

CHAPTER 201
(CORRECTED COPY OF CORRECTED COPY)

AN ACT concerning the implementation of renewable energy and energy efficiency systems and water conservation, flood and hurricane resistance projects, energy storage, and microgrids, supplementing Title 34 of the Revised Statutes, and amending P.L.1960, c.183 and P.L.2011, c.187.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.34:1B-374 Findings, declarations.

1. The Legislature finds and declares it to be the public policy of this State that:

a. Investing in water conservation, stormwater management, renewable energy, energy efficiency, and flood and hurricane mitigation improvements to real property is a critical component in conserving natural resources and mitigating the effects of floods and hurricanes;

b. The up-front costs of retrofitting properties with these improvements are often a barrier to investing in such improvements, and the additional cost of meeting and exceeding new code requirements in connection with new construction is a deterrent to the investments;

c. Recent studies have demonstrated that the existing financing options for these projects have not made them sufficiently available to property owners and developers;

d. Property assessed clean energy (“PACE”) financing, in which repayment is made by way of a special assessment on the real property to which the improvement, including new construction upon previously unimproved real property, is made, is an innovative way for property owners to finance or refinance renewable energy, energy and water efficiency, and other eligible improvements which, in turn, saves a significant sum in utility costs or insurance premiums, creates jobs, stimulates local economies, reduces greenhouse gas emissions, and improves the safety and quality of the building stock;

e. To date, PACE programs for commercial properties (“C-PACE”) operate in more than 24 other states and the District of Columbia, and they have facilitated more than \$2 billion in investment in over 2,100 C-PACE projects;

f. C-PACE financing will enable New Jersey municipalities to contribute toward their goals of community sustainability and reducing greenhouse gas emissions and energy consumption, and will provide a valuable service to the citizens of their communities; and

g. C-PACE financing serves a valid public purpose and enactment of P.L.2021, c.201 (C.34:1B-374 et al.) is expressly declared to be in the public interest.

C.34:1B-375 Definitions.

2. As used in sections 1 through 9 of P.L.2021, c.201 (C.34:1B-374 through C.34:1B-382):

“Assignment agreement” means an agreement in which a participating municipality assigns a C-PACE assessment to a capital provider, its designee, successor or assign.

“Authority” means the New Jersey Economic Development Authority.

“Authorized municipality” means a municipality with a population that, as of the launch date, is in the top third of municipalities in the State in terms of population, according to the most recent American Community Survey published by the United States Census Bureau.

“Capital provider” means:

a. an accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 (17 C.F.R.230.501 through 230.508) or Rule 144A (17 C.F.R.230.144A) of the federal “Securities Act of 1933” (15 U.S.C. s.77a et seq.), as amended;

b. the trustee or custodian of a trust or custody arrangement which provides that each beneficial owner of interests shall be an accredited investor or qualified institutional buyer;

c. a public entity;

d. a special purpose securitization vehicle for the sale and transfer of securities, which is restricted to those persons described in subsection a. or b. of this definition; or

e. a commercial lending institution chartered by a state or the federal government, including, without limitation, a savings and loan association, a credit union, or a commercial bank.

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

“C-PACE assessment” means a local improvement assessment, in accordance with chapter 56 of Title 40 of the Revised Statutes, imposed by a participating municipality on a property, with the consent of the owner of the property, and determined based upon either the existing use of a property or the contemplated use of unimproved property upon completion of new construction, as a means of securing financing provided pursuant to section 9 of P.L.2021, c.201 (C.34:1B-382) to finance a C-PACE project at the property, payments in respect of which assessment are collected by the participating municipality and remitted to the entity that provided the financing or its designee.

“C-PACE assessment agreement” means an agreement between a participating municipality and a property owner in which the property owner agrees to the imposition of a C-PACE assessment on the property benefited by a C-PACE project within the municipality, and in which the participating municipality agrees to levy, bill, collect, remit, and, to the extent necessary, enforce the C-PACE assessment.

“C-PACE project” means:

a. the acquisition, construction, installation, modification, or, in the discretion of the authority and in accordance with guidelines adopted by the authority, entry into a capital lease of an energy efficiency improvement or renewable energy system including energy storage, microgrid, water conservation improvement, stormwater management system, electric vehicle charging infrastructure, flood resistant construction improvement, or hurricane resistant construction improvement, in each case affixed to a property, including new construction upon previously unimproved real property, within a participating municipality, provided that, on the basis of supplemental program guidelines to be published by the authority within 90 days following the launch date, a qualified professional attests that such new construction exceeds the minimum standards of the local and State building codes otherwise applicable to the property;

b. at the discretion of, and in accordance with guidelines adopted by, the authority, a microgrid or district heating and cooling system in which a property owner within the municipality participates for the duration of the C-PACE assessment; or

c. at the discretion of, and in accordance with guidelines adopted by, the authority, a power purchase agreement with respect to a renewable energy system affixed to a property.

“Direct financing” means financing for a C-PACE project pursuant to a financing agreement entered into between a capital provider and a property owner.

“Electric vehicle charging infrastructure” means equipment designed to deliver electric energy to a battery electric vehicle or a plug-in hybrid vehicle.

“Energy efficiency improvement” means an improvement to reduce energy consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy, including, but not limited to: air sealing; installation of insulation; installation of energy-efficient electrical, heating, cooling, or ventilation systems; building modifications to increase the use of daylight; energy efficient windows, doors, and glass; installation of energy or water controls or energy recovery systems; and installation of efficient lighting equipment.

“Finance” or “financing” means the investing of capital in accordance with section 9 of P.L.2021, c.201 (C.34:1B-382), including, on the basis of supplemental program guidelines to be

published by the authority within 90 days following the launch date, the refinancing of an investment in an existing C-PACE project.

“Flood resistant construction improvement” means an improvement that mitigates the likelihood of flood damage, including, but not limited to, the installation of break-away walls and building elevation alterations.

“Garden State C-PACE program” means the program established by the authority pursuant to sections 4 and 5 of P.L.2021, c.201 (C.34:1B-377 and C.34:1B-378).

“Garden State program agreement” means an agreement between the authority and a participating municipality defining:

a. the obligations of a municipality to participate in the Garden State C-PACE program, including the requirement that the participating municipality levy, bill, collect, remit, and enforce a C-PACE assessment; and

b. the obligations, if any, that the authority may undertake (1) with respect to the remittance of C-PACE assessments to capital providers if the remittance is authorized by regulations adopted by the Local Finance Board pursuant to section 38 of P.L.2000, c.126 (C.52:27D-20.1) and requested by the participating municipality, and (2) to review and approve the participation of individual capital providers or financings in the Garden State C-PACE program. Neither the execution by the authority of a Garden State program agreement with a municipality nor its exercise of its rights or performance of its duties thereunder shall be considered “authority financial assistance” as that term is defined in section 1 of P.L.1979, c.303 (C.34:1B-5.1).

