

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2642

By Delegates Maynor, Riley, Rohrbach, Hornby,
Fehrenbacher, and Barnhart

[Introduced February 20, 2025; referred to the
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,
2 designated §31-15-34; relating to establishing a commercial property assessed capital
3 expenditure financing program for localities and defining terms.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.

§31-15-34. Commercial Property Assessed Capital Expenditure Act.

1 (a) Definitions.

2 (1) "Eligible improvements" means any of the following improvements made to eligible
3 properties:

4 (A) Energy efficiency improvements;

5 (B) Water efficiency and safe drinking water improvements;

6 (C) Renewable energy improvements;

7 (D) Resiliency improvements;

8 (E) Stormwater management improvements; and

9 (F) Environmental remediation improvements.

10 A program administrator may include in its C-PACE loan program guide or other
11 administrative documentation definitions, interpretations, and examples of these categories of
12 eligible improvements.

13 (2) "Eligible properties" means all assessable commercial real estate located within the
14 State, with all buildings located or to be located thereon, whether vacant or occupied, whether
15 improved or unimproved, and regardless of whether such real estate is currently subject to
16 taxation by the locality, other than a residential dwelling with fewer than four dwelling units or a
17 condominium as defined in §36B-1-103 used for residential purposes. Common areas of real
18 estate owned by a cooperative or a property owners' association described in §36B-1-103 that
19 have a separate real property tax identification number are eligible properties. Eligible properties
20 shall be eligible to participate in the C-PACE loan program.

(3) "Program administrator" means a third party that is contracted for professional services to administer a C-PACE loan program.

(4) "Resiliency improvement" means an improvement that increases the capacity of a structure or infrastructure to withstand or recover from natural disasters, the effects of climate change, and attacks and accidents, including, but not limited to:

(A) Flood mitigation or the mitigation of the impacts of flooding;

(B) Inundation adaptation;

(C) Natural or nature-based features;

(D) Enhancement of fire or wind resistance;

(E) Microgrids;

(F) Energy storage; and

(G) Enhancement of the resilience capacity of a natural system, structure, or infrastructure.

(b) The West Virginia Economic Development Authority shall serve as the statewide sponsor for a loan program that meets the requirements of this section. The West Virginia Economic Development Authority shall engage a private program administrator through a competitive selection process to develop the statewide loan program. A locality, in its adoption of its C-PACE ordinance described in subsection (d), shall opt into the statewide C-PACE loan program sponsored by the West Virginia Economic Development Authority.

(c) The loan program to be established by the West Virginia Economic Development Authority may refer to the mode of financing as Commercial Property Assessed Capital Expenditures (C-PACE) financing and shall include but not be limited to the following:

(1) The kinds of eligible improvements that qualify for loans;

(2) Identification of any fee that the West Virginia Economic Development Authority intends to impose on the property owner requesting to participate in the loan program to offset the cost of administering the loan program. The fee may be assessed as a program fee paid by the property owner requesting to participate in the program; and

47 (3) A draft contract specifying the terms and conditions proposed by the West Virginia
48 Economic Development Authority.

49 (d) The West Virginia Economic Development Authority shall offer private lending
50 institutions the opportunity to participate in its C-PACE loan program established pursuant to this
51 section.

52 (e) Any locality may, (i) by ordinance, authorize the use of C-PACE loans for the initial
53 acquisition, installation, and refinancing of eligible improvements located on eligible properties by
54 free and willing property owners of such eligible properties, (ii) by ordinance, identify a local official
55 authorized to enter into contracts on behalf of the locality, and (iii) either by ordinance or its
56 program guide, delegate the billing; collection, including enforcement; and remittance of C-PACE
57 loan payments to a third party.

58 (f) In order to secure any loan authorized pursuant to this section, the locality shall place a
59 voluntary special assessment lien equal in value to the loan against any property where such
60 eligible improvements are being installed. The placement of a voluntary special assessment lien
61 shall not require a new assessment on the value of the real property that is being improved under
62 the loan program.

63 (g) A voluntary special assessment lien imposed on real property under this section:

64 (1) Shall have the same priority status as a property tax lien against real property, except
65 that such voluntary special assessment lien shall have priority over any previously recorded
66 mortgage or deed of trust lien only if (i) a written subordination agreement, in a form and substance
67 acceptable to each prior lienholder in its sole and exclusive discretion, is executed by the holder of
68 each mortgage or deed of trust lien on the property and recorded with the special assessment lien
69 in the land records where the property is located, and (ii) evidence that the property owner is
70 current on payments on loans secured by a mortgage or deed of trust lien on the property and on

71 property tax payments, that the property owner is not insolvent or in bankruptcy proceedings, and
72 that the title of the benefited property is not in dispute is submitted to the locality prior to recording
73 of the special assessment lien;

74 (2) Shall run with the land, and that portion of the assessment under the assessment
75 contract that has not yet become due is not eliminated by foreclosure of a property tax lien;

76 (3) May be enforced by the local government consistent with other fees imposed by local
77 governments, and the local government shall be entitled to recover costs and expenses, including
78 attorney fees, in a suit to collect a delinquent installment of an assessment in the same manner as
79 in a suit to collect other locality imposed fees; and

80 (4) May incur interest and penalties for delinquent installments of the assessment in the
81 same manner as delinquent property taxes.

82 Prior to the enactment of an ordinance by any locality pursuant to this section, a public
83 hearing shall be held at which interested persons may object to or inquire about the proposed loan
84 program or any of its particulars. The public hearing shall be published once a week for two
85 successive weeks, with the first notice appearing no more than 14 days before the hearing, in a
86 newspaper of general circulation in the locality.

NOTE: The purpose of this bill is to establish a commercial property assessed capital expenditures financing program for localities.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.