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, TO CREATE AND ESTABLISH THE PROGRAM, TO PROVIDE FOR APPLICATION AND ADMINISTRATION, TO ESTABLISH A PROCESS FOR ASSESSING AND COLLECTING LIENS, TO PROVIDE FINANCING, AND TO DEVELOP STANDARDS, AMONG OTHER THINGS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “South Carolina Commercial Property Assessed Clean Energy and Resilience Act.”

SECTION 2. Title 6 of the S.C. Code is amended by adding:

CHAPTER 39

Commercial Property Assessed Clean Energy and Resilience Programs

Section 6‑39‑10. The purpose of this chapter is to authorize the establishment of commercial property assessed clean energy and resiliency (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, improve disaster and emergency response and at no costs to local governments, decrease energy and water costs and consumption, and encourage energy and water sustainability.

Section 6‑39‑20. For the purposes of this chapter:

(1) “Assessment” means a non‑ad valorem, special assessment against qualifying property levied by a local government pursuant to an assessment agreement.

(2) “Assessment agreement” means a written agreement, in the form prescribed by each local government, between the applicable local government and the record owner setting forth the terms and conditions of the assessment.

(3) “Capital provider” means any of the following:

(a) a private entity that:

(i) has a minimum net worth of five million dollars;

(ii) has either at least three years’ experience in commercial lending or an executive officer that has a least three years’ experience in commercial lending; and

(iii) has the ability directly or through a servicer to carry out the bookkeeping and customer service necessary to administer the assessment agreements;

(b) a qualified institutional buyer, as defined in Rule 144A (17 C.F.R. 230.144A) of the federal Securities Act of 1933 (15 U.S.C. Section 77a, et seq.), as amended;

(c) an accredited investor, as defined in Section 501(a)(1), (2), (3), and (7) of Regulation D (17 C.F.R. 230. 501(a)(1), (2), (3), and (7)) promulgated under the federal Securities Act of 1933 (15 U.S.C. Section 77a, et seq.), as amended;

(d) a financial institution, as defined in 18 U.S.C Section 20, as amended;

(e) an insurance company licensed under the laws of any state;

(f) a trustee, custodian, or depositary of a trust or a custodial or depositary arrangement, as the case may be, which provides that beneficial ownership of interests in the trust or arrangement shall be restricted to persons described in items (a), (b), (c), (d), (e), and (g); and

(g) a special purpose entity with respect to which the beneficial owners of equity interests or equity securities issued by the entity must be restricted to those persons described in items (a), (b), (c), (d), (e), and (f).

(4) “C‑PACE” means Commercial Property Assessed Clean Energy.

(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 PACE area.

(6) “Electrical vehicle charging infrastructure” means any fixture, product, system, equipment, device, material, or interacting group intended for the installation or upgrade of electrical wiring, outlets, or charging stations to charge a motor vehicle that is fully or partially powered by electricity including, but not limited to, electrical wiring, outlets, or charging stations.

(7) “Energy efficiency 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.

(8) “Financing” or “finance” means investing capital in newly qualified improvements or the refinancing of an investment in an existing qualified improvement.

(9) “Financing agreement” means the written agreement between a capital provider and a record owner setting forth the terms and conditions pursuant to which the capital provider will provide the financing, the record owner will repay the financing, the rights and remedies of the capital provider, and other terms and conditions as the parties may agree.

(10) “Governing body” means, for a county, as appropriate, the county council or councils for the county, for a municipality, as appropriate, the governing body, and for any other political subdivision of this State the person or persons with similar authority.

(11) “Independent administrator” means a private entity that has been engaged in the business of managing, administering, and servicing PACE programs or commercial mortgage lending programs for at least three years, that neither it nor its affiliates is engaged in providing capital to finance PACE assets in any state, and that has no interlocking ownership or management with a person providing capital to finance PACE assets in any state.

(12) “Notice of Assessment and C‑PACE lien” means a written notice, in the form prescribed by a local government, for recording in connection with each assessment:

(a) making reference to this chapter;

(b) setting forth:

(i) the name of the record owner of the qualifying property;

(ii) the address of the qualifying property;

(iii) the parcel identification number;

(iv) the amount of the assessment;

(v) the date of the assessment;

(vi) the date or circumstance under which the assessment expires;

(vii) the type or types of qualifying improvements; and

(c) having as an attachment a copy of the assessment agreement.

(13) “Notice of Assignment of Assessment and C‑PACE lien” means a written notice, in the form prescribed by a local government, for recording in connection with the assignment of an assessment agreement by the local government to the applicable capital provider, and each subsequent assignment.

