

ACT NO. 9 1 0 2

BILL NO. 36-0248

THIRTY-SIXTH LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2026

An act amending title 29 Virgin Islands Code by enacting the Commercial Property Assessed Clean Energy (C-PACE) Act

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WHEREAS, Commercial Property Assessed Clean Energy (C-PACE) is a financing mechanism that enables low-cost, long-term funding for energy efficiency, renewable energy and hurricane protection improvements to private commercial property;

WHEREAS, C-PACE is a national initiative, but programs are established locally and tailored to meet regional market needs;

WHEREAS, the C-PACE financing terms are based on the useful life of the improvement which can be more than 25 years;

WHEREAS, the C-PACE non-credit based financing can cover 100 percent of a project's costs for property owners;

WHEREAS, C-PACE financing is secured through a voluntary assessment on the property, and has the same priority as other local public benefit assessments;

WHEREAS, the C-PACE program aims to decrease energy and water costs and encourage energy and water sustainability;

WHEREAS, the C-PACE payments run with the property, not the property owner, and the assessments are legally transferable upon sale;

WHEREAS, the Legislature of the Virgin Islands finds that the financing of qualified projects through C-PACE special assessments is a valid public purpose; Now, Therefore,

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 29 Virgin Islands Code is amended by adding a chapter 25 that reads:

“Chapter 25. Commercial Property Assessed Clean Energy (C-PACE)

§1501. Definitions

As used in this chapter:

(1) "Assessment contract" means the voluntary agreement between the Government of the Virgin Islands and a property owner to place a special assessment on property to secure repayment of financing from a capital provider under the C-PACE program.

(2) "Capital provider" means a private third-party entity including its designee, successor, and assigns, which makes or funds C-PACE financing or refinancing under this chapter.

(3) "Commercial property" means privately owned commercial, industrial, or agricultural real property, or privately owned residential real property consisting of five or more dwelling units, and includes property owned by nonprofit, charitable, or religious organizations.

(4) "C-PACE program" or "program" means a commercial property assessed clean energy program established under this chapter.

(5) "Energy Office" means the Virgin Islands Energy Office as established in 3 V.I.C. §8.

(6) "Financing" means financing and refinancing for qualified projects under this chapter.

(7) "Financing agreement" means the contract under which a property owner agrees to repay a capital provider for the C-PACE financing, including, details of finance charges, fees, debt servicing, accrual of interest and penalties, and terms relating to treatment of prepayment and partial payment, billing, collection, and enforcement of the C-PACE financing.

(8) "Owner of record" means the owner listed on the property's deed, title, or tax records or the owner of an estate for years created pursuant to a written ground lease agreement or similar agreement.

(9) "Program administrator" means the Virgin Islands Energy Office, or a private independent third party designated by the Energy Office; provided, that the administrative procedures used conform to this chapter.

(10) "Program guidebook" means a comprehensive document that illustrates the applicable program and establishes appropriate guidelines, specifications, underwriting and approval criteria, and standard application forms consistent with the administration of a program and not detailed in this chapter, including:

(A) a form assessment contract between the Energy Office and the property owner specifying the terms of assessment under the program, financing provided by a third party, and remedies for default or foreclosure;

(B) a form Notice of Assessment and C-PACE lien; or

(C) a form Notice of Assignment of Assessment and C-PACE lien between the Energy Office and a capital provider.

(11) "Project application" means an application submitted to the Energy Office for C-PACE financing, assessment and lien.

(12) "Property owner" means the owner or owners of record, of a commercial property.

(13) "Qualified improvement" means a permanent improvement installed and affixed to commercial property and intended to:

(A) decrease energy consumption or demand using efficiency technologies, products, or activities that reduce or support the reduction of energy consumption;

(B) support the production of clean, renewable energy, including using a product, device, or interacting group of products or devices on the customer's side of the meter that generates electricity, provides thermal energy, or regulates temperature;

(C) decrease water consumption or demand, increase water conservation and storage, and address safe drinking water using efficiency technologies, products, or activities that reduce or support the reduction of water consumption or increase the storage of water;

(D) allow for the reduction or elimination of lead from water that may be used for drinking or cooking;

(E) increase water or wastewater resilience, through storm retrofits, flood mitigation, and stormwater management, or increase wind resistance, energy storage, microgrids, and other resilience projects approved by the Energy Office;

(F) improvements and upgrades for compliance with the Federal Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* (1990); and

(G) hurricane resilience and retrofitting.

(4) "Qualified project" means a project approved by the Virgin Islands Energy Office, involving the installation or modification of a qualified improvement, including new construction or the adaptive reuse of eligible property with a qualified improvement installed no more than five years prior to the date of application are eligible as qualified projects.

§1502. Program authorization

(a) The Government of the Virgin Islands, through the Virgin Islands Energy Office, shall establish a C-PACE program and exercise all powers granted under this chapter.

(b) The entire boundaries of the islands of St. Thomas, St. John, St. Croix, and Water Island are eligible for C-PACE.

