation, a savings and loan  
26 association, a credit union, or a commercial bank.

27        “C-PACE” means commercial property assessed clean energy.

28        “C-PACE assessment” means a local improvement assessment, in  
29 accordance with chapter 56 of Title 40 of the Revised Statutes,  
30 imposed by a participating municipality on a property, with the  
31 consent of the owner of the property, and determined based upon  
32 either the existing use of a property or the contemplated use of  
33 unimproved property upon completion of new construction, as a means  
34 of securing financing provided pursuant to section 9 of P.L. ,  
35 c. (C. ) (pending before the Legislature as this bill) to finance a C-  
36 PACE project at the property, payments in respect of which  
37 assessment are collected by the participating municipality and remitted  
38 to the entity that provided the financing or its designee.

39        “C-PACE assessment agreement” means an agreement between a  
40 participating municipality and a property owner in which the property  
41 owner agrees to the imposition of a C-PACE assessment on the  
42 property benefited by a C-PACE project within the municipality, and  
43 in which the participating municipality agrees to levy, bill, collect,  
44 remit, and, to the extent necessary, enforce the C-PACE assessment.

45        “C-PACE project” means:

46        a. the acquisition, construction, installation, modification, or, in  
47 the discretion of the authority and in accordance with guidelines  
48 adopted by the authority, entry into a capital lease of an energy

1 efficiency improvement or renewable energy system including energy  
2 storage, microgrid, water conservation improvement, stormwater  
3 management system, electric vehicle charging infrastructure, flood  
4 resistant construction improvement, or hurricane resistant construction  
5 improvement, in each case affixed to a property, including new  
6 construction upon previously unimproved real property, within a  
7 participating municipality, provided that, on the basis of supplemental  
8 program guidelines to be published by the authority within 90 days  
9 following the launch date, a qualified professional attests that such  
10 new construction exceeds the minimum standards of the local and  
11 State building codes otherwise applicable to the property;

12 b. at the discretion of, and in accordance with guidelines adopted  
13 by, the authority, a microgrid or district heating and cooling system in  
14 which a property owner within the municipality participates for the  
15 duration of the C-PACE assessment; or

16 c. at the discretion of, and in accordance with guidelines adopted  
17 by, the authority, a power purchase agreement with respect to a  
18 renewable energy system affixed to a property.

19 “Direct financing” means financing for a C-PACE project pursuant  
20 to a financing agreement entered into between a capital provider and a  
21 property owner.

22 “Electric vehicle charging infrastructure” means equipment  
23 designed to deliver electric energy to a battery electric vehicle or a  
24 plug-in hybrid vehicle.

25 “Energy efficiency improvement” means an improvement to  
26 reduce energy consumption through conservation or a more efficient  
27 use of electricity, natural gas, propane, or other forms of energy,  
28 including, but not limited to: air sealing; installation of insulation;  
29 installation of energy-efficient electrical, heating, cooling, or  
30 ventilation systems; building modifications to increase the use of  
31 daylight; energy efficient windows, doors, and glass; installation of  
32 energy or water controls or energy recovery systems; and installation  
33 of efficient lighting equipment.

34 “Finance” or “financing” means the investing of capital in  
35 accordance with section 9 of P.L. , c. (C. ) (pending before the  
36 Legislature as this bill), including, on the basis of supplemental  
37 program guidelines to be published by the authority within 90 days  
38 following the launch date, the refinancing of an investment in an  
39 existing C-PACE project.

40 “Flood resistant construction improvement” means an  
41 improvement that mitigates the likelihood of flood damage, including,  
42 but not limited to, the installation of break-away walls and building  
43 elevation alterations.

44 “Garden State C-PACE program” means the program established  
45 by the authority pursuant to sections 4 and 5 of P.L. , c. (C. )  
46 (pending before the Legislature as this bill).

47 “Garden State program agreement” means an agreement between  
48 the authority and a participating municipality defining:

1 a. the obligations of a municipality to participate in the Garden  
2 State C-PACE program, including the requirement that the  
3 participating municipality levy, bill, collect, remit, and enforce a C-  
4 PACE assessment; and

5 b. the obligations, if any, that the authority may undertake (1)  
6 with respect to the remittance of C-PACE assessments to capital  
7 providers if the remittance is authorized by regulations adopted by the  
8 Local Finance Board pursuant to section 38 of P.L.2000, c.126  
9 (C.52:27D-20.1) and requested by the participating municipality, and  
10 (2) to review and approve the participation of individual capital  
11 providers or financings in the Garden State C-PACE program. Neither  
12 the execution by the authority of a Garden State program agreement  
13 with a municipality nor its exercise of its rights or performance of its  
14 duties thereunder shall be considered “authority financial assistance”  
15 as that term is defined in section 1 of P.L.1979, c.303 (C.34:1B-5.1).

16 “Hurricane resistant construction improvement” means an  
17 improvement that enables a component of a structure to be in  
18 compliance with the standards for a “wind-borne debris region”  
19 adopted pursuant to the “State Uniform Construction Code Act,”  
20 P.L.1975, c.217 (C.52:27D-119 et seq.), or into compliance with a  
21 successor standard under that code.

22 “Launch date” means the date upon which the authority has taken  
23 all of the actions specified in subsection c. of section 5 of P.L. ,  
24 c. (C. ) (pending before the Legislature as this bill), other than  
25 any actions that are expressly required by P.L. , c. (C. )  
26 (pending before the Legislature as this bill) to be taken within 90 days  
27 following the launch date.

28 “Local C-PACE program” means a program established by an  
29 authorized municipality or a county pursuant to section 6 of P.L. ,  
30 c. (C. ) (pending before the Legislature as this bill).

31 “Local C-PACE program ordinance” means an ordinance adopted  
32 by an authorized municipality or a county, and approved by the  
33 authority pursuant to section 7 of P.L. , c. (C. ) (pending before  
34 the Legislature as this bill), to establish a program within its  
35 jurisdiction pursuant to subsection b. of section 5 and subsection a. of  
36 section 6 of P.L. , c. (C. ) (pending before the Legislature as this  
37 bill).

38 “Microgrid” means a group of interconnected loads and distributed  
39 energy resources within clearly defined electrical boundaries that acts  
40 as a single controllable entity with respect to the electric distribution  
41 system and that connects and disconnects from the electric distribution  
42 system to enable it to operate when both connected to, or independent  
43 of, the electric distribution system.

44 “Notice of assessment” means the document filed with the county  
45 recording officer in the county in which a property is located, which  
46 notifies prospective holders of an interest in the property that a C-  
47 PACE assessment lien has been placed on the property.

1 “Opt-in ordinance” means an ordinance adopted by a municipality  
2 by which it authorizes its participation in the Garden State C-PACE  
3 program and authorizes the municipality to enter into a Garden State  
4 program agreement with the authority.

5 “Participating municipality” means:

6 a. a municipality that adopts an opt-in ordinance and executes a  
7 Garden State program agreement; or

8 b. an authorized municipality that adopts an opt-in ordinance,  
9 executes a Garden State program agreement, and adopts a local C-  
10 PACE program ordinance and local C-PACE program guidelines  
11 approved by the authority.

12 “Private entity” means a corporation, limited liability company,  
13 partnership, trust, or any other form of private organization, including  
14 but not limited to a “related competitive business segment of a public  
15 utility holding company,” or a “related competitive business segment  
16 of an electric public utility or gas public utility,” as those terms are  
17 defined in section 3 of P.L.1999, c.23 (C.48:3-51), so long as the  
18 organization is not subject to the jurisdiction of the Board of Public  
19 Utilities.

20 “Program guidelines” means:

21 a. any program-related rules or documents, or both, prepared and  
22 published by the authority that apply to the Garden State C-PACE  
23 program; or

24 b. any program-related rules or documents, or both, prepared and  
25 published by an authorized municipality or a county, and approved by  
26 the authority, that apply to local C-PACE programs pursuant to  
27 paragraph (3) of subsection b. of section 6 of P.L. , c. (C )  
28 (pending before the Legislature as this bill).

