

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
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STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED JUNE 15, 2021

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator CHRISTOPHER "KIP" BATEMAN

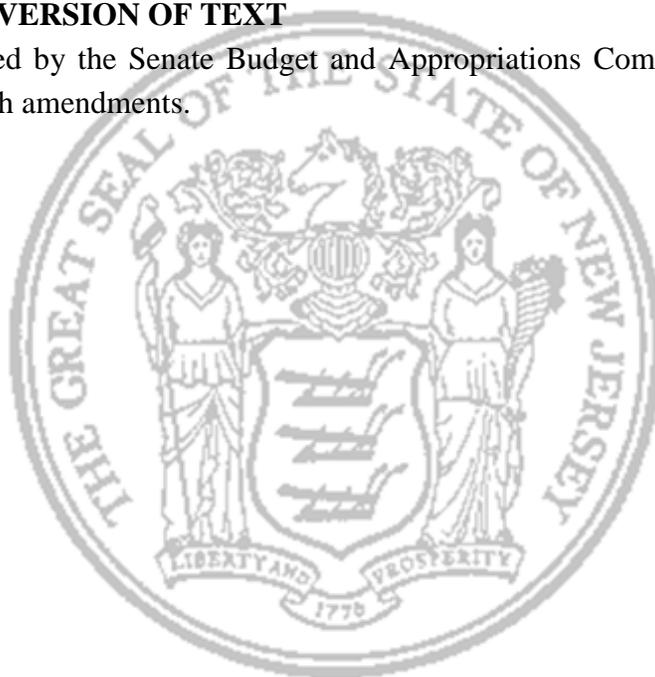
District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

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

CURRENT VERSION OF TEXT

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



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

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

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate 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 “Assignment agreement” means an agreement in which a
4 participating municipality assigns a C-PACE assessment to a capital
5 provider, its designee, successor or assign.

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

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

12 “Capital provider” means:

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

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

20 c. a public entity;

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

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

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

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

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

45 “C-PACE project” means:

46 a. the acquisition, construction, installation, modification, or, in
47 the discretion of the authority and in accordance with guidelines

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 “Notice of assessment” means the document filed with the county
47 recording officer in the county in which a property is located, which

1 notifies prospective holders of an interest in the property that a C-
2 PACE assessment lien has been placed on the property.

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

7 “Participating municipality” means:

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

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

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

22 “Program guidelines” means:

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

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

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

44 “Property” means industrial, agricultural, or commercial property;
45 residential property containing five or more dwelling units; common
46 areas of condominiums and other planned real estate developments as
47 defined in section 3 of P.L.1977, c.419 (C.45:22A-23); and property

1 owned by a tax-exempt or nonprofit entity, including, but not limited
2 to, schools, hospitals, institutions of higher education, or religious
3 institutions, within a participating municipality upon which a C-PACE
4 assessment is imposed at the request of a property owner in connection
5 with a C-PACE project.

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

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

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

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

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

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

37 “Water conservation improvement” means an improvement that
38 reduces water consumption, increases the efficiency of water use, or
39 reduces water loss.

40

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

1 the location of C-PACE projects, and the amount of financing issued
2 for C-PACE projects under the Garden State C-PACE program.

3 (2) No later than 18 months after an authorized municipality or a
4 county establishes a local C-PACE program pursuant to section 6 of
5 P.L. , c. (C.) (pending before the Legislature as this bill), and
6 annually thereafter, the municipality or county shall prepare and
7 submit to the Governor, the authority, and, pursuant to section 2 of
8 P.L.1991, c.164 (C.52:14-19.1), the Legislature, a report describing the
9 implementation and operation of its local C-PACE program, including
10 information relating to any administrative costs, the number of C-
11 PACE projects, the location of C-PACE projects, and the amount of
12 financing issued for C-PACE projects under its local C-PACE
13 program.

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

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

37 c. The authority shall post all reports prepared by the authority
38 pursuant to this section on its Internet website. Each authorized
39 municipality and each county that has established a local C-PACE
40 program shall post all reports prepared by it pursuant to this section on
41 its Internet website.

42
43 4. (New section) a. The authority shall establish a Garden State
44 C-PACE program to facilitate the financing of C-PACE projects in
45 municipalities that adopt an opt-in ordinance. The Garden State C-
46 PACE program shall consist of the development of uniform
47 assessment documents and program guidelines for the financing of C-

1 PACE projects to be undertaken by property owners as local
2 improvements and the provision by ordinance, subject to the approval
3 of the authority, for a C-PACE assessment to be imposed on properties
4 within the municipality, if the owner of a property requests the C-
5 PACE assessment in order to undertake and finance a C-PACE
6 project. C-PACE projects on an individual property subject to the
7 same C-PACE assessment agreement collectively shall constitute a
8 separate local improvement and shall be assessed separately to the
9 property owner benefitted thereby.

