

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 1, 2022

8:03 a.m.

MEMBERS PRESENT

Representative Sara Hannan, Co-Chair
Representative Calvin Schrage, Co-Chair
Representative Harriet Drummond
Representative Ken McCarty
Representative Kevin McCabe
Representative Mike Prax

MEMBERS ABSENT

Representative Josiah Patkotak, Vice Chair

COMMITTEE CALENDAR

HOUSE BILL NO. 227

"An Act relating to municipal energy and resilience improvement assessment programs; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 243

"An Act relating to horizontal property regimes and common interest communities; and relating to mortgages, deeds of trust, and other property liens."

- HEARD & HELD

SENATE BILL NO. 143

"An Act relating to horizontal property regimes and common interest communities; and relating to mortgages, deeds of trust, and other property liens."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 227

SHORT TITLE: MUNI ENERGY IMPROVEMNT ASSESSMENT PROGRAM

SPONSOR(S): REPRESENTATIVE(S) SCHRAGE

01/18/22 (H) PREFILE RELEASED 1/7/22

01/18/22 (H) READ THE FIRST TIME - REFERRALS
01/18/22 (H) ENE, CRA
01/20/22 (H) ENE AT 10:15 AM ADAMS 519
01/20/22 (H) Heard & Held
01/20/22 (H) MINUTE(ENE)
01/27/22 (H) ENE AT 10:15 AM ADAMS 519
01/27/22 (H) Moved HB 227 Out of Committee
01/27/22 (H) MINUTE(ENE)
01/31/22 (H) ENE RPT 4DP 2NR
01/31/22 (H) DP: ZULKOSKY, CLAMAN, FIELDS, SCHRAGE
01/31/22 (H) NR: KAUFMAN, RAUSCHER
03/01/22 (H) CRA AT 8:00 AM BARNES 124

BILL: HB 243

SHORT TITLE: COMMON INTEREST COMMUNITIES; LIENS
SPONSOR(s): REPRESENTATIVE(s) NELSON

01/18/22 (H) PREFILE RELEASED 1/7/22
01/18/22 (H) READ THE FIRST TIME - REFERRALS
01/18/22 (H) CRA, L&C
03/01/22 (H) CRA AT 8:00 AM BARNES 124

BILL: SB 143

SHORT TITLE: COMMON INTEREST COMMUNITIES; LIENS
SPONSOR(s): SENATOR(s) REVAK

01/18/22 (S) PREFILE RELEASED 1/7/22
01/18/22 (S) READ THE FIRST TIME - REFERRALS
01/18/22 (S) L&C
02/09/22 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/09/22 (S) Moved SB 143 Out of Committee
02/09/22 (S) MINUTE(L&C)
02/11/22 (S) L&C RPT 3DP
02/11/22 (S) DP: STEVENS, MICCICHE, GRAY-JACKSON
02/16/22 (S) TRANSMITTED TO (H)
02/16/22 (S) VERSION: SB 143
02/17/22 (H) READ THE FIRST TIME - REFERRALS
02/17/22 (H) L&C
02/17/22 (H) CRA REFERRAL ADDED BEFORE L&C
03/01/22 (H) CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

SHAINA KILCOYNE, Energy and Sustainability Manager
Solid Waste Services
Municipality of Anchorage
Anchorage, Alaska

POSITION STATEMENT: Co-presented a PowerPoint about C-PACE during the hearing on HB 227.

MELANIE LUCAS-CONWELL, Manager
49th State Angel Fund
Municipality of Anchorage
Anchorage, Alaska

POSITION STATEMENT: Co-presented a PowerPoint about C-PACE during the hearing on HB 227.

RYAN JOHNSTON, Staff
Representative Calvin Schrage
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Offered clarification during the hearing on HB 227 on behalf of Representative Schrage, prime sponsor.

BALI KUMAR, Chief Operating Officer
PACE Loan Group
Minnesota

POSITION STATEMENT: Testified in support of HB 227.

JEREMIAH BENSON, Realtor
Wasilla, Alaska

POSITION STATEMENT: Testified in support of HB 227.

TOM NEUKRANZ, CEO
Global Pacific Capital, LLC
No address provided

POSITION STATEMENT: Testified in support of HB 227.

JESSA COLEMAN, Associate Director
Policy and Programs
Nuzeen Green Capital
No address provided

POSITION STATEMENT: Testified in support of HB 227.

