

# Considerations for an Alabama Commercial Property Assessed Clean Energy (C-PACE) Program



Utilizing Trends, Data, and Experiences  
from C-PACE Programs Across the Nation

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Contents

Acknowledgements.....4

Executive Summary.....6

Introduction .....9

Critical Parts of Alabama’s Existing C-PACE Legislation .....10

Establishing a C-PACE Program and Key Decision Points for ADECA to Consider .....11

    Authorizing C-PACE.....12

    State and Local Roles.....13

    Program Role.....13

State-Local Program Considerations.....15

Recent Evolutions in C-PACE Program Design and Suggestions for Alabama’s C-PACE Program .....16

    Reducing and Simplifying Fee Structures .....16

    Engaging Underserved Markets.....18

    Ensuring Technical Expertise is Available .....18

    Developing a Multifaceted and Comprehensive Marketing Approach .....19

    Utilizing C-PACE for New Construction.....20

Conclusion .....21

Appendices.....22

Appendix A: Interview Questions for C-PACE Administrators .....22

Appendix B: Decision Points Chart.....24

Appendix C: Memo on C-PACE and New Construction in Other States.....26

Appendix D: Memo on C-PACE Program Fee Structures .....31

Appendix E: Memo on what States Define in Statute Versus Program Guidance .....38

## Executive Summary

NASEO developed this report on behalf of the Energy Division of the Alabama Department of Economic and Community Affairs (ADECA). The primary audience for this report is the ADECA Energy Division (Alabama’s State Energy Office), which was designated by the Governor to adopt regulations around C-PACE following the 2016 passage of SB220 enabling the use of C-PACE financing in the state,<sup>1</sup> as well as other key policy and decision-makers with an interest in C-PACE in Alabama. This report offers a starting point for ADECA to utilize when making key decisions in the introduction and implementation of C-PACE financing, and draws on lessons learned from existing, established C-PACE programs across the country. The secondary audience for this report includes other states and stakeholders that are in the early stages of C-PACE program implementation and can learn from recent C-PACE developments and program experience to establish, enhance, and scale up C-PACE in their states and jurisdictions.

NASEO suggests the following considerations in the development of C-PACE financing in Alabama:

- **Determine whether to pursue a statewide C-PACE program, or allow local governments the option to develop their own local C-PACE programs with state guidance and minimum standards.** Alabama’s C-PACE-enabling statute directs ADECA to set up a statewide C-PACE program. Prior research by NASEO indicates that statewide C-PACE models offer an efficient structure to deliver C-PACE by ensuring uniformity of program guidelines across multiple jurisdictions within the state, standardized documentation for program implementation and marketing, and consistency in processing procedures. However, local governments may wish to develop their own programs to retain autonomy and control over their program regulations. Within a statewide C-PACE framework, states have two options: a single statewide option, whereby localities interested in C-PACE opt into a single available program administered statewide; or a hybrid state-local option, whereby interested localities may choose among a statewide program or other local- and multi-jurisdictional options.
- **Clarify ADECA’s potential role, whether as a Program Sponsor,<sup>2</sup> as a program administrator, or as both.** ADECA should consider what role(s) it wants to perform in the C-PACE program, and consider delegating any remaining functions to a third-party administrator(s). This decision-making process should determine which entity(ies) oversee(s) the establishment of program rules, guidelines, procurement responsibilities for administrators, program criteria, and other program features.
- **If ADECA chooses to designate a third-party administrator(s) to manage the C-PACE program, it should structure the Request for Proposals with consideration of how oversight will be performed.** ADECA may consider soliciting for an administrator(s) to manage the program through a Request for Proposals (RFP) or other competitive process. Before doing so, ADECA should first consider which duties it would prefer to retain, depending on its budget, priorities,

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<sup>1</sup> Exec. Order No. 22 (September 14<sup>th</sup>, 2016), <http://digital.archives.alabama.gov/cdm/singleitem/collection/executive/id/895/rec/71>.

<sup>2</sup> For the purposes of this report, “Program Sponsor” is an entity that provides oversight of a C-PACE program, while “program administrator” refers to the entity that is in charge of making day-to-day decisions around the program, conducting outreach, closing deals, and other actions indicated in the “Program Role” section.

and staffing levels, as well as how it will provide oversight of the third-party administrator(s) to conduct functions that it chooses not to directly take on.

- **Utilize an open market model for capital lending.** ADECA could consider utilizing an open market model to source capital for C-PACE projects. An open market model enables a program to source capital from multiple providers who compete with one other to provide favorable financing for projects. This model also allows for a broader array of capital providers to finance projects, potentially improving the ability of small- and medium-size projects to receive financing. This approach presents benefits to C-PACE customers by providing more competitive terms and rates but may make the financing process more complex for borrowers, versus a turnkey approach in which a pre-selected funding source(s) provides project capital.
- **Engage community banks and/or credit unions as capital providers.** ADECA, a third-party administrator(s), or both could consider engaging with community banks and credit unions as capital providers. Community banks and credit unions regularly lend to smaller businesses. They are more likely to operate in underserved areas (e.g., rural communities) compared to many large financial institutions. Several C-PACE programs are successfully working with credit unions and community banks to establish a pipeline of smaller C-PACE financed projects.
- **Structure the program administration budget to provide technical assistance throughout the C-PACE process.** Deliberate planning and budgeting can ensure that the program administrator(s) (whether the state or a third-party) has sufficient resources to provide technical assistance to C-PACE property owners through the entire financing process.
- **Deliver information effectively to prospective property owners.** A comprehensive marketing strategy helps to ensure that stakeholders are educated on C-PACE and are aware of program developments. Specific methods, like a website or social media campaign, may reach tech-savvy customers but miss customers who rely more heavily on direct mail, word-of-mouth, or other means.
- **Consider updates to the state’s PACE-enabling statute if the opportunity arises.** If the legislature decides to update Alabama’s PACE-enabling statute, they may wish to consider the need for changes such as the following:
  - Ensure that any potential statewide program is explicitly allowed to collect fees to cover program administration costs. These programs can include either the state government or third-party administrator(s);
  - Ensure that the statute’s definitions for energy efficiency, renewable energy, and resiliency improvements are flexible to accommodate future changes in technology. Consider integrating these definitions into Alabama’s Administrative Code; and
  - Include new construction as an eligible project category for C-PACE financing.

ADECA has an advantage in its ability to draw upon best practices and lessons learned from the development of C-PACE financing elsewhere. Adapting to current trends in the C-PACE market, tailoring the program to Alabama’s unique needs, and adopting some of the programmatic successes from other states can position ADECA to build an effective program. Learning from other programs allows ADECA to

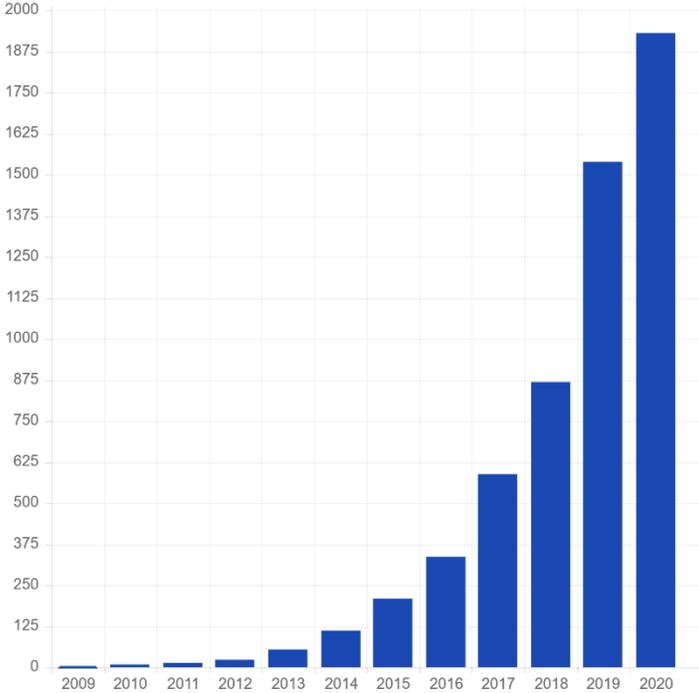
meet its priorities for economic development and energy conservation, and deliver low-cost financing options, energy savings, and jobs that benefit Alabama communities.

# Introduction

The Commercial Property Assessed Clean Energy (C-PACE) market is in a state of acceleration and transition. Since its original conception in 2008, 37 states and the District of Columbia have passed C-PACE-enabling legislation and 22 states are now home to active C-PACE programs.<sup>3</sup> C-PACE has now financed over 2,500 projects representing over \$1.9 billion in investment, resulting in over 22,400 jobs created across the nation.<sup>4</sup> This growth represents a significant economic development and job creation opportunity for Alabama.

Furthermore, as the C-PACE market continues to evolve, states and localities are revisiting their C-PACE legislation and program designs to streamline the financing process and tap into underserved and new markets. Alabama, therefore, has the advantage of being able to learn from and draw upon these experiences to ensure that it can quickly and efficiently scale up its C-PACE program.

Figure 1: Cumulative C-PACE Financing (in \$millions) from 2009 - 2020



Reprinted with permission from: PACENation.org, “PACE Market Data,” September 2020, accessed December 3, 2020, <https://pacenation.org/pace-market-data/>.

While Alabama is in the early design phase of C-PACE, the state recognizes that financing options for resilient and energy-efficient property improvements can be a driver of economic development. C-PACE can be a tool to attract private capital investment towards much-needed commercial and industrial property upgrades and construction projects. A well-structured C-PACE program will help deliver these benefits. ADECA’s efforts to develop a C-PACE program can streamline the financing process and reduce costs for potential customers and capital providers, provide consistent program rules and guidelines across local government jurisdictions, and deliver reliable technical assistance to all parties throughout

<sup>3</sup> “PACE Programs,” PACENation, September 30, 2020, <https://pacenation.org/pace-programs/>.

<sup>4</sup> “PACE Market Data,” PACENation, September 30, 2020, <https://pacenation.org/pace-market-data/>.

the financing process. A well-designed program also ensures that C-PACE financing becomes well understood and used by building owners, capital providers, and other critical stakeholders in the state.

ADECA has the opportunity to take advantage of best practices and experiences from other C-PACE programs across the country. Adapting and applying best practices will help the state rapidly set up its program, develop a market, and ensure that customers are adequately protected and can have confidence in C-PACE as a financing mechanism. Properly structured, a C-PACE program can be a self-sustaining program that leverages private capital to spur economic development and job creation opportunities throughout the state.

NASEO interviewed C-PACE program sponsors and administrators in eight states (Colorado, Connecticut, Michigan, Missouri, Rhode Island, Texas, Virginia, and Wisconsin) with a set of pre-determined questions developed with ADECA's review and approval.<sup>5</sup> The interviews covered successes and lessons learned from programs in each state, with a particular focus on changes made to program structures over the last three to five years, as well as techniques for third-party administration, education and training, and local government engagement. NASEO used the responses to these questions, supplemented with additional research (including on multiple-administrator C-PACE models), to form the suggestions outlined in this paper. Separate research into other state programs also supplemented this information.

