

[Third Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2374

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED JULY 20, 2020

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator CHRISTOPHER "KIP" BATEMAN

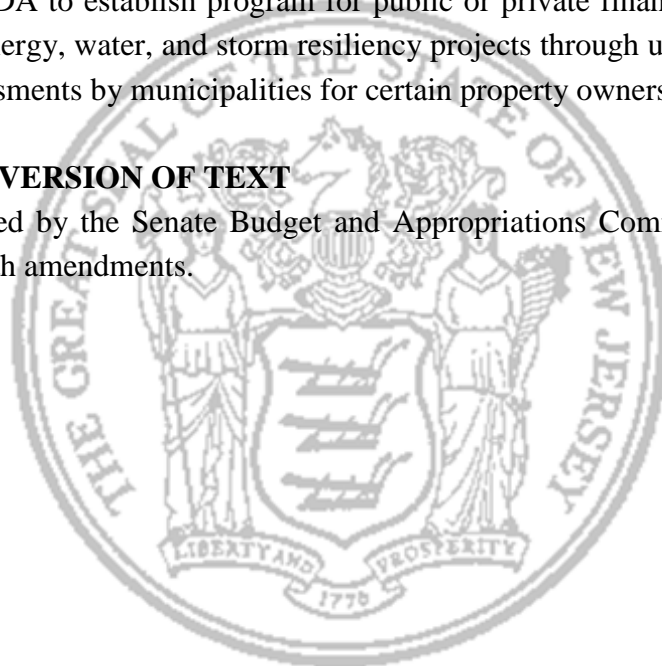
District 16 (Hunterdon, Mercer, Middlesex and Somerset)

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

As reported by the Senate Budget and Appropriations Committee on June 21, 2021, with amendments.



(Sponsorship Updated As Of: 6/24/2021)

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 ²and exceeding² 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 ², including new construction upon
28 previously unimproved real property,² is made, is an innovative way
29 for property owners to finance or refinance renewable energy, energy
30 and water efficiency, and other eligible improvements which, in turn,
31 saves a significant sum in utility costs or insurance premiums, creates
32 jobs, stimulates local economies, reduces greenhouse gas emissions,
33 and improves the ²[safely] safety² and quality of the building stock;

34 e. To date, PACE programs for commercial properties (“C-
35 PACE”) operate in ²more than² 24 other states and the District of
36 Columbia, and they have facilitated more than ²[\$1.5] \$2² billion in
37 investment 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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted July 27, 2020.

²Senate SEN committee amendments adopted June 15, 2021.

³Senate SBA committee amendments adopted June 21, 2021.

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 ²["Administration agreement" means an agreement between the
4 authority and a participating municipality defining the obligations of a
5 municipality to participate in the Garden State C-PACE program,
6 including the requirement that the participating municipality levy, bill,
7 collect, remit, and enforce a C-PACE assessment.]²

8 "Assignment agreement" means an agreement in which a
9 participating municipality assigns a C-PACE assessment
10 ²[agreement]² to a capital provider, its designee, successor or assign.

11 "Authority" means the New Jersey Economic Development
12 Authority.

13 ²"Authorized municipality" means a municipality with a
14 population that, as of the launch date, is in the top third of
15 municipalities in the State in terms of population, according to the
16 most recent American Community Survey published by the United
17 States Census Bureau.²

18 "Capital provider" means:

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

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

26 c. a public entity; ²[or]²

27 d. a special purpose securitization vehicle for the sale and transfer
28 of securities, which is restricted to those persons described in
29 subsections a. or b. of this definition ²; or

30 e. a commercial lending institution chartered by a state or the
31 federal government, including, without limitation, a savings and loan
32 association, a credit union, or a commercial bank² .

33 "C-PACE" means commercial property assessed clean energy.

34 "C-PACE assessment" means a local improvement assessment, in
35 accordance with chapter 56 of Title 40 of the Revised Statutes,
36 imposed by a participating municipality on a property, with the
37 consent of the owner of the property, ²and determined based upon
38 either the existing use of a property or the contemplated use of
39 unimproved property upon completion of new construction,² as a
40 means of securing financing provided pursuant to section 9 of P.L. ,
41 c. (C.) (pending before the Legislature as this bill) to finance a C-
42 PACE project at the property, payments in respect of which
43 assessment are collected by the participating municipality and remitted
44 to the entity that provided the financing or its designee.

45 "C-PACE assessment agreement" means an agreement between a
46 participating municipality and a property owner in which the property
47 owner agrees to the imposition of a C-PACE assessment on the

1 property benefited by a C-PACE project within the municipality, and
2 ²**[by]** in² which the participating municipality agrees to levy, bill,
3 collect, remit, and ², to the extent necessary,² enforce the C-PACE
4 assessment.

5 “C-PACE project” means:

6 a. the acquisition, construction, ²**[lease,]**² installation, ²**[or]**²
7 modification ², or, in the discretion of the authority and in accordance
8 with guidelines adopted by the authority, entry into a capital lease² of
9 an energy efficiency improvement or renewable energy system
10 including energy storage, microgrid, water conservation improvement,
11 stormwater management system, electric vehicle charging
12 infrastructure, flood resistant construction improvement, or hurricane
13 resistant construction improvement, in each case affixed to a property,
14 including new construction ²**[of the improvements]** upon previously
15 unimproved real property² , within a participating municipality ²,
16 provided that, on the basis of supplemental program guidelines to be
17 published by the authority within 90 days following the launch date, a
18 qualified professional attests that such new construction exceeds the
19 minimum standards of the local and State building codes otherwise
20 applicable to the property² ;

21 b. ²at the discretion of, and in accordance with guidelines adopted
22 by, the authority,² a microgrid or district heating and cooling system in
23 which a property owner within the municipality participates for the
24 duration of the C-PACE assessment; or

25 c. ²at the discretion of, and in accordance with guidelines adopted
26 by, the authority,² a power purchase agreement with respect to a
27 renewable energy system affixed to a property.

28 “Direct financing” means financing for a C-PACE project pursuant
29 to a financing agreement entered into between a capital provider and a
30 property owner.

31 “Electric vehicle charging infrastructure” means equipment
32 designed to deliver electric energy to ²**[an]** a battery² electric vehicle
33 or a plug-in hybrid vehicle. ²**[”]**²

34 “Energy efficiency improvement” means an improvement to
35 reduce energy consumption through conservation or a more efficient
36 use of electricity, natural gas, propane, or other forms of energy,
37 including, but not limited to: air sealing; installation of insulation;
38 installation of energy-efficient electrical, heating, cooling, or
39 ventilation systems; building modifications to increase the use of
40 daylight; energy efficient windows, doors, and glass; installation of
41 energy or water controls or energy recovery systems; and installation
42 of efficient lighting equipment.

