

1 H.155

2 Introduced by Representatives Cheney of Norwich, Canfield of Fair Haven,
3 Deen of Westminster, Edwards of Brattleboro, Emmons of
4 Springfield, Frank of Underhill, Head of South Burlington,
5 Hooper of Montpelier, Jerman of Essex, Keenan of St. Albans
6 City, Kitzmiller of Montpelier, Klein of East Montpelier, Lenes
7 of Shelburne, Lorber of Burlington, Marek of Newfane, Martin
8 of Springfield, Masland of Thetford, Mrowicki of Putney,
9 Myers of Essex, Poirier of Barre City, Pugh of South Burlington
10 and Wright of Burlington

11 Referred to Committee on

12 Date:

13 Subject: Energy; energy efficiency; renewable electricity generation;
14 municipalities; property-assessed clean energy; clean energy
15 assessment districts

16 Statement of purpose: This bill proposes to modify the statutes that enable
17 municipalities to form clean energy assessment districts. These modifications
18 include revising the name to property-assessed clean energy (PACE) districts
19 and addressing issues related to the status of PACE liens, foreclosure, reserve
20 funds, recording of documents related to PACE, and loan prepayment.

1 An act relating to property-assessed clean energy districts

2 It is hereby enacted by the General Assembly of the State of Vermont:

3 ~~Sec. 1. 24 V.S.A. § 3255 is amended to read:~~

4 ~~§ 3255. COLLECTION OF ASSESSMENTS; LIENS~~

5 ~~Special assessments under this chapter shall constitute a lien on the property~~
6 ~~against which the assessment is made in the same manner and to the same~~
7 ~~extent as taxes assessed on the grand list of a municipality, and all procedures~~
8 ~~and remedies for the collection of taxes shall apply to special assessments.~~

9 ~~However, the lien for an assessment under subchapter 2 of this chapter shall be~~
10 ~~inferior to an unreleased lien on the property lawfully in existence prior to the~~
11 ~~inception of that special assessment and inferior to a first mortgage on the~~
12 ~~property executed after such inception.~~

13 ~~Sec. 2. REDESIGNATION~~

14 ~~24 V.S.A. chapter 87, subchapter 2 is redesignated to read:~~

15 ~~Subchapter 2. Property-Assessed Clean Energy Assessments~~

16 ~~Sec. 3. 24 V.S.A. § 3261 is amended to read:~~

17 ~~§ 3261. PROPERTY-ASSESSED CLEAN ENERGY ASSESSMENT~~

18 ~~DISTRICTS; APPROVAL OF VOTERS~~

19 ~~(a)(1) In this subchapter, “district” means a property-assessed clean energy~~
20 ~~district.~~

1 ~~(2) The legislative body of a town, city, or incorporated village may~~
2 submit to the voters of the municipality the question of whether to designate
3 the municipality as a property-assessed clean energy ~~assessment~~ district. In a
4 ~~clean energy assessment~~ district, only those property owners who have entered
5 into written agreements with the municipality under section 3262 of this title
6 would be subject to a special assessment, as set forth in section 3255 of this
7 title.

8 * * *

9 Sec. 4. 32 V.S.A. § 3262 is amended to read:

10 § 3262. WRITTEN AGREEMENTS; CONSENT OF PROPERTY OWNERS;
11 ENERGY SAVINGS ANALYSIS

12 (a) Upon an affirmative vote made pursuant to section 3261 of this title and
13 the performance of an energy savings analysis pursuant to subsection (b) of
14 this section, an owner of real property within the boundaries of a ~~clean energy~~
15 ~~assessment~~ district may enter into a written agreement with the municipality
16 that shall constitute the owner's consent to be subject to a special assessment,
17 as set forth in section 3255 of this title. A participating municipality shall
18 follow underwriting criteria, consistent with responsible underwriting and
19 credit standards as established by the department of banking, insurance,
20 securities, and health care administration, and shall establish other qualifying
21 criteria to provide an adequate level of assurance that property owners will

1 ~~have the ability to meet assessment payment obligations. A participating~~
2 municipality shall refuse to enter into a written agreement with a property
3 owner who fails to meet the underwriting or other qualifying criteria.

