

1 S.138

2 Introduced by Senator Chittenden

3 Referred to Committee on Natural Resources and Energy

4 Date: April 1, 2025

5 Subject: Municipal and county government; energy; renewable energy;  
6 property-assessed clean energy

7 Statement of purpose of bill as introduced: This bill proposes to allow  
8 commercial and industrial buildings to qualify for property-assessed clean  
9 energy projects.

10 An act relating to commercial property-assessed clean energy projects

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

12 ~~Sec. 1, 24 V.S.A., chapter 87, subchapter 2 is amended to read:~~

13 Subchapter 2. Property-Assessed Clean Energy

14 § 3261. PROPERTY-ASSESSED CLEAN ENERGY DISTRICTS;

15 APPROVAL OF VOTERS

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

18 (2) The legislative body of a town, city, or incorporated village may

19 ~~submit to the voters of the municipality the question of whether to designate~~

1 ~~the municipality as a property assessed clean energy district. In a district, only~~  
2 those property owners who have entered into written agreements with the  
3 municipality under section 3262 of this title would be subject to a special  
4 assessment, as set forth in section 3255 of this title.

5 (b) Upon a vote of approval by a majority of the qualified voters of the  
6 municipality voting at an annual or special meeting duly warned for that  
7 purpose, the municipality may incur indebtedness for or otherwise finance  
8 projects relating to renewable energy, as defined in 30 V.S.A. § 8002(17), or to  
9 eligible projects relating to energy efficiency as defined by section 3267 of this  
10 title, undertaken by owners of dwellings, as defined in Section 103(v) of the  
11 federal Truth in Lending Act, or by owners of commercial or industrial  
12 buildings within the boundaries of the town, city, or incorporated village.

13 (c) As used in this chapter, “commercial or industrial building” means any  
14 building other than a residential dwelling.

15 § 3262. WRITTEN AGREEMENTS; CONSENT OF PROPERTY

16 OWNERS;

17 ENERGY SAVINGS ANALYSIS

18 (a) Upon an affirmative vote made pursuant to section 3261 of this title and  
19 the performance of an energy savings analysis pursuant to subsection (b) of  
20 this section, an owner of a dwelling, as defined in Section 103(v) of the federal  
21 ~~Truth in Lending Act, or an owner of a commercial or industrial building,~~

1 ~~within the boundaries of a district may enter into a written agreement with the~~  
2 municipality that shall constitute the owner's consent to be subject to a special  
3 assessment, as set forth in section 3255 of this title. Entry into such an  
4 agreement may occur only after January 1, 2012. A participating municipality  
5 shall follow underwriting criteria established by the Department of Financial  
6 Regulation, and shall establish other qualifying criteria to provide an adequate  
7 level of assurance that property owners will have the ability to meet  
8 assessment payment obligations. A participating municipality shall refuse to  
9 enter into a written agreement with a property owner who fails to meet the  
10 underwriting or other qualifying criteria.

11 \* \* \*

12 Sec. 2. EFFECTIVE DATE

13 ~~This act shall take effect on July 1, 2025.~~

*Sec. 1. 24 V.S.A. chapter 87, subchapter 3 is added to read:*

*Subchapter 3. Commercial Property-Assessed Clean Energy*

*§ 3275. COMMERCIAL PROPERTY-ASSESSED CLEAN ENERGY  
DISTRICTS; APPROVAL OF LEGISLATIVE BODY*

*(a)(1) The legislative body of a town, city, or incorporated village may vote to designate the municipality as a commercial property-assessed clean energy district or C-PACE district. In a district, only those property owners who have entered into written agreements with the municipality under section 3276 of this title would be subject to a special assessment, as set forth in section 3255 of this title.*

*(2) In this subchapter, "district" means a commercial property-assessed clean energy district which includes the entire municipality.*

*(b) Upon a vote of approval by a majority of the legislative body of the municipality voting at a duly warned meeting, the municipality shall allow for*

the imposition of a special assessment to secure private financing for property owners for projects relating to renewable energy, as defined in 30 V.S.A. § 8002(17), or to eligible projects relating to energy efficiency as defined by section 3267 of this title, undertaken by owners of commercial or industrial buildings within the boundaries of the municipality.