“Hurricane resistant construction improvement” means an improvement that enables a component of a structure to be in compliance with the standards for a “wind-borne debris region” adopted pursuant to the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.), or into compliance with a successor standard under that code.

“Launch date” means the date upon which the authority has taken all of the actions specified in subsection c. of section 5 of P.L.2021, c.201 (C.34:1B-378), other than any actions that are expressly required by P.L.2021, c.201 (C.34:1B-374 et al.) to be taken within 90 days following the launch date.

“Local C-PACE program” means a program established by an authorized municipality or a county pursuant to section 6 of P.L.2021, c.201 (C.34:1B-379).

“Local C-PACE program ordinance” means an ordinance adopted by an authorized municipality or a county, and approved by the authority pursuant to section 7 of P.L.2021, c.201 (C.34:1B-380), to establish a program within its jurisdiction pursuant to subsection b. of section 5 and subsection a. of section 6 of P.L.2021, c.201 (C.34:1B-378 and C.34:1B-379).

“Microgrid” means a group of interconnected loads and distributed energy resources within clearly defined electrical boundaries that acts as a single controllable entity with respect to the electric distribution system and that connects and disconnects from the electric distribution system to enable it to operate when both connected to, or independent of, the electric distribution system.

“Notice of assessment” means the document filed with the county recording officer in the county in which a property is located, which notifies prospective holders of an interest in the property that a C-PACE assessment lien has been placed on the property.

“Opt-in ordinance” means an ordinance adopted by a municipality by which it authorizes its participation in the Garden State C-PACE program and authorizes the municipality to enter into a Garden State program agreement with the authority.

“Participating municipality” means:

a. a municipality that adopts an opt-in ordinance and executes a Garden State program agreement; or

b. an authorized municipality that adopts an opt-in ordinance, executes a Garden State program agreement, and adopts a local C-PACE program ordinance and local C-PACE program guidelines approved by the authority.

“Private entity” means a corporation, limited liability company, partnership, trust, or any other form of private organization, including but not limited to a “related competitive business segment of a public utility holding company,” or a “related competitive business segment of an electric public utility or gas public utility,” as those terms are defined in section 3 of P.L.1999, c.23 (C.48:3-51), so long as the organization is not subject to the jurisdiction of the Board of Public Utilities.

“Program guidelines” means:

a. any program-related rules or documents, or both, prepared and published by the authority that apply to the Garden State C-PACE program; or

b. any program-related rules or documents, or both, prepared and published by an authorized municipality or a county, and approved by the authority, that apply to local C-PACE programs pursuant to paragraph (3) of subsection b. of section 6 of P.L.2021, c.201 (C.34:1B-379).

“Project costs” means costs associated with a C-PACE project and shall include: direct costs, including but not limited to, equipment, materials, and labor related to the purchasing, constructing, installing, modifying, or acquiring a C-PACE project; indirect costs, including, but not limited to, expenses and fees of engineers, architects, and other professionals, inspection fees and permits, warranties and pre-paid maintenance contracts; program fees; and financing costs of a capital provider, including, but not limited to, origination fees, prepaid interest and payment reserves, closing costs, counsel fees, trustee or custodian fees, recording fees, and other financing charges, except that the authority may implement an alternative definition of “project costs” in its program guidelines in connection with the financing of new construction.

“Property” means industrial, agricultural, or commercial property; residential property containing five or more dwelling units; common areas of condominiums and other planned real estate developments as defined in section 3 of P.L.1977, c.419 (C.45:22A-23); and property owned by a tax-exempt or nonprofit entity, including, but not limited to, schools, hospitals, institutions of higher education, or religious institutions, within a participating municipality upon which a C-PACE assessment is imposed at the request of a property owner in connection with a C-PACE project.

“Property owner” means an owner of a property within a participating municipality who consents to a C-PACE assessment being imposed on the property.

“Renewable energy system” means an improvement by which electrical, mechanical, or thermal energy is produced from a method that uses one or more of the following fuels or energy sources: hydrogen, solar energy, geothermal energy, biomass, or wind energy, together with the other fuels and energy sources that the authority, after consultation with the Board of Public Utilities, may determine pursuant to program guidelines prepared and published pursuant to subsection c. of section 5 of P.L.2021, c.201 (C.34:1B-378).

“Solar renewable energy certificate” means the same as defined in section 3 of P.L.1999, c.23 (C.48:3-51).

“Stormwater management system” means the same as defined in section 3 of P.L.2019, c.42 (C.40A:26B-3).

“Transition renewable energy certificate” means a certificate issued by the Board of Public Utilities or its designee, under the solar energy transition incentive program, which is designed to transition between the solar renewable energy certificate program and a solar successor incentive

program to be developed by the Board of Public Utilities pursuant to P.L.2018, c.17 (C.48:3-87.8 et al.).

“Uniform assessment documents” means a uniform C-PACE assessment agreement, assignment agreement, and notice of assessment, a model lender consent to a C-PACE assessment pursuant to section 5 of P.L.2021, c.201 (C.34:1B-378), and any other uniform or model documents prepared by the authority and used in the Garden State C-PACE program and local C-PACE programs, except that the authority shall not mandate a uniform financing agreement, which shall be supplied by the capital provider for direct financing.

“Water conservation improvement” means an improvement that reduces water consumption, increases the efficiency of water use, or reduces water loss.

C.34:1B-376 Report to Governor, Legislature.

3. a. (1) No later than 18 months after the launch date and annually thereafter, the authority shall prepare and submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, a report describing the implementation and operation of the Garden State C-PACE program, including information relating to any administrative costs, the number of C-PACE projects, the location of C-PACE projects, and the amount of financing issued for C-PACE projects under the Garden State C-PACE program.

(2) No later than 18 months after an authorized municipality or a county establishes a local C-PACE program pursuant to section 6 of P.L.2021, c.201 (C.34:1B-379), and annually thereafter, the municipality or county shall prepare and submit to the Governor, the authority, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature, a report describing the implementation and operation of its local C-PACE program, including information relating to any administrative costs, the number of C-PACE projects, the location of C-PACE projects, and the amount of financing issued for C-PACE projects under its local C-PACE program.

b. (1) No later than five years after the launch date, the authority shall prepare and submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, a report that reviews and assesses implementation of the Garden State C-PACE program. The report shall evaluate the Garden State C-PACE program, including a review of foreclosure rates and any other factors the authority deems appropriate. The report may also identify and recommend legislative changes to P.L.2021, c.201 (C.34:1B-374 et al.). The report shall include an assessment of whether the costs incurred in implementing the Garden State C-PACE Program are an effective means of facilitating the financing of projects.

