

95-648 EFFICIENCY MAINE TRUST

CHAPTER 5: COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY (C-PACE) PROGRAM REGULATIONS

SUMMARY: The purpose of this rule is to establish elements of a commercial property assessed clean energy (C-PACE) Program in Maine. The rule enumerates underwriting standards, quality assurance provisions, and how the program will be administered, whether administered by Efficiency Maine Trust (or its agent) or by a municipality, as provided by the Commercial Property Assessed Clean Energy Act (35-A M.R.S. §§10201, et. seq.).

SECTION 1. SCOPE

This Chapter applies to all C-PACE Loans issued and C-PACE Agreements entered into pursuant to a C-PACE Program established under the Commercial Property Assessed Clean Energy Act (35-A M.R.S. §§10201, et. seq.), whether the C-PACE Program is administered by the Trust or its agent, or by a municipality.

SECTION 2. DEFINITIONS.

For purposes of this Chapter, the following words have meanings as defined in this section.

- 1. Board.** The Efficiency Maine Trust Board established under 35-A M.R.S.A. § 10103 and 5 M.R.S.A. § 12004-G(10-c).
- 2. Commercial PACE (“C-PACE”).** Commercial Property Assessed Clean Energy, abbreviated as “C-PACE”.
- 3. Commercial PACE (“C-PACE”) Agreement.** An agreement that authorizes the creation of a C-PACE Assessment on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement.
- 4. Commercial PACE (“C-PACE”) Assessment.** An assessment made against qualifying property to finance an energy savings improvement.
- 5. Commercial PACE (“C-PACE”) District.** The area within which the City/Town establishes a C-PACE Program hereunder, which is all that area within the City/Town boundaries.
- 6. Commercial PACE (“C-PACE”) Lien.** A lien secured against a qualifying property that is created by a C-PACE Assessment.

- 7. Commercial PACE (“C-PACE”) Loan.** A loan, payable through a C-PACE Assessment and secured by a C-PACE Lien, made to the owner(s) of a Qualifying Property pursuant to a C-PACE Program to fund Energy Savings Improvements.
- 8. Commercial PACE (“C-PACE”) Mortgage.** A mortgage securing a loan made pursuant to a C-PACE Program to fund Energy Savings Improvements on Qualifying Property.
- 9. Commercial PACE (“C-PACE”) Municipality.** A municipality as defined in Title 1 M.R.S. §72(13) that has adopted a C-PACE ordinance for the purpose of participating in a C-PACE Program.
- 10. Commercial PACE (“C-PACE”) Ordinance.** An ordinance adopted by the legislative body of a municipality for the purpose of participating in a C-PACE Program.
- 11. Commercial PACE (“C-PACE”) Program.** A program established under the Commercial Property Assessed Clean Energy Act, administered by the Trust, a third party contracted by the Trust or a municipality, under which commercial property owners may finance Energy Savings Improvements on Qualifying Property.
- 12. Commercial PACE (“C-PACE”) Program Administrator.** The Trust, a third-party contracted by the Trust or a C-PACE Municipality that has elected to administer one or more of the functions of the C-PACE Program.
- 13. Commercial PACE (“C-PACE”) Act.** Title 35-A M.R.S. §10201 *et seq.*
- 14. Director.** The Executive Director of the Trust.
- 15. Energy Savings Improvement.** An improvement or series of improvements to Qualifying Property that relate to the energy production or energy consumption on the property and that meet the standards established by the Trust in Section 5 of this Chapter.
- 16. Program Guidelines.** A document prepared by the Program Administrator to specify operational details by which a C-PACE Program will be administered.
- 17. Property.** The real property that is the subject of the C-PACE application.
- 18. Property Owner.** All of the owners (except any mortgage holder) of any Qualifying Property.
- 19. Qualifying Property.** Real commercial property that has demonstrated conformity with the criteria for a Qualifying Property as defined in Section 8 of this rule.
- 20. Registered Capital Provider.** “Registered Capital Provider” or “Capital Provider” means a lender providing financing for the Energy Savings Improvement(s) through a C-PACE Program and registered with the Trust.

