



# House of Representatives

**File No. 476**

General Assembly

January Session, 2013

**(Reprint of File No. 298)**

Substitute House Bill No. 6472  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 12, 2013

**AN ACT CONCERNING THE COMMERCIAL PROPERTY ASSESSED  
CLEAN ENERGY PROGRAM.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16a-40g of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) As used in this section:

4 (1) "Energy improvements" means (A) participation in a district  
5 heating and cooling system by qualifying commercial real property,  
6 (B) any renovation or retrofitting of qualifying commercial real  
7 property to reduce energy consumption, [or] (C) installation of a  
8 renewable energy system to service qualifying commercial real  
9 property, or (D) installation of a solar thermal or geothermal system to  
10 service qualifying commercial real property, provided such  
11 renovation, retrofit or installation described in subparagraph (B), (C)  
12 or (D) of this subdivision is permanently fixed to such qualifying  
13 commercial real property;

14       (2) "District heating and cooling system" means a local system  
15 consisting of a pipeline or network providing hot water, chilled water  
16 or steam from one or more sources to multiple buildings;

17       [(2)] (3) "Qualifying commercial real property" means any  
18 commercial or industrial property, regardless of ownership, that meets  
19 the qualifications established for the commercial sustainable energy  
20 program;

21       [(3)] (4) "Commercial or industrial property" means any real  
22 property other than a residential dwelling containing less than five  
23 dwelling units;

24       [(4) "Benefitted] (5) "Benefited property owner" means an owner of  
25 qualifying commercial real property who desires to install energy  
26 improvements and provides free and willing consent to the benefit  
27 assessment against the qualifying commercial real property;

28       [(5)] (6) "Commercial sustainable energy program" means a  
29 program that facilitates energy improvements and utilizes the benefit  
30 assessments authorized by this section as security for the financing of  
31 the energy improvements;

32       [(6)] (7) "Municipality" means a municipality, as defined in section  
33 7-369;

34       [(7)] (8) "Benefit assessment" means the assessment authorized by  
35 this section;

36       [(8)] (9) "Participating municipality" means a municipality that has  
37 entered into a written agreement, as approved by its legislative body,  
38 with the authority pursuant to which the municipality has agreed to  
39 assess, collect, remit and assign, benefit assessments to the authority in  
40 return for energy improvements for benefited property owners within  
41 such municipality and costs reasonably incurred in performing such  
42 duties; and

43       [(9)] (10) "Authority" means the Clean Energy Finance and

44 Investment Authority.

45 (b) (1) The authority shall establish a commercial sustainable energy  
46 program in the state, and in furtherance thereof, is authorized to make  
47 appropriations for and issue bonds, notes or other obligations for the  
48 purpose of financing, (A) energy improvements; (B) related energy  
49 audits; (C) renewable energy system feasibility studies; and (D)  
50 verification reports of the installation and effectiveness of such  
51 improvements. The bonds, notes or other obligations shall be issued in  
52 accordance with legislation authorizing the authority to issue bonds,  
53 notes or other obligations generally. Such bonds, notes or other  
54 obligations may be secured as to both principal and interest by a  
55 pledge of revenues to be derived from the commercial sustainable  
56 energy program, including revenues from benefit assessments on  
57 qualifying commercial real property, as authorized in this section.

58 (2) When the authority has made appropriations for energy  
59 improvements for qualifying commercial real property or other costs  
60 of the commercial sustainable energy program, including interest costs  
61 and other costs related to the issuance of bonds, notes or other  
62 obligations to finance the appropriation, the authority may require the  
63 participating municipality in which the qualifying commercial real  
64 property is located to levy a benefit assessment against the qualifying  
65 commercial real property especially benefited thereby.

66 (3) The authority (A) shall develop program guidelines governing  
67 the terms and conditions under which state financing may be made  
68 available to the commercial sustainable energy program, including, in  
69 consultation with representatives from the banking industry,  
70 municipalities and property owners, developing the parameters for  
71 consent by existing mortgage holders and may serve as an aggregating  
72 entity for the purpose of securing state or private third-party financing  
73 for energy improvements pursuant to this section, (B) shall establish  
74 the position of commercial sustainable energy program liaison within  
75 the authority, (C) shall establish a loan loss reserve or other credit  
76 enhancement program for qualifying commercial real property, (D)

77 may use the services of one or more private, public or quasi-public  
78 third-party administrators to administer, provide support or obtain  
79 financing for the commercial sustainable energy program, and (E) shall  
80 adopt standards to ensure that the energy cost savings of the energy  
81 improvements over the useful life of such improvements exceed the  
82 costs of such improvements.

83 (c) Before establishing a commercial sustainable energy program  
84 under this section, the authority shall provide notice to the electric  
85 distribution company, as defined in section 16-1, that services the  
86 participating municipality.

87 (d) If a [benefitted] benefited property owner requests financing  
88 from the authority for energy improvements under this section, the  
89 authority shall:

90 (1) Require performance of an energy audit or renewable energy  
91 system feasibility analysis on the qualifying commercial real property  
92 that assesses the expected energy cost savings of the energy  
93 improvements over the useful life of such improvements before  
94 approving such financing;

95 (2) If financing is approved, require the participating municipality  
96 to levy a benefit assessment on the qualifying commercial real  
97 property with the property owner in a principal amount sufficient to  
98 pay the costs of the energy improvements and any associated costs the  
99 authority determines will benefit the qualifying commercial real  
100 property;

101 (3) Impose requirements and criteria to ensure that the proposed  
102 energy improvements are consistent with the purpose of the  
103 commercial sustainable energy program;

104 (4) Impose requirements and conditions on the financing to ensure  
105 timely repayment, including, but not limited to, procedures for placing  
106 a lien on a property as security for the repayment of the benefit  
107 assessment; and

108 (5) Require that the property owner provide written notice, not less  
109 than thirty days prior to the recording of any lien securing a benefit  
110 assessment for energy improvements for such property, to any existing  
111 mortgage holder of such property, of the property owner's intent to  
112 finance such energy improvements pursuant to this section.