(2) No later than five years after an authorized municipality or a county establishes a local C-PACE program pursuant to section 6 of P.L.2021, c.201 (C.34:1B-379), the municipality or county shall prepare and submit to the Governor, the authority and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature, a report that reviews and assesses implementation of the local C-PACE program. The report shall evaluate its local C-PACE program, including a review of foreclosure rates and any other factors the authority deems appropriate. The report may also identify and recommend legislative changes to P.L.2021, c.201 (C.34:1B-374 et al.).

c. The authority shall post all reports prepared by the authority pursuant to this section on its Internet website. Each authorized municipality and each county that has established a local C-PACE program shall post all reports prepared by it pursuant to this section on its Internet website.

C.34:1B-377 Garden State C-PACE program.

4. a. The authority shall establish a Garden State C-PACE program to facilitate the financing of C-PACE projects in municipalities that adopt an opt-in ordinance. The Garden State C-PACE program shall consist of the development of uniform assessment documents and program guidelines for the financing of C-PACE projects to be undertaken by property owners as local improvements and the provision by ordinance, subject to the approval of the authority, for a C-PACE assessment to be imposed on properties within the municipality, if the owner of a property requests the C-PACE assessment in order to undertake and finance a C-PACE project. C-PACE projects on an individual property subject to the same C-PACE assessment agreement collectively shall constitute a separate local improvement and shall be assessed separately to the property owner benefitted thereby.

b. The authority may contract with, and set the compensation of, one or more third-party administrators, whether private, public or quasi-public, or for-profit or not-for-profit, to assist the authority in its implementation or administration, or a combination thereof, of the Garden State C-PACE program pursuant to a competitive bidding process. The authority may delegate any duties under the program to one or more third-party administrators, provided that the authority shall not delegate its responsibility for general oversight of the Garden State C-PACE program.

c. The authority may enter into a memorandum of agreement with one or more State government agencies or instrumentalities whereby any of the powers the authority may exercise or responsibilities it must fulfill pursuant to P.L.2021, c.201 (C.34:1B-374 et al.) may be exercised or fulfilled, as the case may be, by such agency or instrumentality, and any fund that may be used for administrative expenses by the authority may be used by such agency or instrumentality in exercising such powers or fulfilling such responsibilities.

d. The authority may establish a loss reserve, issue guarantees, or both, to mitigate the repayment risk assumed by capital providers providing direct financing, in order to improve the availability and financial terms of such financing of C-PACE projects for property owners.

C.34:1B-378 Information published on Internet website.

5. a. Within 270 days after the effective date of P.L.2021, c.201 (C.34:1B-374 et al.), the authority shall establish the Garden State C-PACE program by publishing on its Internet website:

(1) uniform assessment documents;

(2) a model opt-in ordinance;

(3) Garden State C-PACE program guidelines adopted pursuant to subsection c. of this section; and

(4) a description of the process by which a county or an authorized municipality applies to the authority for approval of a local C-PACE program ordinance.

The Garden State C-PACE program shall not be operational and available for the participation of capital providers, municipalities and property owners until the authority has taken all of the actions required by this subsection.

b. The model opt-in ordinance, as well as any local C-PACE program ordinance, shall prescribe a subset of the criteria for qualifying a C-PACE project for a C-PACE assessment, including the following:

(1) financing recipients shall be the legal or beneficial owners of the property or duly authorized by the legal or beneficial owners of the property, there shall be no defaults on any mortgage loans on the subject property, all tax payments, charges, and assessments with respect to the property shall be current, the legal or beneficial owners of the property shall not be subject to any bankruptcy proceeding, and the subject property shall not be the subject of a bankruptcy proceeding;

(2) the principal amount of the C-PACE assessment, when combined with mortgage and other lien obligations on a property shall not exceed 90 percent of the appraised value of the property after including the value created by the C-PACE project;

(3) the maximum duration of a C-PACE assessment, which shall be determined pursuant to the provisions of paragraph (6) of subsection c. of this section, shall not exceed the weighted average useful life of the improvements in the C-PACE project or 30 years, whichever is less;

(4) the amount of the C-PACE assessment for a property shall be a specific amount, and the terms of repayment of direct financing shall be solely determined and negotiated between a property owner and capital provider subject to the maximum duration of an assessment in paragraph (3) of this subsection; and

(5) a property owner seeking a C-PACE assessment shall receive written consent of the existing mortgage holders on the property prior to the closing of the financing.

c. Pursuant to the purposes and objectives outlined in P.L.2021, c.201 (C.34:1B-374 et al.), and with respect to the responsibilities of overseeing and implementing the Garden State C-PACE program, the authority shall develop, in consultation with the Division of Local Government Services in the Department of Community Affairs, program guidelines governing the terms and conditions under which financing may be made available under the Garden State C-PACE program. Any amendments to the Garden State C-PACE program guidelines shall require the approval of the authority's board of directors.

Pursuant to the purposes and objectives outlined in P.L.2021, c.201 (C.34:1B-374 et al.), and with respect to the responsibilities of overseeing and implementing a local C-PACE program, a county or authorized municipality shall develop program guidelines governing the terms and conditions under which financing may be made available under the local C-PACE program. The program guidelines, and any amendments thereto, for a local C-PACE program shall be consistent with the Garden State C-PACE program guidelines and the requirements set forth in P.L.2021, c.201 (C.34:1B-374 et al.) for C-PACE projects and financing, and shall be subject to approval by the authority pursuant to subsection a. of section 7 of P.L.2021, c.201 (C.34:1B-380).

The Garden State C-PACE program guidelines and any local C-PACE program guidelines shall include, but not be limited, to:

(1) a uniform project application, uniform application requirements, including uniform application documents; and the procedures for a property owner to obtain approval of a C-PACE project and a capital provider to finance a C-PACE project;

(2) minimum standards for a C-PACE project to qualify for C-PACE financing;

(3) eligibility criteria for a property owner and property to qualify for a C-PACE assessment;

(4) the underwriting criteria to be applied in determining the eligibility of properties and their owners to participate in the Garden State C-PACE program and local C-PACE programs and the maximum permitted amount of a financing based on a property's value and other characteristics;

(5) a requirement that all existing mortgage lien holders on a property be given notice prior to a C-PACE assessment and lien being filed in connection with that property, and that all property owners receive consent of the existing mortgage holders on the property;

(6) a requirement that the term of a financing be no longer than the forecast life of the improvements, which shall be calculated on a blended average basis taking account of the relative values of the fixed assets included in the C-PACE project, except that the authority may establish alternative criteria for establishing the maximum term of a financing for a C-PACE project that consists of new construction;

(7) within 90 days following the launch date with respect to the Garden State C-PACE program guidelines only, supplemental program guidelines for refinancing projects completed

prior to the submission of a project application for a C-PACE assessment and for the use of the Garden State C-PACE program in connection with the financing of new construction upon previously unimproved real property.