21. Renewable Energy Installation. A fixture, product, system, device or interacting group of devices installed behind the meter at a Qualifying Property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including but not limited to, photovoltaic systems, solar thermal systems, highly efficient wood heating systems, geothermal systems and wind systems that do not on average generate more energy or heat than the average annual load of the property.

22. Technical Reviewer. A qualified entity responsible for reviewing and disclosing projected costs and savings associated with the Energy Savings Improvement(s). The Program Administrator shall publish the minimum qualifications for a Technical Reviewer in the Program Guidelines.

23. Trust. The Efficiency Maine Trust established in 35-A M.R.S. §10103.

SECTION 3. PROGRAM ADMINISTRATION

In implementing and administering a C-PACE Program, Property Owners, Capital Providers, Municipalities, and the Program Administrator shall complete and comply with the following provisions.

1. C-PACE Program Administration.
 - a. The entity that administers a C-PACE Program is referred to in these rules as a Program Administrator.
 - b. A municipality that has adopted a C-PACE ordinance may:
 - (i) Enter into a contract with the Trust to serve as the Program Administrator and to administer the functions of the C-PACE Program for the Municipality, or
 - (ii) Serve as the Program Administrator itself, to administer the functions of a C-PACE Program, including, but not limited to, entering into C-PACE Agreements with commercial property owners in its jurisdiction and collecting C-PACE Assessments.
2. Model documents; educational materials. The Trust shall develop and provide to Municipalities model C-PACE ordinances, model C-PACE agreements, other model forms and documents and educational materials for use by Municipalities, Property Owners and Registered Capital Providers in the implementation of C- PACE Programs.
3. The Trust may:
 - a. enter into a contract with a C-PACE Municipality whereby the Trust will serve as the Program Administrator in the municipality;

- b. collect fees necessary to administer the C-PACE Program; and
 - c. subcontract with one or more 3rd-parties to perform part or all of the duties of a Program Administrator on behalf of the Trust.
4. Notwithstanding any provision of law to the contrary, staff or trustees of the Trust, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a C-PACE Program established under the C-PACE Act and these Rules.
 5. Other than the fulfillment of its obligations specified in a C-PACE agreement, neither the Trust nor a Municipality has any liability to a commercial property owner for or related to Energy Savings Improvements financed under a C-PACE Program.
 6. Administrative Costs
 - a. Responsibility for Administrative Costs. The Program Administrator shall be responsible for the costs of administration of the C-PACE Program. Notwithstanding any provision of law to the contrary, the Program Administrator may use funds from its administrative fund, program funds or fees on C-PACE Assessments to pay reasonable administrative expenses of the Program Administrator or to pay a 3rd party contracted by the Program Administrator for costs incurred to carry out the purposes of this C-PACE Program. Such administrative costs may be included in and paid from the C-PACE Assessments collected on each C-PACE Loan in accordance with a fee schedule agreed to by the Program Administrator and Registered Capital Providers.
 - b. Fee Schedule. A C-PACE Municipality that elects to administer loan origination and servicing functions through its employees or a third-party agent shall be entitled to recover these costs from C-PACE Assessments on the same fee schedule as the Trust. Costs to such Municipalities, however, that exceed the fee schedule established by the Trust shall be the responsibility of the Municipality.

SECTION 4. PROGRAM GUIDELINES

This rule authorizes a C-PACE Program Administrator, and said Program Administrator reserves the right, to prepare, adopt and amend a Program Guidelines document to specify operational details of any C-PACE Program that is administered by the said Program Administrator. Such Program Guidelines document shall be made available to the public from the website of the Program Administrator or its agent. For a C-PACE Program administered by the Trust, the Program Guidelines shall be approved, and may be amended from time to time, by the Director or the Director's designee.