29 “Project costs” means costs associated with a C-PACE project and  
30 shall include: direct costs, including but not limited to, equipment,  
31 materials, and labor related to the purchasing, constructing, installing,  
32 modifying, or acquiring a C-PACE project; indirect costs, including,  
33 but not limited to, expenses and fees of engineers, architects, and other  
34 professionals, inspection fees and permits, warranties and pre-paid  
35 maintenance contracts; program fees; and financing costs of a capital  
36 provider, including, but not limited to, origination fees, prepaid  
37 interest and payment reserves, closing costs, counsel fees, trustee or  
38 custodian fees, recording fees, and other financing charges, except that  
39 the authority may implement an alternative definition of “project  
40 costs” in its program guidelines in connection with the financing of  
41 new construction.

42 “Property” means industrial, agricultural, or commercial property;  
43 residential property containing five or more dwelling units; common  
44 areas of condominiums and other planned real estate developments as  
45 defined in section 3 of P.L.1977, c.419 (C.45:22A-23); and property  
46 owned by a tax-exempt or nonprofit entity, including, but not limited  
47 to, schools, hospitals, institutions of higher education, or religious  
48 institutions, within a participating municipality upon which a C-PACE

1 assessment is imposed at the request of a property owner in connection  
2 with a C-PACE project.

3 “Property owner” means an owner of a property within a  
4 participating municipality who consents to a C-PACE assessment  
5 being imposed on the property.

6 “Renewable energy system” means an improvement by which  
7 electrical, mechanical, or thermal energy is produced from a method  
8 that uses one or more of the following fuels or energy sources:  
9 hydrogen, solar energy, geothermal energy, biomass, or wind energy,  
10 together with the other fuels and energy sources that the authority,  
11 after consultation with the Board of Public Utilities, may determine  
12 pursuant to program guidelines prepared and published pursuant to  
13 subsection c. of section 5 of P.L. , c. (C. ) (pending before the  
14 Legislature as this bill).

15 “Solar renewable energy certificate” means the same as defined in  
16 section 3 of P.L.1999, c.23 (C.48:3-51).

17 “Stormwater management system” means the same as defined in  
18 section 3 of P.L.2019, c.42 (C.40A:26B-3).

19 “Transition renewable energy certificate” means a certificate  
20 issued by the Board of Public Utilities or its designee, under the solar  
21 energy transition incentive program, which is designed to transition  
22 between the solar renewable energy certificate program and a solar  
23 successor incentive program to be developed by the Board of Public  
24 Utilities pursuant to P.L.2018, c.17 (C.48:3-87.8 et al.).

25 “Uniform assessment documents” means a uniform C-PACE  
26 assessment agreement, assignment agreement, and notice of  
27 assessment, a model lender consent to a C-PACE assessment pursuant  
28 to section 5 of P.L. , c. (C. ) (pending before the Legislature as  
29 this bill), and any other uniform or model documents prepared by the  
30 authority and used in the Garden State C-PACE program and local C-  
31 PACE programs, except that the authority shall not mandate a uniform  
32 financing agreement, which shall be supplied by the capital provider  
33 for direct financing.

34 “Water conservation improvement” means an improvement that  
35 reduces water consumption, increases the efficiency of water use, or  
36 reduces water loss.

37  
38 3. (New section) a. (1) No later than 18 months after the launch  
39 date and annually thereafter, the authority shall prepare and submit to  
40 the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
41 19.1), to the Legislature, a report describing the implementation and  
42 operation of the Garden State C-PACE program, including information  
43 relating to any administrative costs, the number of C-PACE projects,  
44 the location of C-PACE projects, and the amount of financing issued  
45 for C-PACE projects under the Garden State C-PACE program.

46 (2) No later than 18 months after an authorized municipality or a  
47 county establishes a local C-PACE program pursuant to section 6 of  
48 P.L. , c. (C. ) (pending before the Legislature as this bill), and

1 annually thereafter, the municipality or county shall prepare and  
2 submit to the Governor, the authority, and, pursuant to section 2 of  
3 P.L.1991, c.164 (C.52:14-19.1), the Legislature, a report describing the  
4 implementation and operation of its local C-PACE program, including  
5 information relating to any administrative costs, the number of C-  
6 PACE projects, the location of C-PACE projects, and the amount of  
7 financing issued for C-PACE projects under its local C-PACE  
8 program.

9 b. (1) No later than five years after the launch date, the authority  
10 shall prepare and submit to the Governor and, pursuant to section 2 of  
11 P.L.1991, c.164 (C.52:14-19.1), to the Legislature, a report that  
12 reviews and assesses implementation of the Garden State C-PACE  
13 program. The report shall evaluate the Garden State C-PACE  
14 program, including a review of foreclosure rates and any other factors  
15 the authority deems appropriate. The report may also identify and  
16 recommend legislative changes to P.L. , c. (C. ) (pending before  
17 the Legislature as this bill). The report shall include an assessment of  
18 whether the costs incurred in implementing the Garden State C-PACE  
19 Program are an effective means of facilitating the financing of  
20 projects.

21 (2) No later than five years after an authorized municipality or a  
22 county establishes a local C-PACE program pursuant to section 6 of  
23 P.L. , c. (C. ) (pending before the Legislature as this bill), the  
24 municipality or county shall prepare and submit to the Governor, the  
25 authority and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),  
26 the Legislature, a report that reviews and assesses implementation of  
27 the local C-PACE program. The report shall evaluate its local C-  
28 PACE program, including a review of foreclosure rates and any other  
29 factors the authority deems appropriate. The report may also identify  
30 and recommend legislative changes to P.L. , c. (C. ) (pending  
31 before the Legislature as this bill).

32 c. The authority shall post all reports prepared by the authority  
33 pursuant to this section on its Internet website. Each authorized  
34 municipality and each county that has established a local C-PACE  
35 program shall post all reports prepared by it pursuant to this section on  
36 its Internet website.

37  
38 4. (New section) a. The authority shall establish a Garden State  
39 C-PACE program to facilitate the financing of C-PACE projects in  
40 municipalities that adopt an opt-in ordinance. The Garden State C-  
41 PACE program shall consist of the development of uniform  
42 assessment documents and program guidelines for the financing of C-  
43 PACE projects to be undertaken by property owners as local  
44 improvements and the provision by ordinance, subject to the approval  
45 of the authority, for a C-PACE assessment to be imposed on properties  
46 within the municipality, if the owner of a property requests the C-  
47 PACE assessment in order to undertake and finance a C-PACE  
48 project. C-PACE projects on an individual property subject to the

1 same C-PACE assessment agreement collectively shall constitute a  
2 separate local improvement and shall be assessed separately to the  
3 property owner benefitted thereby.

4 b. The authority may contract with, and set the compensation of,  
5 one or more third-party administrators, whether private, public or  
6 quasi-public, or for-profit or not-for-profit, to assist the authority in its  
7 implementation or administration, or a combination thereof, of the  
8 Garden State C-PACE program pursuant to a competitive bidding  
9 process. The authority may delegate any duties under the program to  
10 one or more third-party administrators, provided that the authority  
11 shall not delegate its responsibility for general oversight of the Garden  
12 State C-PACE program.

13 c. The authority may enter into a memorandum of agreement with  
14 one or more State government agencies or instrumentalities whereby  
15 any of the powers the authority may exercise or responsibilities it must  
16 fulfill pursuant to P.L. , c. (C. ) (pending before the  
17 Legislature as this bill) may be exercised or fulfilled, as the case may  
18 be, by such agency or instrumentality, and any fund that may be used  
19 for administrative expenses by the authority may be used by such  
20 agency or instrumentality in exercising such powers or fulfilling such  
21 responsibilities.

22 d. The authority may establish a loss reserve, issue guarantees, or  
23 both, to mitigate the repayment risk assumed by capital providers  
24 providing direct financing, in order to improve the availability and  
25 financial terms of such financing of C-PACE projects for property  
26 owners.

27  
28 5. (New section) a. Within 270 days after the effective date of  
29 P.L. , c. (C. ) (pending before the Legislature as this bill), the  
30 authority shall establish the Garden State C-PACE program by  
31 publishing on its Internet website:

- 32 (1) uniform assessment documents;  
33 (2) a model opt-in ordinance;  
34 (3) Garden State C-PACE program guidelines adopted pursuant to  
35 subsection c. of this section; and  
36 (4) a description of the process by which a county or an authorized  
37 municipality applies to the authority for approval of a local C-PACE  
38 program ordinance.