(c) As used in this chapter, “commercial or industrial building” means any building other than a residential dwelling with fewer than five units.

§ 3276. WRITTEN AGREEMENTS; CONSENT OF PROPERTY OWNERS; ENERGY SAVINGS ANALYSIS; LENDER CONSENT

(a) Upon an affirmative vote made pursuant to section 3275 of this title and the performance of an analysis pursuant to subsection (b) of this section, an owner of a commercial or industrial building, within the boundaries of a 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, 2027.

(b) Prior to entering into a written agreement, a property owner shall have an analysis performed that includes the following components:

(1) where energy or water usage improvements are proposed, an energy analysis by a licensed professional engineer or engineering firm stating that the proposed qualified improvements will either result in more efficient use or conservation of energy or water, the reduction of greenhouse gas emissions, or the addition of renewable sources of energy or water;

(2) where renewable energy is proposed, an engineering study showing that the improvements are feasible;

(3) where resilience improvements are proposed, certification by a licensed professional engineer stating that the qualified improvements will result in improved resilience in accordance with local, State, or nationally recognized building standards; or

(4) for new construction, certification by a licensed professional engineer or engineering firm stating that the proposed qualified improvements will enable the project to exceed the energy efficiency or water efficiency or renewable energy or water usage requirements of the current building code.

(c) A written agreement shall provide that:

(1) The length of time allowed for the property owner to repay the assessment shall not exceed the life expectancy of the project. In instances where multiple projects have been installed, the length of time shall not exceed the average lifetime of all projects, weighted by cost.

(2) Notwithstanding any other provision of law:

(A) A lien under this section:

(i) is a first and prior lien on the property, subordinate only to a lien for property taxes, from the date on which the notice of special assessment is recorded until the assessment, interest, or penalty is paid; and

(ii) runs with the land, and that portion of the assessment under the assessment contract that is not yet due shall not be accelerated or extinguished by foreclosure of a property tax lien or any other foreclosure.

(B) In the event of a foreclosure action, 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 shall be paid in order for title to transfer.

(3) A capital provider shall disclose to participating property owners 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; and

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

(d) The notice of an agreement 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; and

(7) the location at which the original agreement may be examined.

(e) Prior to entering into the written assessment contract, the property owner shall obtain and furnish to the municipality a written statement, executed by each holder of a mortgage or deed of trust on the property

securing indebtedness, in their sole and absolute discretion, that consents to the assessment and indicates that the assessment does not constitute an event of default under the mortgage or deed of trust.

(f) The combined amount of the assessment plus any outstanding mortgage obligations for the property shall not exceed 90 percent of the assessed value of that property.

(g) With respect to an agreement 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 9 V.S.A. §§ 41a, 43, 44, and 46–50; and

(2) the maximum length of time for the owner to repay the assessment shall not exceed 30 years.

(h) For projects under subchapter 2 of this chapter, 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. Projects under this subchapter 3 are not subject to these provisions, but shall be determined by the private agreement for financing of improvements.

(i) Property may be eligible for financing if otherwise qualified improvements were completed and operational not more than 36 months prior to submission of the application to the program. Waivers to the 36-month requirement may be granted in the sole discretion of the program administrator.

#### § 3277. PROGRAM ADMINISTRATORS

(a) C-PACE Program Administration.

(1) An entity that administers the commercial property-assessed clean energy program or C-PACE Program under this subchapter shall be referred to as a program administrator. A municipality, a public agency, or a private entity may serve as a program administrator. However, a capital provider or lender shall not serve as a program administrator in a municipality where it is also lending.

(2) A municipality that has adopted a C-PACE district may:

(A) enter into a contract with an entity to serve as the program administrator and to administer the functions of the C-PACE Program for the municipality; or

(B) serve as the program administrator itself, to administer the functions of a C-PACE Program, including entering into C-PACE agreements

with commercial property owners in its jurisdiction and collecting C-PACE assessments.

