



House of Representatives

General Assembly

File No. 271

January Session, 2021

House Bill No. 6571

House of Representatives, April 6, 2021

The Committee on Energy and Technology reported through REP. ARCONTI of the 109th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***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 Section 16a-40g of the general statutes is repealed and the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 July 1, 2021*):

3 (a) As used in this section:

4 (1) "Financing" means funding or investment that includes, but is not
5 limited to, energy services agreements, leases or power purchase
6 agreements;

7 (2) "Zero-emission vehicle" has the same meaning as provided in
8 section 4a-67d;

9 (3) "Resilience" has the same meaning as provided in section 16-
10 244aa;

11 [(1)] (4) "Energy improvements" means (A) participation in a district

12 heating and cooling system by qualifying commercial real property, (B)
13 participation in a microgrid, as defined in section 16-243y, including any
14 related infrastructure for such microgrid, by qualifying commercial real
15 property, provided such microgrid and any related infrastructure
16 incorporate clean energy, as defined in section 16-245n, (C) any
17 improvement, renovation or retrofitting of qualifying commercial real
18 property to reduce energy consumption or improve energy efficiency,
19 (D) installation of a renewable energy system to service qualifying
20 commercial real property, [or] (E) installation of a solar thermal or
21 geothermal system to service qualifying commercial real property, (F)
22 installation of refueling infrastructure for zero-emission vehicles to a
23 qualifying commercial real property, or (G) installation of resilience
24 improvements to a qualifying commercial real property, provided such
25 renovation, retrofit or installation described in [subparagraph (C), (D)
26 or (E)] subparagraphs (C) to (G), inclusive, of this subdivision is
27 permanently fixed to such qualifying commercial real property;

28 [(2)] (5) "District heating and cooling system" means a local system
29 consisting of a pipeline or network providing hot water, chilled water
30 or steam from one or more sources to multiple buildings;

31 [(3)] (6) "Qualifying commercial real property" means any
32 commercial or industrial property, regardless of ownership, that meets
33 the qualifications established for the commercial sustainable energy
34 program;

35 [(4)] (7) "Commercial or industrial property" means any real property
36 other than a residential dwelling containing less than five dwelling
37 units;

38 [(5)] (8) "Benefited property owner" means an owner of qualifying
39 commercial real property who desires to install energy improvements
40 and provides free and willing consent to the benefit assessment against
41 the qualifying commercial real property;

42 [(6)] (9) "Commercial sustainable energy program" means a program
43 that facilitates energy improvements and utilizes the benefit

44 assessments authorized by this section as security for the financing of
45 the energy improvements;

46 [(7)] (10) "Municipality" means a municipality, as defined in section
47 7-369;

48 [(8)] (11) "Benefit assessment" means the assessment authorized by
49 this section;

50 [(9)] (12) "Participating municipality" means a municipality that has
51 entered into a written agreement, as approved by its legislative body,
52 with the bank pursuant to which the municipality has agreed to assess,
53 collect, remit and assign, benefit assessments to the bank in return for
54 energy improvements for benefited property owners within such
55 municipality and costs reasonably incurred in performing such duties;

56 [(10)] (13) "Bank" means the Connecticut Green Bank; and

57 [(11)] (14) "Third-party capital provider" means an entity, other than
58 the bank, that provides financing [, leases or power purchase
59 agreements] directly to benefited property owners for energy
60 improvements.

61 (b) (1) The bank shall establish a commercial sustainable energy
62 program in the state, and in furtherance thereof, is authorized to make
63 appropriations for and issue bonds, notes or other obligations for the
64 purpose of financing, (A) energy improvements; (B) related energy
65 audits; (C) renewable energy system feasibility studies; and (D)
66 verification reports of the installation and effectiveness of such
67 improvements. The bonds, notes or other obligations shall be issued in
68 accordance with legislation authorizing the bank to issue bonds, notes
69 or other obligations generally. Such bonds, notes or other obligations
70 may be secured as to both principal and interest by a pledge of revenues
71 to be derived from the commercial sustainable energy program,
72 including revenues from benefit assessments on qualifying commercial
73 real property, as authorized in this section.

74 (2) When the bank has made appropriations for energy

75 improvements for qualifying commercial real property or other costs of
76 the commercial sustainable energy program, including interest costs
77 and other costs related to the issuance of bonds, notes or other
78 obligations to finance the appropriation, the bank may require the
79 participating municipality in which the qualifying commercial real
80 property is located to levy a benefit assessment against the qualifying
81 commercial real property especially benefited thereby.