(c) A written assessment contract with a property owner, in conformance with the provisions of this chapter, establishing a voluntary assessment to repay the owner's financing of a qualified project on the owner's property constitutes the valid imposition of a special assessment on the property, junior only to a lien for property taxes.

(d) The financing for assessments imposed may include:

(1) The cost of materials and labor necessary for the installation or modification of a qualified improvement;

(2) permit fees;

(3) inspection fees;

(4) lender fees;

(5) program application and administrative fees;

(6) project development and engineering fees;

(7) interest reserves;

(8) capitalized interest, in an amount determined by the owner of the commercial property and the third-party providing financing under this chapter; and

(9) other fees or costs incurred by the property owner incident or ancillary to the installation, modification, or improvement on a specific or pro rata basis, as determined by the Government of the Virgin Islands.

(e) The written assessment contract constitutes written notice to the owner of record that the owner and their successors or assigns may be responsible for the payment of any remaining principal balance of the assessment upon the refinance or sale of the property unless the remaining principal balance is assumed by an acquiring and successor property owner. The Energy Office shall require each owner of record to acknowledge, in writing, the notice as part of the execution of the contract.

§1503. Program establishment

(a) The Energy Office, in conjunction with the Office of the Lieutenant Governor, shall administer the program.

(b) The Energy Office may:

(1) hire and set the compensation of a program administrator and program staff;

(2) delegate or contract for professional or administrative services necessary to administer the program on a nonexclusive basis;

(3) If the program provides for third-party administration, then the Energy Office official may enter into a written contract with a property owner under section 1502(c) and shall also enter into a written contract with the party that administers the program, which must require the third party to reimburse the Energy Office for costs associated with monitoring the program, imposing the assessment, and billing and collecting payments on behalf of the third party; and

(4) impose servicing fees to offset the actual and reasonable costs of administering a program, a servicing fee for approved applications at a rate of one per cent of the total amount financed, not to exceed \$50,000, and an application fee of not more than \$500.

§1504. Program terms

(a) The Energy Office shall impose a voluntary special assessment to repay the financing of qualified projects on commercial property located in a region.

(b) The Energy Office shall not impose an assessment to repay the financing of the purchase or installation of products or devices not permanently affixed to commercial property.

(c) The Energy Office shall impose a voluntary special assessment only after a project application is approved and the financing transaction closed. The special assessment is created through a written contract between the Energy Office and the owner of record or the owner of an estate for years of the property to be assessed, created pursuant to a written ground lease or similar agreement.

(d) Before entering into the written assessment contract, the property owner shall obtain and furnish to the Energy Office a written statement, executed by each holder of a mortgage or deed of trust on the property securing indebtedness, in their sole and absolute discretion, that consents to the assessment and indicates that the assessment does not constitute an event of default under the mortgage or deed of trust.

“The property owner shall certify that:

(1) the title of the benefited property is not in dispute; and

- (2) the property owner is:
 - (A) the legal owner of the benefited property;
 - (B) current on mortgage and property tax payments; and
 - (C) not insolvent or in bankruptcy proceedings.”

(e) The total indebtedness of the property, including the C-PACE assessment, must not exceed 90% of the value of the property, with the exception that properties qualified under the federal low-income housing tax credit program set forth in 26 USC. § 42 are exempt from this requirement.

(f) The C-PACE assessment must not exceed 35% of the fair market value of the property as improved and stabilized, according to a certified appraisal.

(g) The term of the special assessment shall not exceed the weighted average of the useful life of the qualified project that is the basis for the assessment.

§1505. Application and review

(a) The Energy Office, or its third-party designee, shall establish a C-PACE application and review process to evaluate project applications for C-PACE financing. At a minimum:

(1) an applicant must demonstrate that the project provides a benefit to the public, in the form of energy or water resource conservation, reduced public health costs or risk, or reduced public emergency response cost or risk;

(2) for an existing building where energy or water usage improvements are proposed, an applicant must provide:

(A) an energy analysis by a licensed engineering firm, engineer, or other qualified professional listed in the program guidebook; and

(B) a statement by the author of the analysis that the proposed qualified improvements will either result in more efficient use or conservation of energy or water, or the addition of renewable sources of energy or water; or

(3) Where resilience improvements are proposed, an applicant must provide certification by a licensed professional engineer or other qualified professional listed in the program guidebook stating that the qualified improvements will result in improved resilience; and

(4) For new construction, an applicant must provide certification by a licensed professional engineer or engineering firm stating that the proposed qualified

improvements will enable the project to exceed the current building code requirements for:

- (A) energy efficiency;
- (B) water efficiency;
- (C) renewable energy;
- (D) renewable water; or

(E) meet or exceed resilience standards for the local government's building codes or, if none are available, compliance with a nationally available and recognized resiliency standard.

(b) The Energy Office, or its third-party designee, shall establish a process for reviewing and approving applications for financing. Alternatively, the Energy Office, or its third-party designee, may require a qualified capital provider to certify to the local government, in accordance with a process described in the program guidebook, that the property owner and the project qualifies for financing within this act and complies with this chapter and the program guidebook.

