

# Efficiency Maine C-PACE Guidelines

DRAFT FOR STAKEHOLDER REVIEW

INITIATIVE OF EFFICIENCY MAINE GREEN BANK

## INTRODUCTION

The purpose of these Program Guidelines is to describe the requirements of Efficiency Maine's C-PACE Program. The Program Guidelines provide information about the:

- Statutory and programmatic eligibility requirements for C-PACE properties and projects in Maine;
- Process for applying for C-PACE project approval;
- Criteria for project review; and,
- Technical standards for C-PACE projects.

In an effort to accelerate the installation of certain energy efficiency and renewable energy improvements at commercial properties in Maine, the State of Maine enacted "An Act to Allow for the Establishment of Commercial Property Assessed Clean Energy Programs," commonly known as "C-PACE." The C-PACE Act (35-A M.R.S. §§10201 *et seq.*) authorizes Efficiency Maine Trust ("Efficiency Maine") to establish a Commercial PACE Program. This document constitutes the Program Guidelines for participation in Efficiency Maine's C-PACE Program and to take advantage of special financing through a C-PACE agreement.

Efficiency Maine's C-PACE Program will allow owners of qualifying commercial properties to access financing to undertake qualifying energy efficiency and clean energy improvements on their buildings. Like other project financing, C-PACE uses borrowed capital to pay for the upfront costs associated with energy efficiency or renewable energy improvements to existing buildings and new construction. Unlike other project financing, the borrowed capital is repaid over time by way of a tax assessment with an associated lien on the subject property.

The security provided by the tax assessment results in several compelling features, including longer term financing and transferability of the repayment obligations to subsequent property owners. In turn, C-PACE strengthens the business case for investment in energy projects that are larger, or have longer paybacks, than what may be possible with traditional financing. Under C-PACE, the cost of Energy Savings Improvements – such as energy efficient heating systems, energy storage systems, electric vehicle supply equipment, photovoltaic systems, solar thermal systems, geothermal systems, high-efficiency wood heating systems, and similar clean energy improvements – can be spread over the expected useful life of the improvements. For some equipment, the useful life is as long as 25 years. Another important feature of C-PACE is that in the event of default on a C-PACE obligation, only the payments in arrears come due; the balance of the C-PACE financing assessment is not automatically accelerated. The C-PACE lien remains on the property until the financed amount is fully repaid. With C-PACE financing secured by a senior lien, lenders tend to view these financing arrangements as safer than typical commercial loans, facilitating access to lower-interest, private sector capital for C-PACE projects.

C-PACE legislation has been in place in other states for several years and C-PACE has shown itself to be an effective tool in attracting private capital into the clean energy and energy efficiency marketplace. C-PACE serves a public purpose through reducing energy costs, stimulating the economy, improving property valuation, reducing greenhouse gas emissions, and creating jobs.

C-PACE offers multiple benefits to a broad range of stakeholders, including but not limited to: building owners, municipalities, mortgage holders, lenders and energy efficiency/renewable energy contractors.

These Program Guidelines may be updated, supplemented, amended or otherwise modified by the Trust from time to time. The version of the Program Guidelines in effect at the time of executing a C-PACE Agreement will be the version that is concurrently posted online at [\[INSERT LINK\]](#).

The C-PACE Program is governed by the terms of the C-PACE Act and the administrative rules adopted by Efficiency Maine (the "Rules") [\[INSERT LINK\]](#). In the event of a direct conflict between the terms of these Program Guidelines or any Exhibit or Appendix and the C-PACE Act or Rules, the provisions of the C-PACE Act and Rules, in that order, shall control. Nothing in these Program Guidelines is intended to be contrary to the C-PACE Act or Rules and all are intended to be read and interpreted harmoniously.

Capitalized terms not otherwise defined in this document have the definitions found in the C-PACE Act.

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## Article I. Program Requirements

- (1) Municipal Participation:** The C-PACE Act requires that municipalities wishing to participate in the C-PACE Program adopt an enabling ordinance (a “C-PACE Ordinance”) in their jurisdiction for the purpose of participating in the C-PACE Program. A municipality must also complete a Municipality Participation Agreement with the Efficiency Maine that establishes Efficiency Maine as the administrator of the C-PACE Program. A Maine municipality that adopts a C-PACE Ordinance and executes a Municipality Participation Agreement with the Efficiency Maine is a “Participating Municipality.” A commercial property must be located in a Participating Municipality in order to be eligible for C-PACE financing.
- (2) Establishing a C-PACE Lien:** A property owner participating in the C-PACE Program will repay the financing of Energy Savings Improvements through an assessment on the property. 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 on the property, except for Municipal Liens. The term Municipal Liens, as used in these Guidelines, means liens of the municipality (for property taxes) or a municipal water, sanitation or sewer district, and have priority over a C-PACE Lien.