(b) An entity may:

(1) enter into a contract with a C-PACE municipality where the entity shall serve as the program administrator in the municipality; and

(2) collect fees necessary to administer the C-PACE program.

(c) Other than the fulfillment of its obligations specified in a C-PACE agreement, neither the program administrator nor a municipality has any liability to a commercial property owner for or related to energy savings or resilience improvements financed under a C-PACE Program.

(d) The Department of Financial Regulation shall consult with relevant stakeholders, including the Vermont League of Cities and Towns, the Vermont Economic Development Authority, Efficiency Vermont, and agencies from other States with C-PACE programs, in order to identify appropriate entities to serve as program administrators.

Sec. 2. 24 V.S.A. § 3263 is amended to read:

§ 3263. COSTS OF OPERATION OF DISTRICT

The owners of real property who have entered into written agreements with the municipality under section 3262 of this title shall be obligated to cover the costs of operating the district. A municipality may use other available funds to operate the district. A municipality may charge fees to cover the operation of the C-PACE Program under subchapter 3 of this chapter.

Sec. 3. 24 V.S.A. § 3264 is amended to read:

§ 3264. RIGHTS OF PROPERTY OWNERS

A property owner who has entered into a written agreement with the municipality under section 3262 or section 3276 of this title may enter into a private agreement for the installation or construction of a project relating to renewable energy, as defined in 30 V.S.A. § 8002(17), or relating to energy efficiency as defined in section 3267 of this title.

Sec. 4. 24 V.S.A. § 3265 is amended to read:

§ 3265. LIABILITY OF MUNICIPALITY

(a) A municipality that incurs indebtedness for or otherwise finances projects under this subchapter shall not be liable for the failure of performance of a project.

(b) A municipality that incurs indebtedness for bonding under this subchapter shall pledge the full faith and credit of the municipality.

(c) A municipality that enters into a written agreement with a property owner under subchapter 3 of this chapter shall not incur any indebtedness or otherwise finance projects under this chapter, nor shall be liable for the failure of the performance of a project, nor pledge the full faith and credit of the municipality.

Sec. 5. 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 or subchapter 3 of this chapter is made upon full payment of the value of the assessment.

(b) Notice of a release of a lien for an assessment under this subchapter or subchapter 3 of this chapter shall be filed with the clerk of the applicable municipality for recording in the land records of that municipality.

Sec. 6. 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. A lien for an assessment under subchapter 3 of this chapter shall be exempt from the provisions of this section and, upon receipt of consent from lenders, pursuant to subsection 3276(e) of this title, shall not be subordinate to all liens on the property in existence at the time the lien for the assessment is filed on the land records.

Sec. 7. 9 V.S.A. § 46 is amended to read:

§ 46. EXCEPTIONS

Section 43 of this title, relating to deposit requirements, and section 45 of this title, relating to prepayment penalties, shall not apply and the parties may

*contract for a rate of interest in excess of the rate provided in section 41a of this title in the case of:*

*(1) obligations of corporations, including municipal and nonprofit corporations; ~~or~~*

*(2) obligations incurred by any person, partnership, association, or other entity to finance in whole or in part income-producing business or activity, but not including obligations incurred to finance family dwellings of four units or fewer when used as a residence by the borrower or to finance real estate that is devoted to agricultural purposes as part of an operating farming unit when used as a residence by the borrower; ~~or~~*

*(3) obligations to finance the purchase, construction, or improvement of property for seasonal or part-time occupancy and not as a place of legal residence; ~~or~~*

*(4) obligations guaranteed or insured by the United States of America or any agency thereof; or*

*(5) obligations incurred for commercial property-assessed clean energy projects pursuant to 24 V.S.A. chapter 87, subchapter 3.*

*Sec. 8. EFFECTIVE DATE*

*This act shall take effect on July 1, 2026.*