



***Capital Providers***

CleanFund

Counterpointe SRE

Inland Green Capital

PACE Loan Group

Petros PACE Finance

Twain Financial Partners

***Law Firms***

Bricker & Eckler

Chapman and Cutler

Hirschler

Norton Rose Fulbright

Winston & Strawn

***Accounting Firms***

Novogradac & Company

***FinTech Partner***

T REX

**ELEMENTS OF A WELL-DESIGNED C-PACE STATUTE AND PROGRAM  
TO ATTRACT PRIVATE CAPITAL AND  
FOSTER GREATER TRANSACTION VOLUMES**

**(VERSION 2.0)**

**JULY 19, 2019**

Disclaimer: The paper is based on research that is believed to be accurate as of the publication date. Modifications and updates to state statutes, local ordinances and program rules will certainly occur. Readers should not rely on this information for investment decisions. The C-PACE Alliance welcomes comments and factual corrections.

# ELEMENTS OF A WELL-DESIGNED C-PACE STATUTE AND PROGRAM TO ATTRACT PRIVATE CAPITAL AND FOSTER GREATER TRANSACTION VOLUMES

JULY 19, 2019

## INTRODUCTION

As more states, counties and municipalities launch Commercial Property Assessed Clean Energy (C-PACE) programs, the C-PACE Alliance (CPA) is pleased to share the elements of a C-PACE statute and program that are essential to attract private capital, foster greater transaction volumes, and achieve the policy goals of sustainability, resiliency and economic growth. The CPA is comprised of capital providers and transaction experts who have invested in or professionally advised on C-PACE transaction closings in almost twenty states for hundreds of millions of dollars.

The CPA members frequently receive requests from state and local governments for input on how C-PACE programs and statutes should be designed. In this paper, the CPA seeks to help jurisdictions increase the volume of high-quality C-PACE projects and to more fully realize the potential benefits to their communities in terms of energy savings, job creation, and commercial revitalization.

## BENEFITS OF C-PACE FINANCING

C-PACE financing provides property owners with an alternative source of capital to pay for property improvements that improve energy efficiency, generate renewable energy and/or achieve other vital public benefits. C-PACE financing can be used for improvements that may significantly increase the value of property, such as lighting, roofing, HVAC systems and automated controls, boilers and chillers, insulation, glazed windows, hot water heating systems, building envelope improvements, renewable energy systems, and much more. Some states have authorized property improvements for seismic retrofits, storm resiliency measures (e.g., wind and flood), fire hardening, storm water management and water-efficiency projects. Collectively, the improvements authorized by state law for C-PACE financing are referred to as eligible improvements.

To create a C-PACE program, a state must enact C-PACE legislation. Some statutes create a statewide program. Other statutes allow localities to opt-in to the program established by a neighboring locality, or a locality may create its own individual program. In most cases, a state or local jurisdiction selects one or more Program Administrators (PAs) to operate its program.

C-PACE transactions are typically funded entirely by private capital providers. C-PACE financing offers a variety of advantages over other forms of capital because it is repaid through a voluntary special tax assessment. The government entity that levies property taxes will then assign its rights to the C-PACE payments to the capital provider. Assessments are enforced in the same manner as real property taxes.

Under this arrangement, C-PACE capital providers can offer up to 100 percent, non-recourse financing that has a repayment term equal to the weighted average useful life of the improvements. Interest rates are usually fixed throughout the term. C-PACE financing runs with the title to the property and is automatically conveyed to the next owner upon a sale of the property. In many cases, property owners with commercial leases will pass-through C-PACE property tax payments, along with the related energy savings, to tenants.

## COMMON GOALS & CORE PRINCIPLES

Property owners, government entities, PAs, and capital providers are all stakeholders in a successful C-PACE program. CPA's view is that C-PACE stakeholders share common goals.

1. **Achieve the greatest overall environmental and economic development benefits.** Through the installation of eligible improvements, stakeholders aim to reduce energy and water usage, install health and safety measures, and spur economic growth, job creation and commercial revitalization.
2. **Deliver to property owners on the advantages of C-PACE financing as a special assessment.** The voluntary special assessment enables capital providers to offer long-term, lower-cost financing. Payments are paid by the current titleholder who benefits from the improvements.
3. **Foster a vibrant, large and growing market for C-PACE financing.** An increased volume of quality C-PACE projects, including a deep and active secondary market, will result in healthy and resilient buildings that improve communities' resource management and ability to adapt to climate change and natural disasters.
4. **Create an excellent customer and stakeholder experience.** An efficient, transparent and user-friendly C-PACE financing industry helps achieve the program's goals by enhancing the program's appeal to property owners who will spread awareness of C-PACE by word-of-mouth and to capital providers that will look for more transactions in the jurisdiction.