(14) “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 PACE area may be all or a portion of the entire jurisdiction of the local government. If a local government is a county, the 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 PACE area under the program, and 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.

(16) “Program administration agreement” means a written agreement between a local government and a program administrator described in item (17)(b), (c), and (d).

(17) “Program administrator” means:

(a) the department or official or officials within a local government designated to administer a C‑PACE program;

(b) a regional council of governments established pursuant to Article 3, Chapter 7, Title 6;

(c) an independent administrator; or

(d) a capital provider described in item (3)(a)‑(e).

(18) “Program guidebook” means a document prepared by a program administrator pursuant to Section 6‑39‑60(c).

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

(20) “Qualifying property” means a privately‑owned commercial, industrial, and agricultural property, a multifamily property with five or more dwellings, and a property owned by a nonprofit or tax‑exempt entity other than a residential property with one to four dwellings. Each dwelling within a multifamily property with five or more dwellings shall be considered a “nonresidential” customer to ensure these commercial properties adhere to the capacity restrictions of Section 58‑40‑10(C).

(21) “Record owner” means:

(a) the owner of record of a qualifying property other than the state or a local government; and

(b) the lessee under a ground lease on a qualifying property whose owner of record, including the state or any local government in addition to private entities, consents in writing to an assessment being levied on the leasehold.

(22) “Renewable 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 energy facility” means a facility that generates electric power by the use of a renewable energy resource.

(24) “Renewable 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 energy resources to generate electricity.

(25) “Resiliency measure” means any fixture, equipment, device, product, system, material, or interacting group intended to increase property resiliency or improve the durability of infrastructure including, but not limited to, storm retrofits, flood mitigation, storm water management, wind resistance, seismic hardening, energy storage, microgrids, fire suppression, backup power generation, and other resilience projects approved by the governing body.

(26) “Water efficiency 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.

Section 6‑39‑30. (A) Pursuant to the procedures set forth in Section 6‑39‑40, a local government may establish a C‑PACE program.

(B) Under a C‑PACE program, the local government may enter into an assessment agreement with the record owner of a qualifying property within a PACE area to finance all or a portion of one or more qualified improvements on the qualifying property. The assessment agreement must provide for the repayment of financing through an assessment levied upon the qualifying property by the local government.

(C) The amount of the financing may include any and all of the following: the cost of materials and labor necessary for acquisition, construction, installation, or modification of the qualified improvements, permit fees, inspection fees, application and administrative fees, financing fees, reserves, capitalized interest, costs of billing the assessment, and all other fees, costs, and expenses that may be incurred by or on behalf of the record owner in connection with the acquisition, construction, installation, or modification of the qualified improvements, and the costs of financing, on a specific or pro rata basis, as determined by the program administrator.

(D) A local government must sell or assign, for consideration, any and all 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.

(E) A permitted assignee of an assessment agreement shall have and possess the delegable powers and rights at law or in equity as the applicable local government would have if the assessment agreement had not been assigned with regard to:

(1) the precedence and priority of liens evidenced by the assessment agreement;

(2) the accrual of interest; and

(3) the fees and expenses of billing, collection, and enforcement.

The permitted assignee has the right to seek enforcement of an assigned assessment agreement and assessment lien pursuant to Section 39‑6‑80.

(F) Costs and reasonable attorney’s fees incurred by the permitted assignee as a result of any foreclosure action or other legal proceeding brought pursuant to this chapter and directly related to the proceeding may be assessed in any proceeding against the record owner subject to the proceedings.

(G) A program must be administered by one or more program administrators, as determined by the governing body and set forth in the ordinance establishing the program. A local government may select one or more independent administrators or capital providers to be a program administrator without competitive bidding or the solicitation of requests for proposals or requests for qualifications.

(H) A local government may establish more than one C‑PACE program.

Section 6‑39‑40. (A) To establish a C‑PACE program, the governing body must adopt an ordinance that includes all of the following:

(1) a finding that the financing of qualified improvements is a valid public purpose;

(2) a statement that the local government intends to authorize direct financing between record owners and capital providers as the means to finance qualified improvements, which will be repaid by assessments on the qualifying properties benefited by the qualified improvements pursuant to assessment agreements between the local government and the record owners and financing agreement between capital providers and the respective record owners;

(3) a statement of intent to facilitate access to capital from capital providers to provide funds for financing qualified improvements;

(4) a statement as to whether the program will be administered by:

(a) a department or an official or officials within the local government;

(b) a regional council of governments established pursuant to Article 3, Chapter 7, Title 6;

(c) one or more independent administrators;

(d) one or more capital providers described in Section 6‑39‑20(3)(a)‑(d); or

(e) some combination of the foregoing;

