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Bill to Let Businesses Finance Energy and Storm Upgrades Clears Committee Despite Agency Objections

The measure would create a new financing path for commercial property owners seeking energy efficiency, renewable energy, and hurricane resilience upgrades, but tax and energy officials warned the bill could create lien, billing, and borrowing problems.

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After lengthy and at times heated debate, the Committee on Disaster Recovery, Infrastructure, and Planning voted 5-2 last week in favor of Bill 36-0248, legislation that would establish a Commercial Property Assessed Clean Energy, or C-PACE, program in the U.S. Virgin Islands. Supporters said the measure would give commercial property owners access to long-term private financing for energy efficiency, renewable energy, and hurricane resilience upgrades, while

opponents within government warned that the bill, as written, could create conflicts with existing tax responsibilities, complicate borrowing, and impose new administrative burdens on agencies not designed to manage the program.

Co-sponsored by Senators Avery Lewis and Hubert Frederick, the bill seeks to create a framework for financing commercial property improvements through non-traditional lending institutions. Senator Lewis urged his colleagues to support the measure, saying it would give “commercial property owners another tool to invest in their properties” and strengthen their buildings. He said C-PACE “allows access to long-term private capital” and that repayment is “structured through a voluntary assessment tied to the property.” He also emphasized that the program, already implemented in 38 states, would not be backed by public funds. “We are not guaranteeing the loan, and we are not using taxpayer dollars to back it.”

Senator Frederick also argued in favor of the proposal, saying high energy costs remain one of the biggest burdens on local businesses. He said the program would allow commercial owners to finance improvements such as energy-efficient infrastructure. “This mechanism will help us avoid that fluctuation, that unexpected spike, so we could run a more efficient business,” Senator Frederick said.

Commercial property owners invited to testify also supported the bill. Angel Torres, a retired fire chief, told lawmakers he had been trying to build a commercial business center for 15 years. “If C-PACE is approved...I can move forward immediately, retain 100 percent ownership, and finally construct this family-owned and much-needed facility,” Mr. Torres said. Michael Sammaritano, president of Alba Capital, said many applicants lack enough personal equity and are shut out of traditional financing. Committee approval, he said, would be a “great asset to the business community.”

Even though the program would not be government-funded, it would rely heavily on the Virgin Islands Energy Office and the Office of the Tax Assessor to carry out assessments tied to repayment and other core parts of the process. That led to some of the strongest objections of the hearing. Kyle Fleming, director of the Energy Office, said “the most critical issue remains the lien structure at the core of the program,” under which a C-PACE assessment would become a property lien junior only to property taxes but senior to all other encumbrances, including mortgages. He warned that the structure has “consistently created friction with lenders, constrained refinancing opportunities, and potentially increased borrowing costs.” In a capital-limited market such as the Virgin Islands, he said, that was a serious concern.

Mr. Fleming also took issue with the annual lump-sum repayment structure, warning that “a single missed payment could result in a full year delinquency.” He noted that the bill places the Tax Assessor and Tax Collector at the center of assessing and collecting the payments before remitting them to lenders, despite what he described as the territory’s longstanding challenges in property tax assessment, billing, and collection. He further argued that the bill’s assumption that energy savings would offset repayment obligations does not “always reflect the operational reality of the Virgin Island utility billing inconsistencies,” and said any final program would require “independent validation of projected energy savings.”

Tax Assessor Ludence Romney voiced strong objections to the legislation in its current form. He said the Property Tax Division is “not suited to provide analysis of specialized property improvements to energy and water efficiency.” He suggested that the Energy Office should instead hire an independent appraiser to handle those determinations and should also manage billing and collection itself, either directly or through outsourcing. He also proposed that any C-

PACE lien be recorded through the Recorder of Deeds Office. Mr. Romney added that while the government would not be funding the program itself, there would still be a cost tied to additional staffing and “retrofitting of the software.”

Brent Leerdam, the Tax Collector, also objected to the proposed structure. He said the bill “goes against the grain of what the Real Property Tax Division is supposed to be doing” as “stewards of people’s property.” He warned of a potential conflict of interest, noting that “The property tax division does not help any other borrowing facility...We stay away from that because we have to give fair and equitable treatment to everyone.”

The hearing grew increasingly tense as the discussion continued for more than two additional hours. Leah Wiggs, executive director of the C-PACE Alliance, explained that the bill would allow a \$500 application fee and a servicing fee of 1 percent, capped at \$50,000, on approved projects. She said those funds would go directly to the Energy Office or the Real Property Division to “recoup any staff time or any dollars” spent administering the program. Senator Lewis, who appeared increasingly frustrated by the objections, suggested that the government agencies simply did not want to do the work. Mr. Leerdam rejected that characterization, saying the bill “conflates our sacred responsibilities that we have to Virgin Islanders.”

In the end, lawmakers largely sided with the bill’s sponsors. Committee members said they were reassured by the expectation that only a small number of commercial property owners would likely use the program each year, reducing the strain on government staffing. Committee Chair Senator Marise James also noted that the measure gives the Energy Office broad flexibility to outsource support services where needed.

Even among supporters, however, there were calls for changes. Senator Kurt Vialet urged lawmakers to be “specific as to how this particular measure is going to be implemented and how it’s going to work.” Like Mr. Fleming, he expressed concern about delinquent property taxes and how the lien structure could affect borrowing. He also noted that fees collected by the Tax Collector on behalf of entities such as the Waste Management Authority have not been remitted “for years.” During the discussion, lawmakers learned that although government intervention would be needed to attach a lien to a commercial property, the billing and collection process itself could be handled directly rather than through the tax system.

With the bill now moving to the Committee on Rules and Judiciary, lawmakers indicated that changes to the billing and collection mechanism may be among the amendments considered next.