SECTION 5. ENERGY SAVINGS IMPROVEMENTS

1. To be eligible for a C-PACE Loan under this Chapter, an improvement or series of improvements relating to a Qualifying Property's energy production or energy consumption must satisfy the requirements of an "Energy Savings Improvement."
2. The purchase and installation of an Energy Savings Improvement must satisfy all of the following, where applicable:
 - a. Be new and permanently affixed to the Qualifying Property;
 - b. If it involves weatherization, then the insulation materials used must not violate the provisions of 38 M.R.S.A § 1613, which restricts the use of hydrofluorocarbons, and the project must result in increased energy efficiency or substantially reduced energy use;
 - c. If it involves appliances and equipment, then each appliance and piece of equipment must comply with relevant provisions of either the federal Appliance and Equipment Standards established in 10 Code of Federal Regulations Part 429 or, where applicable, the Maine Department of Environmental Protection's Appliance Efficiency Standards established at 06-096 Code of Maine Rules Chapter 180, and the project must result in increased energy efficiency or substantially reduced energy use;
 - d. If it involves a Renewable Energy Installation, then it must meet the elements of that term as defined in Section 2, sub-section 21 of this Chapter;
 - e. If it involves electric vehicle supply equipment or any energy storage system, then the equipment must be certified by the Underwriters Laboratories, Inc., or equivalent safety standard, and comply with all National Electrical Code regulations for safety and operation requirements;
 - f. If it involves space heating equipment that is not a renewable energy installation, then it must produce the lowest carbon emissions of any heating equipment reasonably available to the property owner, provided that:
 - (i) The Program Administrator shall rely on the updated US Environmental Protection Agency's "Emission Factors for Greenhouse Gas Inventories" to compare carbon dioxide emissions per million British thermal units (Btu) of fossil fuels and biomass, which shall be published in a table in the Program Guidelines;
 - (ii) The Program Administrator shall compare the emission factors of fossil fuels, biomass and electrically powered heat pumps assuming the minimum

efficiency standards allowed in the applicable appliance standards and a minimum Heating System Performance Factor of a heat pump system that would be eligible for a rebate from the Trust, and publish the results in a table in the Program Guidelines;

- (iii) For any property that is connected to the electric utility distribution system, electric heat pumps are presumed to be the lowest carbon emission space heating option; and,
 - (iv) Upon a showing of good cause by the Property Owner, the Director may approve the use of the next lowest carbon-emitting heating system that is reasonably available;
- g. If it is for the construction of a new building or facility, then it must be established that the improvements significantly exceed the energy standards of the Maine Uniform Building and Energy Code, adopted pursuant to Title 10, M.R.S.A. § 9722, subsection 6, paragraph B. Pathways to establish that a new construction project meets this standard are described in the Program Guidelines; and
- h. Achieve a Savings-to-Investment Ratio (SIR) that is not less than 1.0, where the process for calculating the SIR is established in the Program Guidelines.

SECTION 6. UNDERWRITING STANDARDS

1. Except as provided for a new construction project or a major renovation, the C-PACE Loan may cover up to 100% of an Energy Savings Improvement's costs, including the costs of any audits, development and application fees directly associated with the improvement, less any rebate or other financial incentive provided by the Trust to the Property Owner.
2. For a new construction project or a major renovation, the costs that may be borrowed through a C-PACE Loan are limited to:
 - a. If the building's primary space heating system will employ high-efficiency heat pumps, either the itemized costs of the heat pump system or a default cost assumption that is proportionate to the heating system's share of the full cost of the building's construction which shall be provided in the Program Guidelines;
 - b. In the case of improvements to the building envelope, the incremental costs of the envelope improvements compared to what it would have cost to meet the minimum energy requirements of the Maine Uniform Building and Energy Code for the building envelope; and,
 - c. For all other Energy Savings Improvements that are incremental to the minimum

energy requirements of the Maine Uniform Building and Energy Code, 100% of costs of Energy Savings Improvements that are itemized and documented sufficiently to distinguish them from other costs of the construction project.

