

Introduction to C-PACE in New York

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C-PACE Basics & Value Proposition

Basics

- Commercial Property Assessed Clean Energy (C-PACE) provides long-term, low-cost financing for energy efficiency improvements and renewable energy projects for commercial buildings.
- Unlike traditional financing, repayment is secured through a benefit assessment lien that is subordinate to municipal taxes, but senior to all other liens.
- Financing automatically transfers to a new owner if the property is sold.

Value Proposition to Developer/Building Owner

1. Lower blended cost of capital
 - Ability to replace expensive debt with C-PACE
2. No upfront cost
 - Financing is available for up to 100% of the project cost, or can be combined with other financing.
3. Customizable loan terms up to the expected life of the improvement
 - Long loan terms, up to 30 years in some cases
 - Fixed rates of interest
4. Compliance with updated municipal building codes, New York City's Climate Mobilization Act, and future carbon regulations
5. Significant reduction in building's energy bills

Legal Authority

- New York State General Municipal Law Article 5-L
 - Authorizes municipal corporations (county, town, city or village) to create to a sustainable energy loan program to provide PACE financing to property owners
- Municipalities must adopt Local Law establishing program
 - 30 municipalities have opted in so far (as of Dec. 6, 2019)
 - For a full listing see https://energizeny.org/images/comDocs/List_of_current_OPEN_C-PACE_Municipalities.pdf
- New York City authorized a similar C-PACE program as part of the Climate Mobilization Act (Local Law 96 of 2019)
- Administered by third-party, non-profit administrators
 - For New York City → New York City Energy Efficiency Corporation (NYCEEC)
 - Program design and implementation in process
 - For Rest of the State → Energy Improvement Corporation (EIC)
 - Offers the Energize NY Open C-PACE program
 - As of 2019, Open C-PACE no longer requires the municipality to administer PACE financing or to provide a backstop in the case of delinquency.

Legal Authority

NYC Local Law 96:

“A loan shall be repaid by the property owner through a charge on the real property benefitted by such loan. Such charge shall be on the real property and shall be levied and collected at the same time and in the same manner as municipal taxes, provided that such charge shall be separately listed on the tax bill.”

Article 5-L (N.Y. Gen. Mun. Law § 119-gg(9)):

“The municipal corporation may require the loan made under the sustainable energy loan program to be repaid by the property owner through a charge on the real property benefitted by such loan. Such charge shall be on the real property and shall be levied and collected at the same time and in the same manner as municipal taxes, provided that such charge shall be separately listed on the tax bill [.]”

Legal Authority

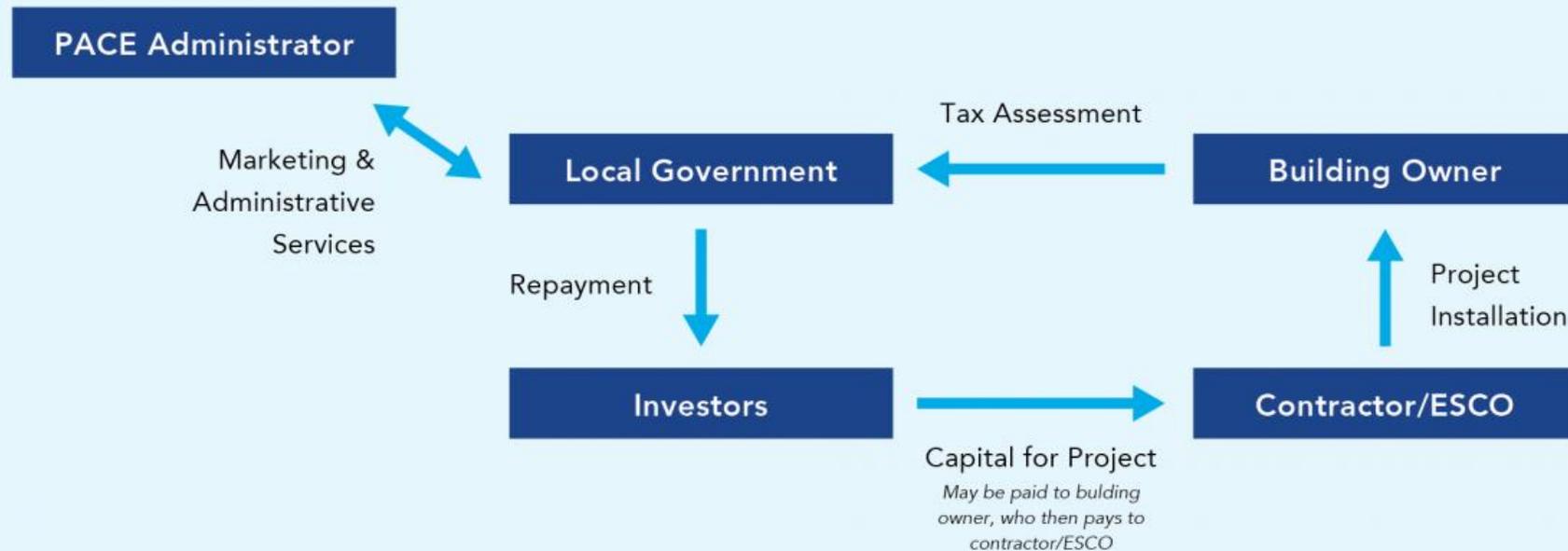
Per Article 5-L, NYSERDA has issued guidance on implementing C-PACE in New York, including:

