



VERMONT ECONOMIC DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Legislative Committee on Natural Resources and Energy
FROM: Joan Goldstein, CEO and Jennifer Emens-Butler, Chief Legal Officer, Vermont Economic Development Authority
DATE: February 20, 2026
RE: Feedback and Suggested Revisions for **S.138 (Draft 3.1)** – Commercial Property-Assessed Clean Energy (C-PACE)

I. Municipal Governance & Voter Approval

Sections: § 3275 (a)(2), § 3275 (b), § 3276, § 3265(c)

- **Elimination of Town-Wide Vote:** Requiring a town-wide vote for a municipality to become a C-PACE district—or for individual projects—is a significant barrier. Since the municipality is not incurring debt and the financing is private, a **resolution by the municipal legislative body** (Selectboard/City Council) to do the assessment on a particular property should be sufficient. This legislation should give any town the right but not the obligation to create an assessment. Not sure if VLCT has weighed in on this.
- **NH has a town wide vote in their original legislation but is now seeking an amendment to that requirement in their current legislative session.** They mentioned a strong pipeline of potential activity but the town wide vote is the impediment to progress.
- **Opt-Out Model:** It is recommended that the state consider an "opt-out" rather than an "opt-in" model to prevent project delays caused by the timing of annual town meetings. The municipal legislative body is not required to approve any assessment or district even if the statute enables them to create the districts. They opt out by simply not approving the proposal before them.

II. Definitions and Scope

Section: § 3275(c)

- **Multi-Family Inclusion:** We strongly recommend explicitly including **residential buildings with 5 or more units** in the definition of "commercial" property. In the banking industry, these are standard commercial assets, and this sector represents a significant area of need for energy efficiency upgrades and the creation of housing in general is something Vermont needs to incentivize.

III. Underwriting and Loan Limits

Section: § 3276

- **Lender-Borrower Autonomy:** It is suggested that specific statutory loan limits be removed. Loan size and leverage should be determined by the private lender and the borrower.
- **Existing Safeguards:** The requirement for **consent from the existing mortgage holder** provides a natural and sufficient check on over-leverage, making rigid statutory limits redundant. If a leverage limit is deemed necessary, it should be based on the **appraised value** of the property rather than the tax-assessed value to reflect the real-world economics of

the project accurately. NH, for example, has a 35% LTV based on appraisal value of the property for the projects that are eligible for C-PACE.

IV. Technical and Financing Terms

Sections: § 3276 (b)(4) and § 3276 (all)

- **Standards:** Language should be clarified to ensure projects "meet or exceed" the required performance standards.
- **Private Contract Clarity:** Granular financing details should be omitted from the bill text, as these terms are strictly contractual between the private lender and the property owner.

V. Lien Priority and Enforcement

Section: § 3255

- **Clarification of Priority:** This section needs more clarity. The current "negative phrasing" regarding assessment liens is confusing. It also only references "liens" where the R-PACE (Subsection 2--Residential PACE) portion separates mortgages from liens. If C-PACE has priority after taxes, it should state it more clearly. Including this section within the R-PACE existing statute in this manner is confusing. It should be explicitly stated that the C-PACE lien is **junior** to municipal property taxes but may maintain priority over all other existing encumbrances with lender consent. Where would HOA liens stand?
- **Interest/Prepayment:** The existing exemptions (9 VSA 46) are sufficient and including additional language in the R-PACE section separate from the exemption is confusing.
- **Third-Party Delegation:** The bill explicitly allows municipalities to delegate billing, collection, and enforcement responsibilities to a third-party, however this could be done without legislating the administration role or naming the Agency.

Generally, VEDA queries whether the proposed Subsection 3 for C-PACE could stand on its own and not have the above provisions (and anything after §3277 in the proposed bill) woven into the existing R-PACE subsection 2. In our opinion, this would eliminate much of the confusion noted in the Lien Priority and Enforcement section above, allow for C-PACE to exist independently of R-PACE and utilize standard commercial terms.