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| <b>Subject: Action -- Bill 7-19, Environmental Sustainability -- Commercial Property Assessed Clean Energy Program -- New Construction</b>            |
| <b>Purpose:</b> Final action -- vote expected   |
| <b>Analyst:</b> Amanda Mihill, Legislative Attorney <i>A. Mihill</i>  |
| <b>Keywords:</b> # MoCoCleanEnergy<br>Other search terms: Clean Energy Program, new construction, environmental incentives, CPACE and Commercial PACE |

### EXPECTED ATTENDEES

Stan Edwards, Chief of Division of Environmental Policy and Compliance, Department of Environmental Protection (DEP)

Mike Coveyou, Acting Director, Department of Finance

### COMMITTEE RECOMMENDATIONS

A Transportation and Environment Committee worksession was held on April 4. The Committee recommended enactment of the Bill with a clarifying amendment.

### DESCRIPTION/ISSUE

This Bill would expand the Commercial Property Assessed Clean Energy Program to new construction.

### SUMMARY OF KEY DISCUSSION POINTS

At the Committee worksession, the Committee requested that the following information be presented when the bill is discussed by the Council:

- whether the amounts eligible to be financed through the program be based on how much a building exceeds energy code requirements (tiered financing); and
- what the appropriate loan to value ratio is and how the appraisal should be determined for new construction projects.

A staff amendment to address these pieces of information is on ©25-26.

### **This report contains:**

Detailed Staff Report

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**MEMORANDUM**

May 3, 2019

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*

SUBJECT: Bill 7-19, Environmental Sustainability – Commercial Property Assessed Clean Energy Program – New Construction

PURPOSE: Action – Roll call vote required

**Transportation and Environment Committee recommendation (3-0):** enact Bill with a clarifying amendment (see page 2).

The Committee requested Executive staff to review and make recommendations on the following topics:

- whether the amounts eligible to be financed through the program be based on how much a building exceeds energy code requirements; and
- what the appropriate loan to value ratio is and how the appraisal should be determined for new construction projects.

Discussion on these issues begins on page 2.

Bill 7-19, Environmental Sustainability – Commercial Property Assessed Clean Energy Program – New Construction, sponsored by Lead Sponsor Councilmember Hucker and Co-Sponsors Councilmember Friedson, Council President Navarro, Councilmember Riemer, Council Vice-President Katz, Councilmembers Jawando, Rice, Glass and Albornoz, was introduced on March 5. A public hearing was held on March 26 at which five speakers testified in support of the Bill.<sup>1</sup> County Executive Elrich supports Bill 7-19. A Transportation and Environment Committee worksession was held on April 4.

Bill 7-19 would expand the Commercial Property Assessed Clean Energy Program to new construction.

<sup>1</sup> Key Search Terms #MoCoCleanEnergy

Other search terms: Clean Energy Program, new construction, environmental incentives, CPACE and Commercial PACE

## Issues/Committee Recommendation

All testimony and correspondence the Council has received on Bill 7-19 was in support of the bill. There were several issues raised in the testimony/correspondence, which are addressed below.

**1. Does Bill 7-19 cover projects currently in construction?** John Coe spoke at the hearing and requested a “friendly amendment” to ensure that projects currently in construction are eligible to use the C-PACE program (©23). Council staff believes that if Bill 7-19 is enacted, it could apply to projects currently in construction and that no amendment is necessary to the bill; Executive staff concur. Council staff notes that Bill 7-19 is not an expedited bill and therefore the bill would take effect 91 days after it becomes law, which would likely be sometime in July if the Council enacts the bill in April.

**2. Clarifying amendment.** Bill 7-19 provides that “for new commercial construction, the property must exceed the current County energy conservation building code performance.” (©2, lines 14-15). Michal Freedman, on behalf of the Sierra Club, and Jeffrey Weisner, on behalf of 350MoCo, requested clarification of this language (©13). Specifically, Ms. Freedman and Mr. Weisner requested clarification that:

- the timing of the relevant construction codes is the date of application for the financing (as opposed to the enactment or effective date of Bill 7-19); and
- the reference to the “energy conservation building code” is construed to refer to all relevant construction codes in existence at the time of application.

Council staff concurs that under Bill 7-19 “current” means effective at the date of program application and that if multiple building codes are concurrently effective in the County, that the most stringent energy conservation codes would need to be exceeded in order to take advantage of PACE financing. For clarification, **the Committee recommended (3-0)** the following amendment (see ©2, lines 14-17):

For new commercial construction, the property must exceed the [[current]] County energy conservation building code performance requirement that is in effect at the time a property owner applies to participate in the Program.

**3. Should loan eligibility be based on how much a building exceeds energy code requirements?** Bill 7-19 would make the CPACE Program available for new construction projects as long as the project exceeds energy conservation building code performance requirements, regardless of how much the projects exceed the requirements. Ms. Freedman and Mr. Weisner urged the Council to consider whether eligibility should require a threshold amount by which the proposed construction would exceed construction code performance and whether the maximum loan amount should be tied to the costs of the enhancements that go beyond code (©13-14).