These shared goals are the foundation of the CPA's core principles of well-designed C-PACE programs:

1. **Open-market philosophy / freedom of choice.** C-PACE programs should encourage open and free-market competition among capital providers, project developers, and contractors.
2. **Input from stakeholders on lessons learned.** As state policymakers craft the law and local officials draft the program manual (or guidelines), they should engage a broad group of stakeholders and seek to adopt best practices learned from C-PACE programs nationwide.
3. **Focus on implementation.** Once a well-designed statute is enacted, policymakers and other stakeholders should monitor whether local governments adopt the program and property owners use it. Following industry best practices and using documentation that can be easily customized for individual transactions aids the program implementation.
4. **Continuous collaboration.** C-PACE stakeholders should be consulted periodically and before any changes to the program rules or the law.
5. **Converge on standards.** By adopting the recommendations in this paper, C-PACE stakeholders will enable the industry move toward voluntary standards to ensure efficient and flexible access to capital and the creation of a liquid secondary market for C-PACE assets.

## ELEMENTS IN THE C-PACE AUTHORIZING STATUTE AND PROGRAM PROVISIONS

Drawing on these common goals and core principles, the following key elements comprise a well-designed C-PACE program.

1.	<p><b>An open market for qualified capital providers, project developers and contractors to compete for C-PACE projects.</b> The statute should not favor or disadvantage a party in a C-PACE project, however, programs should set reasonable minimum qualifications for capital providers as well as PAs. The statute should avoid undue regulation of or interference in the commercial transaction.</p>
2.	<p><b>Strong payment obligation and collateral protection.</b> The C-PACE statute must establish that C-PACE financing is based on a voluntary special tax assessment with the attributes necessary to create a strong form of payment obligation and credit security:</p> <ul style="list-style-type: none"> <li>a. Includes a legislative finding that the financing of energy efficiency, renewable energy projects and other eligible improvements is a valid public purpose and is in the public interest.</li> <li>b. Provides that the special assessment: <ul style="list-style-type: none"> <li>i. Levies tax installment obligations over the life of the financing that constitutes a first and prior lien on the real property with seniority over all privately secured forms of indebtedness, provided that prior mortgage holders acknowledged or consented to the C-PACE financing.</li> <li>ii. Possesses the same priority status as a lien for other <i>ad valorem</i> taxes. If this is not possible due to political realities, the C-PACE assessment may be subordinate to property taxes but senior to other state and local government assessments.</li> <li>iii. Becomes effective as of the funding of a project, that is, the special assessment is recorded with the close of financing, not after the project construction is complete.</li> <li>iv. Once approved by the PA and recorded, the assessment may not be contested on the basis that the improvement is not an eligible improvement or the project is not a qualified project.</li> <li>v. Is non-extinguishable, non-rescindable and non-accelerating in the event of any foreclosure, tax lien sale, or forfeiture. (<u>Note</u>: the special assessment may be accelerated only in the event the property is condemned by the government.)</li> <li>vi. Shall be enforced by the local government in the same manner that a property tax payment default is enforced (or more quickly, if allowed). Some states or local governments offer capital providers the option to directly enforce the assessment. This transfer of enforcement power requires careful legal drafting to clarify which enforcement powers derive from the assessment and which derive from side agreements with the capital provider.</li> </ul> </li> <li>c. Does not allow for partial payment of property taxes or C-PACE payments (except in the case where C-PACE payments are subordinate to real property taxes), unless such partial payment represents a voluntary prepayment.</li> </ul>