4 * * *

5 (c) A written agreement shall provide that:

6 * * *

7 (2) At the time of a transfer of property ownership ~~excepting~~
8 ~~foreclosure~~, the past due balances of any special assessment under this
9 subchapter shall be due for payment, but future payments shall continue as a
10 lien on the property.

11 (3) A participating municipality shall disclose to participating property
12 owners ~~the~~ each of the following:

13 (A) The risks associated with participating in the program, including
14 risks related to the failure of participating property owners to make payments
15 and the risk of foreclosure.

16 (B) The provisions of 9 V.S.A. § 45 that pertain to prepayment of the
17 assessment.

18 (d) A written agreement or notice of such agreement and the analysis
19 performed pursuant to subsection (b) of this section shall be filed with the clerk
20 of the municipality for recording in the land records of the municipality and
21 shall be disclosed to potential buyers prior to transfer of property of ownership.

1 ~~Personal financial information provided to a municipality by a participating~~
2 property owner or potential participating property owner shall not be subject to
3 disclosure as set forth in 1 V.S.A. § 317(c)(7). If a notice of agreement is filed
4 instead of the full written agreement, the notice shall attach the analysis
5 performed pursuant to subsection (b) of this section and shall include at least
6 each of the following:

7 (1) The name of the property owner as grantor.

8 (2) The name of the municipality as grantee.

9 (3) The date of the agreement.

10 (4) A legal description of the real property against which the assessment
11 is made pursuant to the agreement.

12 (5) The amount of the assessment and the period during which the
13 assessment will be made on the property.

14 (6) A statement that the assessment will remain a lien on the property
15 until paid in full or released.

16 (7) The location at which the original or a true, legible copy of the
17 agreement may be examined.

18 * * *

1 ~~Sec. 5. 24 V.S.A. § 3266 is amended to read:~~

2 § 3266. INTERMUNICIPAL AGREEMENTS

3 Two or more municipalities, by resolution of their respective legislative
4 bodies or boards, may establish and enter into agreements for:

5 (1) incurring indebtedness or otherwise financing projects under this
6 subchapter; or

7 (2) pooling loan loss reserve funds under this subchapter, if the voters of
8 the municipalities have elected pursuant to section 3261 of this title to
9 administer loan loss reserve funds through means other than the entity
10 described under subsection 3269(e) of this title.

11 Sec. 6. 24 V.S.A. § 3268 is amended to read:

12 § 3268. RELEASE OF LIEN

13 (a) A municipality shall release a participating property owner of the lien
14 on the property against which the assessment under this subchapter is made
15 upon:

16 ~~(1) Full full payment of the value of the assessment; or~~

17 ~~(2) Demand from a party who has filed an action for foreclosure on a~~
18 ~~participating property.~~

19 ~~(b) If a municipality releases a participating property owner of a lien upon~~
20 ~~demand from a party who has filed an action for foreclosure and the~~
21 ~~participating property owner redeems the property, the municipality shall~~

1 ~~reinstate the lien on the property against which the assessment under this~~
2 ~~subchapter is made.~~

3 (e) Notice of ~~the a~~ release or reinstatement of ~~the a~~ lien for an assessment
4 under this subchapter shall be filed with the clerk of the municipality for
5 recording in the land records of the municipality.

6 Sec. 7. 24 V.S.A. § 3269 is amended to read:

7 § 3269. RESERVE FUND

8 (a) A participating municipality ~~may~~ shall create a reserve fund for use in
9 paying the past due balances of an assessment under this subchapter in the
10 event of ~~there is~~ a foreclosure upon an assessed ~~the~~ property subject to the
11 assessment and the proceeds resulting from the foreclosure are, after all
12 superior liens have been satisfied, insufficient to pay those past due balances.
13 The reserve fund shall be administered by the entity described in subsection (e)
14 of this section unless by affirmative vote pursuant to section 3261 of this title
15 the municipality chooses to administer the fund through other means.

