

[First Reprint]

**ASSEMBLY, No. 2579**

**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

INTRODUCED FEBRUARY 10, 2014

**Sponsored by:**

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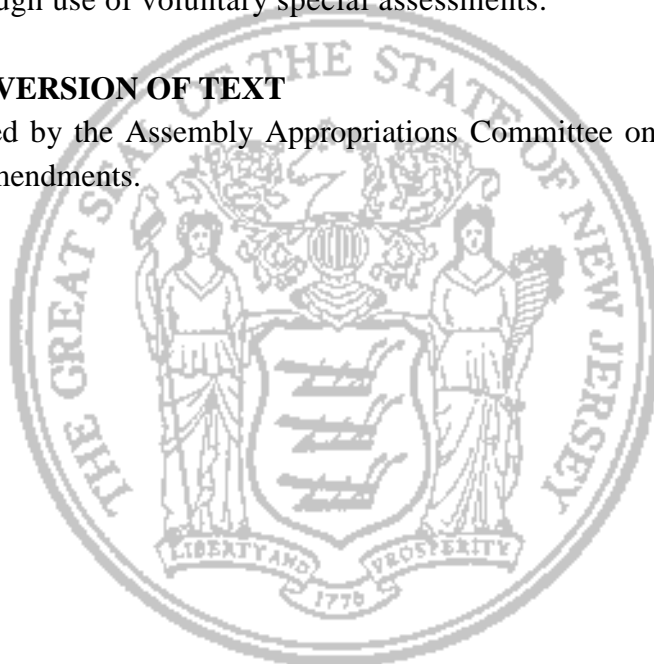
**Assemblymen Benson and McKeon**

**SYNOPSIS**

Authorizes municipalities to facilitate private financing of water conservation, storm shelter construction, and flood and hurricane resistance projects through use of voluntary special assessments.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on December 15, 2014, with amendments.



**(Sponsorship Updated As Of: 3/21/2014)**

1 AN ACT concerning the <sup>1</sup>**[financing]** implementation<sup>1</sup> of  
2 'renewable energy and energy efficiency systems and' water  
3 conservation, storm shelter construction, and flood and  
4 hurricane resistance projects, <sup>1</sup>**[and]**<sup>1</sup> amending P.L.1960, c.183  
5 and P.L.2011, 187 <sup>1</sup>and supplementing chapter 56 of Title 40 of  
6 the Revised Statutes<sup>1</sup>.

7  
8 **BE IT ENACTED** by the Senate and General Assembly of the State  
9 of New Jersey:

10  
11 <sup>1</sup>1. (New section) As used in this section, and in P.L.2011,  
12 c.187 (C.40:56-1.4 et al.):

13 "Bonds" mean bonds or other obligations issued by a  
14 municipality or county improvement authority, as applicable, for  
15 the purposes set forth in this act.

16 "Director" means the Director of the Division of Local  
17 Government Services in the Department of Community Affairs.

18 "Energy efficiency improvement" means an improvement to  
19 reduce energy consumption through conservation or a more  
20 efficient use of electricity, natural gas, propane, or other forms of  
21 energy, including, but not limited to: air sealing; installation of  
22 insulation; installation of energy-efficient electrical, heating,  
23 cooling or ventilation systems; building modifications to increase  
24 the use of daylight; replacement of windows; installation of energy  
25 controls or energy recovery systems; installation of electric vehicle  
26 charging equipment; and installation of efficient lighting  
27 equipment.

28 "Flood resistant construction project" means a project that  
29 mitigates the likelihood of substantial flood damage, including but  
30 not limited to the installation of break-away walls and building  
31 elevation alterations.

32 "Hurricane resistant construction project" means an improvement  
33 that brings a component of a structure into compliance with the  
34 standards for a "wind-borne debris region" pursuant to the "State  
35 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119  
36 et seq.), or into compliance with a successor standard under that  
37 code.

38 "PACE" is an acronym for the term "property assessed clean  
39 energy."

40 "PACE project" means the purchase, lease, or installation, or any  
41 combination thereof, of renewable energy systems or the energy  
42 produced by such systems, energy efficiency improvements, water  
43 conservation projects, flood resistant construction projects,  
44 hurricane resistant construction projects, storm shelter projects, or

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAP committee amendments adopted December 15, 2014.

1 safe room projects, undertaken by property owners on properties  
2 within a municipality.

3 "PACE program" means a program established by a municipality  
4 by ordinance, providing for the imposition of PACE special  
5 assessments on properties within the municipality, in which the  
6 owner of such property has requested the PACE special assessment.

7 "PACE special assessment" means a special assessment to be  
8 imposed on a property in connection with a PACE project.

9 "Project costs" mean the costs associated with a PACE project,  
10 and shall be deemed to include: the hard costs of leasing,  
11 purchasing, constructing or acquiring the project; soft costs,  
12 including but not limited to engineering fees, inspection fees and  
13 permits, and costs relating to the measurement and verification of  
14 project savings; costs of utilizing the PACE program, including but  
15 not limited to program fees and closing costs; and bond issuance  
16 costs, including but not limited to professional fees and the costs of  
17 funding capitalized interest, if any, or a debt service reserve fund, if  
18 any.