	<p><u>Note:</u> States treat the priority of liens in different ways. PAs should be familiar with enough detail to explain to capital providers and their counsel what the C-PACE assessment and lien provide under that state’s laws and local rules.</p>
3.	<p><b>Industry best practice is to obtain lender consent from all mortgage lenders prior to closing.</b> The capital provider and/or property owner should obtain written consent or acknowledgement to the C-PACE assessment from all lenders with a secured interest in the property due to indebtedness. Mortgage lenders’ acknowledgement should include a description of the C-PACE financing and a certification from the mortgage lender that the financing does not create an event of default under the terms of the mortgage.</p>
4.	<p><b>No Savings-to-Investment (SIR) requirement or alternatively, more flexible alternatives.</b> A well-designed program should not impose an SIR test that caps the amount of C-PACE financing for a project. C-PACE commercial financing transactions involve knowledgeable counterparties who use complex objective and subjective criteria to evaluate a project’s viability. Government-designed SIR requirements often generate counterproductive results. The CPA recommends against an SIR test based on several flaws discussed below.</p> <ul style="list-style-type: none"> <li>a. In general, an SIR test does not capture all of the benefits from C-PACE financing to property owners (such as a lower cost of capital, increased tenant retention, and the increased value of the property) and to the public (such as resiliency, productivity improvements, increased building code compliance, healthier work environments, and the societal value of environmental benefits).</li> <li>b. In states where the price of energy is low and fluctuating, complying with an SIR test is difficult; however, C-PACE still fulfills valuable public policy goals, such as lowering the use of fossil fuels and promoting greater energy conservation goals.</li> <li>c. In states where new construction is eligible for C-PACE, the marginal energy savings over a hypothetical baseline may be inadequate to cover the cost of those improvements.</li> <li>d. Property owners may be able to achieve greater marketability and higher valuation for their properties (e.g., by charging higher rents for highly energy-efficient space) than is adequately captured by an SIR test.</li> <li>e. An SIR test does not measure a property owner’s ability to pay. Instead, financial underwriting metrics that capital providers employ consistently -- such as debt service coverage ratio -- are more appropriate to assess creditworthiness. These metrics are often what a mortgage lender utilizes to evaluate whether project to provide consent or acknowledgement for a project.</li> </ul> <p>For these reasons, the PA or local government should be empowered to approve projects based on more simple and effective metrics than an SIR threshold. If an SIR test is required by the C-PACE legislation, officials should consider measuring savings versus an accommodating energy efficiency standard so that more savings are counted in the numerator. Similarly, program officials might consider excluding the interest cost of C-PACE financing from the definition of “investment,” which decreases the denominator in the SIR ratio.</p>

	<p>If political realities require a cost-benefit analysis, the savings of the project should include:</p> <ul style="list-style-type: none"> <li>i. Utility savings.</li> <li>ii. Operations &amp; maintenance savings (“net avoided spending” attributable to the property improvements).</li> <li>iii. Financial savings where the C-PACE funds displace higher cost capital.</li> <li>iv. Avoided fees or penalties from non-compliance with building codes.</li> <li>v. New revenues from renewable energy sources.</li> <li>vi. Other monetized benefits such as tax credits, utility incentives and rebates.</li> <li>vii. Savings on societal costs imposed by greenhouse gas emissions and particulates.</li> </ul> <p>The capital provider should be the party that calculates the SIR or a Cost-Benefit Ratio based upon program requirements and a consistent approach. The PA should review the calculation, but the PA should not duplicate the efforts of the capital provider.</p>
5.	<p><b>No contractor guarantees of energy savings.</b> Contractor guarantees raise the cost of implementing energy saving measures and reduce the number of contractors willing to participate in the program. Any such guarantees should be left to the property owner and contractor, not imposed by the statute or program.</p>
6.	<p><b>New construction projects should be eligible for C-PACE financing.</b> New construction projects meet several important C-PACE policy objectives and should be permitted. The CPA has published a separate white paper related to new construction projects, <a href="#">The Case for Encouraging C-PACE Financing for New Construction Projects: CPA’s Recommended Guidelines</a>.</p>
7.	<p><b>Flexibility in financing terms.</b> The statute and program should:</p> <ul style="list-style-type: none"> <li>a. Establish that the property owner is paying the assessment only during the useful life of the property improvements. Some states limit the maximum term to 20-30 years. We discourage an arbitrary limit to the length of the term. For projects involving multiple improvements, the term should not exceed the weighted average of the useful life of the improvements.</li> <li>b. Allow power purchase agreements (PPAs) or leases to be considered eligible improvements for C-PACE financing, because doing so promotes adoption of renewable energy technology. Property owners should negotiate these complex financial structures with assistance from experienced capital providers and attorneys.</li> <li>c. Refrain from setting qualifications for property owners. Instead, allow capital providers to use their own underwriting standards. It is important to stress that, for programs that require lender acknowledgement or consent to C-PACE financing, there are three independent underwritings performed on the property. The first is the initial underwriting performed by the senior lender in the context of the mortgage loan. The second is the underwriting by the C-PACE capital provider. The third, and final, is the senior lender’s underwriting in the context of reviewing the potential C-PACE financing and its impact on the senior lender’s collateral. Adding more financial gating requirements makes C-PACE costlier and more burdensome for property owners.</li> <li>d. Allow C-PACE financing to include the cost of materials and labor, warranties, maintenance and service contracts, interest reserves, capitalized interest, and all fees and costs necessary</li> </ul>

