

COMMERCIAL PROPERTY ASSESSED
CLEAN ENERGY ACT AMENDMENTS
2024 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Christine F. Watkins

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies provisions of the Commercial Property Assessed Clean Energy Act.

Highlighted Provisions:

This bill:

▸ modifies the definition of "renewable energy system," for purposes of the Commercial Property Assessed Clean Energy Act, to include a system that provides energy outside the energy assessment area if the system is a biofuel system; and

▸ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-42a-102, as last amended by Laws of Utah 2023, Chapter 16

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **11-42a-102** is amended to read:

11-42a-102 . Definitions.

(1) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(2) (a) "Assessment" means the assessment that a local entity or the C-PACE district levies on private property under this chapter to cover the costs of an energy

- 27 efficiency upgrade, a renewable energy system, or an electric vehicle charging
28 infrastructure.
- 29 (b) "Assessment" does not constitute a property tax but shares the same priority lien as a
30 property tax.
- 31 (3) "Assessment fund" means a special fund that a local entity establishes under Section
32 11-42a-206.
- 33 (4) "Benefitted property" means private property within an energy assessment area that
34 directly benefits from improvements.
- 35 (5) "Bond" means an assessment bond and a refunding assessment bond.
- 36 (6) (a) "Commercial or industrial real property" means private real property used
37 directly or indirectly or held for one of the following purposes or activities,
38 regardless of whether the purpose or activity is for profit:
- 39 (i) commercial;
 - 40 (ii) mining;
 - 41 (iii) agricultural;
 - 42 (iv) industrial;
 - 43 (v) manufacturing;
 - 44 (vi) trade;
 - 45 (vii) professional;
 - 46 (viii) a private or public club;
 - 47 (ix) a lodge;
 - 48 (x) a business; or
 - 49 (xi) a similar purpose.
- 50 (b) "Commercial or industrial real property" includes:
- 51 (i) private real property that is used as or held for dwelling purposes and contains:
 - 52 (A) more than four rental units; or
 - 53 (B) one or more owner-occupied or rental condominium units affiliated with a
54 hotel; and
 - 55 (ii) real property owned by:
 - 56 (A) the military installation development authority, created in Section 63H-1-201;
 - 57 or
 - 58 (B) the Utah Inland Port Authority, created in Section 11-58-201.
- 59 (7) "Contract price" means:
- 60 (a) up to 100% of the cost of installing, acquiring, refinancing, or reimbursing for an

- 61 improvement, as determined by the owner of the property benefitting from the
62 improvement; or
- 63 (b) the amount payable to one or more contractors for the assessment, design,
64 engineering, inspection, and construction of an improvement.
- 65 (8) "C-PACE" means commercial property assessed clean energy.
- 66 (9) "C-PACE district" means the statewide authority established in Section 11-42a-106 to
67 implement the C-PACE Act in collaboration with governing bodies, under the direction
68 of OED.
- 69 (10) "Electric vehicle charging infrastructure" means equipment that is:
- 70 (a) permanently affixed to commercial or industrial real property; and
71 (b) designed to deliver electric energy to a qualifying electric vehicle or a qualifying
72 plug-in hybrid vehicle.
- 73 (11) "Energy assessment area" means an area:
- 74 (a) within the jurisdictional boundaries of a local entity that approves an energy
75 assessment area or, if the C-PACE district or a state interlocal entity levies the
76 assessment, the C-PACE district or the state interlocal entity;
- 77 (b) containing only the commercial or industrial real property of owners who have
78 voluntarily consented to an assessment under this chapter for the purpose of
79 financing the costs of improvements that benefit property within the energy
80 assessment area; and
- 81 (c) in which the proposed benefitted properties in the area are:
- 82 (i) contiguous; or
83 (ii) located on one or more contiguous or adjacent tracts of land that would be
84 contiguous or adjacent property but for an intervening right-of-way, including a
85 sidewalk, street, road, fixed guideway, or waterway.
- 86 (12) "Energy assessment bond" means a bond:
- 87 (a) issued under Section 11-42a-401; and
88 (b) payable in part or in whole from assessments levied in an energy assessment area.
- 89 (13) "Energy assessment lien" means a lien on property within an energy assessment area
90 that arises from the levy of an assessment in accordance with Section 11-42a-301.
- 91 (14) "Energy assessment ordinance" means an ordinance that a local entity adopts under
92 Section 11-42a-201 that:
- 93 (a) designates an energy assessment area;
94 (b) levies an assessment on benefitted property within the energy assessment area; and