As described in more detail in these Guidelines, a C-PACE Lien cannot be established until every financial institution that has an existing lien on the subject property certifies in writing that it has received notice of the proposed C-PACE agreement and that it consents to the precedence of the C-PACE Lien.

A C-PACE Lien remains on the subject property until the amounts due under the terms of the C-PACE Agreement are paid in full. A notice of Commercial PACE Agreement filed in the Registry of Deeds must include, at a minimum:

- a. The amount of funds disbursed or to be disbursed pursuant to the C-PACE Agreement;
- b. The names and addresses of the current owners of the Qualifying Property subject to the Commercial PACE Assessment;
- c. A description of the Qualifying Property subject to the C-PACE Assessment, including its tax map and lot number;
- d. The duration of the C-PACE Agreement;
- e. The name and address of the entity filing the notice;
- f. Written verification of mortgage lender consent, if there is a mortgage on the property.

It is the responsibility of the Capital Provider to ensure that a Notice of Commercial PACE Agreement is compliant with the C-PACE Act and filed in the appropriate Registry of Deeds, along with the executed Mortgage Lender Consent document. It is the responsibility of the 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.

**(3) Property Eligibility:** Only “Qualifying Property” is eligible for C-PACE Financing. “Qualifying Property” means:

- a. real commercial property that:
  - i. Is located in a Participating Municipality;
  - ii. Does not have a residential mortgage;
  - iii. Is not owned by a “residential customer” or “small commercial customer” (i.e., customers do not pay “demand charges” on their electricity bill) as those terms are defined by electric utilities;
  - iv. Is not owned by a federal, state or municipal government or public school;
  - v. consists of 5 or more rental units if the property is designed for residential use; and,
- b. for which the applicant has provided proof of ownership and documentation or attestation, as prescribed by the Trust, that the property:
  - i. Is current on:
    - 1. real estate taxes,
    - 2. personal property taxes, and
    - 3. municipal sewer, sanitary, and water district charges;
  - ii. Has no outstanding and unsatisfied tax or municipal, sewer, sanitary, or water district liens hereinafter referred to as Municipal Liens;
  - iii. Is not subject to a mortgage or other lien on which there is a recorded notice of default, foreclosure, or delinquency that has not been cured; and,
  - iv. Has no overdue payments on mortgages secured by the subject property.

**(4) Project Eligibility:** To be considered a “Qualifying Project” eligible for C-PACE financing, a C-PACE Project must meet the following requirements:

- a. Contain at least one Energy Savings Improvement that is new and permanently affixed to Qualifying Property.
  - i. To qualify, an Energy Savings Improvement must also:
    - 1. result in increased energy efficiency or substantially reduced energy use and achieves an SIR that is not less than 1.0; or
  - ii. Involve a renewable energy installation, an energy storage system, an electric thermal storage system, electric vehicle supply equipment or heating equipment that achieves an SIR that is not less than 1.0. Heating equipment that is not a renewable energy installation must be heating equipment that produces the lowest carbon emissions of any heating equipment reasonably available to the property owner, as determined by Efficiency Maine.

- b. Certify that the estimated cost savings for the property owner from the Energy Savings Improvements over the useful life of such improvements achieves an SIR of not less than 1.0. See Section 8 of Article I, for details about SIR.
- c. Indicate the estimated useful life (EUL) of the Energy Savings Improvement(s). EUL is determined by a Technical Reviewer and is subject to review and approval by the Trust.
- d. The Qualifying Property must have a debt service coverage ratio of not less than 1.0 at the time the Commercial PACE Agreement is entered into, calculated as the net operating income divided by total debt service of the property.
- e. The Qualifying Property must have a loan-to-value ratio of not more than 1.0 at the time the Commercial PACE Agreement is entered into, calculated as the total amount of debt secured by the property including that of the Commercial PACE Agreement divided by the Appraised Value of the property.
- f. The Qualifying Property's Commercial PACE Assessment-to-value ratio must be no greater than 0.35, calculated as the Sum of the proposed C-PACE Assessment divided by the Appraised Value of the property.
- g. For New Construction, a project must meet all the previously stated requirements as well as the requirements in Article I, section 7, below.