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

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

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

33
34 5. (New section) a. Within 270 days after the effective date of
35 P.L. , c. (C.) (pending before the Legislature as this bill), the
36 authority shall establish the Garden State C-PACE program by
37 publishing on its Internet website:

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

45 The Garden State C-PACE program shall not be operational and
46 available for the participation of capital providers, municipalities and

1 property owners until the authority has taken all of the actions required
2 by this subsection.

3 b. The model opt-in ordinance, as well as any local C-PACE
4 program ordinance, shall prescribe a subset of the criteria for
5 qualifying a C-PACE project for a C-PACE assessment, including the
6 following:

7 (1) financing recipients shall be the legal or beneficial owners of
8 the property or duly authorized by the legal or beneficial owners of the
9 property, there shall be no defaults on any mortgage loans on the
10 subject property, all tax payments, charges, and assessments with
11 respect to the property shall be current, the legal or beneficial owners
12 of the property shall not be subject to any bankruptcy proceeding, and
13 the subject property shall not be the subject of a bankruptcy
14 proceeding;

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

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

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

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

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

42 Pursuant to the purposes and objectives outlined in P.L. ,
43 c. (C.) (pending before the Legislature as this bill), and with
44 respect to the responsibilities of overseeing and implementing a local
45 C-PACE program, a county or authorized municipality shall develop
46 program guidelines governing the terms and conditions under which
47 financing may be made available under the local C-PACE program.

1 The program guidelines, and any amendments thereto, for a local C-
2 PACE program shall be consistent with the Garden State C-PACE
3 program guidelines and the requirements set forth in P.L. ,
4 c. (C.) (pending before the Legislature as this bill) for C-
5 PACE projects and financing, and shall be subject to approval by the
6 authority pursuant to subsection a. of section 7 of P.L. ,
7 c. (C.) (pending before the Legislature as this bill).

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

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

14 (2) minimum standards for a C-PACE project to qualify for C-
15 PACE financing;

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

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

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

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

33 (7) within 90 days following the launch date with respect to the
34 Garden State C-PACE program guidelines only, supplemental program
35 guidelines for refinancing projects completed prior to the submission
36 of a project application for a C-PACE assessment and for the use of
37 the Garden State C-PACE program in connection with the financing of
38 new construction upon previously unimproved real property.

39 d. Subject to the written consent of existing mortgage holders,
40 the form of which shall be determined by the authority in its uniform
41 assessment documents adopted pursuant to subsection a. of section 5
42 of P.L. , c. (C.) (pending before the Legislature as this
43 bill), the C-PACE assessment shall be a single, continuous first lien on
44 the property on and after the date of recordation of the C-PACE
45 assessment agreement. A property with delinquent taxes, charges, or
46 assessments shall not be eligible for a C-PACE assessment. Upon
47 recordation of the C-PACE assessment agreement in the land records

1 of the county in which the property is located, the lien thereof shall be
2 perfected for all purposes in accordance with law, and the lien shall be
3 a continuous first lien upon the real estate described in the assessment,
4 paramount to all prior or subsequent alienations and descents of the
5 real estate or encumbrances thereon, except subsequent taxes, charges,
6 or assessments, without any additional notice, recording, filing,
7 continuation filing, or action, until payment in full of the C-PACE
8 assessment, notwithstanding any mistake in the name or names of any
9 owner or owners, or any omission to name any owner or owners who
10 are unknown, and notwithstanding any lack of form therein, or in any
11 other proceeding which does not impair the substantial rights of the
12 owner or owners or other person or persons having a lien upon or
13 interest in any the real estate. Any confirmation of the amount of the
14 C-PACE assessment by the applicable municipality's governing body
15 or by a court shall be considered as determining the amount of the
16 existing lien and not as establishing the lien. All C-PACE assessments
17 shall be presumed to have been regularly assessed and confirmed and
18 every assessment or proceeding preliminary thereto shall be presumed
19 to have been regularly made or conducted until the contrary be shown.