43 “Finance” or “financing” means the investing of capital in
44 accordance with section 9 of P.L. , c. (C.) (pending before the
45 Legislature as this bill), including ², on the basis of supplemental
46 program guidelines to be published by the authority within 90 days

1 following the launch date,² the refinancing of an investment in an
2 existing C-PACE project.

3 “Flood resistant construction improvement” means an
4 improvement that mitigates the likelihood of flood damage, including,
5 but not limited to, the installation of break-away walls and building
6 elevation alterations.

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

10 ²“Garden State program agreement” means an agreement between
11 the authority and a participating municipality defining:

12 a. the obligations of a municipality to participate in the Garden
13 State C-PACE program, including the requirement that the
14 participating municipality levy, bill, collect, remit, and enforce a C-
15 PACE assessment; and

16 b. the obligations, if any, that the authority may undertake (1)
17 with respect to the remittance of C-PACE assessments to capital
18 providers if the remittance is authorized by regulations adopted by the
19 Local Finance Board pursuant to section 38 of P.L.2000, c.126
20 (C.52:27D-20.1) and requested by the participating municipality, and
21 (2) to review and approve the participation of individual capital
22 providers or financings in the Garden State C-PACE program. Neither
23 the execution by the authority of a Garden State program agreement
24 with a municipality nor its exercise of its rights or performance of its
25 duties thereunder shall be considered “authority financial assistance”
26 as that term is defined in section 1 of P.L.1979, c.303 (C.34:1B-5.1).²

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

33 ²“Launch date” means the date upon which the authority has taken
34 all of the actions specified in subsection c. of section 5 of P.L. , c.
35 (C.) (pending before the Legislature as this bill), other than any
36 actions that are expressly required by P.L. , c. (C.) (pending
37 before the Legislature as this bill) to be taken within 90 days following
38 the launch date.²

39 “Local C-PACE program” means a program established by ²[a]
40 an authorized² municipality ²or a county² pursuant to section 6 of
41 P.L. , c. (C.) (pending before the Legislature as this bill).

42 “Local C-PACE program ordinance” means an ordinance adopted
43 by ²[a] an authorized² municipality ²or a county² , and approved by
44 the authority pursuant to section 7 of P.L. , c. (C.) (pending
45 before the Legislature as this bill), to establish a program within its
46 jurisdiction pursuant to subsection b. of section 5 and subsection a. of

1 section 6 of P.L. , c. (C.) (pending before the Legislature as this
2 bill).

3 “Microgrid” means a group of interconnected loads and distributed
4 energy resources within clearly defined electrical boundaries that acts
5 as a single controllable entity with respect to the electric distribution
6 system and that connects and disconnects from the electric distribution
7 system to enable it to operate when both connected to, or independent
8 of, the electric distribution system.

9 “Notice of assessment” means the document filed with the county
10 recording officer in the county in which ²[the] ²a² property is located,
11 ²[for a specific property that] which² notifies prospective holders of
12 an interest in the property that a C-PACE assessment lien has been
13 placed on the property.

14 “Opt-in ordinance” means an ordinance adopted by a municipality
15 by which it authorizes its participation in the Garden State C-PACE
16 program and authorizes the municipality to enter into ²[an
17 administration] a Garden State program² agreement with the authority.

18 “Participating municipality” means ²[a municipality that]² :

19 a. ²a municipality that² adopts an opt-in ordinance and executes
20 ²[an administration] a Garden State program² agreement; or

21 b. ²an authorized municipality that² adopts an opt-in ordinance,
22 executes ²[an administration] a Garden State program² agreement,
23 and adopts a local C-PACE program ordinance ²and local C-PACE
24 program guidelines approved by the authority² .

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

33 “Program guidelines” means:

34 a. any program-related rules or documents, or both, ²[other than
35 the uniform assessment documents,]² prepared and published by the
36 authority that apply to the Garden State C-PACE program; or

37 b. any program-related rules or documents, or both, ²[other than
38 the uniform assessment documents,]² prepared and published by ²[a
39 participating] an authorized² municipality ²or a county, and approved
40 by the authority,² that apply to ²[its]² local C-PACE ²[program,]
41 programs² pursuant to ²paragraph (3) of² subsection ²[c.] b.² of
42 section ²[5] 6² of P.L. , c. (C.) (pending before the Legislature
43 as this bill).

44 “Project costs“ means costs associated with a C-PACE project and
45 shall include: direct costs, including but not limited to, equipment,
46 materials, and labor related to the purchasing, constructing, installing,

1 modifying, or acquiring a C-PACE project; indirect costs, including,
2 but not limited to, expenses and fees of engineers, architects, and other
3 professionals, inspection fees and permits, warranties and pre-paid
4 maintenance contracts; program fees; and financing costs of a capital
5 provider, including, but not limited to, origination fees, prepaid
6 interest and payment reserves, closing costs, counsel fees, trustee or
7 custodian fees, recording fees, and other financing charges ², except
8 that the authority may implement an alternative definition of “project
9 costs” in its program guidelines in connection with the financing of
10 new construction² .

11 “Property” means industrial, agricultural, or commercial property;
12 residential property containing five or more dwelling units; common
13 areas of condominiums and other planned real estate developments as
14 defined in section 3 of P.L.1977, c.419 (C.45:22A-23); and property
15 owned by a tax-exempt or nonprofit entity, including, but not limited
16 to, schools, hospitals, institutions of higher education, or religious
17 institutions, within a participating municipality upon which a C-PACE
18 assessment is imposed at the request of a property owner in connection
19 with a C-PACE project.

20 “Property owner” means ²[all of the owners] an owner² of a
21 property within a participating municipality who ²[consent] consents²
22 to a C-PACE assessment being imposed on the property ²[, as well as
23 the lessee of a property owned by a governmental entity or the lessee
24 under a ground lease on a property whose legal owner consents in
25 writing to a C-PACE assessment being imposed on the leasehold]² .

26 “Renewable energy system” means an improvement by which
27 electrical, mechanical, or thermal energy is produced from a method
28 that uses one or more of the following fuels or energy sources:
29 hydrogen, solar energy, geothermal energy, biomass, or wind energy,
30 together with the other fuels and energy sources that the authority,
31 after consultation with the Board of Public Utilities, may determine
32 pursuant to program guidelines prepared and published pursuant to
33 subsection c. of section 5 of P.L. , c. (C.) (pending before the
34 Legislature as this bill).