19 "Property" means property within a municipality upon which a  
20 PACE special assessment is imposed at the request of a property  
21 owner in connection with a PACE project.

22 "Property owner" means the owner of a property within a  
23 municipality who requests that a PACE special assessment be  
24 imposed on the property in connection with a PACE project.

25 "Renewable energy system" means an improvement in which the  
26 electrical, mechanical, or thermal energy is produced from a method  
27 that uses one or more of the following fuels or energy sources:  
28 hydrogen, solar energy, geothermal energy, bio-mass or wind  
29 energy.

30 "Safe room project" or "storm shelter project" means an  
31 improvement that creates a hardened structure specifically designed  
32 to meet criteria set forth by the Federal Emergency Management  
33 Agency and provide "near-absolute protection" in extreme weather  
34 events, including tornados and hurricanes.

35 "Solar renewable energy certificate" shall have the same  
36 meaning as set forth in section 3 of P.L.1999, c.23 (C.48:3-51).

37 "Water conservation project" means an improvement that  
38 reduces water consumption, increases the efficiency of water use, or  
39 reduces water loss.<sup>1</sup>

40

41 <sup>1</sup>**[1.] 2.**<sup>1</sup> Section 1 of P.L.2011, c.187 (C.40:56-1.4) is amended  
42 to read as follows:

43 1. <sup>1</sup>**[**Upon application to and approval by the Director of the  
44 Division of Local Government Services in the Department of  
45 Community Affairs, the] a. <sup>1</sup>The<sup>1</sup> governing body of a municipality  
46 <sup>1</sup>**[**, or a qualified private or non-profit entity serving as its  
47 administrator,]<sup>1</sup> may <sup>1</sup>adopt an ordinance to<sup>1</sup> undertake the

1 <sup>1</sup>financing of the purchase and installation of water conservation  
2 projects, flood resistant construction projects, hurricane resistant  
3 construction projects, storm shelter projects, safe room projects,  
4 renewable energy systems , and energy efficiency improvements]  
5 development, implementation, administration, or financing, or any  
6 combination thereof, of a PACE program. An introduced ordinance  
7 to establish a PACE program shall not be adopted without the  
8 director's approval in municipalities that (1) are receiving, or have  
9 received State Aid through the Transitional Aid to Localities  
10 program within the three most recent fiscal years, (2) are subject to  
11 State supervision pursuant to the "Local Government Supervision  
12 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), or (3) are  
13 subject to the "Municipal Rehabilitation and Economic Recovery  
14 Act," P.L.2002, c.43 (C.52:27BBB-1 et al.). The director shall  
15 approve the ordinance for final adoption if the municipality  
16 demonstrates that it has the appropriate employees and other  
17 resources necessary to impose and collect the PACE special  
18 assessments and to execute any necessary transfers with respect to  
19 any pledge and assignment in connection therewith.

20 The PACE program shall consist of, among other things, the  
21 implementation of PACE projects to be undertaken<sup>1</sup> by property  
22 owners as <sup>1</sup>[a]<sup>1</sup> local <sup>1</sup>[improvement] improvements<sup>1</sup> and <sup>1</sup>[may  
23 provide] the provision<sup>1</sup> by ordinance for a <sup>1</sup>["clean energy and  
24 storm resistance] "PACE<sup>1</sup> special assessment" to be imposed on [a  
25 property] properties within the municipality, if the owner of [the] a  
26 property requests the <sup>1</sup>PACE special<sup>1</sup> assessment in order to  
27 <sup>1</sup>[install such systems or improvements] undertake a PACE  
28 project<sup>1</sup>. <sup>1</sup>[Each improvement] PACE projects<sup>1</sup> on an individual  
29 property <sup>1</sup>subject to the same PACE special assessment agreement  
30 collectively<sup>1</sup> shall constitute a separate local improvement and shall  
31 be assessed separately to the property owner benefitted thereby.  
32 [The clean energy special assessment shall be payable in quarterly  
33 installments.] <sup>1</sup>[The terms of the clean energy and storm resistance  
34 special assessment shall be in accordance with the terms of the  
35 financing provided by the municipality pursuant to section 2 of  
36 P.L.2011, c.187 (C.40:56-13.1).]

37 b. A municipality may designate a county improvement  
38 authority or a private or non-profit entity to manage, oversee,  
39 administer, finance or implement, or any combination thereof, all or  
40 any part of the PACE program on the municipality's behalf. To the  
41 extent that a county improvement authority is designated to manage,  
42 oversee, administer, finance or implement, or any combination  
43 thereof, all or any part of a PACE program on the municipality's  
44 behalf, the county improvement authority may designate a private  
45 or non-profit entity to manage, oversee, administer, finance or

1 implement, or any combination thereof, all or any portion of such  
2 activities.<sup>1</sup>

3 (cf: P.L.2011, c.187, s.1)

4

5 <sup>1</sup>**[2.] 3.**<sup>1</sup> Section 2 of P.L.2011, c.187 (C.40:56-13.1) is  
6 amended to read as follows:

7 2. a. <sup>1</sup>**[Upon application to and approval by the Director of the**  
8 **Division of Local Government Services in the Department of**  
9 **Community Affairs, a qualified private or non-profit entity may**  
10 **establish a program to finance the purchase and installation of water**  
11 **conservation projects, flood resistant construction projects,**  
12 **hurricane resistant construction projects, storm shelter projects, safe**  
13 **room projects, renewable energy systems, and energy efficiency**  
14 **improvements by property owners within municipalities contracting**  
15 **with the entity that have also obtained the director's approval.**  
16 **Repayment shall be completed through the clean energy and storm**  
17 **resistance special assessment. Upon application approval, the entity**  
18 **may administer: lending]** A county improvement authority or  
19 private or non-profit entity designated by a municipality or county  
20 improvement authority pursuant to subsection b. of section 1 of  
21 P.L.2011, c.187 (C.40:56-1.4) to administer or implement a PACE  
22 program may: administer<sup>1</sup> agreements between <sup>1</sup>**[the]** a private<sup>1</sup>  
23 entity <sup>1</sup>**[itself]**<sup>1</sup> and property owners; <sup>1</sup>**[lending]** administer<sup>1</sup>  
24 agreements between municipalities and property owners pursuant to  
25 section 3 of P.L.2011, c.187 (C.40:56-13.2); <sup>1</sup>**[lending]** administer<sup>1</sup>  
26 agreements involving county improvement authorities pursuant to  
27 paragraph (2) of subsection (j) of section 12 of P.L.1960, c.183  
28 (C.40:37A-55); <sup>1</sup>**[lending]** administer<sup>1</sup> agreements involving  
29 private entities that participate in the program; <sup>1</sup>administer<sup>1</sup> the sale  
30 of solar renewable energy certificates from participating property  
31 owners; and <sup>1</sup>undertake<sup>1</sup> any other appropriate responsibilities <sup>1</sup>as  
32 set forth in its agreement with the municipality or county  
33 improvement authority, as applicable<sup>1</sup> . <sup>1</sup>**[Any contract between**  
34 **the entity and a municipality or county improvement authority shall**  
35 **be subject to the "Local Public Contracts Law," P.L.1971, c.198**  
36 **(C.40A:11-1 et seq.)]**

37 b. Notwithstanding the provisions of the "Local Public Contracts  
38 Law," P.L.1971, c.198 (C.40A:11-1 et seq.), agreements between a  
39 municipality or county improvement authority and a private or non-  
40 profit entity shall be on such terms and conditions as the  
41 municipality or county improvement authority shall deem necessary  
42 or desirable<sup>1</sup> .

43 <sup>1</sup>**[Upon application to and approval by the Director of the**  
44 **Division of Local Government Services in the Department of**  
45 **Community Affairs, a municipality may adopt an ordinance to**  
46 **establish a program to finance the purchase and installation of water**  
47 **conservation projects, flood resistant construction projects,**

1 hurricane resistant construction projects, storm shelter projects, safe  
2 room projects, renewable energy systems <sub>2</sub> and energy efficiency  
3 improvements by property owners. Pursuant to this section, the  
4 establishment of this program may merely involve contracting with  
5 a qualified private or non-profit entity, subject to the "Local Public  
6 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), upon the  
7 director's approval, to administer the program on the municipality's  
8 behalf.】 c.<sup>1</sup> The governing body may apply to a county  
9 improvement authority that issues bonds pursuant to paragraph (2)  
10 of subsection (j) of section 12 of P.L.1960, c.183 (C.40:37A-55), or  
11 may issue bonds to finance the program pursuant to section 3 of  
12 P.L.2011, c.187 (C.40:56-13.2).

13 <sup>1</sup>(1) Bonds issued by a municipality shall be authorized and  
14 issued in the manner set forth in the "Local Bond Law"  
15 (N.J.S.40A:2-1 et seq.), except that:

16 (a) the ordinance may be adopted notwithstanding the provisions  
17 of N.J.S.40A:2-11, and no down payment will be required;

18 (b) the provisions of N.J.S.40A:2-22, concerning periods of  
19 usefulness, and N.J.S.40A:2-26, concerning bond maturity, shall not  
20 apply;

21 (c) the provisions of N.J.S.40A:2-27, concerning the public sale  
22 of bonds, shall not apply, and instead the bonds may be sold at  
23 public or private sale, at the option of the municipality; and

24 (d) if the bonds are non-recourse to the full faith and credit of  
25 the municipality, no review of the Local Finance Board with respect  
26 to the authorization or issuance of the bonds shall be required.