TOM BENKERT, Business Development Manager
KI Energy
Wasilla, Alaska

POSITION STATEMENT: Testified in support of HB 227.

NICHOLAS ZUBA, Director
PACE Policy and Programs
Clean Fund, LLC
No address provided

POSITION STATEMENT: Testified in support of HB 227.

REPRESENTATIVE DAVID NELSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor of HB 243, gave a brief introduction to companion bill SB 143.

SENATOR JOSH REVAK
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, presented SB 143.

SUSAN JENSEN, Manager
Bayshore Owners Association
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on SB 143.

SARAH BADTEN, Attorney at Law
Birch Horton Bittner & Cherot
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 143.

EMMA TORKELSON, Staff
Senator Josh Revak
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions on behalf of Senator Revak, prime sponsor of SB 143.

ACTION NARRATIVE

[8:03:22 AM](#)

CO-CHAIR SARA HANNAN called the House Community and Regional Affairs Standing Committee meeting to order at 8:03 a.m. Representatives Schrage, McCarty, McCabe, and Hannan were present at the call to order. Representatives Drummond and Prax arrived as the meeting was in progress.

HB 227-MUNI ENERGY IMPROVEMNT ASSESSMENT PROGRAM

[8:03:59 AM](#)

CO-CHAIR HANNAN announced that the first order of business would be HOUSE BILL NO. 227, "An Act relating to municipal energy and resilience improvement assessment programs; and providing for an effective date."

8:04:58 AM

CO-CHAIR SCHRAGE, as prime sponsor, presented HB 227. He read from the sponsor statement [included in the committee packet], which read as follows [original punctuation provided]:

Property Assessed Clean Energy (PACE) is an innovative financing mechanism that enables owners of commercial and industrial properties to obtain fixed rate, long-term financing through private lenders for energy efficiency and renewable energy projects and pay the costs back over time through a voluntary assessment on the property tax. PACE attaches the loan to the property, rather than the borrower. If the property is sold, the loan transfers to the new owner. With lower energy costs, building owners unlock positive cash flow for their businesses and increase their buildings' value from day 1.

Passed in 2017, the statute allows local governments to create and manage C-PACE programs. The Municipality of Anchorage launched the state's first program in April 2021. Other regions are interested in launching a program and are reviewing administration options. While program administration is offset by administrative fees, staff capacity is still required to maintain the program and review applications. Alaska's statute is based on Texas's C-PACE statute. Based on the growing success of C-PACE, lawmakers around the country are adding new eligible uses of C-PACE. Several statutory clean-ups will ensure efficient statewide promulgation and will greatly facilitate investment in our building stock, especially at a time when economic development is needed most.

House Bill 227 aims to expand C-PACE in Alaska by:

1. Allowing new construction financing
2. Allowing Resiliency projects
3. Allowing C-PACE refinancing
4. Considering Market Values rather than assessed values
5. Eliminating the Savings-to-Investment Ratio (SIR)

HB 227 changes serve the common goal of creating a large, thriving and active C-PACE market, which in turn will benefit Alaskans. These amendments were developed in coordination with the Municipality of Anchorage and the Alaska Energy Authority using the best practices & lessons learned in the Lower 48. In all cases, C-PACE assists property owners in dealing with the up-front cost of property upgrades that create a public benefit.

HB 227 will help municipalities and boroughs statewide achieve the greatest overall environmental and economic development benefits at no cost to state or local governments.

[8:08:16 AM](#)

SHAINA KILCOYNE, Energy and Sustainability Manager, Solid Waste Services, Municipality of Anchorage, co-presented a PowerPoint on Alaska C-PACE in relation to HB 227. She described C-PACE as "a government policy that says commercial energy efficiency and renewable energy are a public benefit." Statute passed in 2017 "allowed jurisdiction to create programs." She said many entities were involved in bringing the first program to Alaska, as shown on slide 2, including: the State of Alaska, Alaska C-PACE, the Alaska Energy Authority, the U.S. Department of Energy, McKinley Research Group, LLC, and PACE Financial Servicing.