## Critical Parts of Alabama's Existing C-PACE Legislation

Alabama enabled C-PACE through the Property Insurance and Energy Reduction Act in 2015.<sup>6</sup> The act establishes the legal contours of a C-PACE program but leaves much of the role of program design and implementation to a Governor-designated agency. This agency shall "have the authority to adopt reasonable rules, interpretations, and guidelines...as may be necessary to carry out this act over which the agency has jurisdiction."<sup>7</sup> The agency is "also authorized to develop a statewide program for local government participation at any time."<sup>8</sup> These two provisions are critical to ADECA's role in the establishment of C-PACE as they grant ADECA the authority to develop rules governing the program, as well as the option to establish a statewide C-PACE program.

Specific details within the legislation are likely to impact the development of C-PACE in the state. For instance, the statute allows for several types of financeable improvements, including wind resistance, energy efficiency, and flood mitigation improvements. It specifies that C-PACE assessments shall constitute a lien and be enforced in the same way as other local government non-*ad valorem* assessments,<sup>9</sup> and that these features must be disclosed to program participants. In this way, it ensures the seniority of the lien with respect to the mortgage on the property: a key implication is that in a foreclosure, this senior status means that the C-PACE obligation is paid by the foreclosure sale proceeds before the mortgage is paid. To mitigate risk to the other holders of debt on the property (such as the mortgagee), the legislation notes that before taking on a C-PACE obligation, "the real property owner shall provide, or the local government shall obtain, a verified recordable copy of written consent and

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<sup>5</sup> The interview questions for the C-PACE providers can be found in Appendix A of this report.

<sup>6</sup> SB 220, Property Insurance and Energy Reduction Act of Alabama, 2015, <http://alisondb.legislature.state.al.us/ALISON/SearchableInstruments/2015RS/PrintFiles/SB220-enr.pdf>.

<sup>7</sup> *Ibid.* at 16.

<sup>8</sup> *Ibid.* at 17.

<sup>9</sup> *Ibid.* at 13.

subordination agreement signed by the holder of each existing mortgage or other lien on the relevant real property stating that the mortgagee or other lienholder consents to the imposition of the assessment and that the priority of the mortgage or other lien is subordinated to the assessment lien in a form and substance acceptable to each mortgagee and other lienholder.”<sup>10</sup> Additionally, the legislation allows for the permissive establishment of a loss reserve fund to pay delinquent C-PACE assessments in the event of a default.<sup>11</sup> Local governments must disclose these characteristics in the financing agreements they execute with participating property owners.<sup>12</sup>

A potentially limiting factor of the legislation is the exclusion of “state and third-party administrators” from provisions allowing local governments to collect charges and fees to pay for administrative costs. As written, the legislation only allows local governments to collect program administration fees to offset program costs: “a local government may impose fees to offset the costs of administering a program.”<sup>13</sup> Similarly, the statute specifies that the costs of a qualified project include “all financing charges and fees and all interest on revenue bonds, notes, or other obligations of a local government.”<sup>14</sup> Limiting the ability to levy charges and fees only to local governments would require state or private administrators to incorporate fees and charges into the interest rates rather than the overall project cost, which could deter prospective borrowers. The inability by state or third-party administrators to collect fees could potentially limit the effective management of a statewide program.

Relative to other states’ PACE-enabling laws, Alabama’s statute is also specific in naming the types of technologies that qualify for C-PACE financing. As technologies for resiliency, energy efficiency, and renewable energy may change in the future, it could be challenging to repeatedly update the statute to ensure that those new technologies are covered. Amending the statute to define these improvements in Alabama’s Administrative Code could help increase the ability of the state to retain flexibility in updating definitions for qualifying technologies as needed.

Finally, Alabama’s statute does not currently allow the use of C-PACE for new construction projects, which limits the availability of C-PACE to retrofits and renovations and hinders its use in a tool for new construction financing.

## Establishing a C-PACE Program and Key Decision Points for ADECA to Consider

This section examines various roles and responsibilities in C-PACE financing. It also outlines the critical decision points ADECA should consider as it establishes a statewide C-PACE program in Alabama. The following information is adapted from NASEO’s 2016 report *Accelerating the Commercial PACE Market: Statewide Programs and State Energy Office Participation in Property Assessed Clean Energy (PACE) Financing*. NASEO’s analysis of the decision points ADECA should consider are found in the textboxes below each section.

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<sup>10</sup> *Ibid.*

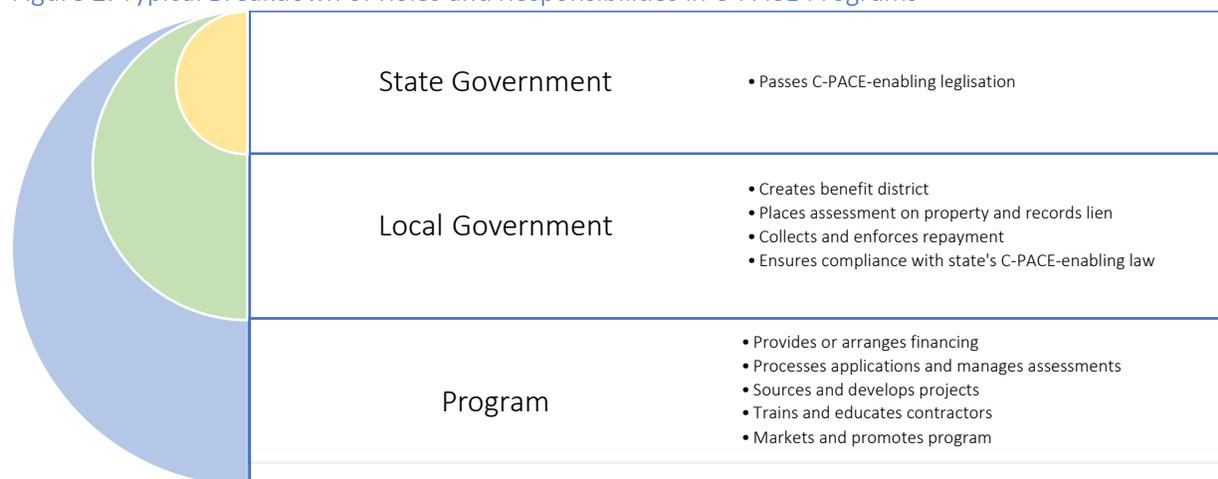
<sup>11</sup> *Ibid.* at 16.

<sup>12</sup> *Ibid.* at 15.

<sup>13</sup> *Ibid.* at 9.

<sup>14</sup> *Ibid.*, p. 2.

Figure 2: Typical Breakdown of Roles and Responsibilities in C-PACE Programs



Adapted from NASEO, “Accelerating the Commercial PACE Market,” April 2016, .

The steps needed to launch a C-PACE program vary between jurisdictions based on legislative requirements. They involve essential decisions regarding the enactment of PACE-enabling legislation at the state level, the passage of ordinances or resolutions authorizing the use of PACE benefit or assessment districts at the local level, and administration, design, funding, and implementation at the program level. These decisions require outreach to relevant stakeholders to establish the necessary legal authorities for PACE and to learn about energy efficiency and renewable customers and projects.

### Authorizing C-PACE

The legal authority for PACE starts at the **state level**. C-PACE statutes typically include such policy components as:

- Identifying the role of the Program Sponsor (for example, a state agency such as ADECA);
- Identifying a form of administration (who, what level of government, best practices, ethics requirements if private, single administrator, or multiple administrators and whether state or local, etc.);
- Identifying or establishing the authority of local governments to impose and enforce assessments against private property for energy, water, seismic, resiliency, health, and other improvements on a voluntary, “opt-in” basis;
- Ensuring that assessments are tied to the property through a lien;
- Specifying the process for establishing a C-PACE district whether regional or statewide through existing or new authority, including authorizing multijurisdictional programs; and
- Determining that C-PACE improvements serve an identified public purpose.

## State and Local Roles

Once C-PACE-enabling legislation is enacted at the state level, PACE programs can be legally administered **statewide** (as in Connecticut and Colorado) or at the **local level** (as is the norm in California and Florida). While local governments must enforce the C-PACE assessment, the roles and responsibilities of Program Sponsors and local governments have changed over time to allow program administrators to take on more of the local government roles as existing C-PACE programs have evolved and become more sophisticated in their handling of C-PACE assessments on local properties.

### DECISION POINT 1

**Statewide C-PACE Program:** ADECA should determine whether to establish a statewide C-PACE program. A statewide program provides standardization and consistency across participating local jurisdictions, making it easier for consumers and capital providers to understand the C-PACE financing process and for contractors and installers to close deals. It makes it easy for local governments to “opt-in” to the program instead of establishing their own programs. However, local governments in Alabama may prefer to establish their own C-PACE programs (or join into multi-jurisdictional local programs) with rules and guidelines that are catered to their specific markets. The challenge here is that local governments may not have the resources, expertise, or capacity to stand up their own programs without state guidance. ADECA should consider engaging local governments to determine local-level interest in a statewide program.

### DECISION POINT 2

**Local Role in C-PACE Program Development:** If ADECA opts to create a statewide C-PACE program, it should also determine whether local governments can make their own programs that operate in potential competition with it, or must opt in to the statewide program in order to offer C-PACE to commercial property owners in their jurisdictions. The first option would give local governments more flexibility, while the latter increases standardization of C-PACE across the entire state. For either option, ADECA can provide resources that support local participation, i.e. a model ordinance or resolution that localities can pass in order to opt in the statewide program. The following section, “State-Local Program Considerations,” offers additional recommendations on the development of a statewide program in partnership with local governments.

## Program Role

Key decisions regarding program administration and project implementation are typically made at the *program level* through a Program Sponsor. Some jurisdictions have opted to use government staff to fulfill the full range of C-PACE program functions such as developing program guidelines and program documents, qualifying projects, processing applications, providing or arranging for financing, recording the C-PACE assessment, and promoting the program. Others contract with private firms to perform some or all of these tasks through a public-private partnership. In some jurisdictions, private program administrators and private project development firms take on all aspects of C-PACE program management. In this case, the primary local government role is to administer the C-PACE assessment; the remaining duties, such as enrolling localities into the program, training contractors, marketing, arranging financing, and sourcing and validating projects, are managed by private partners. Figure 2 provides a breakdown of the roles and responsibilities that have been typically delegated to state government, local government, and local program administrators.