(5) if applicable, a form of program administration agreement between the local government and each program administrator described in Section 6‑39‑20(16)(c) and (d);

(6) a statement that all qualified improvements permitted by this chapter may be financed, unless otherwise provided in the ordinance;

(7) a statement that the period of the assessment must not exceed the lesser of thirty years and the duration of the estimated useful life of the qualified improvements that are the basis for the assessment. The duration of the estimated useful life of the qualified improvements must be calculated in accordance with the principles established by the applicable program administrator in its program guidebook and set forth in the written statement required by Section 6‑39‑50(C)(8);

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

(9) a form of assessment agreement between the local government and the record owner;

(10) a form of assignment agreement between the local government and the capital provider;

(11) a form of notice of assessment and C‑PACE lien;

(12) a form of notice of assignment of assessment and C‑PACE lien;

(13) a requirement that each program administrator adopts and publishes a program guidebook complying with the requirements of Section 6‑39‑60;

(14) a requirement that if the qualifying property is subject to one or more mortgages, then each mortgagee must consent to the qualifying property participating in the program prior to the execution and delivery of the assessment agreement; and

(15) the identification of one or more officials authorized to enter into assessment agreements, assignment agreements, and program administration agreements, to execute notices of assessment and notices of assignment of assessment and C‑PACE lien and other documents, instruments, and certificates on behalf of the local government as shall be necessary or appropriate to implement the ordinance;

(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 PACE area; or a modification of the territory of an existing PACE area.

(C) A combination of local governments may provide for the joint administration of their programs by each governing body of the local governments:

(1) including in or amending the ordinance establishing its program that its program will be administered in whole or in part jointly with other local governments; and

(2) entering into a joint program administration agreement with other local governments and a program administrator described in Section 6‑39‑20(16).

Section 6‑39‑50. (A) A record owner of qualifying property within the PACE area may apply to the program administrator for the 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.

(B) A local government may levy an assessment under a program only pursuant to the terms of an assessment agreement with the record owner of the qualifying property to be assessed.

(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 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, 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.

(D) If the capital provider providing the financing for an assessment has signed a certification that the requirements of Section 6‑39‑50(C) have been satisfied, then the certificate is conclusive evidence as to the program administrator’s compliance with the section. If the capital provider is not the program administrator, it must deliver the certification to the program administrator. If the capital provider is the program administrator, it must deliver or retain the certification as set forth in the applicable program administration agreement.

(E) The imposition of any assessment pursuant to this chapter is exempt from any other statutory procedures or requirements that condition the imposition of assessments or taxes against property, except as specifically set forth in this chapter.

Section 6‑39‑60. (A) In the event the local government desires to have its C‑PACE program administered by one or more program administrators as described in Section 6‑39‑20(17)(b)‑(d), the local government must enter into a program administration agreement with each program administrator.

(B) In the event the local government engages a capital provider to be a program administrator, then the local government must permit any other capital provider upon application to be a program administrator on the same terms and conditions.

(C) Each program administrator must prepare and publish and keep current a program guidebook.

(D) A program guidebook must contain a description of the program administrator’s administration of the applicable program and establish appropriate guidelines, specifications, underwriting, and approval criteria and that includes copies of the standard forms required by the ordinance establishing the program, a standard form of application for financing, and any other standard forms consistent with the administration of the program.

(E) Each program administrator other than a program administrator that is a capital provider must permit any entity that has demonstrated that it meets the definition of capital provider to the program administrator to provide financing to a record owner whose application to the program administrator is approved.

(F) A program administrator is authorized to impose a fee for administering a program. The fee may be assessed as part of the program application, to be paid by the property owner requesting to participate in the program. The fee of an approved application must be based on a percentage of the total amount financed and may not exceed the lesser of one percent of that amount or fifty thousand dollars.

Section 6‑39‑70. (A) An assessment levied pursuant to Section 6‑39‑50, including any interest, fees, penalties, and indemnification or reimbursement obligations payable under the applicable assessment agreement, constitutes a lien against the entire qualifying property to which it applies, not only the improvements funded by the assessment.

(B) Assessment must be paid in accordance with the terms of the related assessment agreement and financing agreement, provided that in the event of a conflict between the assessment agreement and the financing agreement, the assessment agreement controls. Assessments may be prepaid by the record owner, subject to any prepayment premiums and any other related costs.

(C) The lien of the assessment runs with the qualifying property until the assessment is paid in full. Upon payment in full, a satisfaction and release of the assessment and C‑PACE lien must be filed by the local government. Without limiting the generality of the foregoing, the lien of the assessment will not accelerate or become extinguished in the event of a delinquency in the payment of an assessment or any other default under the assessment agreement or financing agreement, or the foreclosure of the qualifying property, or the bankruptcy or insolvency of the record owner.