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

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

39 ²“Transition renewable energy certificate” means a certificate
40 issued by the Board of Public Utilities or its designee, under the solar
41 energy transition incentive program, which is designed to transition
42 between the solar renewable energy certificate program and a solar
43 successor incentive program to be developed by the Board of Public
44 Utilities pursuant to P.L.2018, c.17 (C.48:3-87.8 et al.).²

45 “Uniform assessment documents” means a uniform C-PACE
46 assessment agreement, assignment agreement, and notice of
47 assessment, a model lender consent to a C-PACE assessment pursuant

1 to section 5 of P.L. , c. (C.) (pending before the Legislature as
2 this bill), and any other uniform or model documents prepared by the
3 authority and used in the Garden State C-PACE program and local C-
4 PACE programs, except that the authority shall not mandate a uniform
5 financing agreement, which shall be supplied by the capital provider
6 for direct financing.

7 “Water conservation improvement” means an improvement that
8 reduces water consumption, increases the efficiency of water use, or
9 reduces water loss.

10

11 3. (New section) a. ²(1)² No later than 18 months after the
12 ²[authority establishes the Garden State C-PACE program] launch
13 date² and annually thereafter, the authority shall prepare and submit to
14 the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
15 19.1), to the Legislature, a report describing the implementation and
16 operation of the Garden State C-PACE program ²[and any local C-
17 PACE programs]² , including information relating to any
18 administrative costs, the number of C-PACE projects, the location of
19 C-PACE projects, and the amount of financing issued for C-PACE
20 projects ²under the Garden State C-PACE program.

21 (2) No later than 18 months 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), and
24 annually thereafter, the municipality or county shall prepare and
25 submit to the Governor, the authority, and, pursuant to section 2 of
26 P.L.1991, c.164 (C.52:14-19.1), the Legislature, a report describing the
27 implementation and operation of its local C-PACE program, including
28 information relating to any administrative costs, the number of C-
29 PACE projects, the location of C-PACE projects, and the amount of
30 financing issued for C-PACE projects under its local C-PACE
31 program² .

32 b. ²(1)² No later than five years after the ²[authority establishes
33 the Garden State C-PACE program] launch date² , the authority shall
34 prepare and submit to the Governor and, pursuant to section 2 of
35 P.L.1991, c.164 (C.52:14-19.1), to the Legislature, a report that
36 reviews and assesses implementation of the Garden State C-PACE
37 program ²[and any local C-PACE programs]² . The report shall
38 evaluate the Garden State C-PACE program, including a review of
39 foreclosure rates and any other factors the authority deems appropriate.
40 The report may also identify and recommend legislative changes to
41 P.L. , c. (C.) (pending before the Legislature as this bill). ²The
42 report shall include an assessment of whether the costs incurred in
43 implementing the Garden State C-PACE Program are an effective
44 means of facilitating the financing of projects.

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

1 municipality or county shall prepare and submit to the Governor, the
2 authority and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
3 the Legislature, a report that reviews and assesses implementation of
4 the local C-PACE program. The report shall evaluate its local C-
5 PACE program, including a review of foreclosure rates and any other
6 factors the authority deems appropriate. The report may also identify
7 and recommend legislative changes to P.L. , c. (C.) (pending
8 before the Legislature as this bill).²

9 c. The authority shall post all reports prepared ²by the authority²
10 pursuant to this section on its Internet website. ²Each authorized
11 municipality and each county that has established a local C-PACE
12 program shall post all reports prepared by it pursuant to this section on
13 its Internet website.²

14
15 4. (New section) a. The authority shall establish a Garden State
16 C-PACE program to facilitate the ²[direct]² financing of C-PACE
17 projects in municipalities that adopt an opt-in ordinance. The Garden
18 State C-PACE program shall consist of ²[, among other things,]² the
19 development of uniform assessment documents ²and program
20 guidelines² for the ²[direct]² financing of C-PACE projects to be
21 undertaken by property owners as local improvements and the
22 provision by ordinance ², subject to the approval of the authority,² for
23 a C-PACE assessment to be imposed on properties within the
24 municipality, if the owner of a property requests the C-PACE
25 assessment in order to undertake and finance a C-PACE project. C-
26 PACE projects on an individual property subject to the same C-PACE
27 assessment agreement collectively shall constitute a separate local
28 improvement and shall be assessed separately to the property owner
29 benefitted thereby.

30 b. The authority may contract with ², and set the compensation
31 of,² one or more third-party administrators ², whether private, public
32 or quasi-public, or for-profit or not-for-profit,² to assist the authority in
33 its implementation or administration, or a combination thereof, of the
34 Garden State C-PACE program pursuant to a competitive bidding
35 process. The authority may delegate any duties under the program to
36 one or more third-party administrators, provided that ²the² authority
37 shall not delegate its responsibility for general oversight of the Garden
38 State C-PACE program.

39 ²c. The authority may enter into a memorandum of agreement with
40 one or more State government agencies or instrumentalities whereby
41 any of the powers the authority may exercise or responsibilities it must
42 fulfill pursuant to P.L. , c. (C.) (pending before the
43 Legislature as this bill) may be exercised or fulfilled, as the case may
44 be, by such agency or instrumentality, and any fund that may be used
45 for administrative expenses by the authority may be used by such
46 agency or instrumentality in exercising such powers or fulfilling such
47 responsibilities.

1 d. The authority may establish a loss reserve, issue guarantees, or
2 both, to mitigate the repayment risk assumed by capital providers
3 providing direct financing, in order to improve the availability and
4 financial terms of such financing of C-PACE projects for property
5 owners.²

6
7 5. (New section) a. Within ²[180] 270² days after the effective
8 date of P.L. , c. (C.) (pending before the Legislature as this
9 bill), the authority shall establish the Garden State C-PACE program
10 by publishing on its Internet website:

11 (1) uniform assessment documents;

12 (2) a model opt-in ordinance;

13 (3) Garden State C-PACE program guidelines ²adopted pursuant
14 to subsection c. of this section²; and

15 (4) ²a description of² the process by which a ²county or an
16 authorized² municipality applies to the authority for approval of a
17 local C-PACE program ordinance.