### DECISION POINT 3

**Program Administration Structure:** As the program sponsor, ADECA should determine the program administration structure and, if needed, hire a third-party administrator or administrators to take on key program tasks. Factors to consider in determining ADECA’s level of engagement in program administration include its budget and staff availability and expertise, among other agency-specific priorities and considerations. The range of functions needed to deliver an effective PACE program include:

1. *Program oversight* – Ensures program compliance with relevant state and local laws and manages program activities, reporting, and budget;
2. *Design of program guidelines* – Produces and updates the guidance and rules for participation in C-PACE financing by interested customers;
3. *Qualifying projects* – Defines what projects are allowed to be financed using C-PACE assessments;
4. *Processing applications* – Approves projects for C-PACE financing;
5. *Recording the assessment* – Documents the existence of the C-PACE lien on the property in the local government’s public land records;
6. *Contractor training and education* – Informs contractors about C-PACE as a financing option so they can discuss its use with potential customers who may be good fits for C-PACE;
7. *Marketing* – Provides materials and trainings to educate customers on the benefits of C-PACE financing and broaden awareness;
8. *Measuring and verifying project savings* – Ensures that projects are performing for customers as expected; and
9. Other duties as determined by ADECA.

### DECISION POINT 4

**Program Administration Budget, Fee and Revenue Options:** Different variations of budget and fee structures can enable program administrators to recoup startup and operational costs as they issue C-PACE loans. Within the parameters set by ADECA and the state’s PACE statute, the administrator will need to establish and disclose program fees. More information on potential fee structures is included later in this report.

### DECISION POINT 5

**Project Capitalization:** C-PACE programs have utilized both the “closed market” approach, where one financier provides capital for the market, or an “open market” approach, where multiple capital providers compete to provide financing for the same market. Both approaches have had success. Closed market approaches allow for easier coordination and oversight, and can set attractive rates if government funds are available. Open market approaches create competition between lenders, allowing building owners to negotiate for favorable rates, and allow for increased capital to fund a broader range of projects. However, these different approaches can impact cost, choice, competition, and customer experience.

### DECISION POINT 6

**Program Support Options:** Supporting C-PACE programs through credit enhancement or other mechanisms may help to reduce the risk borne by capital providers in C-PACE programs, as well as the interest rate offered to property owners. Such mechanisms are likely to require dedicated funding and oversight, increasing program costs, but can make C-PACE a more attractive option for borrowers, speeding the scalability of the program.

## State-Local Program Considerations

As described earlier, statewide programs have numerous advantages, but typically, states do not have property assessment levy and collection powers or authority. Thus, if ADECA decides to pursue a statewide program model, it will need to implement a strategy whereby participating local governments use their existing levy and collection process for the assessments. Critical components of ADECA's strategy can include:

- **A simple structure and process to join the statewide program, recognizing the local governments' authorities to levy and collect assessments.** Affirmative local government action such as the passage of a Resolution or Ordinance evidencing the local government's intent to participate in the program is important in any statewide C-PACE program, and required in Alabama's statute.<sup>15</sup> The passage of an ordinance assures C-PACE capital providers, mortgage lenders, prospective property owners, and other stakeholders that there has been a government action to allow C-PACE within that jurisdiction. It also conveys intent to the local government property and/or tax officials that the local government chooses to participate in C-PACE.
- **Program documents for local government participation in the statewide program.** This documentation helps localities to understand what their responsibilities and options are in a statewide C-PACE program. Three types of agreements are suggested:
  - **Interlocal Program Participation Agreement** -- This agreement could provide local governments powers and authority to levy and collect assessments within their own respective jurisdictions across the state through the various individual local levying and collecting professionals within their jurisdictions (essentially creating a C-PACE "interlocal entity").
  - **Levy-Collection Agreement** -- A uniform agreement executed and used by local governments across the state between the interlocal entity and ADECA or other authorized entity to cover the responsibilities to levy and collect the assessments through established local government processes.
  - **Program Resolution or Ordinance** -- A uniform document template for local governments to adopt as evidence of their intent to sign the Interlocal Program Participation Agreement and join the program.
- **Early outreach to local government decision-makers (such as mayors and city councils) as well as personnel (such as property and/or tax officials) to discuss their potential participation in a statewide program.** Such outreach can help recruit localities for the statewide program, integrate their input as standardized powers and shared services agreements are drafted, and ensure that property and/or tax officials understand the mechanics and process of C-PACE.

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<sup>15</sup> SB 220, Property Insurance and Energy Reduction Act of Alabama, 2015, p. 8, <http://alisondb.legislature.state.al.us/ALISON/SearchableInstruments/2015RS/PrintFiles/SB220-enr.pdf>

# Recent Evolutions in C-PACE Program Design and Suggestions for Alabama’s C-PACE Program

Over the past four years, C-PACE programs across the United States have implemented new strategies to more efficiently deliver financing and expand to additional markets. This section examines these evolutions, which may help to inform Alabama’s program design and implementation.

## Reducing and Simplifying Fee Structures

C-PACE programs across the country are usually funded by upfront fees applied on a per-project basis (or, in more limited cases, interest rates imposed on the financing). These programs include those run through a state agency, local government, or a third-party administrator(s). Fees generally range from one to three percent of project size and are typically set by the program administrator within the confines of the PACE-enabling statute. In Alabama, the current statute specifies that fees are to be rolled into the C-PACE assessment, and that a local government can impose fees to pay for program administration costs.<sup>16</sup>

Table 1: Sample Fee Structures by Administrator

State (Program Administrator)	Program Fee (per project)	Supplemental Fees
<i>Colorado (Sustainable Real Estate Solutions (SRS))</i>	2.25% (83% of the fee goes to the administrator, 17% goes to the C-PACE District)	N/A
<i>District of Columbia (Urban Ingenuity)</i>	1.25% (minimum \$2,500)	<b>Application Fee:</b> \$250 <b>Loan Sourcing and Project Development Fee:</b> .75 percent <b>Recording Fee:</b> \$31.50 <b>PACE Servicing Fee (Administrator):</b> .15 percent of original principal <b>PACE Servicing Fee (District):</b> .05 percent of original principal <b>Payment Processing Fee:</b> \$250 annually
<i>Maryland (PACE Financial Servicing(PFS))</i>	1.05%	<b>Application Fee:</b> \$150 upfront application fee; <b>Servicing Fee:</b> 1.5% of the annual surcharge payment amount each year, with a minimum of \$300/year and a maximum of \$2,000/year. Additionally, local governments may, pursuant to their enabling ordinance, elect to include actual administrative costs incurred charge into the Surcharge payment amount. If a property owner or capital provider elects to utilize [PACE Financial Servicing’s] (PFS) third-party technical reviewer, FSI, additional fees for independent review of project eligibility are: <ul style="list-style-type: none"> <li>For new construction projects or projects that must achieve a SIR &gt; 1: \$2,500 per review;</li> </ul>

<sup>16</sup> *Ibid.* at 10.

		<ul style="list-style-type: none"> <li>For projects with more than 1 [energy conservation measure] (ECM) but no SIR requirement: \$1,250 per review; and</li> <li>For projects with a single ECM and no SIR requirement: \$750</li> </ul>
<i>New York (Energize NY)</i>	1.5% (up to a maximum of \$75,000)	<b>Annual Surcharge:</b> .25 percent (.20 percent for \$10 million or greater) per annum of the Benefit Assessment, computed on the basis of a 360-day year and applied to actual number of days elapsed.
<i>Rhode Island (Sustainable Real Estate Solutions)</i>	2.25% (up to a maximum of \$75,000)	<b>Servicing Fee:</b> \$300 annual servicing fee
<i>Wisconsin (Slipstream)</i>	1.25%	Ongoing servicing fee of .1%/year

Program administrators are typically paid either through a combination of a set amount plus a fee-per-project, or entirely through a fee-per-project system. However, a fee-per-project structure may incentivize the administrator to focus primarily on closing deals (at which point they receive payment) rather than providing comprehensive technical assistance to customers throughout the entire financing process.

In the early years of a C-PACE program, a program using a traditional fee-per-project model may become cash-flow negative while the first deals are completed. A C-PACE program may have to rely on state, local, philanthropic, or other outside funding for up to or even greater than five years before the program begins to become cash-flow positive.<sup>17</sup> Some states have used U.S. State Energy Program funds to offset the cost of C-PACE programs until deals start to close.<sup>18</sup>

High fees and/or complicated fee structures may discourage potential property owners from opting for C-PACE over simpler or less costly alternatives. In addition to the program administration costs described above, “pass through” fees, such as for the levy and collection of assessments, may contribute to the overall cost of a deal.

As a result, any C-PACE program needs to seek ways to streamline costs and simplify their fee structures to make C-PACE more accessible and appealing. Program uniformity and statewide administration can help in lowering fees as it enables multiple districts to share program costs and services. Additionally, hiring an administrator(s) who has experience working in other states can offer opportunities for cost reduction; however, program providers with local knowledge and reputation may be equally or more capable of rapidly and successfully launching a program.

**Suggestion: Before Alabama scales up its program, it should consider the benefits and tradeoffs of various fee structures and select the option that it believes would be most effective to encourage customer adoption of C-PACE, while enabling the program to ultimately be self-funding.**

<sup>17</sup> Conversation with Charlene Heydinger, President, Texas PACE Authority, October 23<sup>rd</sup>, 2019.

<sup>18</sup> *Ibid.*

## Engaging Underserved Markets

In the very early days of C-PACE, most projects were financed through bond issuances. However, as third-party financing (which typically has a higher cost of capital than bond financing) has become the dominant form of capital,<sup>19</sup> C-PACE financing has shifted towards larger projects that can more easily absorb higher interest and fee rates. A promising strategy to deliver financing to small-to-medium-sized commercial property owners is to recruit community banks and credit unions as C-PACE capital providers for smaller projects and businesses. Their relationships with the businesses in their service territories and their appetite for smaller-volume deals can make them useful partners, especially in remote and rural areas as well as in communities with high levels of low- and moderate-income (LMI) homes and businesses. However, these banks may only lend to their existing customers or have very specific lending criteria, meaning that there may still be gaps for small and medium-sized businesses in parts of the state. Respondents in NASEO's interviews recommended developing a strategy to address this concern.

**Suggestion: ADECA and/or the C-PACE administrator(s) in Alabama should consider developing strategies to address the underserved markets in the state, including rural businesses, smaller businesses, and businesses in LMI communities. Addressing underserved markets could involve establishing specific tranches of capital for small businesses, adjusting requirements for smaller projects, and/or working with local community capital providers to finance C-PACE projects.**

## Ensuring Technical Expertise is Available

States have access to a wealth of expertise as they design C-PACE financing programs. For instance, Colorado's program is overseen by an Advisory Board that provides guidance to the state's C-PACE administrator. Established by the PACE-enabling statute,<sup>20</sup> the Advisory Board consists of seven members (six of whom are appointed by the Governor), including the Director of the Colorado Energy Office and one representative each from a commercial real estate development firm, a big bank (over \$1 billion in assets), a small bank (less than \$1 billion in assets), a utility, an energy efficiency company, and a renewable energy company.<sup>21</sup> The Advisory Board governs and oversees the C-PACE administrator's efforts and determines the directions the C-PACE program should take while remaining within its statutory authority.

