

Legal Considerations for C-PACE Projects

Carrie H. O'Malley
Hirschler Fleischer



Overview



Carrie H. O'Malley
540.604.2109
comalley@hf-law.com

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- Hirschler National C-PACE Experience
- Intro to C-PACE
- Elements of a C-PACE Financing
- Capital Provider Considerations
- Case Studies

Hirschler + Commercial Real Estate =

C = Commercial

P = Property

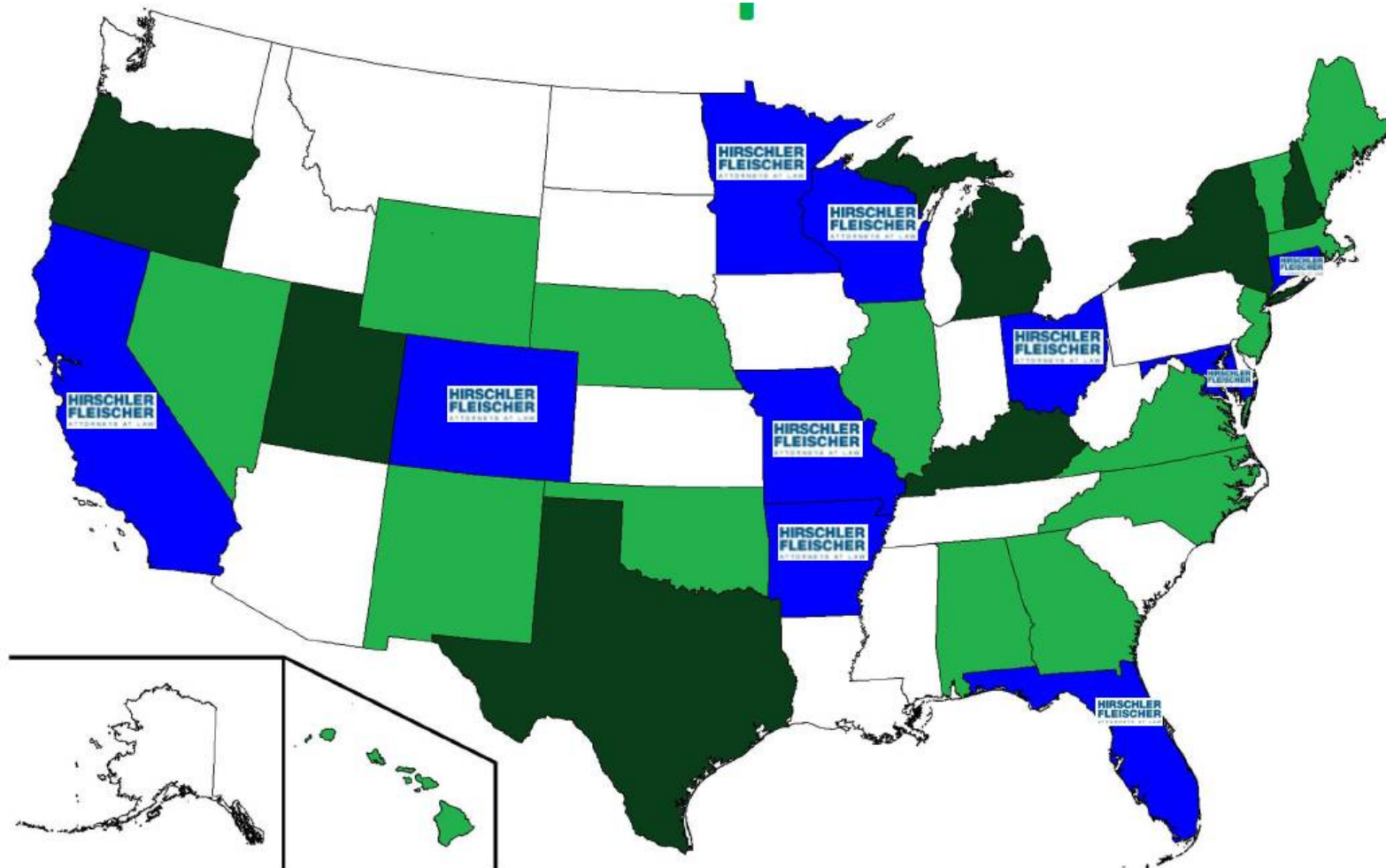
A = Assessed

C = Clean

E = Energy

EXPERTISE

Hirschler National Experience



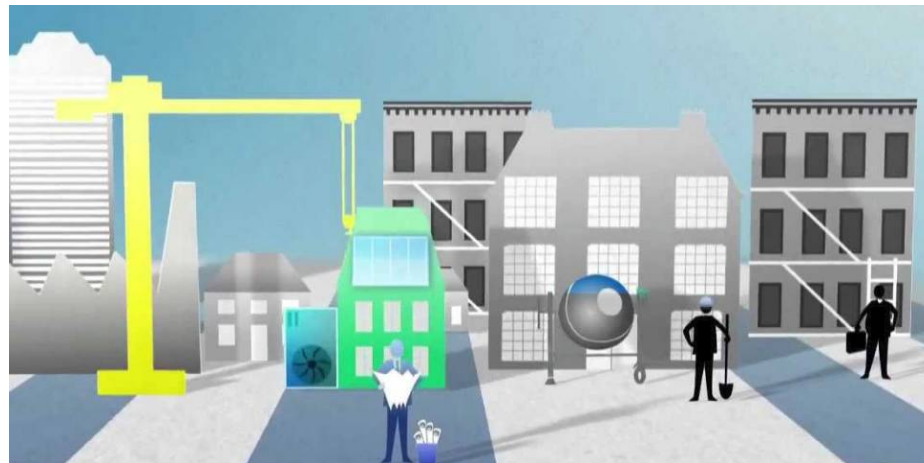
Intro to C-PACE

- What is C-PACE?
- Who are Stakeholders?
- Types of Projects
- C-PACE Improvements



What is C-PACE?

- Alternative Financing Mechanism
- Created by Statute (§15.2-958.3 (Financing Clean Energy Programs) of the Code of Virginia 1950, as amended)
- Public-Private Partnership



C-PACE Stakeholders

- Commercial Property Owner
- Government Sponsor (Municipality/Locality)
- Capital Provider
- Program Administrator
- Program Service Providers
- C-PACE Contractor



Types of C-PACE Projects

- Office
- Multi-Family Residential
- Retail
- Hotel
- Agricultural
- Industrial
- New Construction
- Renovations to Existing Property



C-PACE Improvements

Renewable Energy Improvements

- Solar panels
- Geothermal improvements

Energy Efficiency Improvements

- HVAC
- Energy efficient lighting
- Air sealing
- Insulation
- High efficiency water heaters
- Replacement windows



C-PACE Improvements

Water Usage Efficiency Improvements

Other

- Wind resistance improvements (Florida)
- Seismic retrofit (California)



Legal Elements of a C-PACE Financing

- Senior Lien Priority for C-PACE Capital Provider
- C-PACE Lien Runs with Title to Real Property
- Assignability of Lien
- Transfers to Future Property Owners

Legal Elements of a C-PACE Financing

- No Acceleration
- Prepayment Penalties
- Default Interest/Penalties
- Remedy Through Tax Foreclosure Process
- 100% Financing for Property Owner

Legal Considerations

- Compliance with VA PACE Statute and Local Ordinance
- Enforceable C-PACE Documents
- Transparent Contractual Obligations Among Stakeholders
- Remedies Upon Default
- Understanding Tax Collection and Tax Foreclosure Process