18 ²The Garden State C-PACE program shall not be operational and
19 available for the participation of capital providers, municipalities and
20 property owners until the authority has taken all of the actions required
21 by this subsection.²

22 b. The model opt-in ordinance, as well as any local C-PACE
23 program ordinance, shall prescribe ²a subset of the² criteria for
24 qualifying a C-PACE project for a C-PACE assessment ²[and shall
25 include] , including² the following ²[requirements]² :

26 (1) financing recipients shall be the legal or beneficial owners of
27 the property or duly authorized by the legal or beneficial owners of the
28 property, there shall be no defaults on any mortgage loans on the
29 subject property, all tax payments ², charges, and assessments² with
30 respect to the property shall be current, the legal or beneficial owners
31 of the property shall not be ²[not]² subject to any bankruptcy
32 proceeding, and the subject property shall not be ²[not]² the subject of
33 a bankruptcy proceeding;

34 (2) the ²[aggregate] principal² amount of ²[all] the² C-PACE
35 ²[assessments plus the outstanding balance due on all] assessment,
36 when combined with² mortgage ²[loans] and other lien obligations²
37 on a property shall not exceed ²[95] 90² percent of the ²appraised²
38 value of the property after including the value created by the C-PACE
39 project;

40 (3) ²[the determination of value of a property for purposes of
41 qualifying for a C-PACE assessment shall be based on of any of the
42 following:

43 (a) the value of the property as determined by the assessor;

44 (b) the market value of the property as estimated in a broker price
45 opinion or comparative market analysis by a real estate broker or
46 managing broker; or

1 (c) the as-complete or stabilized prospective market value of the
2 property as estimated in an appraisal report prepared or co-signed by a
3 licensed real estate appraiser within at least 24 months of the
4 application for financing;

5 (4)² the maximum duration of a C-PACE assessment ², which
6 shall be determined pursuant to the provisions of paragraph (6) of
7 subsection c. of this section,² shall not exceed the weighted average
8 useful life of the improvements in the C-PACE project or 30 years,
9 whichever is less;

10 ²[(5)] (4)² the amount of ²the² C-PACE assessment for a property
11 shall be a specific amount, and the terms of repayment of direct
12 financing shall be solely determined and negotiated between a
13 property owner and capital provider subject to the maximum duration
14 of an assessment in paragraph ²[(4)] (3)² of this subsection; and

15 ²[(6)] (5)² a property owner seeking a C-PACE assessment shall
16 receive written consent of the existing mortgage holders on the
17 property prior to the closing of the financing.

18 c. ²Pursuant to the purposes and objectives outlined in P.L. ,
19 c. (C.) (pending before the Legislature as this bill), and with
20 respect to the responsibilities of overseeing and implementing the
21 Garden State C-PACE program, the authority shall develop, in
22 consultation with the Division of Local Government Services in the
23 Department of Community Affairs, program guidelines governing the
24 terms and conditions under which financing may be made available
25 under the Garden State C-PACE program. Any amendments to the
26 Garden State C-PACE program guidelines shall require the approval
27 of the authority's board of directors.

28 Pursuant to the purposes and objectives outlined in P.L. ,
29 c. (C.) (pending before the Legislature as this bill), and with
30 respect to the responsibilities of overseeing and implementing a local
31 C-PACE program, a county or authorized municipality shall develop
32 program guidelines governing the terms and conditions under which
33 financing may be made available under the local C-PACE program.
34 The program guidelines, and any amendments thereto, for a local C-
35 PACE program shall be consistent with the Garden State C-PACE
36 program guidelines and the requirements set forth in P.L. ,
37 c. (C.) (pending before the Legislature as this bill) for C-
38 PACE projects and financing, and shall be subject to approval by the
39 authority pursuant to subsection a. of section 7 of P.L. ,
40 c. (C.) (pending before the Legislature as this bill).²

41 The Garden State C-PACE program guidelines and any local C-
42 PACE program guidelines ²[authorized by resolution of the governing
43 body of a participating municipality]² shall include, but not be limited,
44 to ²[the following minimum procedures and requirements]² :

45 (1) a uniform project application, uniform application
46 requirements, including uniform application documents; and the

1 procedures for a property owner to obtain approval of a C-PACE
2 project and a capital provider to finance a C-PACE project;
3 (2) minimum standards for a C-PACE project to qualify for C-
4 PACE financing;
5 (3) eligibility criteria for a property owner and property to qualify
6 for a C-PACE assessment; ²[and]²
7 (4) ²[rules] the underwriting criteria to be applied in determining
8 the eligibility of properties and their owners to participate in the
9 Garden State C-PACE program and local C-PACE programs and the
10 maximum permitted amount of a financing based on a property's value
11 and other characteristics;
12 (5) a requirement that all existing mortgage lien holders on a
13 property be given notice prior to a C-PACE assessment and lien being
14 filed in connection with that property, and that all property owners
15 receive consent of the existing mortgage holders on the property;
16 (6) a requirement that the term of a financing be no longer than the
17 forecast life of the improvements, which shall be calculated on a
18 blended average basis taking account of the relative values of the fixed
19 assets included in the C-PACE project, except that the authority may
20 establish alternative criteria for establishing the maximum term of a
21 financing for a C-PACE project that consists of new construction;
22 (7) within 90 days following the launch date with respect to the
23 Garden State C-PACE program guidelines only, supplemental program
24 guidelines² for refinancing projects completed prior to the submission
25 of a project application for a C-PACE assessment ²and for the use of
26 the Garden State C-PACE program in connection with the financing of
27 new construction upon previously unimproved real property² .
28 ¹[The provisions of the Administrative Procedure Act, P.L.1968,
29 c.410 (C.52:14B-1 et seq.), shall not apply to the preparation,
30 publication, or implementation of the uniform assessment documents
31 or the program guidelines of the Garden State C-PACE program or a
32 local C-PACE program.]¹
33 d. ²[Upon recordation of the notice of assessment and C-PACE
34 assessment agreement in the land records of the property] Subject to
35 the written consent of existing mortgage holders, the form of which
36 shall be determined by the authority in its uniform assessment
37 documents adopted pursuant to subsection a. of section 5 of P.L. ,
38 c. (C.) (pending before the Legislature as this bill)² , the C-
39 PACE assessment shall be a single, continuous first lien on the
40 property on and after the date of recordation ²[. The] of the C-PACE
41 assessment agreement. A property with delinquent taxes, charges, or
42 assessments shall not be eligible for a C-PACE assessment. Upon
43 recordation of the C-PACE assessment agreement in the land records
44 of the county in which the property is located,² the lien thereof shall be
45 perfected for all purposes in accordance with law, and the lien shall be
46 a continuous first lien upon the real estate described in the assessment,
47 paramount to all prior or subsequent alienations and descents of the

1 real estate or encumbrances thereon, ²except subsequent taxes,
2 charges, or assessments,² without any additional notice, recording,
3 filing, continuation filing, or action, until payment in full of the C-
4 PACE assessment, notwithstanding any mistake in the name or names
5 of any owner or owners, or any omission to name any owner or owners
6 who are unknown, and notwithstanding any lack of form therein, or in
7 any other proceeding which does not impair the substantial rights of
8 the owner or owners or other person or persons having a lien upon or
9 interest in any the real estate. Any confirmation of the amount of the
10 C-PACE assessment by the ²applicable municipality's² governing
11 body or by ²[the] a² court shall be considered as determining the
12 amount of the existing lien and not as establishing the lien. All C-
13 PACE assessments shall be presumed to have been regularly assessed
14 and confirmed and every assessment or proceeding preliminary thereto
15 shall be presumed to have been regularly made or conducted until the
16 contrary be shown.