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<sup>19</sup> While bonding is still commonly used in California due to government requirements, direct financing of C-PACE is now the norm for other states with active programs. See "Commercial PACE Financing: Bonds or Direct Financing? Let the Market Competition Begin." (C-PACE Alliance, February 2019), <http://cpace.wpengine.com/wp-content/uploads/2019/02/Bonds-and-Direct-Financing-2-19-2019.pdf>.

<sup>20</sup> CO Rev Stat § 32-20-104 (2016)

<sup>21</sup> *Ibid.*

**Suggestion: ADECA should consider finding ways to ensure that diverse technical expertise is tapped in the development of a C-PACE program. Whether this approach is formal, such as Colorado’s Advisory Board, or more informal, such as a regular stakeholder engagement process, it is a resource that ADECA should consider utilizing.**

### Developing a Multifaceted and Comprehensive Marketing Approach

Engaging and educating key stakeholders, such as local building owners, energy efficiency contractors and/or project developers, commercial real estate firms, capital providers, and local governments, is an essential strategy for expanding a new C-PACE program. Marketing materials and trainings can be tailored to present C-PACE concepts and the financing process in terms that are easily understandable to potential customers; repeated training opportunities can ensure stakeholders retain important information.

Marketing for C-PACE should be as simple and digestible for potential customers as possible, with supplemental materials available for clients who are interested in more detail. It should highlight the positive aspects of C-PACE while establishing realistic expectations for project financing timelines for prospective customers. The timeline for most C-PACE projects from initiation to completion may span multiple years; even “quick” project turnarounds can take over a year. Making sure local governments, capital providers, building owners, and other key stakeholders have realistic expectations of the program’s growth is key to successfully keeping them on-board as the program ramps up.

**Suggestion: ADECA should consider developing a comprehensive outreach strategy to ensure that key stakeholders are kept aware of the program’s development and educated on C-PACE. These efforts may have significant returns, as the broadcasting of successful projects can lead to greater program participation, references, and “word-of-mouth” advertising.**

Strategies to achieve this outcome include:

- **Ensuring that the right stakeholders are involved early on in the program development process.** Target stakeholders should include local governments, building owners, contractors, project developers, lenders, commercial real estate experts, and consumer and community representatives.
- **Performing a market analysis of Alabama’s commercial properties to identify high-priority commercial sectors that the program should initially target.** Alabama is currently working with the U.S. Department of Energy (DOE) and Pacific Northwest National Laboratory to develop such an analysis.
- **Providing information about C-PACE that is easy to access and understand by prospective property owners.** Having advisors from various sectors, such as commercial real estate and local government, can provide input into the development of marketing materials to ensure that they are understandable by potential customers.

- **Pursuing direct engagement with local governments to improve the likelihood of program success.** Strong messaging can help overcome initial local government reservations about C-PACE, including concerns over whether the program is needed, the costs borne by local agencies, and how the collection process works.

When choosing to market to targeted sectors, including local governments, there are several different approaches towards getting information to the right decision-makers, summarized in the figure below.

*Table 2: Approaches for C-PACE Stakeholder Engagement*

<b>Customizable Collateral</b> These are informational materials such as short videos, fact sheets, case studies, and frequently asked questions.	<b>Website</b> A program website can be a central location for outreach, materials, and program processes such as applications. Participating governments can also promote C-PACE on their websites.
<b>“Lunch and learn” events for trade associations</b> Audiences include local government professionals, economic development officials, architects, commercial building owners and managers, legal professionals, financial institutions, and chambers of commerce.	<b>Traditional Marketing Methods</b> These include press releases, direct mail, email marketing, content marketing, and event booths at conferences and trade shows.
<b>Meet and greet events for contractors and lenders</b>	<b>Contractor workshops, trainings, and other stakeholder conferences and events</b> Either piggy backing on other events for contractors or hosting stand-alone events for C-PACE outreach.
<b>Social Media</b>	<b>Digital newsletters</b>
<b>Dedicated staff assignments</b> Designated staff can dedicate a portion of their time to outreach and marketing.	<b>Tax bill inserts</b> Because C-PACE is generally repaid on the property tax bill, some programs have used information inserts with property tax bills to promote the program.
<b>Strategic partnerships</b> An example is partnering with utility incentive programs.	<b>Informational events for potential participants</b>

Adapted with permission from Greg Leventis et. al., *“Lessons In Commercial PACE Leadership: The Path from Legislation to Launch,”* Lawrence Berkeley National Laboratory, February 2018, [https://www.energy.gov/sites/prod/files/2018/05/f51/Lessons\\_in\\_Commercial\\_PACE\\_Leadership\\_Finalv2.pdf](https://www.energy.gov/sites/prod/files/2018/05/f51/Lessons_in_Commercial_PACE_Leadership_Finalv2.pdf).

Alabama should consider utilizing some or all of these approaches. Specific methods, like a website or social media campaign, may reach more tech-savvy audiences. Other methods, such as traditional marketing, one-on-one meetings, and events, can reach additional potential property owners. A mixed approach to customer and stakeholder engagement is best to ensure information about C-PACE is spread as broadly as possible.

### Utilizing C-PACE for New Construction

The use of C-PACE in financing high-performance new construction projects has been increasing. According to PACENation, in 2017, new construction cumulatively accounted for 14 percent of C-PACE lending by dollar volume.<sup>22</sup> By 2019, this portion had increased to over 17 percent of C-PACE lending by

<sup>22</sup> PACENation, “2017 C-PACE Economic, Energy, and Environmental Impact Report,” p. 4. Accessed at <https://pacenation.us/pace-market-data/>.

dollar volume.<sup>23</sup> In NASEO’s interviews, almost every program administrator indicated that they are either already allowing C-PACE for new construction, or in the process of developing guidelines for it. New construction can make up a significant portion of a state’s C-PACE portfolio: in Colorado, new construction projects now account for approximately 40 to 45 percent of C-PACE financed projects in the state.<sup>24</sup>

In some instances, to qualify for C-PACE, newly constructed buildings must exceed a specific standard or threshold. For example, Colorado requires the expected energy performance of new buildings to exceed the state’s energy code by at least 15 percent.<sup>25</sup> For energy efficiency improvements, a common standard in many states is five percent over existing code, but other types of improvements (such as solar and combined heat and power systems) may require alternative standards. It is typically up to the state’s program administrator(s) to determine the qualifications for new construction as allowed by statute and so long as the improvement is reasonably deemed to serve the public purpose.

**Suggestion: Alabama should consider allowing C-PACE to be used for new construction as long as the building design represents energy savings of at least five percent above the state’s existing energy code.**

## Conclusion

Alabama has an opportunity to develop a robust C-PACE program and begin to quickly scale the market to take advantage of this financing mechanism and economic development tool. By establishing a strong yet agile program, ADECA can help commercial property owners improve their efficiency and resiliency while boosting economic development and job creation. C-PACE can be a winning proposition for the state as it works to advance its economic development, resiliency, and energy efficiency goals.

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<sup>23</sup> PACENation, “PACE Market Data,” September 2020, accessed April 4, 2020. <https://pacenation.us/pace-market-data/>.

<sup>24</sup> Colorado C-PACE, “Market Data,” accessed December 13<sup>th</sup>, 2019, <https://copace.com/market-data/>.

<sup>25</sup> CO PACE, “Colorado C-PACE Program Guide,” accessed December 13<sup>th</sup>, 2019, p. 20, [https://copace.com/wp-content/uploads/CO\\_C-PACE\\_Program\\_Guide.pdf](https://copace.com/wp-content/uploads/CO_C-PACE_Program_Guide.pdf).

## Appendices

The appendices below were developed for ADECA prior to this report by NASEO and represent research NASEO conducted on behalf of the state on various aspects of statewide C-PACE programs. As this research was completed before the interviews took place for the larger report, the memos here do not have overviews of every state interviewed for the report.

### Appendix A: Interview Questions for C-PACE Administrators

#### Script for C-PACE interviews with PACE providers – AL SEP Competitive Award

##### *Introduction:*

- This interview is one of a series of interviews we are conducting to gain best practices around the administration of statewide C-PACE programs in several states.
- We are looking to gain a better understanding of the evolution of your C-PACE program and the changes you have made to it in order to better understand where statewide C-PACE programs that are still being set up can benefit from efficiencies found in other programs.

##### *Discussion Questions:*

- What is your agency's role in the state's C-PACE program?
- What is something you wish you had known when you were developing your program?
- If you could change something about your current program, what would it be?
- Tell us a little bit about the evolution of your program over the time it has been operating?
- How much of your state's C-PACE guidance is in the legislation vs administrative rules or non-statutory?
- How have your interactions with local governments changed over your time working with them?
- What have you changed to make it "easier" for local governments to opt-in to C-PACE in your state?
- How has your fee structure evolved to meet your needs?
  - Do you see any potential changes to that structure in the future?
- What changes have your legislators made to your state's enabling legislation? Did those changes help or hinder your mission?
- How are you working resiliency into your program?

- What projects have you completed that have had a resiliency component to them?
  - What challenges have you faced with projects that include resiliency measures?
- What is one final point or best practice you would like to leave us with before we end the call?

# Appendix B: Decision Points Chart

## DECISION POINT 1

**Statewide C-PACE Program:** ADECA should determine whether to establish a statewide program. A statewide program provides standardization and consistency across participating local jurisdictions, making it easier for consumers and capital providers to understand the C-PACE financing process and for contractors and installers to close deals. It makes it easy for local governments to “opt-in” to the program instead of establishing their own programs. However, local governments in Alabama may prefer to establish their own C-PACE programs (or join into multi-jurisdictional local programs) with rules and guidelines that are catered to their specific markets. The challenge here is that local governments may not have the resources, expertise, or capacity to stand up their own programs without state guidance. ADECA should consider engaging local governments to determine local-level interest in a statewide program.

## DECISION POINT 2

**Local Role in C-PACE Program Development:** If ADECA opts to create a statewide C-PACE program, it should also determine whether local governments can make their own programs that operate in potential competition with it, or must opt in to the statewide program in order to offer C-PACE to commercial property owners in their jurisdictions. The first option would give local governments more flexibility, while the latter increases standardization of C-PACE across the entire state. For either option, ADECA can provide resources that support local participation, i.e. a model ordinance or resolution that localities can pass in order to opt in the statewide program. The following section, “State-Local Program Considerations,” offers additional recommendations on the development of a statewide program in partnership with local governments.