(c) The Energy Office's duties shall also include:

(1) execution and recording of the written assessment contract between the property owner and the USVI, by a duly authorized official, as well as execution and recording of the Virgin Islands' Notice of Assessment and C-PACE lien; and

(2) execution and recording of the assignment of the assessment agreement, the Notice of Assessment and C-PACE lien, and Notice of Assignment of Assessment and C-PACE lien to the capital provider.

(d) The Energy Office may authorize a capital provider to record executed assessment contracts, Notices of Assessment, C-PACE liens, assignments, and related documents on behalf of the program to facilitate efficient transaction processing and closing."

§1506. Collection and enforcement

(a) The capital provider providing financing for a special assessment has primary responsibility for the billing; collection; and enforcement of the special assessment in accordance with the terms of the financing agreement and applicable Virgin Islands law, including 28 V.I.C. § 531; unless otherwise agreed to by the Energy Office and the Office of the Tax Assessor.

(b) The Energy Office may coordinate with the Office of the Tax Assessor for the billing, collection, and enforcement of special assessments. Participation by the Office of the Tax Assessor is voluntary.”

(c) After an approved project is completed, an applicant shall provide to the Energy Office written verification, as defined in the program guidebook, stating that the qualified project was properly completed and is operating as intended.

(d) For any approved project, the capital provider may be subject to an audit regarding the assignment of the C-PACE assessment and lien from the Energy Office.

§1507. Direct purchase or lease

Proposed arrangements for financing a qualified project may authorize the property owner to:

- (1) directly purchase the related equipment and materials for the installation or modification of a qualified improvement; or
- (2) contract directly, including through lease, power purchase agreement, or other service contract, for the related equipment and materials used in the installation or modification of a qualified improvement.

§1508. Recording

(a) The Energy Office shall execute and record a written Notice of Assessment and C-PACE lien in the records of the Office of the Recorder of Deeds. The notice must contain:

- (1) the amount of the assessment;
- (2) the legal description of the property;
- (3) the name of each property owner;
- (4) a copy of the written assessment contract;
- (5) a reference to C-PACE authorizing the placement of the assessment;
- (6) the date on which the lien was created;
- (7) the principal amount of the lien; and
- (8) the term of the lien.

(b) The Energy Office may delegate all recording responsibilities under this section to the capital provider receiving the assignment.

§1509. Lien priority

(a) The entirety of the principal amount of the special assessment is a first and prior lien against the commercial property on which the assessment is imposed, from the date on which the notice of special assessment, and junior only to a lien for taxes under 33 V.I.C. § 2331.

(b) The lien runs with the land until paid in full, and that portion of the assessment under the assessment contract that is not yet due shall not be accelerated or eliminated by foreclosure of a property tax lien under title 33 V.I.C., subtitle 2, chapter 89, subchapter III, a foreclosure utilizing 28 V.I.C. § 531 *et seq.*, or any other foreclosure in law or equity.

(c) A provision of a deed of trust, mortgage, or other agreement between a lienholder and a property owner providing for the acceleration of any payment under the deed of trust, mortgage, or agreement solely as the result of entering into an agreement to finance an assessment is unenforceable under an executed consent pursuant to section 1505(d). A lienholder or loan servicer may increase the monthly amount held in escrow as required to annually pay the assessment.

§1510. Prohibited actions

In administering the C-PACE program, the Energy Office may not:

(1) make the issuance of a permit, license, or other authorization from the Virgin Islands to a person who owns property in the region contingent on the person entering into a written contract to repay the financing of a qualified project through special assessments under this chapter; or

(2) otherwise compel a person who owns property to enter into a written contract to repay the financing of a qualified project through special assessments.

§1511. Non-liability of the Virgin Islands; no full faith or credit

(a) The Government of the Virgin Islands, its officers, and employees are not liable at law or equity for actions taken under this chapter, except in cases of gross negligence, recklessness, or willful misconduct.

(b) The Government of the Virgin Islands may not use public funds to fund or repay a loan between a capital provider and property owner. This chapter does not pledge, offer, or encumber the full faith and credit of the Government of the Virgin Islands for a lien amount through a C-PACE program.

Thus passed by the Legislature of the Virgin Islands on May 28, 2026.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 29th day of May, A.D., 2026.



A handwritten signature in blue ink, appearing to read "Milton E. Potter".

Milton E. Potter
President

A handwritten signature in blue ink, appearing to read "Avery L. Lewis".

Avery L. Lewis
Secretary



Bill No. 36- 0248 is hereby approved.

**Witness my hand and the Seal of the Government of
the United States Virgin Islands at Charlotte Amalie,
St. Thomas, This 9th day of June, 2026 A.D.**

A handwritten signature in blue ink, appearing to read "Albert Bryan Jr.", written over a horizontal line.

**Albert Bryan Jr.
Governor**