

Legislation Text

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Amending Bill No. 190412, entitled “An Ordinance approving City participation in the Commonwealth's Property Assessed Clean Energy Program, all under certain terms and conditions,” to modify the C-PACE program in conformity with Commonwealth legislation and to make other conforming changes, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Section 3 of Bill No. 190412 (adopted September 14, 2019) is hereby amended as follows (matter added by amendment is in **bold**; matter deleted by amendment is in ~~strikeout~~):

Section 3. Pursuant to the terms of the C-PACE Program, only qualified projects, meaning clean energy projects, **resiliency improvement projects, indoor air quality 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 **multi-family housing with five or more units (owned by an individual, partnership, limited liability corporation, corporation, or nonprofit), mixed-use property with no fewer than five residential units**, agricultural, commercial or industrial ~~real~~ property shall be eligible for the program.

SECTION 2. Sections 7 and 8 of Bill No. 190412 (adopted September 14, 2019) is hereby amended as follows (matter added by amendment is in **bold**; matter deleted by amendment is in ~~strikeout~~):

Section 7. Such assessments are secured by a first and prior lien against the ~~real~~ **qualifying commercial** 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; **notwithstanding any other provision of law**, shall not be accelerated or extinguished until fully repaid; and ~~may be enforced in the same manner as delinquent property tax obligations.~~ **shall be enforced under the act of July 7, 1947 (P.L.1368, No. 542), known as the Real Estate Tax Sale Law, or the act of May 16, 1923 (P.L.207, No. 153), referred to as the Municipal Claim and Tax Lien Law, to collect delinquent installments of assessments.**

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~~ **qualifying commercial** 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~~ **qualifying commercial** 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 3. Section 11 of Bill No. 190412 (adopted September 14, 2019) is hereby amended as follows (matter added by amendment is in **bold**; matter deleted by amendment is in ~~strikeout~~):

Section 11. No ~~real~~ **qualifying commercial** 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 4. This Ordinance shall become effective on the effective date of Commonwealth legislation amending Chapter 43 of Title 12 of the Pennsylvania Consolidated Statutes, entitled "Property Assessed Clean Energy Program," to change the term "real property" to "qualifying commercial property."