



General Assembly

February Session, 2022

***Raised Bill No. 93***

LCO No. 712



Referred to Committee on ENERGY AND TECHNOLOGY

Introduced by:  
(ET)

***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 Section 16a-40g of the general statutes is repealed and the  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) "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 capital provider  
84 financing may be made available to the commercial sustainable energy  
85 program, including, in consultation with representatives from the  
86 banking 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 capital provider financing for energy improvements pursuant to  
90 this section, (B) shall establish the position of commercial sustainable  
91 energy program liaison within the bank, (C) may establish a loan loss  
92 reserve or other credit enhancement program for qualifying commercial  
93 real property, (D) may use the services of one or more private, public or  
94 quasi-public third-party administrators to administer, provide support  
95 or obtain financing for the commercial sustainable energy program, (E)  
96 shall 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	<i>October 1, 2022</i>	16a-40g

**Statement of Purpose:**

To create financing opportunities for zero-emission vehicle infrastructure and resiliency measures.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*