Ms. Freedman points to a Connecticut program in which eligibility is triggered if a building exceeds code by at least 10%. Similarly, in Arlington County, Virginia, CPACE can be used for new construction if it will exceed current code by at least 15% and the maximum loan amount would be commensurate with the performance level, up to 20%. In other words, if a building exceeds code by 15%, then 15% of the construction costs can be financed with CPACE; if a building exceeds code by 16%, then 16% of the construction costs can be financed with CPACE;

and so on to a maximum of 20%. **The Committee requested** Executive staff to review this issue and provide a recommendation to the Council when the Council considers Bill 7-19. After reviewing the issue, **Executive staff recommend** tiering financing as follows:

- Above code up to 5%, buildings can access C-PACE financing up to 15% of total construction costs
- Over 5% above code, buildings can access C-PACE financing up to 20%

**Council staff recommendation:** the Executive staff recommendations strike a good balance between making financing available and encouraging additional energy conservation improvements. Council staff supports the Executive staff recommendations. An amendment to Bill 7-19 to implement this change is on ©25-26.

**4. How should the loan to value ratio be determined?** At the worksession, Councilmember Hucker raised an issue related to what the appropriate loan to value ratio is for new construction. Current law prohibits loan amounts from exceeding 20% of the “full cash value or the appraised value” of the property and prohibits loan amounts combined with an outstanding mortgage balance of exceeding “the full cash value or the appraised value” of the property. Mr. Hucker was concerned that the ability of a property owner to borrow funds would be restricted if the valuation method was limited to the current value/appraisal rather than the future value/appraisal when construction is completed. **The Committee requested** Executive staff to review this issue and provide a recommendation to the Council when the Council considers Bill 7-19. After reviewing the issue, **Executive staff recommends** that for the building valuation methodology for determining the amount of C-PACE financing available to building owners, the future value/appraisal of the property when construction is completed should be used. **Council staff concurs** and recommends the following language, which is incorporated in the amendment on ©26:

For new commercial construction, the full cash value and appraised value of the property must be determined based on the estimated value of the property if construction is completed.

Even if Councilmembers do not support the tiered financing as recommended by Executive staff, Council staff recommends the Council adopt the above language regarding the methodology for valuing new construction.

| This packet contains:                | <u>Circle #</u> |
|--------------------------------------|-----------------|
| Committee Bill 7-19                  | 1               |
| Legislative Request Report           | 4               |
| Fiscal and Economic Impact statement | 5               |
| Testimony/Correspondence             | 9               |
| Arlington brochure                   | 23              |
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Bill No. 7-19  
Concerning: Environmental Sustainability  
- Commercial Property Assessed  
Clean Energy Program - New  
Construction  
Revised: 2/20/2019 Draft No. 4  
Introduced: March 5, 2019  
Expires: September 5, 2020  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Hucker  
Co-Sponsors: Councilmember Friedson, Council President Navarro, Councilmember Riemer,  
Council Vice-President Katz, Councilmembers Jawando, Rice, Glass and Albornoz

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**AN ACT** to:

- (1) expand the Commercial Property Assessed Clean Energy Program to new construction; and
- (2) generally amend County laws related to the Commercial Property Assessed Clean Energy Program and environmental sustainability.

By amending

Montgomery County Code  
Chapter 18A, Environmental Sustainability  
Sections 18A-33 and 18A-35

|                                     |  |
|-------------------------------------|--|
| <b>Boldface</b>                     | <i>Heading or defined term.</i>                            |
| <u>Underlining</u>                  | <i>Added to existing law by original bill.</i>             |
| <b>[Single boldface brackets]</b>   | <i>Deleted from existing law by original bill.</i>         |
| <u>Double underlining</u>           | <i>Added by amendment.</i>                                 |
| <b>[[Double boldface brackets]]</b> | <i>Deleted from existing law or the bill by amendment.</i> |
| * * *                               | <i>Existing law unaffected by bill.</i>                    |

*The County Council for Montgomery County, Maryland approves the following Act:*

**Sec. 1. Sections 18A-33 and 18A-35 are amended as follows:**

**18A-33. Definitions.**

(a) *Definitions.* In this Section, the following words have the meanings indicated:

\* \* \*

*Qualified property* means any new or existing commercial real property that meets the eligibility criteria for the Program.

\* \* \*

**18A-35. Eligibility.**

In order to be eligible for this Program, the following criteria must be met:

\* \* \*

(a) *Eligibility.*

\* \* \*

(4) For new commercial construction, the property must exceed the ~~[[current]]~~ County energy conservation building code performance requirement that is in effect at the time a property owner applies to participate in the Program.

(5) The loan amount under this Program must meet the following criteria:

(A) The loan amount must be at least \$5,000 and, for existing commercial property, not more than 20% of either the full cash value or the appraised value of the qualified property. The full cash value is determined by the Maryland State Department of Assessments and Taxation. The appraised value must be determined by a Certified General Real Estate Appraiser and must have been certified no more than 12 months before the date of the loan application.

28 (B) The loan amount, together with the outstanding balance of  
29 the mortgage or deed of trust, must be no more than 90% of  
30 either the full cash value or the appraised value of the  
31 qualified property.

32 (C) For new commercial construction, the maximum loan  
33 amount must not exceed 20% of the total construction costs.