[8:10:17 AM](#)

MELANIE LUCAS-CONWELL, Manager, 49th State Angel Fund, Municipality of Anchorage, took a turn at the PowerPoint presentation, drawing attention to slide 3, "What makes C-PACE special?," which lists the following: No upfront project cost; long-term, fixed-rate, nonrecourse financing; transferable; priority lien; increases property value; and requires project to "pencil out."

MS. LUCAS-CONWELL explained the benefit of having no upfront project costs means being able to roll hard and soft costs into the loan, such as costs for engineering, permitting, and energy audits. She said there are no fixed interest rates; the provider of the capital decides on the terms of the interest rate; currently the longest term is 20 years or the lifetime of the project - whichever is shorter - with non-reverse financing tied to the real assets rather than the property owners, which

is what makes it transferable. Further, there is no required owner guarantee, credit score, or bond rating. She said it is a property lien that is placed on the property itself by the municipality or jurisdiction; it is "senior to any existing mortgages"; and any existing mortgage or lien holders must be given 30-day notice of the assessments "to be able to consent to the assessments." The installation of new clean energy or renewable energy should, over the lifespan of the property, increase its value, she said, while improving operations and maintenance costs. Regarding the requirement to "pencil out," she explained that any project must have a savings ratio of at least 1:1, which is dollars spent to energy savings. This means the projects should be "cashflow positive from day one."

[8:13:53 AM](#)

MS. LUCAS-CONWELL moved to slide 4, "C-PACE Nationwide," which shows that nationally, C-PACE has resulted in over \$2 billion in investments, over 2,500 commercial projects, and over 24,000 jobs created. It has been an important source of credit for property owners seeking credit to make improvements on their properties and to address deferred maintenance issues resulting from "past capital restraints." Further, C-PACE can help in situations where existing lenders may be "tapped out" and costs have increased due to construction delays.

MS. LUCAS-CONWELL turned to slide 5, "C-PACE Status in Alaska," and noted Co-Chair Schrage had stated that the program was launched April 1, 2021, and several boroughs are anticipated to pass ordinances that will expand the program. There is yet to be an application in Anchorage, but the process takes time. There is an anticipated multi-million project in downtown Anchorage.

[8:16:26 AM](#)

MS. LUCAS-CONWELL moved to slide 6, "Eligibility," which lists the eligibility requirements for property owners, properties, and projects, and which read as follows [original punctuation provided, with some formatting changes]:

Property Owner

- Legal record holder
- Current on mortgage and property tax payments
- Must not be insolvent or in bankruptcy proceedings

Property

- Commercial or industrial
- Existing property
- Privately owned

Project

- Installation or modification of permanent improvements
- Reduces energy use
- Not easily removed
- Savings to Investment Ratio
- 20% Loan to Value Ratio

MS. LUCAS-CONWELL showed slide 7, "What Measures Are Eligible For C-PACE Financing?" She reviewed the following measures shown on the slide: efficient lighting; boilers and furnaces; solar energy; water conservation; combined heat and energy; building energy management systems; hot water heating; and building shell improvements.

[8:18:37 AM](#)

MS. KILCOYNE picked up the presentation at slide 8, "Delinquency or Default," which read as follows [original punctuation provided]:

C-PACE assessments are liens on the property assessed and are prior and paramount to all liens except municipal tax liens and special assessments.

The Municipality will enforce any delinquent assessment payment against the property for the benefit of the Capital Provider, in the same manner as a property tax lien against real property may be enforced by a local government per state statutes.

Nationally, there have been no foreclosures as a result of a delinquent C-PACE assessment.

MS. KILCOYNE reminded the committee that the municipality is not required to pay the capital ledger once the owner is delinquent. She noted that once the property is sold, the loan is sold with it, and the new owner would make the loan payments. She said it

is a nonaccelerating loan; therefore, "likely they would be paying just a small portion of that loan payment."

MS. KILCOYNE moved on to slide 9, "HB 227: Proposed Statute Amendments," which read as follows [original punctuation provided]:

- 1) Include New Construction
- 2) Allow Resiliency Projects
- 3) Allow Refinancing
- 4) 30 year max, Refer to 25% of Market Value
- 5) Eliminate the Savings-to-Investment Ratio (SIR)

MS. KILCOYNE stated that the desired amendments to statute come from best practices, investigations of other programs, and discussions with property developers, property owners, and C-PACE experts. She indicated that the amendments would help to overcome limitations, and she said some states are working on similar changes. She said, "We believe that these amendments will bring us in line with the way C-PACE is being used in the Lower 48."