**(5) Capital Provider Registration:**

- a. If a Capital Provider wishes to participate in the Program, it must submit a Capital Provider Application to Efficiency Maine [placeholder email or Link]. Efficiency Maine will approve Capital Providers that demonstrate to the satisfaction of Efficiency Maine that the Capital Provider has the capacity and intention to:
  - i. Capitalize Qualifying Projects;
  - ii. Perform the underwriting, origination, and loan servicing requirements of the Program;
  - iii. Manage a Qualifying Project to the point of fulfilling the necessary requirements of a project, and;
  - iv. Comply with the regulations, procedures, and Program Guidelines of Efficiency Maine's C-PACE Program
- b. Registered Capital Providers may include any federally insured bank, savings and loan, state and federal credit union, any registered investment firm authorized to do business in Maine, any SBA small business investment company, or any other authorized commercial lender.
- c. In all cases, a lender 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.
- d. When a Capital Provider is approved by Efficiency Maine it is considered a Registered Capital Provider. The Trust will maintain a publicly accessible listing of Registered C-PACE Capital Providers on Efficiency Maine's website. Efficiency Maine 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.

**(6) Written Notice, Consent and Acknowledgement:** Certain written notices, consent and acknowledgements must be conveyed before a project may be approved for a C-PACE loan. For every financial institution holding a lien, mortgage, security interest or other encumbrance on the property for which a C-PACE Assessment is being sought, the following steps must be completed:

- a. The financial institution must be given written notice of the property owner's intention to participate in the C-PACE program;
- b. The financial institution must provide in writing to the property owner and Participating Municipality:
  - i. Acknowledgement that it has received the notice,
  - ii. Consent for the borrower to participate and enroll the collateral property in the C-PACE Program
  - iii. Acknowledgement that the financial institution understands:
    1. The C-PACE lien on the property will have priority status;
    2. Foreclosure on a C-PACE lien does not eliminate the amount of the assessment that has not yet become due, and that the lien may not be accelerated or extinguished until fully repaid; and,
    3. The financial institution is not required to, but has voluntarily elected to, consent to the property enrolling in the C-PACE program.
- c. The written consent is filed in the Registry of Deeds

*The provisions of this section do not apply to liens that occur subsequent to the establishment of a C-PACE lien.*

**(7) New Construction:** Pursuant to Section 10203(5) of Maine's C-PACE Act, a C-PACE assessment may be used to secure financing for the construction of a new building or facility. Financing secured by a C-PACE assessment for the construction of a new building or facility must be used for Energy Savings Improvements on the property that exceed the energy standards of the Maine Uniform Building and Energy Code. A C-PACE lender may disburse funds for new construction projects before project completion.

In utilizing the C-PACE Program for new construction, the following requirements apply:

- a. The project must meet all Maine C-PACE Project and Property Eligibility Requirements including an SIR Requirement of not less than 1.0;
- b. Qualifying Projects may finance 100% of the Energy Savings Improvements so long as the Assessment does not exceed 35% of the Appraised Value;
- c. The Appraised Value may be the "as built" Appraised Value
- d. A gut rehab or major renovation will be considered new constructions so long as the cost of the project exceeds 50% of the building's current Appraised Value prior to the renovation.

**(8) SIR Requirements:** The SIR (Savings-to-Investment Ratio) is the ratio of the present value savings to the present value costs of an Energy Savings Improvement that will be experienced by the Property Owner and/or the tenants of the effected property. The numerator of the ratio is the present value of net savings in energy and non-fuel operation and maintenance costs attributable to the proposed Energy Savings Improvement. The denominator of the ratio is the present value of the net increase in investment and replacement costs less salvage value attributable to the proposed Energy Savings Improvement.