39 The Garden State C-PACE program shall not be operational and  
40 available for the participation of capital providers, municipalities and  
41 property owners until the authority has taken all of the actions required  
42 by this subsection.

43 b. The model opt-in ordinance, as well as any local C-PACE  
44 program ordinance, shall prescribe a subset of the criteria for  
45 qualifying a C-PACE project for a C-PACE assessment, including the  
46 following:

- 47 (1) financing recipients shall be the legal or beneficial owners of  
48 the property or duly authorized by the legal or beneficial owners of the

1 property, there shall be no defaults on any mortgage loans on the  
2 subject property, all tax payments, charges, and assessments with  
3 respect to the property shall be current, the legal or beneficial owners  
4 of the property shall not be subject to any bankruptcy proceeding, and  
5 the subject property shall not be the subject of a bankruptcy  
6 proceeding;

7 (2) the principal amount of the C-PACE assessment, when  
8 combined with mortgage and other lien obligations on a property shall  
9 not exceed 90 percent of the appraised value of the property after  
10 including the value created by the C-PACE project;

11 (3) the maximum duration of a C-PACE assessment, which shall  
12 be determined pursuant to the provisions of paragraph (6) of  
13 subsection c. of this section, shall not exceed the weighted average  
14 useful life of the improvements in the C-PACE project or 30 years,  
15 whichever is less;

16 (4) the amount of the C-PACE assessment for a property shall be a  
17 specific amount, and the terms of repayment of direct financing shall  
18 be solely determined and negotiated between a property owner and  
19 capital provider subject to the maximum duration of an assessment in  
20 paragraph (3) of this subsection; and

21 (5) a property owner seeking a C-PACE assessment shall receive  
22 written consent of the existing mortgage holders on the property prior  
23 to the closing of the financing.

24 c. Pursuant to the purposes and objectives outlined in P.L. ,  
25 c. (C. ) (pending before the Legislature as this bill), and with  
26 respect to the responsibilities of overseeing and implementing the  
27 Garden State C-PACE program, the authority shall develop, in  
28 consultation with the Division of Local Government Services in the  
29 Department of Community Affairs, program guidelines governing the  
30 terms and conditions under which financing may be made available  
31 under the Garden State C-PACE program. Any amendments to the  
32 Garden State C-PACE program guidelines shall require the approval  
33 of the authority's board of directors.

34 Pursuant to the purposes and objectives outlined in P.L. ,  
35 c. (C. ) (pending before the Legislature as this bill), and with  
36 respect to the responsibilities of overseeing and implementing a local  
37 C-PACE program, a county or authorized municipality shall develop  
38 program guidelines governing the terms and conditions under which  
39 financing may be made available under the local C-PACE program.  
40 The program guidelines, and any amendments thereto, for a local C-  
41 PACE program shall be consistent with the Garden State C-PACE  
42 program guidelines and the requirements set forth in P.L. ,  
43 c. (C. ) (pending before the Legislature as this bill) for C-  
44 PACE projects and financing, and shall be subject to approval by the  
45 authority pursuant to subsection a. of section 7 of P.L. ,  
46 c. (C. ) (pending before the Legislature as this bill).

47 The Garden State C-PACE program guidelines and any local C-  
48 PACE program guidelines shall include, but not be limited, to:

1 (1) a uniform project application, uniform application  
2 requirements, including uniform application documents; and the  
3 procedures for a property owner to obtain approval of a C-PACE  
4 project and a capital provider to finance a C-PACE project;

5 (2) minimum standards for a C-PACE project to qualify for C-  
6 PACE financing;

7 (3) eligibility criteria for a property owner and property to qualify  
8 for a C-PACE assessment;

9 (4) the underwriting criteria to be applied in determining the  
10 eligibility of properties and their owners to participate in the Garden  
11 State C-PACE program and local C-PACE programs and the  
12 maximum permitted amount of a financing based on a property's value  
13 and other characteristics;

14 (5) a requirement that all existing mortgage lien holders on a  
15 property be given notice prior to a C-PACE assessment and lien being  
16 filed in connection with that property, and that all property owners  
17 receive consent of the existing mortgage holders on the property;

18 (6) a requirement that the term of a financing be no longer than the  
19 forecast life of the improvements, which shall be calculated on a  
20 blended average basis taking account of the relative values of the fixed  
21 assets included in the C-PACE project, except that the authority may  
22 establish alternative criteria for establishing the maximum term of a  
23 financing for a C-PACE project that consists of new construction;

24 (7) within 90 days following the launch date with respect to the  
25 Garden State C-PACE program guidelines only, supplemental program  
26 guidelines for refinancing projects completed prior to the submission  
27 of a project application for a C-PACE assessment and for the use of  
28 the Garden State C-PACE program in connection with the financing of  
29 new construction upon previously unimproved real property.

30 d. Subject to the written consent of existing mortgage holders,  
31 the form of which shall be determined by the authority in its uniform  
32 assessment documents adopted pursuant to subsection a. of section 5  
33 of P.L. , c. (C. ) (pending before the Legislature as this  
34 bill), the C-PACE assessment shall be a single, continuous first lien on  
35 the property on and after the date of recordation of the C-PACE  
36 assessment agreement. A property with delinquent taxes, charges, or  
37 assessments shall not be eligible for a C-PACE assessment. Upon  
38 recordation of the C-PACE assessment agreement in the land records  
39 of the county in which the property is located, the lien thereof shall be  
40 perfected for all purposes in accordance with law, and the lien shall be  
41 a continuous first lien upon the real estate described in the assessment,  
42 paramount to all prior or subsequent alienations and descents of the  
43 real estate or encumbrances thereon, except subsequent taxes, charges,  
44 or assessments, without any additional notice, recording, filing,  
45 continuation filing, or action, until payment in full of the C-PACE  
46 assessment, notwithstanding any mistake in the name or names of any  
47 owner or owners, or any omission to name any owner or owners who  
48 are unknown, and notwithstanding any lack of form therein, or in any

1 other proceeding which does not impair the substantial rights of the  
2 owner or owners or other person or persons having a lien upon or  
3 interest in any the real estate. Any confirmation of the amount of the  
4 C-PACE assessment by the applicable municipality's governing body  
5 or by a court shall be considered as determining the amount of the  
6 existing lien and not as establishing the lien. All C-PACE assessments  
7 shall be presumed to have been regularly assessed and confirmed and  
8 every assessment or proceeding preliminary thereto shall be presumed  
9 to have been regularly made or conducted until the contrary be shown.

10 e. A C-PACE assessment shall be treated as a municipal lien  
11 rather than a contractual lien for all purposes of law.

12 f. Funds to finance a C-PACE project may be disbursed to, or for  
13 the benefit of, the property owner at execution of the C-PACE  
14 assessment agreement, or may be disbursed in installments over time.  
15 The funds shall not constitute public funds, and shall not be subject to  
16 the laws governing public funds, including, but not limited to, laws  
17 regarding the receipt, expenditure, deposit, investment, or  
18 appropriation of the same. Payments of the C-PACE assessment shall  
19 commence as set forth in the C-PACE assessment agreement. To the  
20 extent that upon completion of the C-PACE project, funds remain that  
21 have not been disbursed to the property owner, those funds on hand  
22 shall be used to reduce the amount of the C-PACE assessment in  
23 accordance with the C-PACE assessment agreement.

