

1 S.138

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

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

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

5 Subchapter 3. Commercial Property-Assessed Clean Energy

6 § 3275. COMMERCIAL PROPERTY-ASSESSED CLEAN ENERGY

7 DISTRICTS; APPROVAL OF LEGISLATIVE BODY

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

14 (2) In this subchapter, “district” means a commercial property-assessed  
15 clean energy district which includes the entire municipality.

16 (b) Upon a vote of approval by a majority of the legislative body of the  
17 municipality voting at a duly warned meeting, the municipality shall allow for  
18 the imposition of a special assessment to secure private financing for property  
19 owners for projects relating to renewable energy, as defined in 30 V.S.A.  
20 § 8002(17), or to eligible projects relating to energy efficiency as defined by

1 section 3267 of this title, undertaken by owners of commercial or industrial  
2 buildings within the boundaries of the municipality.

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

5 § 3276. WRITTEN AGREEMENTS; CONSENT OF PROPERTY

6 OWNERS; ENERGY SAVINGS ANALYSIS; LENDER CONSENT

7 (a) Upon an affirmative vote made pursuant to section 3275 of this title and  
8 the performance of an analysis pursuant to subsection (b) of this section, an  
9 owner of a commercial or industrial building, within the boundaries of a  
10 district, may enter into a written agreement with the municipality that shall  
11 constitute the owner’s consent to be subject to a special assessment, as set forth  
12 in section 3255 of this title. Entry into such an agreement may occur only after  
13 January 1, 2027.

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

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

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

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

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

11           (c) A written agreement shall provide that:

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

16           (2) Notwithstanding any other provision of law:

17           (A) A lien under this section:

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

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

4           (B) In the event of a foreclosure action, all payments on an  
5           assessment under this subchapter that are due and unpaid as of the date the  
6           action is filed, and all payments on the assessment that become due after that  
7           date and that accrue up to and including the date title to the property is  
8           transferred to the mortgage holder, the lien holder, or a third party in the  
9           foreclosure action shall be paid in order for title to transfer.

10           (3) A capital provider shall disclose to participating property owners  
11           each of the following:

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

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

17           (d) The notice of an agreement shall include at least each of the following:

18           (1) the name of the property owner as grantor;

19           (2) the name of the municipality as grantee;

20           (3) the date of the agreement;

1           (4) a legal description of the real property against which the assessment  
2           is made pursuant to the agreement;

3           (5) the amount of the assessment and the period during which the  
4           assessment will be made on the property;

5           (6) a statement that the assessment will remain a lien on the property  
6           until paid in full or released; and

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

8           (e) Prior to entering into the written assessment contract, the property  
9           owner shall obtain and furnish to the municipality a written statement,  
10           executed by each holder of a mortgage or deed of trust on the property  
11           securing indebtedness, in their sole and absolute discretion, that consents to the  
12           assessment and indicates that the assessment does not constitute an event of  
13           default under the mortgage or deed of trust.

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

17           (g) With respect to an agreement under this section:

18           (1) the assessments to be repaid under the agreement, when calculated  
19           as if they were the repayment of a loan, shall not violate 9 V.S.A. §§ 41a, 43,  
20           44, and 46-50; and

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

3           (h) For projects under subchapter 2 of this chapter, there shall be no penalty  
4           or premium for prepayment of the outstanding balance of an assessment under  
5           this subchapter if the balance is prepaid in full. Projects under this subchapter  
6           3 are not subject to these provisions, but shall be determined by the private  
7           agreement for financing of improvements.

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

13           § 3277. PROGRAM ADMINISTRATORS

14           (a) C-PACE Program Administration.

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

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

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

5                   (B) serve as the program administrator itself, to administer the  
6           functions of a C-PACE Program, including entering into C-PACE agreements  
7           with commercial property owners in its jurisdiction and collecting C-PACE  
8           assessments.

9           (b) An entity may:

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

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

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

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

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

2       § 3263. COSTS OF OPERATION OF DISTRICT

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

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

9       § 3264. RIGHTS OF PROPERTY OWNERS

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

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

16       § 3265. LIABILITY OF MUNICIPALITY

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

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

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

6        Sec. 5. 24 V.S.A. § 3268 is amended to read:

7        § 3268. RELEASE OF LIEN

8        (a) A municipality shall release a participating property owner of the lien  
9        on the property against which the assessment under this subchapter or  
10       subchapter 3 of this chapter is made upon full payment of the value of the  
11       assessment.

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

15       Sec. 6. 24 V.S.A. § 3255 is amended to read:

16       § 3255. COLLECTION OF ASSESSMENTS; LIENS

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

1 (b) Notwithstanding subsection (a) of this section, a lien for an assessment  
2 under subchapter 2 of this chapter shall be subordinate to all liens on the  
3 property in existence at the time the lien for the assessment is filed on the land  
4 records, shall be subordinate to a first mortgage on the property recorded after  
5 such filing, and shall be superior to any other lien on the property recorded  
6 after such filing. In no way shall this subsection affect the status or priority of  
7 any municipal lien other than a lien for an assessment under subchapter 2 of  
8 this chapter. A lien for an assessment under subchapter 3 of this chapter shall  
9 be exempt from the provisions of this section and, upon receipt of consent  
10 from lenders, pursuant to subsection 3276(e) of this title, shall not be  
11 subordinate to all liens on the property in existence at the time the lien for the  
12 assessment is filed on the land records.

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

14 § 46. EXCEPTIONS

15 Section 43 of this title, relating to deposit requirements, and section 45 of  
16 this title, relating to prepayment penalties, shall not apply and the parties may  
17 contract for a rate of interest in excess of the rate provided in section 41a of  
18 this title in the case of:

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

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

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

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

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

14          Sec. 8. EFFECTIVE DATE

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