

Administrative Questions

What is Energize NY PACE Finance?

Energize NY PACE (Property Assessed Clean Energy) Finance is a service enabled by Municipalities that provides low cost, long-term alternative financing for clean energy (e.g., energy efficiency and renewable energy) upgrades to buildings. The Energy Improvement Corporation, a non-profit local development corporation, acts on behalf of its municipal members to offer Energize NY PACE Finance.

Energize NY PACE Finance differs from commercial building loans in the following ways:

- PACE is authorized by Article 5-L of the NYS General Municipal Law as a public benefit to reduce energy costs and improve buildings
- Eligibility is not based on the property owners credit, but rather on the value of the building and the potential energy savings of the project
- Financing is available for up to 100% of the project cost
- No upfront payments required
- Longer terms, up to 20 years
- Financing is repaid through an annual charge that is collected on the property's tax bill like other municipally provided improvements like sewer, water and sidewalks
- Financing transfers automatically to a new owner if it is sold

What properties can use Energize NY PACE Finance?

Energize NY PACE Finance is available to **not-for-profit and commercially owned** properties located in New York municipalities that have joined Energy Improvement Corporation (EIC) for energy efficiency and renewable energy projects. Click [here](#) to see member list.

Commercial properties include but are not limited to: offices, retail spaces, healthcare facilities, hospitality facilities, incorporated multifamily properties, cooperative multifamily properties, industrial buildings, warehouses, manufacturing, nonprofits, religious houses of worship, private schools and colleges, and more.

Energize NY PACE financing is available for new construction, but only for:

- renewable energy systems; and
- energy efficiency improvements that provide energy savings over and above NY State Energy Code requirements.

Can a municipality restrict a certain building type from using PACE financing?

As per Article 3 of the Municipal Agreement with EIC, an EIC member may modify the program by submitting a formal written request to EIC's Board of Directors describing the

restriction and receiving the Board's approval. Members may not approve or deny specific building owners or projects on a case-by-case basis.

Can the municipality make edits or changes to the wording in the local law or municipal agreement?

The wording of the local law is based on Article 5-L of the NY State General Municipal Law, which enables PACE in NY State. EIC's PACE finance infrastructure requires that all municipalities that join EIC must enact the same local law and same municipal agreement, so the wording is uniform for all members and consistent with Article 5-L of the NYS General Municipal Law. Modifications to how PACE financing will be offered in a member may be requested of EIC in a separate letter in accordance with Article 3 of EIC's by-laws.

How much does it cost to join the EIC?

There is no cost to join EIC, no membership fees, and no charge to withdraw at any time.

Underwriting Criteria Questions

What is the maximum amount of PACE financing available?

EIC can provide financing for up to 35% of the value of the property, without any dollar maximum. In addition, the total EIC financing amount plus any existing land secured debt must not be higher than 90% of the property value. In order to qualify for financing, the project must be based on a qualified energy audit and/or feasibility study by a contractor/developer accredited by NYSERDA or an entity accredited by NYSERDA (New York State Energy Research and Development Authority) to certify energy auditors before making the energy improvements. Alternatively, an audit generated through a NYSERDA program or an investor-owned utility, such as PSEG, Con Edison, NYSEG, Central Hudson, etc. also qualifies.

How is the property value determined?

EIC uses two types of property appraisals.

- The fair market value (FMV) as reported by the local tax assessor on the latest Final Tax Roll, and
- An appraisal conducted within the last 12 months by a certified New York State Appraiser who is a Member of the Appraisal Institute (MAI) or in certain cases, a NYS Certified General Appraiser.

Do you look at the property owner's credit in your underwriting procedure?

The focus of the underwriting of a PACE financing is on the value of the property, the total loan to value (cannot exceed 90%), and the project's ability to generate energy savings in excess of the cost of the project. Eligibility for PACE financing is NOT based on the creditworthiness of an individual property owner. The property owner must not have had

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any property tax delinquencies within the past 3 years and cannot have filed for bankruptcy in the past 7 years.

How is projected energy savings determined?

Energy savings are based on baseline energy usage which is calculated as part of the required energy audit or feasibility study. Projected energy savings are calculated as part of a formal scope of work. In accordance with Article 5-L of the General Municipal Law and NYSERDA requirements, all properties must undergo an energy audit and/or feasibility study by a contractor/developer accredited by NYSERDA or an entity accredited by NYSERDA to certify energy auditors before making the energy improvements.

How is the PACE financing repaid?

The PACE financing is repaid through a charge (Energy Improvement Charge) that is listed on the property tax bill. Just like any other charge for municipal public benefits, such as sewer, water and sidewalks, the charge is collected in the same manner and at the same time as real property taxes and is placed on the tax bill each year that the PACE financing is outstanding.

Tax Charge Collection Questions

What is the administrative role of the municipality after joining the EIC?

EIC manages all aspects of qualifying projects, approving finance applications and securing capital to fund PACE financings. The municipal member is responsible for physically adding the Energy Improvement Charge to applicable property tax bills, collecting the payments, and remitting the total annual Energy Improvement Charges to EIC's trustee. EIC provides municipal members with an Annual Report listing for each financing the amount of the Energy Improvement Charge to be added to the property tax bill in advance of tax rolls being finalized.

Does the municipality need to pass a specific resolution for each PACE financing to place the Energy Improvement Charge on the tax bills each year?