24 g. Except as provided in this subsection, if any payment of a C-  
25 PACE assessment is not made when that payment shall have become  
26 due, or later, consistent with any grace period provided or extended by  
27 a participating municipality for the payment of property tax bills as  
28 may be permitted or required by law, interest thereon shall be imposed  
29 at the same rate as may be imposed upon unpaid property taxes in the  
30 participating municipality. Notwithstanding any other provision of  
31 law, such statutory interest shall be in addition to any accrued interest  
32 and any amount fixed as a penalty for delinquency pursuant to the  
33 financing agreement between the property owner and the capital  
34 provider. All such amounts shall be collected and enforced in the  
35 same manner as unpaid property taxes, including by accelerated tax  
36 sale if the participating municipality enforces collection of its unpaid  
37 property taxes through accelerated tax sales. The proceeds of the sale  
38 shall also pay the outstanding past unpaid amounts of the C-PACE  
39 assessment. However, the remaining balance not delinquent on a C-  
40 PACE assessment shall not be subject to acceleration or  
41 extinguishment in the event of a default in payment. Any statutory  
42 interest collected by the municipality on a delinquent C-PACE  
43 assessment pursuant to this subsection shall be retained by the  
44 municipality. Any accrued interest, or any amount fixed as a penalty  
45 for delinquency, pursuant to the financing agreement between the  
46 property owner and the capital provider shall be remitted to the capital  
47 provider. If the property owner is delinquent on a C-PACE assessment  
48 as well as delinquent on taxes, charges, or other assessments, any

1 payment shall be applied towards any and all such other delinquencies  
2 before being applied to any delinquent C-PACE assessment.  
3 Notwithstanding any other provision of law, in the event that any lien  
4 on the property shall be exposed to tax sale, pursuant to the “tax sale  
5 law,” R.S.54:5-1 et seq., and is struck off and sold to the participating  
6 municipality, the C-PACE assessment shall survive any subsequent  
7 action to foreclose the right of redemption and continue as a first lien  
8 upon the real estate described in the assessment, paramount to all prior  
9 or subsequent alienations and descents of the real estate or  
10 encumbrances, except subsequent taxes, charges, or other assessments,  
11 and provided that, notwithstanding the obligations of a participating  
12 municipality pursuant to section 1 of P.L.1942, c.54 (C.54:5- 53.1),  
13 while the participating municipality holds the lien or owns the  
14 property, the participating municipality shall not be responsible for or  
15 required to make any payment from its treasury or any other source in  
16 furtherance of or to satisfy the C-PACE assessment. A municipality  
17 shall not bear any other responsibility in furtherance or satisfaction of  
18 a C-PACE assessment, except that a municipality may be compelled to  
19 enforce a lien through an action to foreclose. In the event of a taking  
20 of the property by eminent domain or condemnation, the C-PACE  
21 assessment may be accelerated or extinguished, at the election of the  
22 capital provider, provided the capital provider is compensated in  
23 accordance with the provisions of the “Eminent Domain Act of 1971,”  
24 P.L.1971, c.361 (C.20:3-1 et seq.), by the governmental entity utilizing  
25 eminent domain or condemnation for the balance due on the unpaid C-  
26 PACE assessment and any interest, penalties, or other charges related  
27 thereto.

28 h. (1) C-PACE assessments shall be assigned directly by the  
29 participating municipality, and any assignee thereof, as security for  
30 financing from a capital provider to finance C-PACE projects.  
31 Notwithstanding any law to the contrary, the assignment shall be an  
32 absolute assignment of all of the participating municipality’s right,  
33 title, and interest in and to the C-PACE assessment, except for its  
34 obligations to bill, collect, remit, and enforce C-PACE assessments as  
35 set forth in the assignment agreement. The proceeds of a C-PACE  
36 assessment shall be considered “special revenues” owned by the  
37 capital provider pursuant to chapter 9 of the federal bankruptcy code.

38 (2) C-PACE assessments assigned as provided hereunder shall not  
39 be included in the general funds of the participating municipality, or be  
40 subject to any laws regarding the receipt, deposit, investment, or  
41 appropriation of public funds, and shall retain such status  
42 notwithstanding enforcement of the assessment by the participating  
43 municipality or assignee as provided herein. In the case of a  
44 participating municipality that is otherwise subject to tax or revenue  
45 sharing pursuant to law and which assigns C-PACE assessments as set  
46 forth in this section, the C-PACE assessments shall not be considered  
47 part of the tax or revenue sharing formula or calculation of municipal  
48 revenues for the purpose of determining whether that participating

1 municipality is obligated to make payment to, or receive a credit from,  
2 any tax sharing or revenue sharing pool. However, the redemption of  
3 any delinquent and unpaid C-PACE assessments, including any  
4 interest, penalties, or other charges related thereto, shall be paid no  
5 later than on the first available tax bill after the property has been sold  
6 after an action to foreclose the right of redemption.

7 i. The provisions of the Administrative Procedure Act, P.L.1968,  
8 c.410 (C.52:14B-1 et seq.), shall not apply to the preparation,  
9 publication, or implementation of the uniform assessment documents  
10 or the program guidelines of the Garden State C-PACE program or a  
11 local C-PACE program.

12  
13 6. (New section) a. An authorized municipality that has adopted  
14 an opt-in ordinance may also establish a local C-PACE program to  
15 facilitate the financing of C-PACE projects in that authorized  
16 municipality. A county may also establish a local C-PACE program  
17 pursuant to a local C-PACE program ordinance to facilitate the  
18 financing of C-PACE projects in participating municipalities located in  
19 that county that have adopted an opt-in ordinance. A local C-PACE  
20 program ordinance adopted by a county shall establish a program for  
21 the benefit of municipalities located within the county, but  
22 participating municipalities shall remain responsible for the process of  
23 levying, billing, collecting, remitting, and enforcing the C-PACE  
24 assessment. In a county or authorized municipality that has  
25 established a local C-PACE program pursuant to a local C-PACE  
26 program ordinance, any C-PACE projects in that authorized  
27 municipality or, in the case of a county, in any participating  
28 municipality located in that county that has adopted an opt-in  
29 ordinance, may be financed pursuant to the Garden State C-PACE  
30 program or the local C-PACE program. In a municipality that has not  
31 established, or is located in a county that has not established, a local C-  
32 PACE program pursuant to a local C-PACE program ordinance, any  
33 C-PACE projects in that municipality may be financed pursuant to the  
34 Garden State C-PACE program only.

35 b. Notwithstanding the provisions of P.L.2011, c.187 (C.40:56-  
36 1.4 et al.), or any other law, to the contrary, a county or authorized  
37 municipality seeking to establish and implement a local C-PACE  
38 program shall adopt a local C-PACE program ordinance consistent  
39 with this section and section 5 of P.L. , c. (C ) (pending before  
40 the Legislature as this bill). An authorized municipality may establish  
41 a local C-PACE program through the adoption of a local C-PACE  
42 program ordinance if the municipality has entered a Garden State  
43 program agreement with the authority, and obtained approval of the  
44 ordinance from the authority pursuant to section 7 of P.L. ,  
45 c. (C ) (pending before the Legislature as this bill). A county may  
46 establish a local C-PACE program through the adoption of a local C-  
47 PACE program ordinance if the county has obtained approval of the

1 ordinance from the authority pursuant to section 7 of P.L. ,  
2 c. (C. ) (pending before the Legislature as this bill).

3 In addition to prescribing criteria for qualifying a C-PACE project  
4 for a C-PACE assessment pursuant to subsection b. of section 5 of  
5 P.L. , c. (C. ) (pending before the Legislature as this bill), a local  
6 C-PACE program ordinance shall establish the following:

7 (1) A participating municipality or a county may enter into an  
8 agreement with a county improvement authority or it may, pursuant to  
9 the “Local Public Contracts Law,” P.L.1971, c.198 (C.40A:11-  
10 1 et seq.) enter into contracts with one or more private parties, to assist  
11 the participating municipality or county in its implementation and  
12 administration, or a combination thereof, of the local C-PACE  
13 program. The municipality or county may delegate to one or more  
14 private parties or a county improvement authority such matters as the  
15 participating municipality determines, except that it may not delegate  
16 its reporting obligations pursuant to section 3 of P.L. , c. (C. )  
17 (pending before the Legislature as this bill) or its obligation to ensure  
18 that its local C-PACE program complies in all respects with P.L. ,  
19 c. (C. ) (pending before the Legislature as this bill) and its local  
20 C-PACE program guidelines.

21 (2) An authorized municipality or a county may, in addition to  
22 direct financing, offer financing of C-PACE projects through the  
23 issuance of bonds pursuant to section 9 of P.L. , c. (C. ) (pending  
24 before the Legislature as this bill).