Virginia C-PACE Documents

- Local C-PACE Ordinance
- Tri-Party C-PACE Assessment and Financing Agreement
- Amortization Schedule
- PACE Note
- Memorandum of C-PACE Lien
- Disbursement Agreement
- Senior Lender Subordination
- Form of C-PACE Lien Assignment



Capital Provider Considerations

- Sufficient and Enforceable Documents
- Payment Timing and Flow of Funds
- Property Ownership and Chain of Title
- Senior Lender Consent
- Recorded Instrument
- Capital Provider Rights and Remedies



Case Study 1: D.C. Elementary School

Project at a Glance

- Aging facility (Built 1965)
- Significant load (30k Ft²)
- Failing building systems
- Tax-exempt owner
- Limited capital budget
- Robust utility savings opportunity
- Strong solar exposure
- Stable property value
- Engaged owner

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Case Study 1: D.C. Elementary School

Highlights

- Retrofit on existing building
- Energy and water-saving mechanical upgrades
- Rooftop solar system
- Incentive from D.C. Sustainable Energy Utility

Challenges

- Construction timing
- Incentives deadline
- Title issues

Economics

| | |
|---------------------------------------|------------------------|
| Total PACE Assessment | \$1,429,554 |
| Assessment Term | 20 years |
| Average Annual Energy Savings | \$139,000 |
| Approximate Annual Assessment Payment | \$126,600 |
| Annual Net Savings | <u>\$12,400</u> |

Case Study 2: Wisconsin New Office Construction

Project at a Glance

- First new construction office PACE project in the United States
- Manufacturing facility → Class A offices
- Robust utility savings opportunity
- Strong solar exposure
- Stable property value
- Engaged owner



Case Study 2: Wisconsin New Office Construction

Highlights

- Revitalized brownfield site on Milwaukee riverfront
- PV solar and LED lighting
- Geothermal HVAC
- Energy efficient windows

Challenges

- Complex capital stack
- Educating project financing counterparties on PACE

Economics

| | |
|---------------------------------------|-------------------|
| Total PACE Assessment | \$2,231,218 |
| Assessment Term | 20 years |
| Approximate Annual Assessment Payment | \$199,346 |
| Estimated Savings over Code | <u>28%</u> |