d. Subject to the written consent of existing mortgage holders, the form of which shall be determined by the authority in its uniform assessment documents adopted pursuant to subsection a. of section 5 of P.L.2021, c.201 (C.34:1B-378), the C-PACE assessment shall be a single, continuous first lien on the property on and after the date of recordation of the C-PACE assessment agreement. A property with delinquent taxes, charges, or assessments shall not be eligible for a C-PACE assessment. Upon recordation of the C-PACE assessment agreement in the land records of the county in which the property is located, the lien thereof shall be perfected for all purposes in accordance with law, and the lien shall be a continuous first lien upon the real estate described in the assessment, paramount to all prior or subsequent alienations and descents of the real estate or encumbrances thereon, except subsequent taxes, charges, or assessments, without any additional notice, recording, filing, continuation filing, or action, until payment in full of the C-PACE assessment, notwithstanding any mistake in the name or names of any owner or owners, or any omission to name any owner or owners who are unknown, and notwithstanding any lack of form therein, or in any other proceeding which does not impair the substantial rights of the owner or owners or other person or persons having a lien upon or interest in any the real estate. Any confirmation of the amount of the C-PACE assessment by the applicable municipality's governing body or by a court shall be considered as determining the amount of the existing lien and not as establishing the lien. All C-PACE assessments shall be presumed to have been regularly assessed and confirmed and every assessment or proceeding preliminary thereto shall be presumed to have been regularly made or conducted until the contrary be shown.

e. A C-PACE assessment shall be treated as a municipal lien rather than a contractual lien for all purposes of law.

f. Funds to finance a C-PACE project may be disbursed to, or for the benefit of, the property owner at execution of the C-PACE assessment agreement, or may be disbursed in installments over time. The funds shall not constitute public funds, and shall not be subject to the laws governing public funds, including, but not limited to, laws regarding the receipt, expenditure, deposit, investment, or appropriation of the same. Payments of the C-PACE assessment shall commence as set forth in the C-PACE assessment agreement. To the extent that upon completion of the C-PACE project, funds remain that have not been disbursed to the property owner, those funds on hand shall be used to reduce the amount of the C-PACE assessment in accordance with the C-PACE assessment agreement.

g. Except as provided in this subsection, if any payment of a C-PACE assessment is not made when that payment shall have become due, or later, consistent with any grace period provided or extended by a participating municipality for the payment of property tax bills as may be permitted or required by law, interest thereon shall be imposed at the same rate as may be imposed upon unpaid property taxes in the participating municipality. Notwithstanding any other provision of law, such statutory interest shall be in addition to any accrued interest and any amount fixed as a penalty for delinquency pursuant to the financing agreement between the property owner and the capital provider. All such amounts shall be collected and enforced in the same manner as unpaid property taxes, including by accelerated tax sale if the participating municipality enforces collection of its unpaid property taxes through accelerated tax sales. The proceeds of the sale shall also pay the outstanding past unpaid amounts of the C-PACE assessment. However, the remaining balance not delinquent on a C-PACE assessment shall not be subject to acceleration or extinguishment in the event of a default in payment. Any statutory

interest collected by the municipality on a delinquent C-PACE assessment pursuant to this subsection shall be retained by the municipality. Any accrued interest, or any amount fixed as a penalty for delinquency, pursuant to the financing agreement between the property owner and the capital provider shall be remitted to the capital provider. If the property owner is delinquent on a C-PACE assessment as well as delinquent on taxes, charges, or other assessments, any payment shall be applied towards any and all such other delinquencies before being applied to any delinquent C-PACE assessment. Notwithstanding any other provision of law, in the event that any lien on the property shall be exposed to tax sale, pursuant to the “tax sale law,” R.S.54:5-1 et seq., and is struck off and sold to the participating municipality, the C-PACE assessment shall survive any subsequent action to foreclose the right of redemption and continue as a first lien upon the real estate described in the assessment, paramount to all prior or subsequent alienations and descents of the real estate or encumbrances, except subsequent taxes, charges, or other assessments, and provided that, notwithstanding the obligations of a participating municipality pursuant to section 1 of P.L.1942, c.54 (C.54:5- 53.1), while the participating municipality holds the lien or owns the property, the participating municipality shall not be responsible for or required to make any payment from its treasury or any other source in furtherance of or to satisfy the C-PACE assessment. A municipality shall not bear any other responsibility in furtherance or satisfaction of a C-PACE assessment, except that a municipality may be compelled to enforce a lien through an action to foreclose. In the event of a taking of the property by eminent domain or condemnation, the C-PACE assessment may be accelerated or extinguished, at the election of the capital provider, provided the capital provider is compensated in accordance with the provisions of the “Eminent Domain Act of 1971,” P.L.1971, c.361 (C.20:3-1 et seq.), by the governmental entity utilizing eminent domain or condemnation for the balance due on the unpaid C-PACE assessment and any interest, penalties, or other charges related thereto.

h. (1) C-PACE assessments shall be assigned directly by the participating municipality, and any assignee thereof, as security for financing from a capital provider to finance C-PACE projects. Notwithstanding any law to the contrary, the assignment shall be an absolute assignment of all of the participating municipality’s right, title, and interest in and to the C-PACE assessment, except for its obligations to bill, collect, remit, and enforce C-PACE assessments as set forth in the assignment agreement. The proceeds of a C-PACE assessment shall be considered “special revenues” owned by the capital provider pursuant to chapter 9 of the federal bankruptcy code.

(2) C-PACE assessments assigned as provided hereunder shall not be included in the general funds of the participating municipality, or be subject to any laws regarding the receipt, deposit, investment, or appropriation of public funds, and shall retain such status notwithstanding enforcement of the assessment by the participating municipality or assignee as provided herein. In the case of a participating municipality that is otherwise subject to tax or revenue sharing pursuant to law and which assigns C-PACE assessments as set forth in this section, the C-PACE assessments shall not be considered part of the tax or revenue sharing formula or calculation of municipal revenues for the purpose of determining whether that participating municipality is obligated to make payment to, or receive a credit from, any tax sharing or revenue sharing pool. However, the redemption of any delinquent and unpaid C-PACE assessments, including any interest, penalties, or other charges related thereto, shall be paid no later than on the first available tax bill after the property has been sold after an action to foreclose the right of redemption.

i. The provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), shall not apply to the preparation, publication, or implementation of the uniform

assessment documents or the program guidelines of the Garden State C-PACE program or a local C-PACE program.

C.34:1B-379 Local C-PACE program.