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

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

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

1 shall also pay the outstanding past unpaid amounts of the C-PACE
2 assessment. However, the remaining balance not delinquent on a C-
3 PACE assessment shall not be subject to acceleration or
4 extinguishment in the event of a default in payment. Any statutory
5 interest collected by the municipality on a delinquent C-PACE
6 assessment pursuant to this subsection shall be retained by the
7 municipality. Any accrued interest, or any amount fixed as a penalty
8 for delinquency, pursuant to the financing agreement between the
9 property owner and the capital provider shall be remitted to the capital
10 provider. If the property owner is delinquent on a C-PACE assessment
11 as well as delinquent on taxes, charges, or other assessments, any
12 payment shall be applied towards any and all such other delinquencies
13 before being applied to any delinquent C-PACE assessment.
14 Notwithstanding any other provision of law, in the event that any lien
15 on the property shall be exposed to tax sale, pursuant to the “tax sale
16 law,” R.S.54:5-1 et seq., and is struck off and sold to the participating
17 municipality, the C-PACE assessment shall survive any subsequent
18 action to foreclose the right of redemption and continue as a first lien
19 upon the real estate described in the assessment, paramount to all prior
20 or subsequent alienations and descents of the real estate or
21 encumbrances, except subsequent taxes, charges, or other assessments,
22 and provided that, notwithstanding the obligations of a participating
23 municipality pursuant to section 1 of P.L.1942, c.54 (C.54:5- 53.1),
24 while the participating municipality holds the lien or owns the
25 property, the participating municipality shall not be responsible for or
26 required to make any payment from its treasury or any other source in
27 furtherance of or to satisfy the C-PACE assessment. A 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. 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 in
34 accordance with the provisions of the “Eminent Domain Act of 1971,”
35 P.L.1971, c.361 (C.20:3-1 et seq.), by the governmental entity utilizing
36 eminent domain or condemnation for the balance due on the unpaid C-
37 PACE assessment and any interest, penalties, or other charges related
38 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. An authorized municipality that has adopted
27 an opt-in ordinance may also establish a local C-PACE program to
28 facilitate the financing of C-PACE projects in that authorized
29 municipality. A county may also establish a local C-PACE program
30 pursuant to a local C-PACE program ordinance to facilitate the
31 financing of C-PACE projects in participating municipalities located in
32 that county that have adopted an opt-in ordinance. A local C-PACE
33 program ordinance adopted by a county shall establish a program for
34 the benefit of municipalities located within the county, but
35 participating municipalities shall remain responsible for the process of
36 levying, billing, collecting, remitting, and enforcing the C-PACE
37 assessment. In a county or authorized municipality that has
38 established a local C-PACE program pursuant to a local C-PACE
39 program ordinance, any C-PACE projects in that authorized
40 municipality or, in the case of a county, in any participating
41 municipality located in that county that has adopted an opt-in
42 ordinance, may be financed pursuant to the Garden State C-PACE
43 program or the local C-PACE program. In a municipality that has not
44 established, or is located in a county that has not established, a local C-
45 PACE program pursuant to a local C-PACE program ordinance, any
46 C-PACE projects in that municipality may be financed pursuant to the
47 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 county or authorized
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). An authorized municipality may establish
7 a local C-PACE program through the adoption of a local C-PACE
8 program ordinance if the municipality has entered a Garden State
9 program agreement with the authority, and obtained approval of the
10 ordinance from the authority pursuant to section 7 of P.L. ,
11 c. (C) (pending before the Legislature as this bill). A county may
12 establish a local C-PACE program through the adoption of a local C-
13 PACE program ordinance if the county has obtained approval of the
14 ordinance from the authority pursuant to section 7 of P.L. ,
15 c. (C.) (pending before the Legislature as this bill).

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

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

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

38 (3) A local C-PACE program shall not be operational and
39 available for the participation of capital providers and property owners
40 until the authorized municipality or county, as applicable, by
41 resolution of the governing body, authorizes local C-PACE program
42 guidelines pursuant to subsection c. of section 5 of
43 P.L. , c. (C) (pending before the Legislature as this bill). The
44 program guidelines for any local C-PACE program shall be consistent
45 with the Garden State C-PACE program guidelines and the
46 requirements set forth in P.L. , c. (C.) (pending before the
47 Legislature as this bill) for C-PACE projects and financing, and shall

1 be subject to approval by the authority pursuant to subsection a. of
2 section 7 of P.L. , c. (C.) (pending before the Legislature as
3 this bill). In addition, such program guidelines may include
4 supplemental provisions, provided that they are not inconsistent with
5 the Garden State C-PACE program guidelines and the requirements set
6 forth in P.L. , c. (C.) (pending before the Legislature as this
7 bill).

8

9 7. (New section) a. An authorized municipality or ^{1a} county
10 seeking to establish a local C-PACE program pursuant to section 6
11 of P.L. , c. (C.) (pending before the Legislature as this bill)
12 shall submit an application to the authority for approval. The
13 application to the authority shall consist of the following:

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

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

21 (3) the authorized municipality's or county's proposed program
22 guidelines.

23 b. (1) The authority's review of a county's or authorized
24 municipality's application shall be limited to confirming that it
25 contains the items required by section 5 of P.L. , c. (C.)
26 (pending before the Legislature as this bill) and is otherwise in
27 compliance with the provisions of P.L. , c. (C.) (pending before
28 the Legislature as this bill). Within 60 days after receipt of the
29 application, the authority shall either approve or reject the
30 application. If the authority does not act within 60 days after
31 receipt, the application shall be deemed approved.