34 \* \* \*

35 *Approved:*

36

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Nancy Navarro, President, County Council

Date

37 *Approved:*

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Marc Elrich, County Executive

Date

39 *This is a correct copy of Council action.*

40

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Megan Davey Limarzi, Esq., Clerk of the Council

Date

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LEGISLATIVE REQUEST REPORT  
Bill 7-19

*Environmental Sustainability – Commercial Property Assessed Clean Energy Program – New Construction*

**DESCRIPTION:** Bill 7-19 would expand the Commercial Property Assessed Clean Energy Program to new construction.

**PROBLEM:** Interpretations of County law result in new construction being ineligible for the CPACE program.

**GOALS AND OBJECTIVES:** To promote environmental sustainability by allowing new commercial construction to be eligible for the CPACE program.

**COORDINATION:** Department of Environmental Protection

**FISCAL IMPACT:** To be requested

**ECONOMIC IMPACT:** To be requested

**EVALUATION:** To be requested

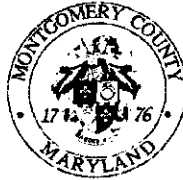
**EXPERIENCE ELSEWHERE:** To be researched

**SOURCES OF INFORMATION:** Amanda Mihill, Legislative Attorney, 240-777-7815

**APPLICATION WITHIN MUNICIPALITIES:** To be researched.

**PENALTIES:** n/a





ROCKVILLE, MARYLAND

## MEMORANDUM

March 25, 2019

**TO:** Nancy Navarro, President, County Council

**FROM:** Richard S. Madaleks, Director, Office of Management and Budget  
Alexandre A. Espinosa, Director, Department of Finance

**SUBJECT:** Economic and Fiscal Impact Statement for Bill 7-19, Environmental Sustainability – Commercial Property Assessed Clean Energy Program – New Construction

Please find attached the Economic and Fiscal Impact Statement for Bill 7-19, Environmental Sustainability – Commercial Property Assessed Clean Energy Program – New Construction

RSM:cm

**cc:** Andrew Kleine, Chief Administrative Officer  
Debbie Spielberg, Special Assistant to the County Executive  
Dale Tibbitts, Special Assistant to the County Executive  
Lisa Austin, Office of the County Executive  
Fariba Kassiri, Deputy Chief Administrative Officer  
Ohene Gyapong, Acting Director, Public Information Office  
David Platt, Department of Finance  
Dennis Hetman, Department of Finance  
Monika Coble, Office of Management and Budget  
Trevor Lobaugh, Office of Management and Budget  
Chrissy Mireles, Office of Management and Budget

**Fiscal Impact Statement**  
**Council Bill 7-19 Environmental Sustainability – Commercial Property Assessed Clean Energy Program – New Construction**

**1. Legislative Summary.**

This bill would expand the eligibility of the Commercial Property Assessed Clean Energy Program to new construction.

**2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

This bill should not result in an immediate, direct change to County revenues or expenditures. Capital for C-PACE projects is provided by the private sector. The County's time to review C-PACE applications will be conducted by existing staff.

In the long-run, C-PACE projects may result in buildings with a higher assessed value, which may positively impact tax receipts, but this impact cannot be estimated due to the many factors that affect this, including how energy efficiency is valued in future building assessments.

**3. Revenue and expenditure estimates covering at least the next 6 fiscal years.**

Not Applicable

**4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

Not Applicable

**5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

Not Applicable

**6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

Not Applicable

**7. An estimate of the staff time needed to implement the bill.**

This is dependent upon the number of new construction C-PACE projects. However, it is expected that work could be conducted by existing staff.

**8. An explanation of how the addition of new staff responsibilities would affect other duties.**

Not Applicable

**9. An estimate of costs when an additional appropriation is needed.**

Not Applicable

**10. A description of any variable that could affect revenue and cost estimates.**

Not Applicable

**11. Ranges of revenue or expenditures that are uncertain or difficult to project.**

Potential future revenues from buildings that may be assessed at a higher value as a result of being energy efficient.

**12. If a bill is likely to have no fiscal impact, why that is the case.**

Capital funding for C-PACE projects comes from the private sector. Activities required to implement the bill will be conducted by existing staff.


**13. Other fiscal impacts or comments.**

The expansion of C-PACE provides a tool for private property owners to make their buildings more energy efficient, thus reducing greenhouse gas emissions. Because there is no additional cost to the County as a result of this bill (functions would be performed by existing staff), it is a very cost-effective measure to help the County meet its ambitious greenhouse gas reduction goals.

**14. The following contributed to and concurred with this analysis:**

Stan Edwards, Department of Environmental Protection /  
David Crow, Department of Finance  
Barbara Suter, Department of Permitting Services  
Trevor Lobaugh, Office of Management and Budget

  
\_\_\_\_\_  
Rich Madaleno, Director  
Office of Management and Budget

  
\_\_\_\_\_  
Date

**Economic Impact Statement**  
**Bill 7-19, Concerning: Environmental Sustainability – Commercial Property**  
**Assessed Clean Energy Program – New Construction**

**Background:**

This legislation would require the County to allow new construction projects to obtain a C-PACE loan with the maximum amount not to exceed 20 percent of the total construction costs. The maximum amount will only apply to existing commercial property. For new commercial construction, the property "must exceed the current County energy conservation building code performance."

**1. The sources of information, assumptions, and methodologies used.**

There are no sources of information used in the preparation of the economic impact statement. The Department of Finance did not use methodologies in the preparation of the economic impact statement. While the impact of Bill 7-19 could have a positive economic impact, it is uncertain because of factors such as the participation of lenders, the amount of available capital, the number of contractors and workers in the County licensed to perform such work, the product supply companies in the County, and demand for such financing.

