

**Things that Should Be Included in Legislation** - A legal expert should ensure that each of these are accomplished with the legislation, whether expressly stated, or not

**Essentials** – Things we think every PACE statute should include or address in some way

- State the public purpose goals that PACE helps achieve, e.g. energy conservation, avoided costs, environmental concerns, economic development
- Authorize some unit(s) of local government (e.g. a county, city, town, or other jurisdiction) to establish a PACE program
  - Allow local governments offering PACE to do so in concert with others (to promote economies of scale)
- Address program administration
  - Allow programs to be administered by 3<sup>rd</sup> party providers
- Broadly define qualifying improvements, e.g. those that improve
  - Energy efficiency (EE)
  - Renewable energy onsite generation (RE)
  - Water conservation (WC)
  - Specify that projects must be permanently affixed to the property (because they become part of the building's collateral value).
  - Require that financing not exceed the useful life of the project
- Establish or describe the mechanism(s) required for a local government to provide or arrange funding for a PACE project that will be repaid with an assessment or similarly binding charge.
  - Defines, as necessary, responsible parties
  - Establishes a benefit district, if necessary.
    - Benefit district could be statewide (with municipal opt-in), coterminous with one or more municipalities, or limited to one or more properties (which may or may not be contiguous)
- Require/allow the sponsoring government to impose (or contract with the taxing jurisdiction) a PACE assessment or charge on the subject property that
  - Is a Senior lien to mortgages
  - Is collected in the same manner as property taxes
  - Has, ideally, the same lien status as other taxes and assessments
  - Can not be accelerated or extinguished until fully repaid
  - Stays with the property upon sale (runs with the land)
- Allow PACE to fund 100% of a project's hard and soft costs, including audits, project development and application fees

- Establish broad PACE project funding options to allow programs to access project capital from as many sources as possible. These should include:
  - Any funds legally available to the sponsoring government
  - Municipal bonds, taxable or tax-exempt (if eligible), in conjunction with any source of credit enhancement. Typically, revenue bonds secured solely by the PACE assessment payments would be issued by a local government or an authorized authority or local development corporation.
  - Funds provided directly by a third party (including banks and investment firms) in return for the contractual right to receive assessment payments
    - Allow such rights to be assigned
- Allow municipality to impose other fees to offset program administration costs
  - Specifies whether added fees are upfront or add-on to interest rate
- Take into account any differences between types of municipalities, if applicable in terms of rights and processes
  - Ability to establish special benefit district
  - Ability to impose, collect, and enforce assessments or charges

**Optional – Program Design** – The following elements sometimes appear in legislation, but could also be left to program design. The power to design a program is sometimes granted to a specific body in legislation, e.g. Connecticut’s statute authorized the state’s Green Bank to administer the statewide PACE program

- Ability to pay criteria as qualifications for a building owner to access funds,
  - Property is owned by the applicant, and ownership is not in dispute
  - Current on property taxes, typically for the last three years
  - Current on mortgage, typically for the last three years
  - No outstanding involuntary liens (of a certain size or more)
  - Owner has no history of bankruptcy for a period of years
  - Loan to Value threshold, to establish that the building has equity
    - Including or exclusive of PACE project
- Analytical requirements for participation, such as:
  - Benchmarking
  - Audits, and to which standard
  - Savings-to-Investment ratio test (SIR)
    - Loading orders (we recommend these not be included in legislation)
    - Projects required to be undertaken in ranked order of savings
  - Project cost to value of property ratio test
  - Measurement & Verification requirements after project implementation
- Prepayment options in the event of sale (allowed in some states, but not in others)
- Lender notice – existing mortgage lender notice requirement
- Lender Consent – existing mortgage lender must consent to or authorize project

- Consumer protection notifications

**More things to consider**

- Uniformity
  - Central administrative authority
  - Statewide improvement district
- Residential, Commercial, both?