

S 256 -- Redline

04/30/2025 to 01/21/2025 -- Commercial Property Assessed Clean Energy Programs (C-PACE)

Deletions ~~struck~~ · Insertions underlined

2025-2026 Bill 256 Text of Previous Version ~~(Apr.,~~ (Jan.

~~30, 21,~~ 2025) - South Carolina Legislature Online South Carolina General Assembly 126th Session, 2025-2026 Bill 256 Indicates Matter Stricken Indicates New Matter (Text matches printed bills.

Document has been reformatted to meet World Wide Web specifications.) ~~Indicates Matter Stricken~~
~~Indicates New Matter Committee Report~~ A April bill 30, 2025 TO --AMEND S--THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "SOUTH CAROLINA COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY AND RESILIENCE ACT" BY ADDING CHAPTER 39 TO TITLE 6 SO AS TO PROVIDE DEFINITIONS, CREATE AND ESTABLISH THE PROGRAM, PROVIDE FOR APPLICATION AND ADMINISTRATION, ESTABLISH A PROCESS FOR ASSESSING AND COLLECTING LIENS, PROVIDE FINANCING, AND TO DEVELOP STANDARDS, AMONG OTHER THINGS.

~~256 Introduced by Senator Davis S.~~

~~Printed 4/30/25--S.~~

~~Read the first time January 21, 2025 The committee on Senate Labor, Commerce and Industry To whom was referred a Bill (S.~~

~~256) to amend the South Carolina Code of Laws by enacting the "South Carolina Commercial Property Assessed Clean Energy and Resilience Act" by adding Chapter to Title, etc., respectfully Report: That they have duly and carefully considered the same, and recommend that the same do pass with amendment:~~

~~Amend the bill, as and if amended, by striking SECTION 1 and inserting:~~

~~SECTION 1. This act may be cited as the "South Carolina Commercial Property Assessed Clean Energy and Resilience Capital Expenditure Improvement Act." Amend the bill further, SECTION 2, by striking the title of the newly created chapter and inserting:~~

~~Commercial Property Assessed Clean Energy and Resilience Capital Expenditure Improvement Programs Amend the bill further, SECTION 2, by striking Section 6-39-10 and inserting:~~

~~Section 6-39-10.~~

~~The purpose of this chapter is to authorize the establishment of commercial property assessed clean energy and resiliency capital expenditure (C-PACE) programs that local governments may voluntarily implement to ensure that owners of agricultural, commercial, industrial, and multifamily residential properties can obtain low-cost, long-term financing for qualifying improvements by freely and willingly agreeing to have an assessment levied on their properties.~~

~~The goals of this authorization are to increase economic development, add jobs, increase the sustainability and safety of the building stock resiliency to natural disaster of commercial properties, improve disaster and emergency response and at no costs to local governments, decrease energy and water utility costs and consumption, and encourage energy utility performance and water sustainability.~~

~~Amend the bill further, SECTION 2, by striking Section 6-39-20(4) and (5) and inserting:~~

~~(4) "C-PACE" means Commercial Property Assessed Clean Energy Capital Expenditure.~~

~~(5) "C-PACE program" or "program" means a program of a local government established under this chapter to provide financing for qualified improvements within a C-PACE area.~~

~~Amend the bill further, SECTION 2, by striking Section 6-39-20(7) and inserting:~~

~~(7) "Energy efficiency performance measure" means any fixture, equipment, device, product, system, material, or interacting group intended to decrease energy consumption or utility costs or enable a more efficient use of electricity, natural gas, propane, or other forms of energy on real property including, but not limited to, all of the following:~~

~~upgrades to a building envelope, such as insulation and glazing;~~

~~energy efficient windows and doors;~~

~~improvements in heating, ventilation, and cooling systems;~~

~~automated energy and water control systems;~~

~~improved lighting, including daylighting;~~

~~energy recovery systems;~~

~~combined heat and power systems;~~

~~and any other fixture, equipment, device, product, system, or material intended as a utility or other cost-saving measure as described in a nationally recognized industry standard or federal or state agency guidelines.~~

~~Amend the bill further, SECTION 2, by striking Section 6-39-20(12)(b)(v) and inserting:~~

~~(v) the date of the assessment agreement;~~

~~Amend the bill further, SECTION 2, by striking Section 6-39-20(14) and (15) and inserting:~~

~~(14) "C-PACE area" means an area within the jurisdictional boundaries of a local government created by an ordinance or resolution of the local government to provide financing for qualifying improvements under a program.~~

~~A C-PACE area may be all or a portion of the entire jurisdiction of the local government.~~

~~If a local government is a county, the C-PACE area may include the entirety of the county's boundaries, inclusive of incorporated and unincorporated jurisdictions, to the extent permitted by law.~~

~~A local government may designate less than the entire portion of the jurisdiction, may create more than one C-PACE area under the program, and C-PACE areas may be separate, overlapping, or coterminous.~~

~~(15) "Permitted assignee" means either any capital provider or any person in addition to any capital provider that is designated as a permitted assignee in the ordinance adopted pursuant to Section 6-39-40 or in the applicable assessment agreement or the applicable notice of assignment of assessment and C-PACE lien a capital provider's successor, designee, or assigns.~~