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

36 (3) If the authority disapproves the application, it shall provide a
37 detailed explanation to the county or authorized municipality as to
38 the reasons for the disapproval and the changes necessary to bring
39 the proposed local C-PACE program ordinance, local C-PACE
40 program guidelines, and other elements of the proposed local C-
41 PACE program into compliance with the requirements of P.L. ,
42 c. (C.) (pending before the Legislature as this bill). The county
43 or authorized municipality shall not adopt the proposed local C-
44 PACE program ordinance if the authority disapproves the
45 application, but the county or authorized municipality may submit a
46 revised or new application.

1 c. The authority may monitor and oversee a county's or
2 authorized municipality's local C-PACE program to the extent it
3 deems necessary to ensure the continuing compliance of the local
4 C-PACE program with the requirements of P.L. , c. (C.)
5 (pending before the Legislature as this bill). The authority's
6 discretionary monitoring and ¹~~overseeing~~ oversight¹ role
7 pursuant to this subsection shall not include the review and
8 approval of C-PACE project applications that are submitted to a
9 local C-PACE program. The authority shall review and approve C-
10 PACE project applications that are submitted to the Garden State C-
11 PACE program, but only an authorized municipality or county that
12 has established a local C-PACE program pursuant to P.L. ,
13 c. (C.) (pending before the Legislature as this bill) may
14 review and approve C-PACE project applications that are submitted
15 to a local C-PACE program.

16 ¹~~【In the event that an authorized municipality or county desires~~
17 ~~to revise or amend its program guidelines in any other manner, such~~
18 ~~proposed revisions or amendments shall first be submitted to the~~
19 ~~authority for its review and approval before the revisions or~~
20 ~~amendments become effective.】¹~~

21 A participating municipality or a county with a local C-PACE
22 program shall incorporate into its local C-PACE program guidelines
23 any revision or amendment made by the authority to the Garden
24 State C-PACE program guidelines immediately upon the
25 publication of the revision or amendment on the authority's
26 website, unless the authority expressly provides otherwise, based
27 upon a determination that the revision or amendment does not apply
28 to local C-PACE programs. Any such revisions or amendments
29 made by the authority to the Garden State C-PACE program
30 guidelines or incorporated into local C-PACE program guidelines
31 shall not apply retroactively to C-PACE projects that were
32 previously approved pursuant to the Garden State C-PACE program
33 or local C-PACE programs.

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

39
40 8. (New section) a. The authority may charge a county or
41 authorized municipality a fee to review a proposed local C-PACE
42 program ordinance or local C-PACE program guidelines. The fee
43 shall reflect the reasonable and actual cost of the review, provided that
44 the fee shall be a one-time charge not to exceed \$5,000.

45 b. The authority may charge the property owner a fee for the
46 review of an application for a C-PACE project in the Garden State C-
47 PACE program and for its fulfillment of such obligations, if any, that

1 the authority may undertake to serve as an intermediary in the
2 remittance of C-PACE assessments to capital providers if requested by
3 the participating municipality. The fee shall reflect the reasonable and
4 actual costs of the review or fulfillment of any obligations that the
5 authority may undertake.

6 c. A participating municipality may charge the property owner an
7 annual fee for the billing, collecting, and remitting of the C-PACE
8 assessment. The fee shall reflect the reasonable and actual cost of the
9 billing, collecting, and remitting of the annual amounts due for the C-
10 PACE assessment.

11

12 9. (New section) a. Financing for the implementation of C-
13 PACE projects, including the refinancing of an investment in an
14 existing improvement that qualifies as a C-PACE project, provided the
15 existing improvement was completed no more than three years prior to
16 the submission of an application to the Garden State C-PACE program
17 or local C-PACE program for the financing, shall be made available to
18 property owners in exchange for a C-PACE assessment on the
19 property. The C-PACE assessment shall be used to repay the
20 financing.

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

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

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

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

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

1 c. The authority shall allow capital providers to directly finance
2 project costs for C-PACE projects, or for such costs to be financed
3 through bond issuance. Any direct financing provided by a capital
4 provider pursuant to P.L. , c. (C.) (pending before the
5 Legislature as this bill) shall not be guaranteed or secured by the full
6 faith and credit of any public entity, including the State of New Jersey
7 or any political subdivision thereof, shall not be considered to be direct
8 and general obligations of any public entity, including the State of
9 New Jersey or any political subdivision thereof, shall not be
10 considered gross debt of any municipality on any debt statement filed
11 in accordance with the “Local Bond Law,” N.J.S.40A:2-1 et seq., and
12 shall not be considered “financial assistance” pursuant to section 1 of
13 P.L.1979, c.303 (C.34:1B-5.1), except to the extent the authority may
14 provide a guaranty as provided for in subsection d. of section 4 of
15 P.L. , c. (C.) (pending before the Legislature as this bill).
16 The Garden State C-PACE program and any local C-PACE program
17 shall permit all capital providers that meet the eligibility requirements
18 established in their program guidelines to provide financing through
19 the program.