25 (3) A local C-PACE program shall not be operational and  
26 available for the participation of capital providers and property owners  
27 until the authorized municipality or county, as applicable, by  
28 resolution of the governing body, authorizes local C-PACE program  
29 guidelines pursuant to subsection c. of section 5 of  
30 P.L. , c. (C. ) (pending before the Legislature as this bill). The  
31 program guidelines for any local C-PACE program shall be consistent  
32 with the Garden State C-PACE program guidelines and the  
33 requirements set forth in P.L. , c. (C. ) (pending before the  
34 Legislature as this bill) for C-PACE projects and financing, and shall  
35 be subject to approval by the authority pursuant to subsection a. of  
36 section 7 of P.L. , c. (C. ) (pending before the Legislature as  
37 this bill). In addition, such program guidelines may include  
38 supplemental provisions, provided that they are not inconsistent with  
39 the Garden State C-PACE program guidelines and the requirements set  
40 forth in P.L. , c. (C. ) (pending before the Legislature as this  
41 bill).

42  
43 7. (New section) a. An authorized municipality or county  
44 seeking to establish a local C-PACE program pursuant to section 6  
45 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
46 shall submit an application to the authority for approval. The  
47 application to the authority shall consist of the following:

1 (1) a proposed local C-PACE program ordinance consistent with  
2 subsection b. of section 5 of P.L. , c. (C. ) (pending before the  
3 Legislature as this bill);

4 (2) acknowledgement that the authorized municipality or, in the  
5 case of a local C-PACE program established by a county, any  
6 participating municipality located in that county, shall use the  
7 uniform assessment documents prepared by the authority; and

8 (3) the authorized municipality's or county's proposed program  
9 guidelines.

10 b. (1) The authority's review of a county's or authorized  
11 municipality's application shall be limited to confirming that it  
12 contains the items required by section 5 of P.L. , c. (C. )  
13 (pending before the Legislature as this bill) and is otherwise in  
14 compliance with the provisions of P.L. , c. (C. ) (pending before  
15 the Legislature as this bill). Within 60 days after receipt of the  
16 application, the authority shall either approve or reject the  
17 application. If the authority does not act within 60 days after  
18 receipt, the application shall be deemed approved.

19 (2) If the authority approves the application, or the application  
20 is deemed approved in accordance with paragraph (1) of this  
21 subsection, the county or authorized municipality may adopt the  
22 proposed ordinance establishing a local C-PACE program.

23 (3) If the authority disapproves the application, it shall provide a  
24 detailed explanation to the county or authorized municipality as to  
25 the reasons for the disapproval and the changes necessary to bring  
26 the proposed local C-PACE program ordinance, local C-PACE  
27 program guidelines, and other elements of the proposed local C-  
28 PACE program into compliance with the requirements of P.L. ,  
29 c. (C. ) (pending before the Legislature as this bill). The county  
30 or authorized municipality shall not adopt the proposed local C-  
31 PACE program ordinance if the authority disapproves the  
32 application, but the county or authorized municipality may submit a  
33 revised or new application.

34 c. The authority may monitor and oversee a county's or  
35 authorized municipality's local C-PACE program to the extent it  
36 deems necessary to ensure the continuing compliance of the local  
37 C-PACE program with the requirements of P.L. , c. (C. )  
38 (pending before the Legislature as this bill). The authority's  
39 discretionary monitoring and overseeing role pursuant to this  
40 subsection shall not include the review and approval of C-PACE  
41 project applications that are submitted to a local C-PACE program.  
42 The authority shall review and approve C-PACE project  
43 applications that are submitted to the Garden State C-PACE  
44 program, but only an authorized municipality or county that has  
45 established a local C-PACE program pursuant to P.L. ,  
46 c. (C. ) (pending before the Legislature as this bill) may review  
47 and approve C-PACE project applications that are submitted to a  
48 local C-PACE program.

1 In the event that an authorized municipality or county desires to  
2 revise or amend its program guidelines in any other manner, such  
3 proposed revisions or amendments shall first be submitted to the  
4 authority for its review and approval before the revisions or  
5 amendments become effective.

6 A participating municipality or a county with a local C-PACE  
7 program shall incorporate into its local C-PACE program guidelines  
8 any revision or amendment made by the authority to the Garden  
9 State C-PACE program guidelines immediately upon the  
10 publication of the revision or amendment on the authority's  
11 website, unless the authority expressly provides otherwise, based  
12 upon a determination that the revision or amendment does not apply  
13 to local C-PACE programs. Any such revisions or amendments  
14 made by the authority to the Garden State C-PACE program  
15 guidelines or incorporated into local C-PACE program guidelines  
16 shall not apply retroactively to C-PACE projects that were  
17 previously approved pursuant to the Garden State C-PACE program  
18 or local C-PACE programs.

19

20 8. (New section) a. The authority may charge a county or  
21 authorized municipality a fee to review a proposed local C-PACE  
22 program ordinance or local C-PACE program guidelines. The fee  
23 shall reflect the reasonable and actual cost of the review, provided that  
24 the fee shall be a one-time charge not to exceed \$5,000.

25 b. The authority may charge the property owner a fee for the  
26 review of an application for a C-PACE project in the Garden State C-  
27 PACE program and for its fulfillment of such obligations, if any, that  
28 the authority may undertake to serve as an intermediary in the  
29 remittance of C-PACE assessments to capital providers if requested by  
30 the participating municipality. The fee shall reflect the reasonable and  
31 actual costs of the review or fulfillment of any obligations that the  
32 authority may undertake.

33 c. A participating municipality may charge the property owner an  
34 annual fee for the billing, collecting, and remitting of the C-PACE  
35 assessment. The fee shall reflect the reasonable and actual cost of the  
36 billing, collecting, and remitting of the annual amounts due for the C-  
37 PACE assessment.

38

39 9. (New section) a. Financing for the implementation of C-  
40 PACE projects, including the refinancing of an investment in an  
41 existing improvement that qualifies as a C-PACE project, provided the  
42 existing improvement was completed no more than three years prior to  
43 the submission of an application to the Garden State C-PACE program  
44 or local C-PACE program for the financing, shall be made available to  
45 property owners in exchange for a C-PACE assessment on the  
46 property. The C-PACE assessment shall be used to repay the  
47 financing.

1        b. The governing body of a county or authorized municipality  
2 may apply to a county improvement authority that issues bonds  
3 pursuant to paragraph (3) of subsection (j) of section 12 of P.L.1960,  
4 c.183 (C.40:37A-55), or, in the case of an authorized municipality,  
5 may issue bonds on its own to finance project costs for C-PACE  
6 projects pursuant to a local C-PACE program or the Garden State C-  
7 PACE program.

8        (1) Notwithstanding any other law to the contrary, bonds issued by  
9 a participating municipality shall be authorized and issued by  
10 ordinance of the municipality, may be issued in one or more series on  
11 such additional terms, and may be sold at public or private sale, all as  
12 set forth in the ordinance.

13        (2) Bonds issued by a county improvement authority shall be  
14 authorized and issued in the manner set forth in the “county  
15 improvement authorities law,” P.L.1960, c.183 (C.40:37A-44 et seq.).

16        (3) Bonds issued by a participating municipality or county  
17 improvement authority shall be non-recourse obligations of the issuer  
18 and shall not be considered to be direct and general obligations of the  
19 issuer, or the State of New Jersey or any political subdivision thereof.  
20 Any bonds issued or authorized by a municipality pursuant to P.L. ,  
21 c. (C. ) (pending before the Legislature as this bill) shall not be  
22 considered gross debt of the municipality on any debt statement filed  
23 in accordance with the “Local Bond Law,” N.J.S. 40A:2-1 et seq.

24        (4) Bonds issued by a municipality or county improvement  
25 authority pursuant to this subsection may be backed by one or more C-  
26 PACE assessment contracts.