- 95 (c) if applicable, authorizes the issuance of energy assessment bonds.
- 96 (15) "Energy assessment resolution" means one or more resolutions adopted by a local
97 entity under Section 11-42a-201 that:
- 98 (a) designates an energy assessment area;
- 99 (b) levies an assessment on benefitted property within the energy assessment area; and
- 100 (c) if applicable, authorizes the issuance of energy assessment bonds.
- 101 (16) "Energy efficiency upgrade" means an improvement that is:
- 102 (a) permanently affixed to commercial or industrial real property; and
- 103 (b) designed to reduce energy or water consumption, including:
- 104 (i) insulation in:
- 105 (A) a wall, roof, floor, or foundation; or
- 106 (B) a heating and cooling distribution system;
- 107 (ii) a window or door, including:
- 108 (A) a storm window or door;
- 109 (B) a multiglazed window or door;
- 110 (C) a heat-absorbing window or door;
- 111 (D) a heat-reflective glazed and coated window or door;
- 112 (E) additional window or door glazing;
- 113 (F) a window or door with reduced glass area; or
- 114 (G) other window or door modifications;
- 115 (iii) an automatic energy control system;
- 116 (iv) in a building or a central plant, a heating, ventilation, or air conditioning and
117 distribution system;
- 118 (v) caulk or weatherstripping;
- 119 (vi) a light fixture that does not increase the overall illumination of a building, unless
120 an increase is necessary to conform with the applicable building code;
- 121 (vii) an energy recovery system;
- 122 (viii) a daylighting system;
- 123 (ix) measures to reduce the consumption of water, through conservation or more
124 efficient use of water, including installation of:
- 125 (A) low-flow toilets and showerheads;
- 126 (B) timer or timing systems for a hot water heater; or
- 127 (C) rain catchment systems;
- 128 (x) a modified, installed, or remodeled fixture that is approved as a utility cost-saving

- 129 measure by the governing body or executive of a local entity;
- 130 (xi) measures or other improvements to effect seismic upgrades;
- 131 (xii) structures, measures, or other improvements to provide automated parking or
- 132 parking that reduces land use;
- 133 (xiii) the extension of an existing natural gas distribution company line;
- 134 (xiv) an energy efficient elevator, escalator, or other vertical transport device;
- 135 (xv) any other improvement that the governing body or executive of a local entity
- 136 approves as an energy efficiency upgrade; or
- 137 (xvi) any improvement that relates physically or functionally to any of the
- 138 improvements listed in Subsections (16)(b)(i) through (xv).
- 139 (17) "Energy system" means a product, system, device, or interacting group of devices that:
- 140 (a) produces or stores energy; and
- 141 (b) is permanently affixed to commercial or industrial real property not located in the
- 142 certified service area of a distribution electrical cooperative, as defined in Section
- 143 54-2-1.
- 144 ~~[(17)]~~ (18) "Governing body" means:
- 145 (a) for a county, city, town, or metro township, the legislative body of the county, city,
- 146 town, or metro township;
- 147 (b) for a special district, the board of trustees of the special district;
- 148 (c) for a special service district:
- 149 (i) if no administrative control board has been appointed under Section 17D-1-301,
- 150 the legislative body of the county, city, town, or metro township that established
- 151 the special service district; or
- 152 (ii) if an administrative control board has been appointed under Section 17D-1-301,
- 153 the administrative control board of the special service district;
- 154 (d) for the military installation development authority created in Section 63H-1-201, the
- 155 board, as that term is defined in Section 63H-1-102; and
- 156 (e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as
- 157 defined in Section 11-58-102.
- 158 ~~[(18)]~~ (19) "Improvement" means a publicly or privately owned energy efficiency upgrade,
- 159 renewable energy system, or electric vehicle charging infrastructure that:
- 160 (a) a property owner has requested; or
- 161 (b) has been or is being installed on a property for the benefit of the property owner.
- 162 ~~[(19)]~~ (20) "Incidental refunding costs" means any costs of issuing a refunding assessment