27 Bonds issued by a county improvement authority shall be  
28 authorized and issued in the manner set forth in the "county  
29 improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et  
30 seq.).<sup>1</sup>

31 <sup>1</sup>(2)<sup>1</sup> In addition, the <sup>1</sup>municipal<sup>1</sup> governing body, or the entity  
32 servicing as its administrator, may use funding through private  
33 entities to finance the <sup>1</sup>PACE<sup>1</sup> program. Funds for the <sup>1</sup>【purchase  
34 and installation of water conservation projects, flood resistant  
35 construction projects, hurricane resistant construction projects,  
36 storm shelter projects, safe room projects, renewable energy  
37 systems, and energy efficiency improvements shall be loaned】  
38 implementation of PACE projects shall be made available<sup>1</sup> to  
39 property owners in exchange for a <sup>1</sup>【clean energy and storm  
40 resistance】 PACE<sup>1</sup> special assessment on the property pursuant to  
41 section 1 of P.L.2011, c.187 (C.40:56-1.4) 【, to be paid quarterly】 .

42 <sup>1</sup>【In the case of financing provided by bonds issued by a county  
43 improvement authority, or by the municipality through the issuance  
44 of municipal bonds, the clean energy and storm resistance】 The  
45 PACE<sup>1</sup> special assessment shall be used to repay the <sup>1</sup>debt service  
46 on the<sup>1</sup> bonds <sup>1</sup>or other obligations and the project costs<sup>1</sup>. 【In the  
47 case of financing provided by the municipality through the issuance

1 of municipal bonds, the clean energy special assessment shall be  
2 used to repay the bonds.] <sup>1</sup>【In the case of financing through private  
3 entities, repayment shall also be completed through the clean  
4 energy and storm resistance special assessment.】<sup>1</sup>

5 <sup>1</sup>d.<sup>1</sup> A property owner who purchases and installs a renewable  
6 energy system under the program may also <sup>1</sup>, if permitted by the  
7 municipality,<sup>1</sup> assign <sup>1</sup>or transfer<sup>1</sup> any solar renewable energy  
8 certificates or other renewable energy <sup>1</sup>certificates or<sup>1</sup> credits that  
9 accrue to the property owner from the operation of the system to the  
10 municipality **【or】** , the county improvement authority , or the  
11 private entity <sup>1</sup>【to repay the loan for the system】 , as applicable,  
12 which has financed the PACE project. If any solar renewable  
13 energy certificates or other renewable energy certificates or credits  
14 are assigned or transferred to a municipality, county improvement  
15 authority, or private or non-profit entity, the municipality, county  
16 improvement authority, or private or non-profit entity is authorized  
17 to sell, grant, assign, convey or otherwise dispose of its interest in  
18 the certificates or credits to repay the bonds or obligations and the  
19 project costs<sup>1</sup> . <sup>1</sup>【The Director of the Division of Local Government  
20 Services in the Department of Community Affairs shall coordinate  
21 efforts with the Board of Public Utilities to ensure that the amount  
22 of financing made available by local programs authorized pursuant  
23 to **【this act】** P.L.2011, c.187 (C.40:56-1.4 et al.), is in accordance  
24 with limits set from time to time by the Board of Public Utilities in  
25 order to ensure that local programs to fund projects categorized as  
26 renewable energy systems and energy efficiency improvements  
27 further the goals of the Office of Clean Energy in the Board of  
28 Public Utilities.

29 b. As used in **【this section,】** P.L.2011, c.187 (C.40:56-1.4 et  
30 al.):

31 "Director" means the Director of the Division of Local  
32 Government Services in the Department of Community Affairs.

33 "Flood resistant construction project" means a project that  
34 mitigates the likelihood of substantial flood damage, including but  
35 not limited to the installation of break-away walls and building  
36 elevation alterations, following standards that the director deems  
37 appropriate.

38 "Hurricane resistant construction project" means an improvement  
39 that brings a component of a structure into compliance with the  
40 standards for a "wind-borne debris region" under the State Uniform  
41 Construction Code, or another standard that the director deems  
42 appropriate.

43 "Safe room project" or "storm shelter project" means an  
44 improvement that creates a hardened structure specifically designed  
45 to meet criteria set forth by the Federal Emergency Management  
46 Agency and provide "near-absolute protection" in extreme weather

1 events, including tornadoes and hurricanes, or another standard that  
2 the director deems appropriate.

3 "【solar】 Solar renewable energy certificate" shall have the same  
4 meaning as set forth in section 3 of P.L.1999, c.23 (C.48:3-51).

5 "Water conservation project" means an alteration or upgrade of a  
6 facility or equipment that reduces water consumption, maximizes  
7 the efficiency of water use, or reduces water loss, following  
8 standards that the director deems appropriate.

9 c. The Director of the Division of Local Government Services in  
10 the Department of Community Affairs, in consultation with the  
11 Director of the Division of Codes and Standards in the Department  
12 of Community Affairs shall establish standards for flood resistant  
13 construction projects, hurricane resistant construction projects, safe  
14 room projects, storm shelter projects, and water conservation  
15 projects.】<sup>1</sup>

16 (cf: P.L.2011, c.187, s.2)

17

18 <sup>1</sup>【3.】 4.<sup>1</sup> Section 3 of P.L.2011, c.187 (C.40:56-13.2) is  
19 amended to read as follows:

20 3. a. <sup>1</sup>【Upon application to and approval by the Director of the  
21 Division of Local Government Services in the Department of  
22 Community Affairs, the governing body of a municipality may  
23 establish the amounts of money to be expended by the municipality  
24 for the improvements authorized in sections 1 and 2 of P.L.2011,  
25 c.187 (C.40:56-1.4 and C.40:56-13.1). Any amount so appropriated  
26 may be raised by the issuance of clean energy special assessment  
27 bonds by the municipality. In making the appropriation, the  
28 governing body may designate the particular projects to be financed  
29 to which the moneys shall be applied.】 Notwithstanding any  
30 provision of chapter 56 of Title 40 of the Revised Statutes  
31 (R.S.40:56-1 et seq.), or any other law to the contrary, a  
32 municipality shall follow the following process to establish and  
33 implement a PACE program:

34 (1) A municipality may adopt an ordinance pursuant to  
35 R.S.40:49-2 to establish a PACE program without complying with  
36 the publication, notice, and other requirements applicable to  
37 ordinances providing for local improvements otherwise required  
38 pursuant to R.S.40:49-6.

39 (2) The municipal ordinance may, but shall not be required to,  
40 set eligibility criteria for participation in the PACE program,  
41 establish a form of special assessment agreement to be entered into  
42 with PACE program participants, and identify whether the PACE  
43 program will be implemented, financed, and managed by the  
44 municipality or by a county improvement authority. In lieu of  
45 including such information in the ordinance establishing the PACE  
46 program, the municipality may instead provide that one or more  
47 such items shall be established through a subsequent municipal  
48 resolution.



1       (3) The ordinance may establish standards for the maximum  
2 amount, or duration of PACE special assessments, or both, but in no  
3 event shall the maximum duration of a PACE special assessment  
4 exceed 30 years.<sup>1</sup>

5       b. <sup>1</sup>【Clean energy and storm resistance special assessments and  
6 bonds issued to finance them shall be issued and shall be generally  
7 subject to R.S.40:56-21 et seq., as the director shall determine to be  
8 applicable.】 The amount of a PACE special assessment shall be a  
9 specific amount, not to exceed the project costs of the PACE  
10 project. The specific amount of a PACE special assessment, which  
11 shall be consented to by the property owner by its execution of a  
12 special assessment agreement in the form promulgated by the  
13 municipality, shall be deemed the benefit conferred with respect to  
14 the property and shall be in lieu of the amount being determined by  
15 any other procedures contained in this Title otherwise applicable to  
16 determining the actual benefit conferred on the property. No other  
17 confirmation or determination of the amount of the PACE special  
18 assessment, including, but not limited to the procedure set forth at  
19 R.S.40:56-30, shall be required.<sup>1</sup>

20       c. <sup>1</sup>【The director is authorized and empowered to take such  
21 action as deemed necessary and consistent with the intent of 【this  
22 act】 P.L.2011, c.187 (C.40:56-1.4 et al.) to implement its  
23 provisions.】 A PACE special assessment shall be a single,  
24 continuous first lien on the property against which the PACE  
25 special assessment agreement is recorded, on and after the date of  
26 recordation of the agreement. Upon recordation of the PACE  
27 special assessment agreement, the lien thereof shall be perfected for  
28 all purposes in accordance with law and the lien shall be a  
29 continuous first lien upon the real estate described in the  
30 assessment, paramount to all prior or subsequent alienations and  
31 descents of such real estate or encumbrances thereon, except  
32 subsequent taxes or assessments, without any additional notice,  
33 recording, filing, continuation filing or action, until payment in full  
34 of the PACE special assessment, notwithstanding any mistake in the  
35 name or names of any owner or owners, or any omission to name  
36 any owner or owners who are unknown, and notwithstanding any  
37 lack of form therein, or in any other proceeding which does not  
38 impair the substantial rights of the owner or owners or other person  
39 or persons having a lien upon or interest in any such real estate.  
40 Any confirmation of the amount of the assessment by the governing  
41 body or by the court shall be considered as determining the amount  
42 of the existing lien and not as establishing the lien. All assessments  
43 shall be presumed to have been regularly assessed and confirmed  
44 and every assessment or proceeding preliminary thereto shall be  
45 presumed to have been regularly made or conducted until the  
46 contrary be shown. A PACE special assessment shall not be  
47 considered an "equivalent consensual security interest" for the

1 purposes of the "New Jersey Residential Mortgage Lending Act,"  
2 sections 1 through 39 of P.L.2009, c.53 (C.17:11C-51 et seq.).  
3 PACE special assessments shall be treated as governmental liens  
4 rather than contractual liens for all purposes of law.

