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Date: (Filing No. S-)

ENERGY, UTILITIES AND TECHNOLOGY

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STATE OF MAINE

SENATE

130TH LEGISLATURE

FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “ ” to S.P. 147, L.D. 340, “An Act To Allow for the Establishment of Commercial Property Assessed Clean Energy Programs”

Amend the bill in section 1 in c. 101 in §10204 in subsection 1 in paragraph E in the first line (page 4, line 23 in L.D.) by inserting after the following: "property's" the following: 'commercial PACE'

Amend the bill in section 1 in c. 101 in §10204 in subsection 1 in paragraph G by striking out all of subparagraph (1) (page 4, line 27 in L.D.) and inserting the following:

'(1) Be current on real estate taxes, personal property taxes and municipal sewer, sanitary and water district charges;'

Amend the bill in section 1 in c. 101 in §10204 in subsection 1 in paragraph G by striking out all of subparagraph (2) (page 4, line 28 in L.D.) and inserting the following:

'(2) Have no outstanding and unsatisfied tax or municipal sewer, sanitary or water district liens; and'

Amend the bill in section 1 in c. 101 in §10205 by striking out all of subsection 1 (page 4, lines 35 to 41 and page 5, lines 1 to 6 in L.D.) and inserting the following:

'1. Collection of assessments. A commercial PACE assessment constitutes a lien on the qualifying property until it is paid in full and must be assessed and collected by the trust, a 3rd-party administrator contracted by the trust, a municipality or an agent designated by the trust or a municipality in any manner allowed under the commercial PACE program, consistent with applicable laws. If the trust or a 3rd-party administrator contracted by the trust collects commercial PACE assessments on behalf of a municipality, the trust shall periodically report to the municipality on the status of the commercial PACE assessments in the municipality and shall notify the municipality immediately of any delinquent commercial PACE assessments. Upon receiving notification from the trust of a delinquent commercial PACE assessment, a municipality shall notify the holder of any mortgage on the property of the delinquent assessment.'

COMMITTEE AMENDMENT

1 Amend the bill in section 1 in c. 101 in §10205 by striking out all of subsection 3 (page
2 5, lines 22 to 31 in L.D.) and inserting the following:

3 **3. Priority.** A commercial PACE lien secures payment for any unpaid commercial
4 PACE assessment and, except as provided in paragraph A, the priority of a commercial
5 PACE lien created under subsection 1 is determined based on the date of filing of notice
6 required under subsection 2 and applicable law. A commercial PACE lien is not entitled
7 to any special or senior priority.

8 A. If a borrower or property owner's commercial PACE assessment payments are
9 current, upon the refinancing, sale or transfer of the qualifying property, other than a
10 judicial sale or foreclosure, the commercial PACE lien is junior and subordinate in
11 priority to the first mortgage used to refinance an existing mortgage or a first mortgage
12 of a subsequent purchaser or transferee, regardless of the date of the recording of the
13 refinanced first mortgage or the first mortgage of the subsequent purchaser or
14 transferee.

15 B. If a borrower or property owner's commercial PACE assessment payments are
16 delinquent, the past due assessments must be satisfied prior to or contemporaneously
17 with the refinancing, sale or transfer of the qualifying property, other than a judicial
18 sale or foreclosure.'

19 Amend the bill in section 1 in c. 101 in §10205 in subsection 5 by striking out all of
20 the blocked paragraph (page 6, lines 3 to 8 in L.D.) and inserting the following:

21 'A commercial PACE assessment and any interest, fees, penalties and attorney's fees
22 incurred in its collection must be collected in the same manner as the real property taxes of
23 the municipality in which the property is located. If a commercial PACE assessment is
24 delinquent or in default and the borrower or property owner is delinquent in any tax debt
25 due to the municipality in which the property is located, collection may occur only by the
26 recording of liens and by foreclosure under Title 36, sections 942 and 943. Liens must be
27 recorded and released in the same manner as liens for real property taxes.'

28 Amend the bill in section 1 in c. 101 in §10205 by striking out all of subsection 6 (page
29 6, lines 9 to 23 in L.D.) and inserting the following:

30 **6. Judicial or nonjudicial sale or foreclosure.** In the event of a judicial or
31 nonjudicial sale or foreclosure of a property subject to a commercial PACE lien by a
32 mortgagee or lienholder, all parties with mortgages or liens on that property, including
33 without limitation commercial PACE lenders, must receive on account of such mortgages
34 or liens sale proceeds in accordance with the priority established by applicable law.'

35 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
36 number to read consecutively.

37 SUMMARY

38 This amendment, which is the minority report of the committee, amends the bill as
39 follows.

40 1. It provides that, unlike in the bill, a commercial PACE lien is not entitled to any
41 special or senior priority and, in the event of a judicial or nonjudicial sale or foreclosure of
42 a property subject to a commercial PACE lien by a mortgagee or lienholder, all parties with
43 mortgages or liens on that property, including without limitation commercial PACE

- 1 lenders, must receive on account of such mortgages or liens sale proceeds in accordance
- 2 with the priority established by applicable law.
- 3 2. It makes a number of additional technical changes and clarifications to the bill.