



Mortgage Lender's Guide to C-PACE: Lender Consent

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

Stinson

Winston & Strawn

Accounting Firms

Novogradac & Company

FinTech Partner

T REX

What is C-PACE?

Commercial Property Assessed Clean Energy (C-PACE) is an alternative financing mechanism for property upgrades that improve energy efficiency, utilize renewable energy, conserve water and more. C-PACE makes it possible for owners of commercial, industrial, multifamily, and nonprofit properties to obtain low-cost, long-term, fixed-rate financing funded by private capital providers. Currently, 30+ states have enacted C-PACE legislation, enabling more than \$1 billion in private financing of 2,000+ projects.

How are C-PACE assessments repaid?

In most states, C-PACE is billed as a line item on the property tax bill and collected through the normal property tax collection process.

What items can be financed by C-PACE?

Depending on the jurisdiction, eligible upgrades include efficiency measures (HVAC, LEDs, windows, water, etc.), renewable energy (solar), resiliency measures (seismic, flood, storm strengthening) and, in most jurisdictions, qualified improvements related to new construction.

AS A MORTGAGE LENDER...

What do you need from me?

To document the C-PACE financing, most programs require mortgage holders to consent to the assessment because, like other property tax assessments, the claim for delinquent C-PACE payments is typically on par with normal property taxes. To date, over 200 national, regional and local lenders have consented to C-PACE financing. A list of those lenders is attached as Exhibit A. A sample lender consent / acknowledgement document executed by senior lenders is attached as Exhibit B.

Why do senior lenders consent to C-PACE financing?

1. **C-PACE Assessments Cannot be Accelerated.** While the full assessment amount is recorded on the property records, only the annual payment may be collected, even in a default situation. The past due portion that is senior to a mortgage lender's claim is typically, only 1-3 percent of the property value. For example, consider a \$1 million C-PACE financing on a property valued at \$5 million. The annual assessment for a 20-year term financing would be \$87,185. If the property owner did not pay the C-PACE assessment in year 1, the C-PACE funder can collect only the delinquent payments. The PACE funder's claim is limited to \$87,185 or 1.75 percent of property value. The remaining payments are due according to the original repayment schedule.
2. **C-PACE Financing Does Not Restrict a Senior Lender's Foreclosure Rights.** Unlike other debt, C-PACE does not require an inter-creditor agreement. Rather, in the event of a default on the senior lender's debt, the senior lender can foreclose on its mortgage interest in the property in the same manner as if it were the sole financing on the property. C-PACE does not affect any existing remedies under the loan documents. The C-PACE capital provider may not prevent, restrict, or otherwise impact the senior lender's foreclosure.

3. **Senior Lenders May Escrow the C-PACE Assessments.** Some senior lenders require property owners to escrow the annual C-PACE assessment obligation monthly in the same manner as property tax and insurance escrow requirements. The C-PACE escrow mitigates any risk associated with failure to pay the C-PACE assessment when due. In addition, a lender may request the C-PACE capital provider to capitalize an interest reserve to carry the payments through a construction period.
4. **C-PACE Funds Are Fully Available as of Date of Closing.** The C-PACE financing typically closes simultaneous with the senior lender, and all the C-PACE funds are deposited into an escrow account. Therefore, senior lenders have the comfort of knowing that all funds are available to be drawn as of the closing date.
5. **C-PACE Financing May Increase the Value of the Senior Lender's Collateral.** Most states require that an engineer establish the monetary savings expected to result from the C-PACE project. Therefore, a PACE project directly reduces a building's operating costs, increasing its net operating income and valuation.
6. **C-PACE Financing May Improve Debt Service Coverage.** C-PACE interest rates are typically lower than other forms of financing (e.g. mezzanine debt or preferred equity) and offer longer maturities, resulting in lower payments and a higher debt service coverage ratio.
7. **Relationships matter.** Nearly every C-PACE project involves a customer who wants to complete a project to upgrade their property. C-PACE funded projects make good business sense for the building owner, and therefore the building's mortgage lender, too.

Is C-PACE a loan?

No. C-PACE is a type of financing called assessment financing that has historically been used to fund voter-approved measures, including street upgrades, school bonds, public safety improvements, and various other public infrastructure upgrades. C-PACE allows individual property owners to use the same mechanism to voluntarily upgrade their individual property.

Is this debt or equity?

