

Philadelphia Enacts Commercial Property Assessed Clean Energy (C-PACE) Program

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On June 20, 2019, Philadelphia City Council unanimously voted to approve the Commercial Property Assessed Clean Energy (C-PACE) program. The ordinance, Bill #190412, which was signed by the Mayor on _____, 2019, authorizes the financing, through C-PACE loans, of clean energy, alternative energy, and water conservation projects for eligible commercial properties in Philadelphia. Philadelphia's C-PACE program will be administered by the Philadelphia Energy Authority. Third party capital providers (not the Philadelphia Energy Authority) will originate C-PACE financings for qualified projects.

C-PACE "assessments" will encumber the applicable property in a first lien position akin to a real estate tax. Documentation among the property owner, the City of Philadelphia, and the third party capital provider (identified in the Ordinance as the "financial institution") will provide that among other things, the assessments will be payable over time (i.e., thirty (30) years) and will not be accelerated during its term. Importantly, before a C-PACE financing can be originated and the underlying property assessed, notice of the property owner's desire to secure C-PACE financing under the program must be provided to the holder of a mortgage on the subject property and the holder of the mortgage must provide the property owner and the City of Philadelphia with its written consent. Without the mortgage lender's consent, the C-PACE financing cannot be consummated.

The Philadelphia Energy Authority has announced that it expects to release Philadelphia's program guidelines by the end of July of 2019 and that it plans to accept its first project applications in September of 2019.

We will continue to monitor and report on significant developments concerning the progress of Philadelphia's C-PACE program. Additional background is provided in our prior article, "PACE Loan Considerations for Commercial Real Estate Lenders." If you have questions or would like further information, contact Tim Davis (davist@whiteandwilliams.com; 215.864.6829) or Will Johnston (johnstonw@whiteandwilliams.com; 215.864.6341).

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