**2. A description of any variable that could affect the economic impact estimates.**

As mentioned in paragraph 1, the variables that could affect the economic impact estimates are the participation of lenders, the demand for financing, and the number of contractors and supply companies.

**3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.**

Bill 7-19 could have a positive impact on employment, spending, incomes, and property values but the amount of such a positive impact is uncertain as noted in the variables discussed in paragraphs 1 and 2.

**4. If a Bill is likely to have no economic impact, why is that the case?**

The economic impact is uncertain based on the factors discussed in paragraphs 1 and 2.

**5. The following contributed to or concurred with this analysis: David Platt, David Crow, and Rob Hagedoorn, Finance;**

  
\_\_\_\_\_  
Alexandre Espinosa, Director  
Department of Finance

3/22/2014  
Date

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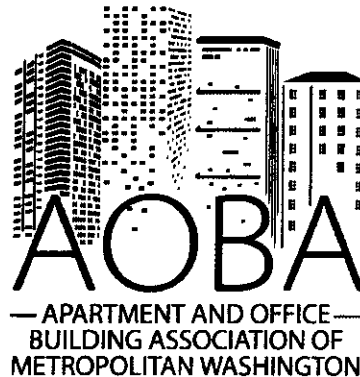
**TESTIMONY ON BEHALF OF COUNTY EXECUTIVE MARC ELRICH  
SUPPORT OF BILL 7-19 – COMMERCIAL PACE – NEW CONSTRUCTION**

**March 26, 2019**

Good afternoon Council President and Councilmembers, my name is David Crow and I am here on behalf of County Executive Marc Elrich to extend his support of Bill 7-19, Environmental Sustainability – Commercial Property Assessed Clean Energy Program – New Construction. To date, this Program has successfully completed 12 projects representing close to \$8.5 million in loans, which continues to be one of the leading Programs within the State and region. The Program was also recognized with a National Association of Counties (NACo) Achievement Award in 2017.

This Bill proposes to add potential projects to the Program by enabling new construction projects the ability to apply for C-PACE financing for an amount up to 20 percent of total construction cost. This change will provide an incentive for new construction projects to utilize the energy efficient materials and renewable energy measures to reduce a project's overall footprint on the environment. Another requirement of this Bill would be that all new construction projects must exceed the current County energy conservation building code performance standards. This requirement will help the County and Program to continue reducing commercial building energy use and the resulting impacts on the environment. With this legislative change, we believe that there will be improved potential of C-PACE Projects that can continue to move the County closer to its green initiative of zero Greenhouse Gas emissions by the year 2035.

Thank you for the opportunity to testify today.



**WRITTEN STATEMENT OF THE APARTMENT AND OFFICE BUILDING ASSOCIATION OF METROPOLITAN WASHINGTON FOR THE MARCH 26, 2019 PUBLIC HEARING ON B7-19, ENVIRONMENTAL SUSTAINABILITY - COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM - NEW CONSTRUCTION**

The Apartment and Office Building Association of Metropolitan Washington (AOBA) is a non-profit trade association representing more than 133,000 apartment units and over 23 million square feet of office space in suburban Maryland, the majority of which, including over 60,000 apartment units and 20,000,000 square feet of office space, is in Montgomery County. *AOBA is pleased to submit a statement in support of B7-19, Environmental Sustainability - Commercial Property Assessed Clean Energy Program - New Construction.* AOBA is supportive of efforts to facilitate the ability of sophisticated commercial building owners/managers to choose from a menu of energy efficiency financing tools which are best suited for a specific community or real estate portfolio. B7-19 accomplishes this goal by amending the current PACE law to facilitate greater owner participation in the program by clarifying that the program should also benefit new construction. PACE, in addition to other county and state financing mechanisms, represents another option that can significantly reduce energy use in commercial buildings.<sup>1</sup> While building owners have implemented low-cost measures to reduce their energy costs, many energy-efficiency projects require a significant financial investment. The PACE financing model represents another financing option that allows building owners to move forward with “shovel ready” high impact energy efficiency projects.

Current law allows financing of a wide array of energy efficiency projects for existing commercial properties. Thus, participating owners/managers can use the PACE financing mechanism to target specific energy efficiency upgrades needed for their properties. Building

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<sup>1</sup>The definition of “commercial property” in § 18A-33(a) includes both commercial office buildings and multifamily properties of a certain size. Section 18A-33(a)(“commercial property” means any real property located in the County that is either not designated for or intended for human habitation, or that is intended for human habitation as a multi-family building of 4 or more rental units.”) See *Green Building Facts*, U.S. Green Buildings Council, <https://www.usgbc.org/sites/default/files/Docs18693.pdf>. (According to the U.S. Green Buildings Council, buildings account for 73% of electricity consumption and 38% of all CO2 emissions in the United States.)

owners also have the ability to tailor energy efficiency upgrades in response to the County's diverse building stock by targeting factors such as differences in age, energy systems, and operating patterns.<sup>2</sup> Under current law, any energy efficiency and/or energy improvement "that is intended to decrease energy consumption or expand use of renewable energy sources" could potentially qualify for funding under the existing PACE program. This broad language permits funding of programs that meet the energy improvement needs of the County's complex mix of commercial properties in furtherance of the County's environmental and energy policies.