~~Amend the bill further, SECTION 2, by striking Section 6-39-20(19) and inserting:~~

~~(19) "Qualified improvement" means the acquisition, installation, modification, or construction of a water efficiency performance measure, energy efficiency performance measure, renewable alternative energy resource, renewable energy facility, resiliency measure, or electrical vehicle charging infrastructure affixed to real property, including new construction.~~

~~Amend the bill further, SECTION 2, by striking Section 6-39-20(22), (23), and (24) and inserting:~~

~~(22) "Renewable Alternative energy resource" means a source of energy that includes, but is not limited to, solar photovoltaic and solar thermal resources, wind resources, low impact hydroelectric resources, geothermal resources, tidal and wave energy resources, recycling resources, hydrogen fuel derived from renewable resources, combined heat and power derived from renewable resources, and biomass resources.~~

~~(23) "Renewable Alternative energy facility" means a facility that generates electric power by the use of a renewable alternative energy resource.~~

~~(24) "Renewable Alternative energy improvement" means any fixture, product, system, equipment, device, material, or interacting group on the property of the record owner that uses one or more renewable alternative energy resources to generate electricity.~~

~~Amend the bill further, SECTION 2, by striking Section 6-39-20(26) and inserting:~~

~~(26) "Water efficiency performance measure" means any resiliency measure, fixture, equipment, device, product, system, materials, or interacting group intended to improve water management practices, decrease water consumption, loss, or waste, or improve water quality including, but not limited to, water recycling, capturing, reusing, managing, and treating stormwater, bioretention, trees, green roofs, porous pavements, or cisterns for maintaining or restoring natural hydrology, replacing or otherwise abating or mitigating the use of lead pipes in the supply of water, and any other resiliency improvement, fixture, product, system, equipment, device, or material intended as a utility or other cost-saving measure as approved by the governing body.~~

~~Amend the bill further, SECTION 2, by striking Section 6-39-30(D) and inserting:~~

~~(D) A local government must sell or assign, for consideration, any and all rights to the assessment agreements to permitted assignees.~~

~~A local government may sell or assign assessment agreements without competitive bidding or the solicitation of requests for proposals or requests for qualifications other than its rights to indemnification and payment of local government's costs and expenses, and any rights and obligations of the local government with respect to the billing, collection, and enforcement of the assessment, as set forth in the assessment agreement.~~

~~Amend the bill further, SECTION 2, by striking Section 6-39-40(A)(8) and inserting:~~

~~(8) a description of the territory within the C-PACE area or C-PACE areas;~~

~~Amend the bill further, SECTION 2, by striking Section 6-39-40(B) and inserting:~~

~~(B) A program may be amended in accordance with the ordinance establishing the program.~~

~~Without limiting the generality of the foregoing, the following may be accomplished by resolution without amending the ordinance:~~

~~the addition or replacement of one or more program administrators;~~

~~the types of qualified improvements;~~

~~the addition of a C-PACE area;~~

~~or a modification of the territory of an existing C-PACE area.~~

~~Amend the bill further, SECTION 2, by striking Section 6-39-50(A) and inserting:~~

~~(A) A record owner of qualifying property within the C-PACE area may apply to the program administrator for the C-PACE area to finance a qualified improvement under the applicable local government's program, provided that the aggregate amount to be financed is not less than one hundred thousand dollars.~~

~~Amend the bill further, SECTION 2, by striking Section 6-39-50(C) and inserting:~~

~~(C) Before the local government enters into an assessment agreement with a record owner under a program, the applicable program administrator must verify that the qualifying property is entirely within a C-PACE area and receive evidence of all of the following:~~

- ~~(1) that there are no delinquent taxes, assessments, or water or sewer charges on the qualifying property;~~
- ~~(2) that there are no delinquent assessments on the qualifying property under any C-PACE program;~~
- ~~(3) that there are no involuntary liens on the qualifying property including, but not limited to, construction or mechanics liens, lis pendens, or judgments against the record owner, except for those being contested by the record owner and for which the related amount or amounts are being held in escrow or secured by a surety bond or similar instrument and which have not been removed at the time of the close of the financing, or environmental proceedings, or eminent domain proceedings against the qualifying property;~~
- ~~(4) that no notices of default or other evidence of property-based debt delinquency have been recorded against the qualifying property that have not been cured;~~
- ~~(5) that the record owner is current on all mortgage debt on the property;~~
- ~~(6) that the record owner is not a debtor in a current bankruptcy proceeding or that the qualifying property is not an asset in a current bankruptcy proceeding;~~
- ~~(7) that all work requiring a license under any applicable law to acquire, construct, install, or modify a qualified improvement contemplated by the assessment agreement must be performed by a licensed contractor;~~
- ~~(8) that a licensed engineer has provided a written statement, upon which the local government, the program administrator, and the capital provider can rely, that the proposed qualified improvements are authorized under this chapter, the ordinance pursuant to which the program was established, and the applicable program guidebook and setting forth the duration of the estimated useful life of the proposed qualifying improvements as calculated in accordance with guidelines established by the program administrator in its program guidebook;~~
- ~~(9) if the qualifying property is encumbered by one or more mortgages, that the record owner provided to the holders or servicers of any mortgages a notice of the record owner's intent to enter into an assessment agreement with the local government, specifying the types of qualified improvements, the maximum principal amount to be financed, the maximum term of the assessment and an estimated maximum annual payment necessary to repay that amount, and that the record owner must obtain the written consent of the mortgage holder or servicer (whichever is required by the mortgage document as then in effect) for the record owner to enter into the assessment agreement in accordance with the requirements set forth in Section 6-39-70(C);~~
- ~~and _____ (10) if the qualified improvement has already been completed, then it must have been completed no more than three years prior to the date the record owner applied to the program administrator for financing.~~