16 (b) The reserve fund shall be funded by participating property owners at a
17 level sufficient to provide for the payment of any past due balances on
18 assessments under this subchapter ~~and any remaining principal balances on~~
19 ~~those assessments~~ in the event of a foreclosure upon a participating property.
20 The contribution of each participating property owner to the fund shall be

1 ~~included in the special assessment applicable to the property and shall be~~
2 ~~subject to section 3255 of this title.~~

3 ~~(b)(c) The reserve fund shall be capitalized in accordance with standards~~
4 ~~and procedures approved by the commissioner of banking, insurance,~~
5 ~~securities, and health care administration to cover expected foreclosures based~~
6 ~~on good lending practice experience.~~

7 ~~(e)(d) The municipality shall disclose in advance to each interested~~
8 ~~property owner the amount of that property owner's required payment into the~~
9 ~~reserve fund. Once disclosed, the amount of the reserve fund payment shall~~
10 ~~not change over the life of the assessment.~~

11 ~~(e) An entity appointed under 30 V.S.A. § 209(d)(2) to deliver energy~~
12 ~~efficiency programs to multiple service territories shall administer a reserve~~
13 ~~fund for all districts in the state unless the municipality chooses to administer a~~
14 ~~fund for a district through other means as provided by subsection (a) of this~~
15 ~~section. The entity's costs of administering the reserve fund shall be~~
16 ~~considered costs of operating the districts under section 3263 of this title. In~~
17 ~~the event of foreclosure on a property that is subject to a special assessment~~
18 ~~and is in a district that participates in the reserve fund administered by the~~
19 ~~entity, the entity's obligation shall be to disburse, at the direction of the~~
20 ~~municipality, moneys from the reserve fund to apply to the past due balances~~
21 ~~of the assessment. In no event shall other moneys received or held by the~~

1 ~~entity be available to meet this obligation or the payment of balances on an~~
2 assessment.

3 Sec. 8. 24 V.S.A. § 3270 is added to read:

4 § 3270. STATE PACE LOAN LOSS RESERVE FACILITY

5 (a) The treasurer shall establish and administer a state loan loss reserve
6 facility for those districts for which the entity described in subsection 3269(e)
7 of this title administers the loan loss reserve fund, to be known as the PACE
8 reserve facility.

9 (b) The purpose of the PACE reserve facility shall be to reduce the risk
10 faced by a private investor making an agreement with a municipality to finance
11 a district under this subchapter.

12 (c) In this section, "remaining past due balance" means that amount, if any,
13 of a past due balance on an assessment under this subchapter that exists:

14 (1) Immediately following foreclosure on a property in a district that
15 participates in the loan loss reserve fund administered by the entity described
16 in subsection 3269(e) of this title; and

17 (2) After the application, to the past due balances of the assessment on
18 that property, of the proceeds available from the foreclosure, net of superior
19 liens, and of the assets of that loan loss reserve fund.

20 (d) The PACE reserve facility's obligation shall be to fund 90 percent of a
21 remaining past due balance, provided that the total amount of all such funding

1 ~~from the PACE reserve facility shall not exceed five percent of the total~~
2 principal invested in those districts that participate in the loan loss reserve fund
3 administered by the entity described in subsection 3269(e) of this title,
4 whichever is smaller.

5 (e) The state pledges its full faith and credit with respect to the obligation
6 described in subsection (d) of this section.

7 (f) At the direction of the treasurer, a sum equal to the amount of payments
8 made from the PACE reserve facility during a given year shall be transferred to
9 the general fund from moneys deposited into the energy efficiency fund
10 pursuant to 30 V.S.A. § 209(d)(7) (capacity savings payments) and (8)
11 (revenues from the sale of carbon credits). When directing such a transfer, the
12 treasurer shall notify the commissioners of finance and management and of
13 public service, the chair of the public service board, and the entity described in
14 subsection 3269(e) of this title.

15 Sec. 9. 9 V.S.A. § 45 is amended to read:

16 § 45. PREPAYMENT OF LOANS

17 A borrower may prepay a loan at any time, without prepayment premium or
18 penalty. The owner of a dwelling, as defined in 42 U.S.C. § 1602(v), may
19 prepay an assessment under 24 V.S.A. chapter 87, subchapter 2 at any time
20 without penalty or premium, provided that the assessment's outstanding
21 balance is paid in full.

