

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Energy and Digital Infrastructure to which was referred  
3 Senate Bill No. 138 entitled “An act relating to commercial property-assessed  
4 clean energy” respectfully reports that it has considered the same and  
5 recommends that the House propose to the Senate that the bill be amended by  
6 striking out all after the enacting clause and inserting in lieu thereof the  
7 following:

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

9 Subchapter 3. Commercial Property-Assessed Clean Energy

10 § 3275. COMMERCIAL PROPERTY-ASSESSED CLEAN ENERGY

11 DISTRICTS; APPROVAL OF LEGISLATIVE BODY

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

18 (b) Upon a vote of approval by a majority of the legislative body of the  
19 municipality voting at a duly warned meeting, the municipality shall allow for  
20 the imposition of a special assessment to secure private financing for property  
21 owners of commercial or industrial buildings within the boundaries of the

1 municipality for renewable energy projects as defined in 30 V.S.A. § 8002(17),  
2 energy efficiency projects as defined by section 3267 of this title, water  
3 conservation projects, and resiliency improvement projects.

4 (c) As used in this subchapter:

5 (1) “Commercial or industrial building” means any building other than a  
6 residential dwelling with fewer than five units.

7 (2) “District” means a commercial property-assessed clean energy  
8 district which includes the entire municipality.

9 (3) “Resilience” means the ability of interconnected ecological, social,  
10 physical, and economic systems to anticipate, adapt, withstand, respond, and  
11 thrive in the face of current and future conditions and disasters.

12 (4) “Resiliency improvement” means improvements that increase the  
13 resilience of a property, including air quality, stormwater infrastructure  
14 improvements, snow and flood mitigation, energy storage and microgrids,  
15 alternative vehicle charging infrastructure, and fire and wind resistance.

16 (5) “Water conservation improvement” means measures, equipment, or  
17 devices that decrease the consumption of or demand for water, address safe  
18 drinking water, or eliminate lead from water used for drinking or cooking.

1     § 3276. WRITTEN AGREEMENTS; CONSENT OF PROPERTY

2             OWNERS; ENERGY SAVINGS ANALYSIS; LENDER CONSENT

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

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

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

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

19                (3) where resiliency improvements are proposed, certification by a  
20                licensed professional engineer stating that the qualified improvements will  
21                result in improved **resilience**; or

1           (4) for new construction, certification by a licensed professional  
2           engineer or engineering firm stating that the proposed qualified improvements  
3           will enable the project to meet or exceed the energy efficiency or water  
4           efficiency or renewable energy or water usage requirements of the **current**  
5           **building code or the Commercial Building Energy Standards.**

6           (c) A written agreement shall provide that:

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

11           (2) Notwithstanding any other provision of law:

12           (A) A lien under this section:

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

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

19           (B) In the event of a foreclosure action, all payments on an  
20           assessment under this subchapter that are due and unpaid as of the date the  
21           action is filed, and all payments on the assessment that become due after that

1 date and that accrue up to and including the date title to the property is  
2 transferred to the mortgage holder, the lien holder, or a third party in the  
3 foreclosure action shall be paid in order for title to transfer.

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

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

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

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

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

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

14 (3) the date of the agreement;

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

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

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

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

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

7       (f) The combined amount of the assessment plus any outstanding mortgage  
8       obligations for the property shall not exceed 90 percent of the appraised real  
9       property value of that property, as stabilized or as complete.

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

11           (1) the assessments to be repaid under the agreement, when calculated  
12           as if they were the repayment of a loan, shall not violate 9 V.S.A. §§ 41a, 43,  
13           44, and 46–50; and

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

16       (h) For projects under subchapter 2 of this chapter, there shall be no penalty  
17       or premium for prepayment of the outstanding balance of an assessment under  
18       this subchapter if the balance is prepaid in full. Projects under this subchapter  
19       3 are not subject to these provisions, but shall be determined by the private  
20       agreement for financing of improvements.

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

6        § 3277. PROGRAM ADMINISTRATORS

7        (a) C-PACE Program administration.

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

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

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

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

1        (b) An entity may:

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

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

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

9        (d) The Department of Financial Regulation shall consult with relevant  
10       stakeholders, including the Vermont League of Cities and Towns, the Vermont  
11       Economic Development Authority, Efficiency Vermont, the Vermont  
12       Economic Progress Council, the regional development corporations, and  
13       agencies from other States with C-PACE programs, in order to identify  
14       appropriate entities to serve as program administrators. On or before  
15       December 15, 2026, the Department shall submit a report on recommended  
16       program administrators to the House Committees on Commerce and Economic  
17       Development and on Energy and Digital Infrastructure and the Senate  
18       Committee on Natural Resources and Energy.

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

20       § 3263. COSTS OF OPERATION OF DISTRICT

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

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

7       § 3264. RIGHTS OF PROPERTY OWNERS

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

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

14      § 3265. LIABILITY OF MUNICIPALITY

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

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

20      (c) A municipality that enters into a written agreement with a property  
21      owner under subchapter 3 of this chapter shall not incur any indebtedness or

1 otherwise finance projects under this chapter, nor shall be liable for the failure  
2 of the performance of a project, nor pledge the full faith and credit of the  
3 municipality.

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

5 § 3268. RELEASE OF LIEN

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

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

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

14 § 3255. COLLECTION OF ASSESSMENTS; LIENS

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

20 (b) Notwithstanding subsection (a) of this section, a lien for an assessment  
21 under subchapter 2 of this chapter shall be subordinate to all liens on the

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

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

12 § 46. EXCEPTIONS

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

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

19 (2) obligations incurred by any person, partnership, association, or other  
20 entity to finance in whole or in part income-producing business or activity, but  
21 not including obligations incurred to finance family dwellings of four units or

1 fewer when used as a residence by the borrower or to finance real estate that is  
2 devoted to agricultural purposes as part of an operating farming unit when used  
3 as a residence by the borrower; ~~or~~

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

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

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

11 Sec. 8. EFFECTIVE DATE

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

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19 (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

2

Representative \_\_\_\_\_

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FOR THE COMMITTEE