To be a Qualified Project eligible for a C-PACE Assessment under this Program:

- a. The Energy Savings Improvements, over the useful life of such improvements, must achieve for the Property Owner an estimated SIR of not less than 1.0;
- b. The calculation of the SIR must be reviewed by a Technical Reviewer, who must:
  - i. Sign an SIR Certification indicating that they have reviewed the SIR calculation and find that it provides a reasonable estimation of the present value of the project costs and savings;
  - ii. Indicate whether the SIR calculation being certified was performed in the first instance by the Technical Reviewer or by another party, and in the event it was by another party, indicate the name, title, employer and place of business of that party;
- c. Indicate in writing, or by applying their stamp, the name, title, employer, place of business, and any relevant professional credentials of the Technical Reviewer; and,
- d. Prior to executing a C-PACE Agreement, the calculation of the SIR, together with the SIR Certification, must be provided to the Property Owner and the Capital Provider, in written or electronic form, where the each of following are indicated:
  - i. the assumed values for all energy rates, expressed in dollars per unit of energy consumed or saved;
  - ii. the value of any escalator applied to the energy rates or other costs in the calculation;
  - iii. the estimated useful life of the improvements;
  - iv. the discount rate applied to the calculation;
  - v. for any tax credits, grants or financial incentives, depreciation and related tax benefits, emissions offsets or credits received, or finance savings that were applied to the calculation, an itemization of the individual values applied;
  - vi. for any operations or maintenance costs or savings associated with the Energy Savings Improvements that were applied to the calculation, an itemization of the costs and/or savings applied;
  - vii. a formula showing the calculation of the applicable costs and savings of the proposed project, the resulting numerator and denominator, and the resulting SIR.
- e. In the case of new construction and major renovations subject to the Maine Uniform Building and Energy Code (MUBEC), calculation of the SIR shall consider only the incremental costs and savings that are estimated to result from one or more of the following improvements:

- i. building envelope design and materials that will provide savings compared to the standard practice that would otherwise have been sufficient to meet the building energy code in Maine, where:
    - 1. building envelope improvements include materials used to construct, insulate and air seal the foundations, walls, floors, ceilings, roofs, windows and doors; and,
    - 2. The calculation indicates what standard approach was assumed for the baseline, and the incremental cost and savings of the proposed building envelope design and materials.
  - ii. use of a heat pump system, or a new wood-derived thermal energy or cogeneration project, as the primary source of heating or cooling, where the full costs and savings of the heat pump system or wood-derived system will be compared to the full costs and savings of installing and operating an industry standard practice furnace or boiler system, running on the lowest-cost fossil fuel readily available at the location of the proposed construction; and,
  - iii. use of LED lighting for 100 percent of the facility's lighting needs, where the costs and savings of the LED lighting are compared to the costs of achieving similar lighting levels with industry standard practice application of incandescent lights.
- f. The C-PACE Program does not guarantee energy savings. Calculation of a positive SIR is intended to provide information and context for the Property Owner and the Capital Provider to assist them in making financial decisions, but does not constitute a guarantee of performance, increased energy efficiency, or reduced energy use.

## Article II. Application Process

### (1) Summary of Application Requirements:

- a. Before applying under the C-PACE Program, applicants must ensure that they have a Qualifying Property and a Qualifying Project.
- b. Applicants must establish that the project to be financed meets the requirements of an Energy Savings Improvement.
- c. C-PACE applicants may select any contractor or team of contractors possessing the proper licenses to perform the Project in Maine.
- d. C-PACE applicants may select any Registered Capital Provider for C-PACE financing.
- e. Capital Providers are responsible to ensure that all underwriting requirements contained in the C-PACE Act and the Trust's administrative rules are satisfied before closing any C-PACE financing and entering into a C-PACE Agreement.
- f. Applicants must submit all required elements of a C-PACE application to Efficiency Maine.
- g. Efficiency Maine will review completed application forms. Efficiency Maine will issue a Notice of Approval once it has determined that all applicable C-PACE Program terms and conditions have been satisfied.

- (2) Scope of Work & Technical Review:** Qualifying Property Owners should work with an energy auditor, licensed contractor or engineer with demonstrated experience to define a scope of work for their proposed project. This scope can range from installation of a single Energy Savings Improvement, such as a new high electrified heating system or a renewable energy system, to a whole building energy upgrade involving multiple, interactive Energy Savings Improvements.

