

1 TO THE HONORABLE SENATE:

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

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

8 Subchapter 3. Commercial Property-Assessed Clean Energy

9 § 3275. COMMERCIAL PROPERTY-ASSESSED CLEAN ENERGY

10 DISTRICTS; APPROVAL OF VOTERS

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

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

19 (b) Upon a vote of approval by a majority of the qualified voters of the
20 municipality voting at an annual or special meeting duly warned for that
21 purpose, the municipality allow for the imposition of a special assessment to

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

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

8 (d) A municipality that has adopted a special assessment under this section
9 may charge a fee for providing this service to a third-party lender.

10 § 3276. WRITTEN AGREEMENTS; CONSENT OF PROPERTY OWNERS;
11 ENERGY SAVINGS ANALYSIS; **LENDER CONSENT**

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

19 (b) Prior to entering into a written agreement, a property owner shall have
20 analyses performed to quantify the project costs and energy savings and

1 estimated carbon impacts of the proposed energy or resiliency improvements,
2 including the following analyses:

3 (1) where energy or water usage improvements are proposed, an energy
4 analysis by a licensed engineering firm or engineer, or other qualified
5 professional listed in the program guidebook, stating that the proposed
6 qualified improvements will either result in more efficient use or conservation
7 of energy or water, the reduction of greenhouse gas emissions, or the addition
8 of renewable sources of energy or water,

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

11 (3) where resilience improvements are proposed, certification by a
12 licensed professional engineer stating that the qualified improvements will
13 result in improved resilience; or

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

18 (c) A written agreement shall provide that:

19 (1) The length of time allowed for the property owner to repay the
20 assessment shall not exceed the life expectancy of the project. In instances

1 where multiple projects have been installed, the length of time shall not exceed
2 the average lifetime of all projects, weighted by cost.

3 (2) Notwithstanding any other provision of law:

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

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

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

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

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

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

- 13 (1) the name of the property owner as grantor;
14 (2) the name of the municipality as grantee;
15 (3) the date of the agreement;
16 (4) a legal description of the real property against which the assessment
17 is made pursuant to the agreement;
18 (5) the amount of the assessment and the period during which the
19 assessment will be made on the property;
20 (6) a statement that the assessment will remain a lien on the property
21 until paid in full or released; and

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

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

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

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

12 (1) the assessments to be repaid under the agreement, when calculated
13 as if they were the repayment of a loan, shall not violate 9 V.S.A. §§ 41a, 43,
14 44, and 46–50; and

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

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

7 (a) C-PACE Program Administration.

8 (1) The entity that administers the C-PACE Program under this
9 subchapter shall be referred to as the Program Administrator.

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

11 (A) Enter into a contract with the AGENCY for it to serve as the
12 Program Administrator and to administer the functions of the C-PACE
13 Program for the municipality, or

14 (B) Serve as the Program Administrator itself, to administer the
15 functions of a C-PACE Program, including entering into C-PACE agreements
16 with commercial property owners in its jurisdiction and collecting C-PACE
17 assessments.

18 (b) Model documents; educational materials. The AGENCY shall develop
19 and provide to municipalities model C-PACE ordinances, model C-PACE
20 agreements, other model forms and documents and educational materials for

1 use by municipalities, property owners and capital providers in the
2 implementation of C- PACE programs.

3 (c) The **AGENCY** may:

4 (1) enter into a contract with a C-PACE municipality where the
5 **AGENCY** shall serve as the Program Administrator in the municipality;

6 (2) collect fees necessary to administer the C-PACE program; and

7 (3) subcontract with one or more third-parties to perform part or all of
8 the duties of a Program Administrator on behalf of the **AGENCY**.

9 (d) Other than the fulfillment of its obligations specified in a C-PACE
10 agreement, neither the **AGENCY** nor a municipality has any liability to a
11 commercial property owner for or related to energy savings **or resilience**
12 improvements financed under a C-PACE Program.

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

14 § 3263. COSTS OF OPERATION OF DISTRICT

15 The owners of real property who have entered into written agreements with
16 the municipality under section 3262 or section 3276 of this title shall be
17 obligated to cover the costs of operating the district. A municipality may use
18 other available funds to operate the district

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

20 § 3264. RIGHTS OF PROPERTY OWNERS

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

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

7 § 3265. LIABILITY OF MUNICIPALITY

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

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

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

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

19 § 3268. RELEASE OF LIEN

20 (a) A municipality shall release a participating property owner of the lien
21 on the property against which the assessment under this subchapter or

1 subchapter 3 of this chapter is made upon full payment of the value of the
2 assessment.

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

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

7 § 3255. COLLECTION OF ASSESSMENTS; LIENS

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

13 (b) Notwithstanding subsection (a) of this section, a lien for an assessment
14 under subchapter 2 of this chapter shall be subordinate to all liens on the
15 property in existence at the time the lien for the assessment is filed on the land
16 records, shall be subordinate to a first mortgage on the property recorded after
17 such filing, and shall be superior to any other lien on the property recorded
18 after such filing. In no way shall this subsection affect the status or priority of
19 any municipal lien other than a lien for an assessment under subchapter 2 of
20 this chapter. A lien for an assessment under subchapter 3 of this chapter shall
21 be exempt from the provisions of this section and, upon receipt of consent

1 from lenders, pursuant to subsection (e) of section 3276, shall not be
2 subordinate to all liens on the property in existence at the time the lien for the
3 assessment is filed on the land records.

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

5 § 46. EXCEPTIONS

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

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

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

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

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

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

5 Sec. 8. EFFECTIVE DATE

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

7

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9 (Committee vote: _____)

10

11

Senator _____

12

FOR THE COMMITTEE