845 Brook Street
Rocky Hill, Connecticut 06067

300 Main Street, 4th Floor
Stamford, Connecticut 06901

T: 860.563.0015
F: 860.563.4877
www.ctcleanenergy.com

CLEAN ENERGY
FINANCE AND INVESTMENT AUTHORITY

Statement of the Connecticut Green Bank supporting House Bill 6995
AN ACT CONCERNING THE RESIDENTIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM

Energy & Technology Committee public hearing
March 17, 2015

THE GREEN BANK

As the nation's first green bank, the Connecticut Green Bank (Green Bank) leverages the limited electric ratepayer resources it receives to attract multiples of private investment to scale up clean energy deployment in Connecticut. As a result of efforts since inception of the Green Bank, we are deploying more clean energy in our state than ever before – 108.3 MW in approved, closed or completed renewable and energy efficiency projects for a total investment of over $600 million (see Table 1). In fact, the Green Bank is deploying twice as much clean energy in the last three years through financing as its predecessor the Connecticut Clean Energy Fund deployed in the previous eleven years through grants and subsidies.

Table 1. Green Bank model deploying more clean energy faster and more responsibly

	FY 2000-FY 2011 (CCEF)	**FY 2012-FY 2015(Q2)** (CT Green Bank)
Model	Subsidy	Financing
Years	11.0	3.5
Energy (MW)	43.1	108.3
Total Investment ($ MM)	$349.2	$608.3

Connecticut's residents, businesses and institutions now have easier access to affordable capital to finance clean energy projects. The Green Bank scales up clean energy and plays an essential role in reducing the costs of clean energy investment, increases private capital investment, and lowers costs to consumers. The Green Bank looks forward to supporting the legislature's and Governor's vision of cleaner, cheaper and more reliable energy sources for Connecticut – while creating jobs and supporting local economic development.

RESIDENTIAL PROPERTY ASSESSED CLEAN ENERGY (R-PACE)

Property Assessed Clean Energy programs allow customers to invest in clean energy improvements by attaching the costs to their property tax bill through a special tax assessment that remains in place for the life of the obligation, similar to a sewer assessment. Like a sewer assessment, PACE obligations transfer to subsequent property owners and provide a strong

security interest for investors. Because the obligations are secured by the underlying properties, they can support repayment terms of 20 years or longer at extremely attractive interest rates, enabling more energy upgrades to become cash-flow positive for more property owners. Residential PACE allows a homeowner's clean energy investments to be paid off over an assigned term of years through a special assessment on the homeowner's property tax bill.

The Connecticut General Assembly enacted legislation authorizing R-PACE under Public Act 11-80, Section 100. To date however, no R-PACE programs have been implemented in Connecticut due to shortcomings in the originally drafted legislation that are addressed in House Bill 6995, and the legal and regulatory challenges that R-PACE programs have encountered nationwide.

LIEN SUBORDINATION

PACE is a successful means of financing clean energy improvements because the benefit assessments take a senior lien position on the assessed property. This position confers favorable interest rates from financiers seeking safe investment vehicles. The seniority of PACE means property payment defaults would typically have arrears satisfied first on the PACE assessment, taking priority over mortgage satisfaction.

The Federal Housing Finance Agency (FHFA) oversees and serves as conservator of Fannie Mae and Freddie Mac, which purchase, guarantee, and securitize home mortgages from banks and small lenders. In 2010 FHFA issued a directive declaring that PACE assessments present significant risk to secondary mortgage markets. The directive stymied the growth of R-PACE and created confusion in the various states that began enacting R-PACE legislation starting in 2008. The FHFA directive has withstood multiple legal challenges.

Several states have moved forward with R-PACE programs in spite of the FHFA's position. In particular, California continues to successfully operate assessment programs with benefit liens in superior position to home mortgages, under the California Home Energy Renovation Opportunity (HERO) program. The state established a $10 million loan-loss reserve fund to make first mortgage holders whole for losses incurred due to PACE liens during foreclosures or forced sales. California's loan-loss reserve coupled with the overall program design, including consumer disclosures, has provided sufficient confidence to R-PACE loan originators, who have experienced significantly increased volume in that state.

Connecticut has favorable experience with PACE assessments through its highly successful Commercial Property Assessed Clean Energy (C-PACE) program administered by the Green Bank. The Green Bank has found C-PACE primary liens to be easier to negotiate with senior commercial mortgage holders, since there is access to the mortgage holder who can be made comfortable with their subordinated position due to increased cash flow to the property owner from energy savings. Obtaining lender consent is not realistic in the residential mortgage sector because of the nature of the residential mortgage market, which sells off and securitizes the vast majority of mortgages.

RECOMMENDATIONS

R-PACE program design elements should successfully navigate the FHFA's concerns and embed lessons learned from PACE programs across the country. Common elements of successful R-PACE programs include significant marketing efforts, reliable investment, consistent policy support, stakeholder engagement, and efficient program administration, to encourage private investment and reduce risk for public dollars. **The Green Bank supports HB-6995**, as its language contains the following key design recommendations:

- Allowing R-PACE liens to take senior-lien status;
- Ensuring that the R-PACE liens do not accelerate, in order to provide security to senior mortgage holders;
- Facilitating R-PACE lien disclosure to R-PACE borrowers in light of legal and regulatory issues, notably those issues stemming from the FHFA;
- Establishing minimum underwriting criteria around total lien-to-property value to provide protection to R-PACE borrowers and senior mortgage holders;
- Enabling risk credit enhancements such as a loan-loss reserve, to help mitigate regulatory and legal concerns, notably those from the FHFA;
- Establishing a statewide administrator of the program. As the administrator designated by HB-6995 bill language, the Green Bank can:
    - Provide quality assurance around eligible measures, contractors, and originators;
    - Perform lien placement on properties, which can minimize risk of predatory lending and limit excessive risk to current senior lienholders;
    - Allow municipalities to opt in, ensuring the buy-in of key participants in the administrative process;
    - Centralized administration;
    - Create an efficient structure for engaging with municipalities, regulators, and private capital market providers;
    - Allow for the provision, evaluation, and central administration of credit enhancements such as loan-loss reserves.

The Green Bank recognizes that there are challenges that need to be worked through and welcomes the opportunity to resolve these challenges with banking industry stakeholders and key legislators.