27        c. The authority shall allow capital providers to directly finance  
28 project costs for C-PACE projects, or for such costs to be financed  
29 through bond issuance. Any direct financing provided by a capital  
30 provider pursuant to P.L. , c. (C. ) (pending before the  
31 Legislature as this bill) shall not be guaranteed or secured by the full  
32 faith and credit of any public entity, including the State of New Jersey  
33 or any political subdivision thereof, shall not be considered to be direct  
34 and general obligations of any public entity, including the State of  
35 New Jersey or any political subdivision thereof, shall not be  
36 considered gross debt of any municipality on any debt statement filed  
37 in accordance with the “Local Bond Law,” N.J.S.40A:2-1 et seq., and  
38 shall not be considered “financial assistance” pursuant to section 1 of  
39 P.L.1979, c.303 (C.34:1B-5.1), except to the extent the authority may  
40 provide a guaranty as provided for in subsection d. of section 4 of  
41 P.L. , c. (C. ) (pending before the Legislature as this bill).  
42 The Garden State C-PACE program and any local C-PACE program  
43 shall permit all capital providers that meet the eligibility requirements  
44 established in their program guidelines to provide financing through  
45 the program.

46        d. An authorized municipality or county that has established a  
47 local C-PACE program shall allow capital providers to directly finance  
48 project costs for C-PACE projects under the program. The repayment

1 of any financing provided by a capital provider shall not be guaranteed  
2 or secured by the full faith and credit of any public entity, including  
3 the State of New Jersey or any political subdivision thereof, shall not  
4 be considered to be direct and general obligations of any public entity,  
5 including the State of New Jersey or any political subdivision thereof,  
6 shall not be considered gross debt of any municipality on any debt  
7 statement filed in accordance with the “Local Bond Law,”  
8 N.J.S.40A:2-1 et seq., and shall not be considered “financial  
9 assistance” pursuant to section 1 of P.L.1979, c.303 (C.34:1B-5.1),  
10 except to the extent the authority may provide a guaranty as provided  
11 for in subsection d. of section 4 of P.L. , c. (C. ) (pending  
12 before the Legislature as this bill).

13 e. A property owner who installs a renewable energy system  
14 under the Garden State C-PACE program or a local C-PACE program  
15 may also assign or transfer any solar renewable energy certificates,  
16 transition renewable energy certificates, or other renewable energy  
17 certificates or credits that accrue to the property owner from the  
18 operation of the system to the authority, the municipality, the county  
19 improvement authority, other public entity, or the private entity, or  
20 capital provider as applicable, which has financed the C-PACE  
21 project. If any solar renewable energy certificates, transition  
22 renewable energy certificates, or other renewable energy certificates or  
23 credits are assigned or transferred to a municipality, county, county  
24 improvement authority, other public entity, or private entity, the  
25 municipality, county, county improvement authority, other public  
26 entity, or private entity, or capital provider is authorized to sell, grant,  
27 assign, convey, or otherwise dispose of its interest in the certificates or  
28 credits to repay the financing.

29 f. Other than as identified in this section, no public entity,  
30 including the State of New Jersey or any political subdivision thereof,  
31 may issue bonds to finance any C-PACE program, except to the extent  
32 the authority may issue bonds pursuant to P.L.1974, c.80 (C.34:1B-1  
33 et seq.).

34  
35 10. Section 1 of P.L.2011, c.187 (C.40:56-1.4) is amended to  
36 read as follows:

37 1. a. Upon application to and approval by the Director of  
38 Local Government Services in the Department of Community  
39 Affairs, the governing body of a municipality may undertake the  
40 financing of the purchase and installation of renewable energy  
41 systems and energy efficiency improvements by property owners as  
42 a local improvement and may provide by ordinance for a “clean  
43 energy special assessment” to be imposed on a property within the  
44 municipality, if the owner of the property requests the assessment in  
45 order to install such systems or improvements. Each improvement  
46 on an individual property shall constitute a separate local  
47 improvement and shall be assessed separately to the property owner  
48 benefitted thereby. The clean energy special assessment shall be

1 payable in quarterly installments. The terms of the clean energy  
2 special assessment shall be in accordance with the terms of the  
3 financing provided by the municipality pursuant to section 2 of  
4 P.L.2011, c.187 (C.40:56-13.1).

5 b. Notwithstanding the provisions of subsection a. of this  
6 section to the contrary, the Director of Local Government Services  
7 in the Department of Community Affairs shall not accept, and a  
8 municipality shall not submit, an application to undertake the  
9 financing of the purchase and installation of renewable energy  
10 systems and energy efficiency improvements by property owners as  
11 a local improvement pursuant to the provisions of P.L.2011, c.187  
12 (C.40:56-1.4 et al.) after the date the Economic Development  
13 Authority has published on its Internet website all the items  
14 pursuant to subsection a. of section 5 of P.L. , c. (C. ) (pending  
15 before the Legislature at this bill). The Director of Local  
16 Government Services in the Department of Community Affairs  
17 shall continue to process any application submitted prior to that  
18 date, and a municipality shall continue its undertaking approved  
19 prior to that date and any undertaking for which an application was  
20 pending on that date that is approved on or after that date.

21 c. All actions taken by the Director of Local Government  
22 Services in the Department of Community Affairs or any  
23 municipality pursuant to the provisions of this section shall be  
24 unaffected by the enactment of P.L. , c. (C. ) (pending before  
25 the Legislature as this bill).

26 (cf: P.L.2011, c.187, s.1)

27

28 11. Section 2 of P.L.2011, c.187 (C.40:56-13.1) is amended to  
29 read as follows:

30 2. a. (1) Upon application to and approval by the Director of  
31 Local Government Services in the Department of Community  
32 Affairs, a municipality may adopt an ordinance to establish a  
33 program to finance the purchase and installation of renewable  
34 energy systems and energy efficiency improvements by property  
35 owners and to authorize the issuance at public or private sale of  
36 non-recourse bonds as further provided herein. The governing body  
37 may apply to a county improvement authority that issues bonds  
38 pursuant to paragraph (2) of subsection (j) of section 12 of  
39 P.L.1960, c.183 (C.40:37A-55), or may issue bonds to finance the  
40 program pursuant to section 3 of P.L.2011, c.187 (C.40:56-13.2).  
41 Funds for the purchase and installation of renewable energy systems  
42 and energy efficiency improvements shall be loaned to property  
43 owners in exchange for a clean energy special assessment on the  
44 property pursuant to section 1 of P.L.2011, c.187 (C.40:56-1.4), to  
45 be paid quarterly. In the case of financing provided by bonds  
46 issued by a county improvement authority, the clean energy special  
47 assessment shall be used to repay the bonds. The bonds issued by a  
48 county improvement authority pursuant to this section shall be

1 issued as non-recourse obligations of the authority and shall not be  
2 considered to be direct and general obligations of the authority. In  
3 the case of financing provided by the municipality through the  
4 issuance of municipal bonds, the clean energy special assessment  
5 shall be used to repay the bonds. The bonds issued by a  
6 municipality pursuant to this section shall be issued as non-recourse  
7 obligations of the municipality and shall not be considered to be  
8 direct and general obligations of the municipality. Any bonds  
9 issued or authorized by a municipality pursuant to this section shall  
10 not be considered gross debt of the municipality on any debt  
11 statement filed in accordance with the "Local Bond Law,"  
12 N.J.S.40A:2-1 et seq. A property owner who purchases and installs  
13 a renewable energy system under the program may also assign any  
14 solar renewable energy certificates, transition renewable energy  
15 certificates, or other renewable energy credits that accrue to the  
16 property owner from the operation of the system to the municipality  
17 or the county improvement authority to repay the loan for the  
18 system. The Director of Local Government Services in the  
19 Department of Community Affairs shall coordinate efforts with the  
20 Board of Public Utilities to ensure that the amount of financing  
21 made available by local programs authorized pursuant to this act is  
22 in accordance with limits set from time to time by the Board of  
23 Public Utilities in order to ensure that local programs further the  
24 goals of the Office of Clean Energy in the Board of Public Utilities.