MS. KILCOYNE showed slide 10, "New Construction," which shows that new construction is allowed in 25 state programs and comprises approximately half of C-PACE transactions in the last two years. She said Alaska's statute is replicated from that of Texas, which is working to include new construction in its statute. She said the Municipality of Anchorage has had inquiries about new construction of "quite large projects," and [C-PACE] offers developers opportunities for financing and facilitates more energy efficient buildings. She said this is in line with the intent of HB 227.

[8:21:56 AM](#)

MS. KILCOYNE drew attention to slide 11, "Resiliency," and said HB 227 includes resiliency projects that support public policy goals, which are listed on slide 11, which read as follows [original punctuation provided]:

- seismic improvements
- stormwater management, flood mitigation and protection
- fire hardening, fire or wind resistance
- erosion management
- microgrids for energy storage and backup power generation

- water or wastewater efficiency including reuse and energy recovery
- electric vehicle charging stations
- retrofitting that improves the envelope, structure, or systems of the building, and any other improvement project approved by a municipality as a resilience improvement project

MS. KILCOYNE added that individual jurisdictions would be able to offer improvements relevant to their regions.

[8:23:15 AM](#)

REPRESENTATIVE MCCABE questioned inclusion of micro grids for energy storage and backup power generation because he observed they are covered under building energy management systems rather than under the topic of resiliency. Further, he said he is unclear how electrical charging stations would improve "any kind of resiliency of a building."

MS. KILCOYNE responded that micro grids would not work "in the initial language" for a couple reasons. One has to do with the large, upfront cost that improves resiliency. She said the Municipality of Anchorage is dependent on two pipelines and microgrid resiliency, for example. She added, "But, you know, maybe it doesn't fit in the initial bill; maybe it doesn't say that in 20 years; but still is good for a community." Regarding electric vehicles, she pointed out that they reduce air emissions, and with 90 percent of electric vehicle owners charging at home, the load on the grid is evened out throughout the day, in terms of kilowatt usage.

[8:26:33 AM](#)

MS. LUCAS-CONWELL added all resiliency projects are voluntary. She noted that in the case of a gasoline shortage, the existence of easy access charging stations would allow electric and hybrid cars to continue to operate.

REPRESENTATIVE MCCABE opined that this issue belongs in a transportation bill, not in "a building bill." He said it appears this issue was placed in hiding within the proposed legislation, to which he remarked, "I'm not going there."

[8:28:05 AM](#)

CO-CHAIR SCHRAGE said he appreciates Representative McCabe's "healthy degree of skepticism." He said he views HB 227 as a means to achieve a lower cost of capital, with loans associated to those items that would increase value of property. He mentioned multi-unit communities where a solar system panel or micro grid unit could be put in to improve resiliency. He said many building owners want to provide charging stations, which ties into the bigger picture of community resiliency. He expressed a willingness to continue the conversation on this matter.

REPRESENTATIVE MCCABE said he lives off-grid and agrees about the need for resiliency, but explained his point was that he thinks "it's already covered in this bill"; therefore, language in the bill referring to electrical charging stations does not belong. He said he would not support "that one bullet" [point on slide 11, "electric charging stations"].

CO-CHAIR SCHRAGE said that is a policy call for the committee. He said a private lender will not approve a loan that does not make sense and does not add value to a building.

[8:32:12 AM](#)

REPRESENTATIVE MCCARTY said he understands why the loan is going to be tied to the property, but he questioned who is responsible for making payments in the event of a foreclosure.

[8:33:22 AM](#)

MS. KILCOYNE, from the perspective of the Municipality of Anchorage, said the municipality would take its usual course of action to enforce any delinquent payments.

[8:35:01 AM](#)

MS. KILCOYNE continued with the PowerPoint, to slide 12, "Refinancing," which read as follows [original punctuation provided]:

AS 29.5..160 defines "finance" and "financing" to include "refinancing" throughout AS 29.55.100 - 29.55.165.

Explicitly allows traditional refinancing of loans

Allows refinancing of eligible projects known as a 'look-back period'

C-PACE can retroactively fund recently completed projects in California, Connecticut, Florida, Kentucky, Michigan, Minnesota, Missouri, New York, Ohio, Pennsylvania, Rhode Island, and Washington D.C.