82 (3) The bank (A) shall develop program guidelines governing the
83 terms and conditions under which state and third-party financing may
84 be made available to the commercial sustainable energy program,
85 including, in consultation with representatives from the banking
86 industry, municipalities and property owners, developing the
87 parameters for consent by existing mortgage holders and may serve as
88 an aggregating entity for the purpose of securing state or private third-
89 party financing for energy improvements pursuant to this section, (B)
90 shall establish the position of commercial sustainable energy program
91 liaison within the bank, (C) may establish a loan loss reserve or other
92 credit enhancement program for qualifying commercial real property,
93 (D) may use the services of one or more private, public or quasi-public
94 third-party administrators to administer, provide support or obtain
95 financing for the commercial sustainable energy program, (E) shall
96 adopt standards to [ensure that] determine whether the combined
97 projected energy cost savings and other associated savings of the energy
98 improvements over the useful life of such improvements exceed the
99 costs of such improvements, except that such standards shall not apply
100 to the installation of refueling infrastructure for zero-emission vehicles
101 or resilience improvements adopted under this section, and (F) may
102 encourage third-party capital providers to provide financing [, leases
103 and power purchase agreements] directly to benefited property owners
104 in lieu of or in addition to the bank providing such [loans] financing.

105 (4) The bank shall consult with the Department of Energy and
106 Environmental Protection and the Connecticut Institute for Resilience
107 and Climate Adaptation to develop program eligibility criteria for
108 financing of resilience improvements, consistent with state

109 environmental resource protection and community resilience goals.

110 (c) Before establishing a commercial sustainable energy program
111 under this section, the bank shall provide notice to the electric
112 distribution company, as defined in section 16-1, that services the
113 participating municipality.

114 (d) If a benefited property owner requests financing from the bank or
115 a third-party capital provider for energy improvements under this
116 section, the bank shall:

117 (1) Require performance of an energy audit, [or] renewable energy
118 system feasibility analysis, or resilience study on the qualifying
119 commercial real property that assesses the expected energy or resilience
120 cost savings of the energy or resilience improvements over the useful
121 life of such improvements before approving such financing;

122 (2) If financing is approved, either by the bank or the third-party
123 capital provider, require the participating municipality to levy a benefit
124 assessment on the qualifying commercial real property with the
125 property owner in a principal amount sufficient to pay the costs of the
126 energy improvements and any associated costs the bank or the third-
127 party capital provider determines will benefit the qualifying
128 commercial real property;

129 (3) Impose requirements and criteria to ensure that the proposed
130 energy improvements are consistent with the purpose of the commercial
131 sustainable energy program;

132 (4) Impose requirements and conditions on the financing to ensure
133 timely repayment, including, but not limited to, procedures for placing
134 a benefit assessment lien on a property as security for the repayment of
135 the benefit assessment; and

136 (5) Require that the property owner provide written notice, not less
137 than thirty days prior to the recording of any benefit assessment lien
138 securing a benefit assessment for energy improvements for such
139 property, to any existing mortgage holder of such property, of the

140 property owner's intent to finance such energy improvements pursuant
141 to this section.

142 (e) (1) The bank or the third-party capital provider may enter into a
143 financing agreement with the property owner of qualifying commercial
144 real property. After such agreement is entered into, and upon notice
145 from the bank, the participating municipality shall (A) place a caveat on
146 the land records indicating that a benefit assessment and a benefit
147 assessment lien are anticipated upon completion of energy
148 improvements for such property, or (B) at the direction of the bank, levy
149 the benefit assessment and file a benefit assessment lien on the land
150 records based on the estimated costs of the energy improvements prior
151 to the completion or upon the completion of such improvements.

152 (2) The bank or the third-party capital provider shall disclose to the
153 property owner the costs and risks associated with participating in the
154 commercial sustainable energy program established by this section,
155 including risks related to the failure of the property owner to pay the
156 benefit assessment. The bank or the third-party capital provider shall
157 disclose to the property owner the effective interest rate of the benefit
158 assessment, including fees charged by the bank or the third-party capital
159 provider to administer the program, and the risks associated with
160 variable interest rate financing. The bank or the third-party capital
161 provider shall notify the property owner that such owner may rescind
162 any financing agreement entered into pursuant to this section not later
163 than three business days after such agreement.

164 (f) The bank or the third-party capital provider shall set a fixed or
165 variable rate of interest for the repayment of the benefit assessment
166 amount at the time the benefit assessment is made. Such interest rate, as
167 may be supplemented with state or federal funding as may become
168 available, shall be sufficient to pay the bank's financing and
169 administrative costs of the commercial sustainable energy program,
170 including delinquencies.