	to complete the project. C-PACE financing should include the cost of any ancillary measures that may be necessary to installing the eligible improvements.
8.	<p><b>Billing, collection and remittance of current payments.</b> The statute should:</p> <ol style="list-style-type: none"> <li>a. Identify the representative of the local government and the tax authority required to bill and collect the C-PACE assessments (without incurring personal liability), or alternatively, allow the capital provider to bill and collect from the property owner directly. CPA discourages assigning billing and collection duties to PAs because they generally do not have staff capacity or local expertise, and will therefore need to hire (or contract with) an institutional payment agent, increasing the cost and the number of hands touching the C-PACE payments.</li> <li>b. Minimize the timeframe for remitting funds to capital providers, which should be less than 30 days from the statutory tax payment due date. Long remittance periods increase interest costs to the property owner.</li> </ol> <p>Additional recommendations on the payments process are in the section on “Best Practices in Program Administration,” item #12.</p>
9.	<p><b>Foreclosure process for special assessment.</b> The statute should provide clarity and visibility into the foreclosure process, with a legal mechanism to ensure timely commencement of foreclosure. Foreclosure should be done by the same public body and in the same manner as the foreclosure for unpaid real property taxes, provided that such enforcement occurs within a reasonable amount of time following default. Otherwise, the statute should allow the capital provider to assume the authority of the government entity that normally enforces unpaid property taxes, and the statute should permit the capital provider to foreclose accordingly.</p>
10.	<p><b>Refinancing of projects should be considered eligible for C-PACE financing.</b> Refinancing and reimbursement of eligible improvements stabilizes their long-term financial viability. These projects demonstrate the value of energy saving measures, helping to market the program and leading to future C-PACE projects. (<u>Note</u>: For comparison, refinancing is a common use of private activity bonds.)</p>
11.	<p><b>Encouraging standardization in a state’s C-PACE programs can foster efficiencies, reduce transaction costs and speed up local governments’ adoption of the program; on the other hand, standardization that is achieved by a program administrator with a statutory statewide monopoly can potentially result in negative outcomes when there is less pressure for customer service and cost control.</b> Successful C-PACE programs balance the benefits of standardization while being cautious of the risk of creating unnecessary regulation and bureaucracy. One solution is to write into the state’s legislation the standards applicable to any C-PACE program and to allow local governments to select one or more PAs to operate consistent with the statute. Local governments may choose from competing C-PACE programs offered by a state agency/instrumentality, a private third party, or an intergovernmental collaboration or joint powers authority.</p> <p>Statewide program standards typically cover items 1-10 above. A partial list of standards includes:</p> <ul style="list-style-type: none"> <li>• eligible property types;</li> </ul>

	<ul style="list-style-type: none"> <li>• eligible project types, such as energy efficiency or water efficiency improvement, renewable energy, resiliency, stormwater management, wildfire prevention, seismic retrofits;</li> <li>• any requirements for qualifying an eligible project;</li> <li>• authorization for any qualified capital provider to provide C-PACE financing;</li> <li>• authorization for C-PACE financing in the form of direct financing and bond financing;</li> <li>• the eligible use of proceeds;</li> <li>• establishing the maximum loan term as the useful life of an eligible project or, if more than one eligible project is financed, the weighted average useful life of all the projects in the transaction;</li> <li>• any limitations on the amount of C-PACE financing relative to property value;</li> <li>• the requirement for consent from mortgage holders on the property;</li> <li>• the billing, collection and remittance procedures;</li> <li>• enforcement procedures.</li> </ul> <p>Some statutes delegate the writing of standards to a state agency or instrumentality, which requires careful drafting to avoid confusion and delay over whether the agency or instrumentality must determine if local ordinances comply with its standards.</p> <p>The legislature should consider inserting a statement to the effect that local governments and their PAs should not add requirements beyond what the legislation calls for, and that in implementing the C-PACE program, local governments and their PAs should take into account feedback from the parties being affected.</p> <p>Once a program is established, changing the rules without advance notice causes hardship on the parties closing transactions and reduces the likelihood of having a robust program.</p>
--	--

## BEST PRACTICES IN PROGRAM ADMINISTRATION

These practices in program administration may be set forth in the local ordinance or report, or they may be included in the program manual (or program guidelines).