## DECISION POINT 3

**Program Administration Structure:** As the program sponsor, ADECA should determine the program administration structure and, if needed, hire a third-party administrator or administrators to take on key program tasks. Factors to consider in determining ADECA’s level of engagement in program administration include its budget and staff availability and expertise, among other agency-specific priorities and considerations. The range of functions needed to deliver an effective PACE program include:

1. *Program oversight* – Ensures program compliance with relevant state and local laws and manages program activities, reporting, and budget;
2. *Design of program guidelines* – Produces and updates the guidance and rules for participation in C-PACE financing by interested customers;
3. *Qualifying projects* – Defines what projects are allowed to be financed using C-PACE assessments;
4. *Processing applications* – Approves projects for C-PACE financing;
5. *Recording the assessment* – Documents the existence of the C-PACE lien on the property in the local government’s public land records;
6. *Contractor training and education* – Informs contractors about C-PACE as a financing option so they can discuss its use with potential customers who may be good fits for C-PACE;
7. *Marketing* – Provides materials and trainings to educate customers on the benefits of C-PACE financing and broaden awareness;
8. *Measuring and verifying project savings* – Ensures that projects are performing for customers as expected; and
9. Other duties as determined by ADECA.

**DECISION POINT 4**

**Program Administration Budget, Fee and Revenue Options:** Different variations of budget and fee structures can enable program administrators to recoup startup and operational costs as they issue C-PACE loans. Within the parameters set by ADECA and the state’s PACE statute, the administrator will need to establish and disclose program fees. More information on potential fee structures is included later in this report.

**DECISION POINT 5**

**Project Capitalization:** C-PACE programs have utilized both the “closed market” approach, where one financier provides capital for the market, or an “open market” approach, where multiple capital providers compete to provide financing for the same market. Both approaches have had success. Closed market approaches allow for easier coordination and oversight, and can set attractive rates if government funds are available. Open market approaches create competition between lenders, allowing building owners to negotiate for favorable rates, and allow for increased capital to fund a broader range of projects. However, these different approaches can impact cost, choice, competition, and customer experience.

**DECISION POINT 6**

**Program Support Options:** Supporting C-PACE programs through credit enhancement or other mechanisms may help to reduce the risk borne by capital providers in C-PACE programs, as well as the interest rate offered to property owners. Such mechanisms are likely to require dedicated funding and oversight, increasing program costs, but can make C-PACE a more attractive option for borrowers, speeding the scalability of the program.

## Appendix C: Memo on C-PACE and New Construction in Other States

### Summary

NASEO developed this memo in response to Alabama’s request to identify trends in the use of Commercial Property Assessed Clean Energy (C-PACE) financing for new construction. Three key themes have emerged from NASEO’s research:

- States have treated the use of C-PACE for new construction in different ways. Four states (AR, DE, MN, VA) explicitly allow C-PACE to be used for new construction in their legislation; ten states (CA, CO, DC, KY, MD, MO, OH, PA, UT, WI) do not explicitly allow or disallow for new construction in their statutes, but have engaged in new construction projects utilizing C-PACE financing or have guidelines that include new construction as an option; two states (NH, TX) prohibit new construction, and neither of these states is considering amending their enabling legislation to allow for new construction at this time.
- Legislators in states with C-PACE-enabling legislation that does not explicitly allow for the financing of new construction can pass amendments so their statute includes the appropriate provisions. Minnesota has recently passed an amendment to their existing C-PACE legislation to allow C-PACE to be used for new construction. The New York state legislature is also considering passing an amendment to allow for new construction. The Illinois General Assembly also passed an amendment allowing C-PACE to be used for new construction.
- In many states, the legislation around new construction for C-PACE does not specify whether it is allowed or disallowed. C-PACE programs operating in these states have generally taken this silence to assume that new construction is allowed, and have moved forward with projects accordingly unless challenged.<sup>26</sup>
- In states that have allowed or are ambiguous towards new construction in their statutes, C-PACE program administrators are determining the specific rules and regulations pertaining to new construction. These administrators have allowed for new construction so long as developments meet specific guidelines – for instance, exceeding energy efficiency levels mandated by the current statewide building code.<sup>27</sup>

This memo focuses on C-PACE policies and programs that include or are in the process of including new construction among the measures eligible for financing. NASEO is able to conduct additional research on this topic if any particular questions arise.

### C-PACE and New Construction: Overview and Trends

Commercial Property Assessed Clean Energy (C-PACE) financing programs were originally designed to assist existing buildings in financing resiliency, energy efficiency, and renewable energy retrofits and upgrades through a special, voluntary assessment placed on their property bill. As programs continue to mature, they have begun to consider new applications for C-PACE, including for new construction.

The use of C-PACE for new construction is similar to the process by which C-PACE is applied to existing buildings, but there are a few key differences that policymakers should be aware of when considering C-PACE as part of the capital stack for new construction:

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<sup>26</sup> Conversation with Colin Bishopp, Executive Director, PACENation, July 10, 2019.

<sup>27</sup> For example, see Utah C-PACE User Guide, Version 2.0, p. 16-18. [https://utahcpace.com/wp-content/uploads/Utah\\_C-PACE\\_User\\_Guide.pdf](https://utahcpace.com/wp-content/uploads/Utah_C-PACE_User_Guide.pdf).

- If a developer chooses to utilize C-PACE for a new construction project, that developer must typically prove to the C-PACE program manager that the proposed building will exceed an established building code in efficiency by a specific percentage, to prove that the building is creating a public benefit for the community. This may also apply to resiliency measures as well.
- C-PACE as part of the mix of capital funding sources for a new construction project can add additional complexity to the funding mix, so developers need to engage with C-PACE lenders as well as other lenders for the project very early on to ensure that the other lenders are more comfortable with lending to a project with C-PACE as part of the capital mix.
- The C-PACE charge, or assessment, to the property for new construction is dictated by how states treat undeveloped properties/land parcels. For example, in New York, every parcel of land is assigned a tax lot identification number whether it is improved or not, so the C-PACE assessment can be added to the property tax value of the land without much issue once new construction is allowed by the legislature. However, this may not be the same in other states, so it may be worth consulting with a tax advisor to determine the impact of the C-PACE assessment on undeveloped property.

According to PACENation, in 2017 new construction accounted for 18 percent of C-PACE lending by dollar volume.<sup>28</sup> As a consequence of the increasing use of C-PACE in new construction, many states and local jurisdictions with active C-PACE programs are working to amend their existing policies and programs to include it, while states without active programs are including new construction in enabling legislation as an option from inception. The following examples illustrate this evolution.

### Colorado

Colorado's statute authorizes the state C-PACE program administrator to promulgate rules and regulations pertaining to the administration of a statewide C-PACE district, which includes new construction.<sup>29</sup> C-PACE is now allowed to finance new construction in Colorado if the following conditions are met (as set by the program administrator):

"The maximum C-PACE finance amount will depend upon whether IECC10 2015 is met or exceeded. A new construction project will be eligible for C-PACE financing at 15 percent of the TECC if the project complies with the requirements of IECC 2015. If the proposed building's energy performance is designed to exceed IECC 2015 by five percent or more then the project will be eligible for C-PACE financing at 20 percent of the TECC (an additional 5 percent). The maximum C-PACE finance amount will not exceed 20 percent of the TECC."

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<sup>28</sup> PACENation, "2017 C-PACE Economic, Energy, and Environmental Impact Report," p. 4. Accessed at <https://pacenation.us/pace-market-data/>.

<sup>29</sup> H.B. 10-1328, "An Act Concerning the "New Energy Jobs Creation Act of 2010."" 2010 Colorado General Session. Retrieved from [http://www.leg.state.co.us/CLICS/CLICS2010A/csl.nsf/fsbillcont3/CFC9C14941AD7A8E872576BF005A7C63?Open&file=1328\\_enr.pdf](http://www.leg.state.co.us/CLICS/CLICS2010A/csl.nsf/fsbillcont3/CFC9C14941AD7A8E872576BF005A7C63?Open&file=1328_enr.pdf).

## Connecticut

Although Connecticut’s statute does not explicitly allow for C-PACE to finance new construction,<sup>30</sup> The Connecticut Green Bank (CGB) has developed a pilot program to allow new construction to access C-PACE financing as part of the funding mix if the following conditions are met:

“Developers must demonstrate using whole-building energy modeling that a building's performance will exceed a code-compliant baseline by at least 10%. Meeting that 10 percent target will make a building eligible for C-PACE financing of 10 percent of the total eligible construction cost (TECC). The Connecticut Green Bank will work with an independent Technical Administrator to determine the TECC, and review modeling details and projected energy performance. For each 1 percent improvement beyond the threshold 10 percent, an additional 1 percent of TECC will be eligible for financing (up to a maximum of 20 percent).”<sup>31</sup>

## Illinois

Illinois legislation originally prohibited the use of C-PACE for new construction projects.<sup>32</sup> However, the Illinois Legislature passed an amendment to the legislation to allow C-PACE to be used for new construction.<sup>33</sup>

## Minnesota

Minnesota’s legislation originally did not include the explicit use of C-PACE for new construction, only specifying “energy improvements” as retrofits or renovations. However, in 2019, the legislature passed an amendment to allow for the use of C-PACE in new construction as part of a larger budget bill.<sup>34</sup> According to Jeremy Kalin, one of the legislators who sponsored the bill, ““This small change [to C-PACE] will result in a lot of higher performance buildings and a lot less energy waste baked into buildings.”<sup>35</sup> The state’s C-PACE authorities are now working to incorporate the use of C-PACE into new construction projects in the state.

## New Hampshire

New Hampshire’s enabling legislation specifically prohibits the use of C-PACE for new construction.<sup>36</sup> No activity around allowing C-PACE programs to finance new construction is imminent at this time.

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<sup>30</sup> H.B. 7208, “An Act Concerning the Commercial Property Assessed Clean Energy Program.” Connecticut General Session 2017. Retrieved from <https://www.cga.ct.gov/2017/ACT/pa/2017PA-00201-R00HB-07208-PA.htm>.

<sup>31</sup> <https://www.cpace.com/Developer/What-is-C-PACE-New-Construction>

<sup>32</sup> H.B. 2831, “AN ACT concerning revenue.” 100<sup>th</sup> Illinois General Assembly. Retrieved from <http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=91&GA=100&DocTypeId=HB&DocNum=2831&GAID=14&LegID=&SpecSess=&Session=>.

<sup>33</sup> H.B. 3501, “AN ACT concerning local government,” 101<sup>st</sup> Illinois General Assembly. Retrieved from <http://www.ilga.gov/legislation/fulltext.asp?DocName=10100HB3501enr&GA=101&SessionId=108&DocTypeId=HB&LegID=120116&DocNum=3501&GAID=15&Session=>.

<sup>34</sup> Jossi, Frank. Energy News Network, “Minnesota law opens clean energy financing program to new construction.” Retrieved from <https://energynews.us/2019/06/13/midwest/minnesota-law-opens-clean-energy-financing-program-to-new-construction/>.

<sup>35</sup> *Ibid.*

<sup>36</sup> H.B. 0205, “AN ACT relative to lending practices of energy efficiency and clean energy districts.” 2015 New Hampshire General Session. Retrieved from <http://www.gencourt.state.nh.us/legislation/2015/HB0205.html>.