MS. KILCOYNE noted that financing and refinancing language is contained in HB 227; however, she said she is not seeing the full definition and suggested that could be considered.

MS. KILCOYNE turned next to slide 13, "Refer to 25% of Market Value," which read as follows [original punctuation provided]:

More inline with industry standard

Referring to market value rather than assessed value allows the property owner to capture 'As-built' or 'As-operating' assessments

Particularly important for new construction

MS. KILCOYNE, referring to the slide about eligible measures, reminded members that Ms. Lucas-Conwell had said that the current maximum financing may not exceed 20 percent of the assessed value of the property at the time of the program application. She mentioned an option of a waiver to 50 percent of assessed value. She said this is fairly limiting with projects that would ultimately increase value. She indicated the municipality has looked at considering smaller loans or "doing two separate loans once the value increases enough." Returning to slide 13, she said using the term "market value" allows more flexibility in capturing the value of the improvements, and 25 percent is more in line with the industry standard.

MS. KILCOYNE shared slide 14, "30 Year Max and No SIR," which read as follows [original punctuation provided]:

Allows refinancing of eligible projects within two years, known as a 'lookback period'

C-PACE can retroactively fund recently completed projects in California, Connecticut, Florida, Kentucky, Michigan, Minnesota, Missouri, New York, Ohio, Pennsylvania, Rhode Island, and Washington D.C.

MS. KILCOYNE said government-designed SIR requirements often generate counter-product results, and it is not a measure of a property owner's ability to pay. She suggested debt/service coverage ratio is more appropriate. She displayed slide 15, the final slide, which gives contact information. She expressed enthusiasm for the proposed legislation for its ability to remove restrictions.

[8:41:03 AM](#)

REPRESENTATIVE MCCARTY asked how C-PACE would increase standards of construction when there are already standards in place.

[8:41:39 AM](#)

CO-CHAIR SCHRAGE responded that lowering the cost of capital allows people to make upgrades, such as seismic upgrades, therefore resulting in a higher standard of building.

REPRESENTATIVE MCCARTY expressed concern with the market "bursting" and asked what the impact on this lending mechanism would be when it does.

CO-CHAIR SCHRAGE responded that accounting uses market value in terms of appreciation, so many business owners may or may not have incentive already; the proposed legislation would not inflate market value.

[8:44:32 AM](#)

REPRESENTATIVE MCCABE said he disagrees because of language on page 6, line 17, of HB 227, which read: **"or completion of the proposed energy or resilience improvement project"**. He opined that that sentence "opens the door to huge ... problems."

CO-CHAIR SCHRAGE reiterated that he thinks those incentives already exist. He continued:

All this bill does is, for certain projects, allow[s] us to utilize the municipal taxing authority to apply a lien to the property instead of doing [a] traditional loan direct to a bank, to the actual individual property owner - [the] group that owns the property. This allows the municipal taxing authority to ... levy a lien on the property itself, allowing for a lower interest rate, because it lives on with

the property; it can be done for 30 years - the useful life of that upgrade.

CO-CHAIR SCHRAGE said it is still the private lender that is "on the hook," so all the proposals will be vetted by the private lender to ensure that "someone isn't just putting out a pie-in-the-sky value for what some ... proposed upgrade will provide."

[8:47:47 AM](#)

RYAN JOHNSTON, Staff, Representative Calvin Schrage, Alaska State Legislature, on behalf of Representative Schrage, prime sponsor of HB 227, offered clarification that it is 25 percent of the market value of the property. For example, he said in a \$5 million project, if the market value of the building was \$400,000, then the C-PACE loan would be only up to \$100,000.

REPRESENTATIVE MCCABE pointed again to the sentence that read "or completion of the proposed energy or resilience improvement project." He reasoned, "So, if \$5 million is added on to your \$400,000 building, then it's 25 percent of \$5.4 million, not \$400,000." He suggested it was a discussion he could continue outside of the committee.

[8:49:01 AM](#)

CO-CHAIR HANNAN opened public testimony on HB 277.