3. The term of the C-PACE Agreement shall not exceed the Estimated Useful Life, of the financed Energy Savings Improvements, the duration of which shall be acceptable to and disclosed by the Technical Reviewer.
4. The estimated cost savings from the Energy Savings Improvements over the useful life of such improvements shall achieve for the Property Owner a savings-to-investment ratio (“SIR”) of not less than 1.0.
5. The Qualifying Property shall have a debt service coverage ratio of not less than 1.0 at the time the C-PACE agreement is entered into.
6. The Qualifying Property shall have a loan-to-value ratio of not more than 1.0 at the time the C-PACE agreement is entered into, calculated by dividing the total amount of debt secured by the Property by the Property value.
7. The Qualifying Property's C-PACE Assessment-to-value ratio shall be no greater than 0.35.
8. The Qualifying Property securing a C-PACE Loan must be owned by the Property Owner.
9. The Qualifying Property shall:
 - a. Be current on real estate taxes, personal property taxes and municipal sewer, sanitary and water district charges;
 - b. Have no outstanding and unsatisfied tax or municipal sewer, sanitary or water district liens; and
 - c. Not be subject to a mortgage or other lien on which there is a recorded notice of default, foreclosure or delinquency that has not been cured.
10. The owner or owners of the Qualifying Property must certify that there are no overdue payments on mortgages secured by the Property.
11. A Registered Capital Provider may require escrows for C-PACE Assessment payments when appropriate.
12. A Registered Capital Provider may apply such other additional underwriting standards as it requires for approval of a C-PACE Loan that will be financed by the Registered Capital Provider, consistent with all applicable laws.

SECTION 7. REGISTERED CAPITAL PROVIDERS

1. Capital Provider Registration. If a Capital Provider wishes to participate in the C-PACE Program, it must submit a Capital Provider Application to the Program Administrator. The Program Administrator will approve Capital Providers that demonstrate to the satisfaction of the Program Administrator that the Capital Provider has the capacity and intention to:
 - a. Capitalize Qualifying Projects;
 - b. Perform the underwriting, origination, and loan servicing requirements of the Program; and
 - c. Comply with the regulations, procedures and Program Guidelines of the Program Administrator's C-PACE Program.

2. Registered Capital Providers may include any:
 - a. federally insured bank;
 - b. savings and loan;
 - c. state or federal credit union;
 - d. registered investment firm authorized to do business in Maine;
 - e. Small Business Administration (SBA) small business investment company;
 - f. authorized commercial lender;
 - g. qualified institutional buyer, as defined in Rule 144A (17 C.F.R. 230.144A) of the federal Securities Act of 1933 (15 U.S.C. § 77a *et seq.*), as amended;
 - h. accredited investor, as defined in § 501(a)(1), (2), (3) and (7) of Regulation D (17 C.F.R. 230. 501(a)(1), (2), (3) and (7)) promulgated under the federal Securities Act of 1933 (15 U.S.C. § 77a *et seq.*), as amended;
 - i. financial institution, as defined in 12 U.S.C § 20, as amended;
 - j. insurance company licensed under the laws of any state;
 - k. trustee, custodian or depository of a trust or a custodial or depository arrangement, as the case may be, which provides that beneficial ownership of interests in such trust or arrangement shall be restricted to persons described in subsections (g), (h), (i), (j) and (l) of this definition; and,
 - l. a special purpose entity with respect to which the beneficial owners of equity interests or equity securities issued by such entity shall be restricted to those persons described in subsections (g), (h), (i), (j), and (k) of this definition.

3. In all cases, a Registered Capital Provider under the C-PACE Program must have the ability to fund and service C-PACE loans, including performing all accounting, reporting, billing and collection required for C-PACE Assessments, whether directly or through the lender's agent.
4. When a Capital Provider is approved by the Program Administrator it is considered a Registered Capital Provider. The Program Administrator will maintain a publicly accessible listing of Registered Capital Providers on a publicly accessible page on the internet. The Program Administrator maintains sole discretion of Capital Provider approval within the program and will have the ability to withdraw approval from a Capital Provider at any time.