AOBA welcomes the opportunity to continue partnering with the County on this endeavor and other incentive-based initiatives that facilitate energy efficiency improvements in commercial and multifamily buildings while improving the environment by mitigating carbon and related greenhouse gas emissions. In particular, we look forward to participating in discussions on expanding financing options and funding for the County's existing building stock. Financing tools can help preserve affordable housing and provide funding to commercial office buildings in submarkets challenged by high vacancies and operating expenses. Thank you for the opportunity to submit AOBA's written testimony on these important issues. AOBA looks forward to working with the Council, County Executive and other key stakeholders.

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<sup>2</sup>See also 2013 Energy Report, page 7 acknowledging differences between and among commercial and residential buildings. ("Commercial and multifamily market segments present different challenges. The County will need to carefully consider targeting its policies and programs to gain the greatest energy savings, while also addressing the barriers and needs unique to each market segment. The Study found that both commercial and multifamily markets exhibit 100% characteristics that must be accounted for in policy and program design if they are to be successful. ... Commercial buildings such as offices, retail, and healthcare differ greatly from each other in terms of energy systems, operating patterns, ownership patterns, and financing structures.")

John C. Coe Testimony to the Montgomery County Council Re:  
Bill 7-19, Concerning Environmental Sustainability - Commercial Property Assessed Clean Energy  
Program - New construction

To Madame Chairwoman and Councilmen:

My name is John Coe of Coe Enterprises, a real estate financial advisory firm. I have been involved with investing and financing investment real estate for 40 years for institutional and private companies with most of that being in the Washington DC region. I am a 32 year resident of Montgomery County. I am here today representing my client, CleanFund, a Commercial PACE lender headquartered in Sausalito, CA, but which has funded projects across the country, including several potential projects in Montgomery County

CleanFund is a strong proponent of the proposed amendment to broaden the scope of the current law to include "new construction" to participate in the C-PACE financing program. The industry's largest growth segment is the utilization of C-PACE for new construction. The largest portion of CleanFund's active pipeline is for ground up new development and CleanFund's investors are two of the most active senior mortgage lenders in the country, who are very favorable about this use. Providing C-PACE as financing alternative to the development community encourages the use of energy efficient materials and systems in new construction, as well as providing long term benefits to the property and the environment with clean energy use and savings. By amending the current law to permit conventional first mortgage construction financing to be supplemented with C-PACE financing coterminous with the project's commencement, the opportunities to implement the law's purpose of investment in qualified clean energy building systems will expand considerably for the following reasons:

1. The current law only allows for C-PACE supplemental liens to be placed on "existing" property for renovations and upgrades. The amendment would open this to align with a building permit for new construction and subject to review by the staff and your consultants to the project's conformity to the C-PACE eligible expenditures being financed. It offers property owners and developers less expensive options in financing efficient new construction, which passes to the user and consumer in energy savings.
2. C-PACE financing is a 20 year obligation that is an assessment and is enforced similar to a real estate tax lien. By placing it at the same time as the construction financing, it allows for clear allocation of C-PACE eligible expenses during construction and it reduces the amount of more expensive (or unavailable) equity needed to finance the development, as the C-PACE financing provides an amount of total debt capital to increase from typically 60%-65% for a first mortgage loan up to 80% combined with the C-PACE investment.

if I were permitted to add a friendly amendment, I would ask that the amendment be effective for all projects currently in construction which could still have time to take advantage of this financing. I can tell you that there is at least one project that wanted to utilize PACE financing but can not because of the current law, but which could still value-engineer its specifications to take advantage of the change in law.

Thank you for the opportunity to submit my testimony today.



March 29, 2019

Dear President Navarro and Councilmembers:

We are writing on behalf of Montgomery County Sierra Club and 350MoCo to support Bill 7-19, and to recommend some clarifying language and consideration of two policy issues.

As you know, Bill 7-19 amends the Commercial Property Assessed Clean Energy (C-PACE) legislation to address a financing gap resulting from previously enacted PACE legislation. Under the existing legislation, the tax surcharge that is used to pay back loans for energy efficiency and other energy improvements does not apply to new construction. By allowing financing for new construction that goes beyond building code requirements (for energy efficiency and other energy improvements), the amendment could expand the usefulness of the C-PACE program and help mitigate a source of carbon emissions.

Building policies are especially important **because buildings are the leading source of emissions (53% of the total) in the County and the County has more authority to control building emissions than emissions in other areas.** Because buildings constructed in the coming years will last for decades, conserving energy use in these new buildings can markedly cut cumulative carbon emissions.

Reducing energy use (and thus utility costs) can also address the affordability of housing. This financing vehicle could encourage accelerated reductions in emissions through private financing, allowing government financial support to focus on affordable multifamily buildings, where C-PACE is often less available.

There are, however, provisions in the bill that require clarification, as well as policy issues that merit discussion.

First, we recommend that the language describing eligibility criteria in 18A-35(a)(4) be clarified either in the bill itself or in accompanying legislative documents. The amendment, as now worded, authorizes financing for new construction that exceeds the “current County energy conservation building code performance.” It would be helpful to make clear that the timing of the relevant construction codes is the date of application for the financing, rather than, say, the date of the amendment’s enactment. In addition, it would be useful to clarify that the reference to the “energy conservation building code” should be construed to refer to all relevant construction codes in existence at the time of the application, thus including potentially multiple codes.

