



## **C-PACE positioned for widespread use in NYC as environmental regulation deadlines approach - by Stefanie Graham**

August 24, 2021 - New York City



A landmark \$89 million Commercial Property Assessed Clean Energy (C-PACE) loan—the first in New York City and the largest ever completed—may well signal a significant uptick in this form of financing.

The NYC Accelerator, which administers the city's C-PACE program, is helping Nightingale Properties and Wafra Capital Partners fund energy efficiency upgrades for most of the 1.2 million s/f former Citibank building at 111 Wall St.

Since debuting in California in 2007, the once-obscure, low-interest, 10- to 30-year C-PACE loan structure, which property owners pay back via annual property tax assessments, has grown to

support more than \$800 million in projects as of 2019. Such financing assists building owners in covering the upfront costs for energy efficiency and renewable energy upgrades.

C-PACE loans are poised to catch on in New York City as building owners seek to meet a growing number of regulatory benchmarks. Under Local Law 97, one of 10 bills in the city's sweeping 2019 Climate Mobilization Act, the owners of more than 50,000 of the city's larger buildings face multi-million-dollar fines if they don't meet stringent carbon cap requirements beginning in 2024.

Like LL97, New York State's Climate Leadership and Community Protection Act, also enacted in 2019 and dubbed the most ambitious climate law in America, has a long list of mandates. Among them is a statewide requirement to reduce greenhouse gases by 85% by 2050 compared with 1990 levels.

C-PACE loans are a likely mechanism to help city building owners achieve compliance. The improvements to the 25-story 111 Wall St. tower, including new HVAC, mechanical, electrical and plumbing systems, will allow the 53-year-old building's owner to avoid \$750,000 per year in LL97 fines alone, according to the mayor's office. The retrofit is also expected to save \$2.5 million in annual energy costs.

C-PACE is not a federal program. State and local governments pass legislation enabling various flexible residential and commercial PACE financing deals, with some programs run by local governments and others administered by third parties, and the programs have a variety of eligible technologies and Savings to Investment Ratio (SIR) and Loan to Value (LTV) requirements.

Thirty-seven states and Washington, D.C. have enabled C-PACE deals since 2007 when Berkeley, California's City Council pioneered the legal structure so homeowners could pay for solar systems over 20 years with an assessment charge on their tax bills.

But C-PACE programs are only actively used by building owners in 26 states and D.C. In New York City, the 111 Wall St. C-PACE deal was the first since the city enabled the loans in 2019, and few know that New York's Legislature created its first iteration of C-PACE in 2009.

Several types of financing can back C-PACE, including debt or loans (the most common), leases and other arrangements. There is some debate over whether or not these loans can be treated as off-balance sheet operating expenses given their status as property tax assessments.

Another open question: Will senior lenders get on board? C-PACE financing takes priority over senior lenders, and getting their consent can be challenging. But lenders and other real estate players are increasingly likely to use C-PACE as they realize its benefits.

C-PACE can be layered with various forms of economic development financing, including historic and new market tax credits. C-PACE interest rates, typically around 5 to 6%, make the loans exponentially cheaper than mezzanine financing, and C-PACE payments cannot be accelerated by defaults.

With a seemingly endless list of potential commercial and industrial clients, C-PACE could grow far larger than EB-5 financing, the post-recession cash-for-visa program that facilitated projects like Hudson Yards and Atlantic Yards. Those wondering about C-PACE's potential in New York need only look to the example set at 111 Wall Street.

Rosenberg & Estis, one of New York City's leading real estate law firms, facilitated the 111 Wall St. C-PACE funding on behalf of the building's owners.

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