## New York

As of 2019, New York's enabling authorization for C-PACE specifically prohibits the use of C-PACE financing for new construction projects. However, the state Assembly is considering the passage of a bill to amend the general municipal law to allow for C-PACE financing to be used in new construction projects.<sup>37</sup> The bill would amend the law to allow a maximum of ten percent of the appraised value of the proposed property to be eligible for C-PACE financing. The bill also specifically allows for the incorporation of C-PACE financing for new construction. No specifications to the energy efficiency standard for the building design are included, though the program administrator may specify this in a later iteration of the program guidelines.

## Rhode Island

Rhode Island's statute does not specifically allow for the use of C-PACE financing for new construction. However, the statute allows the Rhode Island Infrastructure Bank (RIIB) to "consult with the office of energy resources to promulgate rules and regulations...Such rules and regulations shall include, but not be limited to, the following:

- (1) The necessary application requirements and procedures for any residential property owner or commercial property owner seeking PACE financing;
- (2) The necessary qualifications and requirements for a proposed PACE project;
- (3) The underwriting criteria to be applied in determining the eligibility of properties and property owners for PACE projects; and
- (4) Requirements that all existing lien holders on a property be given notice prior to a PACE assessment and lien being filed in connection with that property and that all commercial property owners seeking a commercial PACE loan receive consent of the existing mortgage holders on that property prior to being eligible."<sup>38</sup>

RIIB has since clarified the use of C-PACE financing for new construction. A building owner is eligible to use C-PACE financing for new construction if the design of the building exceeds the state's current energy code by over 15 percent. The building owner can then utilize C-PACE financing for up to 20 percent of total eligible construction costs.<sup>39</sup>

## Virginia

In 2009, the Virginia general Assembly passed legislation allowing for the use of C-PACE to finance both existing structures as well as new construction.<sup>40</sup> Since then, several county programs have written regulations specifying how new construction can qualify for C-PACE financing and what percentage of the capital stack C-PACE can comprise. For example, Arlington County's regulations allow for new construction with the following qualifications:

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<sup>37</sup> A08705, 2019-2020 New York Reg. Session, Retrieved from [https://www.nyasembly.gov/leg/?default\\_fld=&leg\\_video=&bn=A07805&term=2019&Summary=Y&Actions=Y&Committee%26nbspVotes=Y&Floor%26nbspVotes=Y&Memo=Y&Text=Y](https://www.nyasembly.gov/leg/?default_fld=&leg_video=&bn=A07805&term=2019&Summary=Y&Actions=Y&Committee%26nbspVotes=Y&Floor%26nbspVotes=Y&Memo=Y&Text=Y).

<sup>38</sup> [RI Gen L § 39-26.5-11 \(2014\)](#)

<sup>39</sup> Rhode Island Infrastructure Bank, "What is C-PACE for New Construction?" Accessed June 21, 2019. Retrieved from <https://ri-pace.com/faq/c-pace-new-construction/>.

<sup>40</sup> S.B. 1212, "An Act to amend the Code of Virginia by adding a section numbered 15.2-958.3, relating to clean energy financing programs." Virginia General Session 2009. Retrieved from <http://leg1.state.va.us/cgi-bin/legp504.exe?091+ful+CHAP0773>.

“Applicants are [required] to confirm that the building will be designed to exceed the current energy code, i.e., IECC 2012/ASHRAE 90.1-2010 (as of June 2017), using modeling such as EnergyPlus™.

The C-PACE finance amount will depend upon whether IECC 2012/ASHRAE 90.1-2010 is exceeded by at least 15 percent. A new construction project will be eligible for C-PACE financing: (1) at 15 to 19 percent of the TECC if the code is exceeded by 15 to 19 percent (exceed the code by 15 percent to qualify for 15 percent of the TECC, 16 percent to qualify for 16 percent, etc. up to 19 percent). (2) at 20 percent of the TECC if the code is exceeded by 20 percent or more. The maximum C-PACE finance amount will not exceed 20 percent of the TECC.”<sup>41</sup>

This is similar to Colorado’s program guidelines as they were written by the same program administrator, SRS.

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<sup>41</sup> Arlington, Virginia, “C-PACE User Guide, Version 1.0,” April 25, 2018. Accessed June 21, 2019. Retrieved from [https://arlington-pace.us/wp-content/uploads/ArlingtonVA\\_C-PACE\\_User\\_Guide.pdf](https://arlington-pace.us/wp-content/uploads/ArlingtonVA_C-PACE_User_Guide.pdf).

# Appendix D: Memo on C-PACE Program Fee Structures

## Summary

NASEO developed this summary in response to the Alabama Department of Economic and Community Affairs Energy Division’s request to identify ways that states with active statewide C-PACE programs have developed fee structures and standards to ensure that those programs are fiscally sustainable. The following tables provide information on the lending terms, fee structures, and underwriting standards for seven statewide C-PACE administrators.

Key findings include:

- There is no key trend on underwriting standards. Several administrators choose to let the capital providers set the underwriting standards for each transaction they complete, while others provide prescriptive standards that capital providers must meet. Still others provide guidance but stop short of making prescriptive requirements.
- Most administrators have administrative fees based on a percentage of the project amount being financed through C-PACE as well as annual servicing fees designed to cover project incidentals. Generally, administrators try to keep their fee structures simple and understandable to ensure that program revenues are more predictable.
- Lending terms can be specified in statute, by the program administrator, or left up to the capital lenders themselves. The District of Columbia’s program is an exception, pegging interest rates to the 10-year U.S. Treasury Note.

Please reach out if there are any other questions, or if you would like additional follow up on a specific state.

Colorado PACE: Structure of Lending Terms and Fees/Compensation	
<i>PACE Lending Terms</i>	“The maximum finance term is based on the weighted average effective useful life of the approved energy and water improvements as determined by the program after a review of the energy audit/feasibility study, not to exceed 25 years. The applicable interest rate and fees are set by the capital provider.”
<i>Fee Structure</i>	“The [C-PACE] District’s program administration fee is 2.5 percent of the project finance amount (not to exceed \$50,000 per project).”
<i>Underwriting Standards</i>	<p>“The [C-PACE] District does not establish the underwriting requirements for C-PACE financing. Rather, each approved capital provider uses its own underwriting criteria. Nevertheless, experience has shown the following to be typical of the underwriting standards used nationwide by PACE capital providers:</p> <ul style="list-style-type: none"> <li>• Total property-related debt (including mortgage debt, the C-PACE financing, and any other obligations secured by the property) is not to exceed 80 percent of the property’s value. This value may be established either (a) as the assessed value of the property, or (b) its appraised value,</li> </ul>

	<p>as supported by a recent appraisal. In either case, the property’s value may include the enhanced value of the property resulting from the installation of the energy improvements being financed with the C-PACE assessment.</p> <ul style="list-style-type: none"> <li>• The property owner has been current on its property tax and assessment payments with respect to the property for at least three years.</li> <li>• The property owner must not have any involuntary liens, defaults, or judgments applicable to the subject property. A property owner may be able to participate if he or she can demonstrate that there is an acceptable reason for the lien, default, or judgment and provide supporting documentation.</li> <li>• The property owner(s) or their affiliated companies have not been a debtor in a bankruptcy proceeding during the past seven years and the property proposed to be subject to the contractual assessment must not currently be an asset in a bankruptcy proceeding.</li> <li>• The cash flow generated by the property during the past 12 months exceeds 1.25 times the sum of the amount of the annual assessment plus any interest expense associated with any mortgage debt for the past 12 months.”</li> </ul>
<i>Program Guidelines</i>	<a href="https://copace.com/wp-content/uploads/CO_C-PACE_Program_Guide.pdf">https://copace.com/wp-content/uploads/CO_C-PACE_Program_Guide.pdf</a>

<h2 style="text-align: center;">Connecticut C-PACE: Structure of Lending Terms and Fees/Compensation</h2>	
<i>PACE Lending Terms</i>	<p>“If applicable, interest rates for the Capital Provider’s Funding will be determined by the Capital Provider. Term of the Benefit Assessment will not exceed 25 years, or the weighted average useful life of any Approved Project, whichever is less.  <b>Closing Fees:</b> The Capital Provider is able to charge closing fees at their discretion to the Property Owner.  <b>Prepayment:</b> Capital Provider may charge a prepayment penalty at its discretion.”</p>
<i>Fee Structure</i>	<p>“Program Administrator’s costs under this Term Sheet shall be as follows:</p> <ul style="list-style-type: none"> <li>• \$200 per Closed Project for the filing and servicing of Benefit Assessment to be paid by Capital Provider pursuant to the mutual execution of the Administration Agreement.</li> <li>• \$25/month for billing and collection of the Benefit Assessment over the Benefit Assessment term to be paid by Capital Provider from the Benefit Assessment proceeds, as described in the Administration Agreement.</li> <li>• For evaluation of the [Savings-to-Investment ratio] (SIR) Requirement, to be paid by Capital Provider or Property Owner upon submission of energy audit/feasibility study and supporting documentation: <ul style="list-style-type: none"> <li>○ If utilizing Technical Administrator, the lesser of 1.25 [percent] of the C-PACE Finance Amount (less Capital Provider’s fees) or \$8,150, but no less than \$3,000.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ If utilizing a Technical Reviewer or [Investor Confidence Project] (ICP) Certification, then no fee is due to Program Administrator. Capital Provider should contract directly with the Technical Review, or ICP Quality Assurance Provider, for any SIR review service.</li> <li>○ If the project includes a third-party owned renewable energy system, the fee for such review will be negotiated with the Program Administrator. Program Administrator’s costs described in this section are not exclusive and Program Administrator reserves the right to charge Capital Provider for additional costs and expenses associated with the administration of the CPACE Program pursuant to the Act and the Program Guidelines.”</li> </ul>
<i>Underwriting Standards</i>	See <a href="https://www.cpace.com/Portals/0/Program%20Guidelines/APPENDIX%20D%20-Technical%20Standards_10_29_18.pdf">https://www.cpace.com/Portals/0/Program%20Guidelines/APPENDIX%20D%20-Technical%20Standards_10_29_18.pdf</a> for a full list of underwriting standards.
<i>Program Guidelines</i>	<a href="https://www.cpace.com/Portals/0/Program%20Guidelines/APPENDIX%20F%20-%20Form%20of%20THIRD-PARTY%20CAPITAL%20PROVIDER%20TERM%20SHEET_10_29_18.pdf">https://www.cpace.com/Portals/0/Program%20Guidelines/APPENDIX%20F%20-%20Form%20of%20THIRD-PARTY%20CAPITAL%20PROVIDER%20TERM%20SHEET_10_29_18.pdf</a>