We also wish to raise two policy issues for the Council to consider. First is the question whether eligibility should require a threshold amount by which the proposed construction would exceed construction code performance. In Connecticut, under a C-PACE New Construction Pilot program, developers that can demonstrate that a building’s performance exceeds a code-compliant baseline by at least 10% (up to 20%), are eligible for financing. The Council should consider whether to adopt such a minimum. Second, the amendments define the maximum loan amount as “20% of the total construction costs.” It is also worth evaluating whether the

maximum loan allowed should be tied to the costs of the enhancements that go beyond code, but not to exceed 20% of the total construction costs.

In conclusion, we support the county's efforts to extend C-PACE financing to new construction that exceeds construction code requirements and recommend consideration of the issues described above.

Sincerely,

Michal Freedman, Sierra Club Montgomery County, Vice Chair

Jeffrey Weisner, 350MoCo, President, Steering Committee

# recurrent

INNOVATIVE SOLUTIONS

1390 Piccard Drive · Suite 120  
Rockville, MD 20850  
301.795.1440  
www.recurrent.net

Friday, March 22, 2019

Attn: Councilmember Tom Hucker  
100 Maryland Avenue, 4th Floor  
Rockville, MD 20850

Re: Montgomery County Commercial Property Assessed Clean Energy (C-PACE) Program – New Construction

Dear Councilmember Hucker,

Recurrent Innovative Solutions, LLC is an energy solutions provider headquartered in Rockville, Maryland, and has successfully implemented \$3.4 million in C-PACE projects for Montgomery County, including the first project in the County, and the first project to incorporate renewable energy (solar). These projects have been comprehensive retrofits of *existing* buildings.

The most cost-effective time to make decisions that support the long-term efficiency of a building is during the original design and construction. Incremental additional investment at the time of initial construction can significantly improve the efficiency of a building, increase property value, improve the health, safety and comfort of occupants, and reduce its impact on the environment. Across the nation we are seeing significant use of C-PACE in new construction, resulting in more efficient new buildings. Montgomery County is an outlier with its exclusion of new construction from C-PACE.

Montgomery County has consistently led the way in energy efficiency, but the current exclusion of C-PACE as a tool for new construction energy efficiency is a glaring hole in what is a well thought out energy policy regimen. While Montgomery County is a leader in energy efficiency, this simple step will help the County extend those efficiency gains to new buildings. The enactment of C-PACE for new construction will result in buildings with higher valuations and a much smaller carbon footprint, a true win-win outcome for the community. Montgomery County was a leader in enacting its C-PACE program due to your actions on the Council. I hope you will again take the appropriate action to ensure that the Program delivers the maximum benefit to Montgomery County.

Respectfully,



**Keith Derrington**  
Chief Operating Officer  
Recurrent Innovative Solutions, LLC

(15)

Council President Navarro and Council Members, my name is Tim Eden of Starr Capital. I am here today to speak in support of bill 7-19. The current CPACE program provides cost effective financing for energy related improvements and expanding it to new construction is a win for both the development community and the environment. The current program has worked well, so expanding it to include new construction is the next logical step.

One of the biggest struggles for real estate developers is securing funding for risky new buildings that have a long lead time. Having a full tool box of funding mechanisms would spur additional construction in Montgomery County that creates jobs in scores of related industries in addition to the building trades. The CPACE program can be another avenue for developers to finance their buildings while promoting environmentally sound construction. Montgomery already has a high bar for construction systems and materials that usually result in LEED Silver certification. These requirements add costs to construction projects that typically promise lower operating costs, but that is not guaranteed.

For example, my company is trying to finance a \$63 million hotel project in downtown Silver Spring. Hotels are particularly hard to finance as an operating business and construction costs continue to escalate. Bill 7-19 would allow for cost effective gap equity financing that would improve overall financial returns to investors.

Extending the CPACE to new construction would benefit the County's economy and mission of environmentalism. I strongly urge you to vote yes on Bill 7-19. Thank you.

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[HTML](#)

Dear County Council,  
Please consider and add to the record for this bill this email and attachments. While we applaud the expansion of PACE, that action per the attached is only a very small step in the right direction.  
Regards,  
Jim Laursen, Leadership Team Member of Montgomery County Faith Alliance for Climate Solutions  
(other Leadership Team Members cc'd)

**Close**

17

To: Montgomery County Council  
From: Montgomery County Faith Alliance for Climate Solutions  
Re: Petition to Act on Climate Emergency Resolution  
Date: March 21, 2019

On December 5, 2017 the Montgomery County Council adopted an Emergency Climate Resolution, with specific carbon reduction and other goals (attachment 1).

On June 5, 2018, the Montgomery County Climate Mobilization Workgroup, which was formed at the direction of the Emergency Climate Resolution, described in a Workgroup report (at [www.montgomerycountymd.gov/dgs-oes/Policy.html](http://www.montgomerycountymd.gov/dgs-oes/Policy.html)) how a detailed plan, dedicated staff and consultants, and significant resources would be needed to meet the emergency goals. Moreover, the County Council and Executive would need to establish a mechanism for broad community engagement and input. This last need is of particular importance to help ensure an outcome that is socially, economically, and environmentally just.