- Certifying contractors to perform energy audits and feasibility studies
- Determining cost-effectiveness criteria for improvements and approving lists of cost-effective improvements
- Establishing additional eligible systems
- Establish procedures for municipalities to verify and report on the installation and performance of EE improvements/RE systems

Source: <https://www.nysERDA.ny.gov/All%20Programs/Programs/Commercial%20Property%20Assessed%20Clean%20Energy>

Structure of a C-PACE Loan

Typical C-PACE Financing Structure



Source: U.S. Dept. of Energy

EIC's Structure of a C-PACE Loan

1. **Program Established**. Municipality passes local law enabling C-PACE Program & signs Municipality Agreement with EIC, the program administrator.
2. **Assignment of Benefit Assessment Lien**. EIC, on behalf of the municipality:
 - Levies a benefit assessment and files a lien on the property, which contains a schedule of annual installment payments
 - Assigns lien to Capital Provider and files assignment on municipality's land records.
3. **Finance Agreement**. Capital Provider and the Property Owner enter into a Finance Agreement for the Project
 - Sets the terms and conditions for loan disbursement and repayment, and the duties and obligations re: acquisition, construction and installation of the Project
 - Must provide that the Project and all agreements are transferable to any new property owner or tenant
4. **Billing/Collection of Delinquent Payments** EIC, on behalf of the municipality, sends the Owner invoices with instructions to remit payment to Capital Provider
 - If the Borrower fails to pay, the Capital Provider may redeem the Property by paying the amount of all unpaid Municipal Liens and foreclose on the Property

Eligible Properties

- Open C-PACE is only available for commercially owned properties.
 - Qualifying Property Owners may be corporations (both for-profit and not-for-profit), limited liability companies, partnerships, real estate investment trusts (REITs), or any Property Owner other than a natural person that owns commercial real Property.
- Property owner may not be in bankruptcy and property may not be subject to any pending bankruptcy proceeding
- Repayment term will not exceed the useful life of renewable energy system or energy efficiency improvement as determined by EIC or NYCEEC
- The property owner is current in payments on any existing mortgage on the Qualified Property and on any real property taxes on the Qualified Property
- **Ineligible Properties**
 - Individually owned properties
 - Government owned property (including public universities and school districts)

Source: Energize NY Open C-PACE Financing Program Handbook

Eligible Improvements

- C-PACE loans finance “the installation of renewable energy systems and energy efficiency improvements, related energy audits and renewable energy system feasibility studies, and the verification of the installation of such systems and improvements.”
- “Renewable energy system” means “an energy generating system for the generation of electric or thermal energy, to be used primarily at such property, except when the owner of real property is a commercial entity, by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by [NYSERDA][.]”
- NYSERDA has approved the following additional renewable energy systems:
 - air source heat pumps
 - air-to-water heat pumps
 - high efficiency, low emission wood heating systems
 - energy storage systems (including electrochemical and thermal energy storage systems)

See N.Y. Gen. Mun. Law §§ 119-ff(6); 119-gg(2); NYC Local Law 97 of 2019.