1.	<p><b>Clarity of roles.</b> The PA and the capital provider should be clear about their roles and responsibilities, often memorialized in a signed agreement. The PA’s scope of work should focus on three essential functions:</p> <ol style="list-style-type: none"> <li>a. Organize the process of drafting of a program manual or guidelines.</li> <li>b. Approve projects that are eligible and compliant.</li> <li>c. Promote the program to stakeholders.</li> </ol> <p>Capital providers should perform four key functions:</p> <ol style="list-style-type: none"> <li>a. Originate a pipeline of projects for C-PACE financing.</li> <li>b. Apply project underwriting standards consistently and efficiently.</li> <li>c. Coordinate with PAs in the approval, closing, and collection process.</li> <li>d. Provide capital to fund projects at competitive rates.</li> </ol>
----	---



2.	<p><b>Publish a program manual (or program guidelines).</b> The PA should publish a program manual setting forth the application process; the qualifications for capital providers and energy assessment professionals; the arrangements for billing, collection and remittance of current payments; and the collection of delinquent payments and enforcement of the assessment. The PA should consider convening stakeholder advisory groups to solicit input on this manual.</p>
3.	<p><b>Minimize documentation requirements and avoid extraneous requirements.</b> C-PACE projects are typically funded entirely by private capital, with no public funding. Therefore, documentation and qualification criteria beyond the statutory language should be carefully considered because they discourage participation.</p>
4.	<p><b>Program Administrators should consider pricing services <i>a la carte</i>, rather than requiring every property owner to pay for a broad range of services that may not be used.</b></p> <ul style="list-style-type: none"> <li>a. Consulting services for property owners should be priced separately.</li> <li>b. Services that the property owner can buy locally — such as estimating energy savings, overseeing project development, or evaluating alternative equipment installations— can be priced individually. Separate pricing encourages competition and choice, which ultimately benefits property owners.</li> <li>c. S PA should disclose any financial interest it has in related service providers, and property owners should have the option of purchasing these services from any qualified provider.</li> </ul>
5.	<p><b>Program Fees should cover actual and reasonable costs.</b></p> <ul style="list-style-type: none"> <li>a. PA fees should be reasonable and appropriate in light of factors such as the size and maturity of the C-PACE market in the subject state. To keep fees reasonable, the PA should perform only the functions necessary for project approval and administration. Low fees help new C-PACE markets grow faster, enabling the PA to reach financial sustainability more quickly. PA fee structures marketed as “no cost to the taxing district, paid for by the borrower” can de-rail C-PACE transactions if these fees are too high. Many successful programs operate with relatively low administration fees, capped per-transaction. For instance, some programs have fees set at 1 percent or less, with per-transaction caps of \$75,000 or less.</li> <li>b. Interest rate “add-ons” should be discouraged or be minimal; when financially possible, a PA’s fees should decline over time as project volume increases.</li> <li>c. PAs will need financial support to cover staff costs until the transaction volume is sufficient to offset these expenses. A reliable funding source during start-up is part of a successful launch. Possible resources include state funding; grants from philanthropies, utility companies or the state; loaned executives; donated offices; or consulting revenue.</li> </ul>