(D) The lien of the assessment has the same priority status as a lien for any other ad valorem tax or assessment on par with the tax under Title 12.

(E) A notice of assessment and C‑PACE lien must be filed in the office of the register of deeds of the county where the qualifying property is located.

(1) A copy of the assessment agreement and each mortgagee consent must be filed with, and as an attachment to, the notice of assessment and C‑PACE lien in the office of the register of deeds of the county where the qualifying property is located.

(2) The mortgagee form of consent must include, but is not limited to, the following:

(a) the names and addresses of the record owner;

(b) the name and principal addresses of the mortgagees and servicer, if applicable;

(c) a description of the qualifying property;

(d) the types of the qualified improvements;

(e) the maximum amount to be financed;

(f) the maximum term of the assessment;

(g) the request for a mortgagee’s, or servicer’s, if applicable, consent by the record owner;

(h) an acknowledgement that:

(i) the existing mortgage or mortgages for which the consent was received will be subordinate to the assessment agreement and the lien created thereby; and

(ii) the local government can enforce collection of the assessments against the qualifying property if the assessments are not paid.

(F) A notice of assignment of assessment and C‑PACE lien must be filed in the office of the register of deeds of the county where the qualifying property is located.

(G) To the extent that an assessment is not paid when due, the delinquency is enforceable by the county or local government pursuant to Section 6‑39‑80.

(H) In the event that a payment on the C‑PACE lien is delinquent for a period exceeding thirty days from the due date of the payment, the local government or permitted assignee or its designated agent must send written notice of the default to each mortgagee of record.

(I) The C‑PACE lien must be disclosed by the record owner to any prospective purchaser of the qualifying property prior to entering into an agreement to sell the qualifying property.

(J) A local government may delegate to a program administrator or a capital provider the obligation to file a notice of assessment and C‑PACE lien, a notice of assignment of assessment and C‑PACE lien and a satisfaction and release of an assessment and C‑PACE lien.

Section 6‑39‑80. (A) Assessments created under this chapter must be billed and collected as follows:

(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 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 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.

(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 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.

(C) Proceeds from any enforcement or foreclosure action shall be remitted to the permitted assignee identified in the notice of assignment of assessment and C‑PACE lien related to the assessment; provided, that if there are more property taxes than the C‑PACE assessment then delinquent, all the proceeds must be applied pro rata to the delinquent taxes.

(D) Costs and reasonable attorney’s fees incurred by the county, the local government, a program administrator, or capital provider, as applicable, either as a result of any enforcement action, or other legal proceeding brought pursuant to this section or Title 12 and directly related to the proceeding, shall be levied against each person having title to any property subject to the proceedings in addition to any other amounts due and outstanding. The costs and fees may be collected by the assignee at any time after demand for payment has been made by the assignee.

(E) If the county or local government fails to perform its obligation under this section or to otherwise enforce the assessment and remit the proceeds, then the permitted assignee has the right:

(1) by mandamus or other suit or proceeding at law or in equity to enforce its rights against the county or the local government and any of their respective members, officers, and employees, and to compel the county or local government or any the members, officers, or employees to perform and carry out their duties under this chapter and Title 12;

(2) by suit in equity to enjoin any actions that are in violation of this chapter or Title 12; or

(3) to exercise every power and remedy available to it under this chapter or other applicable law.

(F) The local government, its officers, and employees, are not liable for monetary damages at law or equity for actions taken pursuant to this section.

Section 6‑39‑90. (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.

(B) Neither the State nor a local government will use public funds to fund or repay financing between a capital provider and property owner.

(C) This chapter does not authorize the pledge or the offering, or otherwise encumber, the full faith and credit of the State or any local government, and no governing body may pledge, offer, or encumber the full faith and credit of the local government for a lien amount through a C‑PACE program.

(D) No provision in this law causes the State or the local government to be liable for any assessment.

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 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, and any other governing authorities with jurisdiction prior to qualifying for financing.

Section 6‑39‑110. (A) The provisions of this chapter may not be used to implement qualified improvements that result in the replacement of natural gas appliances or equipment with electric appliances or equipment or that result in the replacement of electric appliances or equipment with natural gas appliances or equipment unless the customer who seeks to install the energy efficiency or conservation measure is being provided electric and natural gas service by the same provider.

(B) Nothing in this section may allow the resale of electricity.

Section 6‑39‑120. Nothing contained in this chapter shall be construed to conflict with Article 23, Chapter 27, Title 58 or Chapters 37, 39, and 40, Title 58.

SECTION 3. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