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

19 f. Funds to finance a C-PACE project may be disbursed to, or for
20 the benefit of, the property owner at execution of the C-PACE
21 assessment agreement, or may be disbursed in installments over time.
22 The funds shall not constitute public funds, and shall not be subject to
23 the laws governing public funds, including, but not limited to, laws
24 regarding the receipt, expenditure, deposit, investment, or
25 appropriation of the same. Payments of ²the² C-PACE
26 ²[assessments] assessment² shall commence as set forth in the C-
27 PACE assessment agreement. To the extent that upon completion of
28 the C-PACE project, funds remain that have not been disbursed to the
29 property owner, those funds on hand shall be used to reduce the
30 amount of the C-PACE assessment in accordance with the C-PACE
31 assessment agreement.

32 g. Except as provided in this subsection, if any payment of a C-
33 PACE assessment is not made ²[within 10 days after the time]² when
34 that payment shall have become due, or later, consistent with any
35 grace period provided or extended by a participating municipality for
36 the payment of property tax bills ²as may be permitted or required by
37 law², interest thereon shall be imposed at the same rate as may be
38 imposed upon unpaid property taxes in the participating municipality
39 ²[, and]. Notwithstanding any other provision of law, such statutory
40 interest shall be in addition to any accrued interest and any amount
41 fixed as a penalty for delinquency pursuant to the financing agreement
42 between the property owner and the capital provider. All such
43 amounts² shall be collected and enforced in the same manner as
44 unpaid property taxes, including by accelerated tax sale if the
45 participating municipality enforces collection of its unpaid property
46 taxes through accelerated tax sales. The proceeds of the sale shall also
47 pay the outstanding ²past unpaid amounts of the² C-PACE

1 ²~~assessments~~ assessment² . However, the ²remaining² balance
2 ²~~due~~ not delinquent² on a C-PACE assessment shall not be subject
3 to acceleration or extinguishment in the event of a default in payment.
4 ²Any statutory interest collected by the municipality on a delinquent
5 C-PACE assessment pursuant to this subsection shall be retained by
6 the municipality. Any accrued interest, or any amount fixed as a
7 penalty for delinquency, pursuant to the financing agreement between
8 the property owner and the capital provider shall be remitted to the
9 capital provider. If the property owner is delinquent on a C-PACE
10 assessment as well as delinquent on taxes, charges, or other
11 assessments, any payment shall be applied towards any and all such
12 other delinquencies before being applied to any delinquent C-PACE
13 assessment.² Notwithstanding any other provision of law, in the event
14 that any lien on the property shall be exposed to tax sale, pursuant to
15 the “tax sale law,” R.S.54:5-1 et seq., and ²~~any the lien~~² is struck off
16 and sold to the participating municipality, the C-PACE assessment
17 shall survive any subsequent action to foreclose the right of
18 redemption and continue as a first lien upon the real estate described in
19 the assessment, paramount to all prior or subsequent alienations and
20 descents of the real estate or encumbrances ²~~thereon~~ , except
21 subsequent taxes, charges, or other assessments² , and provided that,
22 notwithstanding the obligations of a participating municipality
23 pursuant to section 1 of P.L.1942, c.54 (C.54:5- 53.1), while the
24 participating municipality holds the lien or owns the property, the
25 participating municipality shall not be responsible for or required to
26 make any payment ²from its treasury or any other source² in
27 furtherance of or to satisfy the C-PACE assessment. ²A municipality
28 shall not bear any other responsibility in furtherance or satisfaction of
29 a C-PACE assessment, except that a municipality may be compelled to
30 enforce a lien through an action to foreclose.² In the event of a taking
31 of the property by eminent domain or condemnation, the C-PACE
32 assessment may be accelerated or extinguished, at the election of the
33 capital provider, provided the capital provider is compensated ²in
34 accordance with the provisions of the “Eminent Domain Act of 1971,”
35 P.L.1971, c.361 (C.20:3-1 et seq.).² by the governmental entity
36 utilizing eminent domain or condemnation for the balance due on the
37 unpaid C-PACE assessment and any interest, penalties, or other
38 charges related thereto.

39 h. (1) C-PACE assessments shall be assigned directly by the
40 participating municipality, and any assignee thereof, as security for
41 financing from a capital provider to finance C-PACE projects.
42 Notwithstanding any law to the contrary, the assignment shall be an
43 absolute assignment of all of the participating municipality’s right,
44 title, and interest in and to the C-PACE assessment, except for its
45 obligations to bill, collect, remit, and enforce C-PACE assessments as
46 set forth in the assignment agreement. The proceeds of a C-PACE

1 assessment shall be considered “special revenues” owned by the
2 capital provider pursuant to chapter 9 of the federal bankruptcy code.

3 (2) C-PACE assessments assigned as provided hereunder shall not
4 be included in the general funds of the participating municipality, or be
5 subject to any laws regarding the receipt, deposit, investment, or
6 appropriation of public funds, and shall retain such status
7 notwithstanding enforcement of the assessment by the participating
8 municipality or assignee as provided herein. In the case of a
9 participating municipality that is otherwise subject to tax or revenue
10 sharing pursuant to law and which assigns C-PACE assessments as set
11 forth in this section, the C-PACE assessments shall not be considered
12 part of the tax or revenue sharing formula or calculation of municipal
13 revenues for the purpose of determining whether that participating
14 municipality is obligated to make payment to, or receive a credit from,
15 any tax sharing or revenue sharing pool. However, the redemption of
16 any delinquent and unpaid C-PACE assessments, including any
17 interest, penalties, or other charges related thereto, shall be paid no
18 later than on the first available tax bill after the property has been sold
19 after an action to foreclose the right of redemption.

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

25

26 6. (New section) a. ²**[A]** An authorized² municipality that has
27 adopted an opt-in ordinance may also establish a local C-PACE
28 program to facilitate the financing of C-PACE projects in that
29 ²authorized² municipality. ²A county may also establish a local C-
30 PACE program pursuant to a local C-PACE program ordinance to
31 facilitate the financing of C-PACE projects in participating
32 municipalities located in that county that have adopted an opt-in
33 ordinance. A local C-PACE program ordinance adopted by a county
34 shall establish a program for the benefit of municipalities located
35 within the county, but participating municipalities shall remain
36 responsible for the process of levying, billing, collecting, remitting,
37 and enforcing the C-PACE assessment.² In a ²county or authorized²
38 municipality that has established a local C-PACE program pursuant to
39 a local C-PACE ¹**[Program]** program¹ ordinance, any C-PACE
40 projects in that ²authorized² municipality ²or, in the case of a county,
41 in any participating municipality located in that county that has
42 adopted an opt-in ordinance,² may be financed pursuant to the Garden
43 State C-PACE program or the local C-PACE program. In a
44 municipality that has not established ², or is located in a county that
45 has not established,² a local C-PACE program pursuant to a local C-
46 PACE program ordinance, any C-PACE projects in that municipality
47 may be financed pursuant to the Garden State C-PACE program only.