Yet, almost a year later, few of the needs for this emergency have been substantially met.

Therefore, this petition asks for the County Council and Executive to rapidly act on the Emergency Climate Resolution and Workgroup report to fulfill these needs completely.

The Montgomery County Faith Alliance for Climate Solutions (MC-FACS) formed a year ago as a diverse community of faiths whose voices are valuable in the conversation on climate change, and whose faith-based actions draw on a deep well of love for each other and the planet we share. MC-FACS has members from more than 30 congregations (attachment 2) who are focused exclusively on climate campaigns in Montgomery County. To illustrate their resolve, these congregations are in varying stages of reviewing and pledging to meet goals that emulate the county resolution (attachment 3).

We are determined to act on our faith and welcome a partnership with the County Council and Executive to do so.

Signed,  
MC-FACS Leadership Team:

Walter Weiss, River Road Unitarian Universalist Church

Pat Cuff, St. Rose of Lima Catholic Church

Rachel Dick, Adat Shalom Reconstructionist Congregation

Jim Laurenson, Cedar Lane Unitarian Universalist Church

Stuart Simon, Adat Shalom Reconstructionist Congregation

Rosanne Skirble, Kehila Chadasha

Lisa Spain, Beth Chai Jewish Humanist Congregation

Tod Wickersham, Bethesda Friends Meeting

Nanci Wilkinson, Cedar Lane Unitarian Universalist Church

Attachments:

1. Montgomery County Council Climate Emergency Resolution
2. MC-FACS Congregations
3. MC-FACS Congregation Pledge

# Attachment 1

Resolution No.: 18-974  
Introduced: November 28, 2017  
Adopted: December 5, 2017

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsors: Councilmembers Elrich, Leventhal and Berliner  
Co-sponsors: Councilmembers Rice, Katz, Riemer, Navarro and Hucker

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**SUBJECT:** Emergency Climate Mobilization

### **Background**

1. Current global warming of approximately 1 degree Celsius has triggered cataclysmic changes to the Earth. These changes include an accelerating collapse of the West Antarctic Ice Sheet, the thawing of the Arctic permafrost, an increase in mega-droughts, heat waves, super-storms, flash flooding, the migration of mosquito-borne diseases, the melting of glaciers, polar ice-sheet collapse, coral bleaching, the mass extinction of species, ocean oxygen loss, and sea level rise.
2. Climate change will cause an increase in water and food shortages, civil unrest, state failure, civil war and terrorism throughout the world, with no region or nation being immune to these effects, including Montgomery County.
3. There is a strong consensus among scientists that greenhouse gas emissions must be eliminated in a decade at most -- with a simultaneous global effort to remove excess carbon from the atmosphere -- to stabilize at or near the 1.5 C (2.4 F) threshold believed to provide a reasonable chance for the survival of human civilization and other complex life forms on this planet.
4. The federal government, national media, and civil society, including most climate organizations, have drastically underestimated the urgency of the climate and ecological crises, failed to accept that we face an unprecedented global emergency, and relied on failed strategies of gradualism.
5. We must together implement a massive emergency global mobilization effort to successfully eliminate greenhouse gas emissions and remove excess carbon from the atmosphere.
6. Each of us has the moral duty to safeguard the planet for future generations.

7. Montgomery County has been a national leader in responding to the challenge of climate change, including establishing a goal of reducing greenhouse gas emissions in the County by 80% by 2050 compared to 2005 levels, yet now needs to do much more, much faster.

**Action**

The County Council for Montgomery County, Maryland approves the following resolution:

The Montgomery County Council calls upon the national Administration, the Congress, the State, and other local governments to join Montgomery County, to use all available powers and resources to:

1. declare a climate emergency and initiate a massive global mobilization to restore a safe climate and build a sustainable economy; and
2. transform the climate by reducing greenhouse gas emissions by 80% by 2027 and reaching 100% elimination by 2035, and initiate large-scale efforts to remove excess carbon from the atmosphere.

The Montgomery County Council calls upon the Montgomery County Executive, Montgomery County Public Schools and Maryland-National Capital Park and Planning Commission to advise the Council over the next six months on specific methods for accelerating the County's greenhouse gas emissions reduction goal.

This is a correct copy of Council action.

  
Linda M. Lauer, Clerk of the Council



**Attachment 2**  
**Congregations Represented by Montgomery County Faith Alliance for Climate Solutions**  
(March 19, 2019)

Adat Shalom  
All Souls UUC  
Am Kolel  
Beth Chai Jewish Humanist  
Beth El  
Bethesda Friends  
Bethesda Presbyterian  
CCL/St. Rose  
Cedar Lane UUC  
Christ Congregational Church  
Ecosikh, Guru Gobind Singh Foundation  
Holy Cross Catholic  
Holy Trinity  
Kehila Chadasha  
Kol Shalom  
MC Muslim Foundation  
Northwood Presbyt Church  
Pilgrim UCC  
River Road UUC  
Rockville UUC  
Sandy Springs Friends  
Shirat Henefesh  
St. Camillus RC Church  
St. Jane de Chantal  
St. Johns Norwood Episcopal  
St. Mark's Presbytarian  
St. Rose  
St. Columba's Episcopal  
Temple Shalom  
UCC Seneca Valley  
Unity of Gaithersburg  
UUC Silver Spring  
UUC Rockville  
Warner Memorial Presbyterian  
Washington Ethical Society  
Zoroastrian Association of MW