25 (2) Notwithstanding the provisions of paragraph (1) of this  
26 subsection to the contrary, the Director of Local Government  
27 Services in the Department of Community Affairs shall not accept  
28 and a municipality shall not submit an application for approval of  
29 an ordinance to establish a program to finance the purchase and  
30 installation of renewable energy systems and energy efficiency  
31 improvements by property owners pursuant to the provisions of  
32 P.L.2011, c.187 (C.40:56-1.4 et al.) after the date the Economic  
33 Development Authority has published on its Internet website all of  
34 the items pursuant to subsection a. of section 5 of P.L. , c. (C. )  
35 (pending before the Legislature at this bill). The Director of Local  
36 Government Services in the Department of Community Affairs  
37 shall continue to process any application submitted prior to that  
38 date, and a municipality shall adopt any ordinance approved prior to  
39 that date and any ordinance for which an application was pending  
40 on that date that is approved on or after that date.

41 (3) All actions taken by the Director of Local Government  
42 Services in the Department of Community Affairs or any  
43 municipality pursuant to the provisions of this section shall be  
44 unaffected by the enactment of P.L. , c. (C. ) (pending before  
45 the Legislature as this bill).

46 b. As used in this section [ , "solar" ] :

47 "Solar renewable energy certificate" shall have the same  
48 meaning as set forth in section 3 of P.L.1999, c.23 (C.48:3-51).

1       “Transition renewable energy certificate” shall have the same  
2 meaning as set forth in section 2 of P.L. , c. (C. ) (pending  
3 before the Legislature as this bill).  
4 (cf: P.L.2019, c.335, s.4)

5  
6       12. Section 3 of P.L.2011, c.187 (C.40:56-13.2) is amended to  
7 read as follows:

8       3. a. Upon application to and approval by the Director of  
9 Local Government Services in the Department of Community  
10 Affairs, the governing body of a municipality may establish the  
11 amounts of money to be expended by the municipality for the  
12 improvements authorized in sections 1 and 2 of P.L.2011, c.187  
13 (C.40:56-1.4 and C.40:56-13.1). Any amount so appropriated may  
14 be raised by the issuance of clean energy special assessment bonds  
15 by the municipality. In making the appropriation, the governing  
16 body may designate the particular projects to be financed to which  
17 the moneys shall be applied.

18       b. Clean energy special assessments and bonds issued to  
19 finance them shall be issued and shall be generally subject to  
20 R.S.40:56-21 et seq., as the director shall determine to be  
21 applicable.

22       c. The director is authorized and empowered to take such  
23 action as deemed necessary and consistent with the intent of this act  
24 to implement its provisions.

25       d. Notwithstanding the provisions of this section to the  
26 contrary, the Director of Local Government Services in the  
27 Department of Community Affairs shall not accept, and the  
28 governing body of a municipality shall not submit an application  
29 pursuant to subsection a. of this section after the date the Economic  
30 Development Authority has published on its Internet website all of  
31 the items pursuant to subsection a. of section 5 of P.L. , c. (C. )  
32 (pending before the Legislature at this bill). The Director of Local  
33 Government Services in the Department of Community Affairs or a  
34 municipality shall continue to process any application submitted  
35 prior to that date, and an application approved by a municipality  
36 prior to that date shall be implemented.

37       e. All actions taken by the Director of Local Government  
38 Services in the Department of Community Affairs or any  
39 municipality pursuant to the provisions of this section shall be  
40 unaffected by the enactment of P.L. , c. (C. ) (pending before  
41 the Legislature as this bill).

42 (cf: P.L.2011, c.187, s.3)

43  
44       13. Section 11 of P.L.1960, c.183 (C.40:37A-54) is amended to  
45 read as follows:

46       11. a. The purposes of every authority shall be (a) provision  
47 within the county or any beneficiary county of public facilities for  
48 use by the State, the county or any beneficiary county, or any

1 municipality in any such county, or any two or more or any  
2 subdivisions, departments, agencies or instrumentalities of any of  
3 the foregoing for any of their respective governmental purposes, (b)  
4 provision within the county or any beneficiary county of public  
5 facilities for use as convention halls, or the rehabilitation,  
6 improvement or enlargement of any convention hall, including  
7 appropriate and desirable appurtenances located within the  
8 convention hall or near, adjacent to or over it within boundaries  
9 determined at the discretion of the authority, including but not  
10 limited to office facilities, commercial facilities, community service  
11 facilities, parking facilities, hotel facilities and other facilities for  
12 the accommodation and entertainment of tourists and visitors, (c)  
13 provision within the county or any beneficiary county of structures,  
14 franchises, equipment and facilities for operation of public  
15 transportation or for terminal purposes, including development and  
16 improvement of port terminal structures, facilities and equipment  
17 for public use in counties in, along or through which a navigable  
18 river flows, (d) provision within the county or any beneficiary  
19 county of structures or other facilities used or operated by the  
20 authority or any governmental unit in connection with, or relative to  
21 development and improvement of, aviation for military or civilian  
22 purposes, including research in connection therewith, and including  
23 structures or other facilities for the accommodation of passengers,  
24 (e) provision within the county or any beneficiary county of a  
25 public facility for a combination of governmental and  
26 nongovernmental uses; provided that not more than 50 **【%】** percent  
27 of the usable space in any such facility shall be made available for  
28 nongovernmental use under a lease or other agreement by or with  
29 the authority, (f) acquisition of any real property within the county  
30 or any beneficiary county, with or without the improvements  
31 thereof or thereon or personal property appurtenant or incidental  
32 thereto, from the United States of America or any department,  
33 agency or instrumentality heretofore or hereafter created,  
34 designated or established by or for it, and the clearance,  
35 development or redevelopment, improvement, use or disposition of  
36 the acquired lands and premises in accordance with the provisions  
37 and for the purposes stated in **【this act】** the “county improvement  
38 authorities law,” P.L.1960, c.183 (C.40:37A-44 et seq.), including  
39 the construction, reconstruction, demolition, rehabilitation,  
40 conversion, repair or alteration of improvements on or to said lands  
41 and premises, and structures and facilities incidental to the  
42 foregoing as may be necessary, convenient or desirable, (g)  
43 acquisition, construction, maintenance and operation of garbage and  
44 solid waste disposal systems for the purpose of collecting and  
45 disposing of garbage, solid waste or refuse matter, whether owned  
46 or operated by any person, the authority or any other governmental  
47 unit, within or without the county or any beneficiary county, (h) the  
48 improvement, furtherance and promotion of the tourist industries

1 and recreational attractiveness of the county or any beneficiary  
2 county through the planning, acquisition, construction,  
3 improvement, maintenance and operation of facilities for the  
4 recreation and entertainment of the public, which facilities may  
5 include, without being limited to, a center for the performing and  
6 visual arts, (i) provision of loans and other financial assistance and  
7 technical assistance for the construction, reconstruction, demolition,  
8 rehabilitation, conversion, repair or alteration of buildings or  
9 facilities designed to provide decent, safe and sanitary dwelling  
10 units for persons of low and moderate income in need of housing,  
11 including the acquisition of land, equipment or other real or  
12 personal properties which the authority determines to be necessary,  
13 convenient or desirable appurtenances, all in accordance with the  
14 provisions of **[this act]** the “county improvement authorities law,”  
15 P.L. 1960, c. 183 (C.40:37A-44 et seq.), as amended and  
16 supplemented, (j) planning, initiating and carrying out  
17 redevelopment projects for the elimination, and for the prevention  
18 of the development or spread of blighted, deteriorated or  
19 deteriorating areas and the disposition, for uses in accordance with  
20 the objectives of the redevelopment project, of any property or part  
21 thereof acquired in the area of such project, (k) any combination or  
22 combinations of the foregoing or following, and (l) subject to the  
23 prior approval of the Local Finance Board, the planning, design,  
24 acquisition, construction, improvement, renovation, installation,  
25 maintenance and operation of facilities or any other type of real or  
26 personal property within the county for a corporation or other  
27 person organized for any one or more of the purposes described in  
28 subsection a. of N.J.S.15A:2-1 except those facilities or any other  
29 type of real or personal property which can be financed pursuant to  
30 the provisions of P.L.1972, c.29 (C.26:2I-1 et seq.) as amended. A  
31 county improvement authority shall also have as its purpose the  
32 pooling of loans for any local governmental units within the county  
33 or any beneficiary county that are refunding bonds in order to  
34 achieve more favorable interest rates and terms for those local  
35 governmental units. A county improvement authority shall also  
36 have as its purpose the administration, on behalf of an authorized  
37 municipality or county, of a local C-PACE program as defined in  
38 section 2 of P.L. , c. (C. ) (pending before the Legislature as  
39 this bill) and to issue bonds to finance a C-PACE project for a local  
40 C-PACE program pursuant to section 9 of P.L. , c. (C. )  
41 (pending before the Legislature as this bill).