1 b. Notwithstanding the provisions of P.L.2011, c.187 (C.40:56-
 2 1.4 et al.), or any other law, to the contrary, a ²county or authorized²
 3 municipality seeking to establish and implement a local C-PACE
 4 program shall adopt a local C-PACE program ordinance consistent
 5 with this section and section 5 of P.L. , c. (C) (pending before
 6 the Legislature as this bill). ²[A] An authorized² municipality may
 7 establish a local C-PACE program through the adoption of a local C-
 8 PACE program ordinance if the municipality has entered ²[an
 9 administration] a Garden State program² agreement with the authority,
 10 and obtained approval of the ordinance from the authority pursuant to
 11 section 7 of P.L. , c. (C) (pending before the Legislature as this
 12 bill). ²A county may establish a local C-PACE program through the
 13 adoption of a local C-PACE program ordinance if the county has
 14 obtained approval of the ordinance from the authority pursuant to
 15 section 7 of P.L. , c. (C.) (pending before the Legislature as
 16 this bill).²

17 In addition to prescribing criteria for qualifying a C-PACE project
 18 for a C-PACE assessment pursuant to subsection b. of section 5 of
 19 P.L. , c. (C.) (pending before the Legislature as this bill), ²[the]
 20 a² local C-PACE program ordinance shall establish the following:

21 (1) A participating municipality ²or a county² may enter into an
 22 agreement with a county improvement authority or it may, pursuant to
 23 the “Local Public Contracts Law,” P.L.1971, c.198 (C.40A:11-
 24 1 et seq.) enter into contracts with one or more private parties, to assist
 25 the participating municipality ²or county² in its implementation and
 26 administration, or a combination thereof, of the local C-PACE
 27 program. The municipality ²or county² may delegate to one or more
 28 private parties or a county improvement authority such matters as the
 29 participating municipality determines ², except that it may not delegate
 30 its reporting obligations pursuant to section 3 of P.L. , c. (C.)
 31 (pending before the Legislature as this bill) or its obligation to ensure
 32 that its local C-PACE program complies in all respects with P.L. ,
 33 c. (C.) (pending before the Legislature as this bill) and its local
 34 C-PACE program guidelines².

35 (2) ²[A participating] An authorized² municipality ²or a county²
 36 may, in addition to direct financing, offer financing of C-PACE
 37 projects through the issuance of bonds pursuant to section 9 of P.L. ,
 38 c. (C) (pending before the Legislature as this bill).

39 (3) ²[A participating municipality shall,] A local C-PACE
 40 program shall not be operational and available for the participation of
 41 capital providers and property owners until the authorized municipality
 42 or county, as applicable,² by resolution of the governing body,
 43 ²[authorize the preparation of] authorizes² local C-PACE program
 44 guidelines pursuant to subsection c. of section 5 of
 45 P.L. , c. (C) (pending before the Legislature as this bill) ²[prior

1 to closing a transaction on any C-PACE project under the local C-
2 PACE program.

3 c. A participating municipality shall submit to the authority an
4 annual report on its C-PACE financings¹. The program guidelines for
5 any local C-PACE program shall be consistent with the Garden State
6 C-PACE program guidelines and the requirements set forth in P.L. ,
7 c. (C.) (pending before the Legislature as this bill) for C-
8 PACE projects and financing, and shall be subject to approval by the
9 authority pursuant to subsection a. of section 7 of P.L. ,
10 c. (C.) (pending before the Legislature as this bill). In
11 addition, such program guidelines may include supplemental
12 provisions, provided that they are not inconsistent with the Garden
13 State C-PACE program guidelines and the requirements set forth in
14 P.L. , c. (C.) (pending before the Legislature as this bill)².
15

16 7. (New section) a. ²**[A]** An authorized² municipality ²or ³a³
17 county² seeking to establish a local C-PACE program pursuant to
18 section 6 of P.L. , c. (C.) (pending before the Legislature as
19 this bill) shall submit an application to the authority for approval.
20 The application to the authority shall consist of the following:

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

24 (2) acknowledgement that the ²authorized² municipality ²or, in
25 the case of a local C-PACE program established by a county, any
26 participating municipality located in that county,² shall use the
27 uniform assessment documents prepared by the authority ²; and

28 (3) the authorized municipality's or county's proposed program
29 guidelines².

30 b. (1) The authority's review of a ²county's or authorized²
31 municipality's application shall be limited to confirming that it
32 contains the items required by section 5 of P.L. , c. (C.)
33 (pending before the Legislature as this bill) and is otherwise
34 ²**[consistent with]** in compliance with the provisions of² P.L. , c.
35 (C.) (pending before the Legislature as this bill). Within ²[30]
36 60² days after receipt of the application, the authority shall either
37 approve or reject the ²[municipality's]² application. If the
38 authority does not act within ²[30] 60² days ²[of] after² receipt,
39 the application shall be deemed approved.

40 (2) If the authority approves the application, or the application
41 is deemed approved in accordance with paragraph (1) of this
42 subsection, the ²county or authorized² municipality may adopt the
43 proposed ordinance establishing a local C-PACE program.

44 (3) If the authority disapproves the application, it shall provide a
45 detailed explanation to the ²county or authorized² municipality as to
46 the reasons for the disapproval and the changes necessary to bring

1 the proposed local C-PACE program ordinance ², local C-PACE
2 program guidelines, and other elements of the proposed local C-
3 PACE program² into compliance with the requirements of P.L. , c.
4 (C.) (pending before the Legislature as this bill). The ²county or
5 authorized² municipality shall not adopt the proposed local C-
6 PACE program ordinance if the authority disapproves the
7 application, but the ²county or authorized² municipality may submit
8 a revised or new application.