1 ~~Sec. 10. EFFECTIVE DATES~~

2 ~~(a) This section shall take effect on passage.~~

3 ~~(b) Sec. 8 of this act shall take effect on passage, except that 24 V.S.A.~~

4 ~~§ 3270(d) and (e) shall take effect on January 1, 2012.~~

5 ~~(c) On or before December 31, 2011, the treasurer shall establish the PACE~~
6 ~~reserve facility described in Sec. 8, 24 V.S.A. § 3270(a).~~

7 ~~(d) Secs. 1–7 and 9 of this act shall take effect on July 1, 2011.~~

Sec. 1. 24 V.S.A. § 3255 is amended to read:

§ 3255. COLLECTION OF ASSESSMENTS; LIENS

(a) Special assessments under this chapter shall constitute a lien on the property against which the assessment is made in the same manner and to the same extent as taxes assessed on the grand list of a municipality, and all procedures and remedies for the collection of taxes shall apply to special assessments.

(b) Notwithstanding subsection (a) of this section, a lien for an assessment under subchapter 2 of this chapter shall be subordinate to all liens on the property in existence at the time the lien for the assessment is filed on the land records, shall be subordinate to a first mortgage on the property recorded after such filing, and shall be superior to any other lien on the property recorded after such filing. In no way shall this subsection affect the status or priority of any municipal lien other than a lien for an assessment under subchapter 2 of this chapter.

Sec. 2. REDESIGNATION

24 V.S.A. chapter 87, subchapter 2 is redesignated to read:

Subchapter 2. Property-Assessed Clean Energy Assessments

Sec. 3. 24 V.S.A. § 3261 is amended to read:

§ 3261. PROPERTY-ASSESSED CLEAN ENERGY ASSESSMENT DISTRICTS; APPROVAL OF VOTERS

(a)(1) In this subchapter, “district” means a property-assessed clean energy district.

(2) The legislative body of a town, city, or incorporated village may submit to the voters of the municipality the question of whether to designate the municipality as a property-assessed clean energy ~~assessment~~ district. In a ~~clean energy assessment~~ district, only those property owners who have entered into written agreements with the municipality under section 3262 of this title would be subject to a special assessment, as set forth in section 3255 of this title.

(b) Upon a vote of approval by a majority of the qualified voters of the municipality voting at an annual or special meeting duly warned for that purpose, the municipality may incur indebtedness for or otherwise finance projects relating to renewable energy, as defined in 30 V.S.A. § 8002(2), or to eligible projects relating to energy efficiency as defined by section 3267 of this title, undertaken by owners of ~~real property~~ dwelling, as defined in Section 103(v) of the federal Truth in Lending Act, within the boundaries of the town, city, or incorporated village.

Sec. 4. 24 V.S.A. § 3262 is amended to read:

*§ 3262. WRITTEN AGREEMENTS; CONSENT OF PROPERTY OWNERS;
ENERGY SAVINGS ANALYSIS*

(a) Upon an affirmative vote made pursuant to section 3261 of this title and the performance of an energy savings analysis pursuant to subsection (b) of this section, an owner of ~~real property~~ a dwelling, as defined in Section 103(v) of the federal Truth in Lending Act, within the boundaries of a ~~clean energy assessment~~ district may enter into a written agreement with the municipality that shall constitute the owner's consent to be subject to a special assessment, as set forth in section 3255 of this title. Entry into such an agreement may occur only after January 1, 2012. A participating municipality shall follow underwriting criteria, ~~consistent with responsible underwriting and credit standards as~~ established by the department of banking, insurance, securities, and health care administration, and shall establish other qualifying criteria to provide an adequate level of assurance that property owners will have the ability to meet assessment payment obligations. A participating municipality shall refuse to enter into a written agreement with a property owner who fails to meet the underwriting or other qualifying criteria.