Although the member municipality's payment obligation is subject to annual appropriations of the governing body as a matter of law, all PACE financings within the municipality are consolidated into one annual authorization at the time the member authorizes the levy of taxes for the municipality. They do not need to be authorized individually.

Does Energize NY PACE Finance affect the 2% tax cap?

The Energy Improvement Charge is not an ad valorem tax but rather is a charge authorized by law to be included on the tax bill and enforced in the same manner as real property taxes. It is similar to other charges that pay for municipal services that are listed on property tax bills, such as sewer and water charges. EIC's Attorney, Squire Patton Boggs,

LLP has advised EIC that, based upon existing law, it is their view that the Energy Improvement Charges need not be included as part of the municipality's tax levy for purposes of complying with the Tax Levy Limit Law.

What happens if a property owner does not pay the Energy Improvement Charge?

Under NY law, a property owner must pay their entire tax bill at one time and cannot make the choice to not pay the Energy Improvement Charge. Property Owners must pay the full amount owed on the tax bill or will be delinquent on their taxes.

What if a property doesn't pay their taxes?

In order to qualify for PACE financing, a property owner must satisfy over a dozen underwriting criteria, including being current on property taxes for the last three years. Evidence from other PACE programs around the country shows that it is unlikely that a property owner in this good standing would become delinquent due to their Energy Improvement Charge, which is typically a small portion of the tax bill. In the unlikely case that this does happen, the municipality would be responsible for remitting the amount of the Energy Improvement Charge to the EIC trustee during the pending receipt of delinquent taxes and if necessary, completion of the enforcement.

What is the Municipal Tax Delinquency Fund?

The Municipal Tax Delinquency Fund (MTDF) was created to provide member municipalities with access to a ready source of funds during the pendency of a delinquent Energy Improvement Charge associated with an Energize NY PACE financing. Municipalities have the option of participating in the MTDF for a flat annual fee of \$50.00 combined with an additional fee based on the amount of outstanding charges to be funded as determined by the municipal member. The additional fee is approximately \$30.00 per \$1,000.00 of energy improvement charge. This additional fee is fully refundable at the end of the year if the municipality does not draw on the MTDF.

Are there any protections when a municipality is unable to recover all that is due upon foreclosure?

If a property owner continues to be delinquent, and the non-payment results in a foreclosure that does not yield sufficient funds to satisfy the amounts owed to the municipality, the municipality may declare a permanent loss. If the municipality can demonstrate that it suffered a permanent loss and was not able to collect the amounts due through foreclosure or other means, then the municipality can collect from EIC's Municipal Loss Reserve Fund the amount of the loss that was attributable to the Energy Improvement Charge. The Municipal Loss Reserve is described more fully in Article 6 of the Municipal Agreement.

How does a municipality demonstrate a permanent loss?

A permanent loss can be demonstrated through proof that the property went into in-rem foreclosure, and after the tax sale, the municipality did not fully recover the amount of the Energy Improvement Charge. EIC is the only public entity in NY State that maintains a reserve to ensure that municipalities are made whole on public benefit charges that are ultimately not collected. No such fund exists for permanent losses resulting from charges and assessments related to schools, water, sewers, etc., which charges are not reimbursed.

How is the Municipal Loss Reserve account funded?

The Municipal Loss Reserve is funded with a NY Green Bank letter of credit and federal funds from grants. EIC continually adds to the Municipal Loss reserve through a fee paid by the property owner with each financing it completes.

Explain the constitutionality of foreclosure as it relates to Energize NY PACE Finance?

Article 5-L of the NY State General Municipal Law requires that the repayment for Energize NY PACE financings be made through a Energy Improvement Charge placed on the regular property tax bill of the property receiving the energy improvements. Article 5L also states that these tax bill charges are to be collected in the same manner and same form as regular property taxes.

Explain how the Energy Improvement Charge is collected when the Municipal Member allows taxes to be paid in two installments without penalty.

EIC requires that the annual payment is paid in full 30 days the tax is due to be paid to the municipality. EIC does not allow split payments. However, the municipal member could require that the entire charge be paid on the first half bill.

Lender Consent Questions

Why would a bank holding a senior mortgage on a property give lender consent?

The underwriting standards for Energize NY PACE Finance were informed by bankers representing national financial institutions specifically to make lender consent an attractive option to financial institutions holding a senior mortgage. Senior mortgage lenders understand property taxes and assessments and factor them into underwriting decisions. There is broad acceptance of the PACE financing model, which limits lien exposure only to unpaid assessments and charges and not the full amount of the outstanding PACE financing, as distinguished from a bank loan. The most common reasons that banks provide lender consent are:

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1. When a property implements energy improvements or installs renewable energy sources, the value of that property increases. This improves the value of the mortgage holder's collateral.
2. To be approved for Energize NY PACE Finance, all projects must show a Savings Investment Ratio (SIR) of greater than one as required by NYSERDA's Commercial PACE Guidelines. The property owner will often have immediate increased cash flow, which enhances the owner's ability to make existing mortgage payments.
3. Delinquent Energy Improvement Charges, along with all taxes, do not accelerate in the event of a delinquency; only the amount due for that year is due.
4. Lenders that do not consent to Energize NY PACE financings run the risk of losing their customers to other financial institutions that are willing to refinance competitor loans and include Energize NY PACE financing in the new capital stack. Energize NY has a portfolio of banks that are committed to refinancing any competitor loans that deny lender consent for the PACE charge.

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