<h2 style="margin: 0;">DC PACE:</h2> <h3 style="margin: 0;">Structure of Lending Terms and Fees/Compensation</h3>	
<i>PACE Lending Terms</i>	"Each Energy Efficiency Loan funded from grant proceeds shall bear interest at a rate equal to the interest rate on 10-Year United States Treasury Notes on the date of the execution of the loan, or other, agreement evidencing an Energy Efficiency Loan of the 1st series of Energy Efficiency Loans to be issued, plus 250 basis points." (From DC Law 18-183)
<i>Fee Structure</i>	<b>Application Fee:</b> \$250 <b>Program Administration:</b> 1.25 percent (minimum \$2,500) <b>Loan Sourcing and Project Development Fee:</b> .75 percent <b>Recording Fee:</b> \$31.50 <b>PACE Servicing Fee (Administrator):</b> .15 percent of original principal <b>PACE Servicing Fee (District):</b> .05 percent of original principal <b>Payment Processing Fee:</b> \$250 annually

<p><i>Underwriting Standards</i></p>	<p>“Prior to approval of the project, the property owner must demonstrate that the proposed project meets the following underwriting guidelines:</p> <ul style="list-style-type: none"> <li>• <b>Loan-to-Value:</b> The ratio of total debt (PACE plus existing mortgages or other debt on the property) to the value of the property, as demonstrated by a recent appraisal, market study, or the tax assessed value of the property, shall not exceed 80%. Exceptions to this guideline may be made with the approval of the PACE Capital Provider and the Administrator, subject to review and approval by [District Office of Energy and Environment] (DOEE).</li> <li>• <b>PACE-to-Value:</b> The ratio of the PACE Assessment to the value of the property, as demonstrated by a recent appraisal, market study, or the tax assessed value of the property, shall not exceed 20%. If there is no existing debt on the property, the value of the PACE Assessment may be up to 35% of the property value. Exceptions to this guideline may be made with the approval of the PACE Capital Provider and the Administrator, subject to review and approval by DOEE.</li> <li>• <b>Debt Service Coverage Ratio:</b> The property financials and post-rehab operation pro forma must demonstrate sufficient cash flows to pay the semi-annual PACE payments as determined by the PACE Capital Provider.</li> <li>• <b>Lender Consent:</b> Any existing mortgage lenders must have provided consent to the property owner’s participation in the program, as evidenced by their signature to the DC PACE Lender Consent Form.</li> <li>• <b>Term of Financing:</b> The term of the financing shall not exceed the weighted average useful life of the installed equipment.”</li> </ul>
<p><i>Program Guidelines</i></p>	<p><a href="https://dcpac.com/wp-content/uploads/2019/04/DC-PACE-Program-Guidelines-2019-v2.3-FINAL.docx.pdf">https://dcpac.com/wp-content/uploads/2019/04/DC-PACE-Program-Guidelines-2019-v2.3-FINAL.docx.pdf</a></p>

<h2 style="text-align: center;">MD-PACE: Structure of Lending Terms and Fees/Compensation</h2>	
<p><i>PACE Lending Terms</i></p>	<p>Statute allows for the C-PACE districts to set the terms of the interest rate for financing.</p>
<p><i>Fee Structure</i></p>	<p>“PACE Financial Servicing (PFS) charges the following administration and servicing fees:</p> <ul style="list-style-type: none"> <li>• <b>Application Fee:</b> \$150 upfront application fee;</li> <li>• <b>Closing Fee:</b> 1.05% closing fee (calculated as a percentage of the amount financed through PACE);</li> <li>• <b>Servicing Fee:</b> 1.5% of the annual Surcharge payment amount each year, with a minimum of \$300/year and a maximum of \$2,000/year. Additionally, local governments may, pursuant to their enabling ordinance, elect to include actual administrative costs incurred</li> </ul>

	<p>charge into the Surcharge payment amount. If a property owner or capital provider elects to utilize [PACE Financial Servicing's] (PFS') third-party technical reviewer, FSi, additional fees for independent review of project eligibility are:</p> <ul style="list-style-type: none"> <li>○ For new construction projects or projects that must achieve a SIR &gt; 1: \$2,500 per review;</li> <li>○ For projects with more than 1 [energy conservation measure] (ECM) but no SIR requirement: \$1,250 per review; and</li> <li>○ For projects with a single ECM and no SIR requirement: \$750</li> </ul> <p>For single- or multi-measure projects with no SIR requirement an ASHRAE Level 1 equivalent audit may be acceptable. For multi-measure projects or any project with a SIR requirement, an ASHRAE Level 2 equivalent or Investment Grade Audit will be required. For questions about what type of audit is acceptable, third-party review requirements, please contact PFS."</p>
<i>Underwriting Standards</i>	<p>"Capital Providers must provide general underwriting guidelines, credit standards, security requirements and relevant underwriting criteria demonstrating that the capital provider gives due regard to the property owner's ability to repay a loan provided under the program, in a manner substantially similar to that required under §§ 12-127, 12-311, 12-409.1, 12-925, and 12-1029 of the Commercial Law Article."</p>
<i>Program Guidelines</i>	<p><a href="https://www.md-pace.com/wp-content/uploads/2018/08/MD-PACE-Guidelines-June-2018-Updates_FINAL.pdf">https://www.md-pace.com/wp-content/uploads/2018/08/MD-PACE-Guidelines-June-2018-Updates_FINAL.pdf</a></p>

<h2 style="margin: 0;">Energize NY: Structure of Lending Terms and Fees/Compensation</h2>	
<i>PACE Lending Terms</i>	<p>The Energize NY PACE lending terms allow for flexibility in setting terms that make the most sense based on market conditions. Language from the lending template is as follows: "The principal of the Benefit Assessment Lien (inclusive of any financed closing costs or fees) will be [Amount] and xx/100 Dollars (\$[#]), the interest rate will be [Interest Rate] percent ([#]%) per annum and the term will be [Term] ([#]) years, as reflected in the payment schedule attached thereto."</p>
<i>Fee Structure</i>	<ul style="list-style-type: none"> <li>● <b>Administration Fee:</b> 1.5 percent of total benefit assessment up to a maximum of \$75,000</li> <li>● <b>Annual Surcharge:</b> .25 percent (.20 percent for \$10 million or greater) per annum of the Benefit Assessment, computed on the basis of a 360 day year and applied to actual number of days elapsed...;</li> <li>● "Any costs associated with the recording on the land records for the Municipality of the Benefit Assessment Lien, the Assignment of Benefit Assessment Lien, the Confirmation and Amendment of</li> </ul>

	<p>Benefit Assessment Lien and Payment Schedule, and the Release of the Benefit Assessment Lien shall be paid by the Capital Provider;</p> <ul style="list-style-type: none"> <li>Any additional expenses reasonably incurred by the [Energy Improvement Corporation (Energize NY)] (EIC) in connection with its performance of its duties obligations under this Agreement shall be borne by Capital Provider and Capital Provider shall reimburse EIC for any such out-of-pocket costs and expenses incurred by EIC;"</li> </ul>
<i>Underwriting Standards</i>	Please see <a href="#">Open C-PACE Handbook</a> and <a href="#">NYSERDA Commercial PACE Guidance Document</a> for information relating to underwriting standards.
<i>Program Guidelines</i>	<a href="https://energizeny.org/images/comDocs/EIC_Administration_Agreement.pdf">https://energizeny.org/images/comDocs/EIC Administration Agreement.pdf</a>

<h2 style="margin: 0;">RI C-PACE: Structure of Lending Terms and Fees/Compensation</h2>	
<i>PACE Lending Terms</i>	<p>"The term of Rhode Island C-PACE (RI C-PACE) financing will be determined on a project by project basis between the capital provider and the property owner. Such term shall not exceed the weighted average effective useful life of the eligible improvements up to a maximum of 25 years."</p>
<i>Fee Structure</i>	<p>"RI C-PACE is designed to be a self-sustaining program. Program fees charged to program applicants will be sufficient to cover the costs associated with administering the program, while still allowing for attractive overall costs associated with RI C-PACE participation. The RI C-PACE program will assign a program administration and servicing fee to each project at the time of project financing. The fees will be set by the [Rhode Island Infrastructure Bank] (RIIB) Board of Directors and be reviewed, at least, annually. Project financing costs and interest rates will be set by the applicant's capital provider.</p> <ul style="list-style-type: none"> <li><b>Program Administration Fee:</b> 2.5% of the project amount financed, not to exceed \$75,000.</li> <li><b>Servicing Fee:</b> \$300 annual servicing fee."</li> </ul>

<p><i>Underwriting Standards</i></p>	<p>RIBB requires capital providers to use, at minimum, the following factors when determining whether or not to underwrite RI C-PACE projects:</p> <ul style="list-style-type: none"> <li>• Total property-related debt to property value ratio (total property-related debt includes mortgage debt, the RI C-PACE financing and any other obligations secured by the property). The property value may be established either: <ul style="list-style-type: none"> <li>(i) as the assessed value of the property, or;</li> <li>(ii) as its appraised value, as supported by a recent appraisal.</li> </ul> <p>In either case, the property’s value may include the enhanced value of the property resulting from the installation of the improvements being financing with RI C-PACE.</p> </li> <li>• The property owner has been current on its property tax and assessment payments.</li> <li>• The property owner must not have any involuntary liens, defaults, or judgments applicable to the subject property. A property owner may be able to participate if it can be demonstrated that there is an acceptable reason for the lien, default, or judgment and provide supporting documentation.</li> <li>• The property owner(s) or their affiliated companies have not been a debtor in a bankruptcy.</li> <li>• Cash flow generated by the property. RIBB will review each capital provider’s underwriting standards in the RI C-PACE Investor Approval Application.</li> </ul>
<p><i>Program Guidelines</i></p>	<p><a href="https://copace.com/wp-content/uploads/CO_C-PACE_Program_Guide.pdf">https://copace.com/wp-content/uploads/CO_C-PACE_Program_Guide.pdf</a></p>

# Appendix E: Memo on what States Define in Statute Versus Program Guidance

## Summary

NASEO developed this memo in response to a request from the Alabama Department of Economic and Community Affairs (ADECA) to distinguish the elements of statewide C-PACE program design that are typically identified in statute from those that are typically included in program guideline and administration documents. This memo examines the enabling statutes and program guidelines of C-PACE programs in Colorado, Connecticut, and Rhode Island.

Key findings include:

- Statutes are typically prescriptive in establishing the statewide C-PACE administrator and its governance, but provide flexibility when it comes to the details of program design, leaving such decisions to the administrator itself.
- Through program guidelines, administrators typically specify the scope of eligible improvements, the program fee structure, specific considerations relating to new construction, recommendations for audits and other technical aspects of C-PACE, and the processes through which all parties participate. Administrators also specify the documentation required throughout the C-PACE application, with most administrators providing templates and standardized materials to make the process easier for prospective customers.
- Amendments to C-PACE enabling statutes typically make adjustments to the original language in order to give program administrators more flexibility and greater latitude in determining how to develop and implement C-PACE programs in each state.

The remainder of this memo includes excerpts and analysis from statewide C-PACE statutes and programs across the country. If you have additional questions or need clarification, please reach out to Sam Cramer (scramer@naseo.org).