** * **

(c) A written agreement shall provide that:

** * **

(2) ~~At~~ Notwithstanding any other provision of law:

(A) At the time of a transfer of property ownership ~~excepting~~ including foreclosure, the past due balances of any special assessment under this subchapter shall be due for payment, but future payments shall continue as a lien on the property.

(B) In the event of a foreclosure action, the past due balances described in subdivision (A) of this subdivision (2) shall include all payments on an assessment under this subchapter that are due and unpaid as of the date the action is filed, and all payments on the assessment that become due after that date and that accrue up to and including the date title to the property is transferred to the mortgage holder, the lien holder, or a third party in the foreclosure action. The person or entity acquiring title to the property in the foreclosure action shall be responsible for payments on the assessment that become due after the date of such acquisition.

(3) A participating municipality shall disclose to participating property owners ~~the~~ each of the following:

(A) The risks associated with participating in the program, including risks related to the failure of participating property owners to make payments and the risk of foreclosure.

(B) The provisions of subsection (h) of this section that pertain to prepayment of the assessment.

(d) A written agreement or notice of such agreement and the analysis performed pursuant to subsection (b) of this section shall be filed with the clerk of the applicable municipality for recording in the land records of ~~the~~ that municipality and shall be disclosed to potential buyers prior to transfer of property of ownership. Personal financial information provided to a municipality by a participating property owner or potential participating property owner shall not be subject to disclosure as set forth in 1 V.S.A. § 317(c)(7). If a notice of agreement is filed instead of the full written agreement, the notice shall attach the analysis performed pursuant to subsection (b) of this section and shall include at least each of the following:

(1) The name of the property owner as grantor.

(2) The name of the municipality as grantee.

(3) The date of the agreement.

(4) A legal description of the real property against which the assessment is made pursuant to the agreement.

(5) The amount of the assessment and the period during which the assessment will be made on the property.

(6) A statement that the assessment will remain a lien on the property until paid in full or released.

(7) The location at which the original or a true, legible copy of the agreement may be examined.

* * *

(g) ~~In the case of~~ With respect to an agreement with the resident owner of a dwelling, as defined in Section 103(v) of the federal Truth in Lending Act under this section:

(1) the assessments to be repaid under the agreement, when calculated as if they were the repayment of a loan, shall not violate ~~chapter 4 of Title 9~~ 9 V.S.A. §§ 41a, 43, 44, and 46-50.

(2) the maximum length of time for the owner to repay the ~~loan~~ assessment shall not exceed 20 years; and

(3) the maximum amount to be repaid for the project, including the participating property owner's contribution to the reserve fund under subsection 3269(c) of this title, shall not exceed \$30,000.00 or 15 percent of the assessed value of the property, whichever is less.

(h) There shall be no penalty or premium for prepayment of the outstanding balance of an assessment under this subchapter if the balance is prepaid in full.

Sec. 5. [Deleted]

Sec. 6. 24 V.S.A. § 3267 is amended to read:

§ 3267. ELIGIBLE ENERGY EFFICIENCY PROJECTS; ASSISTANCE TO MUNICIPALITIES

Those entities appointed as energy efficiency utilities under 30 V.S.A. § 209(d) shall:

(1) Shall develop a list of eligible energy efficiency projects and shall make the list available to the public on or before July 1 of each year; and

(2) Shall provide information concerning implementation of this subchapter to each municipality, within the area in which the entity delivers efficiency services, that requests such information, and shall contact each such municipality that votes to establish a district to offer this information.

Sec. 7. 24 V.S.A. § 3268 is amended to read:

§ 3268. RELEASE OF LIEN

(a) A municipality shall release a participating property owner of the lien on the property against which the assessment under this subchapter is made upon:

(1) ~~Full full~~ payment of the value of the assessment; ~~or~~

(2) ~~Demand from a party who has filed an action for foreclosure on a participating property.~~

(b) ~~If a municipality releases a participating property owner of a lien upon demand from a party who has filed an action for foreclosure and the participating property owner redeems the property, the municipality shall reinstate the lien on the property against which the assessment under this subchapter is made.~~