5 d. The funds to implement a PACE project may be disbursed to  
6 the property owner at execution of the special assessment  
7 agreement, or may be disbursed in installments over time. Such  
8 funds shall not constitute public funds, and shall not be subject to  
9 the laws governing public funds, including but not limited to laws  
10 regarding the receipt, expenditure, deposit, investment or  
11 appropriation of the same. PACE projects shall not be considered  
12 "facilities" or "public facilities," within the meaning of the "county  
13 improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et  
14 seq.). Payments of PACE special assessments shall be due on  
15 February 1, May 1, August 1 and November 1 in each year, and  
16 shall commence as set forth in the PACE special assessment  
17 agreement. It is not required that a PACE project be completed in  
18 order for the obligation to make payments of the PACE special  
19 assessment to commence. To the extent that upon completion of the  
20 PACE project, funds remain which have not been disbursed to the  
21 property owner for PACE project, those funds on hand shall be used  
22 to reduce the amount of the PACE special assessment. To the  
23 extent that during the implementation of a PACE project, it  
24 becomes apparent that additional funds may be needed to complete  
25 the PACE project, the municipality and the property owner may  
26 enter into a supplemental special assessment agreement for the  
27 additional amount. Upon recordation of the supplemental special  
28 assessment agreement, payments required to be made pursuant to  
29 the supplemental PACE special assessment for the completion of  
30 the PACE project shall be a continuous lien against the property in  
31 accordance with subsection c. of this section.

32 e. When any payment of a PACE special assessment shall not be  
33 made within 30 days after the time when that payment shall have  
34 become due, interest thereon shall be imposed at the same rate as  
35 may be imposed upon unpaid property taxes in the municipality,  
36 and collected and enforced in the same manner as unpaid property  
37 taxes, including by accelerated tax sale if the municipality shall  
38 enforce collection of its unpaid property taxes through accelerated  
39 tax sale. However, the balance due on PACE special assessments  
40 shall not be subject to acceleration in the event of a default in  
41 payment.

42 f. PACE special assessments may be assigned directly by the  
43 municipality as security for the repayment of bonds or other  
44 obligations issued by the municipality or the county improvement  
45 authority to finance the PACE projects. Notwithstanding any law to  
46 the contrary, the assignment shall be an absolute assignment of all  
47 of the municipality's right, title and interest in and to the PACE  
48 special assessment, along with the rights and remedies provided to

1 the municipality under the special assessment agreement, including,  
2 but not limited to, right to direct the collection of payments due.  
3 PACE special assessments assigned as provided hereunder shall not  
4 be included in the general funds of the municipality, or be subject to  
5 any laws regarding the receipt, deposit, investment or appropriation  
6 of public funds, and shall retain such status notwithstanding  
7 enforcement of the assessment by the municipality or assignee as  
8 provided herein. In the case of a municipality which is otherwise  
9 subject to tax or revenue sharing pursuant to law and which assigns  
10 PACE special assessments as set forth in this section, such PACE  
11 special assessments shall not be considered part of the tax or  
12 revenue sharing formula or calculation of municipal revenues for  
13 the purpose of determining whether that municipality is obligated to  
14 make payment to, or receive a credit from, any tax sharing or  
15 revenue sharing pool.

16 g. Notwithstanding any other law to the contrary, a municipality  
17 or county improvement authority, or both, as applicable, shall have  
18 the power to enter into any and all agreements as may be necessary  
19 or desirable to effectuate the purposes of P.L.2011, c.187 (C.40:56-  
20 1.4 et al.), on such terms and conditions as the municipality or  
21 county improvement authority shall deem reasonable, with or  
22 without public bidding.<sup>1</sup>

23 (cf: P.L.2011, c.187, s.3)

24  
25 <sup>15.</sup> Section 11 of P.L.1960, c.183 (C.40:37A-54) is amended to  
26 read as follows:

27 11. The purposes of every authority shall be (a) provision within  
28 the county or any beneficiary county of public facilities for use by  
29 the State, the county or any beneficiary county, or any municipality  
30 in any such county, or any two or more or any subdivisions,  
31 departments, agencies or instrumentalities of any of the foregoing  
32 for any of their respective governmental purposes, (b) provision  
33 within the county or any beneficiary county of public facilities for  
34 use as convention halls, or the rehabilitation, improvement or  
35 enlargement of any convention hall, including appropriate and  
36 desirable appurtenances located within the convention hall or near,  
37 adjacent to or over it within boundaries determined at the discretion  
38 of the authority, including but not limited to office facilities,  
39 commercial facilities, community service facilities, parking  
40 facilities, hotel facilities and other facilities for the accommodation  
41 and entertainment of tourists and visitors, (c) provision within the  
42 county or any beneficiary county of structures, franchises,  
43 equipment and facilities for operation of public transportation or for  
44 terminal purposes, including development and improvement of port  
45 terminal structures, facilities and equipment for public use in  
46 counties in, along or through which a navigable river flows, (d)  
47 provision within the county or any beneficiary county of structures  
48 or other facilities used or operated by the authority or any