42 b. In a fiscal year in which a public health emergency, pursuant  
43 to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1  
44 et seq.), a state of emergency, pursuant to P.L.1942, c.251  
45 (C.App.A:9-33 et seq.), or both has been declared by the Governor  
46 in response to COVID-19 and during the next following fiscal year,  
47 a county improvement authority shall also have as its purpose the  
48 pooling of special emergency notes issued by the county or any

1 beneficiary county, or by any local governmental unit within the  
2 county or any beneficiary county, pursuant to N.J.S.40A:4-55 for  
3 purposes of financing a special emergency appropriation authorized  
4 for the purpose set forth in subsections l. and m. of N.J.S.40A:4-53.  
5 (cf: P.L.2020, c.74, s.8)

6

7 14. Section 12 of P.L.1960, c.183 (C.40:37A-55) is amended to  
8 read as follows:

9 12. Every authority shall be a public body politic and corporate  
10 constituting a political subdivision of the State established as an  
11 instrumentality exercising public and essential governmental  
12 functions to provide for the public convenience, benefit and welfare  
13 and shall have perpetual succession and, for the effectuation of its  
14 purposes, have the following additional powers:

15 (a) To adopt and have a common seal and to alter the same at  
16 pleasure;

17 (b) To sue and be sued;

18 (c) To acquire, hold, use and dispose of its facility charges and  
19 other revenues and other moneys;

20 (d) To acquire, rent, hold, use and dispose of other personal  
21 property for the purposes of the authority;

22 (e) Subject to the provisions of section 26 of this act, to acquire  
23 by purchase, gift, condemnation or otherwise, or lease as lessee,  
24 real property and easements or interests therein necessary or useful  
25 and convenient for the purposes of the authority, whether subject to  
26 mortgages, deeds of trust or other liens or otherwise, and to hold  
27 and to use the same, and to dispose of property so acquired no  
28 longer necessary for the purposes of the authority; provided that the  
29 authority may dispose of such property at any time to any  
30 governmental unit or person if the authority shall receive a  
31 leasehold interest in the property for such term as the authority  
32 deems appropriate to fulfill its purposes;

33 (f) Subject to the provisions of section 13 of this act, to lease to  
34 any governmental unit or person, all or any part of any public  
35 facility for such consideration and for such period or periods of  
36 time and upon such other terms and conditions as it may fix and  
37 agree upon;

38 (g) To enter into agreements to lease, as lessee, public facilities  
39 for such term and under such conditions as the authority may deem  
40 necessary and desirable to fulfill its purposes, and to agree,  
41 pursuant thereto, to be unconditionally obligated to make payments  
42 for the term of the lease, without set-off or counterclaim, whether or  
43 not the public facility is completed, operating or operable, and  
44 notwithstanding the destruction of, damage to, or suspension,  
45 interruption, interference, reduction or curtailment of the  
46 availability or output of the public facility to which the agreement  
47 applies;

- 1 (h) To extend credit or make loans to any governmental unit or  
2 person for the planning, design, acquisition, construction, equipping  
3 and furnishing of a public facility, upon the terms and conditions  
4 that the loans be secured by loan and security agreements,  
5 mortgages, leases and other instruments, the payments on which  
6 shall be sufficient to pay the principal of and interest on any bonds  
7 issued for the purpose by the authority, and upon such other terms  
8 and conditions as the authority shall deem reasonable;
- 9 (i) Subject to the provisions of section 13 of this act, to make  
10 agreements of any kind with any governmental unit or person for  
11 the use or operation of all or any part of any public facility for such  
12 consideration and for such period or periods of time and upon such  
13 other terms and conditions as it may fix and agree upon;
- 14 (j) (1) To borrow money and issue negotiable bonds or notes or  
15 other obligations and provide for and secure the payment of any  
16 bonds and the rights of the holders thereof, and to purchase, hold  
17 and dispose of any bonds;
- 18 (2) To issue bonds, notes or other obligations to provide funding  
19 to a municipality that finances the purchase and installation of  
20 renewable energy systems and energy efficiency improvements by  
21 property owners as provided in section 2 of P.L.2011, c.187  
22 (C.40:56-13.1);
- 23 (3) To issue bonds, notes, or other obligations to finance a C-  
24 PACE project for a local C-PACE program pursuant to section 9 of  
25 P.L. , c. (C. ) (pending before the Legislature as this bill);
- 26 (k) To apply for and to accept gifts or grants of real or personal  
27 property, money, material, labor or supplies for the purposes of the  
28 authority from any governmental unit or person, and to make and  
29 perform agreements and contracts and to do any and all things  
30 necessary or useful and convenient in connection with the  
31 procuring, acceptance or disposition of such gifts or grants;
- 32 (l) To determine the location, type and character of any public  
33 facility and all other matters in connection with all or any part of  
34 any public facility which it is authorized to own, construct,  
35 establish, effectuate or control;
- 36 (m) To make and enforce bylaws or rules and regulations for the  
37 management and regulation of its business and affairs and for the  
38 use, maintenance and operation of any public facility, and to amend  
39 the same;
- 40 (n) To do and perform any acts and things authorized by this act  
41 under, through or by means of its own officers, agents and  
42 employees, or by contract with any governmental unit or person;
- 43 (o) To acquire, purchase, construct, lease, operate, maintain and  
44 undertake any project and to fix and collect facility charges for the  
45 use thereof;
- 46 (p) To mortgage, pledge or assign or otherwise encumber all or  
47 any portion of its revenues and other income, real and personal  
48 property, projects and facilities for the purpose of securing its

1 bonds, notes and other obligations or otherwise in furtherance of the  
2 purpose of this act;

3 (q) To extend credit or make loans to redevelopers for the  
4 planning, designing, acquiring, constructing, reconstructing,  
5 improving, equipping and furnishing any redevelopment project or  
6 redevelopment work;

7 (r) To conduct examinations and investigations, hear testimony  
8 and take proof, under oath at public or private hearings of any  
9 material matter, require the attendance of witnesses and the  
10 production of books and papers and issue commissions for the  
11 examination of witnesses who are out of the State, unable to attend,  
12 or excused from attendance;

13 (s) To authorize a committee designated by it consisting of one  
14 or more members, or counsel, or any officer or employee to conduct  
15 any such investigation or examination, in which case such  
16 committee, counsel, officer or employee shall have power to  
17 administer oaths, take affidavits and issue **[subpenas]** subpoenas or  
18 commissions;

19 (t) To enter into any and all agreements or contracts, execute  
20 any and all instruments, and do and perform any and all acts or  
21 things necessary, convenient or desirable for the purposes of the  
22 authority or to carry out any power expressly given in this act  
23 subject to the "Local Public Contracts Law," P.L.1971, c.198  
24 (C.40A:11-1 et seq.);

25 (u) To pool loans for any local governmental units within the  
26 county or any beneficiary county that are refunding bonds and do  
27 and perform any and all acts or things necessary, convenient or  
28 desirable for the purpose of the authority to achieve more favorable  
29 interest rates and terms for those local governmental units; and

30 (v) To act as and exercise the powers of a land bank entity  
31 pursuant to P.L.2019, c.159 (C.40A:12A-74 et al.) for any  
32 municipality situated within the county pursuant to a land banking  
33 agreement approved by an ordinance adopted by the municipal  
34 governing body.

35 (cf: P.L.2019, c.159, s.17)

36

37 15. This act shall take effect immediately, except that neither the  
38 Garden State C-PACE program nor any local C-PACE program  
39 established pursuant to P.L. , c. (C. ) (pending before the  
40 Legislature as this bill) shall be operable until the authority has  
41 published on its Internet website all of items required pursuant to  
42 subsection a. of section 5 of P.L. , c. (C. ) (pending before the  
43 Legislature as this bill).