9 c. The authority ²**【shall have no role in a participating】** may
10 monitor and oversee a county's or authorized² municipality's local
11 C-PACE program ²**【except for review and approval of its**
12 application pursuant to subsections a. and b. of this section and the
13 collection of information regarding any C-PACE projects
14 undertaken by a local C-PACE program pursuant to subsection a. of
15 section 3 of P.L. , c. (C.) (pending before the Legislature as
16 this bill)】 to the extent it deems necessary to ensure the continuing
17 compliance of the local C-PACE program with the requirements of
18 P.L. , c. (C.) (pending before the Legislature as this bill).
19 The authority's discretionary monitoring and ³**【overseeing】**
20 oversight³ role pursuant to this subsection shall not include the
21 review and approval of C-PACE project applications that are
22 submitted to a local C-PACE program. The authority shall review
23 and approve C-PACE project applications that are submitted to the
24 Garden State C-PACE program, but only an authorized municipality
25 or county that has established a local C-PACE program pursuant to
26 P.L. , c. (C.) (pending before the Legislature as this bill)
27 may review and approve C-PACE project applications that are
28 submitted to a local C-PACE program.

29 ³**【In the event that an authorized municipality or county desires**
30 to revise or amend its program guidelines in any other manner, such
31 proposed revisions or amendments shall first be submitted to the
32 authority for its review and approval before the revisions or
33 amendments become effective.】³

34 A participating municipality or a county with a local C-PACE
35 program shall incorporate into its local C-PACE program guidelines
36 any revision or amendment made by the authority to the Garden
37 State C-PACE program guidelines immediately upon the
38 publication of the revision or amendment on the authority's
39 website, unless the authority expressly provides otherwise, based
40 upon a determination that the revision or amendment does not apply
41 to local C-PACE programs. Any such revisions or amendments
42 made by the authority to the Garden State C-PACE program
43 guidelines or incorporated into local C-PACE program guidelines
44 shall not apply retroactively to C-PACE projects that were
45 previously approved pursuant to the Garden State C-PACE program
46 or local C-PACE programs² .

1 ³In the event that an authorized municipality or county desires
2 to 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.³
6

7 8. (New section) a. The authority may charge a ²county or
8 authorized² municipality a fee to review a proposed local C-PACE
9 program ordinance ²or local C-PACE program guidelines² . The fee
10 shall reflect the reasonable and actual cost of the review, provided that
11 the fee shall be a one-time charge not to exceed \$5,000.

12 b. The authority may charge the property owner a fee for the
13 review of an application for a C-PACE project in the Garden State C-
14 PACE program ²]. The fee, inclusive of any fee to compensate a
15 third-party administrator, shall be a one-time fee that shall not exceed
16 one percent of the amount financed, provided that the fee shall not
17 exceed \$75,000.

18 c. A participating municipality may charge the property owner a
19 fee for the review of an application for direct financing in a local C-
20 PACE program. The fee ¹, inclusive of any fee to compensate a third-
21 party administrator,¹ shall reflect the reasonable and actual cost of the
22 review and shall be a one-time fee not to exceed one percent of the
23 amount financed, provided that the fee shall not exceed \$75,000.

24 d.] and for its fulfillment of such obligations, if any, that the
25 authority may undertake to serve as an intermediary in the remittance
26 of C-PACE assessments to capital providers if requested by the
27 participating municipality. The fee shall reflect the reasonable and
28 actual costs of the review or fulfillment of any obligations that the
29 authority may undertake.

30 c.² A participating municipality may charge the property owner an
31 annual fee for the billing, collecting, and remitting of ²[the installment
32 payments on]² the C-PACE assessment. The fee ²], inclusive of any
33 fee to compensate a third-party administrator,² shall reflect the
34 reasonable and actual cost of the billing, collecting, and remitting
35 ²[and, shall be an annual charge not to exceed one-tenth of one
36 percent]² of the annual ²amounts due for the² C-PACE assessment
37 ²[amount due]² .
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

1 property. The C-PACE assessment shall be used to repay the
2 financing.

3 b. The governing body of a ²**[participating]** county or
4 authorized² municipality may apply to a county improvement
5 authority that issues bonds pursuant to paragraph (3) of subsection (j)
6 of section 12 of P.L.1960, c.183 (C.40:37A-55), or ², in the case of an
7 authorized municipality,² may issue bonds on its own to finance
8 ²**[the]** project costs for C-PACE projects pursuant to a local C-PACE
9 program or the Garden State C-PACE² program.

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

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

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

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

29 c. The authority shall allow capital providers to directly finance
30 ²project costs for² C-PACE projects ², or for such costs to be financed
31 through bond issuance² . Any direct financing provided by a capital
32 provider pursuant to P.L. , c. (C.) (pending before the
33 Legislature as this bill) shall not be guaranteed or secured by the full
34 faith and credit of any public entity, including the State of New Jersey
35 or any political subdivision thereof, shall not be considered to be direct
36 and general obligations of any public entity, including the State of
37 New Jersey or any political subdivision thereof, shall not be
38 considered gross debt of any municipality on any debt statement filed
39 in accordance with the “Local Bond Law,” N.J.S.40A:2-1 et seq., and
40 shall not be considered “financial assistance” pursuant to section 1 of
41 P.L.1979, c.303 (C.34:1B-5.1) ², except to the extent the authority may
42 provide a guaranty as provided for in subsection d. of section 4 of
43 P.L. , c. (C.) (pending before the Legislature as this bill)² .
44 The Garden State C-PACE program ²and any local C-PACE program²
45 shall ²**[not limit C-PACE financing to a single private capital**
46 **provider]** permit all capital providers that meet the eligibility

1 requirements established in their program guidelines to provide
 2 financing through the program² .

3 d. ²[A municipality, county improvement authority, or private
 4 entity authorized to implement or administer, or a combination
 5 thereof,] An authorized municipality or county that has established² a
 6 local C-PACE program shall allow capital providers to directly finance
 7 project costs for² C-PACE projects under the program² . ²[Any
 8 direct] The repayment of any² financing provided by a capital
 9 provider shall not be guaranteed or secured by the full faith and credit
 10 of any public entity, including the State of New Jersey or any political
 11 subdivision thereof, shall not be considered to be direct and general
 12 obligations of any public entity, including the State of New Jersey or
 13 any political subdivision thereof, shall not be considered gross debt of
 14 any municipality on any debt statement filed in accordance with the
 15 “Local Bond Law,” N.J.S.40A:2-1 et seq., and shall not be considered
 16 “financial assistance” ²[N.J.S. 34:1B-5.1. A local C-PACE program
 17 shall not limit C-PACE financing to a single private capital provider.
 18 The C-PACE assessment, lien and assignment agreement apply to
 19 direct financing from a capital provider] pursuant to section 1 of
 20 P.L.1979, c.303 (C.34:1B-5.1), except to the extent the authority may
 21 provide a guaranty as provided for in subsection d. of section 4 of
 22 P.L. , c. (C.) (pending before the Legislature as this bill)² .