[8:49:20 AM](#)

BALI KUMAR, Chief Operating Officer, PACE Loan Group, testified in support of HB 227. He said PACE Loan Group is a national PACE loan provider. He said he is on the board of PACE Nation - a national nonprofit advocating for PACE and energy efficiency through PACE; he is also part of the PACE Alliance, which advocates for best practices in commercial PACE industry nationwide. Prior to this, he said, he was CEO of Lean and Green Michigan, which is the statewide PACE program administrator in Michigan. He offered further details of his experience there, as well as the progress of legislation there. He opined that issues he has addressed are being properly addressed through HB 227. First, he said the issue of assessed value versus complete value makes sense to flag. He offered his experience in this regard. He said lenders lend against complete value, based on an appraisal and assurance that the borrower can "beat" all debt obligations. He said PACE lending

encourages property owners to build in excess of code - enough to extend life of property.

MR. KUMAR talked about property owners buying when cash rich, and then, as witnessed during the pandemic, refinancing through the PACE program, which helps keep the business afloat. Regarding the savings investment ratio, he said property owners do not want statute to tell them they have to achieve "a certain type of fade-in vis-à-vis their investment"; they also do not want to be prohibited from accessing a 30-year loan, which allows for lower payments.

MR. KUMAR, regarding the issue of charging stations, said property owners nationwide are building shopping centers or apartment complexes, and while not required to provide charging centers, they want to do it using PACE funding, because it attracts more people to their building. He stated that resilience nationwide is "really proliferating," with legislation around the country including issues such as seismic events and storm strengthening improvements. He said PACE Loan Group is currently working with a property owner in Alaska that wants to use PACE to make the building more energy efficient, and he stated that "HB 227 would streamline the process."

[8:57:15 AM](#)

JEREMIAH BENSON, Realtor, spoke about his experience in commercial plumbing and heating, including large projects, and as an investor. He said he sees "nothing but win/win situations" with options such as [PACE]. He expressed support for HB 227.

[8:59:08 AM](#)

TOM NEUKRANZ, CEO, Global Pacific Capital, LLC, said the business finances hundreds of millions of dollars by providing C-PACE capital for clean energy construction. He gave examples of the types of buildings and projects, and he noted almost all the structures include electric vehicle charging stations. He emphasized the importance to Anchorage of constructing new buildings, citing the many types of jobs that creates and the tax revenue that is brought to the city.

[9:02:29 AM](#)

JESSA COLEMAN, Associate Director, Policy and Programs, Nuzeen Green Capital, testified in support of HB 227. She said Nuzeen

Green Capital invests in commercial buildings through the C-PACE financing structure. She offered some examples. She said the amendments sought under HB 227 support best practices in terms of C-PACE and the broader real estate industry. She spoke of increasing the value and quality of long-term assets through C-PACE funding. She said removing the savings to investment ratio requirement in the program would recognize that not all building improvements worth investing repay themselves but can still be worth the investment because of the improved quality of the building. Allowing application submission for C-PACE financing to be based on the market value of a building is the standard practice in all real estate transactions. She offered her understanding that HB 227 would allow C-PACE to refinance eligible projects that have already been funded, which she said is a means of recuperating stranded assets. She noted that C-PACE programs have had significant [positive] impact on economic development.

[9:06:48 AM](#)

TOM BENKERT, Business Development Manager, KI Energy, spoke of his involvement with C-PACE. He said he has educated customers about the benefits of the program. He talked about the use of grants to hire experts to make the program happen. He specified that C-PACE is a descriptive, not prescriptive, program; it allows flexibility. He added that "the amendments allow even more flexibility." He said the building owner needs to ensure that the project considered makes sense. Further, the program does not "shove conditions down lenders' throats." He talked about pulling tax data during the early stages of the program, which informed market sizing in each community, as well as showed there was "a rapidly aging building stock." He opined that C-PACE is a great program for upgrading buildings to bring them up to a higher standard of performance, thus lowering the operating costs. The money saved can be used in any way the owner sees fit, including an increased capability for servicing debt.

[9:12:12 AM](#)

MR. BENKERT said the original statute "missed the mark" on a number of issues. For example, it did not allow the financing of energy measures in new construction, which was problematic, because builders needed additional funding above and beyond what lenders would give in order to provide measures "above and beyond code." He said KI has an increasing number of developers interested in new construction and looking to C-PACE for

financing. He said C-PACE is operational in Anchorage. He spoke of having the benefit of seeing what other states have done to improve their programs, for example, including new construction and retrofitting, resiliency, and addressing issues specific to each jurisdiction. He talked about the benefit of electric charging stations bringing in customers.