6. a. An authorized municipality that has adopted an opt-in ordinance may also establish a local C-PACE program to facilitate the financing of C-PACE projects in that authorized municipality. A county may also establish a local C-PACE program pursuant to a local C-PACE program ordinance to facilitate the financing of C-PACE projects in participating municipalities located in that county that have adopted an opt-in ordinance. A local C-PACE program ordinance adopted by a county shall establish a program for the benefit of municipalities located within the county, but participating municipalities shall remain responsible for the process of levying, billing, collecting, remitting, and enforcing the C-PACE assessment. In a county or authorized municipality that has established a local C-PACE program pursuant to a local C-PACE program ordinance, any C-PACE projects in that authorized municipality or, in the case of a county, in any participating municipality located in that county that has adopted an opt-in ordinance, may be financed pursuant to the Garden State C-PACE program or the local C-PACE program. In a municipality that has not established, or is located in a county that has not established, a local C-PACE program pursuant to a local C-PACE program ordinance, any C-PACE projects in that municipality may be financed pursuant to the Garden State C-PACE program only.

b. Notwithstanding the provisions of P.L.2011, c.187 (C.40:56-1.4 et al.), or any other law, to the contrary, a county or authorized municipality seeking to establish and implement a local C-PACE program shall adopt a local C-PACE program ordinance consistent with this section and section 5 of P.L.2021, c.201 (C.34:1B-378). An authorized municipality may establish a local C-PACE program through the adoption of a local C-PACE program ordinance if the municipality has entered a Garden State program agreement with the authority, and obtained approval of the ordinance from the authority pursuant to section 7 of P.L.2021, c.201 (C.34:1B-380). A county may establish a local C-PACE program through the adoption of a local C-PACE program ordinance if the county has obtained approval of the ordinance from the authority pursuant to section 7 of P.L.2021, c.201 (C.34:1B-380).

In addition to prescribing criteria for qualifying a C-PACE project for a C-PACE assessment pursuant to subsection b. of section 5 of P.L.2021, c.201 (C.34:1B-378), a local C-PACE program ordinance shall establish the following:

(1) A participating municipality or a county may enter into an agreement with a county improvement authority or it may, pursuant to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) enter into contracts with one or more private parties, to assist the participating municipality or county in its implementation and administration, or a combination thereof, of the local C-PACE program. The municipality or county may delegate to one or more private parties or a county improvement authority such matters as the participating municipality determines, except that it may not delegate its reporting obligations pursuant to section 3 of P.L.2021, c.201 (C.34:1B-376) or its obligation to ensure that its local C-PACE program complies in all respects with P.L.2021, c.201 (C.34:1B-374 et al.) and its local C-PACE program guidelines.

(2) An authorized municipality or a county may, in addition to direct financing, offer financing of C-PACE projects through the issuance of bonds pursuant to section 9 of P.L.2021, c.201 (C.34:1B-382).

(3) A local C-PACE program shall not be operational and available for the participation of capital providers and property owners until the authorized municipality or county, as applicable,

by resolution of the governing body, authorizes local C-PACE program guidelines pursuant to subsection c. of section 5 of P.L.2021, c.201 (C.34:1B-378). The program guidelines for any local C-PACE program shall be consistent with the Garden State C-PACE program guidelines and the requirements set forth in P.L.2021, c.201 (C.34:1B-374 et al.) for C-PACE projects and financing, and shall be subject to approval by the authority pursuant to subsection a. of section 7 of P.L.2021, c.201 (C.34:1B-380). In addition, such program guidelines may include supplemental provisions, provided that they are not inconsistent with the Garden State C-PACE program guidelines and the requirements set forth in P.L.2021, c.201 (C.34:1B-374 et al.).

C.34:1B-380 Application to establish local C-PACE program.

7. a. An authorized municipality or a county seeking to establish a local C-PACE program pursuant to section 6 of P.L.2021, c.201 (C.34:1B-379) shall submit an application to the authority for approval. The application to the authority shall consist of the following:

(1) a proposed local C-PACE program ordinance consistent with subsection b. of section 5 of P.L.2021, c.201 (C.34:1B-378);

(2) acknowledgement that the authorized municipality or, in the case of a local C-PACE program established by a county, any participating municipality located in that county, shall use the uniform assessment documents prepared by the authority; and

(3) the authorized municipality's or county's proposed program guidelines.

b. (1) The authority's review of a county's or authorized municipality's application shall be limited to confirming that it contains the items required by section 5 of P.L.2021, c.201 (C.34:1B-378) and is otherwise in compliance with the provisions of P.L.2021, c.201 (C.34:1B-374 et al.). Within 60 days after receipt of the application, the authority shall either approve or reject the application. If the authority does not act within 60 days after receipt, the application shall be deemed approved.

(2) If the authority approves the application, or the application is deemed approved in accordance with paragraph (1) of this subsection, the county or authorized municipality may adopt the proposed ordinance establishing a local C-PACE program.

(3) If the authority disapproves the application, it shall provide a detailed explanation to the county or authorized municipality as to the reasons for the disapproval and the changes necessary to bring the proposed local C-PACE program ordinance, local C-PACE program guidelines, and other elements of the proposed local C-PACE program into compliance with the requirements of P.L.2021, c.201 (C.34:1B-374 et al.). The county or authorized municipality shall not adopt the proposed local C-PACE program ordinance if the authority disapproves the application, but the county or authorized municipality may submit a revised or new application.

c. The authority may monitor and oversee a county's or authorized municipality's local C-PACE program to the extent it deems necessary to ensure the continuing compliance of the local C-PACE program with the requirements of P.L.2021, c.201 (C.34:1B-374 et al.). The authority's discretionary monitoring and oversight role pursuant to this subsection shall not include the review and approval of C-PACE project applications that are submitted to a local C-PACE program. The authority shall review and approve C-PACE project applications that are submitted to the Garden State C-PACE program, but only an authorized municipality or county that has established a local C-PACE program pursuant to P.L.2021, c.201 (C.34:1B-374 et al.) may review and approve C-PACE project applications that are submitted to a local C-PACE program.

A participating municipality or a county with a local C-PACE program shall incorporate into its local C-PACE program guidelines any revision or amendment made by the authority

to the Garden State C-PACE program guidelines immediately upon the publication of the revision or amendment on the authority's website, unless the authority expressly provides otherwise, based upon a determination that the revision or amendment does not apply to local C-PACE programs. Any such revisions or amendments made by the authority to the Garden State C-PACE program guidelines or incorporated into local C-PACE program guidelines shall not apply retroactively to C-PACE projects that were previously approved pursuant to the Garden State C-PACE program or local C-PACE programs.

In the event that an authorized municipality or county desires to revise or amend its program guidelines in any other manner, such proposed revisions or amendments shall first be submitted to the authority for its review and approval before the revisions or amendments become effective.

C.34:1B-381 Fee charged to county, municipality.

8. a. The authority may charge a county or authorized municipality a fee to review a proposed local C-PACE program ordinance or local C-PACE program guidelines. The fee shall reflect the reasonable and actual cost of the review, provided that the fee shall be a one-time charge not to exceed \$5,000.

b. The authority may charge the property owner a fee for the review of an application for a C-PACE project in the Garden State C-PACE program and for its fulfillment of such obligations, if any, that the authority may undertake to serve as an intermediary in the remittance of C-PACE assessments to capital providers if requested by the participating municipality. The fee shall reflect the reasonable and actual costs of the review or fulfillment of any obligations that the authority may undertake.

c. A participating municipality may charge the property owner an annual fee for the billing, collecting, and remitting of the C-PACE assessment. The fee shall reflect the reasonable and actual cost of the billing, collecting, and remitting of the annual amounts due for the C-PACE assessment.