The Trust requires that each Qualifying Property Owner use the services of a Technical Reviewer (TR) in reviewing the SIR calculations as required in [Article I, Section 8] of these Program Guidelines. The TR will be responsible for signing an SIR Certification indicating that they have reviewed the SIR calculation and find that it provides a reasonable estimation of the present value of the project costs and savings. The C-PACE Program does not require that the Property Owner or contractor guarantee energy savings or that the Property Owner secure an energy performance contract. An SIR Certification by a TR does not constitute a guarantee of performance, increased energy efficiency, or reduced energy use. Neither the TR nor the Trust are responsible for Project performance or savings.

As an integral part of the application and approval process, the TR must complete and submit an **SIR Certification** Document as well as provide their credentials to be reviewed by the Trust.

- a. For purposes of analyzing baseline energy use and estimated increase in energy efficiency or reduction in energy use, the following standards may be used for reference but are not specifically required:

- i. Baseline Energy Use: ASTM E2797-15, Building Energy Performance Assessment (BEPA) Standard directed at data collection and baseline calculations for the energy assessment;
    - ii. Energy Efficiency and Energy Savings: ASHRAE Level I, Level II and Level III Energy Audit Guidelines;
    - iii. Prevailing building energy efficiency codes and any equipment or systems standards contained in such codes; and/or
    - iv. Such other technical standards as the Trust may establish or approve from time to time.
  - b. Any trades person, vendor, or professional may conduct the TR. In order for the SIR Certification by TR to satisfy the requirements of the C-PACE Program, the TR must provide in writing their name, employer, place of business, and any relevant credentials or qualifications. The TR may be employed by a party involved in the Project.
- (3) Application Documents:** C-PACE Program applicants must submit (or cause its contractors, Capital Provider, and TR to submit) all documents and information in the Application Checklist attached as **Exhibit A**. The Trust reserves the right to request additional or supplemental information as necessary in the review of any proposed Project.
- (4) Application Review Process:** Upon receipt of all required application documents identified in the Application Checklist (Exhibit A), Efficiency Maine will review the materials to determine:
- a. whether the Property Owner has established that it has a Qualifying Property and Qualifying Project;
  - b. that the TR has executed the required SIR Certification;
  - c. that the Capital Provider has certified that all required underwriting standards have been satisfied;
  - d. that all required consents from existing Mortgage Lenders have been received;
  - e. that a Commercial PACE Agreement has been executed by the Property Owner and Capital Provider in a form acceptable to the Trust and the Participating Municipality; and,
  - f. that all applicable C-PACE Program terms and conditions have been satisfied. If all C-PACE Act and C-PACE Program requirements are satisfied, the Trust will issue a Notice of Approval.
- (5) C-PACE Loan Closing:** Upon receipt of a Notice of Approval by the Trust, the Property Owner and the Capital Provider will close financing if they have not already. The Participating Municipality will execute the Notice of Commercial PACE Agreement and Capital Provider will be responsible to record the executed Notice of Commercial PACE Agreement in the applicable Registry of Deeds in order to perfect the C-PACE Lien. The Capital Provider must also record the executed Mortgage Lender Consent in the applicable Registry of Deeds.

The executed Commercial PACE Agreement will include the payment schedule for the C-PACE Assessment. Any changes to the payment schedule must be provided by the Capital Provider to the

Participating Municipality. The tax collector for the Participating Municipality will place the C-PACE Assessment on the Property tax records and collection will commence based upon the agreed schedule.

- (6) Post-Installation Review and Verification:** Following completion of the Project, the Capital Provider must confirm that the Energy Savings Improvements funded through the C-PACE Program were installed completely and are operating as intended. Capital Providers may impose additional commissioning and verification requirements on Property Owners as a condition of C-PACE financing.

Efficiency Maine reserves the right to request additional information from the Property Owner and to conduct additional evaluation, measurement and verification of all Projects as it may deem beneficial for the operation and integrity of the Program. By participating in the C-PACE Program, the Property Owner grants authorization to Efficiency Maine, upon its reasonable advance request, to access facilities and records to collect data as may be needed to measure and verify electricity savings and fuel reductions (this may include but is not limited to utility bills, metering data, facility equipment surveys, information on operational practices, and site occupancy levels).

### Article III. EXHIBIT A - APPLICATION CHECKLIST

C-PACE Program applicants, and their selected contractors and Capital Providers, must submit the following documents and information as part of the C-PACE Program application process. (Note: The Capital Provider may have additional requirements for underwriting and loan approval).