(c) ~~Notice of the a release or reinstatement of the a lien for an assessment under this subchapter shall be filed with the clerk of the applicable municipality for recording in the land records of the that municipality.~~

Sec. 8. 24 V.S.A. § 3269 is amended to read:

§ 3269. RESERVE FUND

(a) ~~A participating municipality may create a reserve fund is created for use in paying the past due balances of an assessment under this subchapter in the event of that there is a foreclosure upon an assessed the property subject to the assessment and the proceeds resulting from the foreclosure are, after all superior liens have been satisfied, insufficient to pay those past due balances. The reserve fund shall comply with the provisions of subsections (b) through (e) of this section and shall be administered by and in the custody of the entity described in subsection (f) of this section. Each municipality that establishes a district under this subchapter shall participate in the reserve fund created by this subsection.~~

(b) ~~The reserve fund shall be funded by participating property owners at a level sufficient to provide for the payment of any past due balances or assessments under this subchapter and any remaining principal balances on those assessments described in subdivision 3262(c)(2) of this title in the event of a foreclosure upon a participating property and the costs of administering the reserve fund and shall only be used to provide for such payment and administration.~~

(c) ~~The contribution of each participating property owner to the reserve fund shall be included in the special assessment applicable to the property and shall be subject to section 3255 of this title. From time to time, the~~

commissioner of banking, insurance, securities, and health care administration shall determine the appropriate contribution to the fund in accordance with subsection (d) of this section. A determination by the commissioner under this subsection shall apply to the reserve fund contribution for an assessment concerning which a written agreement under section 3262 is signed after the date of the commissioner's determination and shall not affect the reserve fund contribution for an assessment concerning which such an agreement was signed on or before the date of the commissioner's determination.

~~(b)~~(d) The reserve fund shall be capitalized in accordance with standards and procedures approved by the commissioner of banking, insurance, securities, and health care administration to cover expected foreclosures and fund administration costs based on good lending practice experience. Interest earned shall remain in the fund. The administrator of the reserve fund shall invest and reinvest the moneys in the fund and hold, purchase, sell, assign, transfer, and dispose of the investments in accordance with the standard of care established by the prudent investor rule under chapter 147 of Title 9. The administrator shall apply the same investment objectives and policies adopted by the Vermont state employees' retirement system, where appropriate, to the investment of moneys in the fund.

~~(e)~~(e) The municipality shall disclose in advance to each interested property owner the amount of that property owner's required payment into the reserve fund. Once disclosed, the amount of the reserve fund payment shall not change over the life of the assessment.

(f) An entity appointed under 30 V.S.A. § 209(d)(2) to deliver energy efficiency programs to multiple service territories shall administer the reserve fund created under subdivision (a)(1) of this section.

(1) The entity's costs of administering the reserve fund shall be considered costs of operating the districts under section 3263 of this title.

(2) In the event of foreclosure on a property that is subject to a special assessment and is in a district that participates in the reserve fund administered by the entity, the entity's obligation shall be to disburse, at the direction of the municipality, moneys from the reserve fund to apply to the past due balances of the assessment. In no event shall other moneys received or held by the entity be available to meet this obligation or the payment of balances on an assessment.

(3) The entity shall keep an accurate account of all activities and receipts and expenditures under this subsection. An audit of the reserve fund administered by the entity shall be conducted as part of any periodic audit of the electric efficiency fund established pursuant to 30 V.S.A. § 209(d)(3).

Sec. 9. 24 V.S.A. § 3270 is added to read:

§ 3270. STATE PACE RESERVE FUND

(a) The state PACE reserve fund is established to be held in the custody of and administered by the state treasurer. The purpose of the state PACE reserve fund shall be to reduce, for those districts for which the entity described in subsection 3269(f) of this title administers the loss reserve fund, the risk faced by an investor making an agreement with a municipality to finance such a district.

(b) The treasurer may invest monies in the fund in accordance with 32 V.S.A. § 434. All balances in the fund at the end of the fiscal year shall be carried forward and shall not revert to the general fund. Interest earned shall remain in the fund. The treasurer's annual financial report to the general assembly under 32 V.S.A. § 434 shall contain an accounting of receipts, disbursements, and earnings of the fund.