C.34:1B-382 Financing, assessment on property.

9. a. Financing for the implementation of C-PACE projects, including the refinancing of an investment in an existing improvement that qualifies as a C-PACE project, provided the existing improvement was completed no more than three years prior to the submission of an application to the Garden State C-PACE program or local C-PACE program for the financing, shall be made available to property owners in exchange for a C-PACE assessment on the property. The C-PACE assessment shall be used to repay the financing.

b. The governing body of a county or authorized municipality may apply to a county improvement authority that issues bonds pursuant to paragraph (3) of subsection (j) of section 12 of P.L.1960, c.183 (C.40:37A-55), or, in the case of an authorized municipality, may issue bonds on its own to finance project costs for C-PACE projects pursuant to a local C-PACE program or the Garden State C-PACE program.

(1) Notwithstanding any other law to the contrary, bonds issued by a participating municipality shall be authorized and issued by ordinance of the municipality, may be issued in one or more series on such additional terms, and may be sold at public or private sale, all as set forth in the ordinance.

(2) Bonds issued by a county improvement authority shall be authorized and issued in the manner set forth in the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.).

(3) Bonds issued by a participating municipality or county improvement authority shall be non-recourse obligations of the issuer and shall not be considered to be direct and general obligations of the issuer, or the State of New Jersey or any political subdivision thereof. Any bonds issued or authorized by a municipality pursuant to P.L.2021, c.201 (C.34:1B-374 et al.) shall not be considered gross debt of the municipality on any debt statement filed in accordance with the “Local Bond Law,” N.J.S. 40A:2-1 et seq.

(4) Bonds issued by a municipality or county improvement authority pursuant to this subsection may be backed by one or more C-PACE assessment contracts.

c. The authority shall allow capital providers to directly finance project costs for C-PACE projects, or for such costs to be financed through bond issuance. Any direct financing provided by a capital provider pursuant to P.L.2021, c.201 (C.34:1B-374 et al.) shall not be guaranteed or secured by the full faith and credit of any public entity, including the State of New Jersey or any political subdivision thereof, shall not be considered to be direct and general obligations of any public entity, including the State of New Jersey or any political subdivision thereof, shall not be considered gross debt of any municipality on any debt statement filed in accordance with the “Local Bond Law,” N.J.S.40A:2-1 et seq., and shall not be considered “financial assistance” pursuant to section 1 of P.L.1979, c.303 (C.34:1B-5.1), except to the extent the authority may provide a guaranty as provided for in subsection d. of section 4 of P.L.2021, c.201 (C.34:1B-377). The Garden State C-PACE program and any local C-PACE program shall permit all capital providers that meet the eligibility requirements established in their program guidelines to provide financing through the program.

d. An authorized municipality or county that has established a local C-PACE program shall allow capital providers to directly finance project costs for C-PACE projects under the program. The repayment of any financing provided by a capital provider shall not be guaranteed or secured by the full faith and credit of any public entity, including the State of New Jersey or any political subdivision thereof, shall not be considered to be direct and general obligations of any public entity, including the State of New Jersey or any political subdivision thereof, shall not be considered gross debt of any municipality on any debt statement filed in accordance with the “Local Bond Law,” N.J.S.40A:2-1 et seq., and shall not be considered “financial assistance” pursuant to section 1 of P.L.1979, c.303 (C.34:1B-5.1), except to the extent the authority may provide a guaranty as provided for in subsection d. of section 4 of P.L.2021, c.201 (C.34:1B-377).

e. A property owner who installs a renewable energy system under the Garden State C-PACE program or a local C-PACE program may also assign or transfer any solar renewable energy certificates, transition renewable energy certificates, or other renewable energy certificates or credits that accrue to the property owner from the operation of the system to the authority, the municipality, the county improvement authority, other public entity, or the private entity, or capital provider as applicable, which has financed the C-PACE project. If any solar renewable energy certificates, transition renewable energy certificates, or other renewable energy certificates or credits are assigned or transferred to a municipality, county, county improvement authority, other public entity, or private entity, the municipality, county, county improvement authority, other public entity, or private entity, or capital provider is authorized to sell, grant, assign, convey, or otherwise dispose of its interest in the certificates or credits to repay the financing.

f. Other than as identified in this section, no public entity, including the State of New Jersey or any political subdivision thereof, may issue bonds to finance any C-PACE program, except to the extent the authority may issue bonds pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

10. Section 1 of P.L.2011, c.187 (C.40:56-1.4) is amended to read as follows:

C.40:56-1.4 Clean energy special assessment, financing by municipality.

1. a. Upon application to and approval by the Director of Local Government Services in the Department of Community Affairs, the governing body of a municipality may undertake the financing of the purchase and installation of renewable energy systems and energy efficiency improvements by property owners as a local improvement and may provide by ordinance for a “clean energy special assessment” to be imposed on a property within the municipality, if the owner of the property requests the assessment in order to install such systems or improvements. Each improvement on an individual property shall constitute a separate local improvement and shall be assessed separately to the property owner benefitted thereby. The clean energy special assessment shall be payable in quarterly installments. The terms of the clean energy special assessment shall be in accordance with the terms of the financing provided by the municipality pursuant to section 2 of P.L.2011, c.187 (C.40:56-13.1).

b. Notwithstanding the provisions of subsection a. of this section to the contrary, the Director of Local Government Services in the Department of Community Affairs shall not accept, and a municipality shall not submit, an application to undertake the financing of the purchase and installation of renewable energy systems and energy efficiency improvements by property owners as a local improvement pursuant to the provisions of P.L.2011, c.187 (C.40:56-1.4 et al.) after the date the Economic Development Authority has published on its Internet website all the items pursuant to subsection a. of section 5 of P.L.2021, c.201 (C.34:1B-378). The Director of Local Government Services in the Department of Community Affairs shall continue to process any application submitted prior to that date, and a municipality shall continue its undertaking approved prior to that date and any undertaking for which an application was pending on that date that is approved on or after that date.

c. All actions taken by the Director of Local Government Services in the Department of Community Affairs or any municipality pursuant to the provisions of this section shall be unaffected by the enactment of P.L.2021, c.201 (C.34:1B-374 et al.).

11. Section 2 of P.L.2011, c.187 (C.40:56-13.1) is amended to read as follows:

C.40:56-13.1 Clean energy special assessment, financing.

