

New Jersey Establishes C-PACE Program to Finance Eligible Commercial Renewable Energy Projects

Client Alert

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What You Need to Know

- The New Jersey Economic Development Authority (EDA) has established the C-PACE program to facilitate the financing by authorized municipalities of eligible commercial renewable energy, water efficiency and other authorized projects throughout the state.
- C-PACE financing can be used to address a variety of costs related to the development of eligible projects.
- The C-PACE program will become operational following the issuance of program guidance and opt-in applications by the EDA, which is expected within the next few months.

By: Maura E. Blau

The Garden State Commercial Property Assessed Clean Energy (C-PACE) financing program was established as a mechanism to finance commercial renewal energy projects, as well as water efficiency and other authorized improvements where "capital providers" pay the up-front costs of the project and are then repaid through a real property assessment levied by the participating municipality.

As part of his administration's ongoing commitment to address climate change, in August 2021, New Jersey Governor Phil Murphy signed legislation (A-2374) requiring the New Jersey Economic Development Authority (EDA) to establish the C-PACE program to facilitate the financing of eligible projects in municipalities that adopt an opt-in ordinance.

A C-PACE project is defined in the legislation as including:

- The “acquisition, construction, installation, or modification, or, in the discretion of the authority and in accordance with guidelines adopted by the authority, entry into a capital lease of an energy efficiency improvement or renewable energy system, including ... electric vehicle charging infrastructure, flood resistant construction improvement, or hurricane resistant construction improvement”;
- A microgrid or district heating and cooling system in which a property owner within the municipality participates for the duration of the C-PACE assessment; or
- A power purchase agreement (PPA) with respect to a renewable energy system affixed to a property.

"Property" is defined as specified types of properties within a participating municipality upon which a C-PACE assessment is imposed at the request of a property owner in connection with a C-PACE project. These properties can include industrial, agricultural, or commercial properties; residential properties containing five or more dwelling units; common areas of condominiums; and properties owned by a tax-exempt or nonprofit entity, including, schools, hospitals, institutions of higher education, and religious institutions.

"Project Costs" are defined as costs associated with a C-PACE project including direct costs such as equipment, materials, and labor related to purchasing, construction, installation and modification, and indirect costs including expenses and fees of engineers, architects and other professionals.

Under the C-PACE program, the municipality assigns to the capital provider the real property assessment through an assignment agreement. A capital provider is defined as including "an accredited investor or qualified institutional buyer" as defined in the applicable federal regulations, as well as commercial lending institutions.

"Authorized Municipalities," defined as municipalities ranked in the top third in New Jersey by population, and counties, can adopt an ordinance to operate their own municipal C-PACE program.

Guidance and opt-in applications for municipalities are expected to be issued by the EDA in the next few months (issuance is required within 270 days of the August 24, 2021, effective date under the law). Once issued, the C-PACE program will become operational.

More specifically, the C-PACE program will "officially" become operational once the EDA publishes the following four items on its website:

1. Uniform assessment documents;
2. A model municipal opt-in ordinance;
3. Garden State C-PACE program guidelines; and
4. A description of the process by which a county or an authorized municipality can apply to the EDA for approval of a local C-PACE program ordinance.

We will continue to track the status of New Jersey's C-PACE program and will provide updates accordingly. Please contact the author of this Alert, [Maura E. Blau](#), with questions or to discuss your specific circumstances.

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