### **Attachment 3**

#### **Example Congregation Pledge**

We demonstrate our moral and ethical commitment to the health of our planet, as directed by our [specific faith's basis for this position], by standing with the Montgomery County Faith Alliance for Climate Solutions in support of the Montgomery County Council's recent declaration of a climate emergency, including the nation-leading, transformational goal it set of eliminating at least 80% of all Montgomery County greenhouse gases by 2027, and more stringent goals thereafter. We pledge to take action as a congregation to move our own operations, our members, and the county to meet, and if possible exceed, these planned greenhouse gas emissions reductions. Furthermore, we pledge to lift up and attend to the many social justice issues that are inextricably connected to changes of this magnitude.

## Looking for affordable capital to finance your construction project? **IT'S TIME YOU LOOKED AT C-PACE**

As a construction industry insider, you know that bank construction loans can be difficult to come by—and are more expensive than ever before. Fortunately, there's a new tool in the tool box. It's called commercial property assessed clean energy, or C-PACE, and it can help you *access affordable capital*—and build a more competitive, more valuable building in the process!

### WHAT IS C-PACE FOR NEW CONSTRUCTION?

C-PACE for new construction is a government-sponsored program that provides affordable, long-term, non-recourse financing for the installation of energy efficiency and renewable energy measures in new buildings. The program, designed to encourage better use of energy resources, provides a major financial incentive to developers who construct buildings that will perform above the current energy code.

### HOW DOES IT WORK?

You can access Arlington C-PACE financing for up to 15 percent of your project's total eligible construction cost (TECC) if you design the prospective building to exceed current energy code (IECC2012/ASHRAE 90.1-2010) performance by 15 percent. Exceed the current energy code by more than 15 percent and you can access C-PACE financing for up to 20 percent of the TECC!

### C-PACE ENABLES YOU TO:

- Reduce your equity contribution or other types of high-cost capital
- Finance up to 20 percent of your eligible construction cost at relatively low rates
- Reduce your out-of-pocket project expense with no impact on your working capital or credit
- Reduce long-term operational costs
- Tap into a practical, economic solution to sustainability
- Build a more valuable, more efficient, more competitive building



## WHICH PROPERTY TYPES ARE ELIGIBLE?

- Commercial
- Multifamily residential (with 5 or more units)
- Nonprofit (houses of worship, private schools)
- Industrial

## WHY BUILD SUSTAINABLE BUILDINGS?

### Economic benefits:

- Reduce operating costs
- Attract and retain tenants
- Maximize lease rates
- Qualify for utility incentives

### Environmental and social benefits:

- Improve environmental performance and sustainability
- Enhance occupant comfort, health and productivity

### Design benefits:

- Integrated design lets you consider all variables up front for a higher-performing building
- Include improvements often "value engineered" out of a project

## GET STARTED TODAY!

Contact the Arlington C-PACE program director, Scott Dicke, at 703.344.6432 or at [sdicke@paceworx.com](mailto:sdicke@paceworx.com) today to maximize the economic and environmental impact of your next project.



## AMENDMENT

To Bill 7-19

*Beginning on page 2, line 18-33, change paragraph (5) to read:*

- 1           (5) The loan amount under this Program must meet the following  
2           criteria:
- 3           (A) For existing commercial construction:
- 4                 (i) The loan amount must be at least \$5,000 and ~~[[, for~~  
5                 existing commercial property,]] not more than 20%  
6                 of either the full cash value or the appraised value of  
7                 the qualified property. ~~[[The full cash value is~~  
8                 determined by the Maryland State Department of  
9                 Assessments and Taxation. The appraised value  
10                must be determined by a Certified General Real  
11                Estate Appraiser and must have been certified no  
12                more than 12 months before the date of the loan  
13                application.]]
- 14                ~~[[B]]~~ (ii) The loan amount, together with the outstanding  
15                balance of the mortgage or deed of trust, must be no  
16                more than 90% of either the full cash value or the  
17                appraised value of the qualified property.
- 18                (iii) The full cash value is determined by the Maryland  
19                State Department of Assessments and Taxation. The  
20                appraised value must be determined by a Certified  
21                General Real Estate Appraiser and must have been

1 certified no more than 12 months before the date of  
2 the loan application.

3 [(C) For new commercial construction, the maximum loan  
4 amount must not exceed 20% of the total construction  
5 costs.]]

6 (B) For new commercial construction:

7 (i) The maximum loan amount must not exceed 15%  
8 of the total construction costs for a property that  
9 exceeds the County energy conservation building  
10 code performance requirement up to 5%.

11 (ii) The maximum loan amount must not exceed 20%  
12 of the total construction costs for a property that  
13 exceeds the County energy conservation building  
14 code performance requirement by at least 5%.

15 (iii) The loan amount, together with the outstanding  
16 balance of the mortgage or deed of trust, must be no  
17 more than 90% of either the full cash value or the  
18 appraised value of the qualified property.

19 (iv) The full cash value and appraised value of the  
20 property must be determined based on the estimated  
21 value of the property if construction is completed.  
22 The appraised value must be determined by a  
23 Certified General Real Estate Appraiser and must  
24 have been certified no more than 12 months before  
25 the date of the loan application.