6.	<p><b>Collaborate with capital providers to create the program documents and the application process, and before changing any of the documentation requirements.</b> The legal documentation must provide a clear description of the rights, responsibilities, and remedies of the parties, including:</p> <ol style="list-style-type: none"> <li>a. An unconditional obligation from the property owner to pay the special assessment;</li> <li>b. An irrevocable assignment of revenues from the special assessment from the taxing authority to the capital provider;</li> <li>c. An obligation from the property owner to use the C-PACE financing proceeds exclusively for the purpose of purchasing and installing eligible improvements and related authorized expenses;</li> <li>d. The obligations of the taxing authority to enforce the special assessment on default and related processes and timelines;</li> <li>e. A description of which liabilities will be repaid through the special assessment and the remedies applicable to those obligations that are not;</li> <li>f. The payment dates, prepayment make-whole provisions, late payment penalties; and</li> <li>g. A description of the parties' duties in the collections process, including the role of any government collectors or collection agents.</li> </ol> <p>The format of the legal documents may vary depending on the preferences of counsel. Generally, the documents fall into these categories:</p> <ul style="list-style-type: none"> <li>• <u>Standard Form of Special Assessment Document or Petition</u> between the local unit of government and the property owner evidencing the property owner's request for the special assessment. The repayment schedule must also be included in the form of special assessment.</li> <li>• <u>Program Agreement(s)</u> that memorialize the roles of the property owner, local government, government collectors or collection agents, and the capital provider. Some attorneys prefer a single document signed by all the parties, while other attorneys prefer to divide the documents into two-party agreements that state the duties of each party and to whom that duty is owed.</li> <li>• <u>Financing Agreement (Loan Agreement) and related documents.</u> A program should permit a capital provider to tailor its financing agreement to meet the needs of the property owner and institutional investors, as long as the agreement complies with statutory and program rules.</li> <li>• <u>Lender Consent or Acknowledgement.</u> Some programs create a template form of lender consent or acknowledgement to evidence compliance with state law or program rules. The format may vary according to local requirements or capital provider preferences.</li> </ul>
----	--

	<p>The Special Assessment document or petition or some other element of it is typically recorded in the land records so that future property owners are aware an assessment exists and to protect the capital provider’s enforcement rights upon foreclosure. Some attorneys record all or portions of the other legal documents for the convenience of future titleholders; however, financing agreements and material economic terms are typically not recorded, or they are redacted to preserve confidentiality.</p>
7.	<p><b>Certification of project compliance.</b> The PA or the local unit of government should provide a written statement on request that the C-PACE financing for a particular property meets the program requirements.</p>
8.	<p><b>Fair access by capital providers.</b></p> <ul style="list-style-type: none"> <li>a. The PA should do business impartially with any party that submits an application. A capital provider should be able to submit applications to any PA on equal terms and conditions, including situations where the PA is itself affiliated with a capital provider.</li> <li>b. PAs should not guide a property owner to any specific capital provider. PAs should refer property owners to a list of qualified capital providers using a standard protocol.</li> <li>c. If the PA is affiliated with a capital provider, the capital provider/PA should deal with all other capital providers on an impartial basis, taking special care to avoid appearance of conflicts of interest and to protect confidential business information.</li> </ul>
9.	<p><b>Property owners should be encouraged to obtain an energy savings estimate.</b> Programs should encourage an energy analysis for the property owner’s information rather than as a mandatory requirement for determining eligibility. The PA may set the qualifications for the energy analysts qualified to perform this work. The PA should review the completeness of the analyst’s technical work but not become enmeshed in the project design or require energy assessment beyond a demonstration that minimum eligibility requirements are met.</p>
10.	<p><b>Financial underwriting by capital providers.</b> The program should allow capital providers to perform the financial underwriting to confirm the property owner’s ability to repay the assessments. PAs should not perform any financial underwriting, because it duplicates the capital providers’ work with no marginal benefit.</p>
11.	<p><b>Efficient closing process.</b> The C-PACE program should establish a closing process that is predictable, transparent and efficient. Some programs require approval from town councils or local government bodies that meet infrequently. Approvals by public bodies may be necessary but it slows down the process. The optimum arrangement is for the local government to designate an official who is accessible and authorized to approve C-PACE transactions. A closing process that is time-consuming or unreliable imposes a cost of doing business that especially deters smaller transactions.</p> <p>The steps in the closing process must be in a proper sequence, for example, the special assessment must be recorded before (or contemporaneously with) the C-PACE funding. When the PA and capital providers can set reliable closing dates, planning and efficiency improves significantly. Predictability is crucial for capital providers and investors. Delayed closing can</p>