Neither. It's an assessment. Assessment payments are known in advance and recorded on real property records with a payment schedule. C-PACE is typically non-recourse and is designed for automatic transferability upon sale, with no additional due diligence or payoff required during a transfer of title. The assessment may also be prepaid.

How does C-PACE benefit the senior lender?

C-PACE financing improves infrastructure and can increase collateral value. Replacing aged equipment typically reduces a building's operating costs. A [study](#) by the University California at Berkeley and Lawrence Berkeley National Laboratory concludes that there is a connection between energy efficiency for commercial real estate buildings and the likelihood of defaults.

EXHIBIT A
REPRESENTATIVE CONSENTING BANKS AND OTHER LENDERS*

National Banks

- Bank of America
- Bank of New York Mellon (as trustee)
- BMO Harris Bank
- Citibank
- JP Morgan Chase
- TD Bank
- US Bank
- Wells Fargo

Regional Banks

- Amalgamated Bank
- Associated Bank
- Bank of Sullivan
- Bank of the West
- Banner Bank
- BBCN Bank
- Bremer Bank
- Bridge Bank
- CAB Associates
- California Bank and Trust
- Cheviot Savings Bank
- Citizens Bank
- City National Bank
- Enterprise Bank & Trust
- Farmers & Merchants Bank of Long Beach
- Fifth Third Bank
- First Bank of Boulder
- First Citizens Bank & Trust
- First Community Bank
- First Republic Bank
- First State Bank & Trust
- First Utah Bank
- FirstMerit Bank
- Five Star Bank
- Golden Pacific Bank
- Great Western Bank
- Guaranty Bank and Trust
- Heritage Bank of Commerce

- Liberty Bank
- Lincoln Savings Bank
- Key Bank
- Mechanics Bank
- Midwest Regional Bank
- M&T Bank
- NorthEast Community Bank
- Peoples United Bank
- People's National Bank
- Preferred Bank
- Prosperity Bank
- Salisbury Bank & Trust
- Savings Institute Bank & Trust
- Sterling Savings Bank
- Stock Yards Bank & Trust
- The Private Bank & Trust
- Umpqua Bank
- Union Bank of California
- Washington Trust
- Webster Bank
- West America Bank

International Banks

- Deutsche Bank
- Hanmi Bank
- Helaba Lendesbank Hessen-Thuringen
- HSH Nordbank
- Royal Bank of Canada (as LIHTC Syndicator)

Local Banks

- Academy Bank
- American River Bank
- Bank Mutual
- Bank of Ann Arbor
- Bank of Rhode Island
- Bank of Springfield
- Bankwell
- Berkshire Bank
- Chelsea Groton Bank
- Chelsea State Bank

- Circle Bank
- Citizens Business Bank
- Cornerstone Community Bank
- Dime Bank
- Exchange Bank
- Fairfield County Bank
- First Bank of Lake Forest
- First Community Bank
- First County Bank
- First Mountain Bank
- First National Bank of Boulder
- First Niagara Bank
- Flatirons Bank of Boulder
- Folsom Lake Bank
- Frandsen Bank
- Guaranty Bank and Trust
- Independent Bank
- Litchfield Bancorp
- Midwest Regional Bank
- Monson Savings Bank
- Newtown Savings Bank
- NUVO Bank
- Oritani Bank
- Pacific Alliance Bank
- Pacific Premier Bank
- People's Bank of Massachusetts
- Plumas Bank
- PyraMax Bank, MEDC
- Rockville Bank
- Santa Cruz County Bank
- Security Bank of Kansas City
- Simsbury Bank
- Sonoma Bank
- State Bank of Delano
- St. Louis Bank
- Summit State Bank
- Thomaston Savings Bank
- Torry Pines Bank
- Union Savings Bank

- United Bank and Trust
- Vectra Bank
- Westfield Bank
- Whittier Trust Company of Nevada

Government Entities

- Department of Economic and Community Development (CT)
- District of Columbia Housing Authority
- Greater Sacramento Development Corp.
- Milwaukee Economic Development Corporation
- NY State Teacher's Retirement System
- US Department of Agriculture
- US Small Business Administration (SBA)
- Wisconsin Housing and Econ. Dev Authority (WHEDA)

