

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 23-0586.01 Zach Blaes x4348

HOUSE BILL 23-1005

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A BILL FOR AN ACT

101 CONCERNING CHANGES TO THE NEW ENERGY IMPROVEMENT
102 PROGRAM, AND, IN CONNECTION THEREWITH, ADDING
103 RESILIENCY IMPROVEMENTS AND WATER EFFICIENCY
104 IMPROVEMENTS TO THE PROGRAM, MODIFYING THE NEW
105 ENERGY IMPROVEMENT DISTRICT'S NOTICE REQUIREMENTS, AND
106 REMOVING THE DISTRICT'S HEARING REQUIREMENT.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The commercial property assessed clean energy program

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
Amended 2nd Reading
February 27, 2023

HOUSE
3rd Reading Unamended
February 3, 2023

HOUSE
2nd Reading Unamended
February 2, 2023

(C-PACE) is part of the new energy improvement program. C-PACE allows owners of eligible real property to apply to the Colorado new energy improvement district (district) to finance certain energy efficiency improvements. The bill allows owners to also apply to the district to finance resiliency improvements and water efficiency improvements.

Additionally, when the district approves a C-PACE application, an owner consents to the district levying a special assessment on an owner's eligible real property. Current law requires the district to notify district members and existing lienholders about the special assessment and the availability of a hearing to resolve any complaints or objections. After a hearing, current law further requires the district to pass a resolution resolving any complaints or objections. The bill eliminates the requirements for the district to give notice about a hearing, conduct a hearing, and pass a resolution resolving complaints or objections. Instead of notifying district members and existing lienholders about the availability of a hearing, the bill requires the district to send a notice of assessment, which specifies the amount of the special assessment to be levied on the eligible real property, explains that the special assessment constitutes a lien against the eligible real property, and explains that the district is not a party to any private financing agreements.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 32-20-103, **amend**
3 (7); and **add** (5.2), (13.5), and (16) as follows:

4 **32-20-103. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (5.2) "FINANCING AGREEMENT" MEANS AN AGREEMENT BETWEEN
7 A QUALIFIED APPLICANT AND AN ENTITY PROVIDING PRIVATE THIRD-PARTY
8 FINANCING PURSUANT TO SECTION 32-20-105 (3)(h).

9 (7) "New energy improvement" means one or more on-site energy
10 efficiency improvements, ~~or~~ renewable energy improvements, RESILIENCY
11 IMPROVEMENTS, OR WATER EFFICIENCY IMPROVEMENTS ~~or both~~, made to
12 eligible real property that will reduce the energy consumption of or add
13 energy produced from renewable energy sources with regard to any
14 portion of the eligible real property.

1 (13.5) (a) "RESILIENCY IMPROVEMENT" MEANS ONE OR MORE
2 INSTALLATIONS OR MODIFICATIONS TO ELIGIBLE REAL PROPERTY, WITH A
3 USEFUL LIFE NOT LESS THAN TEN YEARS, THAT ARE DESIGNED TO IMPROVE
4 A PROPERTY'S RESILIENCY BY IMPROVING THE ELIGIBLE REAL PROPERTY'S:

- 5 (I) STRUCTURAL INTEGRITY FOR SEISMIC EVENTS;
- 6 (II) INDOOR AIR QUALITY;
- 7 (III) DURABILITY TO RESIST WIND, FIRE, AND FLOODING;
- 8 (IV) ABILITY TO WITHSTAND AN ELECTRICAL POWER OUTAGE;
- 9 (V) STORM WATER CONTROL MEASURES, INCLUDING STRUCTURAL
10 OR NONSTRUCTURAL MEASURES TO MITIGATE STORM WATER RUNOFF;
- 11 (VI) ABILITY TO MITIGATE THE EFFECTS OF EXTREME
12 TEMPERATURES; AND
- 13 (VII) ABILITY TO MITIGATE ANY OTHER ENVIRONMENTAL HAZARD
14 IDENTIFIED BY THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND
15 ENVIRONMENT.

16 (b) THE DISTRICT SHALL DEVELOP GUIDELINES THAT DETAIL THE
17 REQUIREMENTS FOR AN INSTALLATION OR MODIFICATION IDENTIFIED IN
18 SUBSECTION (13.5)(a) OF THIS SECTION TO QUALIFY AS A RESILIENCY
19 IMPROVEMENT.

20 (16)(a) "WATER EFFICIENCY IMPROVEMENT" MEANS ONE OR MORE
21 INSTALLATIONS OR MODIFICATIONS TO ELIGIBLE REAL PROPERTY THAT ARE
22 DESIGNED TO IMPROVE WATER EFFICIENCY BY:

- 23 (I) REDUCING WATER CONSUMPTION; OR
- 24 (II) CONSERVING OR REMEDIATING WATER, IN WHOLE OR IN PART,
25 ON THE ELIGIBLE REAL PROPERTY.