SECTION 8. PREPARING AND APPROVING C-PACE LOAN APPLICATIONS

1. Defining Project and Establishing Compliance with C-PACE Program Requirements.
 - a. An applicant for a C-PACE Loan must complete the application process and forms prescribed in the Program Guidelines to demonstrate compliance with the requirements of the C-PACE Program.
 - b. Eligibility for a C-PACE Loan is limited to a Qualifying Project sited at a Qualifying Property.
 - c. To be considered a "Qualifying Property" eligible for C-PACE financing, a property must be physically located in a C-PACE Municipality and demonstrate that it:
 - (i) Does not have a residential mortgage;
 - (ii) Consists of five or more rental units if the property is a commercial building designed for residential use;
 - (iii) Is not owned by a residential customer or small commercial customer as defined in 35-A M.R.S. §3106(1)(C) and (D), respectively; and,
 - (iv) Is not owned by a federal, state or municipal government or public school.
 - d. To be considered a "Qualifying Project" eligible for C-PACE financing, a C-PACE Project must:
 - (i) Comprise at least one Energy Savings Improvement where the type and quality of the improvement satisfies the minimum requirements of section 5; and
 - (ii) Satisfy the underwriting standards in section 6.
2. Registered Capital Provider – The Property Owner shall select a Registered Capital Provider to finance the Qualifying Project. The Registered Capital Provider shall receive and review the information about the project and shall:

- a. Verify that the subject property is a Qualifying Property;
 - b. Verify that the proposed Energy Savings Improvements constitute a Qualifying Project;
 - c. Verify that the Technical Reviewer has provided the SIR certificate and completed the accompanying disclosures as required by the Program Guidelines;
 - d. Ensure that each financial institution that holds a lien, mortgage or security interest in or other collateral encumbrance of the property for which a C-PACE assessment is sought has been provided written notice of the Property Owner's intention to participate in the C-PACE Program, and that each such financial institution has acknowledged to the Property Owner and the Municipality that it has received such notice and has provided written consent that the applicant may participate and enroll the Property in the C-PACE Program, in compliance with 35-A M.R.S. § 10205(4); and
 - e. Record all written consents in the appropriate Registry of Deeds of the county in which the Property is located.
3. Application Completeness and Submittal. A completed C-PACE Program application form shall be submitted, with an application fee, to the Program Administrator. The schedule for the application fee shall be published in the Program Guidelines and shall reasonably reflect the Program Administrator's costs.
4. C-PACE Application Review. The Program Administrator shall review the application to determine:
- a. Whether the application has established that the property and the project meet the eligibility requirements of a Qualifying Property and Qualifying Project;
 - b. That the Technical Reviewer has prepared and executed the SIR certificate and completed the disclosures required by the Program Guidelines;
 - c. That the Capital Provider has certified that all required underwriting standards have been satisfied;
 - d. That the Capital Provider has certified that all required consents from all financial institutions holding a lien, mortgage or security interest in or other collateral encumbrance on the Property have been received; and
 - e. That all C-PACE Program terms and conditions have been satisfied.
5. Application Approval. If the Program Administrator determines that the application has met standards (2)(a) through (e) above, the Trust shall issue a written Notice of Approval.
6. Executing Agreements and Installing Energy Savings Improvements.

- a. After receiving a Notice of Approval by the Program Administrator, the Property Owner and the Registered Capital Provider may close on the financing of the C-PACE Loan. A C-PACE Loan must be secured by a C-PACE Assessment and C-PACE Lien on Qualifying Property. A C-PACE Lien remains on the Property until the amounts due under the terms of the C-PACE Agreement are paid in full. A notice of C-PACE Agreement shall be prepared which must include, at a minimum:
 - (i) The amount of funds disbursed or to be disbursed pursuant to the C-PACE Agreement;
 - (ii) The names and addresses of the current owners of the Qualifying Property subject to the C-PACE Assessment;
 - (iii) A description of the Qualifying Property subject to the C-PACE Assessment, including its tax map and lot number;
 - (iv) The duration of the C-PACE Agreement;
 - (v) The name and address of the entity filing the notice; and
 - (vi) Written verification of mortgage lender consent, if there is a mortgage on the property.
- b. A Notice of C-PACE Agreement must be filed in the appropriate Registry of Deeds by the Registered Capital Provider, the Property Owner, or an agent of either party, along with the executed Mortgage Lender Consent documents. It is the responsibility of the Registered Capital Provider to take the steps necessary to secure the lien against the commercial Property subject to the C-PACE Assessment until the amounts due under the C-PACE Agreement are paid in full.