	<p>increase the interest costs charged to property owners. Many capital providers transfer the C-PACE financing to another institutional investor after closing, so a smooth transfer process is also important.</p>
<p>12.</p>	<p><b>Payments process (billing, collection and remittance).</b> A well-designed program operates a thoughtful system of billing, collection and remittance (BCR) of C-PACE payments to the capital provider, with appropriate management of accounts. The design of a BCR framework should ensure that funds will not be commingled (if possible), lost, stolen or displaced.</p> <ul style="list-style-type: none"> <li>a. The BCR process is straightforward when the capital provider directly bills and collects the installment payments, which is why this is one of the preferred arrangement.</li> <li>b. If C-PACE repayments are billed with the regular property tax bill, tax authorities should establish timeframes for receipt repayments and for remittance of C-PACE payments to the capital provider. The procedure and timeline for the remittance of funds should be included in the enabling C-PACE law, or in the special assessment recorded with the land records, or both. Tax authorities should also establish reasonable servicing fees to keep costs low and encourage broader participation.</li> <li>c. Placing the BCR duties with the PA is discouraged because the PA typically lacks sufficient capacity and track record to satisfy a credit rating agency. In such cases, the PA must hire a financially experienced firm for BCR services, increasing the cost and the number of hands that touch the payment.</li> </ul>
<p>13.</p>	<p><b>Contract with Program Administrator.</b> The PA should organize the design and periodic review of the application and approval process. PAs should avoid creating rules that are impractical, high-cost, or extraneous to the statutory language.</p> <p>Contracts between the municipality and PAs should specify minimum acceptable levels of service performance. Contracts should include the ability to replace a PA for repeated failure to deliver services in a timely manner or adhere to the program guidelines, roles and responsibilities (preferably as outlined in this document). Any contracts between the PA or other relevant government entity and third parties should be made available to capital providers upon request for purposes of meeting underwriting needs.</p>
<p>14.</p>	<p><b>Procedures for delinquencies and enforcement.</b> The best practice is to establish a reliable and predictable process for curing delinquencies and commencing the foreclosure process to enforce the C-PACE assessment and rights. Ideally, enforcement responsibility involves a statutory obligation to foreclose or sell a tax lien certificate with minimal delay. The statute or the program rules should allow the tax enforcement body to assign the right to pursue remedies to the capital provider at the capital provider’s request.</p> <p>In some states, the local government’s enforcement obligation is discretionary, which obscures the legal protections that capital providers depend on to deliver the favorable financial terms possible under proper C-PACE legislation. When the statute is unclear on the foreclosure obligation, capital providers may request contractual assurance that the locality will enforce the assessment. PAs should become acquainted with the details of this subject because states and localities rules on tax enforcement vary. PAs should understand the enforcement process well</p>

	enough to explain it to capital providers and their counsel. The program manual should set forth the collection and foreclosure processes and timelines.
15.	<b>Post-installation reporting (measurement and verification).</b> CPA recommends that property owners not be required to obtain expensive measurement and verification services. Reporting requirements that seem reasonable when considered one at a time can accumulate to a point that deters property owners from participating. Accordingly, CPA recommends that reporting requirements be as minimal as possible.

**MARKETING, EDUCATION & TRAINING**

Marketing the availability and features of C-PACE is crucial, especially in the early years of a new program because C-PACE financing is unfamiliar to most property owners. The CPA believes that program costs should be controlled by co-marketing C-PACE alongside other economic development initiatives sponsored by local government, utilities, and public finance professionals. Due to concerns about the cost of marketing, CPA is reluctant to say that a PA has a permanent marketing role in this area.

1.	<b>Message.</b> The marketing message should emphasize that C-PACE is an alternative financing tool, as well as a means to promote the adoption of renewable energy and efficiency projects.
2.	<b>Marketing (General Awareness of C-PACE).</b> If resources and time permit, the PA should raise local community awareness of the C-PACE program through websites, flyers and local media. The private stakeholders should help market C-PACE as well. .
3.	<b>Education (Explanation of C-PACE Financing and Approval Process).</b> The PA should offer seminars and speak at public events to explain the program to property owners, contractors, and economic development organizations. Stakeholders should assist with education.
4.	<b>Training (For Qualified Energy Savings Analysts or Project Developers).</b> If the PA keeps a list of qualified third-parties to conduct energy savings analysts or project development, then the PA must take responsibility for organizing technical training for contractors and engineers. These services can be paid for with a separate fee to contractors and engineers to cover the PA costs.

For more information on C-PACE financing or the C-PACE Alliance, please visit [www.c-pacealliance.com](http://www.c-pacealliance.com) or call Cliff Kellogg at 202-744-1984

\* \* \*