- Box 1: **Application Form** - Completed Application Form Signed by the applicant
- Box 2: **Capital Provider Certification** – A copy of the Capital Provider Certification signed by the Trust
- Box 3: **SIR Certification** – A fully executed SIR Certification document completed and signed by the Technical Reviewer
- Box 4: **Proof of Technical Reviewer Credentials** – Applicants must provide a copy of the Technical Reviewers Credentials as part of the application.
- Box 5: **Mortgage Lender Consent** – If applicable, include a Mortgage Lender Notice and Consent form signed by each financial institution holding a lien, mortgage or security interest in or other collateral encumbrance on the Property on which the Project is located. The Mortgage Lender Consent shall be materially consistent with the form of **Appendix \_\_\_**, and such consent must be for not less than the C-PACE financing amount of the Project for which the Property Owner is seeking approval.
- Box 6: **Commercial Pace Agreement** – Applicants must provide a copy of the Commercial PACE Agreement signed by the Property Owner, Capital Provider and Participating Municipality.
- Box 7: **Title Report** – Applicants must provide a recent (within thirty days) title report of the real property where the C-PACE Energy Savings Improvement(s) will be located identifying all owners of the property and all mortgages, liens and other encumbrances of record.
- Box 8: **Tax Assessor Property Card** – Current tax assessor property card showing tax map and lot number and describing the property on which the Qualifying Project is located and any additional documentation reasonably required by the Trust to confirm that the project is located on a Qualifying Property and that tax payments are current.
- Box 9: Paid Application Fee:** An Applicants Payment Confirmation Number **\_\_\_\_\_**.

## Article IV. OTHER PROGRAM ELEMENTS

- (1) Availability of C-PACE Financing for Previously Complete Qualifying Projects:** A C-PACE loan may be used to finance Energy Savings Improvements at a Qualifying Property provided that the work was completed less than one year prior to the complete submission of all C-PACE application documents necessary for Trust approval of such Qualifying Project.
- (2) Restrictions on Refinancing through the C-PACE Program:** A Qualifying Project that has already closed on a C-PACE financing may restructure, amend, restate or otherwise modify an existing C-PACE financing and assessment by agreement with original C-PACE Lender (or its successors or assigns), so long as any such changes maintain compliance with Program requirements and the Notice of Commercial PACE Agreement on record is updated. A Qualifying Project that has already closed on C-PACE financing may refinance based on the following conditions:
- a. The refinancing is through the original C-PACE lender (or its successors or assigns)
  - b. No new C-PACE Assessment is needed for the same Qualifying Project.

- (3) Billing and Collection:** C-PACE Assessments may be billed and collected by a Participating Municipality or by the Capital Provider if designated by the Participating Municipality to perform these services on its behalf. If the Participating Municipality intends to designate the Capital Provider to perform billing and collection for a C-PACE assessment, this must be expressly stated in the C-Pace Agreement signed by the Property Owner, the Participating Municipality and the Capital Provider). Such designation gives the Capital Provider a contractual right to receive C-PACE Assessment payments in repayment of the C-PACE financing. Efficiency Maine and the Participating Municipality serve only as a Program sponsor to facilitate loan repayment and incur no liability for the loan.
- (4) Delinquency and Default:** A C-PACE Assessment delinquency or default may be handled in two distinct ways:
- a. If a C-PACE Assessment is delinquent or in default and the borrower or property owner is delinquent in any tax debt due to the Participating Municipality in which the property is located, collection may occur only by the recording of liens and by foreclosure under the statutory process provided in Title 36 M.R.S. §942 and §943. Liens will be recorded and released in the same manner as liens for real property taxes.
  - b. If only a C-PACE Assessment is delinquent, but the borrower is current on payment of all municipal taxes due to the Participating Municipality, then the Capital Provider, as C-PACE lienholder, will be provided an assignment of the C-PACE lien, as provided in the written agreement between the Participating Municipality and the Capital Provider. In accordance with the C-PACE Act, the assignee shall have 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, the right of foreclosure consistent with 14 M.R.S. §6203-A and §6321 and any other action in contract for the enforcement of the C-PACE lien. In accordance with the C-PACE Act, the assignee has the right to recover costs and reasonable attorney's fees incurred as a result of any foreclosure action or other legal proceeding brought to enforce the C-PACE lien.
- (5) Transfers & Assignments:** [ Placeholder]
- (6) Foreclosures:** 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 commercial-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

**(7) Limitation of Liability:** Pursuant to the C-PACE Act, notwithstanding any provision of law to the contrary, staff or trustees of Efficiency Maine and municipal officers and municipal officials of Participating Municipalities, including, without limitation, tax assessors and tax collectors, are not personally liable to any other person for claims, of whatever kind or nature, under or related to the C-PACE Program, including, without limitation, claims for or related to uncollected C-PACE assessments.