- 163 bond and calling, retiring, or paying prior bonds, including:
- 164 (a) legal and accounting fees;
- 165 (b) charges of financial advisors, escrow agents, certified public accountant verification
- 166 entities, and trustees;
- 167 (c) underwriting discount costs, printing costs, and the costs of giving notice;
- 168 (d) any premium necessary in the calling or retiring of prior bonds;
- 169 (e) fees to be paid to the local entity to issue the refunding assessment bond and to
- 170 refund the outstanding prior bonds;
- 171 (f) any other costs that the governing body determines are necessary and proper to incur
- 172 in connection with the issuance of a refunding assessment bond; and
- 173 (g) any interest on the prior bonds that is required to be paid in connection with the
- 174 issuance of the refunding assessment bond.
- 175 [~~(20)~~] (21) "Installment payment date" means the date on which an installment payment of
- 176 an assessment is payable.
- 177 [~~(21)~~] (22) "Jurisdictional boundaries" means:
- 178 (a) for the C-PACE district or any state interlocal entity, the boundaries of the state; and
- 179 (b) for each local entity, the boundaries of the local entity.
- 180 [~~(22)~~] (23) (a) "Local entity" means:
- 181 (i) a county, city, town, or metro township;
- 182 (ii) a special service district, a special district, or an interlocal entity as that term is
- 183 defined in Section 11-13-103;
- 184 (iii) a state interlocal entity;
- 185 (iv) the military installation development authority, created in Section 63H-1-201;
- 186 (v) the Utah Inland Port Authority, created in Section 11-58-201; or
- 187 (vi) any political subdivision of the state.
- 188 (b) "Local entity" includes the C-PACE district solely in connection with:
- 189 (i) the designation of an energy assessment area;
- 190 (ii) the levying of an assessment; and
- 191 (iii) the assignment of an energy assessment lien to a third-party lender under Section
- 192 11-42a-302.
- 193 [~~(23)~~] (24) "Local entity obligations" means energy assessment bonds and refunding
- 194 assessment bonds that a local entity issues.
- 195 [~~(24)~~] (25) "OED" means the Office of Energy Development created in Section 79-6-401.
- 196 [~~(25)~~] (26) "OEM vehicle" means the same as that term is defined in Section 19-1-402.

- 197 ~~[(26)]~~ (27) "Overhead costs" means the actual costs incurred or the estimated costs to be
198 incurred in connection with an energy assessment area, including:
- 199 (a) appraisals, legal fees, filing fees, facilitation fees, and financial advisory charges;
 - 200 (b) underwriting fees, placement fees, escrow fees, trustee fees, and paying agent fees;
 - 201 (c) publishing and mailing costs;
 - 202 (d) costs of levying an assessment;
 - 203 (e) recording costs; and
 - 204 (f) all other incidental costs.
- 205 ~~[(27)]~~ (28) "Parameters resolution" means a resolution or ordinance that a local entity adopts
206 in accordance with Section 11-42a-201.
- 207 ~~[(28)]~~ (29) "Prior bonds" means the energy assessment bonds refunded in part or in whole
208 by a refunding assessment bond.
- 209 ~~[(29)]~~ (30) "Prior energy assessment ordinance" means the ordinance levying the
210 assessments from which the prior bonds are payable.
- 211 ~~[(30)]~~ (31) "Prior energy assessment resolution" means the resolution levying the
212 assessments from which the prior bonds are payable.
- 213 ~~[(31)]~~ (32) "Property" includes real property and any interest in real property, including
214 water rights and leasehold rights.
- 215 ~~[(32)]~~ (33) "Public electrical utility" means a large-scale electric utility as that term is
216 defined in Section 54-2-1.
- 217 ~~[(33)]~~ (34) "Qualifying electric vehicle" means a vehicle that:
- 218 (a) meets air quality standards;
 - 219 (b) is not fueled by natural gas;
 - 220 (c) draws propulsion energy from a battery with at least 10 kilowatt hours of capacity;
 - 221 and
 - 222 (d) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection
223 (33)(c).
- 224 ~~[(34)]~~ (35) "Qualifying plug-in hybrid vehicle" means a vehicle that:
- 225 (a) meets air quality standards;
 - 226 (b) is not fueled by natural gas or propane;
 - 227 (c) has a battery capacity that meets or exceeds the battery capacity described in
228 Subsection 30D(b)(3), Internal Revenue Code; and
 - 229 (d) is fueled by a combination of electricity and:
230 (i) diesel fuel;

