

City of Philadelphia



(Bill No. 190412)

AN ORDINANCE

Approving City participation in the Commonwealth's Property Assessed Clean Energy Program, all under certain terms and conditions.

WHEREAS, The financing of clean energy, alternative energy, energy efficiency, and water conservation projects is beneficial to property owners, the environment, the City of Philadelphia, and the general public;

WHEREAS, Such public benefits include but are not limited to: reduced utility costs, reduced greenhouse gas emissions, improved building comfort, and increased demand for local labor and contractors required to implement the projects; and

WHEREAS, Commercial Property Assessed Clean Energy (C-PACE) financing overcomes many of the barriers that prevent commercial property owners from constructing the projects that generate these public benefits; now, therefore,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. A Commercial Property Assessed Clean Energy ("C-PACE") program is authorized in the City of Philadelphia pursuant to the terms of Chapter 43 of Title 12 of the Pennsylvania Consolidated Statutes, entitled "Property Assessed Clean Energy Program."

SECTION 2. All terms used in this ordinance that are defined in 12 Pa. C.S. § 4302 shall have the meanings set forth in that Section unless context clearly indicates otherwise.

SECTION 3. Pursuant to the terms of the C-PACE Program, only qualified projects, meaning clean energy projects, water conservation projects, or alternative energy systems (including those alternative energy systems that are affixed to the land or a building) requiring installation or modification of a permanent improvement to agricultural, commercial or industrial real property shall be eligible for the program.

SECTION 4. The Philadelphia Energy Authority (PEA) shall be the Administrator under the program and shall have the authority to designate other Administrators, either in addition to, or in place of, itself. The Administrator shall have responsibility for administering the program within the City, including but not be limited to: program design, verification of project eligibility and compliance, and program marketing and promotion. The Administrator may contract for any professional services necessary or prudent to operate the program; impose fees for the service of operating the program in order to ensure its financial sustainability; and set reasonable qualifications for financial institutions and contractors to participate in the program.

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SECTION 5. C-PACE financings shall be originated by financial institutions and not by the PEA, unless such financings are municipal bonds issued by the PEA or its public or not-for-profit designee. A C-PACE project financing term shall be limited to the lesser of 30 years or the weighted average useful life of the measures comprising the project. The amount of the C-PACE financing shall be fully amortized over the term of the financing as agreed by the project owner and financial institution.

SECTION 6. C-PACE financing is based on assessments on the improved property agreed to by the owner of the property. Assessments shall be payable over a period of years, pursuant to a written agreement between the property owner, the City, and the financial institution. The Administrator, with the approval of the Director of Finance, may assign any or all duties to collect assessments; levy assessments and liens; and collect and distribute assessment payments to one or more contracted third parties.

SECTION 7. Such assessments are secured by a first and prior lien against the real property on which the assessment is imposed from the date on which the notice of the contractual assessment is recorded and until the assessment, interest, or penalty is satisfied. Such lien shall have the same priority status as a City tax or claim; shall run with the land; shall not be accelerated or extinguished until fully repaid; and may be enforced in the same manner as delinquent property tax obligations. The written agreement between the property owner, the City and the financial institution shall include, in language determined by the City, a requirement that in the event of a proceeding to force payment on a lien against such property, such as a foreclosure action or Sheriff's sale, the financial institution shall be required to make the City whole for any shortfall on payment on any City liens based on any type of City claim, including tax claims, PGW, Water and demolition liens or any other similar liens, up to the full amount of payment of the lien based on any such assessment.

SECTION 8. Before real property may be subject to an assessment under the program and before origination of financing, any financial institution holding a lien, mortgage or security interest in or other encumbrance of the real property that secures a current, future or contingent payment obligation must: be given written notice of the real property owner's intention to participate in the program; acknowledge in writing to the property owner and the City that they have received such notice; and provide written consent to the property owner and the City that the property may be used in connection with the program.

SECTION 9. Notice of each qualified project financed through an assessment shall be posted and made publicly available online by the Administrator and shall contain all information required under the Program.

SECTION 10. Neither the City nor the Administrator undertake any obligations in connection with the C-PACE Act or this Ordinance except as expressly stated herein or any agreement executed in connection therewith. The City has no obligation to remit any payment to the Administrator, and the Administrator has no obligation to remit any payment to any financial

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institution, except from funds actually received by the City or the Administrator as assessment payments or payments related thereto. Such obligations to remit payments received shall not constitute indebtedness by either the City or the Administrator. Bonds issued to finance projects shall not constitute obligations of the City or the Administrator.

SECTION 11. No real property may be subject to an assessment under the program and no origination of financing shall be commenced or renewed if the property owner is delinquent in the payment of any City or School District of Philadelphia taxes, charges, fees, rents or claims, or any penalties or fines related to the property owner's business for which the property owner is responsible, unless the property owner has entered into an agreement to pay any such delinquency and is abiding by the terms of such agreement. Proof of compliance by submission of a Tax Clearance Certificate as defined in Section 9-101 of The Philadelphia Code shall be required prior to the origination of any financing.

SECTION 12. This Ordinance shall be effective immediately.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 20, 2019. The Bill was Signed by the Mayor on August 14, 2019.



Michael A. Decker
Chief Clerk of the City Council