2. a. (1) Upon application to and approval by the Director of Local Government Services in the Department of Community Affairs, a municipality may adopt an ordinance to establish a program to finance the purchase and installation of renewable energy systems and energy efficiency improvements by property owners and to authorize the issuance at public or private sale of non-recourse bonds as further provided herein. The governing body may apply to a county improvement authority that issues bonds pursuant to paragraph (2) of subsection (j) of section 12 of P.L.1960, c.183 (C.40:37A-55), or may issue bonds to finance the program pursuant to section 3 of P.L.2011, c.187 (C.40:56-13.2). Funds for the purchase and installation of renewable energy systems and energy efficiency improvements shall be loaned to property owners in exchange for a clean energy special assessment on the property pursuant to section 1 of P.L.2011, c.187 (C.40:56-1.4), to be paid quarterly. In the case of financing provided by bonds issued by a county improvement authority, the clean energy special assessment shall be used to repay the bonds. The bonds issued by a county improvement authority pursuant to this section shall be issued as non-recourse obligations of the authority and shall not be considered to be direct and general obligations of the authority. In the case of financing provided by the municipality through the issuance of municipal bonds, the clean energy special assessment shall

be used to repay the bonds. The bonds issued by a municipality pursuant to this section shall be issued as non-recourse obligations of the municipality and shall not be considered to be direct and general obligations of the municipality. Any bonds issued or authorized by a municipality pursuant to this section shall not be considered gross debt of the municipality on any debt statement filed in accordance with the “Local Bond Law,” N.J.S.40A:2-1 et seq. A property owner who purchases and installs a renewable energy system under the program may also assign any solar renewable energy certificates, transition renewable energy certificates, or other renewable energy credits that accrue to the property owner from the operation of the system to the municipality or the county improvement authority to repay the loan for the system. The Director of Local Government Services in the Department of Community Affairs shall coordinate efforts with the Board of Public Utilities to ensure that the amount of financing made available by local programs authorized pursuant to this act is in accordance with limits set from time to time by the Board of Public Utilities in order to ensure that local programs further the goals of the Office of Clean Energy in the Board of Public Utilities.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the Director of Local Government Services in the Department of Community Affairs shall not accept and a municipality shall not submit an application for approval of an ordinance to establish a program to finance the purchase and installation of renewable energy systems and energy efficiency improvements by property owners pursuant to the provisions of P.L.2011, c.187 (C.40:56-1.4 et al.) after the date the Economic Development Authority has published on its Internet website all of the items pursuant to subsection a. of section 5 of P.L.2021, c.201 (C.34:1B-378). The Director of Local Government Services in the Department of Community Affairs shall continue to process any application submitted prior to that date, and a municipality shall adopt any ordinance approved prior to that date and any ordinance for which an application was pending on that date that is approved on or after that date.

(3) All actions taken by the Director of Local Government Services in the Department of Community Affairs or any municipality pursuant to the provisions of this section shall be unaffected by the enactment of P.L.2021, c.201 (C.34:1B-374 et al.).

b. As used in this section:

“Solar renewable energy certificate” shall have the same meaning as set forth in section 3 of P.L.1999, c.23 (C.48:3-51).

“Transition renewable energy certificate” shall have the same meaning as set forth in section 2 of P.L.2021, c.201 (C.34:1B-375).

12. Section 3 of P.L.2011, c.187 (C.40:56-13.2) is amended to read as follows:

C.40:56-13.2 Amounts of money to be expended for improvements established.

3. a. Upon application to and approval by the Director of Local Government Services in the Department of Community Affairs, the governing body of a municipality may establish the amounts of money to be expended by the municipality for the improvements authorized in sections 1 and 2 of P.L.2011, c.187 (C.40:56-1.4 and C.40:56-13.1). Any amount so appropriated may be raised by the issuance of clean energy special assessment bonds by the municipality. In making the appropriation, the governing body may designate the particular projects to be financed to which the moneys shall be applied.

b. Clean energy special assessments and bonds issued to finance them shall be issued and shall be generally subject to R.S.40:56-21 et seq., as the director shall determine to be applicable.

c. The director is authorized and empowered to take such action as deemed necessary and consistent with the intent of this act to implement its provisions.

d. Notwithstanding the provisions of this section to the contrary, the Director of Local Government Services in the Department of Community Affairs shall not accept, and the governing body of a municipality shall not submit an application pursuant to subsection a. of this section after the date the Economic Development Authority has published on its Internet website all of the items pursuant to subsection a. of section 5 of P.L.2021, c.201 (C.34:1B-378). The Director of Local Government Services in the Department of Community Affairs or a municipality shall continue to process any application submitted prior to that date, and an application approved by a municipality prior to that date shall be implemented.

e. All actions taken by the Director of Local Government Services in the Department of Community Affairs or any municipality pursuant to the provisions of this section shall be unaffected by the enactment of P.L.2021, c.201 (C.34:1B-374 et al.).

13. Section 11 of P.L.1960, c.183 (C.40:37A-54) is amended to read as follows:

C.40:37A-54 Purposes.

11. a. The purposes of every authority shall be (a) provision within the county or any beneficiary county of public facilities for use by the State, the county or any beneficiary county, or any municipality in any such county, or any two or more or any subdivisions, departments, agencies or instrumentalities of any of the foregoing for any of their respective governmental purposes, (b) provision within the county or any beneficiary county of public facilities for use as convention halls, or the rehabilitation, improvement or enlargement of any convention hall, including appropriate and desirable appurtenances located within the convention hall or near, adjacent to or over it within boundaries determined at the discretion of the authority, including but not limited to office facilities, commercial facilities, community service facilities, parking facilities, hotel facilities and other facilities for the accommodation and entertainment of tourists and visitors, (c) provision within the county or any beneficiary county of structures, franchises, equipment and facilities for operation of public transportation or for terminal purposes, including development and improvement of port terminal structures, facilities and equipment for public use in counties in, along or through which a navigable river flows, (d) provision within the county or any beneficiary county of structures or other facilities used or operated by the authority or any governmental unit in connection with, or relative to development and improvement of, aviation for military or civilian purposes, including research in connection therewith, and including structures or other facilities for the accommodation of passengers, (e) provision within the county or any beneficiary county of a public facility for a combination of governmental and nongovernmental uses; provided that not more than 50 percent of the usable space in any such facility shall be made available for nongovernmental use under a lease or other agreement by or with the authority, (f) acquisition of any real property within the county or any beneficiary county, with or without the improvements thereof or thereon or personal property appurtenant or incidental thereto, from the United States of America or any department, agency or instrumentality heretofore or hereafter created, designated or established by or for it, and the clearance, development or redevelopment, improvement, use or disposition of the acquired lands and premises in accordance with the provisions and for the purposes stated in the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.), including the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of improvements on or to said lands and premises, and structures and facilities incidental to the foregoing as may be necessary, convenient or desirable, (g) acquisition, construction, maintenance and operation of