113 (e) (1) The authority may enter into a financing agreement with the  
114 property owner of qualifying commercial real property. After such  
115 agreement is entered into, and upon notice from the authority, the  
116 participating municipality shall place a caveat on the land records  
117 indicating that a benefit assessment and lien is anticipated upon  
118 completion of energy improvements for such property.

119 (2) The authority shall disclose to the property owner the costs and  
120 risks associated with participating in the commercial sustainable  
121 energy program established by this section, including risks related to  
122 the failure of the property owner to pay the benefit assessment. The  
123 authority shall disclose to the property owner the effective interest rate  
124 of the benefit assessment, including fees charged by the authority to  
125 administer the program, and the risks associated with variable interest  
126 rate financing. The authority shall notify the property owner that such  
127 owner may rescind any financing agreement entered into pursuant to  
128 this section not later than three business days after such agreement.

129 (f) The authority shall set a fixed or variable rate of interest for the  
130 repayment of the benefit assessment amount at the time the benefit  
131 assessment is made. Such interest rate, as may be supplemented with  
132 state or federal funding as may become available, shall be sufficient to  
133 pay the financing and administrative costs of the commercial  
134 sustainable energy program, including delinquencies.

135 (g) Benefit assessments levied pursuant to this section and the  
136 interest, fees and any penalties thereon shall constitute a lien against  
137 the qualifying commercial real property on which they are made until  
138 they are paid. Such lien shall be levied and collected in the same  
139 manner as the property taxes of the participating municipality on real

140 property, including, in the event of default or delinquency, with  
 141 respect to any penalties, fees and remedies and lien priorities. Each  
 142 such lien may be continued, recorded and released in the manner  
 143 provided for property tax liens, subject to the consent of existing  
 144 mortgage holders, and shall take precedence over all other liens or  
 145 encumbrances except a lien for taxes of the municipality on real  
 146 property, which lien for taxes shall have priority over such benefit  
 147 assessment lien.

148 (h) Any participating municipality may assign to the authority any  
 149 and all liens filed by the tax collector, as provided in the written  
 150 agreement between the participating municipality and the authority.  
 151 The authority may sell or assign, for consideration, any and all liens  
 152 received from the participating municipality. The consideration  
 153 received by the authority shall be negotiated between the authority  
 154 and the assignee. The assignee or assignees of such liens shall have and  
 155 possess the same powers and rights at law or in equity as the authority  
 156 and the participating municipality and its tax collector would have had  
 157 if the lien had not been assigned with regard to the precedence and  
 158 priority of such lien, the accrual of interest and the fees and expenses  
 159 of collection. The assignee shall have the same rights to enforce such  
 160 liens as any private party holding a lien on real property, including,  
 161 but not limited to, foreclosure and a suit on the debt. Costs and  
 162 reasonable attorneys' fees incurred by the assignee as a result of any  
 163 foreclosure action or other legal proceeding brought pursuant to this  
 164 section and directly related to the proceeding shall be taxed in any  
 165 such proceeding against each person having title to any property  
 166 subject to the proceedings. Such costs and fees may be collected by the  
 167 assignee at any time after demand for payment has been made by the  
 168 assignee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16a-40g

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill allows district heating and cooling projects, and installation of a solar thermal or geothermal system to be financed under the commercial property assessed clean energy (C-PACE) program. This has no fiscal impact to the state or municipalities as a special assessment would be attached to the property tax of private participating property owners.

House "A" strikes the underlying bill and its associated fiscal impact, thus becoming the bill. The House "A" fiscal impact is described above.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

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**OLR Bill Analysis****sHB 6472 (as amended by House "A")\*****AN ACT CONCERNING THE COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM.****SUMMARY:**

This bill adds (1) district heating and cooling and (2) solar thermal or geothermal system projects to the types of energy efficiency and renewable energy improvements that may be financed under the commercial property assessed clean energy (C-PACE) program. Under current law, energy efficiency and renewable energy improvements are eligible for the program.

Under the bill, a district heating and cooling system is a local system consisting of a pipeline or network providing hot water, chilled water, or steam from one or more sources to multiple buildings. The Legislative Office Building and the Capitol are served by such a system.

\*House Amendment "A" (1) makes solar thermal and geothermal projects eligible for the program and (2) defines district heating and cooling systems.

EFFECTIVE DATE: Upon passage

**BACKGROUND*****C-PACE Program***

The law requires the Clean Energy Finance and Investment Authority to establish a C-PACE program for qualifying commercial property (including multifamily buildings with five or more units). Under the program, owners of such property in participating municipalities may finance energy improvements by paying a special



assessment on the participant's property tax bill. Municipalities can participate in the program under a written agreement approved by their legislative bodies.

**COMMITTEE ACTION**

Energy and Technology Committee

Joint Favorable

Yea 24 Nay 0 (03/14/2013)