## Colorado

Statute/Amendments	Program Guidelines
<ul style="list-style-type: none"> <li>• <b>Creates New Energy Improvement District. Specifies composition of Board and general powers and duties.</b></li> <li>• <b>Defines eligible projects.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Defines eligible properties.</li> <li>• Details energy saving and audit requirements.</li> <li>• Defines methodology for verifying energy efficiency of new construction projects.</li> <li>• Outlines other administration processes.</li> </ul>

Colorado Senate Bill 13-212 in 2013 amended the state’s original PACE statute and established the foundations for C-PACE development in the state.<sup>42</sup> The statute allowed for commercial buildings to

<sup>42</sup> SB 13-212, “Concerning Increased Options for Financing Available Through the Colorado New Energy Improvement District for the Completion of Energy Improvements , and, in Connection Therewith, Allowing

access financing through a specialized New Energy Improvement District that can cross county boundaries, paving the way for a statewide C-PACE program. The statute also specified:

- The composition of the District’s Board of Directors (which includes a designee from the Colorado Energy Office); and
- The District’s general powers and duties, including the ability to:
  - Establish an application process for eligible property owners;
  - Charge application fees;
  - Require energy audits;
  - Inform participants of different available financing options;
  - Monitor the quality of existing projects; and
  - Develop program and underwriting guidelines.

The statute also defines the types of properties that are eligible to apply for C-PACE financing, as well as eligible efficiency and renewable energy measures that C-PACE can fund, and sets forth conditions on what improvements can be made to eligible properties. An amendment to statute in 2014 allowed C-PACE to finance water conservation measures in addition to efficiency and renewables.<sup>43</sup> All other aspects of the C-PACE program are left to the program administrator, Colorado C-PACE, to specify or clarify as needed. For example, the statute defines qualified efficiency measures as “one or more installations or modifications to eligible real property that are designed to reduce the energy consumption of the property...and any other modification, installation, or remodeling approved as a utility cost-savings measure by the District.”<sup>44</sup> The District, in its program guidelines, further defines the eligible measures as such:

- Insulation in walls, roofs, floors, and foundations and in heating/cooling distribution systems;
- Storm windows and doors, multi-glazed windows and doors, heat-absorbing or heat-reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;
- Automatic energy control systems;
- Heating, ventilating, or air conditioning and distribution system modifications or replacements;
- Caulking and weather-stripping and other air sealing measures;
- Replacement or modification of lighting fixtures and controls to increase the energy efficiency of the system;
- Energy recovery systems;
- Daylighting systems (e.g., skylights, controls, light shelves);

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Commercial Buildings to Access District Financing, Requiring Consent for Subordination of Mortgage Liens, and Facilitating Third-Party Financing,” Colorado 2013 Regular Session, [http://www.leg.state.co.us/clics/clics2013a/csl.nsf/fsbillcont3/DC81393AA33AA4E387257AEE00570B0E?Open&file=212\\_rer.pdf](http://www.leg.state.co.us/clics/clics2013a/csl.nsf/fsbillcont3/DC81393AA33AA4E387257AEE00570B0E?Open&file=212_rer.pdf).

<sup>43</sup> SB 171, “New Energy District Finance Water Conservation,” Colorado 2014 Regular Session, <https://legiscan.com/CO/text/SB171/2014>.

<sup>44</sup> SB 13-212, “Concerning Increased Options for Financing Available Through the Colorado New Energy Improvement District for the Completion of Energy Improvements , and, in Connection Therewith, Allowing Commercial Buildings to Access District Financing, Requiring Consent for Subordination of Mortgage Liens, and Facilitating Third-Party Financing,” Colorado 2013 Regular Session, [http://www.leg.state.co.us/clics/clics2013a/csl.nsf/fsbillcont3/DC81393AA33AA4E387257AEE00570B0E?Open&file=212\\_rer.pdf](http://www.leg.state.co.us/clics/clics2013a/csl.nsf/fsbillcont3/DC81393AA33AA4E387257AEE00570B0E?Open&file=212_rer.pdf).

- Combined heat and power (CHP) and waste-to-power projects;
- Electric vehicle charging equipment added to the building or its associated parking area;
- Ground-source heat pumps;
- Elevator modernization projects;
- Green roofs; and
- Any other modification, installation, or remodeling approved as a utility cost-savings measure by the District, including water conservation fixtures (indoor or outdoor, and for hot or cold water).<sup>45</sup>

Colorado’s program guidelines also provide information on the following areas of its C-PACE program, which are not defined in statute:

- The eligibility process for properties, projects, and other expenses, including the energy savings requirement;
- The C-PACE process flow for existing building retrofits;
- Audit requirements to assess the expected energy and water costs savings of proposed improvements to the property;
- The methodology for certifying that the building efficiency of new construction projects is greater than the 2015 International Energy Conservation Code (IECC) by five percent;
- The payment process and financing structure for each project;
- Other program administration policies and procedures; and
- The building owner, contractor, capital provider, mortgage holder, and local government participation and process guidelines.<sup>46</sup>

### Connecticut

Statute/Amendments	Program Guidelines
<ul style="list-style-type: none"> <li>• Defines approved energy retrofits</li> <li>• Defines qualifying real property, property owners, and sustainable energy programs</li> <li>• Defines program administrator (CGB)</li> </ul>	<ul style="list-style-type: none"> <li>• Defines technical standards for projects</li> <li>• Defines SIR review process</li> <li>• Defines M&amp;V for projects</li> <li>• Defines scope of work for each project</li> <li>• Defines eligibility criteria for capital providers</li> </ul>

Through its PACE-enabling statute, the state of Connecticut generally defers to local governments and the Connecticut Green Bank (CGB) (its statewide administrator) to determine the guidelines of the state’s C-PACE program. The initial statute establishing C-PACE in the state defines which building upgrades qualify as approved energy retrofits, qualifying real property, property owners, and sustainable energy programs.<sup>47</sup> An amendment passed in 2012 gives CGB the authorization to develop program guidelines “governing the terms and conditions under which state financing may be made available to the

<sup>45</sup> Colorado C-PACE, “Program Guide, Version 4.2.” Accessed September 13, 2019, [https://copace.com/wp-content/uploads/CO\\_C-PACE\\_Program\\_Guide.pdf](https://copace.com/wp-content/uploads/CO_C-PACE_Program_Guide.pdf)

<sup>46</sup> *Ibid.*

<sup>47</sup> SB 1243, “An Act Concerning the Establishment of the Department of Energy and Environmental Protection and Planning for Connecticut’s Energy Future,” 2011. <https://www.cga.ct.gov/2011/act/pa/2011PA-00080-R00SB-01243-PA.htm>.

commercial sustainable energy program...<sup>48</sup> Thus, the state allows CGB wide latitude in determining what to define in its program guidance.

Further amendments to statute allow C-PACE to be eligible to finance microgrids, allow third-party capital providers to lend directly to C-PACE customers, and expand the definition of eligible capital providers to include those who provide leases and/or power purchase agreements.<sup>49</sup>

The Program Guidelines for CT C-PACE written by CGB provide information on the following subtopics:

- Technical standards, including:
  - The scope of work for the project;
  - The savings-to-investment (SIR) ratio technical review process (note that CT requires a SIR>1 for qualifying C-PACE projects);
  - Measurement and verification procedures for each C-PACE project;
  - An alternative to the standard SIR review process;
  - Technical review auditing;
- Eligibility criteria for capital providers; and
- A list of other defined terms that appear in the program guidelines.<sup>50</sup>

## Rhode Island

Statute/Amendments	Program Guidelines
<ul style="list-style-type: none"> <li>• Defines the size of eligible distributed generation systems</li> <li>• Defines the rights of C-PACE property owners,</li> <li>• Defines the priority of the C-PACE lien</li> <li>• Defines RIIB’s assistance to municipalities</li> </ul>	<ul style="list-style-type: none"> <li>• Defines eligibility of properties, projects, capital providers, contractors, and consumers</li> <li>• Defines financing standards for each project</li> <li>• Defines process of C-PACE transactions</li> </ul>

Rhode Island’s enabling statute defines key elements for its program administrator, the Rhode Island Infrastructure Bank (RIIB). Most notably, the statute places restrictions on the size of eligible distributed generation systems, allowing for a maximum nameplate capacity of 5 MW.<sup>51</sup> In addition, the statute defines the rights of C-PACE property owners, the priority of the C-PACE lien, and the types of assistance to municipalities that RIIB must provide. The statute also allows RIIB to determine the underwriting criteria, standards, and procedures for the program and promulgate all other rules and regulations

<sup>48</sup> SB 501, “An Act Implementing Certain Provisions Concerning Government Administration,” 2012.

<https://www.cga.ct.gov/2012/TOB/s/pdf/2012SB-00501-R00-SB.pdf>

<sup>49</sup> HB 7208, “An Act Concerning the Property Assessed Clean Energy Program,” 2017.

<https://www.cga.ct.gov/2017/ACT/pa/pdf/2017PA-00201-R00HB-07208-PA.pdf>

<sup>50</sup> Connecticut C-PACE, “Program Guidelines,” October 29, 2018, accessed September 21, 2019.

[https://www.cpace.com/Portals/0/Program%20Guidelines/C-PACE\\_Program\\_Guidelines\\_10\\_29\\_18.pdf](https://www.cpace.com/Portals/0/Program%20Guidelines/C-PACE_Program_Guidelines_10_29_18.pdf).

<sup>51</sup> 6 R.I. Gen. Laws § 39-26.5-2, <http://webserver.rilin.state.ri.us/Statutes/TITLE39/39-26.5/39-26.5-2.HTM>.

outside of what is specified in statute, in consultation with the Rhode Island Office of Energy Resources, the State Energy Office.<sup>52</sup>

RIIB has developed a comprehensive set of program guidelines to govern the use of C-PACE in Rhode Island. The program guidelines provide information on

- The eligibility of properties, projects, capital providers, contractors, and consumers;
- The financing standards for each project, including the financing structure, terms, underwriting standards, interest rates, mortgage consent, rules around property transfer or resale, and program fees; and
- Flowcharts to illustrate the process of C-PACE transactions for customers who are more unfamiliar with the process.

Allowing the guidelines and most aspects of C-PACE to be determined by RIIB ensured that the state would have a central authority that could be flexible in responding to program changes and new technologies that C-PACE financing could leverage in the future.

### **Conclusion**

States that have enacted legislation establishing statewide C-PACE programs have provided a flexible framework to give their program administrators wide latitude to develop and update their programs as needed. When states do end up defining terms in their statutes, they keep their definitions generalized, instead of naming qualifying building improvements or eligible property types. This allows program administrators to make adjustments to eligible upgrades as new technologies become available in the future. Finally, amendments made to statutes over time have expanded the eligibility for project types for C-PACE financing, recognizing the versatility of C-PACE to finance a variety of project applications.

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<sup>52</sup> 6 R.I. Gen. Laws § 39-26.5-11, <http://webserver.rilin.state.ri.us/Statutes/TITLE39/39-26.5/39-26.5-11.HTM>.