



# Senate

General Assembly

**File No. 345**

February Session, 2022

Substitute Senate Bill No. 93

*Senate, April 6, 2022*

The Committee on Energy and Technology reported through SEN. NEEDLEMAN of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute 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 Section 16a-40g of the general statutes is repealed and the  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 October 1, 2022*):

3 (a) As used in this section:

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

6 (2) "Resilience" has the same meaning as provided in section 16-  
7 244aa;

8 ~~[(1)]~~ (3) "Energy improvements" means (A) participation in a district  
9 heating and cooling system by qualifying commercial real property, (B)  
10 participation in a microgrid, as defined in section 16-243y, including any  
11 related infrastructure for such microgrid, by qualifying commercial real

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

25 [(2)] (4) "District heating and cooling system" means a local system  
26 consisting of a pipeline or network providing hot water, chilled water  
27 or steam from one or more sources to multiple buildings;

28 [(3)] (5) "Qualifying commercial real property" means any  
29 commercial or industrial property, regardless of ownership, that meets  
30 the qualifications established for the commercial sustainable energy  
31 program;

32 [(4)] (6) "Commercial or industrial property" means any real property  
33 other than a residential dwelling containing less than five dwelling  
34 units;

35 [(5)] (7) "Benefited property owner" means an owner of qualifying  
36 commercial real property who desires to install energy improvements  
37 and provides free and willing consent to the benefit assessment against  
38 the qualifying commercial real property;

39 [(6)] (8) "Commercial sustainable energy program" means a program  
40 that facilitates energy improvements and utilizes the benefit  
41 assessments authorized by this section as security for the financing of  
42 the energy improvements;

43        [(7)] (9) "Municipality" means a municipality, as defined in section 7-  
44 369;

45        [(8)] (10) "Benefit assessment" means the assessment authorized by  
46 this section;

47        [(9)] (11) "Participating municipality" means a municipality that has  
48 entered into a written agreement, as approved by its legislative body,  
49 with the bank pursuant to which the municipality has agreed to assess,  
50 collect, remit and assign, benefit assessments to the bank in return for  
51 energy improvements for benefited property owners within such  
52 municipality and costs reasonably incurred in performing such duties;

53        [(10)] (12) "Bank" means the Connecticut Green Bank; and

54        [(11)] (13) "Third-party capital provider" means an entity, other than  
55 the bank, that provides financing, leases or power purchase agreements  
56 directly to benefited property owners for energy improvements.

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

70        (2) When the bank has made appropriations for energy  
71 improvements for qualifying commercial real property or other costs of  
72 the commercial sustainable energy program, including interest costs  
73 and other costs related to the issuance of bonds, notes or other

74 obligations to finance the appropriation, the bank may require the  
75 participating municipality in which the qualifying commercial real  
76 property is located to levy a benefit assessment against the qualifying  
77 commercial real property especially benefited thereby.

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

101 (4) The bank shall consult with the Department of Energy and  
102 Environmental Protection and the Connecticut Institute for Resilience  
103 and Climate Adaptation to develop program eligibility criteria for  
104 financing of resilience improvements, consistent with state  
105 environmental resource protection and community resilience goals.

106 (c) Before establishing a commercial sustainable energy program

107 under this section, the bank shall provide notice to the electric  
108 distribution company, as defined in section 16-1, that services the  
109 participating municipality.

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

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

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

125 (3) Impose requirements and criteria to ensure that the proposed  
126 energy improvements are consistent with the purpose of the commercial  
127 sustainable energy program;

128 (4) Impose requirements and conditions on the financing to ensure  
129 timely repayment, including, but not limited to, procedures for placing  
130 a benefit assessment lien on a property as security for the repayment of  
131 the benefit assessment; and

132 (5) Require that the property owner provide written notice, not less  
133 than thirty days prior to the recording of any benefit assessment lien  
134 securing a benefit assessment for energy improvements for such  
135 property, to any existing mortgage holder of such property, of the  
136 property owner's intent to finance such energy improvements pursuant  
137 to this section.

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

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

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

167 (g) Benefit assessments levied and filed pursuant to this section and  
168 the interest, fees and any penalties thereon shall constitute a lien against  
169 the qualifying commercial real property on which they are made until  
170 they are paid. Such benefit assessment lien, shall be paid in installments

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

194 (h) Any participating municipality may assign to the bank any and  
195 all benefit assessment liens filed by the participating municipality, as  
196 provided in the written agreement between the participating  
197 municipality and the bank. The bank may sell or assign, for  
198 consideration, any and all benefit assessment liens received from the  
199 participating municipality. The consideration received by the bank shall  
200 be negotiated between the bank and the assignee. The assignee or  
201 assignees of such benefit assessment liens shall have and possess the  
202 same powers and rights at law or in equity as the bank and the  
203 participating municipality and its tax collector would have had if the  
204 benefit assessment lien had not been assigned with regard to the  
205 precedence and priority of such benefit assessment lien, the accrual of

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2022	16a-40g

**ET**            *Joint Favorable Subst.*



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*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**

No direct fiscal impact is anticipated as a result of the program's expansion under the bill.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

**OLR Bill Analysis****sSB 93*****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 the installation of zero-emission vehicle refueling infrastructure and resilience improvements on qualifying commercial real property. By law, a "zero-emission vehicle" is an electric, hybrid, or other vehicle certified by the California Air Resources Board to produce zero emissions of certain pollutants (CGS § 4a-67d). "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 impact (CGS § 16-244aa). To qualify, these projects must be permanently fixed to the commercial property.

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 its useful life exceed its costs. The bill (1) requires these standards to instead determine whether the projects combined projected energy cost savings and other associated savings over its useful life exceed its costs and (2) exempts zero-emission vehicle refueling infrastructure and resilience improvement projects. The bill requires the Green Bank to develop separate eligibility criteria for resilience projects.

Current law requires the Green Bank to develop guidelines governing the terms and conditions under which third-party financing may be made available to C-PACE and allows the bank to serve as an

aggregating entity to secure private third-party financing. The bill makes conforming changes to specify that the financing under these provisions is third-party capital provider financing.

EFFECTIVE DATE: October 1, 2022

**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 instead.

**COMMITTEE ACTION**

Energy and Technology Committee

Joint Favorable Substitute

Yea 24 Nay 2 (03/22/2022)