SECTION 9. PURCHASES, DISBURSEMENTS, AND PROPERTY RIGHTS

1. Purchase of goods and services. A commercial property owner who has entered into a C-PACE Agreement may purchase directly all goods and services for the Energy Savings Improvements described in the C-PACE Agreement, subject to any applicable vendor certification required by the Trust and other requirements of the Trust. Goods and services purchased by a commercial property owner for the Energy Savings Improvements under a C-PACE Agreement are not subject to any public procurement ordinance or statute.
2. A Registered Capital Provider may disburse funds for an approved C-PACE Loan for new construction projects before project completion.

3. Rights. Commercial property owners retain all rights under contract or law against parties other than the Municipality or the Trust with respect to Energy Savings Improvements financed through C-PACE Agreements.

SECTION 10. COLLECTION OF C-PACE ASSESSMENTS, RECORDING OF LIENS

1. Priority of C-PACE Lien. A C-PACE Lien secures payment for any unpaid C- PACE Assessment and, together with all associated interest and penalties for default and associated attorney's fees and collection costs, takes precedence over all other liens or encumbrances except a lien for real property taxes of the Municipality and liens of municipal sewer, sanitary and water districts. From the date of recording, a C-PACE Lien is a priority lien against a property, subject only to liens set out in 35-A M.R.S. §6111-A, 36 M.R.S. §552 and 38 M.R.S. §§1050 and 1208, except that the priority of such a C-PACE Lien over any lien, except a lien for real property taxes of the Municipality or a lien of a municipal sewer, sanitary or water district, that existed prior to the C-PACE Lien is subject to the written consent of such existing lienholder.
2. Collection of C-PACE Assessments. A C-PACE Assessment constitutes a lien on the Qualifying Property until it is paid in full and must be assessed and collected by the Trust, a 3rd-party administrator contracted by the Trust, a municipality or an agent designated by the Trust or a municipality in any manner allowed under the C-PACE Program, consistent with applicable laws. If the Trust or a 3rd-party administrator contracted by the Trust collects C-PACE assessments on behalf of a Municipality, the Trust shall periodically report to the Municipality on the status of the C-PACE assessments in the Municipality and shall notify the Municipality immediately of any delinquent C-PACE Assessments. Upon receiving notification from the Trust of a delinquent C-PACE Assessment, a Municipality shall notify the holder of any mortgage on the property of the delinquent assessment.
3. Collection, default and foreclosure. A C-PACE Assessment for which notice is properly recorded under this section creates a lien on the Qualified Property. The portion of the Assessment that has not yet become due is not eliminated by foreclosure, and the lien may not be accelerated or extinguished until fully repaid.

A C-PACE Assessment and any interest, fees, penalties and attorney's fees incurred in its collection must be collected in the same manner as the real property taxes of the Municipality in which the Qualified Property is located. If a C-PACE Assessment is delinquent or in default and the Property Owner is delinquent in any tax debt due to the Municipality in which the Property is located, collection may occur only by the recording of liens and by foreclosure under 36 M.R.S. §§ 942 and 943. Liens must be recorded and released in the same manner as liens for real property taxes.