Other than the fulfillment of its obligations specified in a C-PACE Agreement, neither Efficiency Maine nor a Participating Municipality has any liability to a commercial Property Owner or Capital Provider for or related to energy savings improvements financed under the C-PACE Program or for the repayment of any such financing.

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## Article V. DEFINED TERMS

**“C-PACE”** or **“Commercial PACE”** means commercial property assessed clean energy.

**“Commercial PACE Agreement”** or **“C-PACE Agreement”** means an agreement that authorizes the creation of a Commercial PACE Assessment on Qualifying Property and that is approved in writing by all owners of the Qualifying Property at the time of the agreement.

**“C-PACE Assessment”** means a Commercial PACE Assessment authorized by the C-PACE Act for repayment of the financed amounts for Energy Savings Improvements.

**“C-PACE Lien”** means a means a lien secured against a Qualifying Property that is created by a C-PACE Assessment and the recording of a Notice of C-PACE Agreement in the Registry of Deeds.

**“C-PACE Act”** shall mean 35-A M.R.S §§10201 *et seq.* of the Maine Revised Statutes, as may be amended.

**“Commercial PACE Ordinance”** means an ordinance adopted by the legislative body of a Participating Municipality for the purpose of participating in a C-PACE Program.

**“Commercial PACE Program”** or **“C-PACE Program”** means a program established under the C-PACE Act by the Trust, a 3rd party contracted by the Trust or a Participating Municipality, under which commercial property owners can finance Energy Savings Improvements on Qualifying Property.

**“Energy Savings Improvement”** means an improvement or series of improvements to Qualifying Property that, as determined by the Trust, is new and permanently affixed to Qualifying Property and that:

1. Will result in increased energy efficiency or substantially reduced energy use and achieves an SIR that is not less than 1.0; or
2. Involve a renewable energy installation, an energy storage system, an electric thermal storage system, electric vehicle supply equipment or heating equipment that achieves an SIR that is not

less than 1.0. Heating equipment that is not a renewable energy installation must be heating equipment that produces the lowest carbon emissions of any heating equipment reasonably available to the property owner, as determined by the Efficiency Maine.

**“EUL”** means the weighted average effective useful life of the Energy Savings Improvement(s).

**“Trust”** means the Efficiency Maine Trust, an independent quasi-state agency of the State of Maine.

**“Participating Municipality”** means a Maine municipality that has adopted a Commercial PACE Ordinance authorizing participation in a Commercial PACE Program.

**“Property Owner”** means an owner of a Qualifying Property.

**“Qualifying Property”** means real commercial property that:

- a. Does not have a residential mortgage;
- b. Is not owned by a residential customer or small commercial customer as defined by the transmission and distribution utility for service rates;
- c. Consists of 5 or more rental units if the property is a commercial building designed for residential use;
- d. Is not owned by a federal, state or municipal government or public school; and
- e. Is located in a municipality that participates in a commercial PACE program.

**“Qualifying Project”** shall mean an Energy Savings Improvement project that meets all the requirements set forth in the C-PACE Act and the C-PACE Program eligibility requirements.

**“Renewable Energy Installation”** means 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 peak demand of the property.

**“SIR”** means savings-to-investment ratio.

**“Technical Standards”** means the complete description of energy assessment or audit requirements, technical review methodology and standards, and eligible and ineligible measures for C-PACE financing as may be established, adopted, amended or modified from time to time by the Trust in its sole discretion.

**“Capital Provider”** means an entity, other than the Trust or a Participating Municipality, that enters into one or more C-PACE Agreements for financing a Project under the C-PACE Program and may include any federally insured bank, savings and loan, or state or federal credit union, any registered investment firm authorized to do business in Maine, any SBA small business investment company, or any other authorized commercial lender.

**“Appraised Value”** [means the value of the property, as determined by an appropriately licensed appraiser, assuming the Energy Savings Improvements to the property have been completed.]

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