



C-PACE Legislation Passed... So What's the Path to Implementation?

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When launching a C-PACE program, policymakers naturally focus on the statute as the first step. However, this note emphasizes the importance of carrying the thinking through to the local level where program implementation occurs. Without a local ordinance and a program administrator, the C-PACE program is only one-third of the way toward activation. The slippage between C-PACE policy goals and implementation is significant: while 34 states and Washington, D.C. have enacted authorizing legislation, roughly 20 states have active programs and only 10 states (including D.C.) have closed more than \$15 million in C-PACE transactions. Clearly, there is an enormous opportunity to improve the awareness and user-friendliness of C-PACE programs to achieve their full potential.¹

State policymakers can provide valuable support and guidance to make implementation of a C-PACE program easier on localities. Some states establish an authority or specify a department to develop the rules and protocols that standardize implementation throughout a state, without micro-managing the local decision making. Other states rely on local governments, regional NGOs, and the private sector to develop the program. Where to place the emphasis—on statewide leadership or on grassroots-up programming—depends on whether there is support and infrastructure to put a statewide model in place or a preference for locally-driven programs led by counties or municipalities.

With or without state guidance, local governments are responsible for two crucial implementation tasks:

1. Enacting a local C-PACE ordinance, which may be accomplished by joining a statewide program (if one was created), by adapting a model ordinance (e.g, one drafted by a state agency, advocacy coalition, or peer local government), or by developing a wholly local version. Attorneys with public finance expertise are an invaluable resource in this task, as are real estate and capital markets experts. Statewide consistency is critical to the successful and rapid scaling of a C-PACE program. Adopting a model ordinance, or the same ordinance as a neighboring local government, has significant benefits by lowering costs for property owners, capital providers, engineers and contractors.
2. Assigning responsibility to manage the C-PACE program, called the “program administration” (PA) function. Program Administration involves two skills: document review to ensure compliance with the ordinance; and recordation of special revenue assessments on the property. Local governments typically hire an independent third party for the PA role. If local governments hire the same PA across a state—assuming the PA is effective and efficient—it encourages consistency and lowers costs.

¹ This paper complements the C-PACE Alliance white paper, [Elements of a Well-Designed C-PACE Statute and Program to Attract Private Investment and Foster Greater Transaction Volumes](#), and the report from the U.S. Department of Energy, [Lessons in Commercial PACE Leadership: From Legislation to Launch](#).

The best PA choice will be an organization with focus, resources, and staff with expertise in compliance for public financing programs. Some of the typical entities that manage C-PACE programs include:

- Private third parties: nonprofit organizations (Texas, Ohio and Missouri), for-profit entities (Michigan, Washington, D.C. and Maryland), multi-state for-profit providers (Utah).
- Statewide entities: Green Bank (Connecticut), New Energy Improvement District (Colorado).
- Local government or quasi-government agencies: port authorities (Ohio and Minnesota), joint powers authorities (California, Florida and Wisconsin), council of governments (California), county governments (California).

STAKEHOLDER PROGRAM COMMITTEE

Stakeholder input should be solicited for the local C-PACE ordinance and the program guidelines. Some PAs create a stakeholder committee to help flesh out the operational details. Stakeholders should include policy experts, capital providers, real estate experts, and public finance attorneys.

PROGRAM ADMINISTRATION FUNCTIONS

The PA's primary purpose is to ensure compliance for the public-private partnership so that the parties are enabled to close quality C-PACE financing transactions. The essential PA functions are to:

1. Ensure the local program rules and processes are predictable, transparent and efficient. This function typically requires the PA to:
 - a) Set the minimum qualifications for capital providers and other parties in the transaction;
 - b) Identify the project-level information to be submitted to the PA;
 - c) Provide templates for the tax assessment and related documents;
 - d) Describe the process for filing the assessment lien;
 - e) Act as the liaison for capital providers, local government and the tax assessor empowered to collect the C-PACE assessments. Alternatively, allow the Capital Provider to bill and collect from the Property Owner directly.
2. Certify projects that are eligible. This task requires the PA to review documentation and determine if a project demonstrates compliance with the ordinance and program rules.

C-PACE Alliance recently commended a PA for operating according to these best practices: statewide consistency; transparency; fair and level playing field; low cost; public service orientation; independent third-party review of anticipated energy and water savings; continuous improvement.²

THE PROGRAM ADMINISTRATOR'S ROLE IN MARKETING

PA marketing should be viewed in the context of the overall need to keep PA fees low, while assuring compliance and the PA's financial sustainability. Some practitioners support a role for the PA in "priming the pump" through educational seminars for energy engineers and contractors. In smaller markets where capital providers do not have staff on-the-ground, PAs call on interested property owners.

² See [Open Letter Regarding the Texas Commercial and Industrial PACE Program](#), March 8, 2018.

The C-PACE Alliance is cautious about endorsing a marketing role for the PA *over the long-term*. In the near-term, an informative C-PACE program web page with qualified capital providers and contractors is essential. If resources and time permit, the PA can usefully raise local community awareness of the program through speaking engagements, flyers and local press.

- The PA scope of duties should be defined and limited, because funds spent marketing can drive up PA fees to cover that expense.
- If a marketing budget is established for the PA, it is recommended to be modest and limited to general program awareness.
- Any extra services offered by the PA—for example, a review of the project design or an assessment of energy savings—should be priced *a la carte* to promote competition with the private sector.

C-PACE Alliance encourages PAs to be especially cautious in setting property owners' expectations. It may be helpful to coordinate with qualified capital providers and others to understand what kinds of improvements and projects are workable. The most effective marketing combines that information with specific statutory and program knowledge to generate a consistent message upon which owners can rely.

PROGRAM ADMINISTRATION FEES

PA fees should be reasonable and appropriate in light of the size and maturity of the state's C-PACE market. If the local government provides services, it should be reimbursed for its actual costs. Many successful programs operate with relatively low one-time fees, capped per-transaction. For instance, some programs have fees set at 1 percent or less, with per-transaction caps. Low fees can help new C-PACE markets grow faster, enabling the PA to reach financial sustainability more quickly.

Interest rate "add-ons" during the life of the C-PACE financing should be discouraged or be limited to actual costs. In order to keep fees reasonable, the PA should perform only the functions necessary for project approval and administration.

The administrator should not charge additional fees to capital providers or property owners for services that can be provided by the private sector, or that are otherwise outside of the scope of what the administrator must do for the local government. For example, deal sourcing, private capital placement, and engineering review are services readily available in the private sector. The C-PACE Alliance believes that property owners, not the government selected administrator, should decide which services they desire, and property owners should be free to work with the service providers they choose.

C-PACE ALLIANCE AS A RESOURCE

The C-PACE Alliance is a network of capital providers and service providers committed to the growth of the commercial PACE industry. Our members stand ready to consult with state or local policymakers or respond to questions.

More information is available at www.c-pacealliance.com or through Cliff Kellogg, Executive Director, ckellogg@c-pacealliance.org.