1 governmental unit in connection with, or relative to development  
2 and improvement of, aviation for military or civilian purposes,  
3 including research in connection therewith, and including structures  
4 or other facilities for the accommodation of passengers, (e)  
5 provision within the county or any beneficiary county of a public  
6 facility for a combination of governmental and nongovernmental  
7 uses; provided that not more than 50% of the usable space in any  
8 such facility shall be made available for nongovernmental use under  
9 a lease or other agreement by or with the authority, (f) acquisition  
10 of any real property within the county or any beneficiary county,  
11 with or without the improvements thereof or thereon or personal  
12 property appurtenant or incidental thereto, from the United States of  
13 America or any department, agency or instrumentality heretofore or  
14 hereafter created, designated or established by or for it, and the  
15 clearance, development or redevelopment, improvement, use or  
16 disposition of the acquired lands and premises in accordance with  
17 the provisions and for the purposes stated in this act, including the  
18 construction, reconstruction, demolition, rehabilitation, conversion,  
19 repair or alteration of improvements on or to said lands and  
20 premises, and structures and facilities incidental to the foregoing as  
21 may be necessary, convenient or desirable, (g) acquisition,  
22 construction, maintenance and operation of garbage and solid waste  
23 disposal systems for the purpose of collecting and disposing of  
24 garbage, solid waste or refuse matter, whether owned or operated by  
25 any person, the authority or any other governmental unit, within or  
26 without the county or any beneficiary county, (h) the improvement,  
27 furtherance and promotion of the tourist industries and recreational  
28 attractiveness of the county or any beneficiary county through the  
29 planning, acquisition, construction, improvement, maintenance and  
30 operation of facilities for the recreation and entertainment of the  
31 public, which facilities may include, without being limited to, a  
32 center for the performing and visual arts, (i) provision of loans and  
33 other financial assistance and technical assistance for the  
34 construction, reconstruction, demolition, rehabilitation, conversion,  
35 repair or alteration of buildings or facilities designed to provide  
36 decent, safe and sanitary dwelling units for persons of low and  
37 moderate income in need of housing, including the acquisition of  
38 land, equipment or other real or personal properties which the  
39 authority determines to be necessary, convenient or desirable  
40 appurtenances, all in accordance with the provisions of this act, as  
41 amended and supplemented, (j) planning, initiating and carrying out  
42 redevelopment projects for the elimination, and for the prevention  
43 of the development or spread of blighted, deteriorated or  
44 deteriorating areas and the disposition, for uses in accordance with  
45 the objectives of the redevelopment project, of any property or part  
46 thereof acquired in the area of such project, (k) any combination or  
47 combinations of the foregoing or following, and (l) subject to the  
48 prior approval of the Local Finance Board, the planning, design,

1 acquisition, construction, improvement, renovation, installation,  
2 maintenance and operation of facilities or any other type of real or  
3 personal property within the county for a corporation or other  
4 person organized for any one or more of the purposes described in  
5 subsection a. of N.J.S.15A:2-1 except those facilities or any other  
6 type of real or personal property which can be financed pursuant to  
7 the provisions of P.L.1972, c.29 (C.26:2I-1 et seq.) as amended. A  
8 county improvement authority shall also have as its purpose the  
9 pooling of loans for any local governmental units within the county  
10 or any beneficiary county that are refunding bonds in order to  
11 achieve more favorable interest rates and terms for those local  
12 governmental units. A county improvement authority shall also  
13 have as its purpose the implementation, management, oversight,  
14 administration, and financing of a PACE program, as defined in  
15 section 1 of P.L. , c. (C. ) (pending before the Legislature  
16 as this bill).<sup>1</sup>

17 (cf: P.L.2002, c.42, s.8)

18

19 <sup>1</sup>**[4.]** 6.<sup>1</sup> Section 12 of P.L.1960, c.183 (C.40:37A-55) is  
20 amended to read as follows:

21 12. Every authority shall be a public body politic and corporate  
22 constituting a political subdivision of the State established as an  
23 instrumentality exercising public and essential governmental  
24 functions to provide for the public convenience, benefit and welfare  
25 and shall have perpetual succession and, for the effectuation of its  
26 purposes, have the following additional powers:

27 (a) To adopt and have a common seal and to alter the same at  
28 pleasure;

29 (b) To sue and be sued;

30 (c) To acquire, hold, use and dispose of its facility charges and  
31 other revenues and other moneys;

32 (d) To acquire, rent, hold, use and dispose of other personal  
33 property for the purposes of the authority;

34 (e) Subject to the provisions of section 26 of **[this act]**  
35 P.L.1960, c.183 (C.40:37A-69) , to acquire by purchase, gift,  
36 condemnation or otherwise, or lease as lessee, real property and  
37 easements or interests therein necessary or useful and convenient  
38 for the purposes of the authority, whether subject to mortgages,  
39 deeds of trust or other liens or otherwise, and to hold and to use the  
40 same, and to dispose of property so acquired no longer necessary  
41 for the purposes of the authority; provided that the authority may  
42 dispose of such property at any time to any governmental unit or  
43 person if the authority shall receive a leasehold interest in the  
44 property for such term as the authority deems appropriate to fulfill  
45 its purposes;

46 (f) Subject to the provisions of section 13 of **[this act]**  
47 P.L.1960, c.183 (C.40:37A-56) , to lease to any governmental unit  
48 or person, all or any part of any public facility for such

1 consideration and for such period or periods of time and upon such  
2 other terms and conditions as it may fix and agree upon;

3 (g) To enter into agreements to lease, as lessee, public facilities  
4 for such term and under such conditions as the authority may deem  
5 necessary and desirable to fulfill its purposes, and to agree,  
6 pursuant thereto, to be unconditionally obligated to make payments  
7 for the term of the lease, without set-off or counterclaim, whether or  
8 not the public facility is completed, operating or operable, and  
9 notwithstanding the destruction of, damage to, or suspension,  
10 interruption, interference, reduction or curtailment of the  
11 availability or output of the public facility to which the agreement  
12 applies;