MR. BENKERT discussed the benefit of the amendments to statute that would be made under HB 227. He mentioned the removal of SIR, which at a current 1:1 basis is an extremely low bar. He named other proposed changes that would benefit projects, such as the change from assessed value to market value, and updating language to include more modern forms of energy. He mentioned increased cashflow, an improved ability to retain a loan, and reduced operating costs. He talked about the transfer of buildings from one owner to the next and that the new owner "will have a portion of paying for that reduced operating cost." He mentioned insurance, warranty, and pre-paid maintenance - all things that will continue long-term operations of energy projects. He stated emphatic support for the proposed legislation.

[9:19:19 AM](#)

REPRESENTATIVE MCCABE asked how many applications had been made outside of Anchorage.

MR. BENKERT answered zero, because Anchorage currently is the only jurisdiction with this program. In response to a follow-up question, he said it is an opt-in program, and he explained that the program works only in an area with taxing authority. He indicated the original plan was to involve Anchorage, Fairbanks, and Juneau. He said with the onset of the COVID-19 pandemic, priorities changed in various jurisdictions and interests "waxed and waned," with Anchorage, Alaska pursuing the project. He said today there is a strong interest in building in the Matanuska-Susitna (Mat-Su) Borough and interest in Juneau, as well, in terms of using C-PACE. He clarified that it is current statute that has the limitation regarding areas with taxing authority.

[9:22:45 AM](#)

NICHOLAS ZUBA, Director, PACE Policy and Programs, Clean Fund, LLC, said his firm has done approximately \$300 million-worth of C-PACE volume across the country. He mentioned his experience not only with C-PACE but with a residential program, as well.

He stated that no program is perfect at its inception. He said the expansion to include new construction and resiliency are vital changes to be made to the program, because it is a critical component for fighting climate change. In a time of rising interest rates, he remarked, developers want to see the least cost in capital as possible. He talked about the importance of resiliency to face the increase in storms, floods, and wild fires. He mentioned seismic activity in Alaska. He talked about the importance of protecting buildings as a way of caring for the state's economy, because businesses are housed in those buildings.

MR. ZUBA said Clean Fund, LLC, supports the structural programmatic changes proposed under HB 227. He said many property owners are not aware of C-PACE, even with advertising and outreach efforts, and he opined that building owners should not be penalized for taking on an energy-improvement project on their own, not knowing about the program; they should be able to take advantage of the C-PACE financing to take advantage of the capital and perhaps be able to refinance. He stated support for the proposed removal of the SIR requirement, because it does not "capture all those achieved benefits from doing a project when the property owner decides to implement it." He equated limiting of financing to unrealized savings for property owners. He promoted financing based on percentage of property value, which he said aligns with current practices in financing nationwide. He concluded by stating support of the proposed legislation, expressing anticipation of being able to extend financing to Alaska's property owners in creating sustainability and resiliency while bolstering the state's economy.

[9:31:10 AM](#)

CO-CHAIR HANNAN, after ascertaining there was no one else who wished to testify, closed public testimony on HB 227.

[9:31:27 AM](#)

CO-CHAIR HANNAN announced that HB 227 was held over.

[9:31:42 AM](#)

The committee took an at-ease from 9:32 a.m. to 9:33 a.m.

HB 243-COMMON INTEREST COMMUNITIES; LIENS
SB 143-COMMON INTEREST COMMUNITIES; LIENS

[9:33:18 AM](#)

CO-CHAIR HANNAN announced that the next order of business would be HOUSE BILL NO. 243, "An Act relating to horizontal property regimes and common interest communities; and relating to mortgages, deeds of trust, and other property liens." and SENATE BILL NO. 143, "An Act relating to horizontal property regimes and common interest communities; and relating to mortgages, deeds of trust, and other property liens."

CO-CHAIR HANNAN noted that HB 243 and SB 143 are companion pieces of legislation, and she explained that today the committee would focus primarily on SB 143.

[9:33:48 AM](#)

REPRESENTATIVE DAVID NELSON, Alaska State Legislature, as prime sponsor of HB 243, gave a brief introduction to companion bill SB 143, which he said would help over 250 homeowner and condominium associations formed prior to 1986 collect dues and amend their governing documents.