Eligible Improvements

- “Energy efficiency improvement” means “any renovation or retrofitting of a building to reduce energy consumption . . . determined to be cost-effective pursuant to criteria established by [NYSERDA].”
 - Includes window and door replacement lighting, caulking, weatherstripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements.
 - Does NOT include “lighting measures or household appliances that are not permanently fixed to real property.”
- NYSERDA has set cost-effectiveness criteria for energy efficiency improvements.

Case Study: 57 Mall Drive

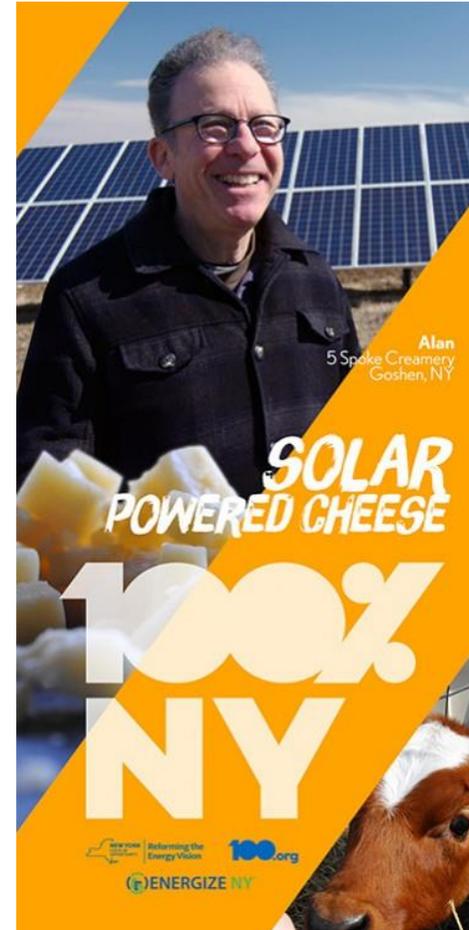
- First Open C-PACE Project in New York
- Closed \$507,000 in C-PACE financing for the development of a 102 KW solar array atop a mixed-use industrial office in Commack, Long Island (NY).
- Will improve the insulation of the building's 22,500 square foot roof and install 280 solar panels, projected to yield annual savings of greater than \$16,000 per year.



Source: <https://www.prnewswire.com/news-releases/suffolk-county-new-york-sees-first-c-pace-deal-close-with-counterpointesre-300955849.html>

Case Study: 5 Spoke Creamery

- Goshen, NY
- Energize NY financed 53 kW ground mounted solar panels through a PACE Loan.
- Enabled cheese farm to be powered on 100% clean energy, overcoming key financial barrier.



Source: 100.org

Expectations for 2020

- C-PACE Becomes Operational in NYC
 - Specific program eligibility guidelines will be released in “late fall 2019,” per NYCEEC website.
 - C-PACE loans will be available for energy efficiency and renewable energy projects in NYC in “early 2020.”
- More Municipalities to Opt-In
 - Buffalo recently reported to adopt opt-in C-PACE legislation.

Resources

- N.Y. Gen. Bus. Muni. Art. 5-L
- NYC Local Law 96 of 2019
- Energy Investment Corporation website
- NYCEEC Website
- NYSERDA Commercial PACE Eligible Renewable Energy System Technologies Guidance Document
 - <https://www.nyserda.ny.gov/-/media/Files/Programs/Commercial-Property-Assessed-Clean-Energy/Commercial-PAE-Eligible-Technologies-Guidance-Document.pdf>
- NYSERDA Commercial PACE Guidance Document
 - <https://www.nyserda.ny.gov/All%20Programs/Programs/Commercial%20Property%20Assessed%20Clean%20Energy>

Questions?

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