13 (h) To extend credit or make loans to any governmental unit or  
14 person for the planning, design, acquisition, construction, equipping  
15 and furnishing of a public facility, upon the terms and conditions  
16 that the loans be secured by loan and security agreements,  
17 mortgages, leases and other instruments, the payments on which  
18 shall be sufficient to pay the principal of and interest on any bonds  
19 issued for the purpose by the authority, and upon such other terms  
20 and conditions as the authority shall deem reasonable;

21 (i) Subject to the provisions of section 13 of **【this act】** P.L.1960,  
22 c.183 (C.40:37A-56) , to make agreements of any kind with any  
23 governmental unit or person for the use or operation of all or any  
24 part of any public facility for such consideration and for such period  
25 or periods of time and upon such other terms and conditions as it  
26 may fix and agree upon;

27 (j) (1) To borrow money and issue negotiable bonds or notes or  
28 other obligations and provide for and secure the payment of any  
29 bonds and the rights of the holders thereof, and to purchase, hold  
30 and dispose of any bonds;

31 (2) To issue bonds, notes or other obligations to provide funding  
32 <sup>1</sup>【to a municipality , or to an entity serving as the municipality's  
33 administrator, that finances the purchase and installation of water  
34 conservation projects, flood resistant construction projects,  
35 hurricane resistant construction projects, storm shelter projects, safe  
36 room projects, renewable energy systems , and energy efficiency  
37 improvements】 for the implementation of PACE projects<sup>1</sup> by  
38 property owners as provided in section 2 of P.L.2011, c.187  
39 (C.40:56-13.1) <sup>1</sup>, and to manage, oversee, administer, implement,  
40 and finance PACE programs pursuant to subsection b. of section 2  
41 of P.L.2011, c.187 (C.40:56-13.1)<sup>1</sup> ;

42 (k) To apply for and to accept gifts or grants of real or personal  
43 property, money, material, labor or supplies for the purposes of the  
44 authority from any governmental unit or person, and to make and  
45 perform agreements and contracts and to do any and all things  
46 necessary or useful and convenient in connection with the  
47 procuring, acceptance or disposition of such gifts or grants;

1 (l) To determine the location, type and character of any public  
2 facility and all other matters in connection with all or any part of  
3 any public facility which it is authorized to own, construct,  
4 establish, effectuate or control;

5 (m) To make and enforce bylaws or rules and regulations for the  
6 management and regulation of its business and affairs and for the  
7 use, maintenance and operation of any public facility, and to amend  
8 the same;

9 (n) To do and perform any acts and things authorized by this act  
10 under, through or by means of its own officers, agents and  
11 employees, or by contract with any governmental unit or person;

12 (o) To acquire, purchase, construct, lease, operate, maintain and  
13 undertake any project and to fix and collect facility charges for the  
14 use thereof;

15 (p) To mortgage, pledge or assign or otherwise encumber all or  
16 any portion of its revenues and other income, real and personal  
17 property, projects and facilities for the purpose of securing its  
18 bonds, notes and other obligations or otherwise in furtherance of the  
19 purpose of this act;

20 (q) To extend credit or make loans to redevelopers for the  
21 planning, designing, acquiring, constructing, reconstructing,  
22 improving, equipping and furnishing any redevelopment project or  
23 redevelopment work;

24 (r) To conduct examinations and investigations, hear testimony  
25 and take proof, under oath at public or private hearings of any  
26 material matter, require the attendance of witnesses and the  
27 production of books and papers and issue commissions for the  
28 examination of witnesses who are out of the State, unable to attend,  
29 or excused from attendance;

30 (s) To authorize a committee designated by it consisting of one  
31 or more members, or counsel, or any officer or employee to conduct  
32 any such investigation or examination, in which case such  
33 committee, counsel, officer or employee shall have power to  
34 administer oaths, take affidavits and issue subpoenas or  
35 commissions;

36 (t) To enter into any and all agreements or contracts, execute  
37 any and all instruments, and do and perform any and all acts or  
38 things necessary, convenient or desirable for the purposes of the  
39 authority or to carry out any power expressly given in this act  
40 subject to the "Local Public Contracts Law," P.L.1971, c.198  
41 (C.40A:11-1 et seq.); and

42 (u) To pool loans for any local governmental units within the  
43 county or any beneficiary county that are refunding bonds and do  
44 and perform any and all acts or things necessary, convenient or  
45 desirable for the purpose of the authority to achieve more favorable  
46 interest rates and terms for those local governmental units.

47 (cf: P.L.2011, c.187, s.4)

1       <sup>1</sup>**[5.]** 7.<sup>1</sup> This act shall take effect <sup>1</sup>**[**on the first day of the  
2 fourth month next following enactment, but the Director of the  
3 Division of Local Government Services in the Department of  
4 Community Affairs may take such anticipatory action in advance  
5 thereof as shall be necessary for the implementation of this act**]**  
6 immediately<sup>1</sup>.