171 (g) Benefit assessments levied and filed pursuant to this section and
172 the interest, fees and any penalties thereon shall constitute a lien against

173 the qualifying commercial real property on which they are made until
174 they are paid. Such benefit assessment lien, shall be paid in installments
175 and each installment payment shall be collected in the same manner as
176 the property taxes of the participating municipality on real property,
177 including, in the event of default or delinquency, with respect to any
178 penalties, fees and remedies. Each such benefit assessment lien may be
179 recorded and released in the manner provided for property tax liens and
180 shall take precedence over all other liens or encumbrances except a lien
181 for taxes of the municipality on real property, which lien for taxes shall
182 have priority over such benefit assessment lien, and provided that the
183 precedence of such benefit assessment lien over any lien held by an
184 existing mortgage holder shall be subject to the written consent of such
185 existing mortgage holder. To the extent any benefit assessment lien
186 installment is not paid when due, the benefit assessment lien may be
187 foreclosed to the extent of any unpaid installment payments due and
188 owing and any penalties, interest and fees related thereto. In the event
189 a benefit assessment lien is foreclosed or a lien for taxes of the
190 municipality on real property is foreclosed or enforced by levy and sale
191 in accordance with chapter 204, the benefit assessment lien shall be
192 extinguished solely with regard to any installments that were due and
193 owing on the date of the judgment of such foreclosure or levy and sale
194 and the benefit assessment lien shall otherwise survive such judgment
195 or levy and sale to the extent of any unpaid installment payments of the
196 benefit assessment secured by such benefit assessment lien that are due
197 after the date of such judgment or levy and sale.

198 (h) Any participating municipality may assign to the bank any and
199 all benefit assessment liens filed by the participating municipality, as
200 provided in the written agreement between the participating
201 municipality and the bank. The bank may sell or assign, for
202 consideration, any and all benefit assessment liens received from the
203 participating municipality. The consideration received by the bank shall
204 be negotiated between the bank and the assignee. The assignee or
205 assignees of such benefit assessment liens shall have and possess the
206 same powers and rights at law or in equity as the bank and the
207 participating municipality and its tax collector would have had if the

208 benefit assessment lien had not been assigned with regard to the
209 precedence and priority of such benefit assessment lien, the accrual of
210 interest and the fees and expenses of collection. The assignee shall have
211 the same rights to enforce such benefit assessment liens as any private
212 party holding a lien on real property, including, but not limited to,
213 foreclosure and a suit on the debt. Costs and reasonable attorneys' fees
214 incurred by the assignee as a result of any foreclosure action or other
215 legal proceeding brought pursuant to this section and directly related to
216 the proceeding shall be taxed in any such proceeding against each
217 person having title to any property subject to the proceedings. Such
218 costs and fees may be collected by the assignee at any time after demand
219 for payment has been made by the assignee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2021	16a-40g

ET *Joint Favorable*

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.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

There is no fiscal impact resulting from the bill, which makes certain resiliency projects eligible under the Green Bank's Commercial Assessed Clean Energy Program (C-PACE), and exempts such projects and zero-emission vehicle refueling infrastructure from certain program standards.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**HB 6571*****AN ACT CONCERNING THE COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM.*****SUMMARY**

This bill expands eligibility for the Green Bank's Commercial Property Assessed Clean Energy Program (C-PACE) by allowing the program to finance, for qualifying commercial real property, the installation of (1) zero-emission vehicle refueling infrastructure and (2) resilience improvements (see BACKGROUND).

Generally, C-PACE finances certain energy improvement projects and the property owner repays the costs through an assessment on the property, backed by a lien. Current law requires the Green Bank to adopt standards to ensure that the project's energy cost savings over the project's useful life exceed its costs. The bill instead requires these standards to determine whether the project's combined projected energy cost savings and other associated savings over its useful life exceed its costs. The bill exempts zero-emission vehicle refueling infrastructure and resilience improvement projects from these standards and requires the Green Bank to develop separate eligibility criteria for resilience projects.

Under current law, the types of financing generally available under the program include loans, leases, and power purchase agreements. Under the bill, C-PACE "financing" is funding or investment that at least includes energy services agreements, leases, or power purchase agreements. The bill does not define energy services agreements, but generally, they allow a service provider to deliver energy-saving services under a performance-based contract using provider-owned and operated equipment.

EFFECTIVE DATE: July 1, 2021

RESILIENCE PROJECT ELIGIBILITY REQUIREMENTS

For resilience improvements, the bill requires the Green Bank to consult with the Department of Energy and Environmental Protection and the Connecticut Institute for Resilience and Climate Adaptation to develop financing eligibility criteria consistent with state environmental resource protection and community resilience goals. Under current law, if a qualified property owner requests financing, the Green Bank must require that an energy audit or a renewable energy system feasibility analysis be performed on the property to assess the project’s expected energy cost savings over its useful life before approving financing. The bill additionally allows the Green Bank to meet this requirement by requiring a resilience study on the property to assess resilience cost savings over the useful life of resilience improvements.

BACKGROUND

Resilience

By law, and under the bill, “resilience” means the ability to prepare for and adapt to changing conditions and withstand and recover rapidly from deliberate attacks, accidents, or naturally occurring threats or incidents, including threats or incidents associated with climate change impacts (CGS § 16-244aa).

Zero Emission Vehicles

By law, and under the bill, a “zero-emission vehicle” means a battery electric vehicle, hybrid electric vehicle, range-extended electric vehicle, and any vehicle certified by the California Air Resources Board executive director to produce zero emission of any criteria pollutant under all operational modes and conditions (CGS § 4a-67d).

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable
 Yea 26 Nay 0 (03/18/2021)