[9:34:55 AM](#)

SENATOR JOSH REVAK, Alaska State Legislature, as prime sponsor, presented SB 143. He said the issue was brought to his office by a constituent; [the bill] has been legally vetted; and thus far there has been no opposition. He explained that in 1986, the Uniform Common Interest Ownership Act (UCIOA) made major revisions to Alaska statutes governing homeowners associations (HOAs) and condominium owners associations (COAs) in Alaska. The amendment process created by UCIOA requires that homeowners associations receive written consent from all loan holders before the association can make amendments to its governing document, and associations have found it nearly impossible to obtain written responses and have, therefore, been left with outdated rules they find impossible to legally change. He noted that Susan Jensen, a manager of a homeowners association in Anchorage was available to speak on how this issue has been a problem in her community.

SENATOR REVAK discussed the two changes that would be made under SB 143. First, SB 143 would not repeal the current process but would create an alternative: If homeowners associations provide the required notice to lien holders, then the lien holder will be considered to have approved the notice if the association does not receive a response within 60 days. Second, SB 143

would clarify language already in statute to assure pre-1986 associations will be able to collect unpaid dues just like their counterparts since 1986 have are able to do. The clarification would provide consistency in how liens are handled for both pre- and post-UCIOA communities.

[9:40:00 AM](#)

CO-CHAIR HANNAN opened [invited] testimony on SB 143.

[9:40:28 AM](#)

SUSAN JENSEN, Manager, Bayshore Owners Association, said Bayshore was founded in 1974 and has been unable to make amendments. As an example of the negative impact, she said the association had been offered \$100,000 to create a safe walking path for children in a greenbelt area, but it could not proceed because the required written consent was not possible to obtain. She gave other examples, including the issue of foreclosures and bad debt being passed on from previous owners, all a result of this issue. She urged the committee to pass SB 143.

[9:43:34 AM](#)

SARAH BADTEN, Attorney at Law, Birch Horton Bittner & Cherot, noted she has been practicing community association law in Alaska for over 15 years. The focus of her work has been to assist associations in interpreting and enforcing their governing documents. She emphasized the numerous times she has seen associations wishing to amend their governing documents be unable to do so "because of this burdensome requirement that they get mortgage lender approval in writing." She emphasized how wonderful SB 143 would be in addressing the two major issues faced by the older associations. She gave examples. She said the banks are "apathetic" and will not take action without approval in writing, and many simple progressive changes go unmade because of this. She said the issue effects not only associations, but the homeowners, as well. The only option is for associations to operate in violation of their documents, which she said she cannot advise. She pointed out another positive result of SB 143 would be equitable treatment of both older and newer associations, especially regarding "the super priority lien."

[9:48:42 AM](#)

REPRESENTATIVE PRAX asked whether the bill sponsor had reached out directly to the banking community regarding SB 143.

[9:49:02 AM](#)

CO-CHAIR SCHRAGE responded yes. He said he had spoken directly with banking lobbyists, who are aware of the goal of SB 143 and have "zero opposition."

[9:49:25 AM](#)

CO-CHAIR HANNAN asked for affirmation that SB 143 would establish neither a new super lien procedure nor a new way to amend association documents; rather, the proposed legislation would simply allow the older associations into current operational standards.

[9:50:09 AM](#)

EMMA TORKELSON, Staff, Senator Josh Revak, Alaska State Legislature, on behalf of Senator Revak, prime sponsor of SB 143, confirmed that Co-Chair Hannan was correct. She indicated that new language would allow action if the association does not hear back [from the homeowner within 60 days].

[9:51:35 AM](#)

CO-CHAIR SCHRAGE, in response to a question from Representative Prax, reemphasized that the only change created under SB 143 would be the provision that no response after 60 days equals consent.

MS. TORKELSON, in response to a follow-up question from Representative Prax, explained that SB 143 would not affect "the two-thirds requirement" for changes; it is just about lien holders.

[9:53:13 AM](#)

MS. BADTEN, in response to a question from Co-Chair Hannan, provided information about the amendment process of homeowners associations. In response to Representative Prax, she clarified that currently there must be an affirmative vote to change bylaws, and the vote can be made in person or by proxy.

[9:56:45 AM](#)

CO-CHAIR HANNAN announced that SB 143 [and HB 243] were held over.

[9:57:08 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:57 a.m.