20 d. An authorized municipality or county that has established a
21 local C-PACE program shall allow capital providers to directly finance
22 project costs for C-PACE projects under the program. The repayment
23 of any financing provided by a capital provider shall not be guaranteed
24 or secured by the full faith and credit of any public entity, including
25 the State of New Jersey or any political subdivision thereof, shall not
26 be considered to be direct and general obligations of any public entity,
27 including the State of New Jersey or any political subdivision thereof,
28 shall not be considered gross debt of any municipality on any debt
29 statement filed in accordance with the “Local Bond Law,”
30 N.J.S.40A:2-1 et seq., and shall not be considered “financial
31 assistance” pursuant to section 1 of P.L.1979, c.303 (C.34:1B-5.1),
32 except to the extent the authority may provide a guaranty as provided
33 for in subsection d. of section 4 of P.L. , c. (C.) (pending
34 before the Legislature as this bill).

35 e. A property owner who installs a renewable energy system
36 under the Garden State C-PACE program or a local C-PACE program
37 may also assign or transfer any solar renewable energy certificates,
38 transition renewable energy certificates, or other renewable energy
39 certificates or credits that accrue to the property owner from the
40 operation of the system to the authority, the municipality, the county
41 improvement authority, other public entity, or the private entity, or
42 capital provider as applicable, which has financed the C-PACE
43 project. If any solar renewable energy certificates, transition
44 renewable energy certificates, or other renewable energy certificates or
45 credits are assigned or transferred to a municipality, county, county
46 improvement authority, other public entity, or private entity, the
47 municipality, county, county improvement authority, other public

1 entity, or private entity, or capital provider is authorized to sell, grant,
2 assign, convey, or otherwise dispose of its interest in the certificates or
3 credits to repay the financing.

4 f. Other than as identified in this section, no public entity,
5 including the State of New Jersey or any political subdivision thereof,
6 may issue bonds to finance any C-PACE program, except to the extent
7 the authority may issue bonds pursuant to P.L.1974, c.80 (C.34:1B-
8 1 et seq.).

9
10 10. Section 1 of P.L.2011, c.187 (C.40:56-1.4) is amended to
11 read as follows:

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

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

44 c. All actions taken by the Director of Local Government
45 Services in the Department of Community Affairs or any
46 municipality pursuant to the provisions of this section shall be

1 unaffected by the enactment of P.L. , c. (C.) (pending before
2 the Legislature as this bill).
3 (cf: P.L.2011, c.187, s.1)
4

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

7 2. a. (1) Upon application to and approval by the Director of
8 Local Government Services in the Department of Community
9 Affairs, a municipality may adopt an ordinance to establish a
10 program to finance the purchase and installation of renewable
11 energy systems and energy efficiency improvements by property
12 owners and to authorize the issuance at public or private sale of
13 non-recourse bonds as further provided herein. The governing body
14 may apply to a county improvement authority that issues bonds
15 pursuant to paragraph (2) of subsection (j) of section 12 of
16 P.L.1960, c.183 (C.40:37A-55), or may issue bonds to finance the
17 program pursuant to section 3 of P.L.2011, c.187 (C.40:56-13.2).
18 Funds for the purchase and installation of renewable energy systems
19 and energy efficiency improvements shall be loaned to property
20 owners in exchange for a clean energy special assessment on the
21 property pursuant to section 1 of P.L.2011, c.187 (C.40:56-1.4), to
22 be paid quarterly. In the case of financing provided by bonds
23 issued by a county improvement authority, the clean energy special
24 assessment shall be used to repay the bonds. The bonds issued by a
25 county improvement authority pursuant to this section shall be
26 issued as non-recourse obligations of the authority and shall not be
27 considered to be direct and general obligations of the authority. In
28 the case of financing provided by the municipality through the
29 issuance of municipal bonds, the clean energy special assessment
30 shall be used to repay the bonds. The bonds issued by a
31 municipality pursuant to this section shall be issued as non-recourse
32 obligations of the municipality and shall not be considered to be
33 direct and general obligations of the municipality. Any bonds
34 issued or authorized by a municipality pursuant to this section shall
35 not be considered gross debt of the municipality on any debt
36 statement filed in accordance with the "Local Bond Law,"
37 N.J.S.40A:2-1 et seq. A property owner who purchases and installs
38 a renewable energy system under the program may also assign any
39 solar renewable energy certificates, transition renewable energy
40 certificates, or other renewable energy credits that accrue to the
41 property owner from the operation of the system to the municipality
42 or the county improvement authority to repay the loan for the
43 system. The Director of Local Government Services in the
44 Department of Community Affairs shall coordinate efforts with the
45 Board of Public Utilities to ensure that the amount of financing
46 made available by local programs authorized pursuant to this act is
47 in accordance with limits set from time to time by the Board of

1 Public Utilities in order to ensure that local programs further the
2 goals of the Office of Clean Energy in the Board of Public Utilities.