garbage and solid waste disposal systems for the purpose of collecting and disposing of garbage, solid waste or refuse matter, whether owned or operated by any person, the authority or any other governmental unit, within or without the county or any beneficiary county, (h) the improvement, furtherance and promotion of the tourist industries and recreational attractiveness of the county or any beneficiary county through the planning, acquisition, construction, improvement, maintenance and operation of facilities for the recreation and entertainment of the public, which facilities may include, without being limited to, a center for the performing and visual arts, (i) provision of loans and other financial assistance and technical assistance for the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of buildings or facilities designed to provide decent, safe and sanitary dwelling units for persons of low and moderate income in need of housing, including the acquisition of land, equipment or other real or personal properties which the authority determines to be necessary, convenient or desirable appurtenances, all in accordance with the provisions of the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.), as amended and supplemented, (j) planning, initiating and carrying out redevelopment projects for the elimination, and for the prevention of the development or spread of blighted, deteriorated or deteriorating areas and the disposition, for uses in accordance with the objectives of the redevelopment project, of any property or part thereof acquired in the area of such project, (k) any combination or combinations of the foregoing or following, and (l) subject to the prior approval of the Local Finance Board, the planning, design, acquisition, construction, improvement, renovation, installation, maintenance and operation of facilities or any other type of real or personal property within the county for a corporation or other person organized for any one or more of the purposes described in subsection a. of N.J.S.15A:2-1 except those facilities or any other type of real or personal property which can be financed pursuant to the provisions of P.L.1972, c.29 (C.26:2I-1 et seq.) as amended. A county improvement authority shall also have as its purpose the pooling of loans for any local governmental units within the county or any beneficiary county that are refunding bonds in order to achieve more favorable interest rates and terms for those local governmental units. A county improvement authority shall also have as its purpose the administration, on behalf of an authorized municipality or county, of a local C-PACE program as defined in section 2 of P.L.2021, c.201 (C.34:1B-375) and to issue bonds to finance a C-PACE project for a local C-PACE program or the Garden State C-PACE program pursuant to section 9 of P.L.2021, c.201 (C.34:1B-382).

b. In a fiscal year in which a public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), a state of emergency, pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.), or both has been declared by the Governor in response to COVID-19 and during the next following fiscal year, a county improvement authority shall also have as its purpose the pooling of special emergency notes issued by the county or any beneficiary county, or by any local governmental unit within the county or any beneficiary county, pursuant to N.J.S.40A:4-55 for purposes of financing a special emergency appropriation authorized for the purpose set forth in subsections l. and m. of N.J.S.40A:4-53.

14. Section 12 of P.L.1960, c.183 (C.40:37A-55) is amended to read as follows:

C.40:37A-55 Body politic and corporate; powers and duties.

12. Every authority shall be a public body politic and corporate constituting a political subdivision of the State established as an instrumentality exercising public and essential governmental functions to provide for the public convenience, benefit and welfare and shall

have perpetual succession and, for the effectuation of its purposes, have the following additional powers:

- (a) To adopt and have a common seal and to alter the same at pleasure;
- (b) To sue and be sued;
- (c) To acquire, hold, use and dispose of its facility charges and other revenues and other moneys;
- (d) To acquire, rent, hold, use and dispose of other personal property for the purposes of the authority;
- (e) Subject to the provisions of section 26 of this act, to acquire by purchase, gift, condemnation or otherwise, or lease as lessee, real property and easements or interests therein necessary or useful and convenient for the purposes of the authority, whether subject to mortgages, deeds of trust or other liens or otherwise, and to hold and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the authority; provided that the authority may dispose of such property at any time to any governmental unit or person if the authority shall receive a leasehold interest in the property for such term as the authority deems appropriate to fulfill its purposes;
- (f) Subject to the provisions of section 13 of this act, to lease to any governmental unit or person, all or any part of any public facility for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;
- (g) To enter into agreements to lease, as lessee, public facilities for such term and under such conditions as the authority may deem necessary and desirable to fulfill its purposes, and to agree, pursuant thereto, to be unconditionally obligated to make payments for the term of the lease, without set-off or counterclaim, whether or not the public facility is completed, operating or operable, and notwithstanding the destruction of, damage to, or suspension, interruption, interference, reduction or curtailment of the availability or output of the public facility to which the agreement applies;
- (h) To extend credit or make loans to any governmental unit or person for the planning, design, acquisition, construction, equipping and furnishing of a public facility, upon the terms and conditions that the loans be secured by loan and security agreements, mortgages, leases and other instruments, the payments on which shall be sufficient to pay the principal of and interest on any bonds issued for the purpose by the authority, and upon such other terms and conditions as the authority shall deem reasonable;
- (i) Subject to the provisions of section 13 of this act, to make agreements of any kind with any governmental unit or person for the use or operation of all or any part of any public facility for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;
- (j) (1) To borrow money and issue negotiable bonds or notes or other obligations and provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;
- (2) To issue bonds, notes or other obligations to provide funding to a municipality that finances the purchase and installation of renewable energy systems and energy efficiency improvements by property owners as provided in section 2 of P.L.2011, c.187 (C.40:56-13.1);
- (3) To issue bonds, notes, or other obligations to finance a C-PACE project for a local C-PACE program pursuant to section 9 of P.L.2021, c.201 (C.34:1B-382);
- (k) To apply for and to accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the authority from any governmental unit or person, and to make and perform agreements and contracts and to do any and all things

necessary or useful and convenient in connection with the procuring, acceptance or disposition of such gifts or grants;

(l) To determine the location, type and character of any public facility and all other matters in connection with all or any part of any public facility which it is authorized to own, construct, establish, effectuate or control;

(m) To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of any public facility, and to amend the same;

(n) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contract with any governmental unit or person;

(o) To acquire, purchase, construct, lease, operate, maintain and undertake any project and to fix and collect facility charges for the use thereof;

(p) To mortgage, pledge or assign or otherwise encumber all or any portion of its revenues and other income, real and personal property, projects and facilities for the purpose of securing its bonds, notes and other obligations or otherwise in furtherance of the purpose of this act;

(q) To extend credit or make loans to redevelopers for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing any redevelopment project or redevelopment work;

(r) To conduct examinations and investigations, hear testimony and take proof, under oath at public or private hearings of any material matter, require the attendance of witnesses and the production of books and papers and issue commissions for the examination of witnesses who are out of the State, unable to attend, or excused from attendance;

(s) To authorize a committee designated by it consisting of one or more members, or counsel, or any officer or employee to conduct any such investigation or examination, in which case such committee, counsel, officer or employee shall have power to administer oaths, take affidavits and issue subpoenas or commissions;

(t) To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the authority or to carry out any power expressly given in this act subject to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

(u) To pool loans for any local governmental units within the county or any beneficiary county that are refunding bonds and do and perform any and all acts or things necessary, convenient or desirable for the purpose of the authority to achieve more favorable interest rates and terms for those local governmental units; and

(v) To act as and exercise the powers of a land bank entity pursuant to P.L.2019, c.159 (C.40A:12A-74 et al.) for any municipality situated within the county pursuant to a land banking agreement approved by an ordinance adopted by the municipal governing body.

15. This act shall take effect immediately, except that neither the Garden State C-PACE program nor any local C-PACE program established pursuant to P.L.2021, c.201 (C.34:1B-374 et al.) shall be operable until the authority has published on its Internet website all of items required pursuant to subsection a. of section 5 of P.L.2021, c.201 (C.34:1B-378).

Approved August 24, 2021.