23 e. A property owner who installs a renewable energy system
 24 under the Garden State C-PACE program or a local C-PACE program
 25 may also assign or transfer any solar renewable energy certificates ²,
 26 transition renewable energy certificates,² or other renewable energy
 27 certificates or credits that accrue to the property owner from the
 28 operation of the system to the authority, the municipality, the county
 29 improvement authority, other public entity, or the private entity, or
 30 capital provider as applicable, which has financed the C-PACE
 31 project. If any solar renewable energy certificates ², transition
 32 renewable energy certificates,² or other renewable energy certificates
 33 or credits are assigned or transferred to a municipality, county, county
 34 improvement authority, other public entity, or private entity, the
 35 municipality, county, county improvement authority, other public
 36 entity, or private entity, or capital provider is authorized to sell, grant,
 37 assign, convey, or otherwise dispose of its interest in the certificates or
 38 credits to repay the financing.

39 ²f. Other than as identified in this section, no public entity,
 40 including the State of New Jersey or any political subdivision thereof,
 41 may issue bonds to finance any C-PACE program, except to the extent
 42 the authority may issue bonds pursuant to P.L.1974, c.80 (C.34:1B-1
 43 et seq.).²

44

45 ²[10. Section 1 of P.L.2011, c.187 (C.40:56-1.4) is amended to
 46 read as follows:

1 1. a. Upon application to and approval by the Director of
2 Local Government Services in the Department of Community
3 Affairs, the governing body of a municipality may undertake the
4 financing of the purchase and installation of renewable energy
5 systems and energy efficiency improvements by property owners as
6 a local improvement and may provide by ordinance for a “clean
7 energy special assessment” to be imposed on a property within the
8 municipality, if the owner of the property requests the assessment in
9 order to install the systems or improvements. Each improvement on
10 an individual property shall constitute a separate local improvement
11 and shall be assessed separately to the property owner benefitted
12 thereby. The clean energy special assessment shall be payable in
13 quarterly installments. The terms of the clean energy special
14 assessment shall be in accordance with the terms of the financing
15 provided by the municipality pursuant to section 2 of P.L.2011,
16 c.187 (C.40:56-13.1).

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

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

38 (cf: P.L.2011, c.187, s.1)]²

39

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

42 1. a. Upon application to and approval by the Director of Local
43 Government Services in the Department of Community Affairs, the
44 governing body of a municipality may undertake the financing of the
45 purchase and installation of renewable energy systems and energy
46 efficiency improvements by property owners as a local improvement
47 and may provide by ordinance for a “clean energy special assessment”
48 to be imposed on a property within the municipality, if the owner of

1 the property requests the assessment in order to install such systems or
2 improvements. Each improvement on an individual property shall
3 constitute a separate local improvement and shall be assessed
4 separately to the property owner benefitted thereby. The clean energy
5 special assessment shall be payable in quarterly installments. The
6 terms of the clean energy special assessment shall be in accordance
7 with the terms of the financing provided by the municipality pursuant
8 to section 2 of P.L.2011, c.187 (C.40:56-13.1).

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

25 c. All actions taken by the Director of Local Government
26 Services in the Department of Community Affairs or any municipality
27 pursuant to the provisions of this section shall be unaffected by the
28 enactment of P.L. , c. (C.) (pending before the Legislature as this
29 bill).²

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

31
32 11. Section 2 of P.L.2011, c.187 (C.40:56-13.1) is amended to read
33 as follows:

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

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

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

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

48 b. As used in this section ²[, “solar”] :

1 “Solar² renewable energy certificate” shall have the same meaning
2 as set forth in section 3 of P.L.1999, c.23 (C.48:3-51).

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

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

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

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

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

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

39 e. All actions taken by the Director of Local Government
40 Services in the Department of Community Affairs or any
41 municipality pursuant to the provisions of this section shall be
42 unaffected by the enactment of P.L. , c. (C.) (pending before
43 the Legislature as this bill).
44 (cf: P.L.2011, c.187, s.3)

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

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

1 promotion of the tourist industries and recreational attractiveness of
 2 the county or any beneficiary county through the planning, acquisition,
 3 construction, improvement, maintenance and operation of facilities for
 4 the 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 facilities
 9 designed to provide decent, safe and sanitary dwelling units for
 10 persons of low and moderate income in need of housing, including the
 11 acquisition of land, equipment or other real or personal properties
 12 which the authority determines to be necessary, convenient or
 13 desirable appurtenances, all in accordance with the provisions of **[this**
 14 **act]** the “county improvement authorities law,” P.L.1960, c. 183
 15 (C.40:37A-44 et seq.), as amended and supplemented, (j) planning,
 16 initiating and carrying out redevelopment projects for the elimination,
 17 and for the prevention of the development or spread of blighted,
 18 deteriorated or deteriorating areas and the disposition, for uses in
 19 accordance with the objectives of the redevelopment project, of any
 20 property or part thereof acquired in the area of such project, (k) any
 21 combination or combinations of the foregoing or following, and (l)
 22 subject to the prior approval of the Local Finance Board, the planning,
 23 design, acquisition, construction, improvement, renovation,
 24 installation, maintenance and operation of facilities or any other type
 25 of real or personal property within the county for a corporation or
 26 other person organized for any one or more of the purposes described
 27 in subsection a. of N.J.S.15A:2-1 except those facilities or any other
 28 type of real or personal property which can be financed pursuant to the
 29 provisions of P.L.1972, c.29 (C.26:2I-1 et seq.) as amended. A county
 30 improvement authority shall also have as its purpose the pooling of
 31 loans for any local governmental units within the county or any
 32 beneficiary county that are refunding bonds in order to achieve more
 33 favorable interest rates and terms for those local governmental units.
 34 A county improvement authority shall also have as its purpose the
 35 ²[implementation and]² administration, ²[or a combination thereof,]
 36 on behalf of an authorized municipality or county,² of a local C-PACE
 37 program as defined in section 2 of P.L. , c. (C.) (pending before
 38 the Legislature as this bill) and to issue bonds to finance a C-PACE
 39 project for a local C-PACE program ³or the Garden State C-PACE
 40 program³ pursuant to section 9 of P.L. , c. (C.) (pending before
 41 the Legislature as this bill).

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

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

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

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

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

18 (b) To sue and be sued;

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

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

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

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

39 (g) To enter into agreements to lease, as lessee, public facilities
40 for such term and under such conditions as the authority may deem
41 necessary and desirable to fulfill its purposes, and to agree,
42 pursuant thereto, to be unconditionally obligated to make payments
43 for the term of the lease, without set-off or counterclaim, whether or
44 not the public facility is completed, operating or operable, and
45 notwithstanding the destruction of, damage to, or suspension,
46 interruption, interference, reduction or curtailment of the
47 availability or output of the public facility to which the agreement
48 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).