3 (2) Notwithstanding the provisions of paragraph (1) of this
4 subsection to the contrary, the Director of Local Government
5 Services in the Department of Community Affairs shall not accept
6 and a municipality shall not submit an application for approval of
7 an ordinance to establish a program to finance the purchase and
8 installation of renewable energy systems and energy efficiency
9 improvements by property owners pursuant to the provisions of
10 P.L.2011, c.187 (C.40:56-1.4 et al.) after the date the Economic
11 Development Authority has published on its Internet website all of
12 the items pursuant to subsection a. of section 5 of P.L. , c. (C.)
13 (pending before the Legislature at this bill). The Director of Local
14 Government Services in the Department of Community Affairs
15 shall continue to process any application submitted prior to that
16 date, and a municipality shall adopt any ordinance approved prior to
17 that date and any ordinance for which an application was pending
18 on that date that is approved on or after that date.

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

24 b. As used in this section **["solar"]** :

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

27 “Transition renewable energy certificate” shall have the same
28 meaning as set forth in section 2 of P.L. , c. (C.) (pending
29 before the Legislature as this bill).

30 (cf: P.L.2019, c.335, s.4)

31

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

34 3. a. Upon application to and approval by the Director of
35 Local Government Services in the Department of Community
36 Affairs, the governing body of a municipality may establish the
37 amounts of money to be expended by the municipality for the
38 improvements authorized in sections 1 and 2 of P.L.2011, c.187
39 (C.40:56-1.4 and C.40:56-13.1). Any amount so appropriated may
40 be raised by the issuance of clean energy special assessment bonds
41 by the municipality. In making the appropriation, the governing
42 body may designate the particular projects to be financed to which
43 the moneys shall be applied.

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

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

4 d. Notwithstanding the provisions of this section to the
5 contrary, the Director of Local Government Services in the
6 Department of Community Affairs shall not accept, and the
7 governing body of a municipality shall not submit an application
8 pursuant to subsection a. of this section after the date the Economic
9 Development Authority has published on its Internet website all of
10 the items pursuant to subsection a. of section 5 of P.L. , c. (C.)
11 (pending before the Legislature at this bill). The Director of Local
12 Government Services in the Department of Community Affairs or a
13 municipality shall continue to process any application submitted
14 prior to that date, and an application approved by a municipality
15 prior to that date shall be implemented.

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

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

22
23 13. Section 11 of P.L.1960, c.183 (C.40:37A-54) is amended to
24 read as follows:

25 11. a. The purposes of every authority shall be (a) provision
26 within the county or any beneficiary county of public facilities for
27 use by the State, the county or any beneficiary county, or any
28 municipality in any such county, or any two or more or any
29 subdivisions, departments, agencies or instrumentalities of any of
30 the foregoing for any of their respective governmental purposes, (b)
31 provision within the county or any beneficiary county of public
32 facilities for use as convention halls, or the rehabilitation,
33 improvement or enlargement of any convention hall, including
34 appropriate and desirable appurtenances located within the
35 convention hall or near, adjacent to or over it within boundaries
36 determined at the discretion of the authority, including but not
37 limited to office facilities, commercial facilities, community service
38 facilities, parking facilities, hotel facilities and other facilities for
39 the accommodation and entertainment of tourists and visitors, (c)
40 provision within the county or any beneficiary county of structures,
41 franchises, equipment and facilities for operation of public
42 transportation or for terminal purposes, including development and
43 improvement of port terminal structures, facilities and equipment
44 for public use in counties in, along or through which a navigable
45 river flows, (d) provision within the county or any beneficiary
46 county of structures or other facilities used or operated by the
47 authority or any governmental unit in connection with, or relative to