(c) At the direction of the treasurer, a sum shall be transferred to the fund from moneys deposited into the energy efficiency fund pursuant to 30 V.S.A. § 209(d)(7) (capacity savings payments) and (8) (revenues from the sale of carbon credits).

(1) For a given year, the sum transferred under this subsection shall be:

(A) Five percent of the total amount of those assessments concerning which owners of real property, in the districts described in subsection (a) of this section, are expected to enter into written agreements pursuant to section 3262 of this title during the year; and

(B) Such additional amount, if any, that is necessary to meet the full amount of payments reasonably expected to be made from the state PACE reserve fund during that year.

(2) When directing a transfer under this subsection, the treasurer shall notify the commissioners of finance and management and of public service, the chair of the public service board, and the entity described in subsection 3269(f) of this title. Monies shall not be disbursed from the state PACE reserve fund until necessary resources are transferred to the fund.

(d) Moneys deposited to the state PACE reserve fund and any interest on moneys in that fund shall be used for the sole purpose of paying claims as described in subsections (e) and (f) of this section. In no event shall any moneys received or held by the state of Vermont, other than moneys deposited into the state PACE reserve fund or interest on moneys in that fund, be available to meet this obligation or the payment of a remaining past due balance or any other obligation under this subchapter.

(e) In this section, "remaining past due balance" means that amount, if any, of a past due balance on an assessment under this subchapter that exists:

(1) Immediately following foreclosure on a property in a district that participates in the loss reserve fund administered by the entity described in subsection 3269(f) of this title; and

(2) After the application, to the past due balances of the assessment on that property, of the proceeds available from the foreclosure, net of superior liens, and of the assets of that loss reserve fund.

(f) The obligation of the state PACE reserve fund shall be to fund 90 percent of a remaining past due balance, upon presentation of a claim and application acceptable to the treasurer and the entity described in subsection 3269(f) of this title, provided that the total amount of all such funding from the state PACE reserve fund shall not exceed the smaller of the following:

(1) \$1,000,000.00.

(2) The funds available pursuant to subsection (d) of this section.

(3) Five percent of the total of all assessments under this subchapter in the districts that participate in the loss reserve fund administered by the entity described in subsection 3269(f) of this title.

Sec. 9a. 24 V.S.A. § 3271 is added to read:

§ 3271. MONITORING; COMPLIANCE; UNDERWRITING CRITERIA

The department of public service created under 30 V.S.A. § 1 shall monitor and evaluate, for compliance with the underwriting criteria, standards, and procedures established under subsections 3262(a) (underwriting criteria for assessments) and 3269(c) and (d) (underwriting standards and procedures; loss reserve fund) of this title, all activities to which those criteria, standards, and procedures apply that are undertaken by an entity appointed under 30 V.S.A. § 209(d)(2) to deliver energy efficiency programs. The department shall consult with the department of banking, insurance, securities, and health care administration in performing these tasks. The department of public service may combine its tasks under this section with monitoring and evaluation of an energy efficiency entity conducted pursuant to 30 V.S.A. § 209(d) or (e).

Sec. 10. UNDERWRITING CRITERIA; ADOPTION

On or before December 31, 2011, the commissioner of banking, insurance, securities, and health care administration shall adopt criteria and standards pursuant to Sec. 4 of this act, 24 V.S.A. § 3262(a), and determine the participating property owner's contribution to the loss reserve fund and adopt standards and procedures pursuant to Sec. 8 of this act, 24 V.S.A. § 3269(c) and (d). Prior to adoption, the commissioner of banking, insurance, securities,

and health care administration shall consult with the commissioner of public service concerning the development of such criteria, standards, and procedures.

Sec. 11. EFFECTIVE DATES

(a) This section and Secs. 3 (property-assessed clean energy districts) and 10 (underwriting criteria; adoption) of this act shall take effect on passage.

(b) Secs. 1, 2, and 4–9 of this act shall take effect on January 1, 2012, except that in Sec. 4, 24 V.S.A. § 3262(a) (written agreements) shall take effect on passage.