If only a C-PACE Assessment is delinquent but the Property Owner is current on payment of all municipal taxes due to the participating Municipality, then a C-PACE lienholder shall accept an assignment of the C-PACE Lien, as provided in the written

agreement between the participating Municipality and the C-PACE Registered Capital Provider. The assignee shall have and possess all the same powers and rights at law as the participating Municipality and its tax collector with regards to the priority of the C-PACE Lien, the accrual of interest and fees and the costs of collection. The assignee shall have the same rights to enforce the C-PACE Lien as any private party or lender holding a lien on real property, including, but not limited to, the right of foreclosure consistent with 14 M.R.S. §§6203-A and 6321 and any other action in contract or lawsuit for the enforcement of the C-PACE Lien. The assignee shall recover costs and reasonable attorney's fees incurred as a result of any foreclosure action or other legal proceeding brought pursuant to this subsection, which may be collected by the assignee at any time after the assignee has made demand for payment.

4. Judicial or nonjudicial sale or foreclosure. In the event of a judicial or nonjudicial sale or foreclosure of a property subject to a C-PACE Lien by a lienholder that is not a C-PACE lienholder, the C-PACE Lien must survive the foreclosure or sale to the extent of any unpaid installment, interest, penalties or fees secured by the lien that were not paid from the proceeds of the sale. All parties with mortgages or liens on that property, including without limitation C-PACE lienholders, must receive on account of such mortgages or liens sale proceeds in accordance with the priority established in the C-PACE Act and by applicable law. A C-PACE Assessment is not eliminated by foreclosure and cannot be accelerated. Only the portion of a C-PACE Assessment that is in arrears at the time of foreclosure takes precedence over other mortgages or liens; the remainder transfers with the property at resale.

Unless otherwise agreed upon by the C-PACE lender, all payments on a C-PACE Assessment that become due after the date of transfer by judicial or nonjudicial sale or foreclosure must continue to be secured by a lien on the property and are the responsibility of the transferee.

SECTION 11. QUALITY ASSURANCE SYSTEM

1. Property Owners seeking financing through a C-PACE Loan must use a Registered Capital Provider as a source of capital for the loan. A Registered Capital Provider must be found by the Program Administrator to meet minimum criteria enumerated in Section 7 of this Chapter.
2. All projects seeking financing through a C-PACE Program must meet the minimum underwriting standards of this rule. These standards require that any Energy Savings Improvement that is the subject of a C-PACE Loan achieve an SIR of not less than 1.0. The assumptions and methods used to calculate the SIR, as well as the findings of the SIR analysis, must be reviewed and disclosed by a Technical Reviewer. The estimated useful life of the improvement(s) shall be indicated among these assumptions. The name, title, employer, and credentials of the Technical Reviewer also shall be recorded and disclosed to the Property Owner and the Registered Capital Provider.
3. Following completion of a C-PACE Project, the Registered Capital Provider or its agent,

or such other party as the Program Administrator may authorize through the Program Guidelines, must confirm that the Energy Savings Improvements funded through the C-PACE Program were installed completely and are operating as intended.

4. The Program Administrator will keep a record of Energy Savings Improvements financed through a C-PACE Program. In cases where such improvements also receive a grant, discount or rebate from a program of the Trust other than the C-PACE Program, the Trust or its agents will inspect a sampling of completed Energy Savings Improvements. The sample size will range between five and 10 percent of the rebated improvements within the relevant Trust program. The inspection will review whether the rebated improvements satisfied all relevant procedures and standards of the Trust program providing the rebate.
5. All quality assurance inspections shall be for the Program Administrator's benefit only. No Property Owner, Municipality, nor any other person, may rely on such inspection and such inspection shall not constitute a warranty of any kind by the Program Administrator or by any Municipality.

SECTION 12. WAIVER

Upon a determination of good cause, the Director or the Director's designee may, subject to statutory limitations, waive any provision of this rule. The waiver must be in writing and must be supported by documentation of the pertinent facts and grounds.

SECTION 13. FISCAL IMPACT NOTE

There is no cost to municipalities or counties for implementing or complying with this rule.

STATUTORY AUTHORITY: 5 M.R.S.A. § 12004-G(10-c); 35-A M.R.S.A. § 10105(5); 35-A M.R.S.A. § 10201, *et seq.*

EFFECTIVE DATE:

This rule was approved as to form and legality by the Attorney General on February 7, 2023. It was filed with the Secretary of State on February 13, 2023 and became effective on February 18, 2023.