



STROOCK CLIENT ALERT

NYC's C-PACE Financing Program for Energy Efficiency Retrofits is Going Live

April 7, 2021

The New York City Department of Finance (DOF) recently released the final administrative rules to implement the City's Commercial Property Assessed Clean Energy (C-PACE) financing program. The final rules become effective April 21, 2021, and it is anticipated that the C-PACE program may go live as early as the following day -- Earth Day, April 22, 2021.¹

The C-PACE program was created in 2019 as part of the suite of legislation known as the Climate Mobilization Act. The Act's centerpiece, Local Law 97, establishes strict greenhouse gas emissions caps for covered buildings in the City. (See our detailed bulletins about Local Law 97 [here](#).) In order to help building owners finance the energy efficiency retrofits and renewable energy projects expected to be necessary for building owners to comply with LL97's mandates, the CMA also included Local Law 96, which established the C-PACE program.

PACE loans have been available in a number of jurisdictions around the county, including in New York State. This is the first time, though, that such

loans have been available in New York City where they may be obtained by fee owners of buildings in New York City (excluding private residences) who do not owe civil penalties, taxes, or other debts to the City. The program is jointly coordinated by the Mayor's Office of Long-Term Planning and Sustainability (OLTPS) and DOF, and is administered by the New York City Energy Efficiency Corporation (NYCEEF).

The loans provide a low-interest, long-term option for borrowers to finance emergency efficiency retrofits and the installation of renewable energy sources, as well as the costs of energy audits and feasibility studies related thereto. PACE loans have unique features that make them particularly attractive--low interest rates (typically 5%-6%) and long repayment terms (up to 30 years) consistent with the beneficial life of the energy efficiency improvements being financed. Unlike traditional loans, PACE loans are billed as a separate line item on the property's annual property tax bill, and payments are collected by the DOF and distributed to the lender. PACE loans are also non-accelerating.

¹ The go-live date is contingent on the publication of loan guidelines and the approval of PACE lenders.

Rather, in the event the property benefited by the loan is sold, the loan runs with the property and future payments become the obligation of the new owner.

A PACE loan establishes a lien on the property for the benefit of the lender. This lien has priority over all other liens and encumbrances on the property, except for liens of the City for unpaid property taxes and other City charges. So, while the PACE lender may enforce such lien upon a borrower default in any manner permitted by law, including foreclosure actions, because of the super prime nature of the PACE lien, many standard lending agreements prohibit a borrower from receiving PACE loans without first obtaining lender consent.

PACE loans will provide owners of buildings in NYC with an important, borrower-friendly mechanism to finance the energy efficiency retrofits that will be necessary to comply with LL97's stringent greenhouse gas emissions caps. PACE loans, though, should be just one part of a building owner's comprehensive strategy for compliance with LL97. Stroock's dedicated team of CMA attorneys stands ready to help building owners navigate the complexities of the CMA, including PACE financing, applications for adjustment, and the development and execution of a comprehensive compliance plan.

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