- 231 (ii) gasoline; or
- 232 (iii) a mixture of gasoline and ethanol.
- 233 ~~[(35)]~~ (36) "Reduced payment obligation" means the full obligation of an owner of property
- 234 within an energy assessment area to pay an assessment levied on the property after the
- 235 local entity has reduced the assessment because of the issuance of a refunding
- 236 assessment bond, in accordance with Section 11-42a-403.
- 237 ~~[(36)]~~ (37) "Refunding assessment bond" means an assessment bond that a local entity
- 238 issues under Section 11-42a-403 to refund, in part or in whole, energy assessment bonds.
- 239 ~~[(37)]~~ (38) (a) "Renewable energy system" means ~~[a product, system, device, or~~
- 240 ~~interacting group of devices that is permanently affixed to commercial or industrial~~
- 241 ~~real property not located in the certified service area of a distribution electrical~~
- 242 ~~cooperative, as that term is defined in Section 54-2-1, and] an energy system that:~~
- 243 (i) produces energy from renewable resources, including:
- 244 (A) a photovoltaic system;
- 245 (B) a solar thermal system;
- 246 (C) a wind system;
- 247 (D) a geothermal system, including a generation system, a direct-use system, or a
- 248 ground source heat pump system;
- 249 (E) a microhydro system;
- 250 (F) a biofuel system; or
- 251 (G) any other renewable source system that the governing body of the local entity
- 252 approves; or
- 253 (ii) stores energy, including:
- 254 (A) a battery storage system; or
- 255 (B) any other energy storing system that the governing body or chief executive
- 256 officer of a local entity approves~~[; or]~~ .
- 257 ~~[(iii)]~~ (b) ~~[any]~~ "Renewable energy system" includes an improvement that relates
- 258 physically or functionally to any of the products, systems, or devices listed in
- 259 Subsection ~~[(37)(a)(i) or (ii)]~~ (38)(a)(i) or (ii).
- 260 ~~[(b)]~~ (c) "Renewable energy system" does not include a system described in Subsection [
- 261 ~~(37)(a)(i)]~~ (38)(a)(i) if the system provides energy to property outside the energy
- 262 assessment area, unless the system:
- 263 (i) (A) existed before the creation of the energy assessment area; and
- 264 (B) beginning before January 1, 2017, provides energy to property outside of the

265 area that became the energy assessment area; [~~or~~]
 266 (ii) provides energy to property outside the energy assessment area under an
 267 agreement with a public electrical utility that is substantially similar to agreements
 268 for other renewable energy systems that are not funded under this chapter[-] ; or
 269 (iii) is a biofuel system.

270 [~~(38)~~] (39) "Special district" means a special district under Title 17B, Limited Purpose Local
 271 Government Entities - Special Districts.

272 [~~(39)~~] (40) "Special service district" means the same as that term is defined in Section
 273 17D-1-102.

274 [~~(40)~~] (41) "State interlocal entity" means:

- 275 (a) an interlocal entity created under Chapter 13, Interlocal Cooperation Act, by two or
- 276 more counties, cities, towns, or metro townships that collectively represent at least a
- 277 majority of the state's population; or
- 278 (b) an entity that another state authorized, before January 1, 2017, to issue bonds, notes,
- 279 or other obligations or refunding obligations to finance or refinance projects in the
- 280 state.

281 [~~(41)~~] (42) "Third-party lender" means a trust company, savings bank, savings and loan
 282 association, bank, credit union, or any other entity that provides loans directly to
 283 property owners for improvements authorized under this chapter.

284 Section 2. **Effective date.**

285 This bill takes effect on May 1, 2024.