Case Study 3: Colorado Micro-Apartment Project

Project at a Glance

- New construction, micro-apartment project
- First new construction PACE project in Colorado
- First completed PACE project in Denver
- Mortgage debt, PACE equity and developer equity
- Enhanced marketing opportunity for developers as environmentally sustainable living



Case Study 3: Colorado Micro-Apartment Project

Highlights

- PV solar and HVAC
- Lighting
- Domestic hot water

Economics

| | |
|--|-------------------|
| Total PACE Assessment | \$2,826,331 |
| Assessment Term | 20 years |
| Interest Rate | 6.75% |
| Approximate Semi-Annual Assessment Payment | \$129,795 |
| Approximate Annual Assessment Payment | \$259,590 |
| Estimated Savings over Code | <u>56%</u> |

Case Study 4: The Preserve at Aldersgate

Project at a Glance

- First new construction multifamily PACE project in the United States
- First PACE project in Little Rock, Arkansas
- Robust savings opportunity
- Strong solar exposure
- Engaged owner



Case Study 4: The Preserve at Aldersgate

Highlights

- Geothermal HVAC
- LED lighting
- Energy-efficient windows
- Roof improvements

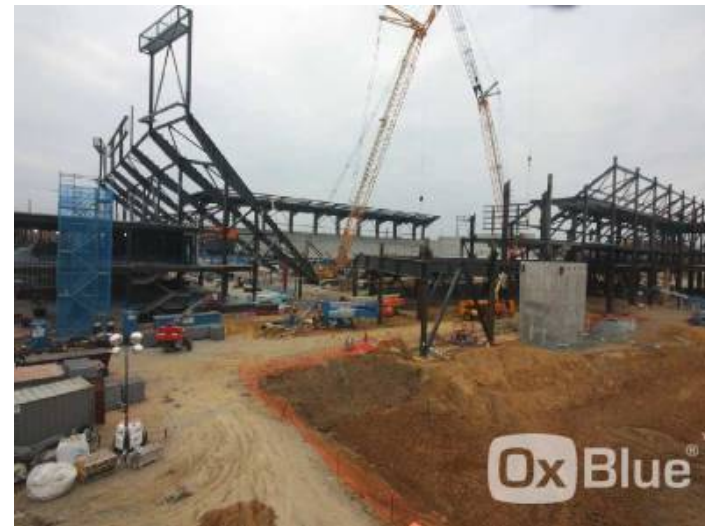
Economics

| | |
|---------------------------------------|-------------------|
| Total PACE Assessment | \$653,213 |
| Assessment Term | 20 years |
| Interest Rate | 6.5% |
| Approximate Annual Assessment Payment | \$61,747 |
| Estimated Savings over Code | <u>47%</u> |

Case Study 5: D.C. United Stadium

Project at a Glance

- First new construction PACE project in D.C.
- 3rd largest PACE project in the United States
- 20,000-seat Audi Field
- PACE financing created opportunity for unique building-integrated solar system and LEED Gold certification
- Significant job creation and energy savings benefits to District



Case Study 5: D.C. United Stadium

Highlights

- Integrated solar panels on building canopy
- High-efficiency HVAC
- Low-water fixtures
- Storm water management to benefit Anacostia River

Challenges

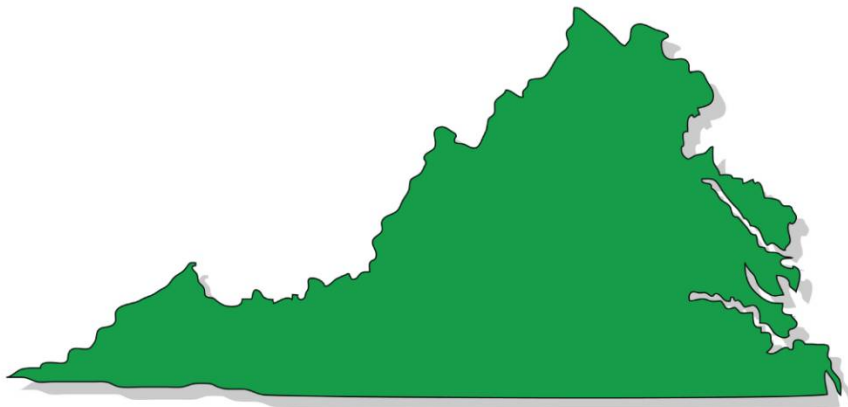
- Involved late in the master transaction
- Complex capital stack
- Educating project financing counterparties on PACE

Economics

| | |
|--|-------------------|
| Total PACE Assessment | \$25 million |
| Assessment Term | 20 years |
| Annual Estimated Energy Savings | <u>25%</u> |

Virginia C-PACE Considerations

- Flexible Underwriting Guidelines
- Streamlined, Efficient Structure
- Transparency of Fees and C-PACE Process
- Statewide Consistency
- Low-cost



C-PACE Summary

- Beneficial Financing Alternative to Traditional Financing
- C-PACE Law, Program Structure, and Documents Different in Every State and Locality
- Continually Evolving C-PACE Landscape
- PACENation Resources <http://pacenation.us/>

Questions?



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