~~Amend the bill further, SECTION 2, by striking Section 6-39-80(A)(1) and (2) and inserting:~~

~~(1) a county which has established a program may include assessments in the regular property tax bills of the county.~~

~~A municipality or any other political subdivision may request that the treasurer of the county in which a C-PACE area is located to bill and collect assessments with the regular property tax bills of the county.~~

~~No municipality or other political subdivision shall be obligated to request that the county treasurer bill and collect assessments.~~

~~If the county treasurer bills and collects assessments with the regular property tax bills of the county for a particular program, then the program administrator for the program must timely file with the county treasurer a report with the annual amount due for each property, and the annual amount due becomes due in installments at the times property taxes shall become due in accordance with each regular property tax bill payable during the year in which the assessment comes due;~~

~~or _____ (2) if the county treasurer does not bill and collect assessments with the regular property tax bills of the county, the local government in which the C-PACE area is located must either directly bill and collect the assessments or designate the local government's program administrator or program administrators or another third party to bill and collect assessments.~~

~~If the local government is directly billing and collecting the assessments, the annual amount due becomes due in installments on or about the times property taxes would otherwise become due in accordance with each regular property tax bill payable during the year in which the assessment comes due.~~

~~If the local government's program administrator or program administrators or another third party is billing and collecting assessments, the annual amount due must be due in installments as required by the related assessment agreement.~~

~~Amend the bill further, SECTION 2, by striking Section 6-39-80(B) and inserting:~~

~~(B) If a local government, a program administrator, or another third party is billing and collecting assessments pursuant to subsection (A)(2), and the applicable assessment becomes delinquent during any year, then the local government, program administrator, or other third party must, on or before the date in the year required by the county in which the C-PACE area is located, make a report in writing to the tax collector responsible for the collection of delinquent property taxes in the county. This report must be certified by the local government, program administrator, or other third party and must include statements that:~~

~~(1) the report contains a true and correct list of delinquent assessments that the reporting person has not received as required by the applicable bill;~~

~~and (2) an itemization of the amount of each delinquent assessment, including interest and penalties, if applicable.~~

~~The report of the reporting person, when so made, shall be prima facie evidence that all requirements of the law in relation to making the report have been satisfied and that the assessments or the matured installments, and the interest, and the interest accrued on installments not yet matured, mentioned in the report, are due and unpaid.~~

~~Upon proper filing of the report, at the direction of the local government or its permitted assignee, the county delinquent tax collector shall be required to enforce the collection of the assessments in the manner provided by law for taxes and non ad valorem assessments on par with taxes as a ministerial, nondiscretionary duty of the office.~~

~~Amend the bill further, SECTION 2, by striking Section 6-39-90(A) and inserting:~~

~~(A) Qualified improvements must be financed with funds provided directly by a capital provider pursuant to a financing agreement.~~

~~Neither the State nor the local government shall prescribe the form of financing agreement; provided, however, that the applicable local government must be a third-party beneficiary.~~

~~Amend the bill further, SECTION 2, by striking Section 6-39-100 and inserting:~~

~~Section 6-39-100. Qualified improvements must meet all applicable safety, performance, interconnection, and reliability standards established by the Public Service Commission of South Carolina, the South Carolina Public Service Authority, the National Electrical Code as adopted and modified by the South Carolina Building Codes Council, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, the Electric Reliability Organization certified by the Federal Energy Regulatory Commission, and any other governing authorities with jurisdiction prior to qualifying for financing.~~

~~Renumber sections to conform.~~

~~Amend title to conform.~~

~~THOMAS DAVIS for Committee.~~

~~A bill TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "SOUTH CAROLINA COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY AND RESILIENCE ACT" BY ADDING CHAPTER 39 TO TITLE 6 SO AS TO PROVIDE DEFINITIONS, CREATE AND ESTABLISH THE PROGRAM, PROVIDE FOR APPLICATION AND ADMINISTRATION, ESTABLISH A PROCESS FOR ASSESSING AND COLLECTING LIENS, PROVIDE FINANCING, AND TO DEVELOP STANDARDS, AMONG OTHER THINGS.~~

501(a)(1), (2), (3), and (7)) promulgated under the federal Securities Act of 1933 (15 U.S.C.

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