1 development and improvement of, aviation for military or civilian
2 purposes, including research in connection therewith, and including
3 structures or other facilities for the accommodation of passengers,
4 (e) provision within the county or any beneficiary county of a
5 public facility for a combination of governmental and
6 nongovernmental uses; provided that not more than 50 **[%]** percent
7 of the usable space in any such facility shall be made available for
8 nongovernmental use under a lease or other agreement by or with
9 the authority, (f) acquisition of any real property within the county
10 or any beneficiary county, with or without the improvements
11 thereof or thereon or personal property appurtenant or incidental
12 thereto, from the United States of America or any department,
13 agency or instrumentality heretofore or hereafter created,
14 designated or established by or for it, and the clearance,
15 development or redevelopment, improvement, use or disposition of
16 the acquired lands and premises in accordance with the provisions
17 and for the purposes stated in **[this act]** the “county improvement
18 authorities law,” P.L.1960, c.183 (C.40:37A-44 et seq.), including
19 the construction, reconstruction, demolition, rehabilitation,
20 conversion, repair or alteration of improvements on or to said lands
21 and premises, and structures and facilities incidental to the
22 foregoing as may be necessary, convenient or desirable, (g)
23 acquisition, construction, maintenance and operation of garbage and
24 solid waste disposal systems for the purpose of collecting and
25 disposing of garbage, solid waste or refuse matter, whether owned
26 or operated by any person, the authority or any other governmental
27 unit, within or without the county or any beneficiary county, (h) the
28 improvement, furtherance and promotion of the tourist industries
29 and recreational attractiveness of the county or any beneficiary
30 county through the planning, acquisition, construction,
31 improvement, maintenance and operation of facilities for the
32 recreation and entertainment of the public, which facilities may
33 include, without being limited to, a center for the performing and
34 visual arts, (i) provision of loans and other financial assistance and
35 technical assistance for the construction, reconstruction, demolition,
36 rehabilitation, conversion, repair or alteration of buildings or
37 facilities designed to provide decent, safe and sanitary dwelling
38 units for persons of low and moderate income in need of housing,
39 including the acquisition of land, equipment or other real or
40 personal properties which the authority determines to be necessary,
41 convenient or desirable appurtenances, all in accordance with the
42 provisions of **[this act]** the “county improvement authorities law,”
43 P.L.1960, c. 183 (C.40:37A-44 et seq.), as amended and
44 supplemented, (j) planning, initiating and carrying out
45 redevelopment projects for the elimination, and for the prevention
46 of the development or spread of blighted, deteriorated or
47 deteriorating areas and the disposition, for uses in accordance with

1 the objectives of the redevelopment project, of any property or part
2 thereof acquired in the area of such project, (k) any combination or
3 combinations of the foregoing or following, and (l) subject to the
4 prior approval of the Local Finance Board, the planning, design,
5 acquisition, construction, improvement, renovation, installation,
6 maintenance and operation of facilities or any other type of real or
7 personal property within the county for a corporation or other
8 person organized for any one or more of the purposes described in
9 subsection a. of N.J.S.15A:2-1 except those facilities or any other
10 type of real or personal property which can be financed pursuant to
11 the provisions of P.L.1972, c.29 (C.26:2I-1 et seq.) as amended. A
12 county improvement authority shall also have as its purpose the
13 pooling of loans for any local governmental units within the county
14 or any beneficiary county that are refunding bonds in order to
15 achieve more favorable interest rates and terms for those local
16 governmental units. A county improvement authority shall also
17 have as its purpose the administration, on behalf of an authorized
18 municipality or county, of a local C-PACE program as defined in
19 section 2 of P.L. , c. (C.) (pending before the Legislature as
20 this bill) and to issue bonds to finance a C-PACE project for a local
21 C-PACE program ¹or the Garden State C-PACE program¹ pursuant
22 to section 9 of P.L. , c. (C.) (pending before the Legislature
23 as this bill).

24 b. In a fiscal year in which a public health emergency, pursuant
25 to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1
26 et seq.), a state of emergency, pursuant to P.L.1942, c.251
27 (C.App.A:9-33 et seq.), or both has been declared by the Governor
28 in response to COVID-19 and during the next following fiscal year,
29 a county improvement authority shall also have as its purpose the
30 pooling of special emergency notes issued by the county or any
31 beneficiary county, or by any local governmental unit within the
32 county or any beneficiary county, pursuant to N.J.S.40A:4-55 for
33 purposes of financing a special emergency appropriation authorized
34 for the purpose set forth in subsections l. and m. of N.J.S.40A:4-53.
35 (cf: P.L.2020, c.74, s.8)

36
37 14. Section 12 of P.L.1960, c.183 (C.40:37A-55) is amended to
38 read as follows:

39 12. Every authority shall be a public body politic and corporate
40 constituting a political subdivision of the State established as an
41 instrumentality exercising public and essential governmental
42 functions to provide for the public convenience, benefit and welfare
43 and shall have perpetual succession and, for the effectuation of its
44 purposes, have the following additional powers:

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

47 (b) To sue and be sued;