26 (b) THE DISTRICT SHALL DEVELOP GUIDELINES THAT DETAIL THE
27 REQUIREMENTS FOR AN INSTALLATION OR MODIFICATION IDENTIFIED IN

1 SUBSECTION (16)(a) OF THIS SECTION TO QUALIFY AS A WATER EFFICIENCY
2 IMPROVEMENT.

3 **SECTION 2.** In Colorado Revised Statutes, 32-20-106, **amend**
4 (3) as follows:

5 **32-20-106. Special assessments - determination of special**
6 **benefits - notice requirements - certification of assessment roll -**
7 **manner of collection.** (3) (a) The district may levy a special assessment

8 against eligible real property specially benefited by a new energy
9 improvement based on the cost to the district of the new energy
10 improvement. The district shall initiate the levy of any special assessment
11 by the adoption of a resolution of the board that sets the special
12 assessment AND approves the preparation of a preliminary special
13 assessment roll ~~and sets a date for a public hearing regarding the special~~
14 ~~assessment roll.~~ The district shall prepare a preliminary special
15 assessment roll listing all special assessments to be levied. ~~The district~~
16 ~~may post notice of the hearing on the special assessment on any district~~
17 ~~internet website and shall, except as specified in section 32-20-111, send~~
18 ~~notice that the special assessment roll has been completed and notice of~~
19 ~~a hearing on the special assessment roll no later than thirty days before~~
20 ~~the hearing date to:~~ AFTER THE DISTRICT COMPLETES THE SPECIAL
21 ASSESSMENT ROLL, THE DISTRICT SHALL SEND A NOTICE OF ASSESSMENT
22 TO:

23 (I) Each district member at the postal address or electronic mail
24 address, or both if both are specified, specified in the member's program
25 application; and

26 (II) Each person, by first-class mail or electronic mail, who has a
27 lien against a unit of eligible real property listed on the assessment roll.

1 (b) The notice required by ~~paragraph (a) of this subsection (3)~~
2 ~~shall~~ SUBSECTION (3)(a) OF THIS SECTION MUST specify:

3 (I) The amount of the special assessment ~~proposed~~ to be levied on
4 the unit of eligible real property owned by the district member or
5 subjected to a lien by the lienholder to whom the notice is sent; AND

6 (II) ~~That any complaints or objections that are made by a district~~
7 ~~member or lienholder in writing to the board, and filed in writing on or~~
8 ~~prior to the date of the hearing, will be heard and determined by the board~~
9 ~~before the passage of any resolution levying a special assessment; and~~

10 (III) ~~The date when and place where the hearing will be held at~~
11 ~~which complaints or objections made in person will be heard.~~

12 (IV) THAT THE SPECIAL ASSESSMENT, TOGETHER WITH ALL
13 INTEREST THEREON, PENALTIES FOR DEFAULT IN THE PAYMENT THEREOF,
14 AND ASSOCIATED COLLECTION COSTS CONSTITUTES A LIEN IN
15 ACCORDANCE WITH SECTION 32-20-107.

16 (c) ~~Following the hearing required by paragraph (a) of this~~
17 ~~subsection (3) and notice pursuant to paragraphs (a) and (b) of this~~
18 ~~subsection (3), the board shall adopt a resolution resolving all complaints~~
19 ~~or objections made and levying the special assessments. A district~~
20 ~~member or lienholder whose complaint or objection is denied by the~~
21 ~~board shall have thirty days from the date of the denial to appeal the~~
22 ~~denial to a court of competent jurisdiction. Thereafter, the complaint or~~
23 ~~objection shall be perpetually barred.~~

24 **SECTION 3.** In Colorado Revised Statutes, **amend** 32-20-111 as
25 follows:

26 **32-20-111. Procedure if lien subordination not sought.** The
27 provisions of this article 20 pertaining to the requirement of title

1 insurance contained in section 32-20-105 (3) ~~and the provision of notice,~~
2 ~~objection, and appeal contained in section 32-20-106 (3)(a)(I), (3)(a)(II),~~
3 ~~(3)(b), and (3)(c), and all sections referencing these sections,~~ do not apply
4 to residential eligible real property if the property owner or private third
5 party that is financing the improvements are not seeking to subordinate
6 the priority of existing mortgages pursuant to section 32-20-105 (3)(i).

7 **SECTION 4. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly; except
10 that, if a referendum petition is filed pursuant to section 1 (3) of article V
11 of the state constitution against this act or an item, section, or part of this
12 act within such period, then the act, item, section, or part will not take
13 effect unless approved by the people at the general election to be held in
14 November 2024 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.