Insurance Companies

- Genworth Life Insurance Company
- Metropolitan Life Insurance (and as LIHTC Investor)
- Mutual of Omaha
- Northwest Mutual Insurance
- Pacific Life Insurance
- Protective Life Insurance
- Prudential Insurance
- Riversource Life Insurance Company
- Standard Life Insurance
- The Standard-

Stancorp Mortgage Investors

Specialized Lenders

- Access Point Financial
- Ally Capital
- American Agricultural Bank
- Ameriprise Financial
- Ameritas Investment Partners
- AVANA Capital, LLC
- Byzantine Diocese of Stamford
- Eagle Bank
- Farm Credit East
- Layne Foundation
- Mercedes Benz Financial Services
- National Iron Bank
- New Resource Bank
- Pacific Union 7th Day Adventists (Parker Mortgage & Investment Co.)
- Paradigm Capital Group
- ProAmerica
- Thrivent Financial

Private Lenders

- A2B2, LLC
- Business Lenders, LLC
- Cen-Cal Business Finance Group
- Chestnutz
- Connecticut Innovations
- Marion Haddad
- McCoy Ventures, LLC
- Michigan Business Connection, LLC
- Stonebriar Commercial Finance

Credit Unions

- America's Christian Credit Union
- Bellco Credit Union

- Charter Oaks Federal Credit Union
- Redwood Credit Union
- Royal Credit Union
- Westerly Community Credit Union
- Windsor Federal Savings

*Per pacenation.us (October 2018)

EXHIBIT B
Sample Lender Acknowledgement to PACE Special Assessments

Date: [_____] [____], 20[]

Property/Loan Information

Building Address: [_____]

Tax Key/Parcel ID#: [____]-[____]-[____] Mortgage Holder: [_____] NMLS #: [____]

Loan Number: [_____]

This Lender Acknowledgement to PACE Special Assessments (this "Acknowledgement") is given by the undersigned entity (the "Lender") with respect to the above referenced loan ("Loan") and the above referenced property ("Property").

RECITALS

- A. Lender is in receipt of written notice ("Notice") from [_____], as owner of the Property ("Property Owner"), that it intends to finance installation on the Property of certain energy efficiency and/or renewable energy improvements that will be permanently fixed to the Property by participating in a Property Assessed Clean Energy ("PACE") financing transaction through the PROGRAM ADMINISTRATOR, a clean energy development board and political subdivision of STATE.
- B. Lender understands that, as a result of an Assessment Contract (the "Assessment Contract") to be entered into between the PROGRAM ADMINISTRATOR and Property Owner, pursuant to STATE's legislation, (i) the Assessments (as defined in the Assessment Contract) will be levied on the Property and will be recorded as a lien on the Property for amounts then currently due under the Assessment Contract, (ii) the Assessments will be collected in annual installments, (iii) the annual installments will be collected on the Property's real property tax bill or through other arrangements made by the PROGRAM ADMINISTRATOR, and (iv) the Assessments are subject to the same penalties, remedies and lien priorities as ad valorem real property taxes. A form of the Assessment Contract is attached hereto as Exhibit A.
- C. The Property Owner has agreed in a manner acceptable to Lender to pay on a timely basis both the existing obligations secured by the Property (including the Loan) and the proposed Assessments. The estimated annual installments of the Assessments are attached hereto as Exhibit B. The Lender acknowledges that the annual installments shown on Exhibit B may not be final and are subject to change by up to 10.0% greater amounts.
- D. The Lender consents to the Property Owner's execution of the Assessment Contract and the imposition of the Assessments as a superior lien on the Property, including but not limited to the placement of the annual installments of the Assessments on the tax bills for the Property.

The undersigned hereby represents that it is authorized to execute this Acknowledgement on behalf of the Lender. The Lender hereby (i) confirms that it has received the Notice, (ii) acknowledges the levy of the Assessments pursuant to the Assessment Contract, (iii) agrees that the levy of the

Assessments will not constitute an event of default or trigger the exercise of any remedies under any Loan documents, and (iv) acknowledges and agrees that the Assessments are subject to the same penalties, remedies and lien priorities as ad valorem real property taxes, and, therefore, shall have preference over any deed of trust or similar encumbrance recorded against the Property. The Lender hereby acknowledges that the Property Owner and the PROGRAM ADMINISTRATOR will rely on the representations and acknowledgements of the Lender set forth in this Acknowledgement.

[NAME OF MORTGAGE HOLDER]

By: _____

Name: _____

Title: __