- 1 (c) To acquire, hold, use and dispose of its facility charges and
2 other revenues and other moneys;
- 3 (d) To acquire, rent, hold, use and dispose of other personal
4 property for the purposes of the authority;
- 5 (e) Subject to the provisions of section 26 of this act, to acquire
6 by purchase, gift, condemnation or otherwise, or lease as lessee,
7 real property and easements or interests therein necessary or useful
8 and convenient for the purposes of the authority, whether subject to
9 mortgages, deeds of trust or other liens or otherwise, and to hold
10 and to use the same, and to dispose of property so acquired no
11 longer necessary for the purposes of the authority; provided that the
12 authority may dispose of such property at any time to any
13 governmental unit or person if the authority shall receive a
14 leasehold interest in the property for such term as the authority
15 deems appropriate to fulfill its purposes;
- 16 (f) Subject to the provisions of section 13 of this act, to lease to
17 any governmental unit or person, all or any part of any public
18 facility for such consideration and for such period or periods of
19 time and upon such other terms and conditions as it may fix and
20 agree upon;
- 21 (g) To enter into agreements to lease, as lessee, public facilities
22 for such term and under such conditions as the authority may deem
23 necessary and desirable to fulfill its purposes, and to agree,
24 pursuant thereto, to be unconditionally obligated to make payments
25 for the term of the lease, without set-off or counterclaim, whether or
26 not the public facility is completed, operating or operable, and
27 notwithstanding the destruction of, damage to, or suspension,
28 interruption, interference, reduction or curtailment of the
29 availability or output of the public facility to which the agreement
30 applies;
- 31 (h) To extend credit or make loans to any governmental unit or
32 person for the planning, design, acquisition, construction, equipping
33 and furnishing of a public facility, upon the terms and conditions
34 that the loans be secured by loan and security agreements,
35 mortgages, leases and other instruments, the payments on which
36 shall be sufficient to pay the principal of and interest on any bonds
37 issued for the purpose by the authority, and upon such other terms
38 and conditions as the authority shall deem reasonable;
- 39 (i) Subject to the provisions of section 13 of this act, to make
40 agreements of any kind with any governmental unit or person for
41 the use or operation of all or any part of any public facility for such
42 consideration and for such period or periods of time and upon such
43 other terms and conditions as it may fix and agree upon;
- 44 (j) (1) To borrow money and issue negotiable bonds or notes or
45 other obligations and provide for and secure the payment of any
46 bonds and the rights of the holders thereof, and to purchase, hold
47 and dispose of any bonds;

- 1 (2) To issue bonds, notes or other obligations to provide funding
2 to a municipality that finances the purchase and installation of
3 renewable energy systems and energy efficiency improvements by
4 property owners as provided in section 2 of P.L.2011, c.187
5 (C.40:56-13.1);
- 6 (3) To issue bonds, notes, or other obligations to finance a C-
7 PACE project for a local C-PACE program pursuant to section 9 of
8 P.L. , c. (C.) (pending before the Legislature as this bill);
- 9 (k) To apply for and to accept gifts or grants of real or personal
10 property, money, material, labor or supplies for the purposes of the
11 authority from any governmental unit or person, and to make and
12 perform agreements and contracts and to do any and all things
13 necessary or useful and convenient in connection with the
14 procuring, acceptance or disposition of such gifts or grants;
- 15 (l) To determine the location, type and character of any public
16 facility and all other matters in connection with all or any part of
17 any public facility which it is authorized to own, construct,
18 establish, effectuate or control;
- 19 (m) To make and enforce bylaws or rules and regulations for the
20 management and regulation of its business and affairs and for the
21 use, maintenance and operation of any public facility, and to amend
22 the same;
- 23 (n) To do and perform any acts and things authorized by this act
24 under, through or by means of its own officers, agents and
25 employees, or by contract with any governmental unit or person;
- 26 (o) To acquire, purchase, construct, lease, operate, maintain and
27 undertake any project and to fix and collect facility charges for the
28 use thereof;
- 29 (p) To mortgage, pledge or assign or otherwise encumber all or
30 any portion of its revenues and other income, real and personal
31 property, projects and facilities for the purpose of securing its
32 bonds, notes and other obligations or otherwise in furtherance of the
33 purpose of this act;
- 34 (q) To extend credit or make loans to redevelopers for the
35 planning, designing, acquiring, constructing, reconstructing,
36 improving, equipping and furnishing any redevelopment project or
37 redevelopment work;
- 38 (r) To conduct examinations and investigations, hear testimony
39 and take proof, under oath at public or private hearings of any
40 material matter, require the attendance of witnesses and the
41 production of books and papers and issue commissions for the
42 examination of witnesses who are out of the State, unable to attend,
43 or excused from attendance;
- 44 (s) To authorize a committee designated by it consisting of one
45 or more members, or counsel, or any officer or employee to conduct
46 any such investigation or examination, in which case such
47 committee, counsel, officer or employee shall have power to

1 administer oaths, take affidavits and issue ~~subpenas~~ subpoenas or
2 commissions;

3 (t) To enter into any and all agreements or contracts, execute
4 any and all instruments, and do and perform any and all acts or
5 things necessary, convenient or desirable for the purposes of the
6 authority or to carry out any power expressly given in this act
7 subject to the “Local Public Contracts Law,” P.L.1971, c.198
8 (C.40A:11-1 et seq.);

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

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

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

20

21 15. This act shall take effect immediately, except that neither the
22 Garden State C-PACE program nor any local C-PACE program
23 established pursuant to P.L. , c. (C.) (pending before the
24 Legislature as this bill) shall be operable until the authority has
25 published on its Internet website all of items required pursuant to
26 subsection a. of section 5 of P.L. , c. (C.) (pending before the
27 Legislature as this bill).